

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 5093

Mr. GORTON. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 5093.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, line 4, strike all of section 504, and insert the following:

SEC. 504. Following section 4(g)(3) of the Northwest Power Planning and Conservation Act, insert the following new section:

(4)(g)(4) INDEPENDENT SCIENTIFIC REVIEW PANEL.—(i) The Northwest Power Planning Council (Council) shall appoint an Independent Scientific Review Panel (Panel), which shall be comprised of eleven members, to review projects proposed to be funded through that portion of the Bonneville Power Administration's (BPA) annual fish and wildlife budget that implements the Council's annual fish and wildlife program. Members shall be appointed from a list submitted by the National Academy of Sciences, provided that Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Panel.

(ii) SCIENTIFIC PEER REVIEW GROUPS.—The Council shall establish Scientific Peer Review Groups (Peer Review Groups), which shall be comprised of the appropriate number of scientists, from a list submitted by the National Academy of Sciences to assist the Panel in making its recommendations to the Council for projects to be funded through BPA's annual fish and wildlife budget, provided that Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Peer Review Groups.

(iii) CONFLICT OF INTEREST AND COMPENSATION.—Panel and Peer Review Group members may be compensated and shall be considered as special government employees subject to 45 CFR 684.10 through 684.22.

(iv) PROJECT CRITERIA AND REVIEW.—The Peer Review Groups, in conjunction with the Panel, shall review projects proposed to be funded through BPA's annual fish and wildlife budget and make recommendations on matters related to such projects, to the Council. Project recommendations shall be based on a determination that projects: are based on sound science principles; benefit fish and wildlife; and have a clearly defined objective and outcome with provisions for monitoring and evaluation of results. The Panel, with assistance from the Peer Review Groups, shall review, on an annual basis, the results of prior year expenditures based upon these criteria and submit its finding to the Council for its review.

(v) PUBLIC REVIEW.—Upon completion of the review of projects to be funded through BPA's annual fish and wildlife budget, the Peer Review Groups shall submit their findings to the Panel. The Panel shall analyze

the information submitted by the Peer Review Groups and submit recommendations on project priorities to the Council. The Council shall make the Panel's findings available to the public and subject to public comment.

(vi) RESPONSIBILITIES OF THE COUNCIL.—The Council shall fully consider the recommendations of the Panel when making its final recommendations of projects to be funded through BPA's annual fish and wildlife budget, and if the Council does not incorporate a recommendation of the Panel, the Council shall explain in writing its reasons for not accepting Panel recommendations. In making its recommendations to BPA, the Council shall: consider the impact of ocean conditions on fish and wildlife populations; and shall determine whether the projects employ cost effective measures to achieve project objectives. The Council, after consideration of the recommendations of the Panel and other appropriate entities shall be responsible for making the final recommendations of projects to be funded through BPA's annual fish and wildlife budget.

(vii) COST LIMITATION.—The cost of this provision shall not exceed \$2 million in 1997 dollars.

(viii) EXPIRATION.—This paragraph shall expire on September 30, 2000.

Mr. GORTON. Mr. President, I thank both the chairman and the ranking member of the Energy and Water Subcommittee for their understanding in accepting this modification to a provision already included at my request in this fiscal year 1997 energy and water bill.

Section 504 of that bill, and this modification, amend the Northwest Power Act to address a conflict-of-interest issue that was recently brought to my attention by people in Washington and Oregon concerned and knowledgeable about salmon conservation.

The Bonneville Power Administration's annual fish and wildlife budget, in real dollars spent on projects, totals well over \$100 million. This \$100 million comes out of the pockets of Northwest ratepayers each year to protect and enhance fish and wildlife in the Columbia and Snake River basins. The Northwest Power Planning Council prepares and adopts a regional plan to protect fish and wildlife and each year allocates this \$100 million to support that plan.

At the present time, the Columbia Basin Fish and Wildlife Authority is responsible for making recommendations to the council on projects being funded through BPA's annual fish and wildlife budget.

The membership of the authority includes representatives of affected Indian tribes from the region, the Washington, Oregon, Idaho, and Montana State fish and wildlife directors, and representatives of the Fish and Wildlife Service in the National Marine Fisheries Service.

