

# DIRTY WORK

AN ANALYSIS OF H.R. 1

*PREPARED BY*

*THE DEMOCRATIC STAFF OF THE COMMITTEE ON NATURAL RESOURCES*

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REPRESENTATIVE EDWARD J. MARKEY, RANKING MEMBER  
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## INTRODUCTION

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At 4:40 a.m. on Saturday, February 19, 2011, the House of Representatives [voted 235-189](#) to pass [H.R. 1: the Full-Year Continuing Appropriations Act of 2011](#). H.R. 1 passed the House with 235 Republican ayes and 186 Democratic and three Republican nays.

Much of the coverage of H.R. 1 has focused on the bill's broad and deep cuts in federal spending, which were made more draconian in order to ensure support from factions within the Republican conference. This analysis, completed by the [Democratic Staff of the Natural Resources Committee](#), at the direction of Ranking Member Markey, highlights provisions in H.R. 1 which would affect existing environmental protections and clean energy development.

This staff analysis demonstrates that, if enacted, H.R. 1 would reverse decades of progress in improving the health of our environment, the safety of American families, and the sustainability of our energy economy.

## BACKGROUND

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None of the 12 annual appropriations bills funding the federal government were enacted prior to the start of the current fiscal year. Consequently, a series of four continuing resolutions (CRs) extended funding for federal programs through March 4.

The Congress could continue to enact short-term extensions or pass a long-term CR, extending current funding levels through September and allowing time to enact individual appropriations bills for FY 2012. The House Republican Majority rejected this approach and is instead seeking to use the budget crisis as an opportunity to pursue crippling program cuts and controversial policy riders in the guise of a budget bill.

During four days of nearly round-the-clock floor consideration, Republican House Members filed more than 375 amendments (all amendments filed can be found [here](#) and [here](#)), roughly one third of which were aimed at further weakening environmental protection or hampering clean energy development.

## SECTION I: WEAKENING PROTECTIONS FOR FISH, WILDLIFE AND ENDANGERED SPECIES

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H.R. 1 severely restricts funding for the U.S. Fish and Wildlife Service (FWS) (see table below), harming its ability to conserve, protect and enhance fish, wildlife, plants, and their habitats for the American people. These cuts would recklessly limit FWS's ability to:

**Manage National Wildlife Refuges:** Reduced funding would limit the conservation, management, and restoration of over [550 units of National Wildlife Refuge System](#), which are home to hundreds of species of birds, fish, and other animals, and provide its 40 million annual visitors with opportunities to hunt, fish, bird watch, and learn about these ecosystems.

**Conserve Waterfowl Habitat:** Abolishing funding for the [North America Wetlands Conservation Fund](#) would eliminate grants to projects that conserve wetlands, harming local economies, which depend on revenues generated from hunters and fishermen.

**Protect Endangered Species:** Abolishing funding for the [State and Tribal Wildlife Grants Program](#) would limit the ability of States and Tribes to implement cost-effective conservation actions to prevent species from becoming endangered.

FWS Program	FY 10 (Enacted)	H.R. 1	H.R. 1 - FY 10 (Enacted)	FY 12 (Request)
Resource Management	\$1.3 billion	\$1.2 billion	(-\$0.1 billion)	\$1.3 billion
Construction	\$37 million	\$24 million	(-\$13 million)	\$23 million
Land Acquisition	\$86 million	\$15 million	(-\$71 million)	\$140 million
State & Tribal Wildlife Grants	\$90 million	\$0	(-\$90 million)	\$95 million
North American Wetlands Conservation Fund	\$48 million	\$0	(-\$48 million)	\$50 million
Cooperative Endangered Species Fund	\$85 million	\$2.5 million	(-\$83 million)	\$100 million
Neotropical Migratory Bird Grants	\$5 million	\$4.4 million	(-\$0.6 million)	\$5 million
Multinational Species Conservation Fund	\$11.5 million	\$7.9 million	(-\$4 million)	\$9.8 million
Total	\$1.7 billion	\$1.3 billion	(-\$0.4 billion)	\$1.7 billion

**DEFUNDING THE CALIFORNIA BAY-DELTA SMELT AND SALMON BIOLOGICAL OPINIONS**

Section 1475 (a) of H.R. 1 prohibits funding to implement the biological opinions for salmon and delta smelt, issued by the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service and the U.S. Fish and Wildlife Service, respectively. Proponents for this language argue that eliminating funding for the biological opinions would effectively guarantee “normal pump operations for 2011.”

