

example, is expected to generate 230,000 new jobs over the next 7 years. Incentives for wind generated energy are expected to create another 100,000 jobs in the next 2. The investment in clean coal technology will create 62,100 jobs, and 40,000 new jobs in the solar industry will come on line. These are good jobs, well paying, and right here at home.

The energy bill is good for America. It will move our country toward a more reliable supply of clean, affordable energy. I urge my colleagues to vote for this comprehensive, forward leaning plan. Casting a vote for the Energy bill is a vote for a safer and more secure America.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, there is so much negative written in the press about all the infighting that goes on in the Senate, how we don't work together. We work together on a lot of things. We don't get much appreciation from the public for that because they see all the negative that the press conjures up. But here is an example of two Senators, both very experienced, both from the same State, who are in positions of prominence in that very important committee that brought the Energy bill here. They worked together.

They had meetings where Senator BINGAMAN met with Republicans, Senator DOMENICI met with Democrats, and they crafted this bill. It wasn't a perfect bill, but there is not anything we do around here that is perfect. We did improve it and we had the opportunity to try to improve it even more. It was a free debate. And to indicate there was enough time on the debate, the cloture vote was overwhelming.

Mr. President, I hope as we proceed through the conference process on this—and as the distinguished majority leader knows, we have set the example of how a conference should be conducted with the highway bill—we are going to move forward on this and do everything we can in conference to sustain and uphold the position of the Senate.

This is a good bill. I commend and applaud the two managers, Senator DOMENICI and Senator BINGAMAN, for doing an outstanding job and setting the example of what should be the future of all bills that come before the Senate.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Alabama (Mr. SESSIONS).

Further, if present and voting, the Senator from Alabama (Mr. SESSIONS) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Connecticut (Mr. LIEBERMAN), are absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 12, as follows:

[Rollcall Vote No. 158 Leg.]

#### YEAS—85

|           |           |             |
|-----------|-----------|-------------|
| Akaka     | Dayton    | Lott        |
| Alexander | DeMint    | Lugar       |
| Allard    | DeWine    | McConnell   |
| Allen     | Dole      | Mikulski    |
| Baucus    | Domenici  | Murkowski   |
| Bayh      | Dorgan    | Murray      |
| Bennett   | Durbin    | Nelson (NE) |
| Biden     | Ensign    | Obama       |
| Bingaman  | Enzi      | Pryor       |
| Bond      | Feinstein | Reid        |
| Boxer     | Frist     | Roberts     |
| Brownback | Graham    | Rockefeller |
| Bunning   | Grassley  | Salazar     |
| Burns     | Hagel     | Santorum    |
| Burr      | Harkin    | Sarbanes    |
| Byrd      | Hatch     | Shelby      |
| Cantwell  | Hutchison | Smith       |
| Carper    | Inhofe    | Snowe       |
| Chafee    | Inouye    | Specter     |
| Chambliss | Isakson   | Stabenow    |
| Clinton   | Jeffords  | Stevens     |
| Coburn    | Johnson   | Talent      |
| Cochran   | Kennedy   | Thomas      |
| Coleman   | Kerry     | Thune       |
| Collins   | Kohl      | Vitter      |
| Conrad    | Landrieu  | Voinovich   |
| Cornyn    | Leahy     | Warner      |
| Craig     | Levin     |             |
| Crapo     | Lincoln   |             |

#### NAYS—12

|          |             |         |
|----------|-------------|---------|
| Corzine  | Lautenberg  | Reed    |
| Feingold | Martinez    | Schumer |
| Gregg    | McCain      | Sununu  |
| Kyl      | Nelson (FL) | Wyden   |

#### NOT VOTING—3

|      |           |          |
|------|-----------|----------|
| Dodd | Lieberman | Sessions |
|------|-----------|----------|

The bill (H.R. 6), as amended was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BUNNING. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### DEPARTMENT OF INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. The clerk will report the pending bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2361) making appropriations for the Department of the Interior, Environment, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Burns (for Voinovich) amendment No. 1010, to prohibit the use of funds to take certain land into trust without the consent of the Governor of the State in which the land is located.

Burns (for Frist/Reid) amendment No. 1022, to provide for Congressional security relating to certain real property.

Dorgan (for Boxer) amendment No. 1023, to prohibit the use of funds by the Administrator of the Environmental Protection Agency to accept, consider, or rely on third-party intentional dosing human studies for pesticides or to conduct intentional dosing human studies for pesticides.

Dorgan amendment No. 1025, to require Federal reserve banks to transfer certain surplus funds to the general fund of the Treasury, to be used for the provision of Indian health care services.

Sununu/Bingaman amendment No. 1026, to prohibit the use of funds to plan, design, study or construct certain forest development roads in the Tongass National Forest.

Dorgan (for Kerry) amendment No. 1029, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for the Veterans Health Administration.

Dorgan (for Bingaman) amendment No. 1030, to modify a provision relating to funds appropriated for Bureau of Indian Affairs postsecondary schools.

Dorgan (for Bingaman) amendment No. 1031, to set aside additional amounts for Youth Conservation Corps projects.

Dorgan (for Durbin) amendment No. 1032, to prohibit the use of funds in contravention of the Executive order relating to Federal actions to address environmental justice in minority populations and low-income populations.

Dorgan (for Reed) amendment No. 1036, to modify certain administrative provisions relating to the brownfield site characterization and assessment program.

Dorgan (for Reed) amendment No. 1037, to authorize recipients of grants provided under the brownfield site characterization and assessment program to use grant funds for reasonable administrative expenses.

Salazar amendment No. 1038, to provide additional funds for the payment in lieu of taxes program, with an offset.

Salazar amendment No. 1039, to provide that certain user fees collected under the Land and Water Conservation Act of 1965 be paid to the States.

Burns (for Bond) amendment No. 1040, to set aside funds for the University of Missouri-Columbia to establish a wetland ecology center of excellence.

Burns (for Warner) amendment No. 1042, to set aside funds for the replacement of the main gate facility at the Wolf Trap National Park for the Performing Arts, Virginia.

Burns (for Ensign) amendment No. 1012, to provide for the conveyance of certain Bureau of Land Management land in the State of Nevada to the Las Vegas Motor Speedway.

Burns (for Coburn) amendment No. 1002, to reduce total appropriations in the bill by 1.7 percent for the purpose of fully funding the Department of Defense.

Burns (for Coburn) amendment No. 1003, to require conference report inclusion of limitations, directives, and earmarks.

Burns (for Coburn) amendment No. 1015, to transfer funding to Wildland Fire Management from the National Endowment for the Arts and the National Endowment for the Humanities.

Burns (for Coburn) amendment No. 1019, to transfer funding to the Special Diabetes Program for Indians and the Alcohol and Substance Abuse Program within the Indian

Health Service from funding for federal land acquisition.

Burns (for Coburn) amendment No. 1020, to express the Sense of the Senate that any additional emergency supplemental appropriations should be offset with reductions in discretionary spending.

Dorgan (for Feingold) amendment No. 1043, to require the Government Accountability Office to conduct an audit of the competitive sourcing program of the Forest Service.

Dorgan (for Byrd) amendment No. 1044, to set aside funds for the White Sulphur Springs Fish Hatchery.

Dorgan (for Conrad) amendment No. 1045, to set aside funds for a brownfields assessment of the Fortuna Radar Site.

Dorgan (for Sarbanes) amendment No. 1046, to provide for a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail.

