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CONGRESSIONAL RECORD—SENATE

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the ability to climb stairs, traverse all terrain and balance the seated user at standing eye-level. It should, I hope, provide veterans who have mobility impairments with significant additional opportunities in the workplace. The demonstration project called for by the Subcommittee's language will help clarify the additional employment opportunities that such a device should create for our Nation's veterans. I thank the Subcommittee for its assistance in making process on this matter.

With new and emerging technologies becoming available that can assist veterans with disabilities, it is vital that the VA keep pace with the marketplace and ensure that veterans with disabilities have access to these advancements. I have had the pleasure of seeing this new mobility device perform its functions and it clearly holds great promise. I am hopeful that this demonstration project will show a significant impact that this device can have on the ability of veterans with disabilities to return to work and I am eager on review the findings of the demonstration. Would the Chairman agree that the demonstration that is requested in the Subcommittee's language be completed by May 1, 2001?

Mr. BOND. Yes, I think that the more than 7 months between now and May 1, 2001, is ample time to complete the demonstration project. I thank Senator LEVIN for his work on this important issue and for bringing it to the Subcommittee's attention.

Mr. LEVIN. I thank the Chairman for his continuing leadership on this matter.

DREDGING

Mr. LEVIN. Mr. President, this Manager's Amendment contains language which would direct the Environmental Protection Agency (EPA) to take no action to initiate or order the use of dredging or invasive remedial technologies where a final plan has not been adopted prior to October 1, 2000, or where such activities are not now occurring until the NAS report has been completed and its findings have been properly considered by the Agency. Would the Senator from Maryland be willing to clarify a few questions about this language?

Ms. MIKULSKI. Mr. President, I would be pleased to offer information about this Amendment to my friend from Michigan.

Mr. LEVIN. Is it understood that the Environmental Protection Agency has the discretion to define "threat to public health" and "urgent case" as those terms are applied to the exceptions? Further, is it understood that the EPA has the discretion to define "properly considered."

Ms. MIKULSKI. The Senator is correct.

Mr. LEVIN. Does the Senator from Missouri, the Chairman of the Subcommittee, agree with these clarifications?

Mr. BOND. I agree with the Senator from Maryland and join in her interpretation of this language.

Mr. LEVIN. Mr. President, as always, I appreciate the courtesy of the distinguished Senators from Maryland and Missouri.

GREAT WATERS PROGRAM

Mr. DEWINE. Mr. President, we congratulate the Chairman and Ranking Member of the Appropriations Committee for presenting the Senate with an Appropriations bill which addresses so many of the water quality issues confronting America today. We also want to reiterate our support for a program of great interest to our colleagues from the Great Lakes states.

Mr. LEVIN. The Great Waters program, authorized by the Clean Air Act Amendments of 1990, assesses air deposition as a source of toxic contamination to key water bodies, including the Great Lakes and Chesapeake Bay. Research suggests that at least half of all new toxic pollution loadings entering the Great Lakes may be transported and deposited by the atmosphere. Consistent funding for the monitoring of air deposition of toxic contaminants is especially critical at this time as the international community completes negotiations of an international treaty on persistent organic pollutants. The Great Waters program will provide a key component of the database used to judge the effectiveness of this international agreement in lowering the toxic contaminants entering the Great Lakes, and other great waters of the United States, from foreign sources.

Mr. DEWINE. I would like to ask the distinguished Chairman if the bill provides sufficient funding through the parent account to restore funding for critical monitoring under the Great Waters program to the fiscal year 1999 level of effort?

Mr. BOND. Mr. President, I want to thank the distinguished Senators from Ohio and Michigan for highlighting the importance of the Great Waters program. We are pleased to recommend continuation of this program which is so vital to understanding the impact of airborne toxins on aquatic ecosystems. I assure the Senator that the intention of this bill is to restore sufficient funding to allow assessment of our progress in reducing the amount of toxic pollution entering the nation's waters.

