

Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 76.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GIBBONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

### TAPOCO PROJECT LICENSING ACT OF 2004

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2319) to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

The Clerk read as follows:

S. 2319

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Tapoco Project Licensing Act of 2004".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) APGI.—The term "APGI" means Alcoa Power Generating Inc. (including its successors and assigns).

(2) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(3) MAP.—The term "map" means the map entitled "Tapoco Hydroelectric Project, P-2169, Settlement Agreement, Appendix B, Proposed Land Swap Areas, National Park Service and APGI", numbered TP514, Issue No. 9, and dated June 8, 2004.

(4) PARK.—The term "Park" means Great Smoky Mountains National Park.

(5) PROJECT.—The term "Project" means the Tapoco Hydroelectric Project, FERC Project No. 2169, including the Chilhowee Dam and Reservoir in the State of Tennessee.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

#### SEC. 3. LAND EXCHANGE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Upon the conveyance by APGI of title acceptable to the Secretary of the land identified in paragraph (2), the Secretary shall simultaneously convey to APGI title to the land identified in paragraph (3).

(2) DESCRIPTION OF LAND TO BE CONVEYED BY APGI.—The land to be conveyed by APGI to the Secretary is the approximately 186 acres of land, subject to any encumbrances existing before February 21, 2003—

(A) within the authorized boundary of the Park, located northeast of United States Highway 129 and adjacent to the APGI power line; and

(B) as generally depicted on the map as "Proposed Property Transfer from APGI to National Park Service".

(3) DESCRIPTION OF LAND TO BE CONVEYED BY THE SECRETARY.—The land to be conveyed by

the Secretary to APGI are the approximately 110 acres of land within the Park that are—

(A) adjacent to or flooded by the Chilhowee Reservoir;

(B) within the boundary of the Project as of February 21, 2003; and

(C) as generally depicted on the map as "Proposed Property Transfer from National Park Service to APGI".

(b) MINOR ADJUSTMENTS TO CONVEYED LAND.—The Secretary and APGI may mutually agree to make minor boundary or acreage adjustments to the land identified in paragraphs (2) and (3) of subsection (a).

(c) OPPORTUNITY TO MITIGATE.—If the Secretary determines that all or part of the land to be conveyed to the Park under subsection (a) is unsuitable for inclusion in the Park, APGI shall have the opportunity to make the land suitable for inclusion in the Park.

(d) CONSERVATION EASEMENT.—The Secretary shall reserve a conservation easement over any land transferred to APGI under subsection (a)(3) that, subject to any terms and conditions imposed by the Commission in any license that the Commission may issue for the Project, shall—

(1) specifically prohibit any development of the land by APGI, other than any development that is necessary for the continued operation and maintenance of the Chilhowee Reservoir;

(2) authorize public access to the easement area, subject to National Park Service regulations; and

(3) authorize the National Park Service to enforce Park regulations on the land and in and on the waters of Chilhowee Reservoir lying on the land, to the extent not inconsistent with any license condition considered necessary by the Commission.

(e) APPLICABILITY OF CERTAIN LAWS.—Section 5(b) of Public Law 90-401 (16 U.S.C. 460/22(b)), shall not apply to the land exchange authorized under this section.

(f) REVERSION.—

(1) IN GENERAL.—The deed from the Secretary to APGI shall contain a provision that requires the land described in subsection (a)(3) to revert to the United States if—

(A) the Chilhowee Reservoir ceases to exist; or

(B) the Commission issues a final order decommissioning the Project from which no further appeal may be taken.

(2) APPLICABLE LAW.—A reversion under this subsection shall not eliminate APGI's responsibility to comply with all applicable provisions of the Federal Power Act (16 U.S.C. 791a et seq.), including regulations.

(g) BOUNDARY ADJUSTMENT.—

(1) IN GENERAL.—On completion of the land exchange authorized under this section, the Secretary shall—

(A) adjust the boundary of the Park to include the land described in subsection (a)(2); and

(B) administer any acquired land as part of the Park in accordance with applicable law (including regulations).

