

|           |               |             |
|-----------|---------------|-------------|
| Domenici  | Johnston      | Murray      |
| Feingold  | Kennedy       | Pell        |
| Feinstein | Kerry         | Robb        |
| Ford      | Kerry         | Rockefeller |
| Graham    | Kohl          | Sarbanes    |
| Harkin    | Lautenberg    | Simon       |
| Hatch     | Lieberman     | Snowe       |
| Hollings  | Mikulski      | Thompson    |
| Hutchison | Moseley-Braun | Wellstone   |
| Inouye    | Moynihan      | Wyden       |

## NAYS—57

|           |            |           |
|-----------|------------|-----------|
| Ashcroft  | Frist      | Mack      |
| Baucus    | Glenn      | McCain    |
| Bennett   | Gorton     | McConnell |
| Biden     | Gramm      | Murkowski |
| Bond      | Grams      | Nickles   |
| Bradley   | Grassley   | Nunn      |
| Brown     | Gregg      | Pressler  |
| Bryan     | Hatfield   | Pryor     |
| Burns     | Hefflin    | Reid      |
| Campbell  | Helms      | Roth      |
| Chafee    | Inhofe     | Santorum  |
| Coats     | Jeffords   | Shelby    |
| Cochran   | Kassebaum  | Simpson   |
| Coverdell | Kempthorne | Smith     |
| Craig     | Kyl        | Specter   |
| Dole      | Leahy      | Stevens   |
| Dorgan    | Levin      | Thomas    |
| Exon      | Lott       | Thurmond  |
| Faircloth | Lugar      | Warner    |

## NOT VOTING—1

Cohen

So the amendment (No. 3776) was rejected.

Mr. DOLE. 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. SIMPSON. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. SIMPSON. Mr. President, I thank all of my colleagues, especially Senator KENNEDY, my fellow floor manager on that side of the aisle, for the extraordinary support and assistance today in moving the issue along.

Now I am going to propound a unanimous consent-request. I have shared this with my fellow manager so that we might move tomorrow to what I think will be a conclusion hopefully of this legislation, or at least a portion of it, a large portion of it.

I ask unanimous consent that the following amendments be the only remaining amendments in order prior to the vote on the Simpson amendment, as amended, provided that all provisions of rule XXII remain in order notwithstanding this agreement. And I hereby state the amendments: Abraham, Abraham, DeWine, Bradley, Graham, Graham, Graham, Graham—four Graham amendments—Leahy, Bryan, Harkin, three Simpson amendments, Chafee, Hutchison, DeWine again, Graham, Gram of Texas, Senator Simon two, Senator Wellstone two, Senator Kennedy two, Reid, Robb, Feinstein No. 3777, Simpson No. 3853, and Simpson No. 3854.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. SIMPSON. Mr. President, I would ask approval of that agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank Senator SIMPSON and our other colleagues for their attention and for their cooperation during the day. We had several interruptions which were unavoidable. We had an opportunity to debate several matters.

It does look like a sizable group remain. As of yesterday, there were 156 amendments, so we have disposed probably of 6 or 8 and we are down to 28. So we are moving at least in the right direction. From my own knowledge from some of our colleagues, they have indicated a number of these are place holders.

We will have some very important measures to take up for debate tomorrow, and we will look forward to that and to a continuing effort to reach accommodation on the areas where we can and to let the Senate speak to the areas we cannot.

Mr. President, I thank my colleague and friend from Wyoming and all of our staffs. We will look forward to addressing these issues on tomorrow.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

## MORNING BUSINESS

Mr. GRASSLEY. Mr. President, for the leader, I have several unanimous-consent requests. I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak up to 5 minutes each.

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

## WARD VALLEY

Mr. PRESSLER. Mr. President, 16 years ago, we in Congress passed the Low-Level Radioactive Waste Policy Act. This bill gave the States the responsibility of developing permanent repositories for this Nation's low-level nuclear waste. Now the Clinton administration wants to take away that authority.

For 8 years, South Dakota, as a member of the Southwestern Compact, along with North Dakota, Arizona and California, has worked to fulfill its duty to license a storage site. It did the job.