THE CENTREDALE MANOR RESTORATION PROJECT

Mr. L. CHAFEE. Mr. President, I appreciate the work of the subcommittee chairman and ranking minority Member in putting together this year's VA-HUD appropriations bill. I would like to clarify one matter of importance regarding removing an environmental threat in a Rhode Island community. The Centredale Manor Restoration Project is a Superfund site in North Providence, RI. With my encouragement, the U.S. Environmental Protection Agency has been moving quickly at this site. The site was only added to the National Priorities List in February of this year and several removal actions have been conducted at the site. Recently, the EPA released a pro-

posed Engineering Evaluation/Cost Analysis that recommends replacement of the Allendale Dam and excavation of contaminated soils from residential properties along the Woonasquatucket River. These clean-up plans—requiring excavation of approximately 2,500 cubic yards of soils and sediments—were intended to be finalized later this year after the current public comment period, with design and construction work to follow shortly thereafter. There is a great deal of local support for getting on with this clean up and removing dangerous contaminants from North Providence neighborhoods.

I understand that the report attached to this bill contains language directing EPA to wait until completion of the current National Academy of Sciences study of sediment remediation technology, and proper consideration of the NAS study as it relates to EPA remedy selection, before finalizing any more dredging plans. The NAS study is scheduled to be completed no later than January 1, 2001. It seems to me this report language would allow the EPA to continue planning associated with the Centredale Manor cleanup, including replacement of Allendale dam and excavation of contaminated soils and sediments in and along the Woonasquatucket River, at the North Providence Superfund site. Ultimately, I believe that following consideration of the NAS study, EPA will be able to finalize the cleanup plan and implement that final plan during the 2001 construction season. I would like to confirm with the Chairman of the VA-HUD Appropriations Subcommittee that the report language is not intended to delay progress toward cleaning up contamination at the Centredale Manor Restoration Project in North Providence.

Mr. BOND. Mr. President, the Senator from Rhode Island is correct. The conference report language on dredging and EPA review of the pending study by the National Academy of Sciences is not intended to delay progress towards cleaning up contamination at the Centredale Manor Restoration Project in Rhode Island. It is intended to ensure that EPA considers the findings of the NAS study in selecting remedies involving contaminated sediments.

Mr. L. CHAFEE. Mr. President, I appreciate the chairman's clarification of this matter.

TEA-21

Mr. LAUTENBERG. Mr. President, I would like to engage the Chairman of the VA-HUD Appropriations Subcommittee in a brief colloquy on an important matter.

It is my understanding that the managers' amendment that we are adopting includes a rider which prohibits the EPA from making nonattainment designations under the new 8-hour ozone standard until June 15, 2001, or the final adjudication of the American Trucking Association vs. EPA case now before the Supreme Court, whichever comes first. Is that right?

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Mr. BOND. The Senator from New Jersey is correct.

Mr. LAUTENBERG. While I believe that inclusion of this rider is unfortunate as it will slow progress toward cleaner air, I understand that it should have little practical effect. EPA is unlikely to make those designations much in advance of June 15, 2001, in any case, even though all but about 6 states have submitted proposed areas for nonattainment designation.

I would just like to make one thing very clear for the record. This rider is a prohibition on the expenditures of funds. It does not negate the requirement included in TEA-21 that areas be designated under the new ozone standard. It also does not in any way prejudice the litigation pending before the Supreme Court. Would the distinguished Chairman confirm that these points are true?

Mr. BOND. Yes, Mr. President, the Senator is correct. This language does not modify section 6103 of TEA-21, nor is it intended to affect the Supreme Court's consideration of the litigation on these standards in any way.

Ms. MIKULSKI. I concur with the Subcommittee Chairman and the Senator from New Jersey.

CERCLA

Mr. LAUTENBERG. Mr. President, I would like to clarify a section in the statement of the managers accompanying the conference report. The language directs EPA to take no action to initiate or order the use of certain technologies such as dredging until certain steps have been taken with respect to the National Academy of Sciences report, with exceptions for voluntary agreements and urgent cases. It is my understanding that after June 30, 2001, or when EPA has properly considered the NAS report, whichever comes first, the conferees intend that EPA could proceed to finalize any such plans and act on those plans through steps to initiate or order dredging and other technologies, as appropriate.

Mr. BOND. The Senator is correct. The statement of the managers is not intended to limit EPA's authority to act on a plan that is finalized in accordance with the conditions set out.

