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Senate

(Legislative day of Wednesday, March 6, 1996)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign Lord, guide the vital page in history that will be written today. As we begin this new day, we declare our dependence and interdependence. We confess with humility that we are totally dependent on You, dear God. We could not breathe a breath, think a thought, or exercise dynamic leadership without Your constant and consistent blessing. We praise You for the gifts of intellect, education, and experience. All You have done in us has been in preparation for what You want to do through us now.

And yet, we know we could not achieve the excellence You desire without the tireless efforts of others. We thank You for our families and friends, the faithful and loyal staffs that make it possible for the Senators to function so effectively, and for all who make the work of this Senate run smoothly. Help us express our gratitude by singing our appreciation for the unsung heroes and heroines who do ordinary tasks with extraordinary diligence. We praise You for the gift of life and those who make work a joy. In the name of Him who taught us the greatness of being servant leaders. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today, there will be a period for morning busi-

ness until the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator FEINSTEIN for 15 minutes; Senator REID for 15 minutes; Senator DORGAN for 20 minutes; Senator BAUCUS for 10 minutes; and Senator THOMAS for 30 minutes.

At the hour of 11 a.m., the Senate will resume consideration of the pending motion to proceed to Senate Resolution 227 regarding the extension of the Whitewater Committee. It is also our intent for the Senate to begin consideration of S. 942, a small business regulatory relief bill. This is legislation, I believe, that will enjoy overwhelming bipartisan support. I believe it was reported out of the Small Business Committee unanimously, and we hope that we can get an early agreement to proceed on that legislation.

It is also possible that a bill to temporarily extend the debt ceiling will be brought up. If so, rollcall votes will occur during today, and Members should expect that to happen.

Again, I want to emphasize that we hope to get that debt ceiling legislation up and considered. If not, it could conceivably be brought up on Friday. So I hope we can get cooperation in bringing up both the small business regulatory relief bill and the debt ceiling.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for morning business.

Mr. REID addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Nevada.

Mr. REID. Mr. President, under the previous order, I request the Chair notify the Senator when he has 3 minutes remaining.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Nevada.

ENDANGERED SPECIES ACT LISTING MORATORIUM

Mr. REID. Mr. President, about 11 months ago, I stood on this floor and indicated to this body that it was about to make a crucial mistake, a critical mistake. At that time the U.S. Senate was considering a moratorium on the listing of endangered species. Those people at that time who were calling for a so-called time out in the listing of endangered species, I do not think, or I hope, did not understand the consequences. They did not want to wait for reauthorization of this list. They did not want to wait for the reauthorization to take place through the legislative process. They said they could not wait for reforms to be deliberated and drafted by the committees of jurisdiction. In fact, Mr. President, they could not even wait for the Environment and Public Works Committee to consider the moratorium.

It was brought to the floor without a single hearing. There was nothing done in the way of a deliberative process to point out the inherent weaknesses of what was about to be done. In sum, they started, without justification, a piecemeal dismantling of the act, which is to jeopardize forever the existence of various species of plants and animals.

My colleagues reacted by giving pieces of history where the Endangered Species Act did not work well, and thereafter imposed the moratorium on any further listing of endangered species. One Member of the House of Representatives claimed at that time that "we must put regulators on a leash."

Mr. President, there are a number of ways to control regulators, but the path taken was, in my opinion, the worst path. The path taken was to cause damaging and unreasonable requirements. In fact, we had to simply stand by and watch extinction take its toll. No doubt that Member of the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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other body overlooked the only real impact, which is the increased risk to plants and animals in an endangered state.

Mr. President, now, not a single plant or animal has been added to the list since before April of last year. So, what good is this list? It initiates the recovery through a planning process and provides the benefit of State protections, and it affords restraint on Federal activities which jeopardize listed species, and that is the need for listing, to protect that which cannot protect itself.

What is it that we achieve by removing the protection? Everything the critics hate—the process, the definitions, the mission of the Endangered Species Act—they all remain the same. We have not changed anything of that.

