

Budd (Dan H. Budd and Sons, Inc.), P. A. Widener (United Peregrine Soc and N. Amer. Falconer's Assn), G. Jennings (Amer Fedn of Aviculture).

Hearing of April 14 included testimony from J. W. Gehring (NMFS), J. A. Helms (Sen NC), C. Mann (Safari Club Intl), J. Kane (William Amer Co.).

Testimony opposing S. 2899 includes M. J. Bean (Environmental Def Fund, Natural Resources Def Council, World Wildlife Fund), Z. J. Plater (Wayne State Univ.), M. D. Zagata (Audubon), T. Garret (Defenders of Wildlife), R. Bolten (NWF), C. Stevens (Soc for Animal Protective Legislation, Monitor Consortium).

Additional testimony includes: W. S. Tucker (Edison Electric Inst.), K. Balcomb (Colo. River Water Conservation Dist., Southwestern Water Conservation Dist), D. C. Simpson (Pacific Legal Fdn).

U.S. Congress Senate. Committee on Environment and Public Works.

Subcommittee on Resource Protection. Endangered Species Act Reauthorization. Hearings, 96th Congress, 1st session, Apr. 3, 1979. Washington, U.S. Govt. Print Off. 1979. 132 p.

"Serial no. 96-H11"

Hearings on the reauthorization of appropriations for Endangered Species Act of 1973.

Hearing includes submitted statements and testimony by: J. Duncan (Rep. Tenn), H. Eschwege (GAO), R. L. Herbst (Fish, Wildlife, and Parks), T. Leitell (FOAA), T. Lovejoy (World Wildlife Fund), L. P. Silverman (DOI), E. J. Stahr (Audubon).

Additional statements submitted for the record: International Primate Protection League, Natl Forest Products Assn, Pacific Marine Fisheries Commission, Soc for Animal Protective Legislation.

PART V

LEGISLATIVE HISTORY OF 1979 AMENDMENTS TO THE ENDANGERED SPECIES ACT

TULLICO DAM RIDER TO THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1980, PUBLIC LAW 96-69

BACKGROUND

Authorization for administration of the Endangered Species Act had been extended only 18 months by the 1978 Amendments (see Part IV) and was scheduled to expire in the middle of fiscal year 1980. Bills to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes (H.R. 2218/S. 1143) passed the Senate on June 13, 1979, and passed the House on October 24, 1979 (see Endangered Species Act of 1973, Appropriation Authorization—below). Proposals to exempt the Tullico Dam project from the protections of the Act had been defeated in Senate Committee and again on the Senate floor. When the House passed H.R. 4388 (the Energy and Water Development Appropriations bill for fiscal year 1980), it accepted by voice vote a non-germane amendment offered by Mr. Duncan to provide for the completion of construction, operation and maintenance of the Tullico Dam and Reservoir project. The Tullico project had been halted because of the presence in the project impact area of the officially endangered snail darter. The Endangered Species Committee, established by the 1978 Amendments (see Part V), had declined to exempt the project from the requirements of the Endangered Species Act, and the authorizing committees of Congress, so far as the Endangered Species Act is concerned, were disinclined to intervene after the intense debate and seeming legislative resolution of the conflict in 1978. When H.R. 4388 was considered in the Senate, the provision exempting Tullico was struck and the bill then passed on July 18, 1979. The measure ultimately went to Conference Committee and the matter of whether or not to exempt the Tullico project was reported in disagreement on July 24, 1979. The House reconsidered the issue in disagreement on August 1, 1979 and by a vote of 258 to 156 reaffirmed its desire to exempt the Tullico project. On September 10, 1979 the Senate voted 48 to 44 to recede from its position and acquiesce to the House version. The bill was approved by the President and signed into law on September 25, 1979 (Public Law 96-69).

CHRONOLOGY—Tullico Dam Provision of P.L. 96-69

On February 5 and April 11, 1979 the House Subcommittee on Energy and Water Development of the Committee on Appropriations (1235)

held hearings on the subject prior to introduction of a bill. On May 10, 1979 the Subcommittee further considered the subject and marked-up a bill to be introduced.

June 7, 1979—H.R. 4388 reported to the House as an original measure, H. Rept. 96-243.

June 14, 15, 16, 1979—H.R. 4388 considered by the House.

