

Ms. MURKOWSKI. Mr. President, we often hear refrains of the need to make government policies more fair, clear, or simple—especially when these policies involve the collection of fees or taxes. Today I rise to introduce legislation to fix an inherently unfair policy by prohibiting the Federal Energy Regulatory Commission from charging land-use fees for hydropower projects that are no longer located on federal land.

FERC is responsible for licensing private, municipal and state hydropower projects. Pursuant to the Federal Power Act, the Commission is authorized to collect fees from project owners for those hydro projects located on federal lands. The rationale behind these land-use fees is to recompense the United States for the “use, occupancy, or enjoyment” of its federal lands. The Federal Government is, in some sense, a landlord for these types of projects, and can collect just and reasonable rent from its tenants. The current level of these rents is a separate issue—which I encourage all of my colleagues to examine as well since FERC is seeking to change its collection methodology and increase those fees—but today I am focused on how a technicality in federal law allows the government to continue to collect land-use fees even when the land at issue has been transferred out of federal ownership. Under current law, if the Federal Government sold the land underneath a hydropower project to the operator, or transferred it into state ownership, FERC would continue to assess full land use fees against the operator. This untenable situation is like a landlord continuing to collect rent from a tenant even after the tenant buys the house outright!

While the inherent unfairness of such a scenario is clear, the statutory and regulatory web that has created this snare is extremely complex. In addition to allowing for the collection of federal land-use fees, the Federal Power Act also contains a section regarding Power Site Classifications, or PSCs. A PSC attaches to the land when a preliminary hydropower license application is made, and entitles the government, or its designees, to enter the associated land and develop a hydropower project if some other person or operation is occupying it. These classifications are similar to easements, in that they permanently attach to the title of the lands. The purpose of PSCs is to make sure that hydropower can be developed in the limited number of areas on federal land that are suitable, and furthermore that once such an area is identified by a preliminary application, that the site is not then diverted to an alternate use.

However, FERC has interpreted the statutory fee collection provisions to give these PSCs another affect that is not in keeping with this purpose—to charge land-use fees from existing hydropower operators in cases where the Federal Government no longer owns

the land. In such a case, there is no need for a PSC to preserve the hydropower value of land as it is already being used for power production. Nor is the Federal Government somehow missing out on other beneficial uses of the land, because it no longer owns the land at issue. But FERC’s current interpretation of the FPA is that a PSC qualifies as a significant enough interest in the associated land to justify the collection of full land-use fees.

When I first learned of this issue, I asked FERC for a list of the hydropower projects for which it was collecting these PSC-based federal land-use fees. Apparently, while FERC has been perfectly capable of collecting these fees, it has been less diligent in keeping track of which projects are located on lands that have since been transferred away from federal ownership. Despite numerous requests from my office, FERC was unable to produce even a possible list of impacted projects. Consequently, my staff attempted to survey the number of affected projects by consulting with both the National Hydropower Association and the Alaska Power Association. This search identified 15 possible projects subject to these PSC land use fee collections—10 of which are located in my home state of Alaska. While some may dismiss these fees as being relatively minor, I can tell you that these annual federal fees for land not even owned by the Federal Government can represent a significant hardship for my constituents.

The bill I am introducing today would put a halt to this kind of fee collection. It simply says that when FERC is making fee determinations, it cannot take PSCs into account. Therefore, the only land that the Federal Government will be able to collect “use, occupancy, and enjoyment” fees is for land that it actually owns. I hope all of my colleagues can agree this treatment is a fair resolution of the issue and I ask for their support.

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

S. 3265

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

**SECTION 1. REMOVAL OF AUTHORITY TO COLLECT LAND USE FEES FOR CERTAIN LAND.**

Section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) is amended in the first sentence by inserting after “enjoyment of its lands or other property” the following: “(which, for purposes of this section, shall not include land that has been sold, exchanged, or otherwise transferred from Federal ownership, but that is subject to a power site reservation under section 24)”.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 477—CALLING FOR THE SAFE AND IMMEDIATE RETURN OF NOOR AND RAMSAY BOWER TO THE UNITED STATES**

Mr. KERRY (for himself and Mr. BROWN of Massachusetts) submitted the following resolution; which was considered and agreed to:

S. RES. 477

Whereas Colin Bower’s 2 young sons, Noor and Ramsay Bower, were illegally abducted from the United States by their mother in August 2009 and taken to Egypt;

Whereas Noor William Noble Bower, age 11, and Ramsay Maclean Bower, age 9, are citizens of the United States of America;