Ward Valley, CA is the first low-level waste site to be licensed in the Nation. After countless scientific and environmental studies and tests, the State of California and the Nuclear Regulatory Commission approved Ward Valley as a safe and effective place to store the Southwestern Compact's low-level radioactive waste.

However, there is one problem. Ward Valley is Federal land. It is managed by the Bureau of Land Management.

The Southwestern Compact has requested that Ward Valley be transferred to the State of California. The Clinton administration refuses to take action. Instead, it has stalled—again, and again, and again.

First, the Secretary of the Interior ordered a Supplemental Environmental Impact Statement. Then, he ordered the National Academy of Sciences to perform a special report on the suitability of Ward Valley for waste storage. Each study presented the Southwestern Compact with a clean bill of health for Ward Valley. Yet, the administration still delays.

Now, the administration has ordered additional studies on the effects of tritium—studies the State of California already intended to perform, but not until the land transfer was complete. Also, I would note, the National Academy of Sciences made no mention that such studies should be a prerequisite to the land transfer.

Instead, the Academy believes that this type of study should be ongoing—conducted in conjunction with operation of the waste storage facility. Unfortunately, I suspect that even if California gives in to demands and performs these tests, the administration will just think up new demands—anything to keep the Ward Valley waste site from becoming reality.

So who benefits from these delays? No one. This is yet one more example of the Clinton administration's pandering to the environmental extremists—extremists intent on waging a war on the West.

Scientific evidence shows that Ward Valley is a safe location for low-level radioactive waste storage. Neither public health nor the environment will be at risk. In fact, most of the waste to be stored at Ward Valley is nothing more than hospital gloves and other supplies which may have come in contact with radioactive elements used by healthcare providers.

By contrast, continued delays creates risks—both to public health and the environment. Currently, low-level waste is simply stored on site—at hospitals, industries, or research institutions. In the four States of the Southwestern Compact, there are over 800 low-level radioactive waste sites. These sites were not meant to be permanent facilities. Thus, there have been no environmental studies, no long-term monitoring systems, nothing to guarantee safe storage of the waste.

With no regional low-level radioactive waste storage sites available, South Dakota is forced to transport its low-level radioactive waste across the country to a disposal facility in Barnwell, S.C.

Clearly, the costs of transporting this waste across the country are great—from the monetary cost to the waste generators, to the legal ramifications of transporting hazardous waste,

to the potential Superfund liability incurred by the State and the generators. This is far too costly a price—one my State can't continue to bear.

That is why, Mr. President, I am a cosponsor of legislation pending in the Senate to convey Ward Valley to the State of California, and to allow the construction of the Ward Valley low-level radioactive waste storage site to continue unimpeded. The Senate Energy and Natural Resources Committee voted in favor of this bill.

This legislation is ready for Senate action. This legislation is necessary only because politics got in the way of good science. Transferring land such as Ward Valley is a common procedure for the administration. However, because of a political fight waged by environmental extremists, this conveyance has been held up for more than 2 years. This fight, this continued delay, will continue unless Congress acts.

We have the opportunity to institute a rational approach to the process. By approving this legislation, we can allow the Southwestern Compact—and the rest of the States—to comply with the law we created. I urge my colleagues to support this legislation, and to allow good science to prevail, rather than politics.

Mr. President, I ask that correspondence between South Dakota Governor Janklow and Gov. Pete Wilson of California regarding the Ward Valley low-level radioactive waste storage site be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,  
*Pierre, SD, April 2, 1996.*

Hon. PETE WILSON,  
*Governor, State of California, State Capitol,  
Sacramento, CA.*

DEAR GOVERNOR WILSON: Thank you for your letter concerning the Southwestern Low-Level Radioactive Waste Disposal Compact and the site of the facility in Ward Valley. While the site in Ward Valley is currently owned by the federal Bureau of Land Management, the bureau has for about 10 years declared its intent to sell to California.

I, too, am concerned and upset with the continuing needless delays imposed by the U.S. Department of the Interior on the Ward Valley land transfer. California has made tremendous efforts attempting to comply with the federal Low-Level Radioactive Waste Disposal Act and its Amendments. While these efforts have resulted in the issuance of the first license to construct a new low-level disposal site in this nation's recent history, implementation of this license has been set back again and again by the federal government. If these delays cause our generators within the Southwestern Compact to ship wastes across the United States to Barnwell, South Carolina for disposal, I fully agree that the federal government must comply with those stipulations you set forth in your letter.

