

EXHIBIT 57



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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God, our Father, thank You for eyes to see and hearts to feel the wonders of Your world. Fill our Senators today with fresh faith in Your power to protect and sustain our Nation and world. May they face challenges with the triumphant confidence that no weapon that has been formed can prevail against Your eternal purpose. Lord, keep them calm in temper, clear in mind, sound in heart, and strong in faith. Enable them to perform faithfully and well what You require, even to do justly, to love mercy, and to walk humbly with You. When this day's work is done, give them refreshment of mind, spirit, and body.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 29, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, this morning, following the remarks of the two leaders, the Senate will resume consideration of the Energy and Water appropriations bill. Cloture motions were filed last night. As a result, there is a 1 p.m. filing deadline for first-degree amendments. Rollcall votes are possible throughout the day. I would hope that people who want to offer amendments will do so, so we can complete this legislation. There is no reason we should not finish it today.

As I announced last night, I am going to turn to the Agriculture appropriations bill as soon as we complete the action on the bill that is now on the floor of the Senate.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

HEALTH CARE WEEK VIII, DAY III

Mr. McCONNELL. Mr. President, throughout the debate on health care reform, the administration has made a point of asking various stakeholders to come together and do their part: Doctors and hospitals are being asked to

find significant savings, seniors are being asked to make major sacrifices, and so are the States. Every week, it seems, the White House hosts an event aimed at showcasing some sacrifice being made by one group or another—every group, that is, except personal injury lawyers.

It is a glaring omission, since everyone knows that the constant threat of lawsuits is one of the reasons health care premiums for families have skyrocketed more than 100 percent over the past decade and the primary reason many doctors today spend a literal fortune on malpractice insurance even before they open their doors for business. To take just one example, neurosurgeons in Miami can expect to spend more on malpractice insurance every single year than many families in Miami can expect to spend on a new home.

This is a very serious problem, and everyone knows it. Yet we do not hear a word about it—not a word—from any of the Democratic-led committees in Congress that are working on reform. It is not because the administration has not raised the issue. Last month, the President himself acknowledged the widespread use of so-called defensive medicine or the practice of prescribing drugs or tests that are not really needed just to protect oneself from the threat of a lawsuit. During the same speech, the President said we need to explore a whole range of ideas about how to scale back defensive medicine. Well, Democrats in Congress must not have been paying much attention to that part of the speech because I have not heard a single word on this issue from any Democrat since—not one. One exception was the recent suggestion by some in the administration that doctors are performing unnecessary surgeries just to make an extra buck. I think a better explanation is the one the President gave last month when he said doctors often

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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resources will assist in protecting communities from severe weather and further conservation efforts in coastal communities.

I am encouraged by the inclusion of provisions that will invest in our science and technology sectors and enhance U.S. competitiveness. It is vital that we support the research and development of sustainable and clean energy technologies. Such efforts empower us as a country to reduce our reliability on foreign oil and strengthen our ability to meet our energy needs domestically.

In conclusion, I thank the senior Senator from Hawaii, chairman of the Appropriations Committee, as well as the chairman and ranking member of the Senate Appropriations Energy and Water Development Subcommittee for their efforts in developing and managing this bill through the legislative process.

Mrs. BOXER. Mr. President, the fiscal year 2010 Energy and Water Development appropriations bill would provide \$629,000 for Yazoo Basin—Yazoo Backwater, MS. I want to clarify that nothing in the language is intended to: (1) override or otherwise affect the final determination that was effective August 31, 2008, and published in the Federal Register on September 19, 2008, of the U.S. Environmental Protection Agency under section 404(c) of the Clean Water Act that prohibits the use of wetlands and other waters of the United States in Issaquena County, MS, as a disposal site for the discharge of dredged or fill material for the construction of the proposed Yazoo Backwater Area Pumps Project, (2) create or imply any exception with respect to the project to the requirements of the Clean Water Act, including any exceptions from the prohibitions and regulatory requirements of the Clean Water Act under section 404(r); or (3) affect the application of any other environmental laws with respect to the project.

As chairman of the committee with jurisdiction over the Clean Water Act and authorizations for the civil works program of the Corps of Engineers, I believe it is critical that our environmental laws be adhered to in the planning, construction, and operation and maintenance of all Corps of Engineers projects.

Mr. REID. Mr. President, I am pleased that the Senate has included my amendment to allocate \$75.7 million in Desert Terminal Lakes funding as part of the Energy and Water Development Appropriations Act, 2010. The legislation builds on the many projects and research to benefit all of Nevada's desert terminal lakes—Walker, Pyramid, and Summit. I appreciate Senator ENSIGN's cosponsorship of the amendment.

Briefly, the legislation allocated \$8.5 million for continued work in the Truckee River Basin. The bill provides \$1.5 million to help the city of Fernley and the Pyramid Lake Paiutes con-

tinue their efforts towards accomplishing their mutually beneficial goals of securing a municipal water source and protecting a renowned resource, Pyramid Lake. The bill also helps the States of Nevada and California, the Truckee Meadows Water Authority, the Pyramid Lake Paiute Tribe, and the Federal watermaster implement the Truckee Settlement Act and the Truckee River Operating Agreement. I am committed to seeing the full implementation of the Operating Agreement, and my legislation supports this effort.

