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House of Representatives

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001

(Continued)

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT:

Page 6, line 12, strike "revise" and insert "supplement".

Page 6, line 17, strike "proposed rule" and insert "rule proposed on July 21, 1999."

Page 6, line 19, after "(2)" insert "after consideration of the cost analysis for the 1999 proposal to issue and modify nationwide permits and the supplement prepared pursuant to this Act and".

Page 6, line 25, strike "so that within" and all that follows through "1999" on page 7, line 3.

Page 7, line 4, after "specific objective" insert "goals and".

Page 7, line 5, strike "Engineers progress" and insert "Engineers' progress".

Page 7, line 7, strike "at the end of each quarter" and insert "on a biannual basis".

Page 7, line 15, insert "and North Atlantic Division" after "South Pacific Division".

Page 7, line 20, insert after "Public Law 106-60: *Provided further*, That" the following: "through the period ending on September 30, 2003."

Page 8, line 4, strike "That 'filed' shall mean" and all that follows through "deemed complete." on line 7 and insert the following: That the Corps of Engineers, when reporting permit processing times, shall track both the date a permit application is first received and the date the application is considered complete, as well as the reason that the application is not considered complete upon first submission.

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Chairman, my amendment is straightforward and noncontroversial. I believe it not only has the support of the gentleman from California (Mr. PACKARD) and the gentleman from Indiana (Mr. VISCLOSKEY) and other members of the Committee on Appropriations, but also the gentleman from Pennsylvania (Mr. SHUSTER) and other members, on a bipartisan basis, of the Committee on Transportation and Infrastructure.

It also accomplishes something that is relatively rare in this day and age. We have support for the amendment from those within both the environmental community and the regulated community.

I have details on the amendment. Both the chairman and the ranking member have the details, and I would have them inserted into the RECORD at the end of this statement.

What does this noncontroversial, but important amendment do? It updates and revises the authorizing language included by Chairman PACKARD in his Subcommittee relating to the Corps wetlands permitting program—specifically nationwide permits and administrative appeals.

The general intent of my amendment is twofold: (1) to increase the public's and the regulated community's right to know about the Corps wetlands permitting program; and (2) to remove provisions that might cause unnecessary controversy or debate.

While I'm including a detailed summary of the amendment in my written statement, let me highlight its major features. First, it removes the reference to the number of pending individual permits at the end of FY 99 as the performance measure of the proposed Permit Processing Management Plan (PPMP). It shouldn't be necessary to legislatively require that the Plan revolve around a chosen prior fiscal year. I would note, however, that there is legitimate concern that the new nationwide permit restrictions and conditions will create an unmanageable workload for processing individual permits. To be effective, the Plan must address this concern head-on; in the

context of its Plan, the Corps may certainly want to look at the number of pending individual permit applications in FY 99.

The other major highlight of the amendment is to modify provisions on recording the filing of permits so as to require the Corps to track both the date of permit application is received and the date the application is considered complete, as well as the reason the application is not considered complete upon first submission. This should go a long way in providing useful information to help resolve the never-ending debate over the length of time it takes a review and approve or deny wetlands permit applications.

Chairman PACKARD is to be commended for his overall efforts in developing and advancing this year's bill. He has done a good job balancing the need for increased knowledge about wetlands permit processing times, workload impacts, and administrative appeals.

My modest, yet important amendment will improve the language in the bill, and I urge all of my colleagues to accept it.

Deletes the reference to the number of pending individual permits at the end of FY 99 as the performance measure of the Permit Processing Management Plan (PPMP) for future years. It shouldn't be necessary to legislatively require that the Plan revolve around a chosen prior fiscal year.

Modifies the performance measures report to Congress (and publication in the Federal Register) from being quarterly to bi-annual (i.e. twice a year). This should help address concerns about "excessive" reporting and paperwork burdens.

Expands the one-year pilot program for the South Pacific Division to include the North Atlantic Division. Increased geographic diversity should increase the value of the pilot program.

Modifies provisions on recording the filing of permits to require the Corps to track both the date a permit application is received and the date the application is considered complete, as well as the reason the application is not considered complete upon first submission.

Sunsets after 3 fiscal years the proviso allowing appellants to keep verbatim records of appeals conference proceedings. This should

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provide ample time to determine if such verbatim records help or hinder equitable and just resolutions.

Makes technical and clarifying amendments.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I appreciate the gentleman from New York (Mr. BOEHLERT) yielding.

Mr. Chairman, I think the amendment is a very good amendment, and I am very pleased to accept the amendment. I appreciate the fact that he has offered it.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise not to object to the Boehlert amendment. I will not do so, but I do think it is imperative that the House understand the situation relative to funding for the Army Corps of Engineers.