Study after study has shown the proposed facility at Ward Valley to be protective of human health and environmentally safe. The U.S. Congress has it right the first time; the Southwestern Compact can solve the problem of disposal of the low-level radioactive wastes generated within its states. But, we can do it only if the federal government will transfer the site and let us get on with it.

While I agree that the latest actions of the U.S. Department of the Interior appear to confirm the notion that the Clinton Administration is trying to usurp the states' duly delegated power to regulate low-level waste disposal, I am still hoping the transfer can occur soon. If the delays by the Department of the Interior were to result in repeal of the Low-Level Radioactive Waste Disposal Act and place the responsibility for trying to manage this problem, in the federal government, that would be a huge step backwards.

Thank you again for your letter and for your efforts on behalf of the entire state of California and the other states in the Southwestern Compact to develop a responsible and safe disposal site for low-level waste.

Sincerely,

WILLIAM J. JANKLOW,  
*Governor.*

—  
SACRAMENTO, CA,  
*February 16, 1996.*

Hon. WILLIAM J. JANKLOW,  
*Governor, State of South Dakota, Pierre, SD.*

DEAR BILL: As the host state for the Southwestern Low-Level Radioactive Waste Disposal Compact, California has labored diligently for ten years to establish a regional disposal facility in accordance with the federal Low-Level Radioactive Waste (LLRW) Policy Act. This facility would serve generators of LLRW in your state and the other compact states. In the absence of this facility, these generators have no assured place to dispose of their LLRW.

To fulfil its obligations, California carefully screened the entire state for potential sites, evaluated candidate sites and selected Ward Valley from those candidates as the best site in California for the regional disposal facility. Although the site is on federal land, the Bureau of Land Management has for about ten years now declared its intent to sell it to California. We identified a qualified commercial operator to apply for a license to construct and operate a facility at that site, and took steps to acquire this land from the federal government. We subjected the application for the license to a scrupulous review to ensure that the facility would satisfy in every respect the health and safety requirement established by the Nuclear Regulatory Commission.

A comprehensive Environmental Impact Report was prepared for the project, and an Environmental Impact Statement (EIS) and Supplemental EIS were prepared for the land transfer. We subsequently became the first state to license a regional disposal facility under the LLRW Policy Act, and have successfully concluded our defense of that license and related environmental documents in the State courts. In short, California has in good faith done all it can to fulfil its obligations to your state under the Compact and federal law.

The sole obstacle to the completion of this project is the failure of the U.S. Department of the Interior to transfer the Ward Valley site to California. After abruptly canceling the agreed-to transfer almost completed by former Secretary Manuel Lujan, Interior Secretary Babbitt has created a series of procedural delays ostensibly based upon his own health and safety concerns. He demanded a public hearing, then abruptly canceled it. He asked the National Academy of Sciences (NAS) to review site opponents' claims, then ignored NAS conclusions that these claims are unfounded and that the site is safe. He has unreasonably and unlawfully demanded that California agree to continued Department of the Interior oversight of the project after the transfer. Now, according to the attached press release, he intends to have the Department of Energy conduct independent testing at Ward Valley, and then will require

another Supplemental EIS before deciding upon the conditions for transfer.

Every person and organization which has anxiously followed California's decade-long effort has concluded from this latest set of demands that the Clinton Administration has no intention of transferring land to California for our regional disposal facility. I cannot help but agree. There is no scientific basis for further testing prior to construction or legal requirement for a Supplemental EIS. These demands are purely political, and made for the sole purpose of delaying, if not terminating, the Ward Valley project. It is clear that, once these demands are met, more demands will be made. In short, because President Clinton doesn't trust the states to assume the obligations which Governor Clinton asked Congress to give the states, he has proven that the LLRW Policy Act does not work. Faced with this lack of political will to implement the policy he himself once supported, many now question the wisdom of expending further resources in a futile effort to further that policy.