Mr. LAUTENBERG. It is also my understanding that in directing EPA to properly consider the NAS report, the conferees are not intending to change the normal criteria by which EPA selects remedies, such as the factors laid out in CERCLA, the National Contingency Plan, and applicable guidance. Instead, the conferees are asking EPA to disseminate the report to officials within the Agency who make remedy selection decisions and to ask them to review it as part of the larger body of research on scientific and technical issues associated with hazardous waste cleanup. The NAS report is not being singled out for special deference greater than it would otherwise receive.

Mr. BOND. The Senator is correct. The statement of the managers calling

for EPA to properly consider the NAS report is not a change in the CERCLA remedy selection process, it is not a call for an EPA response to the report, and is not a direction to give the report more weight than it would otherwise receive.

Mr. LAUTENBERG. It is also my understanding that urgent cases would include situations in which contaminated sediments, either alone or through their accumulation in fish, cause significant risks to public health such as increases in cancer risks, reproductive effects, or birth defects.

Mr. BOND. The Senator is correct.

Ms. MIKULSKI. I concur with the subcommittee chairman and Senator LAUTENBERG.

EPA'S ENDOCRINE DISRUPTOR SCREENING PROGRAM

Mr. SMITH of New Hampshire. Mr. President, I want to call the Senate's attention to a program that the Environmental Protection Agency (EPA) is implementing in a way that I believe is inconsistent with the original intent of Congress. The Endocrine Disruptor Screening Program, EDSP, was created by EPA to implement language in the Food Quality Protection Act, FQPA, and Safe Drinking Water Act Amendments of 1996 requiring that EPA, and I quote, "develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or other such endocrine effect . . ." The Program was required to be implemented by August 1, 1999.

This program has been plagued by a lack of public participation from key constituencies, an expansive interpretation of the Congressional mandate, questionable decisions as to the validation of testing protocols, and neglect of money appropriated for the development of non-animal tests.

In October 1996 EPA formed the Endocrine Disruptor Screening and Testing Advisory Committee, EDSTAC, under the Federal Advisory Committee Act to advise EPA on risk assessment techniques for endocrine disrupting chemicals. EDSTAC included scientists and representatives from EPA and other government agencies, industry, national environmental groups, worker protection groups, environmental justice groups, and research scientists. More recently, EPA set up the Endocrine Disruptor Standardization and Validation Task Force to perform the work needed to develop, standardize, and validate the screens and tests proposed for the Program. However, one very important constituency was not included in either of these groups—in fact they were excluded—they are the animal welfare groups. Traditionally, these groups have been left out of the consultation process of EPA regarding the newly initiated chemical testing programs. Any program that includes testing of chemicals for toxicity or

other effects involves the use of animals in such testing, however, the groups that advocate for animal welfare were excluded from providing early input in the Endocrine Disruptor Screening Program.

As Chairman of the committee with jurisdiction over the testing and handling of toxic chemicals, the Committee on Environment and Public Works, I am particularly concerned about how this program is being administered. In addition to the lack of public input, a major concern deals with the large number of animals used in testing that could occur as a result of EPA's implementation plan for this program. On August 25, 2000, EPA published a report to Congress on the Endocrine Disruptor Screening Program that sets forth the findings, recommendations and further actions of EPA in implementing the EDSP. The implementation plan that EPA has come up with is broader than the plain language of the FQPA. While obtaining better data on endocrine disruptors is certainly a worthy goal, I am concerned about the expansion of this congressionally mandated program. The broad interpretation by the EPA of the chemicals to test and the method of validation calls into question whether this program will be implemented in a manner consistent with the intent of Congress. All of these expanded interpretations increase the number of test animals needed to implement the program.

The law specifically states that EPA is to "use appropriately validated tests." EPA has interpreted the law to mean that animal tests can be validated through the EPA's own Science Advisory Board, however, non-animal tests must be run through a more rigorous Interagency Coordinating Committee for the Validation of Alternative Methods (ICCVAM) process. ICCVAM was created as a standing committee in 1997 and is composed of representatives of fifteen Federal regulatory or research agencies that regulate the use of animals in toxicology testing; EPA is a co-chair of ICCVAM. The ICCVAM process with input from the EPA Science Advisory Board reviews can ensure that the tests, animal or non-animal, will produce good results. I believe all tests should be assessed for validation by ICCVAM.