Kyl (for Smith) amendment No. 1048, to require the Secretary of Agriculture to report to Congress on the rehabilitation of the Biscuit Fire area of southern Oregon.

Kyl amendment No. 1049, to provide certain earmarks for State and tribal assistance grant funds.

Kyl amendment No. 1050, to modify the formula for the allotment of grants to States for the establishment of State water pollution control revolving funds.

Kyl (for Inhofe) amendment No. 1051, to encourage competition in assistance agreements awarded by the Environmental Protection Agency.

Byrd (for Murray) amendment No. 1052, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for the Veterans Health Administration.

Byrd/Cochran amendment No. 1053, to provide funds for the Memorial to Martin Luther King, Jr.

Dorgan (for Bingaman) amendment No. 1054, to set aside additional amounts for Youth Conservation Corps projects.

Dorgan (for Bingaman) amendment No. 1055, to provide for the consideration of the effect of competitive sourcing on wildland fire management activities.

Dorgan (for Bingaman) amendment No. 1056, to strike the title providing for the disposition of Forest Service land and the realignment of Forest Service facilities.

Dorgan (for Bingaman) amendment No. 1057, to extend the Forest Service conveyances pilot program.

Dorgan (for Bingaman) amendment No. 1058, to provide a substitute for title V, Facility Realignment and Enhancement Act of 2005.

Dorgan amendment No. 1059, to facilitate family travel to Cuba in humanitarian circumstance.

Dorgan (for Landrieu) amendment No. 1060, to make certain funding revisions relating to Historically Black Colleges and Universities, and Department of the Interior administrative expenses.

Dorgan (for Obama) amendment No. 1061, to provide that none of the funds made available in this Act may be used in contravention of 15 U.S.C. section 2682(c)(3) or to delay the implementation of that section.

Dorgan (for Obama) amendment No. 1062, to provide that of the funds made available under the heading "Environmental Programs and Management," not less than \$100,000 shall be made available to issue the proposed rule required under 15 U.S.C. section 2682(c)(3) by November 1, 2005, and promulgate the final rule required under 15 U.S.C. section 2682(c)(3) by September 30, 2006.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

## AMENDMENT NO. 1053

Mr. BYRD. Mr. President, I ask for the regular order regarding amendment No. 1053.

The PRESIDING OFFICER. That amendment is now pending before the Senate.

Mr. BYRD. I thank the Chair. Mr. President, I have no remarks at the moment. If the Senator who stands in front of me, with his hand across his heart, wishes to make some comments, I yield the floor.

Mr. BURNS. Mr. President, we are trying to work this out. The Senator's amendment is a very good amendment. I would like to visit with him a little bit about it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, I ask for the yeas and nays on the adoption of my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to amendment No. 1053: WARNER, KENNEDY, MIKULSKI, LANDRIEU, JOHNSON, STABENOW, MURRAY, BINGAMAN, JEFFORDS, and in that order, please.

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

Mr. BYRD. Also, Mr. President, I ask unanimous consent that my colleague from West Virginia, Senator ROCKEFELLER, be included and that his name occur in the order listed.

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

Mr. BYRD. I ask unanimous consent that Senator OBAMA be added as a cosponsor.

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

Mr. BYRD. Mr. President, I ask unanimous consent that any other Senators on both sides of the aisle who wish to be added as cosponsors, that their names be added if they will let us know before the hour of 12 o'clock.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. BYRD. If they will let the leaders know. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, without interfering with the orderly business of the Senate, I ask unanimous consent to speak as in morning business briefly.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. I have no objection.

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

The Senator from Massachusetts is recognized.

(The remarks of Mr. KENNEDY are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## AMENDMENT NO. 1053

Mr. WARNER. It is my understanding of the parliamentary situation that an amendment by the distinguished Senator from West Virginia and the chairman of the Appropriations Committee, Mr. COCHRAN, is the pending matter. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I ask unanimous consent that I be made a cosponsor with them. I spoke to the sponsors earlier this morning.

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

Mr. WARNER. Mr. President, I commend these two Senators for taking the initiative to add an incremental part of the cost of the Martin Luther King Memorial, and I would like to take a minute to go back and recite the history of the Martin Luther King Jr. Memorial. During the 104th Congress, while Chairman of the Rules Committee, I joined my colleague from Maryland, Senator SARBANES, to authorize a project for construction on the national mall. Our bill, as I read from the Committee Report for S. 426 from December 19, 1995, authorized the Alpha Phi Alpha Fraternity, the oldest Black fraternity in the United States, to establish without cost to the Federal Government, a memorial in the District of Columbia and its environs to the late Dr. Martin Luther King. Similar bills were introduced in the 100th, 101st, 102d, and 103d Congresses, reported favorably by the Committee on Rules and Administration in the 100th Congress, and in the 102d Congress the bill passed the Senate. Again,

that reference, for those who want to go back and read this report, is Calendar No. 284, December 19, 1995.

I was privileged to work with Senator SARBANES on this legislation, and we did secure the authorization for this group and others to proceed with this memorial.

If I might say, Mr. President—and I say this with a great sense of humility—I have always had a deep admiration for Dr. King. It started at the time that he went to the Lincoln Memorial and addressed, indeed, the world, much less the United States, the Nation. I came down not as a participant but as a spectator, as a young man. I was drawn to the location, as were many others, and simply stood quietly on the side of the street as the marchers went by and then was able to get close enough to hear in some way some parts of the speech as it was so eloquently delivered that day.

Then in later years I was privileged to be a member of the Chapter of the Washington National Cathedral, the Chapter being the governing body of the Cathedral at that time, and the subject of his addressing the Nation from the pulpit came up. I always expressed support for that, and actually my term expired before the historic day when he was invited to take the pulpit at the Washington Cathedral and give his last sermon. He met his tragic and untimely death shortly after that.

So it is against that background that I joined with my dear and valued friend, Senator SARBANES, to introduce the original authorizing legislation. Construction was required to begin by November 2003. However, because of the difficulty in choosing a site, finalizing a design, and raising the \$100 million that would be necessary, the project was still in need of funds. In 2003 I again joined my colleague from Maryland to extend the authorization so the Martin Luther King, Jr. National Memorial Project Foundation would have additional time to raise the funds necessary to erect a fitting tribute to Dr. King. We were able to pass another piece of legislation, S. 470, to extend the deadline to November of 2006.

Since that time, I am pleased to say that the Foundation has raised approximately \$40 million toward the total cost of the Memorial. Today I join my dear friends Senators BYRD, COCHRAN, and SARBANES to provide an additional \$10 million for the construction.

I simply add that, as noted in the December 1995 Committee Report, the first paragraph I read, about the public funding, at that time it was the hope and expectation that private funds could achieve the goals in their entirety. Although arduous and wonderful efforts have been put together by many people to raise the funding, I think it is appropriate that this increment of public funding be added. And I say that because I was—many of us—a part of the effort to establish the World

War II Memorial. And there, again, it was, I think, 95 percent private funding largely through the efforts of our beloved colleagues, Bob Dole and Fred Smith, a citizen of national and international recognition and accomplishment, and together their large team of people did raise about \$100 million. But at the very end there were expenses to be incurred that were not foreseen to enable a massive audience to come from all over the United States for the dedication. And at that time, as a Member of the Armed Services Committee, I was able to secure some modest amount of funds, several million dollars, to enable that ceremony to be completed. So I think precedent is established there for the use of public funds for memorials of enormous significance historically and otherwise to our Nation.