June 13, 1979—House Amendment 375 offered by Mr. Duncan approved by voice vote.

June 18, 1979—H.R. 4388, as amended, passed by the House.

June 20, 1979—H.R. 4388 received in the Senate, referred to Committee on Appropriations.

July 12, 1979—H.R. 4388 reported to Senate favorably with amendments by the Committee on Appropriations, S. Rept. 96-242.

July 17, 1979—H.R. 4388 considered by Senate. Senate unprinted amendment number 369 proposed by Senator Culver to delete the

Tellico Dam provision added in the House by the Duncan Amendment, was approved by a vote of 53 to 45.

July 18, 1979—H.R. 4388 passed Senate with amendments.

July 25, 1979—House Conference Report 96-388 reported by Committee of Conference with Tellico Dam issue reported in disagreement.

August 1, 1979—House consideration, adoption of motion that House insist on its disagreement to the amendment of the Senate concerning the Tellico Dam and Reservoir project.

September 10, 1979—Senate consideration and adoption of a motion to recede from its amendment concerning Tellico and accept the House position.

September 13, 1979—H.R. 4388, with language providing for completion of the Tellico Dam and Reservoir project, presented to the President.

September 25, 1979—H.R. 4388 signed into law (Public Law 96-69).

PUBLIC LAW 96-69 [H.R. 4388]; September 25, 1979

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1980

An Act making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, for energy and water development, and for other purposes, namely:

• • • • •

TENNESSEE VALLEY AUTHORITY

PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C., ch. 12A), 16 USC 831 et seq. including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, \$148,677,000, to remain available until expended: Provided, That notwithstanding the provisions of 16 U.S.C., chapter 35 or any other law, the Corporation is authorized and directed to complete construction, operate and maintain the Tellico Dam and Reservoir project for navigation, flood control, electric power generation and other purposes including the maintenance of a normal summer reservoir pool of 813 feet above sea level. 16 USC 1531 et seq.

• • • • •

FURTHER CONSIDERATION OF H.R. 4388 BEGUN
ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1980

Mr. BEVILL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4388) making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.
The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4388, with Mr. Sharp in the chair.

The Clerk read the title of the bill.
The CHAIRMAN. When the Committee of the Whole House rose on Friday, June 15, 1979, the Clerk had read through line 23 on page 27, and pending was an amendment offered by the gentleman from Kansas (Mr. Glickman).

The Chair recognizes the gentleman from Kansas (Mr. Glickman) for 5 minutes in support of his amendment.
The Committee of the Whole House then continued its consideration of the bill.

[From the Congressional Record, June 18, 1979]

AGREEMENT TO DUNCAN FLOOR AMENDMENT ON THE TELlico DAM AND
RESERVOIR

AMENDMENT OFFERED BY MR. DUNCAN OF TENNESSEE

Mr. DUNCAN of Tennessee. Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mr. Duncan of Tennessee: On page 28, line 18, strike the period and insert: ". Provided, That notwithstanding the provisions of 16 U.S.C. chapter 35 or any other law, the Corporation is authorized and directed to complete construction, operate and maintain the Tellico Dam and Reservoir project for navigation, flood control, electric power generations and other purposes, including the maintenance of a normal summer reservoir pool of 813 feet above sea level."

Mr. DUNCAN of Tennessee. Mr. Chairman, I wish to offer this amendment to the bill now before us. The purpose of my amendment is to establish in law the Congress desire to see that the Tellico Dam and Reservoir is completed and used as designed. It does not call for additional funds in this for the TVA.

My amendment would provide in legislature, what we in the Congress intend as far as the status of the project is concerned. The project is 99 percent complete, and over \$100 million has previously been appropriated by the Congress and spent on the project. My amendment would make it clear that the Congress intends for this project to be 100 percent complete and used as designed.

Mr. Myers of Indiana. Mr. Chairman, if the gentleman will yield, the minority has reviewed the amendment and accepts it.

Mr. BEVILL. Mr. Chairman, if the gentleman will yield further, we have no objection to the amendment.
The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Duncan).
The amendment was agreed to.