I am convinced that the authority plays an important and necessary role in providing recommendations to the council on what fish and wildlife projects should be funded each year. I was disturbed to discover recently, however, that authority members were recommending to the council that about \$75 million of the \$100 million

spent in project money go to projects to be performed by the members of the authority itself. Mr. President, it is like the Department of Defense asking one of my other constituents, the Boeing Co., to decide what brand of aircraft the military will use.

My amendment and this modification to the Northwest Power Act would ensure that the authority and its members retain a voice in the process, but that sound objective and disinterested science also is heard. Each year, about 400 proposals are submitted for review by the authority all applying to receive funding from the Bonneville funding administration's annual budget. I am sure independent scientific review would remove any suggestion of conflict of interest in connection with these grants and add an important element of review to the council's decisionmaking process. I am convinced it would also assure that the moneys spent will result in the greatest possible salmon enhancement.

My amendment directs the council to establish an 11-member independent scientific review panel from a list of names provided by the National Academy of Sciences. The panel would be responsible for reviewing projects to be funded under BPA's annual fish and wildlife program. I understand the council, together with the National Marine Fisheries Service, has already established an independent scientific advisory board in order to provide scientific advice to the council and the National Marine Fisheries Service.

I want to note in the RECORD at this time that nothing in this amendment precludes the National Academy of Sciences from recommending that some or all of the scientists who serve on the ISAB serve on the newly created independent scientific review panel, provided that those members meet the conflict-of-interest standards spelled out in the amendment. If ISAB scientists are selected to serve on the newly created panel of ours, they should not be compensated twice for the same services.

After careful consultation with the National Academy of Sciences, I have included a provision in my amendment that requires the council to establish, from a list submitted by the National Academy, scientific peer review groups to assist the panel in making its recommendations to the council. It is these peer review groups that will be doing the actual review of the 400-plus project applications submitted to the council each year for consideration.

The panel will coordinate the work of the peer review groups and ensure that each project is reviewed based upon the following commonsense criteria: Does the project benefit fish and wildlife in the region? Does the project have a clearly defined objective and outcome? And is the project based on sound scientific principles?

The amendment directs the panel to prioritize recommendations for the council from the analysis provided by

the peer review groups and that the council make panel recommendations available for public review. The amendment places a cost limitation on the scientific review process of \$2 million.

My amendment directs the council to review recommendations of the panel, the Columbia Basin Fish and Wildlife Authority and others, in making its final recommendations to BPA for projects to be funded through BPA's annual fish and wildlife budget. If the council does not follow the advice of the panel, it is to explain in writing the basis for the decision. The council is directed to consider ocean conditions, among others, in its decision-making process, and to determine whether project recommendations employ cost-effective measures to achieve project objectives.

Lastly, my amendment expressly states that the council, after review of panel and other recommendations, has the authority to make final recommendations to BPA on projects to be funded through BPA's annual fish and wildlife budget.

This amendment is intended to be effective on the date of enactment and to be first implemented during the planning process for the expenditure of BPA's fiscal year 1998 fish and wildlife budget. The amendment will expire on September 30, in the year 2000, in order that its success can be measured by the people of the Pacific Northwest and this Congress.

Mr. President, my amendment seeks to do just one thing: to make sure that Northwest ratepayer dollars are being spent in a cost-effective and objective manner. I have consulted extensively with interested groups in the region on this amendment and have listened to the constructive suggestions of my colleague, Senator MURRAY, and that is why I am proposing that these changes to the amendment be included in the committee bill.

My amendment will ensure that sound science principles are considered by the council before spending ratepayer dollars to protect and enhance fish and wildlife on the Columbia and Snake River System.

Mrs. MURRAY. Mr. President, will the senior Senator from Washington yield for a question?

Mr. GORTON. I yield to the junior Senator from Washington for a question.

Mrs. MURRAY. I thank the Senator. As you know, the Northwest Power Act requires the Power Planning Council and Bonneville Power Administration to mitigate the effects of the hydroelectric system on fish and wildlife generally, and anadromous fisheries specifically. The amendment proposed by the senior Senator would require the council to consider ocean conditions prior to making its science-based recommendations for mitigation priorities to Bonneville. Does the Senator agree that his amendment does not expand the scope of Northwest Power Act with respect to hydro system mitiga-

tion, nor does it make hydro system mitigation efforts contingent on known ocean conditions?