Dr. King serves as a reminder that change can be brought about most powerfully when it is done by non-violent means. Visitors will come to the Memorial from every part of this country and indeed the world, to be inspired anew by Dr. King's words and deeds, and the extraordinary story of his life. It will be of particular inspiration to the many school children who will visit for years to come.

Dr. King's dream is the fulfillment, in part, of the revolutionary words of great American patriots such as Thomas Jefferson and it is fitting that the two monuments will rest across from each other.

I have worked with my friend and colleague from Maryland, Senator SARBANES, from the beginning of the efforts in Congress to secure a site and build a memorial on the national mall. I am proud of our humble contributions to this project and look forward—with great expectation to the day that we can visit Dr. King's Memorial in its rightful place—among the giants of American history and liberty.

Mr. President, I again commend the sponsors and yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to join my friend from West Virginia, the distinguished Senator who formerly served as chairman of the Senate Appropriations Committee, in offering this amendment for the consideration of the Senate.

I appreciate Senator BYRD inviting me to be an original cosponsor of this amendment and join him in this effort to see that the memorial previously authorized to be constructed on the Mall here in the Nation's Capital in honor of Dr. Martin Luther King be funded so construction can begin and this memorial be completed.

The Martin Luther King Memorial was authorized to be constructed on a 4-acre tract on the Mall to recognize and honor the influence on civil rights and justice for all—for all Americans—to which Dr. King devoted a lifetime of courageous service and leadership.

Although the legislation con-

templates, as my friend from Virginia, Mr. WARNER, points out, that all of the funds for the construction of the memorial would be raised from private sources, much in the same way as the World War II Memorial was constructed—there has been \$42 million of private donations made for this purpose—there is needed additional funds. It is hoped that the adoption of this amendment will show the serious commitment of the Congress in seeing that this memorial is completed at the earliest possible date. This could jumpstart the final stage of fundraising and enable construction to begin. It is my hope the Senate will support this effort and approve the amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I spoke on yesterday when I offered the amendment for the Senate's consideration. I will not speak further at this time except to say that my remarks of yesterday will be found on page S7420 of the CONGRESSIONAL RECORD.

I am very pleased that my chairman of the Senate Appropriations Committee, the distinguished Senator from Mississippi—I say “distinguished,” the distinguished Senator, Mr. COCHRAN—I am delighted he is the chief cosponsor of the amendment. I appreciate his excellent remarks today.

I also express my deep appreciation to the distinguished gentleman—the distinguished “gentleman”—the Senator from Virginia. And I say that with all the emphasis that word's meaning carries. He is a great Senator. He believes in the Constitution of the United States. He swore to support and defend it, and he has not forgotten his oath. He has not forgotten his oath. And he has stated it and restated it, holding his hand on the Bible and the other hand to God and all men. He has restated it several times, and he has lived up to it. I commend him.

He has been in the forefront of the effort to honor Dr. Martin Luther King with a memorial on the Mall. He has been in that forefront over a period of several years. He cosponsored, as he has pointed out, the original authorization. I am so pleased he is cosponsoring this amendment. He stood as a spectator, he said, but he later became an active participant in the history that followed on to that moment in which he was a spectator watching from the streets.

So he has become a part of history. And what I say with regard to the distinguished gentleman, the Senator from Virginia—the Virginian—I say also with equal heartfelt thanks to the distinguished Senator from Maryland, Mr. SARBANES, who has announced he will not remain with us after next year, to my great sorrow and regret. But Senator SARBANES has been a leader in the march toward justice for all men and women. I commend him, likewise. And I thank him for being a cosponsor of this amendment.

While I have the floor, Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senator FEINSTEIN, Senator SCHUMER, Senator SARBANES, Senator BOXER, Senator HARKIN, and Senator CORZINE.

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

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I am very pleased to join in cosponsoring this amendment. I thank the Chairman and the ranking member of the Appropriations Committee for bringing this amendment forward. It is an enormously important contribution to the effort that is underway now to honor Dr. Martin Luther King, by placing his memorial between President Roosevelt's Memorial and the Lincoln Memorial on the National Mall.

I thank the Senators for their kind comments. My dear friend from Virginia, Senator WARNER, and I worked together on this project to help move it along. It has had overwhelming support in the Congress and in the country, but raising the money has been a difficult proposition. Let's be very clear about this—an enormous effort has gone into bringing this memorial to fruition and significant moneys have been raised.

While we are not yet there, this amendment will provide a tremendous boost to the fundraising effort. It shows clearly the support of the Congress. Senator COCHRAN and Senator BYRD, by coming forward with the amendment, at this critical time, have given this entire effort an impetus, which will bring it to a successful conclusion.

Interestingly enough, I, too, was there when Martin Luther King gave his "I Have a Dream" speech, that Mr. WARNER, the able Senator from Virginia, referred to earlier. It was clearly a historic occasion that helped to shape the nature of our country for the better—much for the better. Dr. King fought to establish the proposition that people should be judged by their character and not by the color of their skin. He enunciated that principle time and time again.

The other thing he did was he advocated his position in a nonviolent way. He asserted that in a democratic society, these goals could be achieved through peaceful means, through nonviolent means. He channeled the energy and the commitment that was devoted toward achieving racial equality in this country into peaceful paths. And our country has been much the better for his efforts.

So much work has gone into this Memorial—first in getting it approved and then in finding the location for it on the National Mall. But, it has been worth the effort because when school-children come to the Nation's Capital in the year's to come, part of their visit to Washington will involve a trip to the Martin Luther King Memorial.

The plans that have been prepared are quite impressive. They will have an opportunity to visit that Memorial and to reflect upon the contribution which Dr. King made to our Nation; the healing he brought about, the realization of the American dream, that all of our people—all—have an opportunity to participate and to advance themselves and their families.

So I join with my colleagues. I thank them for their very kind remarks. I appreciate the Senator from Virginia reminding us of the effort that went into helping bring us to this day. I especially again thank Senators COCHRAN and BYRD for coming forward with this amendment at a very critical time, to give an impetus to the effort to do the fundraising that is necessary to build this Memorial and to have, in effect, this national treasure on the Mall.

Dr. King's statue is, of course, here in the Capitol, as we know. It is fitting now that we move beyond the Capitol and create this Memorial on the Mall in recognition of all he stood for and what he represented in terms of realizing the words and ideals embodied in the Declaration of Independence and the U.S. Constitution.

I thank my colleagues very much.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Maryland, a dear, dear friend. We have worked on so many things together, and continue to do so.

But I recall very vividly going down on the day we dedicated the site. It was a bitterly cold day. There was a small tent in which there was a heater going, and we emerged from the tent. I, for some reason, remember one line, not spoken by either of us but by several others who spoke at the occasion: The site was chosen so the sunrise cast its first rays on the memorial; and then, as the sun set, the final resting rays of the day would drape the memorial. I remember that phrase to this day.

I thank my friend for his kind remarks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, we have some modifications to make, and we have a list of those amendments that have been cleared on both sides.

#### AMENDMENT NO. 1040, AS MODIFIED

Mr. President, I send to the desk a modification for Senator BOND on amendment No. 1040 and ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 154, line 12, strike "That" and insert "That from the amount provided for the biological research activity, \$200,000 may be made available to the University of Mis-

souri-Columbia to establish a wetland ecology center of excellence: *Provided further, That*".

#### AMENDMENT NO. 1044, AS MODIFIED

Mr. BURNS. Mr. President, I send to the desk Senator BYRD's modification to amendment No. 1044 and ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 139, line 5, before the period insert the following: "": *Provided further, That* of the total amounts made available under this heading, \$350,000 may be made available for the mussel program at the White Sulphur Springs National Fish Hatchery".

