

**MAKING APPROPRIATIONS FOR THE DEPARTMENT OF THE INTERIOR
AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER
30, 1990, AND FOR OTHER PURPOSES**

October 2, 1989.—Ordered to be printed.

Mr. YATES, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2788]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 17, 19, 40, 42, 46, 51, 52, 53, 65, 66, 67, 68, 69, 73, 77, 80, 89, 90, 99, 101, 103, 108, 109, 115, 116, 117, 127, 130, 147, 154, 155, 156, 157, 158, 159, 160, 161, 162, and 163.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 20, 29, 30, 36, 56, 74, 75, 78, 82, 119, 125, 126, 141, 148, and 151, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert **\$442,084,000**; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert **\$5,961,000**; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$12,610,000; and the Senate agree to the same.

Amendment numbered 10:
That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$397,956,000; and the Senate agree to the same.

Amendment numbered 11:
That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$5,750,000; and the Senate agree to the same.

Amendment numbered 14:
That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$1,800,000; and the Senate agree to the same.

Amendment numbered 16:
That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$9,000,000; and the Senate agree to the same.

Amendment numbered 24:
That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$32,750,000; and the Senate agree to the same.

Amendment numbered 27:
That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$88,556,000; and the Senate agree to the same.

Amendment numbered 31:
That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$484,709,000; and the Senate agree to the same.

Amendment numbered 32:
That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:
In lieu of the sum named by said amendment insert \$178,525,000; and the Senate agree to the same.

Amendment numbered 33:
That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$56,060,000; and the Senate agree to the same.

Amendment numbered 35:
That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:
Restore the matter stricken by said amendment, amended as follows:
In lieu of the sum named insert \$64,000; and the Senate agree to the same.

Amendment numbered 37:
That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$174,759,000; and the Senate agree to the same.

Amendment numbered 38:
That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$105,035,000; and the Senate agree to the same.

Amendment numbered 41:
That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:
Restore the matter stricken and inserted by said amendment, amended to read as follows: \$1,035,534,000, including \$54,000,000 for conversion of tribal contracts and agreements to a calendar year basis as authorized by section 204(D)(1) of Public Law 100-472 (100 Stat. 2291), and; and the Senate agree to the same.

Amendment numbered 45:
That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$134,226,000; and the Senate agree to the same.

Amendment numbered 54:
That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$76,489,000; and the Senate agree to the same.

Amendment numbered 57:
That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:
In lieu of the sum proposed by said amendment insert \$935,000; and the Senate agree to the same.

Amendment Numbered 59:
That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

\$1,400 in environmental technology for biotechnology in waste management research.

The managers understand that the cost-shared Oregon metals initiative is expected to amount to a total project cost of \$5,000,000 over three years.

The managers agree that \$150,000 of the funds provided for subsidence research should be used for a characterization study at an abandoned iron ore mine site in Mine Hill, New Jersey, with an understanding that local, county or State funds will be identified to match the Federal share and that the total cost of the project will not exceed \$300,000. Further, the managers agree that the \$1,200,000 for the Marine Minerals Technology Center shall be allocated in the manner described in P.L. 100-202 (101 Stat. 1829-226).

Amendment No. 38: Earmarks \$105,035,000 to remain available until expended instead of \$97,885,000 as proposed by the House and \$105,935,000 as proposed by the Senate.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: : Provided further, That the Secretary is authorized to convey in fee the Cimarron Industrial Keyes Helium Plant in Keyes, Oklahoma, to the Oklahoma, on or before September 30, 1990, on terms mutually agreed on between the Secretary and the Authority: Provided further, That prior to conveyance, the Secretary shall complete the current effort to repair asbestos insulation on piping and equipment, including cleanup and disposal of asbestos containing debris: Provided further, That, as a condition of conveyance, the Cimarron Industrial Park Authority shall accept full responsibility for any remedial actions with respect to hazardous substances remaining at the plant after the date of conveyance

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment modifies language proposed by the Senate regarding conveyance of the Keyes Helium Plant to state that the plant has been decommissioned and to specify that the Secretary's responsibility with respect to asbestos cleanup is limited to completion of the current repair and cleanup project.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

The managers agree that, in addition to standardized data reporting, annual State evaluations and reports should identify specific accomplishments and areas in need of improvement and that the State oversight prototype project should be limited to no more than four States. The Committees are to be kept apprised of the status of the prototype project on a quarterly basis.

ABANDONED MINE RECLAMATION FUND

Amendment No. 40: Appropriates \$192,772,000 for the Abandoned Mine Reclamation Fund as proposed by the House instead of \$192,112,000 as proposed by the Senate.

The managers agree that the Office of Surface Mining Reclamation and Enforcement (OSM) should work with the States to help them identify approaches to improving their grant obligation rates and report to the Committees, no later than two weeks prior to the first of the OSM's fiscal year 1991 budget hearings before the Committees, on the results of OSM's consultations with the States.

The managers ask that the OSM identify the remaining available funds for acquisition and relocation activities under Public Law 98-181 (97 Stat. 1294) and report to the Committees on the amount of those funds which are considered in excess of the requirements for which they were appropriated. Further, the OSM is to report to the Committees on the advisability of funding a joint demonstration program which would provide surplus heavy equipment for land reclamation in the Pennsylvania counties of Luzerne, Columbia, Montour, Northumberland, Carbon, Monroe and Sullivan. The report should include a detailed description of what the demonstration program would entail and information on the total estimated cost for the project by fiscal year. The managers neither endorse nor oppose this project. The Committees will review the merits of the project after receipt of the OSM report.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Amendment No. 41: Appropriates \$1,035,534,000 for operation of Indian programs instead of \$1,065,574,000 as proposed by the House and \$965,126,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of increases of \$356,000 for school operations, including \$256,000 for the Writers Workbench demonstration project, ND and \$100,000 for a pilot project for the Mississippi Band of Choctaw Indians; \$1,525,000 for continuing education; \$500,000 for employment development for the Crownpoint Institute of Technology; \$900,000 for real estate and financial trust services; and \$250,000 for general administration; and decreases of \$500,000 for tribal government services, for new tribes funding; \$6,933,000 for Indian services—tribe/agency operations; \$75,000 for economic development; \$520,000 for natural resources, wildlife and parks; \$1,783,000 for natural resources—tribe/agency operations; \$700,000 for Indian rights protection; and \$23,000,000 for tribal contract conversion.

The managers encourage the bureau to work with the Hopi tribe to identify resources within the funds provided through the education formula to address the curriculum development needs of the tribe. The managers remain concerned about lack of adequate funding for schools such as the Hopi school to meet BIA education standards, and direct that the report on the lack of progress in meeting education standards requested in the House report be submitted to the Committees by no later than November 1, 1989. The managers have included funding, as proposed by the House, to re-

store the year 1989 funding level for substance and alcohol abuse counselors. The managers intend that the Bureau continue to try to hire certified substance abuse counselors wherever possible, or use the funds provided to secure additional substance abuse training for existing counselors or new hires.

For continuing education, the increase over the House consists of decreases of \$200,000 for Haskell Indian Junior College, \$100,000 for the Southwestern Indian Polytechnical Institute, and increases of \$1,375,000 for Title I tribally controlled community colleges, and \$450,000 for Title II, the Navajo Community College. The managers encourage the tribal colleges to continue their efforts to reduce costs and secure other sources of funds.

Within the total funding provided for new tribes, the managers intend that \$500,000 be made available to the Coquille Tribe and \$500,000 be made available to the Lac Vieux Desert Tribe.

With regard to the \$500,000 provided for the Crownpoint Institute, the managers agree this is the last time funding will be provided unless authorizing legislation is enacted.

Under Indian services—tribe/agency operations, the managers have provided increases over the House of \$50,000 for Penobscot community fire protection, and \$380,000 for the Navajo Nation government reform task force to be matched equally by the tribe; and decreases of \$323,000 for tribal courts, \$2,000,000 for social services, associated with the child abuse initiative, \$2,100,000 for law enforcement, and \$3,000,000 for self-determination grants. Of the funds recommended for tribal courts, the managers recommend the following changes from the House level: decreases of \$200,000 for Cheyenne River Sioux, \$150,000 for the Northwest Intertribal Court System, \$23,000 for the Lower Elwha Tribe, and \$50,000 for the Standing Rock Sioux; and increases of \$50,000 for Pasqua Yaqui and \$50,000 for St. Regis Mohawk. Within the increase of \$200,000 over the budget for the Northwest Intertribal Court System, the managers intend for the Lower Elwha Tribe to be included in the system. Of the funding recommended for law enforcement, the following changes to the House recommendation are provided: decreases of \$1,500,000 for juvenile detention centers staffed, \$50,000 for Lower Elwha, \$50,000 for Penobscot, \$100,000 for Lummi, \$100,000 for Cheyenne River Sioux, \$50,000 for Ramah Navajo, \$50,000 for Uintah and Ouray, \$50,000 for Rosebud Sioux, \$100,000 for Micosukee, \$50,000 for St. Regis Mohawk, and \$100,000 for Standing Rock Sioux; and an increase of \$100,000 is recommended for the San Carlos Apache.

