

kinds of environmental lawsuits, and there is one certainty at this point: construction will soon be halted and will not resume for a long time, if at all, unless Congress intervenes. The ramifications of such a halt, Mr. President, will be immediate and devastating.

What is involved here if the Congress does not act are the jobs of at least 2,380 project workers, as well as many other jobs and businesses which are ancillary to and dependent upon the construction of this massive project. The economies of nearby communities, such as Wheatland, Wyo., are tied to this project. The future power supplies of a large area are a consideration. A tremendous amount of money is involved beyond just those millions of dollars that would be spent on the project, itself.

And there is also embodied in this controversy the matter of what we should and can do not only to remedy this specific situation in Wyoming, where we have a half-finished project, but to prevent in the future the use in this kind of indiscriminate and unfair way of environmental laws which obviously are too loosely drawn.

I voted for the Stennis amendment to change the Endangered Species Act in such a way as to exempt projects already authorized and underway. The Supreme Court has already made it clear that even though Congress may not have intended to stop programs and projects at midpoint, as with the Tellico fiasco and now with the Missouri Basin power project in Wyoming, it nevertheless duly enacted a law that very clearly can be used to bring about just such a consequence.

That law needs to be changed, Mr. President. I supported the amendment of my colleague in the House (Mr. Ronalio) to exempt the half-finished Wyoming project from the Endangered Species Act, and I support the conference report on the Tellico project.

But I must say, Mr. President, that what is happening in Wyoming with this project will not be the last controversy of its kind and the Congress next year and in future years is going to have to come to grips with the problem of extensive litigation involving environmental laws every time some sort of development is contemplated.

Mr. CULVER. Mr. President, I call for a vote on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. Muskie. Mr. President, I would like to briefly congratulate Senator Culver and Senator Wallop for working out a difficult problem. I was a member of the conference but could not attend because I was on the floor.

PRESIDENTIAL STATEMENT ON SIGNING S. 2809 INTO LAW,
NOVEMBER 10, 1978

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Statement on signing S. 2809 into law, November 10, 1978

I am signing into law today S. 2809, the Endangered Species Act Amendments of 1978.

In addition to providing needed authorization for the endangered species program, the bill establishes a special seven-member Cabinet-level committee. The Committee will be authorized to exempt programs and activities of Federal agencies from the requirement not to jeopardize the continued existence of endangered or threatened species. While I believe that this new exemption process is not necessary, I hope that as the Committee carries out its responsibilities, it will make the utmost efforts to protect the existence of the species inhabiting this planet. In the past, the act has worked well without this exemption process, because all agencies have made efforts to resolve conflicts and, where necessary, to pursue alternate courses of action. This consultation and cooperation should continue under these new amendments, minimizing the number of requests for exemption. Destruction of the life of an endangered or threatened species should never be undertaken lightly, no matter how insignificant the species may appear today.

I am asking that the Committee members be exceedingly cautious in considering exemptions, and that the exercise of possible national security exemptions by the Secretary of Defense be undertaken only in grave circumstances posing a clear and immediate threat to national security.

In some ways these amendments improve the Endangered Species Act. The consultation process will be strengthened; funds are authorized from the Land and Water Conservation Fund to purchase endangered plant habitat; and provisions for enforcement against commercial violators of the act are improved. Of course, the most welcome provision is the reauthorization of appropriations for the act, which expired on September 30, 1978.

I recognize that this has been a difficult issue. Many Members of Congress have worked very hard to preserve the essence of the Endangered Species Act while allowing flexibility which many perceived to be necessary. I congratulate Senators John Culver, Jennings Randolph, Howard Baker, and Malcolm Wallop and Congressmen John Murphy, Robert Leggett, John Dingell, James Bowen, and Ed Forsythe for their hard work, especially in the hurried last hours of the 95th Congress.

My administration will make every effort to implement these amendments properly and to work with the Congress to secure continued authorization for the Endangered Species Act in the future.

NOTE.—As enacted, S. 2809 is Public Law 95-632, approved November 10.

ANNOTATED BIBLIOGRAPHY OF HEARINGS

U.S. Congress, House, Committee on Merchant Marine and Fisheries.

Subcommittee on Fisheries and Wildlife Conservation and the Environment, Endangered Species, Part 1, Hearings, 95th Congress, 2d session, Washington, U.S. Govt. Print. Off., 1978, 661 p.

Hearings on Authorization held Feb. 15, 1978; oversight hearings held May 24, 25, June 1, 15, 16, 20, 23, and 28, 1978. "Serial no. 95-39 (Part 1)"

Hearings on implementation of the Endangered Species Act of 1973, authorizing a national program for conservation of endangered

or threatened species of fish, wildlife, and plants. Directs Interior and Commerce Depts. to identify endangered species, and, under section 7, to issue appropriate regulations to preserve their critical habitats, notwithstanding conflicting Federal program authorities.

Focuses on section 7 impact to halt federally assisted projects, with testimony on interdiction of the TVA Tellico Dam Project on the Little Tennessee River, Tenn., because of project's threats to the critical habitat of the snail darter fish.