Whereas, on December 1, 2008, prior to the abduction of Noor and Ramsay, the Probate and Family Court of the Commonwealth of Massachusetts awarded sole legal custody of Noor and Ramsay to Colin Bower, and joint physical custody with Mirvat el Nady, which ruling stipulated Mirvat el Nady was not to remove Noor and Ramsay from the Commonwealth of Massachusetts;

Whereas, in August of 2009, following a violation of the Probate Court’s ruling, the Massachusetts Trial Court granted sole physical custody of Noor and Ramsay to their father, Colin Bower;

Whereas Colin Bower has been granted only 4 visitations with his sons in the almost 3 years since the abduction;

Whereas the United States has expressed its commitment, through the Hague Convention on the Civil Aspects of International Child Abduction, done at the Hague October 25, 1980, “to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence”; and

Whereas the United States and 69 other countries that are partners to the Hague Convention on the Civil Aspects of International Child Abduction have agreed, and encourage all other countries to concur, that the appropriate court for determining the best interests of children in custody matters is the court in the country of their habitual residence: Now therefore be it

*Resolved*, That the Senate calls on government officials and competent courts in Egypt to assist in the safe and immediate return of Noor and Ramsay Bower to the United States.

**SENATE RESOLUTION 478—COMMEMORATING THE 200TH ANNIVERSARY OF THE CHARTERING OF HAMILTON COLLEGE IN CLINTON, NEW YORK**

Mr. SCHUMER (for himself, Mrs. GILLIBRAND, and Mr. SANDERS) submitted the following resolution; which was considered and agreed to:

S. RES. 478

Whereas Hamilton College, located in Clinton, New York, received its charter from the Regents of the University of the State of New York on May 26, 1812, “for the instruction and education of youth, in the learned languages and liberal arts and sciences”;

Whereas Hamilton College was originally founded in 1793 as the Hamilton-Oneida Academy by the Reverend Samuel Kirkland, a missionary to the Oneida Indians;

Whereas all-male Hamilton College joined with all-female Kirkland College in 1978 to

form one coeducational institution of higher learning dedicated to academic freedom and the unfettered pursuit of truth;

Whereas the distinguished alumni of Hamilton College include recipients of the Nobel Peace Prize, the Presidential Medal of Freedom, and the Pulitzer Prize, and public servants at every level, including a former Vice President of the United States, United States Senators and Representatives, United States district and appellate court judges, members of the Presidential Cabinet, ambassadors, Governors, and State, county, and local officials; and

Whereas Hamilton College is currently comprised of 1,812 students from 49 states and 37 countries, and a faculty dedicated to teaching and the discovery and advancement of new knowledge: Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates the bicentennial of the chartering of Hamilton College in Clinton, New York; and

(2) honors the outstanding contributions made by the alumni, faculty, and students of Hamilton College during the past 200 years, including service to the United States that has fostered the development of the United States as a diplomatic force and industrial power in the world.

#### SENATE RESOLUTION 479—COMMEMORATING THE DEDICATION OF THE STRATEGIC AIR COMMAND MEMORIAL DURING THE 20TH ANNIVERSARY OF ITS STAND DOWN

Mr. JOHANNIS (for himself and Mr. NELSON of Nebraska) submitted the following resolution; which was considered and agreed to:

S. RES. 479

Whereas Strategic Air Command was formed on March 21, 1946, to provide the United States with long-range bombing capabilities;

Whereas Strategic Air Command operations were moved to Offutt Air Force Base in 1948 to avoid a surprise attack from the growing nuclear threat by the Soviet Union during the Cold War;

Whereas the men and women of Strategic Air Command perfected aerial refueling, allowing Strategic Air Command bombers to reach any spot in the world and advancing the ability of the United States to project military power worldwide;

Whereas in 1953, following the Korean War, the defense strategy of the United States shifted and President Eisenhower designated Strategic Air Command as the primary nuclear deterrent for the United States;

Whereas the Strategic Air Command played a major role in the triad of aircraft, missiles, and submarines that provided an undefeatable nuclear force that prevented nuclear war and kept the Soviet Union at bay until the demise of the Soviet Union in December 1991;

Whereas Strategic Air Command is credited with the development of the Snark, Atlas, and Minuteman missiles;

Whereas Strategic Air Command maintained continuous airborne alert operations from October 1957 until September 1991, which many consider the longest continuous military operation in history;

Whereas in 1962, the visibility of Strategic Air Command bombers responding to the DEFCON 2 order issued by President Kennedy during the Cuban Missile Crisis presented a clear indication to the Soviet Union of the determination of the United States to remove Soviet missiles from Cuba;

Whereas at its height in 1962, Strategic Air Command employed 283,000 personnel and maintained 3,400 aircraft and 224 land-based missiles;

