

EC-7268. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fairchild Aircraft, Inc. SA226 and SA227 Series Airplanes" (Docket 98-CE-84-AD) received on September 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7269. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on SAFT America Inc. nickel cadmium batteries (Docket 97-CE-116-AD) received on September 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7270. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes" (Docket 97-NM-42-AD) received on September 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7271. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320 Series Airplanes" (Docket 98-NM-77-AD) received on September 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7272. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320 Series Airplanes Equipped with a Bulk Cargo Door" (Docket 97-NM-192-AD) received on September 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7273. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Short Brothers Model SD3-60 SHERPA Series Airplanes" (Docket 98-NM-138-AD) received on September 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7274. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, a draft of proposed legislation to strengthen law enforcement's ability to combat illegal bulk cash smuggling; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1480. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of *Pfiesteria piscicida* and other aquatic toxins (Rept. No. 105-357).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2120. A bill to improve the ability of Federal agencies to license federally-owned inventions (Rept. No. 105-358).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. GRAMS:

S. 2532. A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 2533. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2534. A bill to suspend temporarily the duty on 2, (4-chlorophenol) -3ethyl-2, 5-dihydro-5-oxo-4-pyridazine carboxylic acid, potassium salt; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER:

S. Res. 283. A resolution to refer H.R. 998 entitled "A bill for the relief of Lloyd B. Gamble" to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS:

S. 2532. A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. GRAMS. Mr. President, today I am introducing a private bill addressing an inequity faced by a now dissolved Minnesota company, Norwood Manufacturing, Incorporated.

Norwood entered into contract with the United States Post Office to produce mail pallets according to Postal Service specifications. After producing the pallets, the Post Office canceled the contract, indicating the pallets did not meet the intended use, even though Norwood met the specifications requirement in the contract.

Genuine issues of material fact surround the question of whether the Post Office canceled the contract for cause, convenience, or possibly in bad faith. Surprisingly, Norwood was denied its plea to be heard in court. Summary judgment was awarded to the Post Office, and an appeal of this decision was denied.

At this point, all avenues of relief have been exhausted, including my efforts in 1995 to request a Congressional Reference from the Judiciary Committee, back to the Claims Court for review.

In my view, an injustice has occurred since usual legal relief has been precluded in the history of this case. I believe compensation by the United

States is owed to Norwood. There is precedent for reimbursing companies which abide by contracts which either include errors, or when specifications change after a contract is signed and the company is not made aware of these changes. The Postal Service made an error, and it should have reimbursed this company, as is normal practice.●

By Mr. CRAIG:

S. 2533. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Energy and Natural Resources.

HYDROELECTRIC LICENSING PROCESS IMPROVEMENT ACT OF 1998

Mr. CRAIG. Mr. President, I rise to introduce a bill, and I send it to the desk.

Mr. President, the bill I introduce is the Hydroelectric Licensing Process Improvement Act of 1998. As its title suggests, the purpose of the bill is to improve the process by which hydroelectric projects are licensed by the Federal Energy Regulatory Commission. Under the existing law, non-federal dams that are constructed across navigable streams in the United States must be licensed by the FERC. In addition, under the present law, certain federal agencies, such as the United States Forest Service and the Departments of Commerce and Interior, have authority to mandate that FERC accept certain conditions in the license FERC ultimately issues. The Departments, for example, can impose conditions that address fish passage. The federal land agencies can impose conditions to protect federal land impacted by the project. FERC licenses, then, often contain conditions imposed by federal resource agencies.

These agencies, however, through no fault of their own, are single issue agencies. The law limits their considerations to a narrow spectrum of concerns as they decide mandatory conditions. Experience shows by the use of this licensing process that these decisions that are made by these agencies are very narrow. You could say narrow minded. Why? Because they are single-issue agencies. And the law now dictates that they operate only in that realm in their decisionmaking. We do not have to settle for bad decision-making simply because oftentimes the information that the Federal Energy Regulatory Commission gets, or the information they are dictated to by these single-purpose agencies, would result in bad decisionmaking. By adjusting this law, we can, I believe, have a better decisionmaking process. I will say that this is clearly the intent of the legislation that I am introducing today.

Now, Mr. President, these licenses for the dams can be for as little as 30 years

and as much as 50 years. Decades ago, developers, both private ones such as investor owned utilities, and public ones such as municipal electric utilities or public utility districts, built hydroelectric projects and received original licenses for them from the FERC. Soon, many of those licenses will expire and the public and private license holders will seek new licenses from the FERC. Indeed, Mr. President, according to recent testimony of the National Hydropower Association before the House Energy and Power Subcommittee, over the next fifteen years, the FERC will consider for relicensing, about two-thirds of existing non-federal hydroelectric projects. Nearly 300 projects, representing about 28,917 megawatts of power, will have their present, original licenses expire before the year 2012.

Mr. President, many of those projects will involve the federal resource agencies. The FERC will consider major projects in western states like California, and eastern states like New York. It will consider significant projects in northern states like Michigan and southern states like Alabama. We all are, and we all will be affected by the process by which the FERC relicenses these dams. Mr. President, this bill is extremely important in light of the foregoing.

