

these types of notorious criminals to justice? Of course not.

Finally, I want to point out that Mr. HYDE also goes to great lengths to provide an interpretation of sections 2004, 2006, and 2011. Although I was not involved with the negotiations on ASPA with the Administration, I must say that the State Department's efforts with the House on this issue were miserable, and I know this is not typical of the way the Department represents U.S. interests abroad.

The explanation that the State Department offers for supporting ASPA is that it did so in exchange for releasing the U.N. dues. This does not withstand the most basic scrutiny.

In the wake of the September 11 attacks, there was overwhelming support in Congress to assist with efforts to prevent and respond to international terrorism. After September 11, without any quid-pro-quo, the Senate voted to confirm Ambassador John Negroponte to the position of U.S. representative to the United Nations. I am confident that the State Department, with a little ingenuity, could have persuaded the Republican majority in the House to meet our obligations to the United Nations—something that is clearly in our national security interests—without having to agree to support ASPA.

In any event, I take issue with Mr. HYDE's interpretation of sections 2004, 2006, and 2011, even though they are heavily qualified by the Dodd-Warner amendment. Again, one should look to legislative history only if the text of the provision is unclear, and in this case the text of ASPA is clear and does not support his reading. For example, there is nothing in the waiver language concerning the President's executive authority or authority as Commander-in-Chief that limits the waiver to a subset of this authority. Moreover, ASPA clearly states that the waiver applies to "any action or actions . . ." not to "some" actions.

For Mr. HYDE's interpretation to be correct it would be necessary to add language to the provision such as: "if it would be unconstitutional for Congress to restrict the exercise of this authority." Moreover, ASPA states that it applies to "any action" taken by the President as Commander-in-Chief or exercising "the executive power" of the Presidency. If the President has the constitutional authority to take an action, this provision permits him to do so, notwithstanding any other language in the bill. It is not relevant whether Congress could have prohibited such actions.

Further, no matter what was said between those who negotiated ASPA, Mr. HYDE's interpretation of the provision was not necessarily in the minds of the majority of Members voting on ASPA because it simply was not mentioned during the House or Senate debates. These waiver provisions complement section 2015 which is highly relevant in interpreting them, as Senator WARNER alluded to during the Senate debate.

Congress decided that it did not want to tie the President's hands if he determined that it makes sense for the United States to cooperate with any international body, including the ICC, in prosecuting foreign nationals accused of genocide, war crimes, and crimes against humanity.

I want to thank Senators DODD and WARNER for their efforts to ensure that ASPA does not include overly-burdensome restrictions on the President that prevent the U.S. from cooperating with the ICC. I also want to thank Senator DODD's staff for providing valuable advice on this issue.

ARMY CORPS OF ENGINEERS ARTICLE

Mr. DOMENICI. Mr. President, I rise today to include in the RECORD today an inspiring and uplifting occurrence in my home State of New Mexico. Percent news from any Army Corps of Engineers publication, Engineer Update, provides a particular instance in which the Corps went the extra mile to successfully rescue sand hill cranes under uncommon circumstances.

In the middle of repairs on Jemez Dam the cranes were foraging for food and getting trapped in the mud left over from having to drain the reservoir. The depth of the mud and the size and nature of the cranes made the situation extremely hazardous for anyone to get involved.

After bringing in a special boat that could handle the mud they were able to capture the birds and get them to safety where they were cleaned and released. All the while, the Corps put forth the measures to prevent anymore birds from being trapped in the mud.

This was an exceptional effort on the Corps of Engineers' part to handle both the job at hand and the surrounding effects of their labor. I commend them on their concern for the environment in the midst of their already tough labor.

I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRAPPED BIRDS RESCUED FROM MUD

(By Joan Mier)

ALBUQUERQUE DISTRICT

When Jemez reservoir was drained Nov. 1 to repair a bulkhead guide on the dam, no one could have foreseen the effect it would have on sand hill cranes, which were about to begin their migration to the Bosque del Apache. Using Jemez, about 30 miles from Albuquerque, N.M., as a stopover point on their journey was common. What was not common was the particular area they chose to land in when they began their migration Nov. 6.

"These birds land between 3 p.m. and 6 p.m. The sheen on the mud left behind after the reservoir drained looked like water to these birds, and some of them chose to land there," said Susan Shampine, Chief of Operations of Division. About 58 birds became mired in the 30-foot deep mud of the drained reservoir.

Rescue efforts posed a couple of big challenges. First, getting to the birds was problematic and risky. Second, the five-foot-tall birds with long and very strong beaks can be dangerous, according to biologist William DeRagon. "The beaks of sand hill cranes have been known to crack the skull of a cow," he said.

