

let diplomacy work. The verdict is in on that decision. Transfers of nuclear, biological, chemical, and ballistic missile technology to Iran persist demonstrating the Congress erred in deciding not to override the veto. While the administration has imposed so-called administrative sanctions against a handful of Russian entities, it cooperated with the Russian government to identify the target organizations such that the sanctions would have no meaningful effect, completely undermining the value of the action.

While I will not go into the same detail here, let me simply say the administration has a similar record on Chinese proliferation to Iran, where it has failed to enforce U.S. laws calling for sanctions, again noting the need to let diplomacy work.

Since the administration would not take steps to halt proliferation to Iran, I offered an amendment to a supplemental appropriations bill that the President signed into law in May 1998. The amendment appropriated \$179 million to accelerate the development of U.S. theater missile defenses, including \$45 million for Israel to begin purchasing equipment for a third battery of its Arrow missile defense system in order to counter the increased Iranian missile threat.

As these examples show, the Clinton Administration is simply not willing to take the tough actions necessary to prevent proliferation. As a result, intelligence assessments indicate the problem is growing worse all the time. In an unclassified report to Congress last month, CIA Director George Tenet stated:

Iran remains one of the most active countries seeking to acquire weapons of mass destruction and advanced conventional weapons technology from abroad. . . . For the first half of 1999, entities in Russia and China continued to supply a considerable amount and a wide variety of ballistic missile-related goods and technology to Iran. . . . Iran already is producing Scud short-range ballistic missiles and has built and publicly displayed prototypes for the [1,300 kilometer-range] Shahab-3 medium-range ballistic missile, which had its initial flight test in July 1998 and probably achieved "emergency operational capability"—i.e., Tehran could deploy a limited number of the Shahab-3 prototype missiles in an operational mode during a perceived crisis situation. In addition, Iran's Defense Minister last year publicly acknowledged the development of the [2,000 kilometer range] Shahab-4 . . . [and] publicly mentioned plans for a "Shahab-5."

In the report, Director Tenet went on to note that Iran continues to seek biological warfare technology from Russia and Europe and despite being a party to the Chemical Weapons Convention has "already has manufactured and stockpiled chemical weapons . . . and the bombs and artillery shells for delivering them." He also said that "Tehran continues to seek production technology, expertise, and chemicals that could be used as precursor agents in its chemical warfare program from entities in Russia and China."

Finally, the report indicated that despite promising never to acquire nu-

clear weapons, when it ratified the Nuclear Nonproliferation Treaty (NPT), Iran has a nuclear weapons program, stating:

Iran is attempting to establish a complete nuclear fuel cycle for its civilian energy program. In that guise, it seeks to obtain whole facilities . . . that in fact could be used in any number of ways in support of efforts to produce fissile material needed for a nuclear weapon. Despite international efforts to curtail the flow of critical technologies and equipment, Tehran continues to seek fissile material and technology for weapons development and has set up an elaborate system of military and civilian organization to support its effort.

In fact, according to the Washington Post, the CIA recently concluded that it could no longer rule out the possibility that Iran is already capable of producing a nuclear weapon. This is terribly troubling in light of the progress Iran has made in its missile program. Earlier this month, Director Tenet testified to the Intelligence Committee that:

Most [intelligence] analysts believe that Iran, following the North Korean pattern, could test an ICBM capable of delivering a light payload to the United States in the next few years. . . . As alarming as the long-range missile threat is, it should not overshadow the immediacy and seriousness of the threat that U.S. forces, interests, and allies already face overseas from short and medium range missiles. The proliferation of medium-range ballistic missiles [to nations like Iran] is significantly altering strategic balances in the Middle East and Asia.

Finally, Director Tenet outlined a new type of proliferation threat from Iran in his testimony, warning that:

. . . long-standing recipients—such as Iran—might become suppliers in their own right as they develop domestic production capabilities. . . . Iran in the next few years may be able to supply not only complete Scuds, but also Shahab-3s and related technology, and perhaps more advanced technologies if Tehran continues to receive assistance from Russia, China, and North Korea.

