SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 171

Mr. REID. Mr. President, during the quorum call, and others matters that have taken place in the last few minutes, I have had the opportunity to speak in some detail with the chairman of the Environmental and Public Works Committee. He indicates to me that in the last little while serious negotiations have been undertaken with the administration and others interested in this problem that is now before the Senate. As a result of that, the chairman of the committee feels that this matter can be resolved. That being the case, I will at this time indicate to the manager of the bill that I am not going to proceed further. I will leave my amendment pending with the anticipation that we can work something out. I hope so.

I also say to my friend that we will probably need an hour and a half on this side if, in fact, we can't resolve this matter. But we can worry about that at some later time. That being the case, unless the manager has something else——

Mr. STEVENS. Mr. President, I regret that we can't seem to get much going here. The administration now has the Endangered Species Act amendment under review, the amendment pertaining to the sense of the Senate is under review, and the amendment pertaining to S. 2477 is under review. I would like to find out what is going on down there in that three-ring circus so we might get this bill going. I understand the Senator wants an hour and a half, but we will have a cloture motion tomorrow, apparently. It will be this Senator's recommendation, if we can't get this bill going, let's go out and then come back tomorrow and vote cloture. I was told I am trying to hold up this bill. I was told that last week. We have been on the floor here for 2 days. I am perfectly willing to go ahead with amendments—amendments even to strike provisions we put in the bill. We are not holding up this bill.

If we need a cloture motion to limit all debate, then I say the Senate should vote cloture tomorrow and do that. I am not addressing this to my good friend from Nevada. I understand what he is doing. There is a substantial possibility that it may be worked out with the administration. But I am not sure the administration has the urgency we seem to want to have for this bill. Mr. President, my recommendation to the leader is that if we don't get going here this afternoon, let's go out at 5 o'clock and come back tomorrow and get cloture. Then I know amendments will be voted on in orderly sequence. If we don't get cloture, we will understand, and the people from the disaster area will understand who wants the bill and who doesn't. I am very disturbed about this delay, as a matter of fact.

Mr. REID. Mr. President, I say to my friend from Alaska, that is why I am here. I wanted to move this thing along. Nevada is one of the 22 States that benefits from this legislation. We had a very serious problem around the first of the year with flooding. So I acknowledge the seriousness of this.

I say to my friend from Alaska, if there were a cloture motion filed, I would vote to invoke cloture. I think that we do have to move this thing along, and that is the reason I am here. But with my having spoken to the chairman of the full committee, I think it is appropriate that I give him every opportunity he can to see if something can be worked out.

Mr. STEVENS. If the Senator will yield, I meant no inference to the Senator from Nevada. He has been most cooperative. We just adopted his amendment by a voice vote because he was so cooperative in working out the terms of that amendment. I am sure we can go forward with his presentation now. But, clearly, without regard to the two of us on the floor now, the delays are taking place off the floor. I think it is time that we get the word out that we are just not going to sit around all day waiting for people to come to the floor. We still have the prerogative of going to third reading and cutting off all amendments.

Mr. REID. Mr. President, if I could respond, I haven't managed nearly the number of bills that my friend from Alaska has, but I have managed some bills, being a member of the Appropriations Committee and in other responsibilities I have had. I acknowledge that there are very few things in life more frustrating than being here, having a lot of work to do, and nobody shows up here. So I understand the feelings of the manager of this bill, the chairman of the full Appropriations Committee. This is important legislation. If we can't resolve this endangered species matter, let's bring it up, vote on it and get on to something else.

Having said that, 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. CRAIG. 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. CRAIG. Mr. President, my colleague on the Appropriations Committee, the Senator from Nevada, was on the floor just a few moments ago to discuss a provision on an amendment that the chairman and other members of the committee helped me place in this supplemental appropriations that really is a critical issue when it comes to dealing with flooded areas and flood victims, and the rebuilding of structures as it relates to floods along many of the rivers of our country.

What we are finding out in Idaho is that, in certain instances, it is very difficult to rebuild the levy to once again provide that critical barrier between the human species and his or her property and an endangered species, in this instance because agencies simply can't agree. And, as a result, we go into these extended periods of consultation when the flood waters may be rising again, and the dike or the levy simply doesn't get built because there is not the opportunity, vis-a-vis the Endangered Species Act, to act immediately and quickly and responsibly to deal with these issues. We have found that in Idaho.