The intransigence of the Clinton Administration in connection with the Ward Valley land transfer leaves me few options as Governor of California. The Ward Valley site is clearly the best site in California for LLRW disposal, a fact upon which my predecessor Governor Deukmejian and former President Bush agreed. All other sites, including the alternative site in the Silurian Valley, present potential threats to public safety not found at the Ward Valley site. The Silurian Valley site is also located on federal land, and there is no reason to believe that the Clinton Administration has any greater motivation to transfer that site.

Consequently, to continue the effort to establish a regional disposal facility, California would need to identify a site on privately-owned land which would be technically inferior to Ward Valley and would be unlikely to license in accordance with California's and my own uncompromisingly high standards for the protection of public health and safety. For these reasons, I would personally oppose identifying any other potential disposal site in California.

Therefore, as Governor of California, I am compelled to inform you that, because the Clinton Administration has made compliance with our obligations impossible, California will be unable to provide a regional disposal site for your state and the other states of the Compact during the tenure of this president. California will continue to seek title to the Ward Valley land, but will devote greater resources to a repeal of the LLRW Policy Act, and to the enactment of federal legislation making the federal government responsible for the disposal of LLRW.

The Department of the Interior has formally announced that California's LLRW generators are not harmed by its interference with the opening of the Ward Valley LLRW disposal facility because they have access to the disposal facility in Barnwell, South Carolina. Given the public safety threat to the good citizens of South Carolina, and the additional costs and exposure to liability to users, I find this suggestion questionable. Nevertheless, in order to make this an even marginally acceptable solution, I am calling upon the federal government to do all of the following:

Assume responsibility for assuring continued access for all California generators of LLRW to Barnwell;

Subsidize the amount of any transportation costs to Barnwell which exceed transportation costs to Ward Valley;

Ensure that California generators obtain any necessary permits for transportation across the United States and to Barnwell;

Indemnify California generators and transporters for any liability which might result from the necessity to transport California waste from coast to coast; and most importantly;

Hold California generators, including the University of California and other state entities, harmless from any federal or state cleanup related (Superfund or CERCLA) liability which they might potentially incur as a result of using a waste facility which is on a substantially less protective site than Ward Valley and which has already experienced tritium migration to groundwater.

If LLRW generators in your state have problems with storage or with use of Barnwell similar to those of California generators, I urge you to join with me in demanding similar relief.

Sincerely,

PETE WILSON.

#### WETLANDS AND THE NEW FARM BILL

Mr. GRASSLEY. Mr. President, I would like to enter into a colloquy with the Senator from Indiana, Senator LUGAR, who is the chairman of the Committee on Agriculture, Nutrition, and Forestry and who was a manager of the recent conference on H.R. 2854, the 1996 farm bill.

As the Senator from Indiana knows, we had a problem in Iowa in 1994 and 1995 with the Natural Resources Conservation Service delineating wetlands. It is my understanding that NRCS used aerial photography and soil surveys to review prior wetland delineations. In most cases, NRCS found additional wetland acreage on the farmland subject to this review.

This caused a lot of anxiety and uncertainty for these landowners. They had accepted the initial delineation, changed their farming practices accordingly and then, through no action of their own, received a new, more expansive delineation.

The Senator will recall that because of this situation I introduced a moratorium on new delineations until passage of the new farm bill. This moratorium passed the Senate by unanimous consent and was later accepted by the Department of Agriculture.

Mr. LUGAR. I would respond to my friend from Iowa that I am fully aware of the situation that he refers to in his State.

Mr. GRASSLEY. I am concerned that a change made to the Conference Report shortly before it was filed in the House may result in a similar situation occurring in the future. It is my understanding that the Conference Committee intended to give farmers certainty in dealing with wetlands. One way of accomplishing this goal was to allow prior delineations of wetlands to be changed only upon request of the farmer.

Mr. LUGAR. Mr. President, this is also my understanding.

Mr. GRASSLEY. After the conferees met, while the legislative language carrying out the various agreements was being finalized, the Department of Agriculture suggested a technical cor-

rection to this provision. Section 322 of the bill amends section 1222 of the 1985 farm bill to say that "No person shall be adversely affected because of having taken an action based on a previous certified wetland delineation by the Secretary. The delineation shall not be subject to a subsequent wetland certification or delineation by the Secretary, unless requested by the person \* \* \*."