#### AMENDMENT NO. 1045, AS MODIFIED

Mr. BURNS. Mr. President, I send to the desk a modification to amendment No. 1045 and ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 195, line 7, after "costs", insert the following: " , of which \$200,000 may be made available for a brownfields assessment of the Fortuna Radar Site".

#### AMENDMENTS NOS. 1022; 1040, AS MODIFIED; 1048; 1044, AS MODIFIED; 1036; 1032; 1037; AND 1045, AS MODIFIED

Mr. BURNS. Mr. President, the following amendments have been cleared by both sides, and I ask unanimous consent that they be adopted: amendment No. 1022, offered by the leadership on both sides of the aisle; amendment No. 1040, as modified, offered by Senator BOND; amendment No. 1048, offered by Senator SMITH; amendment No. 1044, as modified, offered by Senator BYRD; amendment No. 1036, offered by Senator REED; amendment No. 1032, offered by Senator DURBIN; amendment No. 1037, offered by Senator REED; and amendment No. 1045, as modified, offered by Senator CONRAD. I ask for their adoption.

The PRESIDING OFFICER. Is there objection to the consideration and adoption of the amendments en bloc?

Mr. DORGAN. Mr. President, those amendments have all been cleared by both sides. I have no objection.

The PRESIDING OFFICER. If not, without objection, the amendments are agreed to en bloc.

The amendments (Nos. 1022; 1040, as modified; 1048; 1044, as modified; 1036; 1032; 1037; and 1045, as modified) were agreed to en bloc.

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

The PRESIDING OFFICER (Mr. BURR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. 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. BYRD. Mr. President, will the distinguished manager of the bill yield?

Mr. BURNS. I will.

Mr. BYRD. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to the Martin Luther King, Jr. amendment: Senators BROWNBACK, DEWINE, and LEVIN.

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

Mr. BYRD. I thank the Chair and the distinguished Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are on the Interior appropriations bill, waiting for additional debate. All amendments have been offered, but we are waiting for additional debate on some amendments. I am going to seek to speak in morning business.

Mr. BURNS. Will the Senator yield?

Mr. DORGAN. Yes.

Mr. BURNS. Mr. President, I remind Senators that we are going to start calling up these amendments right after lunch. I want to warn Senators to come down and defend their amendments. If not, we are going to start taking action on them first thing after lunch. We have the order already agreed to, and we want to complete this bill by tomorrow morning, if possible. There is more impending business before the Senate. It is important that the appropriations process move forward. We will be calling up those amendments this afternoon, and those Senators defending and offering those amendments should be on the floor to defend them.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

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

CARLOS LAZO

Mr. DORGAN. Mr. President, to follow up on an issue I raised yesterday, I have not yet received a return call from the State Department. As I indicated, Karl Rove and the chief of staff at the White House had sent word to me following my discussion with Karl Rove last Friday that Mr. Zoellick at the State Department would be handling this issue. The issue is Mr. Carlos Lazo, a marine who fought in Iraq and won the Bronze Star for bravery and courage, came back to this country. He is a fellow who fled Cuba on a raft in 1992. His wife and children remain in Cuba unable to leave. He went to fight in the National Guard, went to Iraq to fight for this country, earned a Bronze Star last November in Iraq. He came back to this country to find out that his son was quite ill in Cuba. He wanted to go visit his son and was told he can't travel to Cuba because the President's current regulations and rules say you can only visit once every 3 years.

This young man who fled Cuba, came to this country, put on America's uni-

form, fought for this country in Iraq, won a Bronze Star fighting for freedom, comes back to this country. He doesn't have the freedom to go to see his sick child in Cuba. That is unbelievable to me. Why? Because there is no humanitarian exemption in the travel to Cuba regulation the President proposed several years ago.

I have asked all the folks involved: Do you mean there is no flexibility at all in this regulation proposed by the President?

None at all, they said. We have people calling. Their mothers are dying in Cuba, and we won't let them go. You can only go once every 3 years.

So Mr. Zoellick did tell me he is looking into it. I haven't heard back from him. Sergeant Lazo, who is walking around with a Bronze Star awarded by this country for his heroism on the battlefield, does not apparently have the freedom to go see his sick son. I will continue to ask these questions of the administration.

Incidentally, I have offered an amendment on this legislation. I agree it is going to take a two-thirds vote, but I want to see the people in the Senate who want to vote against giving this marine the opportunity to go see his sick child. It is not just him. It is all the other people caught in the web of this bizarre travel restriction. In an attempt to slap around Fidel Castro, we have decided to restrict the freedom of the American people to travel to Cuba. What a strange thing that is. We can travel to Communist China, Vietnam, but you can't go see your sick child in Cuba. You can't take your father's ashes to distribute on the church grounds of the church he ministered at in Cuba, after your dad died and his last wishes were to have his ashes distributed on the church property in Cuba. When you do that, you get hit with a big fine. It is unbelievable.

I won't go on except to say that I continue to wait by the phone for a call back from Mr. Zoellick who apparently is handling this. My hope is they will find a way to do the right thing. My hope is the Senate will be able to vote on this in the next day, and maybe the Senate will decide what the right thing is. The right thing is for humanitarian reasons to allow this courageous soldier who fought for freedom to have the freedom to go see his sick child.

HALLIBURTON

Mr. DORGAN. Mr. President, let me describe a hearing I chaired yesterday morning. It was a hearing on the subject of Halliburton. Typically, Halliburton has put out a statement saying that it was political. They have been saying this is political for a long while. I held a hearing because the authorizing committee won't. This is the fifth hearing I have held.

The highest civilian official in the Department of Defense, working with the Corps of Engineers, testified at that hearing. She was describing the meetings during which Halliburton was awarded no-bid contracts worth billions of dollars.

She said:

I can unequivocally state that the abuse related to contracts awarded to KBR [the subsidiary of Halliburton] represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

She insisted these things be done right. They weren't done right. These were sweetheart deals, worth billions of dollars, given to a company without competition for the bid, companies that had an inside track to get the money, get the bid, and they did.

Let me describe one more piece of testimony from an employee of this company. We have had testimony from many others who worked for this company in the country of Iraq under the contract given to Halliburton. This is from an employee of Halliburton who testified yesterday. He was involved in food service, providing food to our troops:

Food items were being brought into the base that were outdated or expired as much as a year. We were told by the [Halliburton] food service managers to use these items anyway.

They are feeding the American troops, and they are receiving food that has an expired date on it; some as much as a year ago have expired. They said give it to the troops anyway. This food was fed to the troops. Continuing to quote:

A lot of these were frozen foods: Chicken, beef, fish, and ice cream. For trucks that were hit by convoy fire and bombings [during delivery], we were told to go into the trucks and remove the food items and use them after removing the bullets and any shrapnel from the bad food that was hit.

I will say that again:

We were told to go into the trucks and remove the food items and use them after removing the bullets and any shrapnel from the bad food that was hit. We were told to turn the removed bullets over to the managers for souvenirs. When I had the military check some of the food shipments, they would turn the food items away. But there wasn't any making of the record, so KBR [Halliburton] just sent the food to another base for use.