My comments up until now have been critical of the plan that EPA has put forth for future implementation of the Endocrine Disruptor Screening Program. Last year, Congress appropriated \$5 million for the development and implementation of the test methods including the high throughput pre-screen, a non-animal screening process. After spending \$70,000, the Agency has stopped working to integrate the high throughput pre-screen into the Endocrine Disruptor Screening Program. Although this specific example concerns me, it is only one example of the general disinterest of EPA in integrating non-animal tests into the program. I

CONFERENCE REPORT ON H.R. 4635, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2001 (House of Representatives - October 19, 2000)

Mr. WALSH:

Before I complete my comments, Mr. Speaker, I think it is important to set the record straight with regard to language contained in the Statement of Managers concerning the dredging issue. The Statement contains a direction to EPA to take no action to initiate or order the use of dredging, capping, or other invasive remedial technologies for contaminated sediments until the report from the National Academy of Sciences is completed and its findings properly considered by the Agency.

The conferees have encouraged the National Academy of Sciences to issue a final report by the end of this year, and the Agency should promptly review that report and determine how to appropriately incorporate its recommendations into their remedy selection process.

Mr. Speaker, this direction is similar to language that was contained in the Statement of Managers for fiscal year 1999 and 2000 bills. I am frankly disappointed that the EPA has apparently chosen to ignore this direction in several cases during the past year.

The Agency appears to be relying on a misinterpretation of this direction, one that allows any business-as-usual EPA decision that dredging or capping is an appropriate remedy to qualify as an exception.

In each year, starting with the 1999 bill, the conferees have provided specific exceptions to this direction, primarily limited to cases where a significant threat to public health requires urgent, time-critical response. None of the dredging or capping projects undertaken during this fiscal year meets this test, yet each poses substantial risks to the environment of the kind under study by the NAS. EPA is expected to correct this misinterpretation as it complies with the direction in this bill's Statement of Managers.

The direction in this year's Statement of Managers does not apply to cases where a final plan selecting dredging or other invasive remedial technology has been adopted prior to October 1 of this year or, in cases not requiring adoption of a final plan, where authorized activities involving dredging or invasive remedial technologies are now occurring.

In any such case, such as a pilot or a demonstration, review of the NAS report and consideration of its findings would be required before adoption of a final plan involving dredging, capping or other invasive remedial activity.

Mr. SWEENEY. Mr. Speaker, I thank the gentleman from New York (Mr. Walsh) for yielding me this time. Mr. Speaker, I would like to thank the gentleman from New York

(Mr. Walsh) for his thorough and responsible work, and let him know that I appreciate his assistance over the past months to address an important and divisive issue in my congressional district; that is, our national policy on contaminated sediments and specifically EPA's policies on contaminated sediments in the Hudson River.

At this point, EPA is poised to propose a massive environmental dredging project that would drastically affect both the ecology of the Upper Hudson River and the economies of those communities along its banks. This is a decision that has many of those communities rightly concerned about the long-term impacts of any such project and the scientific basis for it. I recognize, Mr. Speaker, there are strong feelings on both sides of this issue and that the common interest is to see that remediation of the environmental damage to this river is accomplished. What we need at this point is to mitigate the contention and let sound science direct the decision making, and I believe the statement of the managers at this time will do that because it expressly directs the EPA to take no action to initiate or order the use of dredging until the National Academy of Science report has been completed and its findings have been properly considered by the agency. These instructions and the statement of managers are clear, and I expect the EPA to abide by the language.

Mr. Speaker, I appreciate the chairman's earlier statements to clarify the intent of the language in the Statement of Managers, which is similar to language included in this year's spending bill, and also for the past 2 years. As in past years, exceptions have been made for voluntary agreements and urgent cases. The NAS will soon deliver a comprehensive report on the risks associated with various methods of addressing contaminated sediments, including: dredging, capping, source control, natural recovery, and disposal of contaminated sediments. I want to point out that this information by the NAS will be really the first time that other alternatives to dredging have been seriously considered.