A year ago on this floor, in considering the bill, we had several very serious controversies relative to wetland regulation. When the budget was sent to the United States Congress in January of this year, those rules were not yet in effect. Subsequent to that period of time, they went into effect, and the Army Corps of Engineers has estimated that the additional cost to ensure that there is no delay to developers and contractors and members of the general public would be 6 million additional dollars over and above the budget request. Those \$6 million are not contained in this bill.

To add further to the Corps' problem, in the subcommittee mark there were additional requirements placed on the Corps to the tune of a March 1, 2001, revised report cost analysis for a proposal to issue modified nationwide permits: to wit, by September 30, the year 2001, prepare and submit to Congress and publish in the Federal Register a permit processing management plan; to wit, beginning on December 31, 2001, at the end of each quarter thereafter, and I would acknowledge the gentleman has lengthened this to a biannual report, report to Congress and published in the Federal Register an analysis of the performance of its programs as registered against the criteria set out in the permit processing management plan; and, four, implement a 1-year pilot program to publish quarterly on the U.S. Army Corps of Engineers' regulatory program for the South Pacific Division.

Additionally, how we compute time relative to delays that had been complained about was changed in the subcommittee mark. That was an additional burden. We then went to the full committee. The chairman of the committee offered an amendment that was ultimately adopted that further increased that burden by requiring that the Corps Division Office publish on its Web site all findings, rulings and decisions. Additionally, a provision that I do think can potentially have a chilling impact on the appellate proce-

cedure that the Corps shall allow an appellant to keep a verbatim record of the proceedings of the appeals conference under the aforementioned administrative appeals process.

The gentleman has now come forth and, as I indicated, changed a quarterly reporting to biannual. That is an improvement. There were several other improvements, but it also did place another burden on the Corps by also now including the North Atlantic Division as far as those reporting requirements.

So I do not object to what the gentleman has done. He has added a burden but he has improved the legislation that was reported by the committee.

The Corps does not have the money, and I would just want to emphasize I would hope at some point we have corrected that procedure so there is no delay to those who seek permits.

Finally, I do think the gentleman has made one important change, and that is that we do continue the current counting period as far as when an application for a permit is considered to have been received, because my concern as expressed in the full committee, and would be here, that 12 months from now, 24 months from now when the wetlands issue is potentially debated again, people will come in and say we told you so. If it was not for those two changes in the year 2000, we would not have had this additional delay, not because of any failing of the Corps or the contractor or developer, but because we changed how those dates are computed. The gentleman in his amendment would compute them in both fashions, the previous fashion as well as the new fashion contained in the committee bill.

So I did want to make sure that people understand for the record that is the situation we find ourselves in. I do not object to what he wants to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

The amendment was agreed to.

Mr. PACKARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for the benefit of the Members, we would like to now offer a motion that will allow us to offer a unanimous consent request that will put some limitations and some controls on the balance of the evening, and hopefully shorten the debate.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. QUINN) having assumed the chair, Mr. BARRETT of Nebraska, 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. 4733) making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes, had come to no resolution thereon.

LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 4733, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 4733 in the Committee of the Whole pursuant to House Resolution 532, no further amendment to the bill shall be in order except, one, pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Two, the amendment printed in the House Report 106-701;

Three, the following additional amendments, which shall be debatable for 30 minutes: Mr. SALMON's amendment regarding solar energy.

Mr. VISCLOSKY. Mr. Speaker, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Speaker, if we would also have an understanding on the Salmon amendment that the gentleman from Arizona (Mr. SALMON) would control 15 minutes of the 30 minutes and that the gentleman from Colorado (Mr. UDALL) would control the other 15 minutes?

Mr. PACKARD. That is my understanding.

Number four, the following additional amendments, which shall be debatable for 20 minutes: Mr. RYAN of Wisconsin regarding National Ignition Facility; and the amendment printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 8 of rule XVIII and numbered 1.

Number five, the following additional amendments, which shall be debatable for 10 minutes: Mr. GEKAS, regarding energy independence; Mr. STEARNS, regarding Secretary of Energy travel; Mr. STEARNS, regarding Secretary of Energy travel before January 20, 2001; Mr. RYAN of Wisconsin, regarding construction of the National Ignition Facility; Mr. HANSEN, regarding nuclear waste storage; Mr. CAMP, regarding Strategic Petroleum Reserve Exchanges; Mr. RYUN of Kansas, regarding compensation of Department of Energy employees; Mr. NEY, regarding Appalachian Regional Commission; Ms. BROWN of Florida, regarding alternative energy sources; and the amendments printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 8 of rule XVIII that are numbered 2, 3, 4, 8, 9, 10, 11, and 12.

Each additional amendment may be offered only by the Member designated in this request, or a designee, or the Member who caused it to be printed, or a designee, and shall be considered as read. Each additional amendment shall be debatable for the time specified equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of