Instead, this language would have the opposite effect: shutting down the Bureau of Reclamation’s [Central Valley Project](#) and State Water Project, the water supply for 25 million Californians and over three million acres of farmland in the valley. This rider has no budgetary impact and does not belong in a budget bill.

**DEFUNDING PORTIONS OF THE SAN JOAQUIN RIVER RESTORATION SETTLEMENT**

Section 1475 (b) of H.R. 1 prohibits funding for portions of the [San Joaquin River Restoration Settlement](#), the result of a court-supervised settlement explicitly authorized under Federal law. The Settlement recognized that water is essential to both salmon and the people who depend on water in the San Joaquin Valley. This is reflected in the Settlement’s co-equal goals; the commitment to restore flows and salmon to the San Joaquin River between Friant Dam and the Merced River confluence while avoiding or minimizing adverse water supply impacts to Friant contractors.

Defunding of Settlement would undermine the environmental efforts in the San Joaquin Valley and adversely impact the farmers’ water supply.

### **REMOVING GRAY WOLVES FROM THE ENDANGERED SPECIES LIST**

Section 1713 of H.R. 1 codifies the April 2, 2009 final rule, which delists portions of the Northern Rockies Distinct Population Segment (DPS) of gray wolves in Idaho and Montana, but not Wyoming. This rule was [thrown out](#) by the courts in August 2010 because delisting a portion of a DPS clearly violates the Endangered Species Act (ESA). H.R. 1 establishes a dangerous precedent of delisting an endangered species *legislatively*, rather than using the existing science-based administrative process.

Although wolves within the Northern Rockies DPS may be biologically recovered, the ESA requires that States have mechanisms in place to ensure the continued survival and recovery of an endangered species. If delisted, Idaho state law would allow the majority of wolves in the state to be killed, undoing years of successful conservation efforts.

### **DEFUNDING THE KLAMATH DAM REMOVAL AND SEDIMENTATION STUDY**

Representative Tom McClintock (R-CA) offered two amendments aimed at the [Klamath River Basin](#). Amendment #297 decreased the Bureau of Reclamation's

budget by \$1.89 million, the exact amount for the Klamath Dam Removal and Sedimentation Study in current law. Amendment #296 prohibited the use of any funds for the Study.

After decades of conflict, representatives of more than 40 organizations, including federal agencies, California and Oregon, Indian tribes, counties, irrigators and conservation and fishing groups formed the Klamath Coalition and developed a comprehensive solution to resolve many of the complex water-related issues in the Klamath River Basin. The Klamath Dam Removal and Sedimentation Study is central to these efforts.

The Study does not authorize the removal of the dams, but instead provides a transparent process for gathering the necessary baseline data needed for a Secretarial determination. All local communities in the Klamath Basin, even those who oppose dam removal, have asked for these studies to be completed and are participating in local meetings and briefings to direct this work.

These amendments stop the transparent process in its tracks, ending years of careful negotiation and compromise. Amendment #296 was approved by a [vote of 215 to 210](#); amendment #297 was approved without a recorded vote.

## **SECTION II: MAKING OUR AIR AND WATER DIRTIER**

According to a [press release](#) issued by House Republicans, "the cuts to EPA alone represent 69 percent of the bill's reduction compared to last year's level." H.R. 1 includes cuts to EPA totaling \$3 billion, a 29 percent reduction compared to the level enacted for FY 2010. The Majority also claim the bill cuts "climate-change funding bill-wide" by \$107 million.