[From the Congressional Record, June 18, 1979]

HOUSE PASSAGE OF H.R. 4388, WITH AMENDMENTS

Mr. BEVILL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.
Accordingly the Committee rose; and the Speaker pro tempore (Mr. Rosentkowski) having assumed the chair, Mr. Sharp, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4388) making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.
The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.
The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.
The SPEAKER pro tempore. Is the gentleman opposed to the bill?
Mr. MILLER of Ohio. I am, Mr. Speaker, in its present form.
The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:
Mr. Miller of Ohio moves to recommit the bill, H.R. 4388, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.
The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.
The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.
Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.
The vote was taken by electronic device, and there were—yeas 359, nays 29, not voting 46, as follows:

[Roll No. 283]

YEAS—359

Abdnor	Campbell	Philipo
Addabbo	Carney	Florio
Akaka	Carter	Foley
Albosta	Clausen	Ford, Mich.
Alexander	Cleveland	Ford, Tenn.
Ambro	Clinger	Fountain
Anderson,	Coelho	Fowler
Calif.	Coleman	Frenzel
Anderson, Ill.	Collins, Ill.	Frost
Andrews, N.C.	Conte	Fugua
Andrews, N. Dak.	Corman	Gaydos
Annunzio	Cotter	Gaydos
Archer	Coughlin	Gibbons
Ashbrook	Courter	Gilman
Ashley	D'Amours	Gingrich
Aspin	Daniel, Dan	Ginn
Atkinson	Daniel, R. W.	Glickman
AutCoin	Danielson	Goldwater
Baham	Dannemeyer	Gonzalez
Batalis	Davis, Mich.	Goodling
Balley	Davis, S.C.	Gore
Baldus	Derrinski	Gradsion
Barnard	Devine	Gramm
Barren	Dickinson	Grassley
Baum	Dicks	Gray
Beard, R.I.	Diggs	Green
Benjamin	Dingell	Grisham
Bennett	Dixon	Guarini
Berente	Donnelly	Guider
Behune	Dorman	Guyer
Beverl	Dougherty	Hagedorn
Blagel	Dryhan	Hall, Ohio
Bingham	Duncan, Oreg.	Hall, Tex.
Bligham	Duncan, Tenn.	Hamilton
Blanchard	Early	Hammer-
Boggs	Edwards, Ala.	schmidt
Boland	Edwards, Calif.	Hance
Boner	Edwards, Okla.	Hanley
Bonker	Emery	Hansen
Bouquard	English	Harris
Bowen	Erdahl	Harris
Brademas	Erlenborn	Harsha
Brinkley	Ertel	Hawkins
Brooks	Ervans, Del.	Hecker
Broomfield	Ervans, Ga.	Heher
Brown, Calif.	Ervans, Ind.	Hefel
Brown, Ohio	Fary	Hightower
Broyhill	Fascell	Hillis
Buchanan	Fazio	Hollenbeck
Burgener	Ferraro	Holt
Burison	Findley	Hopkins
Burton, Phillip	Fish	Horton
Butler	Fisher	Howard
Byron	Fithian	Hubbard

YEAS—Continued

Hughes	Moakley	Simon
Hutto	Montgomery	Skelton
Hyde	Moore	Slack
Jeffries	Moorhead, Calif.	Smith, Iowa
Jenkins	Jenette	Smith, Nebr.
Johnson, Calif.	Johnson, Calif.	Snowe
Johnson, Colo.	Johnson, Colo.	Snyder
Jones, N.C.	Jones, N.C.	Solarz
Jones, Okla.	Jones, Okla.	Solomon
Jones, Tenn.	Kramer	Spellman
Kastlenier	Kastlenier	Spence
Kazen	Kemp	St Germain
Kay	Kemp	Stack
Kildee	Kindess	Stagers
King	Kogovsek	Stangeland
Kosmayer	Kosmayer	Stanton
Kramer	Kramer	Stark
LaFolke	LaFolke	Steel
Lagomarsino	Latta	Stenholm
Latta	Leach, Iowa	Stewart
Leach, Iowa	Leach, La.	Stewart
Leach, Tex.	Leath, Tex.	Stockman
Lederer	Lederer	Stokes
Lee	Lee	Stratton
Lehman	Lehman	Studds
Leland	Leland	Stump
Lent	Lent	Swift
Levitas	Lewis	Symms
Lewis	Lloyd	Synar
Lloyd	Loeber	Thomas
Loeber	Long, Ia.	Thompson
Long, Ia.	Long, Md.	Traxler
Long, Md.	Lott	Treen
Lott	Lowry	Trible
Lowry	Lujan	Van Dehrin
Lujan	Luken	Vander Jagt
Luken	Lundine	Vank
Lundine	Langren	Vento
Langren	McClary	Volkmur
McClary	McCloskey	Walgren
McCloskey	McCormack	Walker
McCormack	McDade	Wampler
McDade	McEwen	Watkins
McEwen	McHugh	Waxman
McHugh	McKay	White
McKay	McKinney	Whitehurst
McKinney	Madigan	Whitaker
Madigan	Markey	Whitman, Mont.
Markey	Marks	Wilson, Bob
Marks	Marlenee	Wilson, C. H.
Marlenee	Marrlott	Winn
Marrlott	Marlin	Winn
Marlin	Mathis	Wirth
Mathis	Mattox	Wolf
Mattox	Mavroules	Wolpe
Mavroules	Mazoll	Wright
Mazoll	Mica	Wyatt
Mica	Michel	Wydler
Michel	Mikulski	Yates
Mikulski	Miller, Calif.	Young, Alaska
Miller, Calif.	Mineta	Young, Fla.
Mineta	Minish	Young, Mo.
Minish	Mitchell, N. Y.	Zablocki
Mitchell, N. Y.		Zelretch
		Shumway