Hydroelectric power is essential to the welfare of our country. It is clean, renewable and cheap. And, most importantly, it is very inexpensive compared with the other forms of energy. We need to take any steps necessary to ensure that this invaluable source of power remains available to the many consumers that depend upon it for their quality of life. Such steps include the process reforms contained in this bill.

Such reform is necessary because the unfortunate point is, in the last decade the licensing process was created that we now have. What did it do? The process didn't help the energy peaking capability of many of these projects.

According to a September 1997 study of the U.S. Department of Energy, since 1987, of 52 peaking projects relicensing by FERC, 4 projects increased capability, and 48 decreased capacity. In other words, they were less productive as a result of the licensing than they were prior to that relicensing. Ninety-two percent of the peaking projects since 1987 lost capacity. Hydropower is at risk, and it is important that our country understand that.

This is not only unfortunate, but it is bizarre. It is bizarre, Mr. President, because we live in a time when we are rightly sensitive to the environment in which we live. It is difficult to find a source of electric power more benign to the atmosphere than falling water. Yet, this benign power source is at risk. The process reforms I propose will help reverse this trend.

It is critical, Mr. President, that I note what the bill does not do. The bill does not—repeat, does not—eliminate

the authority of federal resource agencies to mandate fish passages as conditions of a FERC license. Also, it does not—repeat, does not—eliminate the authority of federal land agencies to mandate FERC license conditions to protect federal lands impact by the hydroelectric project. That is what the bill will not do. It is important to understand that, because there are many groups that would think I would restrict the ability of some of these single-purpose agencies to participate in the relicensing process. Quite the opposite: I want to spread their authority in a way that makes it more responsible.

This is what the bill will do. The bill will reform the licensing process and improve the decisionmaking in that process in several ways.

1. It requires the federal resource agencies to consider a wider range of factors than they presently consider, as they decide what mandatory conditions to impose in a FERC license. It would require the agencies to examine factors such as: (a) economics; (b) air quality; (c) irrigation; (d) navigation; (e) flood control; (f) recreation; (g) generation capacity; and (h) drinking water supply. The present law does not obligate federal resource agencies to consider such factors. But, better decisions will result if they do.

2. The bill requires those agencies to document their consideration of these factors. Agencies make better decisions in the light and not in the dark, Mr. President.

3. The bill allows the license applicant to obtain expedited administrative review of the conditions proposed by the federal resource agencies for reasonableness. Some check, no matter how minuscule, on the agencies' decisions to impose mandatory conditions is needed.

4. It requires the federal resource agencies to base their conditions on appropriate scientific review, which means a review based on empirical or field tested data, and subject to peer review. Good data helps lead to good decisions.

Mr. President, who can quarrel with federal resource agencies basing their decisions on sound science? Who can quarrel with federal resource agencies broadening the factors they consider as they decide mandatory conditions? Who can quarrel with giving the license applicant, who must bear the burden of mandatory conditions a right to appeal administratively, on an expedited basis, proposed mandatory conditions of the federal resource agencies? Mr. President, these reforms will make for better decisionmaking by the federal resource agencies.

The bill has another significant facet, Mr. President. It gives the FERC authority, after a license application is filed, and after, therefore, the federal resource agencies have documented their expanded and scientific review of conditions for the license, to require that the federal resource agencies submit those conditions to the FERC by a

certain deadline. Simple, but it makes sense, because today those agencies don't have to comply with a deadline, but yet they have almost veto power by their absence from the process if they simply say they are considering a mandatory condition and are not yet willing to submit it to FERC for its inclusion in a license.

In this way, FERC will have before it at one time these various conditions of resource agencies, and, therefore, FERC should be able to efficiently and expeditiously bring about a license. This gives the licensee the opportunity of a quickee appeal. This is what the legislation does. It does not take away the authority of the agencies, it expands it. But it shapes it. It brings about a process that is definable and predictable. And that is exactly what does not occur today. Licensing today can take 8, 15, or 20 years when it ought take no more than 3 or 4 or 5 years. It is not reasonable or right that it should take that long.

Simply what we are doing is reshaping what was a very important piece of legislation now that we have some field experience with it. We cannot afford to lose clean, renewable, abundant resources like hydroelectricity.

In my State of Idaho, we are proud of our hydro base. It brings about inexpensive energy to my State, and to the State of the Presiding Officer. The whole Pacific Northwest is proud that it based its future on the past insight of developing its hydroelectricity. We shouldn't be required to lose it because of misguided law.

That is what I hope my legislation will do, if it becomes law. In the ensuing year, and in the new Congress, we will hold hearing across the West, and certainly here in Washington, on the validity of this approach, to shape the process that is currently underway into a time-predictable process that all can understand and that all can deal with.

ADDITIONAL COSPONSORS

S. 709

At the request of Mr. HAGEL, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 709, a bill to protect private property rights guaranteed by the fifth amendment to the Constitution by requiring Federal agencies to prepare private property taking impact analyses and by allowing expanded access to Federal courts.

S. 1097

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1097, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 1422

At the request of Mr. MCCAIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S.