(2) NATIONAL PARK SERVICE LAND.—Notwithstanding the exchange of land under this section, the land described in subsection (a)(3) shall remain in the boundary of the Park.

(3) PUBLIC NOTICE.—The Secretary shall publish in the Federal Register notice of any boundary revised under paragraph (1).

#### SEC. 4. PROJECT LICENSING.

Notwithstanding the continued inclusion of the land described in section 3(a)(3) in the boundary of the Park (including any modification made pursuant to section 3(b)) on completion of the land exchange, the Commission shall have jurisdiction to license the Project.

#### SEC. 5. LAND ACQUISITION.

(a) IN GENERAL.—The Secretary or the Secretary of Agriculture may acquire, by purchase, donation, or exchange, any land or interest in land that—

(1) may be transferred by APGI to any non-governmental organization; and

(2) is identified as "Permanent Easement" or "Term Easement" on the map entitled "Tapoco Hydroelectric Project, P-2169, Settlement Agreement, Appendix B, Proposed Land Conveyances in Tennessee", numbered TP616, Issue No. 15, and dated March 11, 2004.

(b) LAND ACQUIRED BY THE SECRETARY OF THE INTERIOR.—The Secretary shall—

(1) adjust the boundary of the Park to include any land or interest in land acquired by the Secretary under subsection (a);

(2) administer any acquired land or interest in land as part of the Park in accordance with applicable law (including regulations); and

(3) publish notice of the adjustment in the Federal Register.

(c) LAND ACQUIRED BY THE SECRETARY OF AGRICULTURE.—

(1) BOUNDARY ADJUSTMENT.—The Secretary of Agriculture shall—

(A) adjust the boundary of the Cherokee National Forest to include any land acquired under subsection (a);

(B) administer any acquired land or interest in land as part of the Cherokee National Forest in accordance with applicable law (including regulations); and

(C) publish notice of the adjustment in the Federal Register.

(2) MANAGEMENT.—The Secretary of Agriculture shall evaluate the feasibility of managing any land acquired by the Secretary of Agriculture under subsection (a) in a manner that retains the primitive, back-country character of the land.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentleman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2319.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 2319, introduced by Senator ALEXANDER of Tennessee, would facilitate a hydroelectric power relicensing for the Tapoco Project near the Great Smoky Mountains National Park by authorizing the Secretary of the Interior to enter into a series of land exchanges with Alcoa Power Generating, Inc.

The gentleman from Tennessee (Mr. DUNCAN) is the author of the House companion bill and has asked us to accept the Senate bill in the interest of time.

Mr. Speaker, the bill is supported by the majority and minority of the committee as well as the administration.

Mr. Speaker, I urge adoption of the bill.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
Washington, DC, October 1, 2004.

Hon. JOE BARTON,  
Chairman, Committee on Energy and Commerce,  
Rayburn House Office Building, Washington,  
DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 4667, a bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project. I agree that the Committee on Energy and Commerce has a jurisdictional interest in H.R. 4667, and that by not insisting upon your referral of the bill, you do not compromise your jurisdictional claim. I will also support your request to be named as a conferee on this bill or the similar Senate bill, S. 2319 should one become necessary.

It is indeed our intention to consider S. 2319, which is being held at the desk in the House. To clarify the committee jurisdiction over this matter, I will place your letter and my response in the Congressional Record under the extension of remark authority granted during consideration of S. 2319.

Thank you again for your cooperation on this issue.

Sincerely,

RICHARD W. POMBO,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
Washington, DC, September 30, 2004.

Hon. RICHARD W. POMBO,  
Chairman, Committee on Resources, House of  
Representatives,  
Longworth House Office Building, Washington,  
DC.

DEAR CHAIRMAN POMBO: On September 15, 2004, the Committee on Resources ordered reported H.R. 4667, a bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project. Upon introduction, this bill was also referred to the Committee on Energy and Commerce, and was subsequently ordered reported by the Committee today. S. 2319, which is the companion legislation to H.R. 4667, is currently being held at the desk in the House. I understand that it is your intention to consider S. 2319 rather than H.R. 4667 in the House.