With respect to contract support funds provided to the Bureau of Indian Affairs, the managers direct the Bureau and the Inspector General to take steps to notify tribes that indirect cost rates may be negotiated to include the administrative costs of operation of tribal departments of education. Because of the specific situation of the Mississippi Band of Choctaw Indians, the managers have included \$100,000 for a one-year pilot project for establishment of a reservation-wide education system. The Committees will review the results of this project before providing any additional funds for tribal departments of education. In addition, beginning with the fiscal year 1991 budget request, the Bureau shall identify separately the funds necessary to fund fully the administrative cost grants

to schools operated by tribes and tribal organizations pursuant to P.L. 93-638 contracts and P.L. 100-297 tribally controlled school grants. The managers wish to reiterate that indirect costs related to construction are to be funded only from the "Construction" appropriation account.

The managers remain concerned about cost estimates associated with the new requirement of providing general assistance in the States of Washington and Oregon, and the Bureau's estimate that only 2.2 percent of eligible persons in Washington State will participate in the general assistance program. The Committees have provided \$1,200,000 for this purpose, but should this amount not prove sufficient to meet the requirements of these States, the Bureau should notify the Committee promptly of the additional funds necessary. The Bureau should also report by no later than March 1, 1990 on the number of persons, by tribe, participating in the general assistance program in Washington and Oregon, and on the total estimated cost in fiscal year 1990 of the program in the two States.

The decrease from the House level in economic development consists of a decrease of \$125,000 for the grant to Michigan tribes, and offsetting increases of \$20,000 for the Indian Arts and Crafts Board to allow the Blackfeet tribe to contract for museum operations, and \$30,000 for the proposed Kootenai tribe land transfer.

Within natural resources, the managers intend that \$50,000 of the funds provided for forest products marketing assistance be used to update the Intertribal Timber Council's study on forest products marketing and business development. Under water management and development, the managers are aware of the requests of the Fort Belknap, Navajo, Nez Perce, Standing Rock Sioux, Rosebud Sioux and Yakima tribes for water management funds, and expect that these requests will be reviewed and funded to the maximum extent possible within the funds provided, including funds to continue the Navajo water monitoring program funded in prior years.

For natural resources, wildlife and parks, the decreases from the House level consist of \$70,000 for the U.S./Canada Pacific Salmon treaty, \$100,000 for Columbia River tribes planning, \$100,000 for unresolved hunting and fishing rights, \$50,000 for the Quinault tribe for fisheries habitat restoration on the Queets River, \$50,000 for Suquamish fisheries management, \$50,000 for Stillaquamish fisheries management, and \$100,000 for the Native American Fish and Wildlife Society. The funding agreed to by the Committees for the Upper Columbia United Tribes should be used only in direct support of tribal needs.

The decrease for natural resources—tribe/agency operations consists of decreases of \$633,000 for forestry and \$1,150,000 for wildlife and parks. Within forestry, the reduction from the House level includes decreases of \$133,000 for new lands associated with the Grand Ronde, \$200,000 for the San Carlos Apache, and \$300,000 for the White Mountain Apache.

The managers recommend no change to the total funding provided by the House for natural resources—tribe/agency operations for water resources. Within that total, however, the managers recommend a decrease from the House level of \$150,000 for the Umatilla tribe, which will be funded within the water management line-

item, a 7 increase of \$150,000 for ongoing efforts in North Dakota to solve water disputes, including the development of a water management plan.

The reduction from the House level for natural resources—tribe/agency operations includes the following decreases for wildlife and parks: \$100,000 for the Cheyenne River Sioux, \$50,000 for the Sault Ste. Marie, \$200,000 for Yakima wildlife and fish, \$150,000 for the Oglala Sioux, \$50,000 for Umatilla fisheries, \$50,000 for the St. Regis Mohawk, \$300,000 for the Tulalip fisheries, \$100,000 for the Karuk, \$50,000 for the White Earth tribe, and \$100,000 for the Nez Perce tribe.

Within trust responsibilities, the managers recommend a decrease of \$200,000 to the House level for remedial investigations of environmental quality, and \$500,000 for attorneys' fees. With respect to the *U.S. v. Oregon* litigation, the managers have concurred in the House funding of \$300,000 for the Shoshone-Bannock tribe to address imbalances in funding provided for the various tribes participating in the litigation. It is the managers' intent that future funding related to this litigation be made available equitably to all the parties involved. Within water rights and negotiation, the Bureau is to provide \$100,000 for contract studies for the Navajo and Hopi tribes and \$1,300,000 for the Little Colorado River adjudication for claim preparation costs. No funds are earmarked for the Western Shoshone Nation.

For real estate and financial trust services, the managers have included increases above the House level of \$400,000 for cadastral surveys related to the Arkansas Riverbed, and \$500,000 for the trust fund accounting contract. The managers are aware of the tribes' concerns about unauthorized third party occupation of the riverbed lands which prevents the tribes from benefitting fully from the use and development of those lands. Therefore, the managers direct the Bureau of Land Management to expedite completion of the full 96 miles of needed riverbed surveying and to recommend a funding level for fiscal year 1991 necessary to continue this expedited pace of surveying. The managers direct that the Bureau take steps to address the concerns raised over account reconciliation of trust funds. The Bureau should take all possible steps to reconcile accounts to the maximum extent possible, and an independent party should review the Bureau's reconciliation efforts and certify that no further reconciliation can be achieved before such accounts are transferred under the contract. The managers are also aware of concerns raised by another Committee of Congress with respect to the technical sufficiency of the contract and the operation of the software. It is the managers' expectation that the Bureau will address these concerns and will keep the Committees fully informed as to the steps taken to address these concerns.

For facilities management, the managers have concurred in the funding level proposed by the House. The funding provided for the facilities operation and maintenance program is to be distributed using the new allocation formula. With respect to the schools which serve the Eight Northern Pueblos, the managers understand their high priority needs will be addressed through the facilities improvement and repair and minor improvement and repair programs of the "Construction" appropriation account.

Within available funds provided to Alaska, \$300,000 shall be provided to establish a joint Federal-State Commission on Policies and Programs Affecting Alaska Natives.

The managers are concerned about steps being considered which would effect the transfer of facility management functions under provisions in the Indian Education Act Amendments of 1988, prior to consultation with and agreement by the Appropriations Committees. In light of the reprogramming guidelines with respect to reorganizations and concerns raised over consultation, the managers reiterate that no reorganization or transfer changes should be undertaken without approval by the Appropriations Committees. Prior to implementation of Section 5112(b)(1)(B) of the Indian Education Act Amendments of 1988 (P.L. 100-297), the Department is to submit a reprogramming proposal specifically identifying those facility management positions to be affected, addressing funding implications for continuing to carry out non-education facility requirements, and specifying the schedule for implementation.

Under general administration, the managers have recommended increases above the House level of \$100,000 for departmental billings, \$100,000 for position staffing in the automated data processing program, and \$250,000 for a study of the costs associated with the recently enacted liability insurance provision. For departmental billings, the Department should include justification of such increases in the future in both the Bureau of Indian Affairs and Office of the Secretary budget justification documents. With regard to the liability insurance issue, as a temporary measure, the managers have included language in Title III of the Act extending coverage under the Federal Tort Claims Act to tribal contractors of both the Bureau and the Indian Health Service. In the interim, the managers expect the Bureau to work with the Indian Health Service and the Double Eagle, Inc. risk management group to address the cost implications of various options for extending liability coverage to tribal contractors. The managers expect these groups to work together, and to provide a joint report to the Committee by February 1, 1990 identifying the costs and benefits of various liability coverage alternatives.

On the matter of a field station at Neah Bay, Washington, the managers understand that the existing office has been established through funds available to the Portland Area, Olympic Agency. These funds should be transferred to the new agency office at Neah Bay for operation. The managers expect the Bureau to prepare a report on the staffing patterns at the various offices in the Portland area, including the identification of any shortfalls. The managers expect continued operation of the Klamath field office in fiscal year 1990 at current staffing levels.

The managers remain concerned about funding for the Penobscot and Passamaquoddy tribes of Maine. The managers expect the Bureau to conduct a comparison and analysis of the funding available to the tribes under the jurisdiction of the Eastern area office, along with data regarding the service population, the trust land base, and other relevant factors, and submit it to the Committees by March 1, 1990. This information should allow the Committees to assess the manner in which available resources are being allocated.

Should this report suggest an inequitable allocation of funds within the Eastern area, the managers may in the future request additional analyses regarding the needs of these Maine tribes.

For tribal contract conversion funds, the managers have provided \$54,000,000 in budget authority. It is the intent of the managers that these funds not be expended until the Bureau reports, by March 1, 1990, regarding the logistical and accounting needs of this conversion. Potential future conversion costs should also be analyzed.

Amendment No. 42: provides \$2,180,000 for litigation support as proposed by the House instead of \$1,480,000 as proposed by the Senate.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following: "Provided further, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individuals has been provided with an accounting of such funds"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

As discussed earlier, the managers expect the Bureau to make every effort to complete reconciliation of tribal and individual trust funds to the maximum extent possible, and this effort should be reviewed and certified by an independent party.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes the payment of general assistance funds for dependent children of eligible Job Corps participants in Arizona at the full State AFDC A-2 grant level.