February 15 hearing considers H.R. 10883, to extend Interior and Commerce Depts. appropriations for ESA programs for fiscal years 1979-81.

Rep. Robin L. Beard (R-Tenn) presents a statement on May 24, and participates in questioning of witnesses on June 15.

Includes submitted statements.

May 24 hearing includes submitted statements and testimony by: I. A. Greenwalt (FWS), J. W. Gehring (NMFS), C. Stevens (Soc. for Animals Protective Legislation), Reps. Duncan (Tenn.), Lott (Miss), Beard (Tenn.), R. L. Herbst (Fish and Wildlife and Parks). May 25 hearing includes submitted statement and testimony by Reps. T. Bevill (Ala.), W. Flowers (Ala.), J. Buchanan (Ala.), C. H. Doss (Public Works, Ala.), J. S. Moeller (Univ. of Ala.)

June 1 hearing includes submitted statements and testimony by: C. H. Lyles (Gulf States Marine Fisheries Commission), Z. J. Plater (Wayne State Univ.), C. Stevens (Soc. for Animal Protective Legislation), M. E. Berger (NWF), T. Garrett (Defenders of Wildlife), M. D. Zagata (Audubon), J. L. Reveall (Amer. Soc. of Plant Taxonomists and Botanical Soc.), R. M. Cutler (Conservation, Research and Educ., USDA), D. Marriott (Rep. Utah), F. R. Roche (Off. of Sec., DOD), H. R. Hill (Chief of Engrs., Army), R. O. Wagner (Amer. Assn. of Zoological Parks and Aquariums), G. E. Strele (Zoological Action Committee), J. W. Gehring (NoAA), J. W. Retan (Ala. Conservancy, Audubon, Sierra Club, Calaba River Group) M. E. Canfield (GAO), D. Hanson (Tellico Alternatives Study), E. Kaplan (Friends of the Earth), A. Graham (Audubon), H. S. Meyner (Rep. NJ), W. Watkins (Rep. Okla.) J. M. Jeffords (Rep. Vt), R. I. Ottinger (Rep. NY), C. H. Warren (CEC), C. Taylor (Sierra Club, Ornithological Soc. of Okla.), D. A. Poole (WMI), M. J. Bean (Environmental Def Fund), C. Van Note (Monitor Consortium), L. Regenstein (Fund for Animals).

U.S. Congress. House. Committee on Merchant Marine and Fisheries.

Subcommittee on Fisheries and Wildlife Conservation and the Environment. Endangered Species, Part I. Hearings, 95th Congress, 2d session. Washington, U.S. Govt. Print. Off., 1978. 561 p.

Hearings on Authorization held Feb. 15, 1978; oversight hearings held May 24, 25, June 1, 15, 16, 20, 23, and 28, 1978. "Serial no. 95-40 (Part 2)"

Continuation of hearings before the Subcom. on Fisheries and Wildlife Conservation and the Environment on implementation of the Endangered Species Act of 1973, including section 7 use to halt Tellico Dam Project.

Rep. R. F. Drinan (Mass) participates in questioning witnesses on June 23.

Includes text of Supreme Court decision in *TVA v. Hill* upholding Tellico Dam Project interdiction order, June 15, 1978.

Supplementary material includes submitted statements, articles, and Fish and Wildlife Service, Commerce Dept. and USDA written responses to subcom questions, with supporting materials, including:

- a. Fish and Wildlife Service Colorado squawfish recovery plan, outline and narrative plan, with budget info;
- b. FWS, lists of endangered animal and plant species and critical habitat, either listed or to be listed, 1977-79, with maps for each location;
- c. Army Corps of Eng. water resource projects and permit actions that may impact upon endangered and threatened species or adversely effect critical habitat, Mar. 1978.

June 20, 1978 hearing includes submitted statements and testimony by: Z. J. Plater (Wayne St. Univ. Law School), J. F. McCormick (Univ. of Tenn) D. A. Etnier (Univ of Tenn), J. Ritchey and B. Davis (Landowners in Tenn), J. Durham (Intl Indian Treaty Council), D. Burgner (E. Tenn Valley Landowners Assn), W. L. Russell (Little Tenn River Alliance), D. Cox (Trout Unlimited), L. H. King (Cherokee Indians), J. Chapman (Univ. of Tenn), J. Hardin (Rest-dent, Tenn), B. Evison (Grt Smoky Mts Natl Park), W. Skelton (Sierra Club).

June 23, 1978 hearing includes submitted statements and testimony by: S. D. Freeman (TVA), W. King (NY Zoological Soc), S. R. Edwards (Assn of Systematic Collections), R. A. Graham, F. M. Bond (St. Rep. NM), R. Thacker (N Amer. Falconers Assn).

June 28, 1978 hearing includes submitted statements and testimony by: I. A. Greenwalt (FWS), R. C. Fischer (Colo. River Water Conservation Dist.), F. G. Simonton (Mid-West Electric Consumers Assn), J. D. Brown (Amer Public Power Assn), W. S. Tucker (Edison Electric Instl).

Additional testimony includes: T. Risenhoover (Rep., Okla), W. Haselton (Natl Forest Products Assn), J. K. Robinson (Chamber of Commerce of USA), D. A. Simpson (Pacific Legal Fdn).