EPA's State and Tribal Assistance Grants program, which provide grants for drinking water infrastructure and other clean water projects, would be cut almost in half, a reduction of \$2.3 billion. The Clean Water and Drinking Water State Revolving Funds would lose \$1.4 billion and \$557 million, respectively, drastically reducing the ability of these programs to assist states and local communities with clean water projects. H.R. 1 also cuts \$250 million from EPA's programs to preserve and restore the ecosystem of the Great Lakes; a 52 percent reduction.

### **DEFUNDING REGULATION OF COAL ASH**

Representative David McKinley (R-WV) offered amendment #217 which "prohibits the use of funds by EPA to develop, propose, finalize, implement, administer, or enforce any regulation that identifies or lists fossil fuel combustion waste as hazardous waste subject to regulation." This amendment essentially ties EPA's hands on the issue of coal ash in the middle of its ongoing public rulemaking and renders it impossible for EPA to consider the best science on the toxicity of coal ash.

Coal ash is the leftover waste from coal-fired power plants and is the second largest waste stream in America, second only to municipal waste. Coal ash contains highly toxic pollutants including mercury, arsenic, lead and hexavalent chromium, which are associated with cancer and other serious health effects. The EPA [proposed coal ash rulemaking](#) was initiated in response to a coal ash waste spill (TVA's Kingston Plant, Harriman, TN) that was

100 times the size of the Exxon Valdez spill, covered 300 acres of land, destroyed homes, contaminated rivers and residential areas and is estimated to cost over \$1 billion to clean up.

Concealed as a budgetary item, this amendment forces a policy decision by forbidding the EPA from going forward with reasonable waste protections for the American public and at the same time undermines scientific decision-making and the public rulemaking process. The amendment was approved [239-183](#).

#### **DEFUNDING REGULATION OF GLOBAL WARMING POLLUTANTS**

Representative Ted Poe (R-TX) offered amendment #466, which prevents EPA from proposing, implementing or enforcing any regulations for greenhouse gases (defined as carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, or perfluorocarbons) from stationary sources such as power plants or refineries under the Clean Air Act.

This amendment added to the existing limitation already contained in section 1746 of the Act, which prevents EPA from proposing, implementing or enforcing any such regulations for greenhouse gas emissions because of concerns about climate change – even voluntary programs like the Energy Star labeling program, and other regulations that require new facilities to be designed to be more efficient. The underlying bill text would even prevent EPA from issuing pre-construction permits on new facilities, which would result in blocking dozens of ongoing projects, including new or expanding power plants, refineries, cement kilns, and large manufacturing plants. The result could be the loss of thousands of construction jobs and permanent jobs at new factories and power plants.

The Poe amendment takes this already draconian step even further, by preventing Clean Air Act regulation of these pollutants even when the regulations in question have nothing to do with halting climate change. This means that EPA would be unable to take steps under the Clean Air Act to protect public health by reducing levels of these pollutants.

The Poe amendment passed [249-177](#).

#### **DEFUND CLEAN AIR ACT STANDARDS FOR CEMENT PLANT POLLUTION**

Representative John Carter (R-TX) offered amendment #165, which prevents EPA from using any funds to implement or enforce standards to cut air pollution from cement plants. These [rules](#) were promulgated by EPA in September 2010 and are estimated to reduce mercury pollution by 92 percent, total hydrocarbons by 83 percent, particulate matter by 92 percent, hydrochloric acid by 97 percent and sulfur dioxide by 78 percent.

According to EPA, the reduction in toxic emissions from the cement industry alone is estimated to prevent 1,500 heart attacks, 17,000 cases of aggravated asthma and 2,500 premature deaths every year and is expected to yield up to \$18 billion in health benefits.

Cement Kilns are one of the largest contributors to environmental mercury pollution. Even in low doses, mercury acts as a neurotoxin, interfering with the brain and nervous system. Exposure to mercury can be particularly hazardous for pregnant women and small children and exposure has been associated with mental retardation, cerebral palsy, deafness and blindness. This amendment would block public health protections that reduce air pollution from the nation's third largest source of mercury and other toxic emissions and would undercut the public rulemaking process.