CONSTRUCTION

Amendment No. 45: Appropriates \$134,226,000 instead of \$134,379,000 as proposed by the House and \$119,671,000 as proposed by the Senate.

The net decrease below the House level consists of increases of \$65,000 for the Supai Village microwave transmitter, Truxton agency; \$235,000 for irrigation improvements for the Isleta Pueblo; \$1,500,000 to complete construction of the Standing Rock Sioux irrigation project; \$1,280,000 for the Indian unit of the Fort Yuma irrigation project; and \$1,000,000 for the Wind River delivery system; and decreases of \$2,749,000 for the San Carlos irrigation project, \$100,000 for the Milk River irrigation project; \$1,000,000 for the housing improvement program; and \$384,000 for the Nambe Falls road.

An amount of \$1,000,000 is provided, which will allow completion of the Pushmataha Road in Oklahoma.

With respect to the funds provided for advance planning and design, the managers understand that these funds will be sufficient to conduct the necessary Planning of New Institutions (PONI) studies for at least the first five detention facilities on the list, including Colville, and to award at least one architectural and engineering design contract.

Funds are not earmarked above the facilities improvement and repair request for the Hannahville, MI school. The Bureau should proceed with the planning for phase II of this project while phase I construction is underway, and should funds become available to begin construction of phase II during fiscal year 1990, approval to reprogram funds for this purpose should be requested.

The managers expect the Bureau of Indian Affairs and the Office of Construction Management to work with the Indian Health Service to prepare a joint report, due March 1, 1990, regarding efforts to include detoxification facilities in detention centers.

The reduction of \$1,000,000 to the housing improvement program will be provided in the construction account, beginning in fiscal year 1990. There should be no impact on program level or accomplishments.

Amendment No. 46: Deletes language proposed by the Senate allowing the transfer of funds made available for the Safety of Dams program to the Bureau of Reclamation.

The managers are concerned about the safety of dams program as presently configured under the Bureau of Indian Affairs. The managers will expect a full report from the Bureau, to be submitted by December 1, 1989 on plans to restructure the dam safety program. The managers are particularly concerned about the issues and deficiencies identified in the recent audit conducted by the Inspector General. The report should address the issue of costs and personnel necessary to bring the dams into compliance with safety requirements. If transfer of the safety of dams program to the Bureau of Reclamation is considered as an option, the report should include the steps that would be taken to ensure that tribal concerns and input are adequately addressed, and the impact on P.L. 93-638 contracting. The program should not be transferred until the Committees and tribes have had an opportunity to review the report.

MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds appropriated for payment under the Aleutian and Pribilof Island Restitution Act (P.L. 100-383) are not subject to the suburface estate revenue sharing provisions of ANCSA.

NAVAJO REHABILITATION TRUST FUND

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur amendment of the Senate which adds a new appropriation account to fund the Navajo Rehabilitation Trust Fund, provides \$800,000 as proposed by the Senate instead of nothing as proposed by the House, and includes language providing for the funds to remain available until expended.

MISCELLANEOUS TRUST FUNDS

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which establishes a new account, "Miscellaneous Trust Funds", and includes language providing that the Secretary shall retain excess interest earned on trust funds between January 1, 1987 and February 28, 1989, to compensate the trust funds for interest that would have been earned between June 30, 1985 and December 31, 1986, if all available trust funds had been invested.

ADMINISTRATIVE PROVISIONS

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: : Provided, That the property known as "Madrona Point" located on Orcas Island, Washington, shall be acquired in trust by the United States from the Lummi Indian Tribe under the conditions that it shall be preserved in its natural condition and shall not be developed for any commercial or residential purpose, except for a caretaker dwelling, a visitor or cultural center, or the interment of human remains: Provided further, That now and hereafter, the tribe, by contract, may impose additional restrictions: Provided further, That after acquisition by the United States, the property shall permanently be subject to the civil, regulatory (not including tax) and criminal jurisdiction of the State of Washington and its political subdivisions, concurrently with the Lummi Indian Tribe: Provided further, That except as provided herein, such grant of jurisdiction to the State shall have the same limitations as set forth in 18 U.S.C. 1162(b)

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment deletes Senate proposed language certifying a Native corporation as a Native Group under the Alaska Native Claims Settlement Act, and includes conditions for the acquisition for the Lummi Tribe of tribal burial grounds at Madrona Point in the State of Washington, for which the amount of \$2,000,000 is included in the construction account of the Bureau of Indian Affairs.

These funds shall be expended only on the condition that a final agreement is reached between San Juan County, WA, and the Lummi Indian Tribe pursuant to the memorandum of understanding reached between these parties on July 10, 1989.

The Madrona Point property on Orcas is currently planned and permitted for development. In order to preserve this property, the

Department of the Interior shall pursue the acquisition of this property as rapidly as possible.

Amendment No. 51: Deletes language proposed by the Senate deeming tribes or tribal organizations to be employees of the Department of the Interior while carrying out contracts, grant agreements, or cooperative agreements.

Amendment No. 52: Deletes language proposed by the Senate that would have afforded the protection and coverage of the Federal Tort Claims Act to tribal contractors performing functions pursuant to the Indian Self-Determination and Education Assistance Act of 1975, as amended.

Amendment No. 53: Deletes language proposed by the Senate requiring the Secretary of the Interior to request appropriations sufficient to reimburse the Treasury for claims paid pursuant to the extension of the Federal Tort Claims Act to tribes, tribal organizations, or tribal employees. This amendment is addressed in Amendment No. 164.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

Amendment No. 54: Appropriates \$76,489,000 for administration of territories instead of \$76,789,000 as proposed by the House and \$76,204,000 as proposed by the Senate. The decrease to the amount proposed by the House consists of increases of \$1,725,000 for grants to American Samoa, including \$1,000,000 for tank farm improvements and \$725,000 for community centers and gymnasiums, \$250,000 for technical assistance, \$225,000 for the grant to the Close Up Foundation, and \$500,000 for the maintenance assistance fund; and decreases of \$2,000,000 for Guam hospital improvements and \$1,000,000 for Virgin Islands prison barracks construction.

None of the amounts included for drug abuse grants are to be released until a plan for the use of such funds has been prepared and submitted by each of the Governments. The plans should address funding needs in order of priority and should be reviewed by the National Drug Policy Board.

The funds provided for tank farm repairs should not be released until a commitment for a matching amount at least equal to the Federal contribution has been identified from other, non-Federal sources. The managers expect the American Samoa Government to raise the terminal user fee to 2 cents per gallon, with the additional revenues to be used to establish a tank farm maintenance fund to assure that future maintenance needs are addressed. The managers direct the Department of the Interior to work with the Department of Defense to identify additional funding for repair of the tank farm facility, commensurate with DOD's use of the tank farm.

The managers expect the Virgin Islands Government to propose a reprogramming of unobligated available funds, if additional funds are needed to meet the balance of prison construction needs. The managers have agreed to provide funding for the brown tree snake as a separate line item within the territorial administration program.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and con- the amendment of the Senate with an amendment providing 543,000 for technical assistance, maintenance assistance and grants to territorial governments instead of \$72,843,000 as proposed by the House and \$73,258,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the increases and decreases listed in Amendment No. 54, plus an increase of \$1,000,000 for the brown tree snake in Guam.

Amendment No. 56: Provides \$2,946,000 for salaries and expenses as proposed by the Senate instead of \$3,946,000 as proposed by the House.

Amendment No. 57: Provides \$935,000 for a grant to the Close Up Foundation instead of \$710,000 as proposed by the House and \$1,025,000 as proposed by the Senate.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for the maintenance assistance program to be made available to all the territorial, Trust Territory and Freely Associated Governments, with participation and cost-sharing to be determined by the Secretary.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Amendment No. 59: Appropriates \$33,339,000 for the Trust Territory of the Pacific Islands instead of \$34,102,000 as proposed by the House and \$32,164,000 as proposed by the Senate. The decrease below the amount proposed by the House consists of increases of \$200,000 for Trust Territory administration and \$250,000 for the public auditor and special prosecutor for Palau; and decreases of \$100,000 for medical supplies for Palau, \$1,000,000 for the Palau hospital, and \$113,000 for CIP deficiencies.

With regard to the funds for CIP deficiencies, the managers agree that these funds shall be allocated according to the table in the Senate report (Report 101-85), with the addition of \$75,000 for the Majuro hospital project. The managers intend that these funds to correct deficiencies are not to be made available until the receiving government has initiated participation in the maintenance assistance program established under the Administration of Territories appropriation account.

COMPACT OF FREE ASSOCIATION

Amendment No. 60: Appropriates \$23,260,000 for the Compact of Free Association instead of \$24,760,000 as proposed by the House and \$22,260,000 as proposed by the Senate. The increase over the amount proposed by the Senate is \$1,000,000 for the Ebeye dock. The remaining funds for the dock should be identified from other sources.