It is clear that meaningful measures, and not simply another round of feckless diplomacy or a flawed international treaty such as the Comprehensive Test Ban Treaty CTBT, is needed to combat this growing threat. Last Fall, the Administration accused the Congress of undermining U.S. non-proliferation efforts in rejecting the CTBT. But that treaty was unverifiable, would have undermined America's nuclear deterrent, and would have done nothing meaningful to combat proliferation.

As I mentioned earlier, Iran along with 191 other nations has ratified the NPT, and thereby promised never to acquire nuclear weapons. It is violating this treaty. It is also violating the Chemical Weapons Convention and is acquiring missile technology. All of these actions should trigger U.S. sanctions, but the Clinton Administration has refused to take action.

If arms control treaties like the NPT and other nonproliferation efforts are to be useful, they must be enforced. I urge the administration to finally get

serious about this matter and for my colleagues to vote for the Iran Nonproliferation Act. Iran's possession of nuclear, biological, and chemical weapons, and the missiles used to deliver them poses a clear and present danger to the United States and our forces and friends in the region. It is long past time that we address this threat.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GORTON. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### NATIONAL MARINE FISHERIES SERVICE REGULATION

Mr. GORTON. Mr. President, I want to read portions of a proposed regulation found on page 173 of the January 3, 2000, issue of the Federal Register:

"[I]t is important that individuals alter their daily behaviors," "and for governmental entities to seek programmatic incentives, public education, regulatory changes, or other approaches."

"Daily behaviors" are further defined as "Individual decisions about energy consumption for heating, travel, and other purposes;" and "individual maintenance of residences or gardens."

Those passages come directly from a "4(d)" Endangered Species Act regulation for the Pacific Northwest proposed by the National Marine Fisheries Service. The rule states flatly these are examples of activities that could kill salmon or steelhead through water, air, and ocean pollution, and that NMFS "might or might not" seek to regulate them as such under the rule.

Taken literally, if these rules are enacted as written, National Marine Fisheries Service could regulate how often individuals drive their cars, where and how property owners could plant or fertilize their lawns, gardens, or farm crops. They could dictate the content of county zoning, public works, building, and road ordinances, and possibly even suggest limits on the setting of thermostats in homes or public school classrooms, or the operation of public transit buses—all to protect salmon.

Washington citizens, and those in other Northwest States, would be asked to make a host of changes in their daily lives, but unfortunately, could be assured of nothing except for the certainty that a greater portion of their tax dollars would fund the salaries of even more Federal bureaucrats to draft more rules and regulations of this nature. This year, the National Marine Fisheries Service is asking

Congress to fund 41 new employees just to implement its West Coast salmon recovery plan.

Those proposals would represent a striking power grab by unelected bureaucrats if they were absolutely necessary to save whole species of salmon. But they are not. As I said in a letter to President Clinton 2 weeks ago, the Federal Government should be seeking to encourage and promote incentives for States, tribes, and local entities and private groups to come up with creative solutions to save salmon, not make it more difficult for them.

And that is exactly what these rules do. The rules go far beyond telling hundreds of farmers in the Methow Valley that they cannot exercise their water rights to irrigate their crops until they have National Marine Fisheries Service-approved fish screens installed at their own expense, as the agency told my constituents in north central Washington last year.

They would go beyond holding up the construction of bridges in Columbia County or cities' efforts to install stop lights, as the National Marine Fisheries Service's salmon regulatory process has already done.

In short, these rules, if enacted as proposed, would be likely to slow down local salmon recovery efforts, rather than "increasing people's flexibility in complying with the Endangered Species Act," as the National Marine Fisheries Service publicly claimed in mid-December. More Federal bureaucracy simply will not help local communities and private groups protect salmon and steelhead.