Recognizing your interest in bringing this legislation before the House expeditiously, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee on Energy and Commerce does not waive its jurisdiction over the bill.

I request that you include this letter and your response as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

JOE BARTON,  
Chairman.

Mr. Speaker, I reserve the balance of my time.

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN) to add his remarks on Senate 2319.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Nevada (Mr. GIBBONS) for yielding me time.

Mr. Speaker, I rise today to encourage the House to approve S. 2319 which was first introduced by my Tennessee colleague, Senator LAMAR ALEXANDER.

Simply put, S. 2319 is a jobs bill that will keep 2,000 jobs through a land exchange between the ALCOA Corporation and the Great Smoky Mountains National Park.

This bill ratifies an agreement between ALCOA and a large number of Tennessee and North Carolina State and local officials, Federal agencies and nonprofit conservation groups.

Specifically, this bill allows the relicensing of the Tapoco Project, an ALCOA-owned-and-operated hydroelectric project that is federally licensed under the Federal Power Act.

Originally licensed in 1955, the Tapoco Project was constructed on the Little Tennessee and Cheoah Rivers. It contains more than 8,000 acres that are located between nearly 10,000 acres of lands owned by ALCOA, the Great Smoky Mountains National Park, and the Cherokee and Nantahala National Forests.

Senate bill 2319 creates a legal barrier that prevents the relicensing of the Tapoco Project because a portion of the Chilhowee Reservoir floods four side streams containing approximately 100 acres of land within the authorized boundary of the Great Smoky Mountains National Park. Although these lands were included within the park when it was created in 1926, the Federal Government decided for financial reasons not to acquire flooding rights that were then held by ALCOA's corporate predecessor.

However, the Federal Power Act and the 1926 Great Smoky Mountains National Park law each prohibit the licensing of hydroelectric projects inside the park. Thus, it appears the Tapoco Project was erroneously licensed in 1955 to include four areas flooded by Chilhowee Dam.

Although ALCOA owns valid property rights to flood these lands, FERC does not have the legal authority to issue a new license. Under Senate bill 2319, the Park Service and ALCOA will exchange lands to correct this 50-year-old mistake and allow FERC to relicense the Tapoco Project.

Specifically, the bill directs the Secretary of Interior to acquire 189 acres of ecologically valuable lands located within the authorized boundaries of the park, in exchange for 100 acres of land located within the park and the Tapoco Project. This is a net gain of 89 acres for the park.

The legislation also authorizes the Secretaries of Interior and Agriculture to adjust the boundaries of the park and adjacent U.S. forests and accept the lands that are expected to be transferred by ALCOA to a nonprofit organization and subsequently by the nonprofit organization to the Federal Government.

In conclusion, without this legislation, ALCOA would no longer be able to provide power for its operations in

East Tennessee and would be forced to halt its operations. This would be a major blow to 2,000 hardworking families in my district and an annual economic loss of over \$400 million to a region that already has lost thousands of jobs overseas.

Mr. Speaker, I urge passage of this bill. I especially thank my colleague in the other body, Senator ALEXANDER, for his work on this legislation. I thank my friend and colleague, the gentleman from Nevada (Mr. GIBBONS) for so graciously yielding me this time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have reviewed Senate 2319 and have no objection to its passage today. I join the ranking member, the gentleman from West Virginia (Mr. RAHALL), in congratulating the gentleman from Tennessee (Mr. DUNCAN) on his efforts on behalf of this legislation and the Tapoco Project.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 2319.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22 LAND CON- VEYANCE ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1521) to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, as amended.

The Clerk read as follows:

S. 1521

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### TITLE I—[LAND CONVEYANCE]

##### SEC. 101. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

##### SEC. 102. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term "Post No. 22" means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

##### SEC. 103. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 180 days after the