With regard to the Enewetak support program, the managers expect that the local government will assume full management responsibility for the program in 1991. In order for this to happen, the managers assume that the Departments of the Interior and

Energy and their contractors will cooperate fully with the Enewetak local government and Marshall Islands government in providing whatever assistance, training or information is needed.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates \$51,045,000 for the Office of the Secretary instead of \$51,295,000 as proposed by the House and \$51,716,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease to the amount provided by the House includes an increase of \$50,000 for the Assistant Secretary for Fish and Wildlife and Parks and decreases of \$200,000 for environmental project review and \$100,000 for the Office of Hearings and Appeals. The \$300,000 increase over the budget request for environmental project review is to help meet Departmental responsibilities with other agencies in the area of oil spills and other hazardous waste problems.

The managers have no objection to adjustments in the Office of the Secretary for the Federal Financial System for funds budgeted in the Office of the Solicitor, the Office of Inspector General and Construction Management.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following: *Provided, That Alaskan oil spill damage assessment shall continue at least through September 30, 1990.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment assures that the Department of the Interior will continue assessment of damage from the Exxon Valdez oil spill through September 30, 1990 and deletes House language which would have prohibited establishment of a separate office for the Secretary of the Interior outside Washington, D.C., based on the Secretary's assurance that such an office will not be established.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment insert: *\$750,000*
The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides \$750,000 for the National Indian Gaming Commission instead of nothing as proposed by the House and \$1,000,000 as proposed by the Senate. The managers agree that there are no restrictions on the immediate availability of the funds.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 64: Restores House language stricken by the Senate providing that the name of Mount McKinley shall not be changed, amended to make the provision applicable only to fiscal year 1990.

Amendment Nos. 65-69: Restore House proposed section numbers changed by the Senate.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *publishing draft environmental impact statements until five months after the President's Outer Continental Shelf Task Force releases its report to the President on Lease Sales 91, 95 and 116 or for the conduct in fiscal year 1990 of*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment allows for a period of public review of the President's OCS Task Force report recommendations, which are scheduled to be released on January 1, 1990, before proceeding with the publication of draft environmental impact statements for California OCS Lease Sales 91, 95 and 119.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *final environmental impact statements,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment restores final environmental impact statements to the list of leasing steps precluded from being conducted in fiscal year 1990 for OCS Lease Sales 91, 95 and 119.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have allowed prelease seismic studies which do not involve explosives and limited types of geological activities such as grab samples and shallow coring using pneumatic drives or pistons. The managers expect the MMS to consult with and carefully consider the recommendations of all concerned parties prior to

granting permits for high energy seismic surveys. The managers do not intend for the restrictions set forth in this section to apply to areas covered by existing leases.

Amendment No. 73: Restores House proposed section number changed by the Senate.

Amendment No. 74: Deletes language proposed by the House on offshore Mid-Atlantic oil and gas prelease restrictions.

Amendment No. 75: Deletes language proposed by the House restricting calls for information, tract selection, and environmental impact statements for offshore Mid-Atlantic oil and gas lease sales in a specified area.

The managers agree that the MMS should consider the areas under moratoria in the Mid-Atlantic as a separate deferral option in the environmental impact statement for OCS Lease Sale 121.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have allowed prelease seismic studies which do not involve explosives and limited types of geological activities such as grab samples and shallow coring using pneumatic drives or pistons. The managers expect the MMS to consult with and carefully consider the recommendations of all concerned parties prior to granting permits for high energy seismic surveys.

Amendment No. 77: Restores House proposed section number changed by the Senate.

Amendment No. 78: Deletes language proposed by the House requiring that any new construction of OCS vessels, rigs, platforms or other structures be built from articles, materials or supplies at least 50 percent of which by cost shall have been produced or manufactured in the United States and that fabrication occur in the United States unless a waiver is granted by the Secretary of the Interior. The managers recognize that the design and manufacture of equipment used in the exploration and production of America's offshore oil resources is an important strategic American industry and the managers will continue to closely monitor developments in this area to assure that the industry remains a viable one. As such, the managers again urge the oil and gas industry, in every possible instance, to contract with U.S. manufacturers and fabricators for oil drilling and production equipment. Absent progress in this area there may be a need to include language such as the "Buy-Build America" provision.

The managers understand there are plans underway to construct a deep water platform in the Gulf of Mexico. The managers intend to closely monitor this project and expect the industry to utilize American contents and fabrication to the maximum extent possible.

Amendment No. 79: the amendment changes the section number proposed to "115".

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

"Sec. 118. Notwithstanding any other provision of law, the term "Class II gaming" in Public Law 100-497, for any Indian tribe located in the State of Minnesota, includes, during the period commencing on the date of enactment of this Act and continuing for 365 days from that date, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated, requested the State of Minnesota, no later than 30 days after the date of enactment of Public Law 100-497, to negotiate a Tribal-State compact pursuant to section 11(d)(3) of Public Law 100-497."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment will allow one additional year for tribes in Minnesota to enter into a compact with the State of Minnesota to operate Class II games under the Indian Gaming Regulatory Act of 1988.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted in said amendment, insert the following:

SEC. 119. This section shall be effective only on October 1, 1989. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to restrict the applicability of this provision to one day.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 120. Section 13 of Public Law 93-531, as amended (25 U.S.C. 460d-12), is hereby amended by inserting the word "and" after the semicolon at the end of subparagraph (b)(2), by striking out the semicolon and the word "and" after the word "subsection" at the end of subparagraph (b)(3) and inserting a period in lieu thereof, and by striking out all of subparagraph (b)(4); Provided, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is hereby amended by inserting after subsection (d) the following new subsection:

"(e) by December 1, 1989, the Secretary of the Interior, with the advice of the Navajo Tribe and the Office of Navajo and Hopi Indian Relocation, shall submit to the Congress a conceptual framework for the expenditure of the funds authorized for the Navajo Rehabilitation Trust Fund. Such framework is to be consistent with

Amendment No. 80: Restores House language referencing a prior agency designation by the Secretary of the Interior with respect to relocation to Avondale, Maryland.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *pursuant to section 17 of Public Law 100-440 (102 Stat. 1743), the Secretary shall designate, within 60 days of enactment of this Act, which Department of the Interior agency component or*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that the Secretary should revisit the question of which Interior agency or organizational component is most suitable for relocation to the Avondale, Maryland site formerly occupied by the Bureau of Mines as a research laboratory. The organization designated by the Secretary is to consist of no fewer than 400 people including Federal and on-site contract staff.

While public transportation is available in close proximity to the Avondale site, there is not a subway stop planned within easy walking distance of the facility. For this reason, and because the site is not readily convenient to the main Interior headquarters building, the managers are concerned about the impact the move to Avondale may have on employees within the designated organization. The managers expect the Department to make every effort to minimize adverse impacts on the employees who will be relocated to Avondale. At a minimum this should include employee counseling on the move and, to the extent practicable, assistance in placing in comparable positions elsewhere in the Department those employees who choose not to relocate. Further, the managers expect all of the designated organization to be resident at Avondale. Top management of the designated organization should not be housed at a location separate from the Avondale facility. In addition, the Secretary, in designating an organization for relocation, should consider the extent to which needed support personnel should be collocated with that organization at Avondale.

Amendment No. 82: Deletes House proposed limitation on the expenditure of funds for consolidation of the Office of Surface Mining Reclamation and Enforcement in Avondale, Maryland as proposed by the Senate.

Amendment No. 83: The amendment changes the section number to "116". Section 116 does not prohibit the Fish and Wildlife Service from entering into a cooperative agreement with a nonprofit conservation organization for the maintenance and management of existing facilities on Matagorda Island, Texas, provided that the primary use of such facilities would involve wildlife oriented educational activities.

Amendment No. 84: The amendment changes the section number to "117".

Amendment No. 85: The amendment changes the section number to "116".

the purposes described in subsection (d) of this section." Provided further, that section 92 of Public Law 93-591, as amended (25 U.S.C. 1630), is further amended by redesignating subsection (e) as subsection (f), and by redesignating subsection (f) as subsection (g).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This language clarifies the responsibilities of the Secretary of the Interior with respect to the Navajo Rehabilitation Trust Fund. The managers agree that the Secretary should prepare a report to the Congress, by December 1, 1989, which provides a framework for the use of the Navajo Rehabilitation Trust Fund. The report should provide a long-term conceptual plan which addresses the problems resulting from relocation and the purposes of the trust fund with respect to addressing those problems. The report is to be coordinated with the Navajo Nation and with the Office of Navajo and Hopi Indian Relocation. Further the managers expect the Navajo Tribe to provide the Committees, by February 1, 1990, with a report on how funds appropriated in fiscal year 1990 for the trust fund will be expended, consistent with the framework reported by the Secretary. The managers agree that, prior to submission to the Committees, the report shall be submitted concurrently for review and comment to the Commissioner of the Office of Navajo and Hopi Indian Relocation and the Secretary of the Interior. Those comments and the response to them by the Navajo Tribe are to be submitted to the Committees along with the report. The Secretary will have final approval authority on all expenditures from the Fund. Because this appropriation eventually is to be repaid from the proceeds of the Paragon Ranch, the managers expect the Committees to be kept apprised of progress in developing the coal resources on the Paragon Ranch. The managers expect to see progress in this area before approving any future appropriations.