Mr. President, I think there are problems with the Endangered Species Act, things that need to be changed. The moratorium does not change a single thing. It did not touch the definitions, the process, the mission of the Endangered Species Act. They all are just like they were before April 10 of last year. Instead, my colleagues simply waged a war on the variety of species that truly need protection. If reform of the listing process had been intended, anyone could have talked to this Senator, who is the ranking member on the subcommittee with jurisdiction, or my colleague, the esteemed, distinguished Senator from Idaho, the junior Senator, Senator KEMPTHORNE, who is chairman of this subcommittee, to talk about substantive reform. If the act was to be made more efficient, then my colleagues could have addressed the many proposals that were brought forth by various coalitions throughout the last session.

But, if my colleagues were honest with themselves and would recognize that this moratorium sought neither to reform nor to protect but to prohibit protection of species, then I think we see the picture.

When the moratorium was passed in April of last year, there were about 80 species that had been proposed for listing. Today, there are more than 250 species listing decisions from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. In 1 year, because of our inactivity, we have three times more than we had then.

We were also told that there are another 270 candidate species which need to be evaluated for either cooperative conservation agreements or proposed listings.

This has had a tremendous impact—the action taken by this body and the other body last year. It has had a tremendous impact on individual species. Once the Florida black bear roamed throughout Florida, southern Georgia, and most all of Alabama. Thousands of these bears roamed this part of the country. Today, if we are lucky, there are 1,200 to 1,500 bears remaining, and they are scattered and isolated.

The black bear, interestingly, Mr. President, is more important than just being a bear. It is known as an umbrella threshold species, whose own population well-being is reflective of the health of the rest of the habitat area and the other species in that same ecosystem.

Currently, there are insufficient conservation areas in Florida to adequately protect the habitat base needed for long-term survival of the State's black bear population.

This unique species, the Florida black bear, was scheduled to be listed by 1996. But now because of the moratorium, the very future of the black bear is bleak and really uncertain. Many scientists say the black bear is finished.

The west coast steelhead of the Northwest has also steadily lost its habitat and consequently consistently declined in population. This fish, which runs from California through Oregon and Washington and Idaho, is a game fish. The annual revenues from this sport fishery is valued at about \$32 million. It is in danger because of activities now being carried out because there is no protection under the Endangered Species Act.

Logging, urbanization, agricultural water diversion, dams, and effects of hatchery fish on native populations are all happening without any restraint, without any concern for species conservation, and are now being carried out because there is no protection of the Endangered Species Act.

The bog turtle of the Northeastern United States was proposed for listing last year. Its protection was delayed because of the listing moratorium, and biologists are now wondering if the remaining populations will be viable once the moratorium is lifted. Probably not is the order. The bog turtle survives in wetlands which are separated by development. Consequently, the bog turtle has a difficult time finding others of the species to mate with.

While the moratorium is in effect and the budget cuts deny execution of the act's mandate, the Fish and Wildlife Service is prohibited from conducting any research or taking actions to prevent further decline of the bog turtle species.

The real tragedy is that there are countless others for which we have no current data and no concept of the welfare of the species. Extinction is forever. But we know there are some in trouble:

The swift fox;

There is a plant in New Jersey called the bog asphodel, a plant found only in the State lands of New Jersey;

The Topeka shiner was to be protected by an agreement of private landowners, but because more information needed to be collected, the agreement was not signed due to the moratorium.

All of these species which I have just talked about will be unmonitored and unprotected if the moratorium remains in place.

The moratorium, Mr. President, inherently costs time, effort, and species. I repeat that extinction is forever.

When we do resolve the reform issues for the Endangered Species Act, we will have to do a great deal of research over again. We will be playing catchup, and ultimately the moratorium will end up costing the taxpayers more to recover a species that is further down the road to extinction.