I also notice that the National Marine Fisheries Service has proposed a narrow set of exemptions within the rules, which could make the enforcement of the rule arbitrary and unfair against those who don't meet their stated criteria. The Oregon Department of Transportation, for example, would be in compliance with the rule in carrying out its road maintenance activities on roads abutting streams, because that agency agreed to implement special National Marine Fisheries Service-approved training for its road maintenance crews. No such exemption exists in the rule for private land owners anywhere or the Washington Department of Transportation to carry on the same activities.

The people of Washington State realized the importance of not allowing endangered salmon and steelhead runs to go extinct long before any Federal agency told them they should modify their own "daily behavior" as part of the effort. The only "daily behavior" that local salmon enhancement groups are concerned with in Washington right now is to restore salmon and steelhead runs right in the streams and rivers near where they live and work. And they are doing it.

Look, for example, at the successful efforts of the variety of agricultural, business, and tribal groups who formed the Skagit Watershed Council to

produce an on-the-ground science-based strategy for prioritizing local habitat recovery projects. They came together, often disagreeing on other issues, but to work together on the most productive salmon recovery efforts—without the Federal Government telling them to do so.

Then there are the successful efforts of Long Live the Kings on the Wishkah River on Grays Harbor County, where low-tech, inexpensive habitat restoration methods helped double the returns of natural spawning salmon there in 1 year.

A captive brook stock facility was built with \$1 million in private funds on Lilliwaup Creek on Hood Canal, and already the State of Washington has looked to that success in restoring the very most threatened local wild salmon runs. I can cite several more examples, but suffice it to say that local efforts are underway, and we should congratulate their efforts to proactively and successfully preserve salmon.

Proposing regulations of this sort, at the very least, would be putting the "cart before the horse." The National Marine Fisheries Service must come forward with concrete goals of how many fish they intend to recover throughout the Northwest in areas they call "evolutionary significant units." This is something that Congress asked the National Marine Fisheries Service to do in an appropriations conference report last year. The National Marine Fisheries Service was directed to determine and set numerical goals for Puget Sound areas by July 1 of this year, and, by then, to set a schedule for establishing numerical goals for all other areas in Washington State.

Why is this important? Well, very simply put: How can you mandate means, mandate lifestyle changes, before you know what you are trying to accomplish? In my view, having these numerical goals is critical to guiding the agency in any effort it makes to enforce 4(d) rules to protect threatened species.

Unfortunately, not only has the National Marine Fisheries Service failed to provide the required numerical goals for salmon species, it has yet to deliver the actual funding to the State. Last year, Congress approved \$18 million to be provided directly by the National Marine Fisheries Service to the Washington State Salmon Recovery Board, so that the board could distribute funds for State and local salmon recovery projects, as well as fund implementation of the Washington Forest and Fish Agreement, which was authorized by the State legislature. I am disturbed to learn that the National Marine Fisheries Service has not yet secured arrangements to distribute these much-needed funds to the State of Washington. As a result, the National Marine Fisheries Service is holding up State and local efforts to comply with the Endangered Species Act.

Even without funding, several counties and salmon enhancement groups

throughout Washington have been working on their own plans to comply with ESA requirements. Many smaller counties, however, simply do not have the resources to meet the National Marine Fisheries Service process under the rules. They are nevertheless expected to scramble to come up with their own ordinances that will be ultimately reviewed and approved by the National Marine Fisheries Service to ensure that they are "adequate to help conserve anadromous salmonids."

Aside from my concerns with the way these rules are written, I am not at all pleased that the National Marine Fisheries Service has decided to refuse even a modest extension of the public comment period, and has stated publicly that it wants to enact this rule by July.

Keep in mind, these lengthy, 20 plus page rules were only printed for the first time in the Federal Register about 5 weeks ago. After tonight, the public hearings process will already have been slammed shut.