My concern is that this could read to allow the Department to change delineations that have not yet been certified. I don't argue with this, per se. I am sure there is a need for granting NRCS this authority in some specific situations.

But again, I do not want a repeat of this situation in Iowa in 1994 and 1995. Specifically, I do not want the NRCS to use this language to conduct a massive review of wetland delineations. This will just cause further uncertainty and confusion in the farm community. It can only lead to ill will between our farmers and the NRCS and should be avoided at all cost.

Under the able leadership of Chairman LUGAR, we have made some very positive changes in the 1996 farm bill that will lead to a more cooperative relationship between farmers and the NRCS. I hope this progress will not be undermined by the provision I mentioned.

Mr. LUGAR. Mr. President, we expect that the Department of Agriculture will be mindful of the need to balance the very legitimate concerns that the Senator from Iowa raises today with the desires of producers for certainty in the identification of wetlands. In addition, the rights of producers to appeal decisions should be protected. The Agriculture Committee will monitor developments as the Department develops regulations to carry out the provisions of the newly enacted farm bill, Public Law 104-127. I also encourage my colleague from Iowa and all concerned parties to contribute their input when the regulations are put out for comment.

In summary, while we realize that some administrative formalities will be necessary to give producers certainty regarding the boundaries of wetlands, we do not expect large-scale, wholesale reviews of existing wetland determinations as a result of the new legislation.

#### WHO NEEDS AMBASSADORS?

Mr. KENNEDY. Mr. President, Richard N. Gardner, the U.S. Ambassador to Spain, recently addressed the American Society of International Law on the subject, "Who Needs Ambassadors?"

Ambassador Gardner, who served in the Department of State under President Kennedy, as Ambassador to Italy under President Carter, and now as President Clinton's Ambassador to Spain, is among the Nation's most highly regarded experts on international relations, and is uniquely qualified to answer this important question.

Ambassador Gardner is rightly concerned about the fervor of some to slash our already small foreign policy budget because of the simplistic view that the Nation's foreign policy requirements are less significant than during the cold war.

Ambassador Gardner emphasizes that our foreign policy before the cold war was "trying to create a world in which the American people could be secure and prosperous and see their deeply held values of political and economic freedom increasingly realized in other parts of the world." He also reminds us that this is still the purpose of our foreign policy.

There is a tendency by some to suggest that there is a lesser need for a U.S. presence abroad, and that in an era of instantaneous information, a fax machine is all we need to conduct foreign policy. As Ambassador Gardner points out, however, our embassies serve many important functions, not least of which are to build bilateral and multilateral relationships for mutual benefit, serve as the eyes and ears of the President and the State Department, and carry out U.S. policy objectives abroad. As Ambassador Gardner notes: "Things don't happen just because we say so. Discussion and persuasion are necessary. Diplomacy by fax simply doesn't work."

The foreign policy budget of this country is only about 1 percent of our total budget. Yet some in Congress propose to reduce it even further. As Ambassador Gardner states, further cuts "will gravely undermine our ability to influence foreign governments and will severely diminish our leadership role in world affairs."

Global interdependence is a fact of life. The United States foreign policy is best served by actively engaging with other nations, rather than reacting at greater cost to events we don't see coming because we are trying to conduct foreign policy on the cheap.

Mr. President, I believe that my colleagues will be interested in Ambassador Gardner's remarks and I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHO NEEDS AMBASSADORS?

(By Richard N. Gardner)

I was tremendously honored and pleased when Edith Weiss asked me to be the banquet speaker at this year's ASIL meeting.

Honored because I know how many illustrious statesmen and scholars have preceded me in this role. Pleased because your invitation gives me the chance to return from my diplomatic assignment in Madrid to be with many old friends, such as my Columbia Law School colleagues Oscar Schachter, Louis Henkin and Lori Damrosch, and with President Edie Weiss who took one of my seminars some twenty years ago when she came to Columbia Law School as a Visiting Scholar.

Edie, your Presidency of this Society is a splendid recognition of your achievements as teacher, public servant, and scholar. My congratulations also to Charles Brower, your