I think the folks in North Dakota and the folks along the Ohio are going to be finding that out very quickly now as the flood waters recede and they begin to look at rebuilding along the rivers and making some of the corrections necessary, and doing so in a quick and timely fashion, in this instance potentially preparing for an additional runoff. That has happened in Idaho because we have had early floods in the first week of January. Several of my counties were subject to the 100-year flood. My hometown of Midvale was under 4 feet of water. Those communities and the Federal agencies responded very quickly to build back those levies immediately, and were able to do so in almost all instances. But in St. Mary's, ID, where a flood occurred in 1996 in the winter in February, here we had actual construction of a levy stopped by the U.S. Fish and Wildlife Service because they said that EPA and the community failed to respond to the Endangered Species Act.

It is also interesting that in the delta area of California, Senators from California asked the Assistant Secretary of Interior to waive certain provisions so that citizens in that area could respond immediately, and, of course, that was done. The frustration often comes then when the agencies then step in after the fact and require very, very expensive and extremely costly mitigation. For example, in the area of St. Mary's, the U.S. Fish and Wildlife Service is suggesting maybe $100,000 worth of mitigation, maybe 30-plus additional acres of habitat needing to be replaced, even though in all instances there appeared to be adequate habitat in the area.

My provision in this bill, that the Senator from Nevada speaks of and is attempting to strike, covers only natural disasters and threats to public safety that occurred in 1996 and 1997. It eliminates the lengthy and unnecessary delay to flood control efforts. It is designed to allow Federal agencies and local communities to respond to human safety, to protect human life and to protect private property, and to protect those as the first line of defense in a flood and in the aftermath of a flood.

Eligible flood control projects are not required to consult prior to emergency efforts. In other words, the Senator from Nevada was referring to a

provision that the House committee put in which said that, if it were a declared disaster—what I am suggesting is that, if the water is rising at an unprecedented rate and the local community and the flood control district think they needed to add another foot to the top of the levy, they can do so because it is an impending emergency. Right now it is impossible to do that, if by doing so they might damage habitat, or something that a Federal agency would declare to be a threatened habitat, or I should say a habitat that was threatened—obviously, an endangered species. What we are talking about is the ability to respond quickly. That is why this provision that I am talking about is in the bill.

My colleague, Senator KEMPTHORNE, has for the last good number of years worked overtime to try to produce a responsive reauthorization of the Endangered Species Act. He continues to do that. We are consulting now on adjustments and changes in this provision in the supplemental. My staff has met with JOHN CHAFEE's staff and Senator KEMPTHORNE's staff to try to work out these differences so that we can have this kind of timely response. It is critically necessary.

I cannot believe that the Senate of the United States would not say that human life and private property at a time of impending emergency or at the time of the declaration of emergency should not be protected and responded to in a timely fashion, and not to have to worry about an agency coming in afterwards, and saying, ''Well, now you are going to have to spend hundreds of thousands of dollars to mitigate.'' Communities will respond. They will want to assure that that habitat is sound. But, first and foremost, they ought to have the right that they have always had in this country to protect themselves and their property. I don't care. The area in North Dakota ought to have that right. They ought not have to call Washington, DC, and the Fish and Wildlife Service, and say, ''What may we do? We have private property and homes to protect, and we are going to ask you to spend 48 hours a week deciding what we may or may not do.'' That kind of time does not happen in an emergency environment.

I would also look at eligible flood control projects and allow them to perform restructuring and operation and maintenance directly related to the natural disasters or an imminent safety threat. That is what we are talking about here.

I will work, as we have. We spent yesterday and most of today with the chairman of the Environment and Public Works Committee, and the subcommittee chairman, Senator KEMPTHORNE, my colleague, to see if we can resolve this issue in the best interests. Certainly, I want to work with the Senator from Nevada on this issue to resolve it. But we are not going to create loopholes, nor are we going to let Federal agencies stand in the way of timely response to the private citizens and their need for protection of their person and their property. That is clearly the intent of the provision that is within the supplemental at this time. I cannot accept changes in that unless they have as their initial premise that very kind of thing. We just do not need to get at the business of a lengthy process here. That comes and always will come at a time when we can approach it much differently than the declared emergency, or the impending emergency that comes with the crisis.