It is unbelievable. We are talking about feeding soldiers here, and this is an employee of the company that was receiving billions of dollars to feed soldiers. In fact, what caught my attention about this issue is that Halliburton was charging us to feed 42,000 soldiers a day, and it turns out they were only feeding 14,000 soldiers. They were billing the Government for 42,000 soldiers and feeding 14,000. I didn't know they were feeding soldiers food that had expired on its label, food that had come in trucks that had been attacked with bullets and shrapnel embedded in the food to be removed first and then provided to the superiors for souvenirs. This is unbelievable.

Everybody here talks about honoring America's soldiers. What kind of honor exists in providing a sole-source, no-bid contract worth billions of dollars to a company that is feeding food to our soldiers that is outdated or expired on

its label? They say do it any way, it doesn't matter, it is just soldiers. This is just one more example. Every time we hear this sort of thing, we get Halliburton putting out a statement that says this is just politics because the Vice President used to run Halliburton. We didn't talk about the Vice President yesterday. This is a company that got a sweetheart deal at the Pentagon and there are stories after stories of abuse. There was one about the guy who came to our hearing some while ago, and he held up a hand towel. He was in charge of buying supplies such as hand towels. Well, the hand towels he would have bought for the soldiers weren't what his boss wanted. He bought the ones his bosses wanted to buy; they were almost double the price. Why? They wanted the company logo on the hand towel. The taxpayers get bilked, and it increased the price of the hand towels used by soldiers.

Unbelievable. The stories we have heard are hard to believe. They ordered 50,000 pounds of nails, but they came in the wrong size. They are now dumped in the desert in Iraq. It is just a mistake. How about driving \$85,000 trucks and when you get a flat tire, you leave the truck. An \$85,000 new truck gets a flat tire or has a plugged fuel pump—just trash the truck, leave it beside the road and somebody torches it.

The stories are astounding every time we hear them. Mr. President, every time we hold a hearing, we have the same response. I am not interested in holding any more hearings. I have held five. The only reason we will hold hearings is the authorizing committee won't. You would think somebody would be halfway interested in this kind of fraud. Some of it is abuse or recklessness.

I will tell you one other thing. This is Mr. Rory Mayberry, former food production manager at KBR, a subsidiary of Halliburton. He happens to be in Baghdad at this minute, but he is not working for Halliburton. He is working for another contractor. Here is what Mr. Mayberry said. He said: When the Government auditors came to try to determine what they were doing, I was told all of the employees were told don't you dare talk to a Government auditor. Don't you speak to them. If you do, one of two things will happen. No. 1, you are either going to be transferred to an area where there is hostile activity, in a fire zone, or you are going to be fired. He talked to an auditor at one point, and he was sent to Fallujah during the fighting. That is the way they handled him. Then he quit.

It is unbelievable. They are telling employees you may not speak to auditors under the threat of being fired. You cannot talk or cooperate with Government auditors. Why? I suppose the reason is because this sort of nonsense is going on. They have a sole-source contract, a noncompetitive contract, with billions of dollars going out the door. There is massive waste, abuse

and, yes, I believe, fraud. Now, we know there is, at this point, slightly more than \$1 billion in billing to the Federal Government by Halliburton, which has a sole-source contract worth billions. We know there is \$1 billion that has been formally objected to by the Pentagon. There is about \$440 million above that for which there is not sufficient documentation. Yet, this Congress seems to be willing to snore through all of this.

In 1941, right on the edge of the Second World War, Harry Truman was a Democrat and here on the floor of the Senate. There was a Democrat in the White House. Maybe it was uncomfortable to have a Democratic Senator going after waste, fraud, and abuse in the military in contracting, but he did. They went after it for 6 years. I am sure Franklin Delano Roosevelt didn't like it, but the Truman committee, as it was known, held hundreds of hearings and, in 1940 dollars, saved \$16 billion. Would that, could that, should that happen now? The answer is yes. Would it or could it? Probably not because no one is interested in having these hearings—no one. Is the White House interested in having hearings like this? Absolutely not. Is anybody going to respond to the question of whether expired food is being fed to soldiers? Will one person stand up downtown at the White House or at the Pentagon and demand answers now? Will there be one hearing by the authorizing committee? Will one person be angry enough to decide this should not happen any longer? I doubt it.

Month after month after month, through five hearings, nobody seems to give a damn about this. We have soldiers eating bad food, taxpayers being bilked, and nobody seems to care. Somebody should. This Congress has little reason to hold its head high when it decides to ignore these kinds of things. It is not of great interest to me to continue to hold hearings through our policy committee, but I will do it if the authorizing committees will not. I don't have the foggiest idea why somebody would want to have an authorizing committee if they weren't interested in following the trail of wrongdoing. Look, this doesn't take an "Inspector Clouseau." You don't need a funny looking hat to track this down. It is all out in front of you. The whole case is laid out. Yet, nobody seems to care.

We don't honor these soldiers, such as Sergeant Lazo, by saying you can fight for freedom and earn a Bronze Star, but you don't have the liberty or the freedom to go see your sick child. We don't honor our soldiers by deciding it is OK for someone to feed them bad food or expired food. I hope perhaps all those who talk about honoring soldiers will decide that honor means a responsibility to follow up. We have had these discussions on the floor of the Senate before about uparmoring humvees and other things. Every time it is raised, it is political, we are told. Perhaps some-

times we should understand there are areas of serious policy, serious concern that ought to embrace the time of this Congress. We spend so much time on things that have so little importance.

I said yesterday that this is a Congress that has tended to treat the light too seriously and the serious too lightly and important things that really matter and really make a difference in people's lives are largely not the center of debate here in the Congress. I regret that. We can, and should, do much better.

I ask unanimous consent to have printed in the RECORD, following my presentation, the entire testimony of Rory Mayberry, former food production manager at Halliburton's KBR.

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

(See exhibit 1.)

Mr. DORGAN. Mr. President, I ask unanimous consent to have printed in the RECORD, following my remarks, the formal statements presented yesterday by the highest ranking civilian official in the Corps of Engineers at the Pentagon, Bunnatine Greenhouse.

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

(See exhibit 2.)

Mr. DORGAN. She is a woman who had a wonderful career for a long time, was given high marks always, clearly someone with a sterling reputation and a great career, who ran afoul of the "old boy's network," it appears to me, in the Pentagon when they decided they wanted to steer certain contracts in certain ways. She said: You are not following regulations. That is the wrong thing to do, and we are going to see waste, fraud, and abuse as a result of it. She would not go along with it all. Guess what. They decided to tell her that, despite all those glowing performance evaluations, they are changing their mind on her if she would not go along, so she was either going to be demoted or fired. She testified yesterday, when she was told by the acting general counsel of the Corps of Engineers that it would not be in her best interest to speak publicly about these things. Oh, really? I thank her for the courage and the others for their courage. I also thank Rory for the courage to speak out. I suppose it would be easier not to speak out.

I will read the last sentence of the second paragraph of the statement of Bunnatine Greenhouse:

I can unequivocally state that the abuse related to contracts awarded to KBR [Halliburton] represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

I continue to ask the question: Is there somebody here who cares? Is there somebody who has the reins of an authorizing committee that cares enough to begin a real investigation or shall we continue to hold hearings in the Policy Committee only because nobody else will?

I yield the floor.



## EXHIBIT I

TRANSCRIPT OF THE TESTIMONY OF RORY MAYBERRY, FORMER FOOD PRODUCTION MANAGER, KBR, SENATE DEMOCRATIC POLICY COMMITTEE, JUNE 27, 2005

My name is Rory Mayberry. I'm sorry that I'm not able to be there in person to testify to the Committee, but I returned to Iraq on June 14. I am working as a Medical Examiner and Medic Supervisor for a company called Emergent Services.