District personnel located a hovercraft operator, but the craft could not operate on the reservoir because of the pudding-like consistency of the mud.

"We also contacted the Army National guard because we were thinking maybe we could use one its helicopters, but they said the prop wash from the rotors would do more harm than good," Shampine said.

Meanwhile, as these efforts were underway, the district immediately initiated deterrent activities to prevent any more cranes from landing in the mud. Spotlights, horns and firecrackers were largely successful in preventing more cranes from landing in the area. However, a few more became trapped there, according to Ron Kneebone, project manager.

"We think what happened was that cranes that landed elsewhere at the reservoir would begin foraging for food at dawn and wander over to the mud flats and become stuck," he said. After that, deterrent methods were also initiated at dawn.

Although one bird was captured on Nov. 8 and treated and released at the Bosque a couple of days later, personnel were not having much luck reaching the other cranes. As news of the trapped birds hit the media carloads of concerned citizens began showing up at Jemez interested in saving the cranes.

"Conditions at the reservoir were extremely dangerous," Kneebone said. "We certainly appreciated that people were concerned, but we couldn't risk endangering human life." Therefore, the road leading to the area was closed to the public.

A break came when personnel contacted New Orleans District and learned about an engine that could enable a regular motorboat to operate in mud. The 20-horse-power engine was flown in overnight from Go-Devil Outboard Motors in Baton Rouge, LA.

"We got it on Nov. 14 and began testing it the next day," Kneebone said. "That afternoon, we began recovery efforts using trained volunteers and Corps personnel, and we were successful in capturing nine cranes."

Rescue operation continued through the migration season, and 15 cranes were rescued. Of those, three died and 12 were successfully treated and released.

Most of the rescued cranes were cleaned up and rehabilitated at the Rio Grande Zoo in Albuquerque, N.M. Each bird took 45 minutes just to clean because each feather had to be cleaned separately, according to Melissa Stock, editor of Zooscape Magazine.

"It was a three-person job," Stock said. "One person had to hold its feet, another its legs, and then another cleaned the bird."

"We received a lot of help and cooperation from other agencies and organizations," said Kneebone. He credited the Santa Ana Pueblo, which owns the land at the reservoir, U.S. Air Force, and Hawks Aloft for assisting in efforts to both rescue the cranes and prevent more from landing in the area.

LIVESTOCK DISASTER LEGISLATION

Mr. GRASSLEY. Mr. President, during the conference on the farm bill, the conferees threw out my bipartisan amendment on reasonable payment limits. I was extremely disappointed

the provision was dropped. Reasonable, legitimate payment limits were a top priority to Iowa's family farmers. It is important to the farmers of Iowa that we fix this shortcoming of the new farm bill.

Americans recognize the importance of the family farmer to our Nation, and the need to provide any adequate safety net for family farmers. In recent years, however, assistance to farmers has come under increasing scrutiny.

Critics of farm payments have argued that the largest corporate farms reap most of the benefits of these payments. The reality is, 60 percent of the payments have gone to only 10 percent of our Nation's farmers.

What's more, the payments that have been designed to benefit small and medium-sized family farmers have contributed to their own demise. Unlimited farm payments have placed upward pressure on land prices and have contributed to overproduction and lower commodity prices, driving many families off the farm.

The new farm bill fails to address the use of generic commodity certificates which allow large farming entities to circumvent payment limitations. The supposed "reform" in the farm bill is worthless due to the lack of generic certificate reform. In recent years, we have heard news reports about large corporate farms receiving millions of dollars in payments through the use of generic certificates. Generic certificates do not benefit family farmers but allow the largest farmers to receive unlimited payments.

Legitimate, reasonable payment limits are critical to family farmers in Iowa. I feel strongly the farm bill failed Iowa's farmers when it failed to effectively address the issue of payment limitations. Hopefully, the proposal I am introducing with Senator ENZI AND SENATOR HAGEL will help to restore public respectability for Federal farm assistance by targeting this assistance to those who need it the most, while providing the much needed disaster assistance for livestock producers.

This new proposal allow for a total of \$35,000 for direct payments, \$65,000 for counter-cyclical payments, \$150,000 for LDP/MLA payments, and \$30,000 over the LDP limit for generic certificates.

This new proposal allows for a total of \$35,000 for direct payments, \$65,000 for counter-cyclical payments, \$150,000 for LDP/MLA payments, and \$30,000 over the LDP limit for generic certificates.