The amendment passed [250-177](#).

#### **DEFUNDING ANALYSIS OF AIR POLLUTION IMPACTS OF OFFSHORE DRILLING IN THE ARCTIC**

Representative Don Young (R-AK) sponsored amendment #533 prohibiting the EPA Environmental Appeals Board from considering, reviewing, rejecting, remanding or invalidating any permit to drill in the Outer Continental Shelf in the Arctic Ocean. This amendment would tie the hands of the EPA with respect to reviewing a permit for Shell Oil to drill offshore in the Arctic.

Shell and some Republican Members blamed the EPA for slowing down drilling in the Arctic this summer. However, the reality is that Shell repeatedly failed to submit a complete permit application, causing significant delays. Despite these delays, EPA issued Shell's air permit in time for Shell to start drilling this summer.

However, a successful suit was brought against that decision because the analysis was incomplete and EPA has been ordered to obtain more information about impacts on sensitive populations and the pristine environment in which these drilling activities will take place.

The Young amendment passed [243-185](#).

#### **DEFUNDING REGULATION OF DANGEROUS AIR POLLUTANTS**

Representative Kristi Noem (R-SD) offered amendment #563 to prevent EPA from making any revisions to primary or secondary national ambient air quality standards for coarse particulate matter under the Clean Air Act. Coarse particulate matter comes from industrial processes that involve crushing or grinding, and dust from paved or unpaved roads.

EPA is currently in the process of updating its assessment of the potential health impacts associated with coarse particulate exposure, with particular concern for the potential impacts on asthmatics and people with other cardiovascular or pulmonary pre-existing conditions. The amendment would prevent EPA from proposing or implementing more stringent standards no matter what the results of the health impacts assessment are.

The Noem amendment passed [255-168](#).

#### **DEFUNDING RULES PROTECTING STREAMS AND RIVERS FROM MINE WASTE**

Three separate amendments offered by Representatives Griffith #109 (R-VA), Johnson #498 (R-OH) and McKinley #216 (R-WV), seek to stop federal agencies (including EPA, the Army Corps of Engineers, and the Office of Surface Mining Reclamation and Enforcement) from protecting the American public from the environmental destruction and pollution of mountaintop removal mining. Communities across Appalachia are facing severe environmental and health harms as a result of this devastating coal mining practice in which coal is extracted from a mountain and debris from the extraction process is dumped into nearby streams burying or destroying them.

Together, these amendments block the use of current science in the review of mountaintop removal mining permit applications, prevent EPA from ensuring that all Clean Water Act requirements are met before permits are issued and remove EPA's authority to stop projects that are found to cause unacceptable adverse impacts on municipal water supplies or other waters of the United States. All three amendments passed with overwhelming Republican support. The vote on the Griffith amendment can be found [here](#). The vote on the Johnson amendment can be found [here](#). The vote on the McKinley amendment can be found [here](#).

### **SECTION III: DEFUNDING SCIENTIFIC RESEARCH**

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H.R. 1 slashes funding for the [National Oceanic and Atmospheric Administration](#) (NOAA) (see table below), detrimentally impacting jobs in every State and the Nation's ability to address natural hazards and disasters that affect the economy, national security, and the environment. These cuts would severely limit NOAA's ability to:

**Forecast Weather:** Reduced funding would result in a break in satellite coverage and the closure of up to twelve forecast offices, leaving 30 million Americans without daily weather forecasts and warnings.

**Predict Natural Disasters:** Reduced funding would endanger the delivery of data necessary for natural resource management, including critical information on droughts, floods, fires, storms, and harmful algal blooms.

**Provide Search and Rescue Services:** Reduced funding would hinder the supply of oceanographic data used by the Coast Guard to respond to distressed vessels at sea.