Amendment No. 89: Deletes Senate provision requiring a report within 90 days on steps to be taken to further research on an inexpensive means of converting salt water to fresh water. The managers direct the Secretary to provide such a report to the Appropriations Committees and the authorizing committees with jurisdiction over water research within 90 days of enactment of the accompanying bill.

Amendment No. 90: Deletes Senate provision regarding restrictions on the procurement of advisory or assistance services by the Department of the Interior.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

Amendment No. 91: Appropriates \$147,182,000 for forest research instead of \$149,485,000 as proposed by the House and \$142,892,000 as proposed by the Senate. The net decrease from the amount proposed by the House consists of the following increases: for forest

protection research, \$300,000 for dogwood anthracnose; for resource analysis research, \$70,000 for hardwood insect research at Princeton, WV; for timber management research, \$58,000 for growth and yield research, and \$122,000 for silviculture and genetics research at Moscow, ID, \$182,000 for habitat classification research at Boise, ID, \$150,000 for timber management alternatives at Monticello, AR, and \$50,000 for Northeast spruce fir research at Orono, ME; for forest environment research, \$106,000 for sedimentation research at Boise, ID, \$53,000 for streamside systems research at Seattle, WA, \$250,000 for forest/atmosphere monitoring in Vermont (to be incorporated into the global climate change research program), \$112,000 for watershed management research at Parsons, WV, and \$146,000 for hydrologic evaluation at Oxford, MS; for forest products research, \$438,000 for timber bridge research, including \$288,000 at Madison, WI and \$150,000 for cooperative agreements with West Virginia University, and \$85,000 for hardwoods utilization research at Princeton, WV; and the following decreases: for forest protection research, \$50,000 for tree stress research at Hamden, CT, \$106,000 for fusiform rust research at Athens, GA, \$159,000 for gypsy moth research at Corvallis, OR, \$106,000 for wood decay research at Madison, WI, \$200,000 for fire suppression research at Missoula, MT, \$360,000 for global climate change research, and \$100,000 for tropical forestry research; for resource analysis research, \$180,000 for fire economics research at Riverside, CA, \$85,000 for recreation research at Burlington, VT, and \$50,000 for tropical forestry research; for timber management research, \$106,000 for pine research at Pineville, LA, \$104,000 for growth and yield research at St. Paul, MN, \$106,000 for research on nitrogen-fixing plants at Research Triangle Park, NC, \$106,000 for vegetation control research at Macon, GA, \$124,000 for long-term productivity research at Portland, OR, \$132,000 for global climate change research, \$300,000 for tropical forestry research, and \$250,000 for old growth research; for forest environment research, \$112,000 for coldwater fish habitat research at Blacksburg, VA, \$106,000 for climate change at Otto, NC, \$190,000 for global climate change research, \$197,000 for tropical forestry research, and \$840,000 for spotted owl research; and for forest products research, \$106,000 for combustion products research at Madison, WI, \$100,000 for surface metallurgy research at the Oregon Graduate Center and Madison, WI, and \$100,000 for tropical forestry research.

Included within the total funding provided is an increase of \$1,051,000 for old growth research, including \$750,000 to initiate the old growth management research and demonstration project; and an increase of \$1,170,000 for accelerating spotted owl research. The managers request that the Forest Service provide the Committees with a report describing the expected products and timelines for completion of field research and publication of results from the old growth and spotted owl research efforts. The Forest Service should also include estimates of funding necessary to accelerate publication of final reports.

compr... ve cost-shared program for a PEM fuel cell propulsion system with the goal of a proof-of-concept test-bed vehicle in the mid-to-late 1990's. Cost-sharing from other sources such as the California South Coast Air Quality Management District also should be sought. To the extent feasible existing work in Energy Storage should be coordinated and integrated with this program, including work on electrochemical research, and membrane technology.

12. the Hawaii methanol project is included in the alternative fuels utilization program at \$300,000;

13. funding for the Scranton mine water heat recovery and district heating and cooling projects is the final increment for these activities; and

14. the Department of Energy has failed to meet Appropriations Committee reporting deadlines for a number of requests made during the fiscal year 1989 appropriations process. Most notably, the Department was asked to submit a report related to the operation of the Weatherization Program by February 1, 1989. A letter was received from the Assistant Secretary for Conservation and Renewable Resources requesting an extension until June 1989. The managers note that this request for an extension was dated after the original due date. Subsequently, the report was not delivered to the Committees until September, more than three months after the extended deadline, with no explanation for the delay.

The Committees request such reports to assist in evaluating program performance and funding needs. Clearly the Department submitted this report much too late to be useful during the Committees' deliberations on fiscal year 1990 budget requests, despite repeated requests for its timely submission. Consequently, the managers expect the Secretary to develop a formal system to track requests by the Committees on Appropriations. This system should include as a minimum all reports requested from the Department in either the House or Senate Committee reports or in this Statement of the Managers, listing the subject of the report; the due date; and internal dates for clearance by appropriate offices within the Department to ensure timely submission to the Congress. A listing of such reports should be transmitted by the Secretary to the Committees not later than November 1, 1989.

Amendment No. 123: Earmarks \$203,000,000 for State energy conservation grant programs instead of \$200,000,000 as proposed by the House and \$205,000,000 as proposed by the Senate. The managers agree that the additional \$3,000,000 above the amount earmarked by the House is to be allocated to the individual grant programs in the same proportion as the base program of \$200,000,000.

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that earmarks \$16,900,000 for steel and aluminum research instead of \$16,000,000 as proposed by the House and \$15,900,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that the Economic Regulatory Administration (ERA) should continue to provide administrative support as budgeted in fiscal year 1990 to the fuels programs transferred to fossil energy research and development. The estimated costs of such support are \$102,000. Fossil energy should assume such costs in the fiscal year 1991 budget process.

SPR PETROLEUM ACCOUNT

Amendment No. 125: Appropriates \$227,820,000 for acquisition and transportation of petroleum for the Strategic Petroleum Reserve as proposed by the Senate instead of \$319,407,000 as proposed by the House. The managers agree to the Senate position providing an approximate daily rate of fill for the Reserve of 50,000 barrels based on a \$17.50 per barrel price for oil. Funding a higher fill rate is precluded by budget constraints.

Amendment No. 126: Deletes House proposed outlay ceiling for fiscal year 1990 as proposed by the Senate.

Amendment No. 127: Appropriates \$108,458,000 for acquisition and transportation of petroleum in fiscal year 1991 as proposed by the House instead of \$79,625,000 as proposed by the Senate. The managers agree that the advance appropriation for fiscal year 1991 is for purchases of oil to be delivered in the first quarter of the fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

Amendment No. 128: Appropriates \$1,185,910,000 for Indian Health Services instead of \$1,189,330,000 as proposed by the House and \$1,160,093,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of increases of \$5,000,000 for the Alaska community health aide program, \$1,800,000 under the mental health program for indigent Indians in North and South Dakota committed to an institution by tribal courts, \$527,000 for a residential treatment center during pregnancy for Alaska Native Women, \$703,000 for immunization, including \$242,000 for hepatitis screening and testing and \$461,000 for the HIB prevention program in Alaska, and \$550,000 for urban health, including \$300,000 for Phoenix and \$250,000 for Flagstaff; and decreases of \$1,000,000 for health professions loan repayment, \$2,000,000 for the health promotion/disease prevention initiative (with the balance of \$3,000,000 to be allocated by IHS), \$1,000,000 for information resource management, \$1,000,000 for the mental health initiative, and \$7,000,000 for tribal contract conversion.

The \$470,000 provided for staffing and equipment for the Siletz clinic is to be used for a demonstration project, regarding how the funding needs of tribes which provide facilities outside of the IHS priority funding process can be met.

The \$1,800,000 mental health increase for indigent Indians will be available for the purpose of contracting for mental health and

chemical dependency treatment services from the North Dakota Dept. of Human Services and the State of South Dakota. The services under contract will be available to indigent Indian persons residing in North or South Dakota, or on reservations located therein, and placed at State government treatment facilities by the Indian Health Service. Such funds shall not be used for any other purpose.

The \$500,000 increase provided for the community health representatives program should be provided to all newly-recognized tribes which have not yet had a CHR program established, using IHS standards for distribution of the funds based on population. The managers understand the Klamath tribe will receive about \$62,000 and the Grand Ronde tribes will receive about \$44,000.

The managers agree that the \$1,500,000 increase for scholarships shall consist of \$750,000 to initiate the special nursing program and \$750,000 for the regular scholarships program.

The increase of \$10,000,000 for inflationary cost increases includes funds for increases in contractual health care costs. The IHS is urged to work with the Hoopa Tribe in California to assist in developing a plan for a community health facility, and to report back to the Committees on the feasibility and costs of such a proposal by March 1, 1990.

For the model diabetes program, there is an increase of \$1,500,000 provided for five additional centers, including one for the Zuni Pueblo, NM.

Within the alcoholism program, there is \$100,000 for fetal alcohol syndrome research at the University of Washington. Within the total provided for contract health care, there is \$5,000,000 to address the backlog of deferred services. The managers expect IHS to continue to work with Sage Memorial Hospital in AZ and Mid-Dakota Hospital in SD to provide for ongoing contract care services in these areas.