Whereas in December 1972, 33 crewmembers and 10 B-52 bombers supported by Strategic Air Command were lost during Operation Linebacker II in North Vietnam during the aerial bombing campaign that forced Vietnamese leadership back to negotiations and a peace settlement;

Whereas the need for absolute command and control by national leaders led Strategic Air Command to organize the National Emergency Airborne Command Post operation, which became the National Airborne Operations Center and the E-4B aircraft operating at Offutt Air Force Base;

Whereas the operational practices and procedures for safe and secure nuclear weapons were established by Strategic Air Command and continue under the leadership of United States Strategic Command and Air Force Global Strike Command;

Whereas the Strategic Air Command performed the assigned mission flawlessly according to its famous motto, "Peace is Our Profession";

Whereas the United States, and particularly the State of Nebraska, is extremely grateful to those who served the United States at Strategic Air Command; and

Whereas the Senate recognizes the service and dedication of the individuals whose unyielding commitment and sacrifice contributed to the continued safety of the United States for over 4 decades: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the 20th anniversary of the stand down of Strategic Air Command and the immeasurable contributions and prominent role of Strategic Air Command in national security and nuclear deterrence during the Cold War;

(2) commemorates the dedication of the Strategic Air Command Memorial in the State of Nebraska, which pays tribute to the men and women who worked tirelessly to make Strategic Air Command the most powerful and professional military organization in the world; and

(3) honors the personnel who served at Strategic Air Command and those who have carried on the tradition of excellence through service at United States Strategic Command.

#### SENATE RESOLUTION 480—COMMEMORATING THE 20TH ANNIVERSARY OF UNITED STATES STRATEGIC COMMAND

Mr. JOHANNIS (for himself and Mr. NELSON of Nebraska) submitted the following resolution; which was considered and agreed to:

S. RES. 480

Whereas United States Strategic Command was established on June 1, 1992, to meet national security needs of the post-cold-war era by combining all strategic planning, targeting, and wartime employment of forces under one commander headquartered at Offutt Air Force Base in the State of Nebraska;

Whereas United States Strategic Command was reestablished in 2002 at Offutt Air Force Base, combining the responsibilities of United States Strategic Command and the United States Space Command along with responsibility for early warning and defense against missile attack;

Whereas over the last 20 years, United States Strategic Command has flawlessly ex-

ecuted the mission to deter nuclear attacks and employ nuclear forces if necessary;

Whereas in 2010 the mission of United States Strategic Command expanded again to include cyberspace operations through United States Cyber Command, a subunified command;

Whereas United States Strategic Command provides continuous information regarding orbiting satellites and space debris to spacecraft such as the International Space Station;

Whereas United States Strategic Command has supported coalition forces in Iraq and Afghanistan by providing intelligence, planning, and cyber support;

Whereas United States Strategic Command contributed to United States operations in Libya through long-range conventional strikes and intelligence, surveillance, and reconnaissance;

Whereas United States Strategic Command continues to be the premier nuclear deterrent in the United States, serving as a center for global command and communications headquartered in the State of Nebraska; and

Whereas the United States, and particularly the State of Nebraska, is grateful to those who serve the United States at United States Strategic Command: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the 20th anniversary of the establishment of United States Strategic Command and the vital contributions of United States Strategic Command to national security; and

(2) honors the dedicated men and women who serve at United States Strategic Command executing the mission to deter and detect strategic attack against the United States and allies of the United States and to defend the nation as directed.

#### SENATE RESOLUTION 481—CELEBRATING THE 60TH ANNIVERSARY OF THE UNITED STATES-PHILIPPINES MUTUAL DEFENSE TREATY AND THE VITALITY OF THE OVERALL BILATERAL RELATIONSHIP

Mr. LUGAR (for himself, Mr. KERRY, Mr. INHOFE, Mr. WEBB, Ms. AYOTTE, Mr. COCHRAN, and Mr. INOUE) submitted the following resolution; which was considered and agreed to:

S. RES. 481

Whereas Filipinos and Americans fought together in World War II, and an estimated 1,000,000 Filipinos gave their lives to defend freedom;

Whereas the United States and the Republic of the Philippines signed the United States-Philippines Mutual Defense Treaty in 1951;

Whereas the Philippines and the United States are longstanding allies, as demonstrated by the Mutual Defense Treaty, cooperation in conflicts since World War II, and the United States designation of the Philippines as a Major Non-NATO Ally;

Whereas the Clark Veterans Cemetery in the Philippines is the final resting place for the remains of thousands of United States and Filipino veterans from the United States Army, United States Marines Corps, United States Navy, United States Air Force, United States Coast Guard, Philippine Scouts, and their dependents from seven wars since 1900;

Whereas the United States Government administered and cared for the Clark Veterans Cemetery from 1900 to 1991;