

“(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

“(1) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District; and

“(2) that are for use on lands within the Burley Irrigation District; and

“(3) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company v. Charles N. Foster, et al.*, and commonly referred to as the “Foster decree”.

“(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

“(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.”

The amendment (No. 3044) was agreed to.

The committee amendment was agreed to.

The bill (S. 538), as amended, was passed, as follows:

S. 538

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CONVEYANCE OF FACILITIES.

(a) DEFINITIONS.—In this section:

(1) BURLEY.—The term “Burley” means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) DIVISION.—The term “Division” means the Southside Pumping Division of the Minidoka project, Idaho.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall, without consideration or compensation except as provided in this section, convey to Burley, by quitclaim deed or patent, all right, title, and interest of the United States in and to acquired lands, easements, and rights-of-way of or in connection with the Division, together with the pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, buildings, transmission lines, and other improvements or appurtenances to the land or used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the Minidoka Dam and reservoir to land in Burley, including all facilities used in conjunction with the Division (including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley).

(2) COSTS.—The first \$80,000 in administrative costs of transfer of title and related activities shall be paid in equal shares by the United States and Burley, and any additional amount of administrative costs shall be paid by the United States.

(c) WATER RIGHTS.—

(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(i) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District;

(ii) that are for use on lands within the Burley Irrigation District; and

(iii) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company v. Charles N. Foster, et al.*, and commonly referred to as the “Foster decree”.

(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.

(2) ALLOCATION OF STORAGE SPACE.—The Secretary shall provide an allocation to Burley of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14-06-100-2455 and 14-06-W-48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(d) PROJECT RESERVED POWER.—The Secretary shall continue to provide Burley with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

(e) SAVINGS.—

(1) Nothing in this Act or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between Burley and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(2) Nothing in this Act shall affect the rights of any person or entity except as may be specifically provided herein.

(f) LIABILITY.—Effective on the date of conveyance of the project facilities, described in section (1)(b)(1), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act, 28 U.S.C. 2671 et seq.

(g) COMPLETION OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall complete the conveyance under subsection (b) (including such action as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) not later than 2 years after the date of enactment of this Act.

(2) REPORT.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this section, and the anticipated date for such transfer.

#### FEDERAL POWER ACT AMENDMENT ACT OF 1997

The bill (H.R. 651) to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

#### FEDERAL POWER ACT DEADLINE EXTENSION ACT OF 1997

The bill (H.R. 652) to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

#### AUSABLE HYDROELECTRIC PROJECT ACT OF 1997

The bill (H.R. 848) to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

#### BEAR CREEK HYDROELECTRIC PROJECT ACT OF 1997

The bill (H.R. 1184) to extend the deadline under the Federal Power Act for the construction of the Bear Creek hydroelectric project in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

#### FEDERAL POWER ACT DEADLINE EXTENSION ACT OF 1997

The bill (H.R. 1217) to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

#### UNANIMOUS CONSENT AGREEMENT—S. 660

Mr. BURNS. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of Calendar No. 208, S. 660,

regarding University of Alaska public lands.

I ask unanimous consent that upon the consideration of the bill, the committee substitute be agreed to and considered as original text for the purpose of further amendment.

I further ask unanimous consent that the total debate time be limited to 6 hours equally divided between the chairman and the ranking member.

I further ask that the only amendments in order be the following: two relevant amendments offered by Senator BUMPERS; one relevant amendment offered by Senator MURKOWSKI.

I further ask consent that no second-degree amendments be in order, and following the expiration of time, and the disposition of any pending amendments, the bill be read a third time, and the Senate proceed to the vote on passage of the bill with no intervening action or debate.

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

UNANIMOUS CONSENT  
AGREEMENT—S. 1092

Mr. BURNS. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of Calendar 218, S. 1092, regarding Cold Bay and King Cove.

I further ask consent that total debate time be limited to 6 hours equally divided between the chairman and the ranking member.

I further ask that the only amendments in order be the following: two relevant amendments offered by Senator BUMPERS; one relevant amendment offered by Senator MURKOWSKI.

I further ask consent that no second-degree amendments be in order, and that following expiration of the time and disposition of any pending amendments, the bill be read the third time, and the Senate proceed to vote on passage of the bill with no intervening action or debate.

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

NATIONAL PEACE GARDEN LEGISLATIVE AUTHORITY CONSTRUCTION EXTENSION

Mr. BURNS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 731) to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 731) entitled "An Act to extend the legislative authority for construction of the Na-

tional Peace Garden memorial, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

*That notwithstanding section 10(b) of Public Law 99-652 and section 1(a) of Public Law 103-321, the legislative authority for the National Peace Garden shall extend through June 30, 2002.*

**SEC. 2. MAINTENANCE OF WILD HORSES IN CAPE LOOKOUT NATIONAL SEASHORE.**

*Section 5 of the Act entitled "An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes", approved March 10, 1966 (Public Law 89-366; 16 U.S.C. 459g-4), is amended by inserting "(a)" after "SEC. 5.", and by adding at the end the following new subsection:*

*"(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of 100 free roaming horses in Cape Lookout National Seashore (hereinafter referred to as the "seashore"); Provided, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).*

*"(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackelford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—*

*"(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and*

*"(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.*

*"(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—*

*"(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or*

*"(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or*

*"(C) except in the case of an emergency, or to protect public health and safety.*

*"(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.*

*"(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 100 as a result of natural causes, including, but not limited to, disease or natural disasters.*

*"(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore."*

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

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

MARTIN LUTHER KING, JR.  
MEMORIAL

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 421, H.J. Res. 113, a joint resolution approving the location of the Martin Luther King, Jr. Memorial in the Nation's Capital, that the joint resolution be considered read three times, passed, and the motion to reconsider be laid upon the table, and that the preamble be agreed to with the above occurring without any intervening action or debate.

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

The joint resolution (H.J. Res. 113) was passed.

The preamble was agreed to.

Mr. WARNER. Mr. President, I rise to applaud the passage of this important legislation authorizing the placement of a Martin Luther King, Jr. Memorial in Area I of the Capital.

I would like to take this opportunity to recognize Senator SARBANES and Congresswoman MORELLA for the leadership they have both shown over the years we have worked together on legislation authorizing the establishment of a Martin Luther King, Jr. Memorial.

In 1996, Congress passed and the President signed legislation, also sponsored by Senator SARBANES and myself, authorizing the Alpha Phi Alpha Fraternity, the oldest predominantly African-American fraternity in the United States, to establish without cost to the federal government a memorial to Martin Luther King, Jr., in the District of Columbia.

The Alpha Phi Alpha fraternity wishes to honor Dr. King with a memorial in the nation's Capital as tangible recognition of his remarkable role in the history of our nation. Dr. King's message of nonviolence and freedom for all should be passed from generation to generation. A memorial in his name will be effective in helping us reach this important goal.

This legislation establishes the memorial in Area I, which consists of the Mall and environs. As you know, the Department of Interior, after consulting with the National Capital Memorial Commission, transmitted its formal recommendation that the memorial be located in Area I in a letter to the President of the Senate dated January 29, 1998.

Requirements contained in the Commemorative Works Act stipulate that the Department of Interior's recommendation regarding location of a memorial in Area I shall be disapproved if not enacted into law within 150 days of its transmittal to Congress. Therefore it was critical that the Senate consider and pass this legislation prior to that deadline.