Within the increase for Arizona urban health programs, a priority should be placed on prenatal treatment, particularly in Phoenix. The managers understand that the Public Health Service budget includes \$992,000 for AIDS programs in IHS, and that these funds will be transferred to IHS for its use. Of this amount, at least \$350,000 should be provided to the urban health programs. The AIDS funds should be distributed based on a plan emphasizing education and prevention, and after tribal consultation.

The managers note that the language in the Senate report regarding a recent court decision should refer to on-reservation rather than off-reservation Indians.

The managers agree with the directives in the Senate report for material to be included in the IHS budget justification, including self-determination activities, new facilities' costs, newly recognized tribes, details of hospital and clinic funding, Medicare/Medicaid reimbursements, end stage renal disease, and equipment needs and priorities.

Amendment No. 129: Restores language and changes the sum proposed by the House for the conversion of tribal contracts and agreements to a calendar year basis. The funding proposed by the managers is \$16,000,000 in budget authority only instead of

\$23,000,000 as proposed by the House and no funding as proposed by the Senate.

The managers request that IHS submit a report on the logistical and accounting needs for tribal contract conversion to the Committees, prior to using any of these funds for such conversions. The report should address the option and costs of converting all IHS contracts to a calendar year basis.

Amendment No. 130: Provides \$17,000,000 for the Indian Catastrophic Health Emergency Fund and contract care as proposed by the House, instead of \$15,000,000 as proposed by the Senate. The increase is \$2,000,000 for the Catastrophic Health Emergency Fund.

Amendment No. 131: Provides \$3,000,000 for the health professions loan repayment program, instead of \$4,000,000 as proposed by the House and \$2,000,000 as proposed by the Senate.

INDIAN HEALTH FACILITIES

Amendment No. 132: Appropriates \$70,996,000 for Indian health facilities instead of \$75,420,000 as proposed by the House and \$65,535,000 as proposed by the Senate. The increase over the amount proposed by the Senate consists of increases of \$6,000,000 for sanitation facilities and \$461,000 for personnel quarters, Kotzebue, AK; and a decrease of \$1,000,000 for Pine Ridge, SD personnel quarters.

Within the total of \$31,000,000 provided for sanitation facilities, the following amounts are earmarked: \$1,644,000 for the Seneca, NY water project; \$1,471,000 for Tohono O'odham (which does not include funds for cash reserves for the tribal utility organization); \$980,000 for the Quileute Tribe, WA; \$450,000 for the Zuni Pueblo, NM; and \$1,250,000 for the city of Kotzebue, AK, with an equal matching amount to be provided from non-Federal sources. The IHS should also work with the Oglala Sioux and Pleasant Point Passamaquoddy Tribes to begin to address their needs in fiscal year 1990.

The managers agree that funds in the amount of \$2,750,000 reprogrammed from the Navajo "New Lands" project in fiscal year 1989 do not need to be restored to that project until such funds are ready to be used. The IHS should inform the Committees when the funds will be needed.

With regard to the Belcourt, ND personnel quarters project, IHS should inform the Committees as soon as information is available as to the number of housing units that will be required at this location.

The amount of \$1,000,000 has been provided for Pine Ridge, SD personnel quarters, instead of \$2,000,000 as proposed by the House and Senate, since the lower amount will allow the project to proceed on schedule with site development activities.

The managers agree that IHS shall use the \$10,000,000 included for repair and improvement projects for the highest priority projects; and shall include a breakdown of the projects funded in the fiscal year 1991 budget justification.

The managers have included \$3,759,000 for the Sallisaw, OK replacement health center. If additional funds are needed for this

project where IHS is ready to award a contract, the managers agree that IHS may reprogram additional funds to this project, to provide up to a total of \$4,165,000, from available unobligated construction funds. IHS should inform the Committees promptly of any shortfall in funds for the project, and the source of funds to be reprogrammed.

The managers request a joint report from IHS and the Bureau of Indian Affairs on the possibility of including detoxification facilities in BIA detention facilities, to be submitted to the Committees by March 1, 1990.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: \$74,149,000 of which \$55,041,000 shall be for subpart 1 and \$16,361,000 shall be for subparts 2 and 3. Provided, That \$1,600,000 available pursuant to section 5923 of the Act shall remain available for obligation until September 30, 1991: Provided further, That appropriations for subpart 2 remaining unobligated at the end of fiscal year 1989, which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 Indian Education appropriation and shall remain available for obligation until September 30, 1990.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment appropriates \$74,149,000 for Indian education as proposed by both the House and the Senate but earmarks the amounts for subparts 1, 2, and 3 as proposed by the House; earmarks \$1,600,000 for fellowships for Indian students to remain available until September 30, 1991, as proposed by the House instead of an unspecified amount as proposed by the Senate; and provides for funds appropriated in fiscal year 1989 for the pilot gifted and talented program to remain available for obligation through fiscal year 1990.

The managers expect the Office of Indian Education to work with the tribally-controlled community colleges to enable them to develop acceptable proposals for the gifted and talented pilot program.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

The managers agree that the Office of Navajo and Hopi Indian Relocation should coordinate with Tribal officials with respect to discretionary fund expenditures and report to the Committees, no

later than two weeks prior to the first of the Official year. 1991 budget hearings before the Committees, on tribal recommendations including those which cannot be accommodated.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

Amendment No. 134: Appropriates \$4,350,000 for payment to the Institute instead of \$4,650,000 as proposed by the House and \$3,500,000 as proposed by the Senate. The decreases from the amount proposed by the House consist of \$200,000 for operation of the Institute and \$100,000 for payment to the Institute endowment fund.

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: of which \$100,000 shall be transferred immediately from the Institute endowment fund to the Institute for use in Institute operations: Provided, That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides for transfer of \$100,000 from the Institute's endowment fund to the operating account of the Institute, and directs that the Institute's annual budget submission will be submitted to the Congress at the same time as the President's Budget is submitted. In accordance with law, the Institute's budget is not to be revised by the Administration prior to submission to the Congress.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Amendment No. 136: Appropriates \$228,553,000 for salaries and expenses instead of \$231,981,000 as proposed by the House and \$223,029,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of \$465,000 to the tropical forestry initiative, \$130,000 to the Tropical Research Institute, including \$30,000 for the Quincentenary and \$100,000 for staffing and equipping the Barro Colorado Island laboratory, \$75,000 for two positions and related costs at the National Zoo, \$40,000 for the Environmental Research Center, \$75,000 for African-American programs, \$245,000 to the National Museum of Natural History for the Quincentenary, \$135,000 to the National Museum of American History for the Quincentenary, \$60,000 to the National Museum of American Art for a curator position, \$61,000 to the Cooper-Hewitt Museum for support for the new building, \$2,000,000 to the Museum of the American Indian (leaving \$4,000,000, including \$100,000 for training of Native Americans),

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

Amendment No. 151: Appropriates \$3,133,000 for salaries and expenses as proposed by the Senate instead of \$3,123,000 as proposed by the House.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

The managers agree that the Commission should receive a final review of memorial plans by the Commission of Fine Arts prior to the Park Service obligating funds for memorial construction.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that authorizes \$5,000,000 for borrowing authority for land acquisition instead of \$12,000,000 as proposed by the House and \$10,000,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: Provided, That—

(A) None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Endowment for the Arts or National Endowment for the Humanities may be considered obscene, including but not limited to, depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.

(B) It is the Sense of the Congress:

(1) That under the present procedures employed for awarding National Endowment for the Arts grants, although the National Endowment for the Arts has had an excellent record over the years, it is possible for projects to be funded without adequate review of the artistic content or value of the work.

(2) That recently works have been funded which are without artistic value but which are criticized as pornographic and shocking by any standards.

(3) That censorship inhibits and stultifies the full expression of art.

(4) That free inquiry and expression is reaffirmed. Therefore, be it resolved:

(a) That all artistic works do not have artistic or humanistic excellence and an application can include works that possess both non-excellent and excellent portions.

(b) That the Chairman of the National Endowment for the Arts has the responsibility to determine whether such an application should be funded.

(c) That the National Endowment for the Arts must find a better method to seek out those works that have artistic excellence and to exclude those works which are without any redeeming literary, scholarly, cultural or artistic value.

(d) That a commission be established to review the National Endowment for the Arts' grant making procedures, including those of its panel system, to determine whether there should be standards for grant making other than "substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence" (20 U.S.C. 954(c)(1)) and if so, then what other standards. The criteria to be considered by the commission shall include but not be limited to possible standards where (a) applying contemporary community standards would find that the work taken as a whole appeals to a prurient interest; (b) the work depicts or describes in a patently offensive way, sexual conduct; and (c) the work, taken as a whole, lacks serious artistic and cultural value.

(c)(1) There is hereby established a temporary Independent Commission for the purpose of:

(a) reviewing the National Endowment for the Arts' grant making procedures, including those of its panel system; and

(b) considering whether the standard for publicly funded art should be different than the standard for privately funded art;

(2) The Commission shall be composed of twelve members as follows:

(a) four members appointed by the President;

(b) four members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(c) four members appointed by the President upon the recommendation of the President pro tempore of the Senate in consultation with the minority leader of the Senate;

(d) the chairman shall be designated by vote of the Commission members; and

(e) a quorum for the purposes of conducting meetings shall be seven.