This new farm bill establishes an \$80,000 limitation on direct payments, \$130,000 on counter-cyclical payments, \$150,000 on LDP/MLA payments, and no limitation on generic certificates.

The grand total for the new farm bill payments is \$360,000 with unlimited payments through the use of generic certificates. The cumulative payment limit under the Enzi-Grassley legislation is \$250,000 plus \$30,000 for generic certificates.

There is no "active participation" requirement in this proposal, as compared to my farm bill payment limit proposal.

This legislation does not eliminate the three entity rule, but it does eliminate the need for multiple entities by allowing farmers who choose not to participate in multiple entities to participate at an equal level as those that choose to receive the same benefits from up to three entities.

This legislation finally establishes tangible transparency regarding the fourth payment that only the largest farming entities utilize. That payment is the generic commodity certificate payment.

While I believe generic certificates should be eliminated, I understand the importance in developing a fourth payment limitation so that my colleagues realize there is another payment. Currently, generic certificates are an endless stream of funding only limited by the maximum extent of commodity production by the entity receiving payments.

This legislation would help offset the cost of the much needed livestock disaster assistance and help small and medium-size producers nationwide who are tired of the Government subsidizing large farm entities which drive land rent expenses to unreasonable margins due to economics of scale.

PRESERVE THE PEDIATRIC RULE ACT OF 2002

Mrs. CLINTON. I am very pleased that today the Senate HELP Committee voted unanimously to report S. 2394, the Preserve the Pediatric Rule Act of 2002, out of Committee, as amended by consensus language to assure that, for already-marketed drug, companies have an opportunity to conduct studies voluntarily before the rule is invoked, which is consistent with current Food and Drug Administration practices.

Mr. DODD. Does the Senator agree that with the exception of the agreed-to amendment to allow a manufacturer to voluntarily study an already-marketed drug before the rule is invoked, the legislation we passed tracks the existing language and policy of the rule, and ensures that FDA and HHS will not weaken or undermine current protections for children on drug safety and labeling?

Mrs. CLINTON. I agree.

Mr. DODD. Also, as the Senator will remember, last year's Best Pharmaceuticals for Children Act BPCA, established a mechanism by which drugs that companies did not voluntarily study would automatically be referred to the National Institute of Health, HHS, to be contracted out for study. Is it not Congress's intention that this tool along with the rule should be used to secure safety and efficacy information for kids as quickly as possible?

Mrs. CLINTON. That is correct.

Mr. DEWINE. We are committed to fighting for dollars for these studies,

because the contracting process at NIH only works if there are funds available. If there are no funds available, we must have the rule to ensure that we get needed studies done so that the necessary information can be added to the labels of the medicines children use. Would the Senator agree that the language of the amendment allows other tools to be used, but also makes clear that the rule will be available, enforceable, and unencumbered when needed?

Mrs. CLINTON. I would agree.

Mr. DODD. We will continue to examine the contracting process at the NIH to ensure that it works effectively, in conjunction with the rule, so that there is no delay or bottleneck in conducting the studies and securing this information for children.

Mr. DEWINE. That is correct. Congress made several tools, including the contracting process under the BPCA, available, but Congress never contemplated the exhaustion of all the tools under BPCA before the rule could be invoked. This amendment makes clear that as long as the FDA has first asked a company to voluntarily conduct the study, the FDA will be able to invoke the rule.

TAX RELIEF FOR LIVESTOCK PRODUCERS

Mr. BURNS. Mr. President, I rise today in support of S. 2762, a bill which would provide tax relief to livestock producers who are forced to sell off part of their herds due to drought. I would also like to commend my colleague, Senator THOMAS, for introducing this legislation.

In my home State of Montana, we are currently in our fifth year of drought. Livestock producers are running out of grass for their herds and very few ranchers in Montana have carry over hay. Their choices are limited. If ranchers can find hay, it is expensive and often hundreds of miles away. Their only other option is to sell off part or, in extreme situations, their entire herds.

The effect on Montana's economy can be seen in the numbers. In 2000, we had 2.6 million head of cattle in my State. As of today, after two severe years of drought, we have 2.4 million head of cattle. The drought is equally devastating on sheep numbers. In 2000, we had 370,000 head of sheep. Today we have 335,000 head of sheep in Montana.

When these cattle and sheep leave the State, the effect on the local, rural economies is great. Ranchers aren't buying as much feed, they are buying fewer veterinary supplies, and worse yet, the ranchers may go out of business all together. These are ranches and herds that have been built up over generations and will be extremely difficult to replace. I have heard from many ranchers these animals won't come back to Montana. They are gone forever.

I have been working on getting disaster relief for producers suffering