On behalf of the constituents of the 22nd Congressional District, I want to thank the gentleman from New York (Mr. Walsh) for persevering and staying with us on this, because we need to ensure public confidence, and I want to thank him again for his earlier comments which do clarify.

Mr. HOBSON. Mr. Speaker, I rise today to commend the Chairman and our Subcommittee for crafting such a fine bill which meets the needs of our veterans, addresses our critical housing needs, protects our environment and at the same time pays down our national debt. As a member of the Appropriations Committee and the VA-HUD Subcommittee, I support the common-sense approach the Committee has already taken to address the problem of contaminated sediments in our rivers.

Three years ago, Congress directed the EPA not to issue dredging or capping regulations until the National Academy of Sciences completes a study on the risks of such actions. Qualified scientists are working to finish this report to determine the best way to clean up rivers with nominal impact to the surrounding environment. This has been an open process, allowing input from the public, environmental organizations, and from the

EPA itself.

I want to reiterate that in the final decision making process, the EPA must ensure that remedies will protect human health and environment, and be cost effective. The National Academy of Science study will be extremely useful in guiding the EPA to develop the most appropriate methods of mediation. My colleagues on the Committee and I will be closely watching to ensure that EPA considers the recommendations of the study and fully integrates them into the final rule.

Additionally, the report language which accompanies this bill also allows for the immediate sediment clean up in specific, urgent cases where the contaminated sediment poses a significant threat to public health. However, I would like to clarify that this exception is only for new and immediate risks.

Mr. Speaker, I agree that this is an environmentally sensitive issue, and it is important that most qualified, independent scientists weight in on this regulation. This is why I support the existing language, which directs the EPA not to act prematurely and to wait until the NAS study is complete.

Mr. Speaker, I thank Chairman Walsh for the excellent work he has done on crafting this find bill. it has been a pleasure to work with him this year.

Mr. DINGELL. Mr. Speaker, the statement accompanying this conference report contains language which directs the Environmental Protection agency (EPA) to take no action to initiate or order the use of dredging or invasive remedial technologies where a final plan has not been adopted prior to October 1, 2000, or where such activities are not now occurring until the National Academy of Sciences (NAS) report, which Congress required, has been completed and its findings have been properly considered by the agency. The language further provides that remediation plans which include dredging or invasive technologies are not to be finalized until June 30, 2001, or until the agency has properly considered the NAS report, whichever comes first. It is important to note that the language provides for exceptions to this limitation on the initiation of dredging or invasive remedies, and these exceptions include instances in which a party may voluntarily agree to the remedy, or 'urgent' cases where 'contaminated sediment poses a significant threat to public health.'

As in years past, this language speaks to the importance of obtaining information on the various technologies for addressing contaminated sediments. I hope that the NAS will complete this study as soon as practicable, and sooner than the date by which the conferees encourage its completion. However, I wish to clarify, as my colleagues in the Senate have noted, that this language is not an amendment to the Superfund statute. This language is not a product of the regular order of legislative business that may result in an amendment to our laws, after full and fair consideration by the authorizing Committees. The statutory criteria by which the EPA selects remedies, the regulatory criteria promulgated under the

statutory authority, and applicable guidance are not changed by this language. When the NAS study becomes available, the language directs EPA to 'properly consider' the study. The language does not direct the agency to confer deference to the study, nor to adopt its recommendations in remedial decisions. I note that the Chairman of the Subcommittee in the Senate has concurred with this interpretation of this language.

My colleagues in the Senate also have clarified that the terms 'urgent' and 'significant threat to public health' as used in this language should be defined within the discretion of the EPA. I note that the EPA has specific authority governing its ability to issue orders under the Superfund statute, and I reiterate that this language is not an amendment to a statute. In keeping with the spirit and intent of the statute, the EPA should not interpret this language to limit the scope of its authorities to address threats posed to human health and the environment.

Mr. Speaker, my colleagues Messrs. Towns, Oberstar, and Borski request that I state their concurrence with this statement.

Mr. WALSH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were--yeas 386, nays 24, not voting 22, as follows: Roll No. 536 YEAS--386 NAYS--24Mr. RYAN of Wisconsin changed his vote from 'no' to 'aye.' So the conference report was agreed to. The result of the vote was announced as above recorded. A motion to reconsider was laid on the table.