(3) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of sub-

sistence, in the same manner as persons employed intermittently in Government service are allowed expenses under 5 U.S.C. 5703.

(4) The Commission may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(5) The Commission shall issue a report to the Speaker of the House of Representatives and the President of the Senate no later than 180 days after the date of enactment of this Act.

(6) The Commission shall expire on September 30, 1990.

(7) Expenses of the Commission, not to exceed \$250,000, including administrative support, shall be furnished by the National Endowment for the Arts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to language which reaffirms the declaration of freedom of expression for American artists, writers, composers, dramatists and all practitioners of the arts which was contained in the Senate report when the National Endowments for the Arts and Humanities were created in 1965.

The managers agree that the House and Senate have no wish to nor do they intend by expressing their views herein to censor NEA or to impose their views on NEA.

The managers agree that NEA erred in approving the grants for the exhibiting publicly of certain controversial photographs by Robert Mapplethorpe and by granting a fellowship for Andres Serrano, whose subsequent work included a photograph of a crucifix in a jar of urine.

The managers agree that such grants do not come within the requirement of the NEA statute that "only applications and projects be funded that in the context in which they are presented, in the experts' view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural or artistic merit." (20 U.S.C. 959)

The managers are of the opinion that it is the sense of the Congress that the procedures of NEA and its panels system can be and should be improved to assure that the Chairman and Council of NEA will be able to carry out their statutory responsibility of reviewing all grants.

The managers agree that a commission of qualified persons should be appointed to review procedures of NEA and its panels looking to their improvement for grant-making.

Amendment Nos. 154-157: Restore section numbers proposed by the House and stricken by the Senate.

Amendment No. 158: Deletes Senate language which would have prevented expenditure of funds for training activities for the purpose of directing or encouraging (1) the organization or implementation to protest social conditions, and (2) any form of civil disobedience.

Amendment Nos. 159-162: Restore section numbers proposed by the House and stricken by the Senate.

Amendment No. 163: Restores language stricken by the Senate limiting planning, preparation, or offer for sale timber of giant se-

quoia trees located on National Forest System or Bureau of Land Management lands.

In developing the management implementation plan to protect the giant sequoia, the Forest Service and the Bureau of Land Management should be mindful of the need to protect the environment in the vicinity of the giant sequoia trees. The giant sequoia has a relatively shallow root system and to denude the area around each tree would leave the tree more liable to uprooting by winds and erosion of the soil around the root system. As such, the management plan to protect the giant sequoia should incorporate appropriate zones to protect the giant sequoia trees from clearcutting and its effects.

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:
 Sec. 315. Section 9(a)(3) of Public Law 100-580 (102 Stat. 2932) is amended by inserting after the term "Council," the following: "The Yurok Transition Team may receive grants and enter into contracts for the purpose of carrying out this section and section 10(a) of this Act. Such grants and contracts shall be transferred to the Yurok Interim Council upon its organization." Provided, That using \$750,000 appropriated in the Energy and Water Development Appropriations Act, 1990, under "General Investigations, Corps of Engineer—Civil", the Secretary of the Army, acting through the Chief of Engineers, is directed to continue engineering and design of the McCook and Thornton Reservoirs, which are features of the Chicago and Underflow Plan: Provided further, That with respect to claims resulting from the performance of functions, during fiscal year 1990 only, or claims asserted after the effective date of this Act, but resulting from the performance of functions prior to fiscal year 1990, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by Title V, Part B—Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau of Service while acting within the scope of their employment in carrying out the contract or agreement: Provided further, That upon the effective date of this legislation, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: Provided further, That beginning with the fiscal year ending September 30, 1991 and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the

Treasury for *aims paid in the prior fiscal year pursuant to the foregoing provisions. Provided further, That nothing in this section shall in any way affect the provisions of Section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment limits grants and contracts to the Yurok Transition Team for the purposes of carrying out the Team's functions pursuant to the Hoopa-Yurok Settlement Act, clarifies funding of a Corps of Engineers project, and expands the coverage of the Federal Tort Claims Act to the Bureau of Indian Affairs and the Indian Health Service for Indian contractors. No similar House language was proposed. Senate language on the Hoopa-Yurok Settlement Act had broader applicability than the agreed upon amendment.

The amendment expands the Senate proposed language in amendments 51, 52, and 53 to include the Indian Health Service in addition to the Bureau of Indian Affairs.

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 316. Effective sixty days after enactment of this Act, the Forest Service is directed to assure an immediate supply of timber from the Kootenai National Forest and to protect the environment. Provided, That pending implementation of the Forest Service's final agency action on the Upper Yaak Decision Area, as defined in the Upper Yaak Draft Environmental Impact Statement, the Forest Service is directed to expeditiously prepare, offer, and supervise the harvest of timber from the lodgepole pine timber type, as defined in the Upper Yaak Draft EIS, in the Upper Yaak Decision Area: Provided further, That adequate environmental assessments for certain timber sales in the Upper Yaak Decision Area have been completed and are adequate, decision notices have been issued, no appeals have been filed, and the time period for appeals as specified in Forest Service regulations has expired: Provided further, That the Forest Service action taken pursuant to this section shall comply with the Kootenai National Forest Plan: Provided further, That no construction of new system roads shall be permitted in the Upper Yaak River Drainage: Provided further, That this section does not in any manner represent a judgment upon the legal adequacy or in any way affect the final decision made in the development or implementation of the Upper Yaak Final EIS.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment delays for sixty days the Senate proposed amendment allowing the Forest Service to proceed with supplying timber in the Upper Yaak Decision Area in the Kootenai National Forest in Montana. The House had no such provision. The amendment will allow a reasonable time for interested parties to resolve their differences on timber sales plans.

Amendment No. 166: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 317. Section 220 of Public Law 98-473 (98 Stat. 1974) as amended by Section 316 of Public Law 100-446 (102 Stat 1826) is further amended by deleting the period and inserting ". Provided, That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act, as amended (25 U.S.C. 450 et seq.), under which such tribe or tribal organization may retain rents and charges for the operation, maintenance, and repair of such quarters.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment makes technical corrections to the Senate-proposed language that would allow tribal contractors instead of the Bureau of Indian Affairs or the Indian Health Service to collect rent to be used for operations and maintenance of the quarters in situations when the Federal Government retains title to the quarters, but the occupants of the quarters are funded under programs contracted to tribes. The House had no similar provision.

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 318. (a) From funds appropriated under this Act or otherwise made available—

(1) The Forest Service shall offer, notwithstanding the provisions of the Federal Timber Contract Payment Modification Act of 1984 (16 U.S.C. 618(a)(5)(C)), an aggregate timber sale level of seven billion seven hundred million board feet of net merchantable timber from the national forests of Oregon and Washington for fiscal years 1989 and 1990. Such timber sales shall be consistent with existing land and resource management plans or land and resource management plans as approved except in the case of the Mapleton Ranger District of the Siuslaw National Forest, Oregon, such sales shall be consistent with the preferred alternative of the draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 pending approval of a final land and resource management plan for the Siuslaw National Forest: Provided, That of the seven billion seven hundred million board foot aggregate timber sale level of fiscal years 1989 and 1990, timber sales offered from the thirteen national forests in Oregon and Washington known to contain northern spotted owls shall meet an aggregate timber sale level for fiscal years 1989 and 1990 of five billion eight hundred million board feet of net merchantable timber: Provided further, That the sales volume shall be distributed in the same proportion between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988 and;

(2) The Bureau of Land Management shall offer such volumes as are required in fiscal year 1990 to meet an aggregate timber sale level of one billion nine hundred million board feet for fiscal years 1989 and 1990 from its administrative districts in western Oregon.

(b)(1) In accordance with subsection (b)(2) of this section, all timber sales from the thirteen national forests in Oregon and Washington known to contain northern spotted owls prepared or offered pursuant to this section shall minimize fragmentation of the most ecologically significant old growth forest stands. "Old growth forest stands" are defined as those stands meeting the criteria according to Forest Service Research Publication #PNW-447. In those instances where the Forest Service, after consultation with the advisory boards established pursuant to subsection (c) of this section, determines that the definition in Forest Service Research Publication #PNW-447 is not fully applicable in national forests known to contain northern spotted owls, the Forest Service shall use old-growth definitions contained in its Pacific Northwest Regional Guide.

(2) To the extent that fragmentation of ecologically significant old growth forest stands is necessary to meet the timber sale levels directed by subsection (a)(1) of this section, the Forest Service shall minimize such fragmentation in the ecologically significant old growth forest stands on a national forest-by-national forest basis based on the Forest Service's discretion in determining the ecologically significant stands after considering input from the advisory boards created pursuant to subsection (c) of this section. The habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas (SOHAs) described in subsection (b)(3) of this section shall be considered an important factor in the identification of ecologically significant old growth forest stands.