I wanted to testify today about my experience working with Halliburton in Iraq. I was hired by Halliburton subsidiary KBR in January 2004 as the Food Production Manager for a dining hall at Camp Anaconda, Iraq. I worked under the Halliburton's LOGCAP contract from February 2004 until April 2004.

When I was assigned to the dining facility, KBR managers informed me that there were KBR practices that were to be followed everyday. These practices led to major overcharges.

First, KBR was supposed to feed 600 Turkish and Filipino workers meals according to their custom. Although KBR charged the government for this service, it didn't prepare the meals. Instead, these workers were given leftover food in boxes and garbage bags after the troops ate. Sometimes there were no leftovers to give them.

Second, KBR charged the government for meals it never served to the troops. Until late 2003, anaconda was a transition site for army personnel. Because there could be large numbers of extra personnel passing through everyday, KBR would charge for a surge capacity of 5,000 troops per meal. However, KBR continued to charge for the extra headcount even after Anaconda was no longer a transition site.

When I questioned these practices, the managers told me that this needed to be done because KBR lost money in prior months, when the government suspended some of the dining hall payments to the company. The managers said that they were adjusting the numbers to make up for the suspended payments.

I would prepare food orders each week in order to get the food we needed at the camp in the coming week. The KBR managers would triple the order every week to bring in much more food than we needed. They did this because they were charging an extra 5,000 troops they weren't actually feeding. Most of this food went to waste though.

Third, KBR paid too much for the food itself. Initially, a company called Tamimi Catering was KBR's sub-contractor for the food. Tamimi paid local prices for the food products in the towns and cities around the base in addition to orders sent to their main office. Tamimi's pricing was fair for the condition of the country. Then, KBR switched to a new supplier, PWC. PWC's prices were almost triple what Tamimi's were.

For example, tomatoes cost about \$5 a box locally, but the PWC price was \$13 to \$15 per box. The local price for a 15-pound box of bacon was \$12, compared to PWC's price of \$80 per box. PWC charged a lot for transportation because they brought the food from Philadelphia. KBR switched from Tamimi to PWC because Tamimi complained about KBR's poor treatment of its staff; they were living in tents with sand floors and no beds.

There were other problems that were not related to KBR's costs:

Food items were being brought into the base that were outdated or expired as much as a year. We were told by the KBR food service managers to use these items anyway. This food was fed to the troops. A lot of these were frozen foods: chicken, beef, fish, and ice cream. For trucks that were hit by convoy fire and bombings, we were told to go

into the trucks and remove the food items and use them after removing the bullets and any shrapnel from the bad food that was hit. We were told to turn the removed bullets over to the managers for souvenirs. When I had the military check some of the food shipments, they would turn the food items away. But there wasn't any marking of the record, so KBR just sent the food to another base for use. The problem with expired food was actually worsened with the switch to PWC because it took longer for the food items to get to the base as they were shipped from the U.S. to a warehouse in Kuwait.

KBR also paid for spoiled food. When Tamimi dropped off food, there was often no place to put it in the freezers or refrigeration. Food would stay in the refrigeration and freezer trucks until they ran out of fuel. KBR wouldn't refuel the trucks so the food would spoil. This happened quite a bit.

In addition, KBR would cater events for KBR employees, like management parties and barbecues. This happened about 3 times a week. As a result, there were shortages of certain food items, such as beef, chicken, pork, salads, dressings, and sodas for the troops.

The food service personnel were given sanitation rules from the Military Preventive Medicine information programs and rules to follow by the Armed Forces, but KBR managers informed us that the information was not to be followed, that they knew best, and to keep following their instructions. So our employees weren't following sanitation rules as set forth.

Also, the Iraqi subcontract drivers of food convoys that arrived on the base were not fed. They were given MREs, or meals ready to eat, with pork, which they couldn't because of religious reasons. As a result, the drivers would raid the trucks for food.

Government auditors would have caught and fixed many of the problems. But KBR managers told us not to speak with auditors. The managers themselves would leave the base or hide from the auditors when they were on the base and not answer the radios when we called for them. We were told to follow instructions or get off the base. The threat of being sent to a camp under fire was their way of keeping us quiet.

The employees that talked to the auditors were moved to the other bases that were under more fire than Anaconda. If they refused to move, they were fired and sent home.

I personally was sent to Fallujah for 3 weeks. The manager told me I was being sent away until the auditors were gone because I had opened my mouth to the auditors. When I returned from Fallujah, the convoy was attacked. I was put in danger because the KBR managers didn't want me to talk with U.S. government auditors.

When KBR wanted me to go to Tikrit, I headed home on rotation. I wasn't officially fired and I didn't formally quit.

I am happy to answer any questions the Committee may have for me.

Mr. Mayberry, representatives of the Senate Democratic Policy Committee have provided me with several questions that they would like me to ask you now. Can I begin asking you those questions?

Q: Are you saying that Halliburton deliberately falsified the number of meals they prepared, and then submitted false claims for reimbursement, and that they did this to make up for past amounts auditors had disallowed?

A: Yes.

Q: So, when they couldn't get reimbursed legitimately, they committed fraud by submitting these false bills?

A: Yes.

Q: How many meals were served at the dining hall each day?

A: 2,500 meals, per meal, times four. There were four meals, breakfast, lunch, dinner and a midnight meal.

Q: So, every day, Halliburton was charging for 20,000 meals it never served?

A: Correct. They were charging for 20,000 meals, and they were only serving 10,000 meals.

Q: Was it rare for expired food to be served to the troops?

A: No. It was an everyday occurrence, sometimes every meal.

Q: You've described routine overcharging and unsanitary practices by Halliburton, as well as shortages of food items for troops because of private Halliburton parties. Halliburton managers were not only aware of these practices, they ordered them, is that correct?

A: Correct.

Q: How senior were these managers?

A: The managers, the main manager was a manager of all of Iraq, assigned by KBR.

Q: So these practices may have been ordered at other dining halls in Iraq?

A: Most likely, yes.

Q: When government auditors arrived, these senior managers deliberately avoided them?

A: Yes.

Q: And these senior managers ordered you and other employees not to discuss your concerns with the auditors?

A: Yes. We were informed if we talked, we would be rotated out to other camps that were under fire.

Q: Is it fair to say that the managers used the threat of transfer to a more dangerous base to intimidate employees into keeping quiet?

A: Yes.

Q: When employees did talk to auditors, what happened?

A: All the employees that did talk to the auditors were switched out to other camps or fired because they refused to go to the other camps.

Q: Is there anything else you'd like us to know?

A: Not at this time.

Thank you for your testimony, Mr. Mayberry.

## EXHIBIT 2

BUNNATINE GREENHOUSE, U.S. ARMY CORPS OF ENGINEERS, SENATE DEMOCRATIC POLICY COMMITTEE HEARING, JUNE 27, 2005

My name is Bunnatine H. Greenhouse. I have agreed to voluntarily appear at this hearing in my personal capacity because I have exhausted all internal avenues to correct contracting abuse I observed while serving this great nation as the United States Army Corps of Engineers ("USACE") senior procurement executive. In order to remain true to my oath of office, I must disclose to appropriate members of Congress serious and ongoing contract abuse I cannot address internally. However, coming forward is not easy. On June 24, 2005, I met with the acting General Counsel of the USACE. During the course of this meeting it was conveyed to me that my voluntary appearance would not be in my best interest. I was also specifically advised to clearly state that I do not appear as a representative of the Department of the Army or the United States Corps of Engineers.

