

producers who are members of the organization have been fully consulted in the nomination process.”;

(8) in the first sentence of paragraph (3) (as so designated), by striking “In making such appointments.” and inserting “In establishing the process for the election of members of the Board.”; and

(9) in paragraph (4) (as so designated)—

(A) by striking “appointment” and inserting “election”; and

(B) by striking “appointments” and inserting “elections.”•

By Mr. AKAKA:

S. 225. A bill to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii; to the Committee on Energy and Natural Resources.

EXEMPTING HAWAII FROM THE HYDROELECTRIC JURISDICTION OF THE FERC

• Mr. AKAKA. Mr. President, for some time now, the State of Hawaii, its delegation in Congress, and conservation organizations throughout the State have been deeply concerned about Federal efforts to regulate hydroelectric power projects on State waters. The question of who should be responsible for hydropower regulation—the State or the Federal Government—is very contentious. It has not been a high-visibility issue, however, because until now, the debate has occurred away from the public view.

Those who care for Hawaii's rivers and streams recognize that continued Federal intervention may have serious repercussions for our freshwater resources and the ecosystems that depend upon them. Whenever a hydroelectric power project is proposed, a number of environmental considerations must be weighed before approval is granted. Important issues must be evaluated, such as whether the proposed dam or diversion will impair the stream's essential flow characteristics, or what effect the hydropower project will have on the physical nature of the stream bed or the chemical make-up of the water. Will a dam or diversion diminish flow rates and reduce the scenic value of one of Hawaii's waterfalls? Will it harm recreational opportunities? These, and other questions, must be answered.

The effect of a new dam or diversion on the State's disappearing wetlands must be weighed. Wetlands provide vital sanctuary for migratory birds, as well as habitat for endangered Hawaiian waterbirds. They serve as reservoirs for storm water, filtering water-borne pollutants before they reach fragile coastal habitat, and providing a recharge area for groundwater.

In Hawaii, historic resources often come into play. When Polynesians first settled our islands, Hawaiian culture was linked to streams as much as it was linked to the sea. The remnants of ancient Hawaiian settlements can be found along many of the State's rivers. Will the Federal Government give adequate attention to stream resources that have unique natural or cultural

significance when it issues a hydroelectric license or permit?

Most important of all, hydropower development must be compatible with preserving native aquatic resources. Hawaiian streams support a number of rare native species that depend upon undisturbed habitat. Perhaps the most remarkable of these species is the goby, which can climb waterfalls and colonize stream sections that are inaccessible to other fish. These are some of the complex factors that must be considered during federal hydropower decision-making.

A number of Federal agencies that have responsibility for fish, wildlife, and natural resource protection have raised questions about the State of Hawaii's commitment to protecting stream resources. They assert that FERC, the Federal Energy Regulatory Commission is better equipped than the state to protect environmental values.

However, the evidence supports precisely the opposite conclusion. FERC has a poor history of protecting aquatic species. And while the Federal hydropower review process requires that FERC consult with other Federal agencies—just as the State does—FERC retains the power to override requests by the State, as well as by Federal agencies, to protect environmental values. The landmark case in this area, California versus FERC, affirmed FERC's authority to reduce instream flow rates below the level that the State determined was the minimum necessary to maintain aquatic wildlife.

Although FERC has never licensed a project in Hawaii, Federal agencies have an unfounded belief that State regulation of hydropower would be a danger to the environment. Nothing could be further from the truth. The State of Hawaii has demonstrated its commitment to protecting stream resources by instituting a new water code, adopting instream flow standards, launching a comprehensive Hawaii stream assessment, and organizing a stream protection and management task force.

Meanwhile, FERC has played no role in stream protection other than to grant a preliminary permit to a hydropower developer on the Hanalei River. This is the same river that the Fish and Wildlife Service is fighting to preserve. From an environmental perspective, FERC is clearly off to a poor start.

The experience with the proposed Hanalei hydropower project raises serious questions about the appropriateness of Federal efforts to regulate hydropower in Hawaii. Our rivers and streams bear no resemblance to the wide, deep, long, and relatively flat rivers of the continental United States. Hawaiian streams generally comprise groups of short riffles, runs, falls, and deep pools. Only 28 of them are 10 miles or longer in length. Only 11 have an average flow greater than 80 cubic feet per second. By comparison, the mean discharge of the Mississippi River is

nearly 20,000 times the mean annual flow of the Wailuku River.

The Federal interest in protecting the vast interconnected river systems of North America is misplaced in our isolated mid-Pacific location. When it comes to regulating hydropower in Hawaii, FERC is a fish out of water.

In response to these concern, I am introducing legislation to terminate FERC's jurisdiction over hydropower projects on the fresh waters of the State of Hawaii. This legislation passed Senate during the 103d Congress as part of an omnibus hydropower bill, but the House and Senate could not resolve their differences on the bill. I will continue to fight for the passage of this legislation during the 104th Congress.

I ask that a copy of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 225

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

SECTION 1. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act is amended by striking “several States, or upon” and inserting “several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon”.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 4, a bill to grant the power to the President to reduce budget authority.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

SENATE RESOLUTION 48—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CHAFEE, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 48

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public