We have so hamstrung the citizens of our country by laws that simply disallow them the right to protect themselves and to respond in a timely way. It is amazing to me—that very incident, in my opinion, that happened in the north end of my State in the last couple of months, as we knew we were headed into a runoff season of the year when that river and those dikes needed to be completed and, yet, we really saw a ho-hum attitude on the part of the agencies and a shutdown of operations that resulted in the dike not being prepared in a timely way.

That is the intent. Mr. President, we are working to resolve this issue. I hope we can do so. But for the time being, the language that is in the bill is important language and it meets the need that many in the House wanted, and that, obviously, many in the Senate believe are necessary also.

I yield the floor. 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. STEVENS. 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. 56, AS MODIFIED

(Purpose: To authorize the Secretary of Defense to enter into a lease of property for the Defense Finance and Accounting Service at Lexington Blue Grass Station, Lexington, Kentucky)

Mr. STEVENS. Mr. President, yesterday we adopted an amendment that was presented by the Senators from Kentucky, Senators FORD and MCCONNELL.

Last evening that amendment was reviewed by the Department of Defense, and they have asked for one very technical correction. We have an understanding with them. It has been agreed to on both sides.

I send the modified amendment to the desk, and I ask unanimous consent that it be in order to present this amendment to be a substitute for the amendment that was adopted yesterday.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. FORD and Mr. MCCONNELL, proposes an amendment numbered 56, as modified.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 9, between lines 9 and 10, insert the following:

SEC. 108. AUTHORITY OF SECRETARY OF DEFENSE TO ENTER INTO LEASE OF BUILDING NO. 1, LEXINGTON BLUE GRASS STATION, LEXINGTON, KENTUCKY.

(a) The Secretary of Defense may enter into an agreement for the lease of Building No. 1, Lexington Blue Grass Station, Lexington, Kentucky, and any real property associated with the building, for purposes of the use of the building by the Defense Finance and Accounting Service. The agreement shall meet the requirements of this section.

(b) TERMS.—(1) The agreement under this section shall provide for a lease term of not to exceed 50 years, but may provide for one or more options to renew or extend the term of the lease.

(2) The agreement shall include a provision specifying that, if the Secretary ceases to require the leased building for purposes of the use of the building by the Defense Finance and Accounting Service before the expiration of the term of the lease (including any extension or renewal of the term under an opinion provided for in paragraph (1)), the remainder of the lease term may, upon the approval of the lessor of the building, be satisfied by the Secretary or another department or agency of the Federal Government (including a military department) for another purpose similar to such purpose.

(c) CONSIDERATION.—(1) The agreement under this section may not require rental payments by the United States under the lease under the agreement.

(2) The Secretary or other lessee, if any, under subsection (b)(2) shall be responsible under the agreement for payment of any utilities associated with the lease of the building covered by the agreement and for maintenance and repair of the building.

(d) IMPROVEMENT.—The agreement under this section may provide for the improvement of the building covered by the agreement by the Secretary or other lessee, if any, under subsection (b)(2).

(e) LIMITATION ON CERTAIN ACTIVITIES.—The Secretary may not pay the costs of any utilities, maintenance and repair, or improvements under this lease under this section in any fiscal year unless funds are appropriated or otherwise made available for the Department of Defense for such payment in such fiscal year.

Mr. STEVENS. Mr. President, this really deletes a provision, as I said, ''notwithstanding any other provision of law.'' It was technically not necessary, and the department did not wish that to be permanent law.

I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 56), as modified, was agreed to.

Mr. STEVENS. Have I substituted that completely for the amendment that was agreed to yesterday?

The PRESIDING OFFICER. Without objection, the amendment numbered 56 will be so modified.

Mr. STEVENS. We will delete the amendment that we agreed to yesterday?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 173

(Purpose: To make a technical correction to the fiscal year 1997 VA–HUD and Independent Agencies Appropriations Act concerning EPA State grants)

Mr. STEVENS. Mr. President, I have another amendment. It is a technical correction to the 1997 Veterans Administration and Housing and Urban Development appropriations bill as it relates to EPA State and tribal assistance grant account.

The language in this amendment ensures that should the EPA be required to take over a State environmental program grant, funds otherwise provided to the State would be available to EPA for administering the program.