That is why when I learned that the regional director of the National Marine Fisheries Service had scheduled all five of Washington's public hearings on these lengthy and complex rules within just a 7-day period, I asked for more opportunities for citizens to be heard. Most of the five hearings were so full of interested citizens that not everyone could find a chair or be given adequate time to have a face to face question and answer period with the very bureaucrats who want to have the authority proposed in these rules.

While the National Marine Fisheries Service recently agreed to two additional hearings scheduled on the same day and time, they flatly refused to extend the comment process, stating that "a longer extension to the public comment period would not be likely to provide any new information, and would delay implementation of the rules, which the National Marine Fisheries Service feels are necessary for salmon conservation." It is disturbing that while they are often criticized for being too slow to process permit requests, when it comes to listening to people on highly controversial proposals, they can't move fast enough to enact them into law.

The National Marine Fisheries Service owes the citizens of Washington and the Pacific Northwest a more responsible handling of their duties to enforce the Endangered Species Act. Section 2(c)(2) of the Endangered Species Act requires the National Marine Fisheries Service to cooperate with State and local agencies to protect endangered species. I believe the National Marine Fisheries Service cannot fairly force rules and local and State agencies without first establishing the goals and objectives requested by Congress last year. I renew the request made by the appropriations conference for the National Marine Fisheries Service to provide the numerical goals and objectives for Puget Sound salmon, to provide a

framework for similar numerical goals and objectives for the rest of Washington and the Pacific Northwest, and to establish performance standards for salmon recovery projects. And they should do so before they enact these rules.

I conclude my comments by noting that any proposal which would regulate "daily behavior" certainly requires closer scrutiny than 30 days of public hearings and 30 more days of written comments. I commend those Washington citizens who are now working hard on local-based solutions to protect salmon, and offer them my full and continued support for the successful course they are taking to rebuild and restore salmon. I am concerned that the Federal Government, with rules drafted in this manner, would not help these on-the-ground local efforts. I will continue to call on Federal agencies not to dictate how best to accomplish ESA compliance. I request that the National Marine Fisheries Service address the valid concerns I and others raise regarding these proposals and to do so before they begin implementing these sweeping regulations.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator may state his inquiry.

Mr. BURNS. Are we in morning business or are we on a specific subject?

The PRESIDING OFFICER. The Senator is considering H.R. 1883.

Mr. BURNS. I ask unanimous consent to proceed as in morning business for the next 15 minutes.

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

#### FUEL COSTS

Mr. BURNS. Mr. President, there are a lot of truckers in town, protesting what they say is an unwarranted increase in fuel costs that is putting them out of business.

It really doesn't surprise me. It seems every year we come to the floor of the Senate to criticize the administration's failure to implement a domestic energy policy that would support a sustainable oil and gas industry. We argue for tax relief, common sense royalty collection, access to oil and gas reserves on Federal lands. We do this because there are a lot of us who watch figures, and every day we can see that we are growing more dependent on foreign sources of oil and gas. Oil traditionally coming from the Middle East and gas coming from Canada in ever increasing volumes despite large, untapped reserves in America. I have been joined by numerous Senators from around the Nation in bringing those concerns to the floor. We have proposed numerous pieces of legislation to combat the problem, yet we have not been successful in getting many of them enacted into law.

As a result, we are faced with what is happening today: Oil prices are now

around \$30 a barrel, with few domestic producers reaping any benefits, and with most of our oil coming from offshore. There are few domestic producers enjoying the rise in oil prices because the Administration's energy and environmental policies have just about run them all out of business. That is sad. I speak not only for the oil and gas industry, the trucking industry and the transportation industry, but also for all consumers. A case in point is that we are already witnessing a surcharge being put on airline tickets; the same thing will happen soon with rail transportation as well.