**Manage Fisheries:** Reduced funding would hamper the recovery of overfished stocks. Rebuilding all overfished stocks would generate \$31 billion in sales impacts and support 500,000 jobs.

NOAA Program	FY 10 (Enacted)	H.R. 1	H.R. 1 - FY 10 (Enacted)	FY 12 (Request)
Pacific Coastal Salmon Recovery	\$80 million	\$50 million	(-\$30 million)	\$65 million
Operations, Research, and Facilities (ORF)	\$3.4 billion	\$2.9 billion	(-\$0.5 billion)	\$3.4 billion
Procurement, Acquisition and Construction (PAC)	\$1.4 billion	\$1.5 billion	\$0.1billion	\$2.1 billion
Total	\$4.8 billion	\$4.4 billion	(-\$0.4 billion)	\$5.5 billion

**DEFUNDING THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE**

Representative Blaine Luetkemeyer (R-MO) offered amendment #149 prohibiting the use of funding for contributions to the [Intergovernmental Panel on Climate Change \(IPCC\)](#), claiming that it is “an entity that is fraught with waste and engaged in dubious science”.

The IPCC is the leading international body for the assessment of climate change, reviewing scientific, technical, and socio-economic information, and providing rigorous and balanced scientific information to decision makers. Thousands of scientists from all over the world contribute to the work of the IPCC, including hundreds of volunteering U.S. scientists. The controversy manufactured by the release of stolen emails and UK newspapers has been addressed by the IPCC, five independent reviews, including the Commerce Department’s Inspector General, which exonerated the climate scientists involved, and the retraction of stories and apologies by the newspapers.

The U.S.’ modest contribution to the IPCC leverages efforts to assess the impacts of climate change and reduce our vulnerability to them. The cost of these impacts and vulnerabilities, including drought, floods, fire, and sea-level rise, are expected to grow to hundreds of billions of dollars annually in the US alone by mid-century. Prohibiting U.S. contributions to the IPCC would leave the U.S. ill-informed and ill-prepared to address climate change impacts, thereby increasing the long-term costs to the American taxpayer. The Luetkemeyer amendment was approved by a vote of [244 to 179](#).

**DEFUNDING CREATION OF A NOAA CLIMATE SERVICE**

Representative Ralph Hall (R-TX) offered amendment #495 eliminating funding for creation of a National Oceanic and Atmospheric Administration (NOAA) Climate Service.

Up to one-third of the U.S. gross domestic product depends on accurate weather and climate information. Currently, NOAA responds to millions of annual requests for climate information, including 76 billion observations, 1.5 million forecasts, and 57,000 warnings in FY 2010 alone.

NOAA’s Climate Service would provide significant public and private sector benefits, allowing businesses, communities, and individuals to make smart investment choices that impact the economy, national security, and public health and safety. This amendment prevents NOAA from meeting the growing demands of our nation’s businesses and communities for reliable and relevant climate information. The Hall amendment was approved by a vote of [233 to 187](#).