I have been involved with government contracting for over twenty years. On June 9, 1997 I was sworn in as the Principal Assistant Responsible for Contracting ("PARC") for the USACE. Back then, the commander of the Corps asked me to do what I could to end what could be called casual and clubby contracting practices. To curb these practices I required Commanders to strictly follow the

Federal Acquisition Regulations and began to institutionalize the contracting practices the Corps had to follow. However, as the command structure at the Corps changed, there was ever increasing pressure to return to the old ways. My determination to ensure that the Corps strictly adhere to contracting regulations was no longer viewed as an asset and I began to experience an increasingly hostile environment. The hostility peaked as the USACE was preparing contracts related to the Iraq War. At this juncture, the interference was primarily focused on contracting activity related to a single contractor, Halliburton subsidiary Kellogg Brown and Root ("KBR"). The abuse I observed called into question the independence of the USACE contracting process. I can unequivocally state that the abuse related to contracts awarded to KBR represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

The independence of the USACE contracting process was unquestionably compromised with respect to the issuance of the Restore Iraqi Oil contract, known as RIO. I observed, first hand, that essentially every aspect of the RIO contract remained under the control of the Office of the Secretary of Defense ("OSD"). This troubled me and was wrong. However, once the OSD delegated responsibility for the RIO contract to the Department of the Army, control over the contracting process by the OSD should have ceased. However, the OSD remained in control over the contracting process. In reality, the OSD ultimately controlled the award of the RIO contract to KBR and controlled the terms of the contract that was to be awarded even over my objection to specific terms that were ultimately included in the contract.

As the ramp-up to the Iraqi War escalated I was increasingly excluded from contracting activity related to the war effort. However, given my position, it was simply impossible to completely exclude me from the process. When I did gain access to some of the high level planning meetings related to the implementation of the RIO contract I sensed that the entire contracting process had gone haywire. I immediately questioned whether the Corps had the legal authority to function as the Army's delegated contracting authority. The Corps had absolutely no competencies related to oil production. Restoration of oil production was simply outside of the scope of our congressionally mandated mission. How then, I asked, could executive agency authority for the RIO contract be delegated to the USACE? I openly raised this concern with high level officials of the Department of Defense, the Department of the Army and the U.S. Army Corps of Engineers. I specifically explained that the scope of the RIO contract was outside our mission competencies such that congressional authority had to be obtained before the Corps could properly be delegated contracting authority over the RIO contract. Exactly why USACE was selected remains a mystery to me. I note that no aspect of the contracting work related to restoring the oil fields following the 1991 Persian Gulf War was undertaken by the USACE, and there was no reason why USACE should take over that function for the prosecution of the Iraq War.

I further raised a concern over which contract authorized payment for prepositioning work KBR was doing in anticipation of being awarded the RIO contract. I was generally familiar with the scope of the LOGCAP contract and was under the impression that the LOGCAP contract was being used to fund the initial prepositioning work being done by KBR before the Iraq War commenced. I specifically questioned whether using LOGCAP

funding was legal and insisted that a new contract be prepared. My concern over this issue ended when I was apparently provided misinformation that a new contract had been issued. This is the first time I can recall being overtly misled about something as fundamental as the existence of an underlying contract authorizing work to be done.

I further raised a concern over the basis used to justify the selection of KBR as the sole source contractor for the RIO contract. I learned that a specific basis to be used for the selection of the contractor was a requirement that the contractor have knowledge of the contingency plan KBR prepared for the restoration of Iraqi oil. The inclusion of this requirement meant that the RIO contract would have to be awarded to KBR because no other contractor participated in the drafting of the contingency plan and no other contractor had knowledge of the contingency plan itself after it had been prepared by KBR. What was particularly troubling about this arrangement was that contractors who are normally selected to prepare cost estimates and courses of action, such as the work KBR did when it prepared the contingency plan, are routinely excluded from being able to participate in the follow-on contract. The reasons for prohibiting the contractor responsible for preparing costs estimates and course of action from obtaining the follow-on contract is obvious. The fact that it was a no-bid, sole source contract meant that the government was placing KBR in the position of being able to define what the reasonable costs would be to execute the RIO contract and then charging the government what it defined as being reasonable. Given the enormity of the scope of work contemplated under the RIO contract, the exclusion of the contractor responsible for pricing out the scope of work to be done under the RIO contract should have been an imperative. Instead, it formed the basis of awarding the RIO contract to KBR.

Ultimately, I was most concerned over the continuing insistence that the RIO contract be awarded to KBR without competitive bidding for an unreasonable period of time—two years plus the option to extend the contract an additional three years. I raised this concern with officials representing the Department of Defense, the Department of the Army and the Corps of Engineers. However, when the final Justification and Approval of the RIO contract was forwarded to me for signature—after the draft had been approved by representatives of the office of the Secretary of Defense—the five year, no-compete clause remained in place. I could not sign the document in good faith knowing that this extended period was unreasonable. However, we were about to prosecute a war and the only option that remained opened to me was to raise an objection to this requirement. Therefore, next to my signature I handwrote the following comment: "I caution that extending this sole source effort beyond a one year period could convey an invalid perception that there is not strong intent for a limited competition."

I handwrote this comment directly onto the original document because experience had taught me that a separate memo outlining my concerns could inexplicably be lost. I wrote my comment on the original J&A to guarantee that my concern was not overlooked. Instead, it was just ignored.

The RIO contract was subjected to public scrutiny when, on December 11, 2003, the Defense Contract Audit Agency (DCAA) issued a draft report concluding that KBR overcharged for the purchase of fuel by \$61,000,000. However, the firestorm over this issue was significantly dampened a week later when the Commander of the USACE, Lt. General Flowers, took the unusual step

of issuing a waiver absolving KBR of its need, under the RIO contract, to provide "cost and pricing data." The Corps simply asserted that the price charged for the fuel was "fair and reasonable," thereby relieving KBR of the contract requirement that cost and pricing data be provided.

However, the manner in which the waiver request was prepared and finalized demonstrates that the USACE Command knowingly violated the AFARS by intentionally failing to obtain my approval, as the PARC. The evidence suggests that the reasons why I was intentionally kept from seeing the waiver request were politically motivated and driven by the DCAA's conclusion that KBR had overcharged the government for the fuel by \$61,000,000, rather than whether the granting of the waiver was in the interest of the government.

Significantly, it appears that a concerted effort was undertaken to ensure that I was kept in the dark about the waiver request. I have every reason to believe that the USACE knew I would object to the granting of the waiver if it had been presented to me for signature. So, I was specifically kept in the dark and did not learn of the existence of the waiver until I read about it in the press. Having reviewed the documentation used to justify the waiver, I can unequivocally state that I would not have approved it because the documentation relied upon to justify the fuel charges as "fair and reasonable" was grossly insufficient.

Eventually, a copy of the original J&A for the RIO contract was released in response to a Freedom of Information Act Request which prompted Time Magazine to attempt to find out why I felt it necessary to document my concern. Time Magazine contacted the USACE seeking permission for me to be interviewed. I later learned that this caused great consternation. According to sworn testimony given on October 15, 2004 by the Deputy Commander of the USACE, Major General Robert Griffin, the Department of the Army was figuring out how it was going to publicly respond and whether the Army would officially allow me to speak to a Time magazine reporter. According to MG Griffin, the problem was that I did not "know the Army's story" so the Army had to figure out who was going to respond. The difficult position the Army found itself in, according to MG Griffin, "was because she wrote this informal note at the bottom of this document, which actually makes my case, which is, you shouldn't write on official documents because they get taken out of context, somebody reads them and there you go." However, my comment was far from an informal note, and it was not being taken out of context. Rather, my concern had found its way to the light of day.