When I take a look at my home State of Montana, fuel costs are at least 50 percent higher than they were just a year ago. We have cause for frustration. Montanans are at the end of the line. I don't care if you are receiving goods or shipping product, it hurts us. This is especially true for our number one industry, agriculture. We end up selling wholesale, buying retail, and paying the freight both ways. One has to remember that these costs have to be absorbed by somebody. This somebody is generally the person least able to afford it. Now we have to ask ourselves a question. Are we doing anything about fixing the root of the problem? What are we doing to fix the root problem we have in energy development?

Today's rally of long-haul truckers underscores the reality that all consumers and all producers are being faced with fuel increases resulting from a failed domestic energy policy. Prices are simply raising out of sight. We have 26,000 people in Montana who are employed by the trucking industry. They are being impacted by these increases. Farmers are coming upon the planting season. They are facing higher fuel costs which add to their uncontrollable costs of production. Costs of producing in the agricultural industry cannot be passed on; they never have been in the past. It is a buyers' market and you sell for what they offer. End of story. Just because our fuels costs go up, does not mean we get to charge more per bushel. We also aren't faced with the luxury of turning a tractor off and waiting for fuel prices to go down. Mother Nature dictates when you plant, when you till, and when you harvest. She doesn't care if diesel is 50 cents a gallon, \$1 a gallon, or \$1.80 a gallon. When the time comes, you go.

We have seen some improvement in the livestock industry, but we have not seen any kind of improvement in the grain industry. There again, with grain, we get hit harder by energy costs than anywhere else.

So far, the administration's only action has been to send the Secretary of Energy, Bill Richardson, to ask OPEC to release more oil and reduce prices. That tells me we are not in a very strong bargaining position. That is upsetting when we could have taken steps to avoid our current plight. The problem of inaction by the administration

carries over into other areas of energy. One example is the production of clean coal. We have a lot of coal that is clean coal and considered "compliant coal" by the Clean Air Act. It has low SO<sub>2</sub> levels, and low emissions. But so far, the Department of the Interior has blocked any sale of that coal, which lies right at the top of the earth. The only thing that has to be done is to take the overburden off, mine the coal and reclaim the area. The result of this inaction has been—and it will show up later on in America's power bills—that soon we will face a shortage of clean coal and stringent emissions controls, and all at once our electric bills will increase because we haven't done a very good job in managing our clean coal resources.

Secretary Richardson has testified before the Senate Energy and Natural Resources Committee that clean coal will be an integral portion of our Nation's energy portfolio for the next 30 years. But after they say that, they have done nothing or they are unwilling to ensure that the political actions of the Department of the Interior do not endanger the supply of clean coal.

It doesn't make a lot of sense. How about hydroelectric production of electricity? Secretary Babbitt wants to be known as the first Secretary to tear down large dams that are placed along some of our major waterways, and he offers no response when asked how we are going to replace the power produced by those dams. In light of the recent action on the nuclear waste bill, the administration has also opposed any cohesive policy for nuclear energy management, instead desiring to sit back and posture on the debate.

Again, we see evidence of a failed energy policy. Today we see the truckers coming to town, and that is just the tip of the iceberg. The Department of the Interior has thwarted any attempts to reinvigorate the domestic gas industry. They have closed vast areas of our Outer Continental Shelf to gas. They will release a statement saying they fully support the natural gas industry, yet fail to deliver on any of the policies to help it along.

The same has been done throughout the Rocky Mountains. We have reserves of natural gas across Montana that could be used to fuel this nation. There is a large supply, yet we cannot tap it because of the Department of the Interior and this administration's policy seal it away development.

I want to bring up one more fuel related problem we are faced with in Montana. In my hometown of Billings, MT, we have three refineries. They produce gas, diesel, and other refined petroleum products, not only for domestic use in Montana but also for the entire region, including eastern Washington. We have to reroute a pipeline that lets those products flow to the Spokane area, and it has to cross about 60 miles of Forest Service managed public lands. This reroute has been vigorously opposed by this administration.