But I rise today primarily to discuss this legislation's \$67.2 million allocation for work in the Walker River Basin.

Over the years, money that I have secured for work in the Walker River Basin has created jobs and other opportunities for Nevadans.

For example, this funding has resulted in world-class research completed by some of Nevada's best faculty and researchers at the University of Nevada, Reno, and the Desert Research Institute. A resulting publication and international conference on desert terminal lakes will feature their work.

The Walker River Paiute Tribe has accessed funds to implement a 5-year water leasing program for its farmers, develop efforts to strengthen a fishery at Walker Lake, and work on efforts to combat invasive species along the stretch of the Walker River that runs through their reservation and to Walker Lake. Working with the tribe and others, the U.S. Fish and Wildlife Service and other Federal agencies have been able to develop long-term plans to strengthen the presence of Lahontan cutthroat trout at Walker Lake, one of Nevada's most interesting and threatened treasures, and improving the Walker River riparian habitat. Funding is also being used to increase the instream flow of the Walker Rivers that end in Walker Lake.

But today's legislation is different. I believe it marks a new chapter of collaborative efforts in the Walker River Basin.

The legislation brings new partners to develop solutions to address competing water uses in the Walker River Basin.

Working with local partners, the National Fish and Wildlife Foundation will coordinate the Walker Basin Restoration Program, a program that includes a water rights acquisitions program, a demonstration water leasing program, various conservation and stewardship activities, and an alternative agriculture project.

Of particular importance to their efforts, the foundation brings the necessary expertise to complete complex water transactions in a way that preserves and protects the Walker River watershed. Working in the Columbia River Basin, the foundation has the experience of working with Federal and State agencies, tribes, municipalities, irrigation districts, and individual

farmers and ranchers to bring about creative, business-wise, and responsible solutions to balance the many demands on water uses—for agriculture, for municipal use, and for fishing and recreation. I am pleased with their commitment to work with Federal and State agencies in Nevada, Mineral and Lyon Counties, the Walker River Irrigation District, the Walker River Paiute Tribe, and many individuals in Smith and Mason Valley and to develop a local entity to guide their efforts in the basin.

In addition, the Walker River Irrigation District has accepted a leadership role in finding a cost-effective way to increase in-stream flows in the Walker River while preserving agriculture interests. The district has agreed to administer and manage a \$25 million, 3-year demonstration leasing program that will help get water to Walker Lake while providing farmers an additional opportunity to strengthen their operations. I appreciate the years of negotiations and conversations that has led to the district taking on this important program, and I hope that it is successful in achieving its purpose.

I support the agricultural communities in northern Nevada, and I have pushed for this demonstration leasing program and \$200,000 for alternative crops and agriculture cooperatives. Providing farmers and ranchers with more resources to manage their businesses and opportunities to explore new markets will stimulate the agriculture economy in Lyon County, NV, and maintain the agricultural setting and livelihood enjoyed by generations of Nevadans.

Throughout the years, I have stated that I would work to assure the viability of agriculture in Smith and Mason Valleys. This legislation does this—by providing Nevada's hard-working farmers with more tools to make good business decisions.

While helping farmers and dedicating water rights for the benefit of Walker Lake is part of a solution to restore and maintain Walker Lake; the other part requires coordinated conservation and stewardship activities. This bill supports the National Fish and Wildlife Foundation's efforts to coordinate watershed planning, water management, and habitat restoration efforts, among other activities. It supports efforts by the U.S. Geological Survey to work with other agencies and interested entities to develop a water monitoring plan in the Walker River Basin. Of course, with this data and through other efforts, the University and Desert Research Institute will be able to assess whether these activities are successful in improving instream flows and getting water to Walker Lake.

The health of the Walker River Basin and Walker Lake depends on people working together—the Federal, State and local governments and agencies; the tribe; the Irrigation District; the National Fish and Wildlife Foundation, and others. This legislation reflects the

many ways farmers, ranchers, sports men and women, and agencies can participate in this effort. The millions that will be spent in the Walker Basin—through the water leasing demonstration program, additional alternative agriculture programs, additional water acquisition funds, and broader conservation opportunities—means that willing and interested people can choose ways to participate in a solution for the basin that best serves their business, personal and community's interests.

After my years of working on efforts in the Walker River Basin, I am hopeful that this legislation will help communities work together to protect what is important to all Nevadans—preserve our unique natural resources enjoyed by sportsmen and the right of individuals and communities to choose the what will make our businesses successful, our local economies more diverse, and our resources more attractive to the public.

This is an opportunity to make significant progress in the Walker River Basin, and I am committed to seeing these Desert Terminal Lakes funding priorities signed into law by the President.

