

Committee on Government Reform should this bill or a similar bill be considered in a conference with the Senate. Finally, I request that you include this letter and your response in the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

TOM DAVIS.

Mr. WAXMAN. Mr. Speaker, the bill before us would create a new agency within the Department of Health and Human Services, the Biomedical Advanced Research and Development Authority, or BARDA. I support creating this new agency. However, some provisions in the bill raise concerns because they waive a number of existing Federal statutes enacted to ensure proper government oversight. I want to express my reservations over these provisions, and urge that they be addressed in conference.

This bill contains exemptions from important federal open government laws designed to ensure accountability and transparency, like the Freedom of Information Act (FOIA) and federal procurement law. These open government laws are within the jurisdiction of the Committee on Government Reform, on which I am the ranking member, but unfortunately, the Government Reform Committee did not have an opportunity to consider the bill.

FOIA is the central law that guarantees public access to government information. It establishes the presumption that people should be able to access information held by the government. FOIA contains exemptions that prevent the disclosure of information in the case where harm could result from disclosure—including exemptions for classified information, trade secrets, information compiled for law enforcement purposes, and internal agency documents that would be exempt from discovery in litigation.

H.R. 5533 establishes a new FOIA exemption, requiring the Secretary to withhold from public disclosure "specific technical data of scientific information that is created or obtained during countermeasure research and product advanced development funded by the Secretary that reveal vulnerabilities of existing medical or public health defenses against biological, chemical, nuclear, or radiological threats." While this exemption appears narrow in scope, the Administration has a long record of interpreting narrow language broadly to withhold public information. Unless there is a compelling reason why the existing FOIA exemptions are inadequate—which there does not appear to be in this case—it is unwise to add new exemptions to FOIA. Moreover, the language of the new exemption is not clear. The language applies to any "advanced research and development that is funded by the Secretary," which may inappropriately extend the exemption far beyond BARDA to other research funded by the Department of Health and Human Services.

Another issue is so-called "other transaction authority." This authority is essentially a waiver from most federal procurement law—everything from competition requirements, to auditing and pricing safeguards, to the Buy America and Drug-free workplace laws. The authority was originally developed to help DOD in attracting smaller contractors to federal research and development contracts, though in practice it has not often been used to accomplish that

objective. While I am not necessarily opposed to granting BARDA other transaction authority, I have yet to hear a convincing rationale for its necessity. If such a rationale exists, we should explore ways to limit its application at BARDA to those instances where it is truly needed, as opposed to the blanket grant of authority currently in H.R. 5533.

Finally, H.R. 5533 exempts all advisory committees established under the bill from section 14 of the Federal Advisory Committee Act. Section 14 was added to the FACA law because Congress decided that there was a proliferation of advisory committees and that it is important to ensure that they should continuously be reviewed to ensure their ongoing necessity. Again, there is no clear explanation for why this waiver of current law is necessary, or what interests would be protected by exempting the committees from renewal requirements.

All of these issues are within the jurisdiction of the Government Reform Committee, and I hope they can be addressed as this bill moves forward in the legislative process.

Ms. ESHOO. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the bill, H.R. 5533, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ARROWROCK PROJECT HYDROELECTRIC LICENSE EXTENSION BILL

Mr. OTTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4377) to extend the time required for construction of a hydroelectric project, and for other purposes.

The Clerk read as follows:

H.R. 4377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARROWROCK HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 4656, on request of the licensee, the Commission shall—

(1) if the license for the project is in effect on the date of the enactment of this Act, extend the period for commencing construction of project works for a period of 3 years beginning on the date of enactment of this Act; or

(2) if the license for the project has been terminated before the date of enactment of this Act, reinstate the license and extend the period for commencing construction of project works for an additional 3-year period beginning on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman

from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4377, the Arrowrock Project Hydroelectric License Extension Bill, which extends the time in the hydroelectric license to begin construction of a 15-megawatt project by 3 years from the date of passage of this bill. The facility will be built at the existing Arrowrock Dam on the Boise River in Idaho and has been designated to minimize impacts there.

Over the past decade, this project has been delayed by a number of factors not necessarily within the control of the project developer, including delays related to the bull trout being declared threatened under the Endangered Species Act. We have now solved that problem and we have been assured that the project is ready to go once the license is extended.