Mr. President, the moratorium does not benefit the landowners or the regulated interests. On the contrary, the future of species on their land is as uncertain as it ever was. When the landowners throughout the country come to my office, they do not ask that we stop trying to preserve species. I have never heard anyone say that. They say they want certainty in the process.

More importantly, the moratorium fails to acknowledge the permanency of extinction. We are spending time trying to come up with a reasonable approach to the Endangered Species Act. I have worked with Senator KEMPTHORNE, and I think we can come up with something. But I want to alert everyone here, Mr. President, as I did in the Appropriations Committee yesterday, that when the appropriations bills—this bill, which is going to have five bills wrapped into one, the so-called continuing resolution—comes up in next few days, I am going to offer an amendment to do away with the moratorium. That is the right thing to do.

What is needed is substantive reform. We need a more efficient listing process with a deadline, with peer review, and with State and local participation in the process, making recovery plans practical with such measures as deadlines, multispecies priorities, and cooperative efforts. That is essential to any substantive reform.

We need to bring non-Federal parties such as State and local governments and affected parties to the table to work cooperatively in a teamwork approach that is vital to bringing balance to the delisting and recovering process.

We need to establish a relationship with private landowners, and it must be changed to include voluntary conservation agreements, safe-harbor provisions providing the landowner protection for unforeseeable species habitat on their land, or private land, and we also need a short-form habitat conservation plan from minimal impact landowners.

In effect, we should not have one program for all. We need to have various programs to meet the circumstances. We can do that.

But this moratorium, in my opinion, is cruel, it is unusual, and it is unnecessary.

Mr. President, I have said on other occasions, and I say today, that we need to protect species of plant and animals. Extinction is forever.

Some within the sound of my voice may say, "What difference does it make? Why should we be concerned about an animal becoming extinct and

losing it forever?" If we do not care about animals, why in the world should we care about plants?

I have a friend with whom I went to high school. He was one class ahead of me. We played ball together. He had a son. His oldest boy hit a home run in the Little League. He could not make it around the third base. When he got to home, the parents were a little concerned that maybe he was lazy. The fact of the matter was this little boy had leukemia. In those days, when children got leukemia, 20 or 25 years ago, they died. They did not survive. Childhood leukemia was fatal. My friend's little boy died, and he died quickly.

Mr. President, as a result of a plant called the periwinkle plant, scientists found that the substances from that plant allow children to live. Children with leukemia now live because of the plant called periwinkle. Childhood leukemia is no longer fatal, because of this plant.

About 40 percent of the curative substances we take come from plants, many of them from the rain forests and other areas that are going out of business because of population density. I urge my colleagues who recognize the need for substantive reform of the Endangered Species Act, who understand the devastating effect of this moratorium, will support an immediate repeal of this devastating moratorium and allow us to move forward with a sound, substantive, bipartisan reform of the Endangered Species Act.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

THE MAYR BROTHERS

Mr. GORTON. Mr. President, last weekend 170 employees of the Mayr Bros. sawmill in Hoquim, WA, were notified that they were about to be laid off. One-hundred and seventy individual workers is not a particularly large number in connection with all of the layoffs that have taken place across the Nation during the course of the last year. But this is almost the last 170 workers for this particular mill. They are in addition to several thousand others in the area who have lost their jobs during the course of the last 4 or 5 years.

Hoquim, WA, the location of the mill, is a small city of about 9,000 people. The Mayr Bros. mill is one of the few that remain in that city. It has been a mainstay of this community for 63 years at this point in its history. Hoquim, Mr. President, to put it mildly, is not a destination tourist resort by any stretch of the imagination. It is a working-class community that has provided wood and fiber and paper products for the people of the United States for the entire length and breadth of the 20th century.

These layoffs, however, are from a different cause than simply the dynamics of a constantly changing economy. They are taking place because of delib-

erate policies imposed by the Congress and by the administration with respect to the harvest of timber in our national forests and on the lands managed by the Bureau of Land Management of the United States.