Mr. GORTON. I thank the junior Senator for raising this important question, and agree with her characterization of the amendment. My amendment does not expand the scope of either the council's or Bonneville's mitigation requirements under the Northwest Power Act. It simply suggests that it is valid for the council to consider known ocean conditions when making its recommendations for hydro system mitigation to Bonneville.

Mrs. MURRAY. I thank the Senator.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that during the session of the Senate on Friday and Monday, July 29, the Senate consider Calendar No. 496, S. 1959, the energy and water appropriations bill, and the following amendments be the only first-degree amendments in order, and must be offered during the session on Friday or Monday.

The amendments are as follows: Domenici, relevant; Lott, relevant; Jeffords-Roth, renewable energy; Kyl, central Arizona project; Grams, Appalachian Regional Commission; managers' package; McCain, regarding the light-water reactor; McCain, relevant; McCain, relevant; Specter, Sawmill Run; Pressler, relevant; Pressler, relevant; McConnell, USEC; Lott, regarding environmental management; D'Amato, FUSRAP; Burns, one on environmental management; Kempthorne-Craig, environmental management; Gorton, independent scientific review; and Hutchison, DOE.

From the Democratic side: Senator BIDEN, relevant; Senator BOXER, three relevant; Senator BUMPERS, DOE weapons, a water project, and a separate water project; Senator BYRD, relevant in two instances; Senator CONRAD, water quality and bank stabilization; Senator DASCHLE, two relevant amendments; Senator DORGAN, two relevant amendments; Senator FEINGOLD, one relevant; FORD, one relevant; MIKULSKI, one relevant, along with Senator SARBANES; Senator JOHNSTON, relevant; Senator KERRY, electrometallurgical treatment research; Senator REID, two relevant; Senator SIMON, two relevant; Senator WELLSTONE, regarding alfalfa; and Senator ROCKEFELLER, regarding Japan semiconductors.

Now, it will be my intent to have these votes stacked at 10 o'clock on Tuesday on a case-by-case basis.

Mr. DORGAN. Reserving the right to object, I shall not object, this has been cleared with the minority side?

Mr. LOTT. It has been cleared on the minority side.

I must say I am totally unimpressed with either side. A list of amendments like this is totally ridiculous. I know a number of these will be worked out, and the managers and the chairman will solve a number of these problems in the managers' amendment, but we ought to have maybe two amendments total on this bill.

Maybe next week will be like this week—a miraculous cooperation will evolve and we will get it done quickly. I do not know why we have to go through this exercise of listing this stuff.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Without objection, it is so ordered.

Mr. LOTT. I further ask that with respect to any amendment on the Colorado water project there be up to 10 minutes under the control of Senator CAMPBELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that all amendments be subject to second-degree relevant amendments and may be offered on or after Monday, and following the votes with respect to the amendments, the bill be read for a third time and there be 10 minutes under the control of Senator MCCAIN, and the Senate then proceed to the House companion bill, H.R. 3816, all after the enacting clause be stricken, the text of 1959 be inserted, the bill be advanced to third reading, and final passage all occur without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3754

Mr. LOTT. Mr. President, with regard to the legislative appropriations bill, we intend to bring that up, I believe, at 5 o'clock on Monday, and we have a consent agreement we would like to ask for on that.

I ask unanimous consent that during the session of the Senate on Monday, July 29, the Senate consider the legislative appropriations bill, the committee amendments be deemed agreed to and considered original text for the purpose of further amendments, and the following amendments be the only first-degree amendments in order and must be offered during the session of the Senate on Monday.

The amendments are as follows: Senator CHAFEE, a relevant amendment; Senator HATFIELD, relevant amendment; Senator SPECTER, regarding mailings of town meetings; Senator MCCAIN, revolving-door amendment; Senator COVERDELL, relevant; Senator LOTT, relevant; Senator MACK, the managers' amendment.

In addition, two relevant amendments by Senator BYRD; two relevant amendments by Senator DASCHLE; one by Senator DORGAN regarding overseas jobs; one relevant amendment for Senator FORD; and two relevant amendments for Senator MURRAY.

I further ask that all amendments be subject to relevant second-degree amendments which may be offered on or after Monday, and following the votes with respect to the amendments, the bill be advanced to third reading and final passage occur, all without further action or debate.