This project has bipartisan support. It will further develop the hydroelectric facilities at existing dams, something we promoted in the Energy Policy Act of 2005, so I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 4377, a bill which would require the Federal Energy Regulatory Commission to extend for a 3-year period the deadline for commencing construction on the proposed Arrowrock Hydroelectric Project in the State of Idaho.

The project was originally licensed in 1989, but due to extenuating circumstances, construction has not begun on the project as of this time. One reason for the delay was the need for required consultations with regard to the bull trout, a species which was listed as threatened only after the original license had been issued. The project is now moving forward with those required consultations.

The bill before us would simply extend the license to give the licensee more time in order to finalize the project and get construction under way. This measure was approved by the Energy and Commerce Committee by voice vote, along with four other hydroelectric licensing bills which we are also considering this evening.

I urge my colleagues to approve this measure.

Madam Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. OTTER. Madam Speaker, I yield back the balance of my time, and I urge the immediate passage of 4377.

The SPEAKER pro tempore (Mrs. McMORRIS RODGERS). The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and pass the bill, H.R. 4377.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TYGART DAM PROJECT HYDROELECTRIC LICENSE EXTENSION BILL

Mr. OTTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4417) to provide for the reinstatement of a license for a certain Federal Energy Regulatory project.

The Clerk read as follows:

H.R. 4417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF LICENSE FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to project numbered 7307 of the Federal Energy Regulatory Commission, the Commission shall, upon the request of the licensee for the project, in accordance with that section (including the good faith, due diligence, and public interest requirements of that section and the procedures established under that section), extend the time required for commencement of construction of the project until December 31, 2007.

(b) APPLICABILITY.—Subsection (a) shall apply to the project upon the expiration of any extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the time required for commencement of construction of the project.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If a license of the Commission for the project expires before the date of enactment of this Act, the Commission shall—

(1) reinstate the license effective as of the date of the expiration of the license; and

(2) extend the time required for commencement of construction of the project until December 31, 2007.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4417, the Tygart Dam Project Hydroelectric License Extension Bill, extends the time in the hydroelectric license to start construction on the project until December 31, 2007. This is another project that has experienced delays. In this case, unfavorable market conditions delayed the start of the project. Today, those conditions have been resolved and the project is ready to begin. The project will be built at an existing dam, thus minimizing impacts. It is anticipated that the project will provide a substantial economic boost to the city of Grafton, West Virginia, as well as valuable hydroelectric power, and I urge my colleagues to support the bill.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4417, legislation which would require the Federal Energy Regulatory Commission to extend, upon the licensee's request and subject to compliance with commission procedures, the deadline for the commencement of construction of the proposed Tygart Dam Hydroelectric Project in West Virginia. That extension in this bill would be for a period of 1 year.

The project was originally licensed in 1989, but has not begun construction due to a lack of utility contracts in order to make the project financially viable. Those dynamics have now changed and the contractor is actively negotiating for the purchase of electricity to be produced by the facility.

The project enjoys strong local support in the community in West Virginia in which it will be located. The bill was also approved by the Energy and Commerce Committee by voice vote and is noncontroversial, and I urge approval of the legislation.

Madam Speaker, I yield back the balance of my time.

Mr. OTTER. Madam Speaker, I also yield back the balance of my time, and I urge the immediate passage of H.R. 4417.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and pass the bill, H.R. 4417.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SWIFT CREEK HYDROELECTRIC LICENSE EXTENSION BILL

Mr. OTTER. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 244) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

The Clerk read as follows:

S. 244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 244, the Swift Creek Hydroelectric License Extension Bill, authorizing the Federal Energy Regulatory Commission to extend the time specified in the project license to begin construction of the Swift Creek Hydroelectric Project for three 2-year periods, a total of 6 years.

The Swift Creek Project is a 1.5 megawatt project in Wyoming. This bill has passed the Senate with unanimous consent, and passage of the bill today will send this bill directly to the President's desk and allow the further development of clean renewable hydroelectric power. I urge my colleagues to support S. 244.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I rise in support of this legislation which would authorize the Federal Energy Regulatory Commission to extend the commencement of construction deadline for the Swift Creek Hydroelectric Project in Wyoming for three 2-year periods. The license was originally issued in 1997, and the bill before us would provide a routine extension of the commencement of construction deadline.

The legislation is noncontroversial and was approved by voice vote of the