It is particularly ironic in the light of these layoffs that the junior Senator from the State of Washington the day before yesterday introduced a bill that would effectively cancel all of the harvest on Federal lands all across the country that were authorized by a rescissions bill signed as recently as last July by the President of the United States, after extensive negotiations involving his office, my office, and that of the distinguished Senator from Oregon [Mr. HATFIELD].

The owner and operator of Mayr Bros. mill, Tom Mayr, has left four Federal timber sales. They are commonly referred to as section 318 sales, named after that section of the fiscal year 1990 Interior Appropriations Act sponsored by then Senator Adams and Senator HATFIELD to provide some interim relief while we determined the future management of our national forests. But even those sales specifically authorized by a fairly recent statute here have been held up for more than 5 years just while a study respecting the marbled murrelet has gone on in the timber area.

Now, Tom Mayr is not the only person who is affected by those provisions or by the Rescission Act provisions. Roughly 600 million board feet of Federal timber contracts have been held up by the Government. In each case they have one feature in common. They represent contracts which were signed by the Federal Government authorizing the harvest about which the Federal Government had second thoughts at some later period of time. As a consequence, if they are not carried out, the Federal Government will have very considerable contractual liabilities, at least \$100 million—perhaps more than that.

Included in the Rescissions Act was language directing that the administration release these timber sales unless one of these marbled murrelets was known actually to be nested in the area. So they are sales in which there is no known nesting habitat for that particular species.

When President Clinton signed the bill, sale owners began to see some light at the end of a very long tunnel but then the administration changed its mind. Despite the fact that the language in the provision was very clear and was discussed with representatives of the White House before it was passed and signed, it has literally taken court orders to get the Clinton administration to implement the provision. As a consequence, fewer than one-half of the sales covered by the provision have been released and only those as a result of a court order.

Much has been made of these so-called salvage timber provisions in the rescissions bill, so an outline of pre-

cisely what they contain should be included in the RECORD at this point. First, the only one of the three areas covered by the rescissions bill language on timber harvesting contracts is section 2001(k). Two other provisions, one on timber salvage and one on the administration's own option 9 provisions, were designed simply to help the administration carry out its own promises. They required the administration to do nothing at all. If it wished to repudiate its promises with respect to salvage timber or with respect to the option 9 commitments of the President of the United States to the people of the Pacific Northwest, it is entirely free to do so unaffected by the provisions of the rescissions bill.

The areas that are covered by the bill on a mandatory basis involve less than 10,000 acres out of the 30 million acres of Federal forestland in Oregon and Washington, fewer than 1 acre out of 3,000. Let us put it in a slightly different fashion. If this provision were a permanent provision ordering this amount of harvest every year rather than a one-time provision to honor past contracts, in 1,000 years fewer than half of the acres in the national forests in these two States would have been harvested once. In 1,000 years, fewer than half of the acres would have been harvested one time. The 600 million board feet represents one-tenth of the historic harvest level in the forests of the Pacific Northwest and far, far less than the natural regeneration rate of those forests. We are talking about a tiny degree of relief, a very modest degree of relief both for the people of timber country and for that matter in connection with the demand of the people of the United States for forest products for paper production, for fiber production, for wood for the building of houses, and the like.

Even so, when the administration began to have second thoughts about this provision, Senator HATFIELD and I listened quite carefully to its views, and in the bill passed by the Appropriations Committee yesterday to gather together all of the remaining appropriations bills in one omnibus proposal we have proposed two changes. We have made it much easier for the administration to exchange particular sale areas that it thinks are especially sensitive for others that are less sensitive assuming that the contractor goes along. We have also made it possible for the administration to buy out certain sales if it can gain the consent of the contracting party, and it can. We know of areas, including Mr. Mayr's areas, in which it can do so. But it is required to use the money already appropriated to it and not simply to do as the administration wishes, to come up with another \$100 million unaccounted for, to be added to the deficit to be sent as a bill to our children and grandchildren. If it can find other ways in which to come up with presently appropriated money to purchase these sales or can find other areas in which to