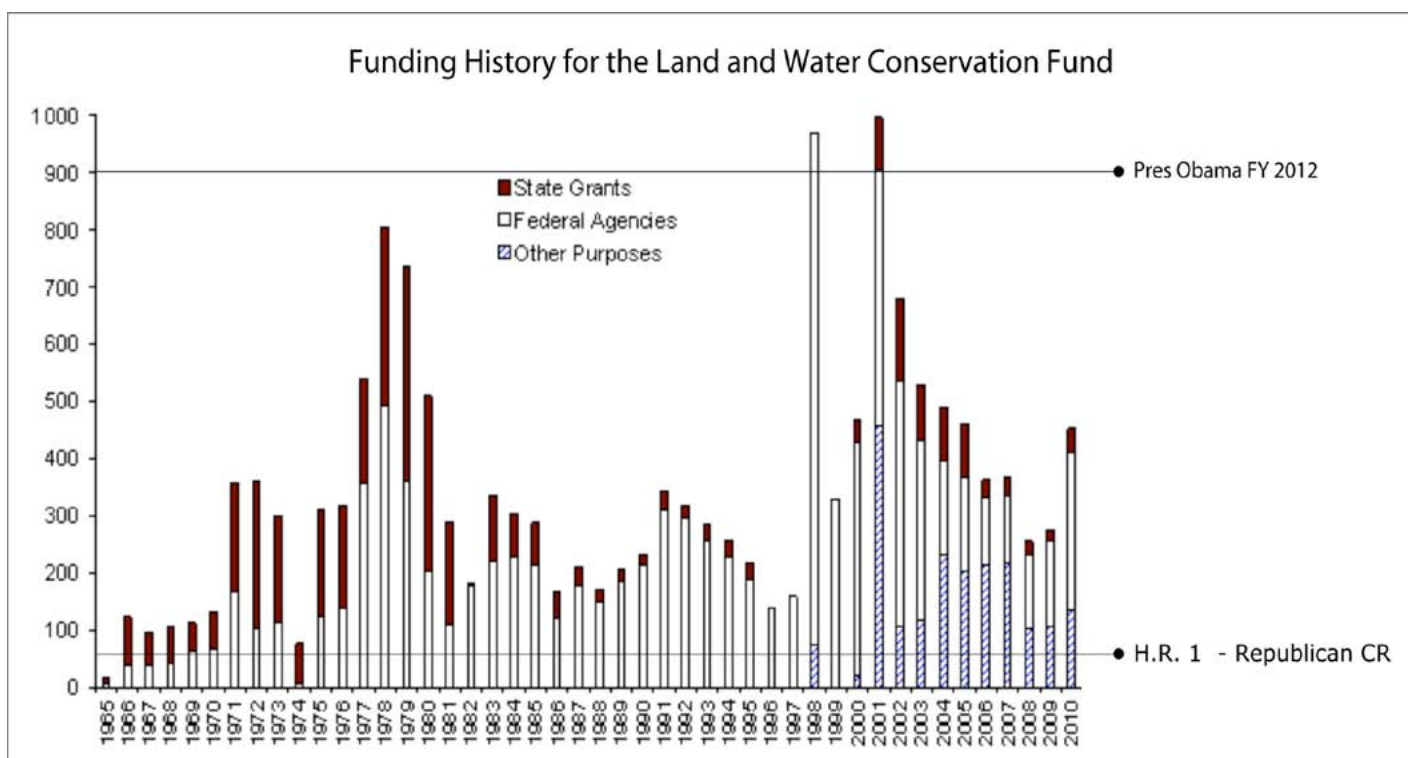
## SECTION IV: DEGRADING NATIONAL PARKS, FORESTS AND PUBLIC LANDS

H.R. 1 would decimate funding for [Land and Water Conservation Fund](#) programs, providing the lowest level of LWCF funding since 1965.

The bill proposes \$41 million for LWCF expenditures for the four federal land management agencies and stateside grants authorized to receive funding under the program, plus \$18 million in administrative costs and other grants. This breaks down to \$14.1 million for the National Park Service, \$2.75 million for the Bureau of Land Management, \$15.055 million for the Fish and Wildlife Service, \$9.1 million for the Forest Service and zero for the states.

Overall, this is an 87 percent cut from the FY '10 enacted level and 93 percent less than the President's request for FY 2012. This money – generated by oil and gas revenues from offshore drilling, not taxpayers' dollars – strengthens national parks, protects hunting and fishing habitats and provides funds for city parks and sports fields through acquisition of sensitive lands and grants to states.

If enacted, no federal land acquisition could occur, meaning that sensitive conservation lands would be lost to development.



Source: *Land and Water Conservation Fund: Overview, Funding History and Issues*, Congressional Research Service, RL 33531, August 13, 2010.

### DEFUNDING SECRETARY SALAZAR'S "WILDLANDS" POLICY

The Wilderness Act requires the Interior Department to evaluate public lands so that those areas with wilderness characteristics can be managed to preserve them until Congress either designates the area as wilderness or releases it. In order to settle litigation during the Bush Administration, Former Interior Secretary Norton agreed to stop complying with this requirement, thus abandoning protections for potential wilderness areas.