This language represents no change in policy or procedure, and is deemed by the committee to be a technical amendment to existing law. It is an amendment presented in behalf of the chairman of the subcommittee, Mr. BOND.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. BOND, proposes an amendment numbered 173.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In Title III, Chapter 10, add the following new section:

SEC. . The funds appropriated in Public Law 104–204 to the Environmental Protection Agency under the State and Tribal Assistance Grants Account for grants to states and federally recognized tribes for multi-media or single media pollution prevention, control and abatement and related activities, $674,207,000, may also be used for the direct implementation by the Federal government of a program required by law in the absence of an acceptable State or tribal program.

Mr. STEVENS. I ask for the adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 173) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 174

(Purpose: To authorize the Environmental Protection Agency to make grants to the city of Bay City, Michigan, for environmental remediation, using funds previously appropriated for the Center for Ecology Research and Training)

Mr. STEVENS. Mr. President, I have another amendment which I shall send to the desk. It authorizes the EPA to make grants from funds previously appropriated for an EPA lab in Bay City, MI, all but 11 of which were rescinded in 1995, to the city of Bay City for environmental remediation after all claims are settled from the funds that are available.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. BOND, for himself, Mr. LEVIN, and Mr. ABRAHAM, proposes an amendment numbered 174.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In Title III, Chapter 10, add the following new section.

SEC. . After the period for filing claims pursuant to the Uniform Relocation Act is closed, and from amounts previously appropriated for the Center for Ecology Research and Training (CERT), the Environmental Protection Agency (EPA) shall obligate the maximum amount of funds necessary to settle all outstanding CERT-related claims against it. To the extent that unobligated balances remain from such amounts previously appropriated, EPA is authorized beginning in fiscal year 1997 to make grants of such funds to the City of Bay City, Michigan, for the purpose of EPA-approved environmental remediation and rehabilitation of publicly owned real property included in the boundaries of the CERT project.

Mr. STEVENS. Mr. President, this is a technical amendment but does make available to the city of Bay City for environmental remediation the funds remaining available in the grant that was previously made.

Mr. ABRAHAM. Mr. President, today I join with Senator LEVIN to introduce an amendment which will help close the door on the canceled Center for Ecology Research and Training [CERT], and end a difficult chapter for the city of Bay City, MI.

In the late 1980's, the Environmental Protection Agency [EPA] was working to develop a new laboratory to study land and marine ecosystems. After much consideration, Bay City, MI, was ultimately chosen as the location for this facility, and Congress appropriated over $100 million for the center's construction.

EPA, however, moved slowly on the CERT construction. After 5 years, only a small portion of the appropriated funds had been spent. Thus, CERT was still a long way from realization and became an easy target when the fiscal year 1996 rescission was considered. After considerable congressional debate, the project was canceled and almost all the remaining funds were rescinded.

Today, approximately $5.2 million of the already appropriated funds remain. These moneys are set aside for the EPA to settle CERT-related claims. In addition, as part of the arrangement to settle claims, EPA verbally agreed to direct the moneys remaining after all claims have been settled to the city of Bay City in the form of environmental grants. At present, however, there is no language which directs EPA to carry out this pledge, and if EPA is not given explicit direction, it will likely reprogram the funds. This language is needed, therefore, to instruct the EPA as to how the remaining funds will be spent.

The amendment offered by Senator LEVIN and me will permit Bay City to clean and restore the area to a level acceptable to the Michigan Department of Environmental Quality. Mr. President, this legislation is very important to Bay City. The loss of CERT was a great blow to the city. Bay City needs to heal the wound that is this promised but unfinished facility. It is my hope that this legislation will bring closure to this unfortunate affair.

Mr. President, I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 174) was agreed to.

Mr. STEVENS. I move to reconsider and I move the motion to reconsider be laid upon the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, those were amendments that were previously filed in the 110 that were filed for cloture. We have cleared those. We will clear amendments as they are brought to us if they are technical in nature, but those should be deleted from the amendments eligible for consideration after cloture.

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. LEAHY. 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. STEVENS. Mr. President, I stated before that if we did not have a substantive amendment before the Senate before 5 o'clock, we would go into a period for morning business. After consultation with the leader, I announce that we will go into a period of morning business in just a few minutes. It will be the intention of the leadership to have a cloture vote at 9:30 a.m. tomorrow. We will proceed to see how we can move forward with this bill at that time.

It will be the policy of the leadership, and I support this policy, to not wait any longer for these amendments. There are too many side conferences going on, Mr. President, and there is no reason to wait all night for the possibility that we may have an amendment cleared for action this evening.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a