U.S. Congress. Senate. Committee on Environment and Public Works.

Subcommittee on Resource Protection. Amending the Endangered Species Act of 1973. Hearings, 95th Congress, 2d session, Apr. 13 and 14, 1978. Washington, U.S. Govt. Print. Off., 1978. 405 p.

"Serial no. 95-H60"

Hearings to amend and extend programs under the Endangered Species Act of 1973 through FY81. Also revises section 7 to establish an Endangered Species Interagency Committee to rule on Federal agency applications for act exemptions in order to carry out national or regional projects expected to impact wildlife adversely when consultations with FWS fail to resolve conflicts.

Focuses on recommendations for enhancing act flexibility, especially merits of section 7 revision in view of past delays and litigation ensuing when Federal projects are halted, notwithstanding conflicting program authorities, on the basis of FWS determinations that endangered species critical habits are threatened.

Includes submitted statements and correspondence throughout.

Hearing of April 13 includes testimony from I. A. Greenwalt (FWS), C. W. Hart (Smithsonian Instn), J. Gann (Sen. Utah), D. S.

Budd (Dan H. Budd and Sons, Inc.), P. A. Widener (United Peregrine Soc and N. Amer. Falconer's Assn), G. Jennings (Amer Fedn of Aviculture).

Hearing of April 14 included testimony from J. W. Gehninger (NMFS), J. A. Helms (Sen NC), C. Mann (Safari Club Intl), J. Kane (William Amer Co.).

Testimony opposing S. 2899 includes M. J. Bean (Environmental Def Fund, Natural Resources Def Council, World Wildlife Fund), Z. J. Plater (Wayne State Univ.), M. D. Zagata (Audubon), T. Garrett (Defenders of Wildlife), R. Bolten (NWF), C. Stevens (Soc for Animal Protective Legislation, Monitor Consortium).

Additional testimony includes: W. S. Tucker (Edison Electric Inst.) K. Balcomb (Colo. River Water Conservation Dist., Southwestern Water Conservation Dist), D. C. Simpson (Pacific Legal Fdn).

U.S. Congress Senate. Committee on Environment and Public Works.

Subcommittee on Resource Protection, Endangered Species Act Reauthorization. Hearings, 96th Congress, 1st session, Apr. 3, 1979. Washington, U.S. Govt. Print Off. 1979. 132 p.

"Serial no. 96-H11"

Hearings on the reauthorization of appropriations for Endangered Species Act of 1973.

Hearing includes submitted statements and testimony by: J. Duncan (Rep. Tenn.), H. Eschwege (GAO), R. L. Herbst (Fish, Wildlife, and Parks), T. Leitzell (FOAA), T. Lovejoy (World Wildlife Fund), L. P. Silverman (DOI), E. J. Stahr (Audubon).

Additional statements submitted for the record: International Primate Protection League, Natl Forest Products Assn, Pacific Marine Fisheries Commission, Soc for Animal Protective Legislation.

LEGISLATIVE HISTORY OF 1979 AMENDMENTS TO THE ENDANGERED SPECIES ACT

PART V

TULLICO DAM RIDER TO THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1980, PUBLIC LAW 96-69

BACKGROUND

Authorization for administration of the Endangered Species Act had been extended only 18 months by the 1978 Amendments (see Part IV) and was scheduled to expire in the middle of fiscal year 1980. Bills to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes (H.R. 2218/S. 1143) passed the Senate on June 13, 1979, and passed the House on October 24, 1979 (see Endangered Species Act of 1973, Appropriation Authorization—below). Proposals to exempt the Tullico Dam project from the protections of the Act had been defeated in Senate Committee and again on the Senate floor. When the House passed H.R. 4388 (the Energy and Water Development Appropriations bill for fiscal year 1980), it accepted by voice vote a non-germane amendment offered by Mr. Duncan to provide for the completion of construction, operation and maintenance of the Tullico Dam and Reservoir project. The Tullico project had been halted because of the presence in the project impact area of the officially endangered snail darter. The Endangered Species Committee, established by the 1978 Amendments (see Part V), had declined to exempt the project from the requirements of the Endangered Species Act, and the authorizing committees of Congress, so far as the Endangered Species Act is concerned, were disinclined to intervene after the intense debate and seeming legislative resolution of the conflict in 1978. When H.R. 4388 was considered in the Senate, the provision exempting Tullico was struck and the bill then passed on July 18, 1979. The measure ultimately went to Conference Committee and the matter of whether or not to exempt the Tullico project was reported in disagreement on July 24, 1979. The House reconsidered the issue in disagreement on August 1, 1979 and by a vote of 258 to 156 reaffirmed its desire to exempt the Tullico project. On September 10, 1979 the Senate voted 48 to 44 to recede from its position and acquiesce to the House version. The bill was approved by the President and signed into law on September 25, 1979 (Public Law 96-69).

CHRONOLOGY—TULLICO DAM PROVISION OF P.L. 96-69

On February 5 and April 11, 1979 the House Subcommittee on Energy and Water Development of the Committee on Appropriations (1235)