Last December, Interior Secretary Salazar issued [Secretarial Order 3310](#) reversing the dangerously skewed Bush policy. The Salazar order restores balance to public land management and recommits the Interior Department to compliance with the Wilderness Act.

Section 1778 of H.R. 1 states that “None of the funds made available by this division or any other Act may be used to implement, administer, or enforce Secretarial Order No. 3310 issued by the Secretary of the Interior on December 22, 2010.” This fundamental change in wilderness policy has no budgetary impact and does not belong in a budget bill.

#### **DEFUNDING A DECADE OF PLANNING FOR FOREST ROADS**

Representative Wally Herger (R-CA) offered amendment #177 to defund the Forest Service’s [Travel Management Rule](#). The Forest Service began this planning process in 2001 in an attempt to develop a more efficient, more manageable system of roads through our national forests.

Currently, there are more than 380,000 miles of forest roads – eight times longer than the U.S. Interstate Highway System and enough to circle the Earth 15 times. The National Forest System is also dissected by another 60,000 miles of illegal, user-created roads. This tangle of roads far exceeds the Forest Service’s ability to maintain them while fragmenting critical habitat, increasing erosion and polluting rivers and streams.

The Travel Management Rule was developed through an extensive public process, including multiple public meetings and thousands of public comments. The Herger amendment would stop implementation of the Rule in its tracks. The amendment was adopted by a vote of [227 to 197](#).

### **SECTION V: STALLING CLEAN ENERGY INNOVATION AND DEPLOYMENT**

With oil near \$100 a barrel and the economy in need of new growth opportunities, now is a critical time for America to move aggressively to accelerate the development of clean energy technologies. However, H.R. 1 does the opposite by slashing key energy research budgets that are essential for fueling innovation in the sector (see table below). As President George W. Bush’s Undersecretary for Science at the Energy Department, Raymond Orbach, wrote this week in the journal [Science](#):

“Left intact, the massive cuts in research contained in [H.R. 1] would effectively end America’s legendary status as the leader of the worldwide scientific community... The cuts proposed in H.R. 1 would reverse a bipartisan commitment to double the science research budgets of the National Science Foundation, the DOE Office of Science, and the National Institute for Science and Technology over 10 years. These are national goals supported by both Presidents Bush and Obama... Failure to [reverse the H.R. 1 cuts] would relegate the United States to second-class status in the scientific community and threaten economic growth and prosperity for future generations of Americans.”

While it cuts innovation investment and undermines America’s ability to compete in the 21<sup>st</sup> century clean energy economy, H.R. 1 does nothing to address the billions of public dollars going to support the mature and hugely profitable oil and gas industry. Ending 8 different tax subsidies for oil companies—as President Obama has recommended in his 2012 budget request—would reduce the deficit by \$44 billion over the next decade.

Republicans also defeated an amendment offered by Representative Markey (D-MA) to close a loop hole that allows oil companies to drill in the Gulf of Mexico without paying any royalties to the American people. American taxpayers stand to lose up to \$53 billion in foregone royalties over the next 25 years as a result of this loophole.

Energy Program	FY 10 (Enacted)	H.R. 1	H.R. 1 - FY 10 (Enacted)	FY 12 (Request)
Energy Science	\$5.20 billion	\$3.95 billion	(\$1.25 billion)	\$5.42 billion
Biological and Environmental Research	\$603 million	\$302 million	(\$301 million)	\$717 million
Energy Efficiency and Renewable Energy	\$2.50 billion	\$1.36 billion	(\$1.14 billion)	\$3.23 billion
State and Local Clean Energy Deployment	\$289 million	\$0	(\$289 million)	\$394 million
Advanced Research Projects Agency—Energy (ARPA-E)	\$384 million <sup>1</sup>	\$50 million	(\$334 million)	\$550 million
Total <sup>2</sup>	\$8.08 billion	\$5.36 billion	(\$2.72 billion)	\$9.2 billion