Mr. DORGAN. Mr. President, I wanted in these moments to say a special thank you to Senator BENNETT and the staff on the minority side and majority side who put this bill together and worked with us. This is a bill that funds the energy programs and water in this country. It is a bill that is very important. It has taken us a while on the floor to get it done.

I believe we have two amendments also remaining that we are trying to clear. We hope to clear those by voice vote momentarily. Then we will go to final passage. Hopefully we will get clearance to do that so we could be done in 10 or 15 minutes. It has been a long saga on the floor of the Senate here on this bill for the last several days, but I think the work is valuable and important and useful for the country. It is a good investment in our future.

As I said when we started this process, Senator BENNETT is a great Senator to work with, a great Senator to partner with on some very important issues. He and his staff have done a great job, as has the staff on the majority side, putting this bill together. I am going to include all their names in the RECORD. I included most of their names at the start of this discussion a couple of days ago, but I want recognition paid to the people who spent time to put this bill together.

I want to alert colleagues I hope within a matter of 5 or 10 minutes to be able to do the two amendments remaining by voice and then go to final passage.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I thank the chairman for his kind words and echo his comments about the staff

and the hard work they have done. We are grateful to Doug Clapp and Barry Gaffney, Roger Cockrell, and Franz Wuerfmannsdobler, Brad Fuller, as well as Tyler Owens, Ben Hammond, the floor staff, and of course Scott O'Malia of the committee staff who has worked so hard with me.

This has been a challenge for Scott and others because this is my first experience as the ranking member of this subcommittee. I was far more comfortable working on agricultural matters. But to have moved from the Agriculture Subcommittee to the Energy and Water Subcommittee has been a significant challenge and I am grateful to the chairman and the others for their willingness to work with me as I have come through this maiden experience.

I agree with the chairman that this is a very important bill addressing one of the most significant challenges we face in this country, which is getting our energy policy right and getting the energy initiatives properly funded. I am grateful it has finally come to the point where we are in fact within moments of final passage.

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. DORGAN. 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. DORGAN. Mr. President, I think the Senator from Florida is going to seek recognition in a moment. I wish to mention for the RECORD the names of those staff who have contributed to the construction of this appropriations bill on the Energy and Water Subcommittee: Doug Clapp, Scott O'Malia, Roger Cockrell, Barry Gaffney, Franz Wuerfmannsdobler, Molly Barackman, Ben Hammond, Tyler Owens.

We have had a lot of staff people who have put in a great deal of time. I wished to mention them by name as my colleague has done as well. We are very grateful for the amount of time people put in to make these things happen. This bill was a very important bill. I think it was constructed very well.

We had a markup in the subcommittee, the full committee, and now good discussion on the floor of the Senate. We are very close to final passage. We are waiting because a couple Senators are asking for commitments on amendments on a bill that does not relate to this before they will agree to final passage. I think we are very close to having their appetite for that satisfied and we can go to final passage.

I believe the Senator from Florida is going to talk about two amendments that have been cleared on both sides that could then be cleared.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENTS NOS. 1852 AND 1893, AS MODIFIED

Mr. NELSON of Florida. I call up en bloc amendment Nos. 1852 and 1893, as modified.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that Senator MARTINEZ be added as a cosponsor to amendment No. 1852 and that I, Senator NELSON of Florida, be added as a cosponsor to amendment No. 1893.

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

Mr. NELSON of Florida. Mr. President, it is my understanding that this has been agreed to by both sides. I would ask for a voice vote.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Both the minority and majority have cleared both these amendments. I would ask for a voice vote on the amendments.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 1852

(Purpose: To provide for the Federal share of the cost of the Ten Mile Creek Water Preserve Area)

On page 17, between lines 16 and 17, insert the following:

SEC. 1. TEN MILE CREEK WATER PRESERVE AREA.

Section 528(b)(3)(C)(ii) of the Water Resources Development Act of 1996 (110 Stat. 3769; 121 Stat. 1270) is amended—

(1) in subclause (I), by striking “subclause (II)” and inserting “subclauses (II) and (III)”; and

(2) by adding at the end the following:

“(III) TEN MILE CREEK WATER PRESERVE AREA.—The Federal share of the cost of the Ten Mile Creek Water Preserve Area may exceed \$25,000,000 by an amount equal to not more than \$3,500,000, which shall be used to pay the Federal share of the cost of—

“(aa) the completion of a post authorization change report; and

“(bb) the maintenance of the Ten Mile Creek Water Preserve Area in caretaker status through fiscal year 2013.”.

AMENDMENT NO. 1893, AS MODIFIED

(Purpose: To ensure that previously appropriated funding for the Tampa Harbor Big Bend Channel project is used for the original intended purpose of the funding and not reprogrammed)

On page 17, between lines 16 and 17, insert the following:

SEC 1. As soon as practicable after the date of enactment of this Act, from funds made available before the date of enactment of this Act for the Tampa Harbor Big Bend Channel project, the Secretary of the Army may reimburse the non-Federal sponsor of the Tampa Harbor Big Bend Channel project for the Federal share of the dredging work carried out for the project.

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