As public pressure mounted, my involvement and past actions related to the RIO contract became a thorn in the side of the USACE. As a result stating my concern in writing on the original RIO J&A and as a result of expressing other significant concerns over contracting matters related to KBR, I was eventually summoned to a meeting on October 6, 2004 at which time I was issued a memorandum notifying me that I was to be removed from the Senior Executive Service and from my position as PARC. At that point I knew that my ability to resolve the issues within the USACE had terminated. I had no other alternative at that juncture but to file a formal request for investigation with the then-Acting Secretary of the Army and to appropriate members of Congress.

In closing, I would like to thank my attorney, Michael Kohn, and the National Whistleblower Center, for the support and unbelievably hard work they have put forth.



Without their effort I could not have survived the political fire storm that burns around me.

# RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:17 p.m., and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Montana.

## DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005—Continued

Mr. BURNS. Mr. President, we are setting the priority of amendments now and consulting. We will have that decision made in just a bit. We want to work on that. We have a lot of work to do this afternoon and on into the evening. There have been some changes as far as amendments that have been offered.

In the meantime, I ask unanimous consent that the Senator from Georgia, Mr. ISAKSON, be allowed to speak as in morning business for 10 minutes, followed by Senator MURRAY—how much time will the Senator need?

Mrs. MURRAY. Mr. President, 15 minutes.

Mr. BURNS. Fifteen minutes, and after that, Senator KERRY will be recognized, and Senator AKAKA needs about 10 minutes.

The PRESIDING OFFICER. The Chair, as a Senator from Ohio, would like to know where I fit into that schedule.

Mr. BURNS. Right after the chairman is done with his duties.

The PRESIDING OFFICER. Is that 3 o'clock?

Mr. BURNS. Yes.

Mr. DORGAN. Mr. President, if I might make a point, because of the way the order is established, it could be 5 minutes after 3, but the Senator from Ohio will be in line following the Senators who have just been described by Senator BURNS as having time. It should turn out 10 minutes, 15, 10, and 10, and it should turn out to be just about the time the Presiding Officer leaves the chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BURNS. First let me add something, if the Senator from Massachusetts will withhold?

Mr. KERRY. Mr. President, I wish to speak. It is a little longer than 10 minutes. I do not know exactly how long.

Mr. BURNS. Then the Senator will follow the Chair.

Mr. KERRY. I appreciate that. I will follow the Senator from Washington.

Mr. BURNS. And Senator VOINOVICH of Ohio, and Senator AKAKA is after Mr. ISAKSON. Mr. AKAKA, Mrs. MURRAY, Mr. VOINOVICH, and Senator KERRY—

Mr. KERRY. Mr. President, the understanding was the Senator from Washington, the Senator from Hawaii, the Senator from Massachusetts, and then the Chair. It should be around 3 o'clock, and if the Senate proceeds now, we should be able to get there.

Mr. DORGAN. Mr. President, let me see if we can clear this up without taking more substantial time. Senator ISAKSON wants to speak for 10 minutes in morning business. We decided following that Senator MURRAY would be recognized. She sought 15 minutes to speak on her amendment. Following that, Senator AKAKA was to have been recognized for 10 minutes. At that point, before Senator KERRY came in, we had indicated the Senator from Ohio would be recognized, and then Senator KERRY from Massachusetts has asked to be recognized without a time limit.

The one thing that is unclear to me is how much time the Senator from Ohio wishes. I know he wants to speak on his amendment.

The PRESIDING OFFICER. No more than 10 minutes.

Mr. DORGAN. I think we can lock all of that in understanding the Senator from Ohio could take the 10 minutes and then Senator KERRY from Massachusetts would be recognized. I think that actually works out to about 3 o'clock, in any event.

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

The Senator from Georgia.

Mr. ISAKSON. Mr. President, I thank the chairman and ranking member for allowing me this time.

Mr. ISAKSON. Mr. President, I wish to take just a minute to address 48 extraordinary hours in my life this past weekend I spent with the men and women in the U.S. Armed Forces, first on Saturday in Ellijay, GA, at the funeral of 1LT Noah Harris of the U.S. Army, and then 24 hours later at Guantanamo Bay, Cuba, where I spent the day with U.S. Armed Forces in the work they are doing with the detainees in the war on terror.

I wish to do the best I can today to speak for those with whom I talked. I take responsibility for every word I say, but they are every bit a message from the people with whom I talked and who shared with me.

First, at the funeral of 1LT Noah Harris, I eulogized Noah on last Thursday and made a promise that I would make it to Ellijay, GA, on Saturday to be at his service. He was a distinguished Georgian, and like every other soldier who served and sacrificed, we mourn his death but we praise his service to our country. But this was an extraordinary funeral service.

A thousand Georgians—500 in the high school gym and 500 in the First Methodist Church—attended a 2½ hour service that passed in a microsecond, a service not by ministers but by laymen, Americans, citizens of Georgia to praise Noah Harris but also to praise our men and women in harm's way.

When the service came to a conclusion, it was his mother Lucy and his dad Rick who talked for the last 20 minutes. To honor what they said and their son to the best of my ability, I want to recount it to all of you.

Lucy stood up before that crowd of 500 and said: You know, when we got the word of Noah's death, I knew I had two choices: I could mourn and I could be sorrowful and I could grieve, and I have done all those, but I could also do the good and the godly thing, and that is to praise my son and all those other men and women who fight in Iraq on behalf of freedom and democracy.

She gave a beautiful and eloquent statement about the tribute her son's life was to that for which our men and women fight.

Then her husband stood up and asked rhetorically: What was it the American press is really writing about today? Everything you hear about what is going on in Iraq is negative and wrong, questioning our motives and our reasons for being there. Yet in this church in quiet Ellijay, GA, in northwest Georgia, thousands had come to honor a man who had sacrificed his life in harm's way for the people of Iraq and the principles of this great Nation.

Rick Harris asked the question: Have we forgotten 9/11? Have we forgotten that since that date there has not been an attack on American soil? Since we went after terror, wherever its exists, and since we committed the resources of our country, our Nation has been safer. And what we are doing is right—is not only right morally, but it is right for the future of peace and freedom and democracy.

So for Lucy and Rick Harris, on behalf of their son, I rise today in this Senate and send that message loud and clear that I got last Saturday from a thousand Georgians proud of their native son's service, sorrowful for his loss but appreciative of living in a country that has been willing to make the commitment we have made on behalf of freedom and democracy around the world and on behalf of the security of the United States of America.

And then, Mr. President, I went to Guantanamo Bay, Cuba. I went with two other Members of the Senate. I went with a specific desire in mind: the desire to go and see for myself that which I heard so many people talk about and have seen so much about on television.

I learned something very interesting. There must be two Guantanamo Bay, Cubas—the one I visited and the one all the news media talks about because they did not resemble one another. I thought when I landed at Guantanamo Bay and went to visit the detainees that I would see men incarcerated in cyclone fences with razor wire on top of it. That does not exist anymore. That was Camp X-Ray. It was closed 3 years ago. It was the original temporary place we took the enemy combatants to until we could spend the millions of dollars to build the buildings that now house them.