## SECTION VI: HARM TO INSULAR COMMUNITIES AND FIRST AMERICANS

### HARM TO U.S. INSULAR AREAS

H.R. 1 slashes the already meager funding available for the U.S. Insular Areas by \$6,679,000, or roughly \$1,000,000 per month for the remaining seven months of FY 2011. This cut represents a 7.84 percent cut from the FY 2010 appropriated amount of \$89,195,000 and a 7.9 percent cut from the President's FY 2012 Request of \$84,117,000.

These cuts will severely impact the ability of the [Office of Insular Affairs of the Department of Interior](#), to support programs in the Territories in training for high school and college students; training for insular professionals in financial management and economic development as well as programs in energy security and health and public safety.

### REPEALING IMPROVEMENTS TO HEALTHCARE FOR NATIVE AMERICANS AND ALASKA NATIVES

The [Patient Protection and Affordable Care Act \(PPACA\)](#) included significant protections for Native Americans and Alaska Natives, including the first reauthorization of the Indian Healthcare Improvement Act in nearly 20 years. By repealing PPACA, H.R. 1 also repeals these vital healthcare improvements for nearly 2 million Native Americans and Alaska Natives.

## SECTION VII: PROHIBITING ENVIRONMENTAL (AND MOST OTHER) JUSTICE

### DENYING ATTORNEYS' FEES UNDER THE EQUAL ACCESS TO JUSTICE ACT

Representative Cynthia Lummis (R-WY) offered amendment #195 prohibiting payment of attorneys' fees to successful litigants in federal court pursuant to the [Equal Access to Justice Act](#). The aim of this amendment was clear: to make it more difficult for non-profit environmental groups to use the courts to preserve clean water, clean air, to protect public lands and preserve wildlife.

The amendment, however, punishes all Americans who seek to protect their rights in court, including [veterans](#)

[suing the Veteran's Administration and retirees suing the Social Security Administration](#). In addition, the amendment makes it more financially onerous for farmers, ranchers, miners, fishermen, and timber workers to assert their rights when they believe the nation's environmental laws are being misused.

In addition to closing the courthouse door on average Americans with legitimate claims, the Lummis amendment will actually *increase* the deficit. Under existing law, successful plaintiffs would still be entitled to attorneys' fees, with interest. If the Lummis amendment were enacted, the federal government would have to pay certain successful plaintiff's attorneys' fees eventually, *with interest*, increasing the deficit in the process.

## CONCLUSION

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By taking all non-discretionary, defense and homeland security spending off the table, House Republicans focused 100 percent of their \$100 billion in budget cuts in a very small segment of the overall budget. Furthermore, by including these drastic cuts in a spending bill covering just seven months, House Republicans further concentrated the devastating impacts these cuts would have. The Majority then brought the bill to the House floor and encouraged their Members to offer hundreds of further spending cuts and policy riders. As a result, programs protecting the environment and clean energy development were among the only targets for spending cuts allowed by the Majority.

H.R. 1 would not balance our budget, nor would it reduce our nation's debt in any meaningful way. What H.R. 1 would accomplish, however, is to make the air we breathe and the water we drink dirtier, degrade our national parks, forests and public lands, further endanger already fragile wildlife, halt valuable scientific research, deny healthcare to the First Americans and deny access to justice for all Americans.

H.R. 1 would turn back the clock, to a time when the desires of land speculators, coal companies and other polluters trumped the welfare of average American families. While it has been embraced by House Republicans, it should be rejected by the American people.

*(Footnotes)*

1        *This \$384 million appropriation came through the American Recovery and Reinvestment Act, allowing the new ARPA-E program to make its first-ever research awards.*

2        *Biological and Environmental Research is a subcategory of Energy Science; State and Local Clean Energy Deployment is a subcategory of Energy Efficiency and Renewable Energy.*