Applegate
Bedell
Bellenson
Boulton
Brodbhead
Cavanaugh
Clay
Collins, Tex.
Coyle
Deardark

Dellums
Derrick
Fenwick
Gephardt
Harkin
Holtzman
Jacobs
Jeffords
Kelly
McDonald

Maguire
Mikva
Miller, Ohio
Mitchell, Md.
Moffett
Obey
Paul
Weaver
Wells

NOT VOTING—46

Anthony
Beard, Tenn.
Bolling
Breun
Burton, John
Carr
Chappell
Cheney
Chisholm
Conable
Corcoran
Crane, Daniel
Crane, Philip
Daschle
de la Garza
Dodd

Downey
Eckhardt
Edgar
Flood
Forsythe
Giallino
Holland
Huckaby
Ichord
Ireland
Lavin
Mollohan
Nolan
Pashayan
Pepper
Petri

Pritchard
Rhodes
Rodino
Rosenthal
Rosenlot
Santini
Sawyer
Shuster
Tanke
Taylor
Udall
William, Ohio
Wilson, Tex.

The Clerk announced the following pairs:

- Mr. Santini with Mr. Beard of Tennessee.
- Mr. Rosenthal with Mr. Cheney.
- Mr. Chappell with Mr. Forsythe.
- Mr. Anthony with Mr. Williams of Ohio.
- Mrs. Chisholm with Mr. Pritchard.
- Mr. de la Garza with Mr. Lavin.
- Mr. Giallino with Mr. Pashayan.
- Mr. Ireland with Mr. Daschle.
- Mr. Mollohan with Mr. Daniel B. Crane.
- Mr. Rodino with Mr. Petri.
- Mr. Pepper with Mr. Taylor.
- Mr. John L. Burton with Mr. Shuster.
- Mr. Downey with Mr. Conable.
- Mr. Dodney with Philip M. Crane.
- Mr. Breun with Mr. Tanke.
- Mr. Nolan with Mr. Corcoran.
- Mr. Carr with Mr. Edgar.
- Mr. Eckhardt with Mr. Flood.
- Mr. Ichord with Mr. Huckaby.
- Mr. Holland with Mr. Schener.
- Mr. Udall with Mr. Roussetot.
- Mr. Ullman with Mr. Charles Wilson of Texas.

Mr. FASCERTL changed his vote from "nay" to "yea."
So the bill was passed.
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.

H. R. 4388

IN THE SENATE OF THE UNITED STATES

June 20 (legislative day, May 21), 1979
Read twice and referred to the Committee on Appropriations

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

TENNESSEE VALLEY AUTHORITY

PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C., ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, \$146,177,000, to remain available until expended: *Provided*, That notwithstanding the provisions of 16 U.S.C., chapter 35 or any other law, the Corporation is authorized and directed to complete construction, operate and maintain the Tellico Dam and Reservoir project for navigation, flood control, electric power generation and other purposes, including the maintenance of a normal summer reservoir pool of 813 feet above sea level.