(3) No timber sales offered pursuant to this section from the thirteen national forests in Oregon and Washington known to contain northern spotted owls may occur within SOHAs identified pursuant to the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 as adjusted by this subsection:

(A) For the Olympic Peninsula Province, which includes the Olympic National Forest, SOHA size is to be 2,200 acres;

(B) For the Washington Cascades Province, which includes the Mt. Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford-Pinchot National Forests, SOHA size is to be 2,600 acres;

(C) For the Oregon Cascades Province, which includes the Mt. Hood, Willamette, Rogue River, Deschutes, Winema, and Umpqua National Forests, SOHA size is to be 1,875 acres;

(D) For the Oregon Coast Range Province, which includes the Siuslaw National Forest, SOHA size is to be 2,500 acres; and

(E) For the Klamath Mountain Province, which includes the Siskiyou National Forest, SOHA size is to be 1,250 acres.

(F) All other standards and guidelines contained in the Chief's Record of Decision are adopted.

(4) In planning for the preparation and offer of timber sales authorized in subsection (a)(1) of this section, the Forest Service, to the

extent possible in areas proximate to SOHA sites identified in subsection (b)(3) of this section, should exercise discretion in selecting sites and/or silvicultural prescriptions in order to retain spotted owl habitat characteristics in such areas. The Forest Service should consider the relative location and quality of such areas contiguous to the SOHAs and should give higher priority to preparing and offering sales in areas of lower quality and less important location than to areas of greater quality and more important location relative to the SOHAs.

(5) No timber sales offered pursuant to this section on Bureau of Land Management lands in western Oregon known to contain northern spotted owls shall occur within the 110 areas identified in the December 22, 1987 agreement, except sales identified in said agreement, between the Bureau of Land Management and the Oregon Department of Fish and Wildlife. Not later than thirty days after enacting this Act, the Bureau of Land Management, after consulting with the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to identify high priority spotted owl area sites, shall select an additional twelve spotted owl habitat areas. No timber sales may be offered in the areas identified pursuant to this subsection during fiscal year 1990.

(6)(A) Without passing on the legal and factual adequacy of the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl Guidelines and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 or the December 22, 1987 agreement between the Bureau of Land Management and the Oregon Department of Fish and Wildlife for management of the spotted owl, the Congress hereby determines and directs that management of the areas according to subsections (b)(3) and (b)(5) of this section on the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls is adequate consideration for the purpose of meeting the statutory requirements that are the basis for the consolidated cases captioned *Seattle Audubon Society et al., v. F. Dale Robertson, Civil No. 89-160* and *Washington Contract Loggers Assoc. et al., v. F. Dale Robertson, Civil No. 89-99* (order granting preliminary injunction) and the case *Portland Audubon Society et al., v. Manuel Lujan, Jr., Civil No. 87-1160-FR*. The guidelines adopted by subsections (b)(3) and (b)(5) of this section shall not be subject to judicial review by any court of the United States.

(B) The Forest Service is directed to review and revise as appropriate the decision adopted in the December, 1988 Record of Decision referenced in subsection (b)(6)(A) of this section and shall consider any new information gathered subsequent to the issuance of the Record of Decision, including the interagency guidelines for conservation of northern spotted owls developed by the Interagency Scientific Committee to address conservation of the northern spotted owl. This review, and any resulting changes to the December, 1988 decision determined to be necessary by the Forest Service are to be completed and in effect not later than September 30, 1990.

(c)(1) The Secretaries of Agriculture and the Interior shall name advisory boards on a national forest-by-national forest and Bureau of Land Management district-by-district basis which shall be com-

prised of more than seven individuals who, in the appropriate Secretary's report, represent a diversity of views. In the process of selecting individuals to serve on the advisory boards, the Secretaries shall make every effort to recognize the diversity of views and perspectives and allow parties which represent a cross-section of those views to participate in making recommendations in the selection of those board members, provided that every effort will be made to ensure the advisory boards are comprised of an equal number of representatives of environmental and business concerns. The advisory boards shall be named not later than thirty days after enactment of this Act. The advisory boards shall provide recommendations to the Forest Service and the Bureau of Land Management in reviewing prospective timber sales which shall meet the timber sale levels directed by this section prior to their offer. The advisory boards shall present their advice within fifteen or forty-five days after receipt of the necessary review documents. The fifteen-day period applies to single sales and the forty-five-day period applies to multiple sales. The members of the advisory boards authorized by this section shall serve without compensation or reimbursement of expenses. The Forest Service and the Bureau of Land Management are authorized to use available funds for the services of professional, independent facilitators to assist in the work of the advisory boards.

(2) The Forest Service and Bureau of Land Management shall consider the recommendations of the advisory boards once such boards are established pursuant to this section, including any suggested modifications of individual sales. The Forest Service and Bureau of Land Management shall also consider recommendations made by the U.S. Fish and Wildlife Service on those timber sales conferred upon under Section 7(a)(4) or, if the spotted owl is listed as a threatened or endangered species, consult under Section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536 (a)(2) and (a)(4)) prior to the offer of any subsequent timber sale in fiscal year 1990. These recommendations shall be considered regardless of whether the agreement provided in subsection (f)(1) of this section has been reached, entered into, and accepted by the relevant court. Adoption or rejection of such recommended modifications shall not require preparation of additional environmental documents, notwithstanding any other provision of law.

(d) Notwithstanding any other provision of law, there shall be not more than one level of administrative appeal of any decision by the Forest Service or the Bureau of Land Management to undertake any activity directed by this section, for timber sales to be prepared, advertised, offered, and awarded during fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls. If an administrative stay is granted in any such appeal the Regional Forester or the Interior Board of Land Appeals shall issue a final decision on the merits within forty-five days of the date of issuance of such stay. Notwithstanding any other provision of law, any party seeking to challenge a decision made after the date of enactment of this Act to prepare, advertise, offer, or award a timber sale in fiscal year 1990 from the thirteen national forests and Bureau of Land Management lands in western Oregon known to contain northern spotted owls need not exhaust their ad-

ministrative remedies prior to filing suit. Nothing in this subsection shall alter the administrative appeal requirements of the Forest Service or Bureau of Land Management.

(c) Nothing in this section shall affect interagency cooperation among the Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service under Sections 7(a)(2) and 7(a)(4) of the Endangered Species Act and its regulations.

(f)(1) Not later than two days after enactment of this Act, the Forest Service shall submit to plaintiffs in the captioned case *Seattle Audubon Society et al., v. F. Dale Robertson*, Civil No. 89-160, a list of sales which had been prepared for offer in fiscal year 1989 and which contain at least 40 acres of suitable spotted owl habitat. Not later than fourteen days after receipt of such list, plaintiffs to the suit referenced in this subsection may enter into an agreement with the Forest Service releasing for sale not less than one billion one hundred million board feet of net merchantable timber. Such sales must be available for advertisement not later than fourteen days after the agreement required by this subsection is reached. Such timber sales selected shall not be subject to further judicial review by any court of the United States.

(2) If the agreement specified in subsection (f)(1) of this section is reached, then those timber sales described in the list submitted to plaintiffs pursuant to subsection (f)(1) of this section but not contained in the agreement authorized by subsection (f)(1) of this section shall not be offered for sale in fiscal year 1990.

(3) If the agreement authorized under subsection (f)(1) of this section is not implemented within the time frames prescribed in subsection (f)(1) of this section, one billion one hundred million board feet of net merchantable timber from such sales submitted to plaintiffs pursuant to subsection (f)(1) of this section shall be selected and modified as appropriate by the Forest Service in accordance with the provisions of this section. Selected sales shall be prepared, advertised, offered, awarded and operated notwithstanding any provision of law that is a basis for any stay, injunction or order issued in the proceeding identified in subsection (f)(1) of this section. Provided, That nothing in this subsection shall affect rights available under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(4) The Forest Service shall, for each respective timber sale, lift its own stay or apply to the appropriate court for the lifting of the restraining order or injunction whose basis has been withdrawn by this section.

(5) Timber sales selection pursuant to subsections (f)(1) or (f)(3) of this section shall be based on the following criteria: (1) proportional distribution between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988; (2) proportional distribution to the extent possible among the thirteen national forests known to contain northern spotted owls in Oregon and Washington based on the average sale volumes for fiscal years 1986 through 1988; and (3) to the extent possible, selection of sales outside the habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas described in subsection (b)(3) of this section.

(g)(1) No restraining order or preliminary injunction shall be issued by any court of the United States with respect to any decision

to prepare, advertise, offer, award, or operate a timber sale or timber sales in fiscal year 1990 from the thirteen national forests in Oregon and Washington known to contain northern spotted owls. The provisions of section 705 of title 5, United States Code shall not apply to any challenge to such a timber sale: Provided, That the courts shall have authority to enjoin permanently, order modification of, or void an individual sale if it has been determined by a trial on the merits that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary, capricious or otherwise not in accordance with law: Provided further, That any challenge to a timber sale must be filed in Federal District Court within fifteen days of the date of initial advertisement of the challenged timber sale: Provided further, That for forty-five days after the date of filing of a challenge to a timber sale the affected agency shall take no action to award a challenged timber sale. Civil actions filed under this section shall be assigned for hearing at the earliest possible date and shall take precedence over all other matters pending on the docket of the court at that time except for criminal cases: Provided further, That the court shall render its final decision relative to any challenge within forty-five days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(3) In order to reach a decision within forty-five days, the Federal District Court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

(h) The Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service shall submit reports updating their findings and progress as determined by the process recognized under subsection (e) of this section on a monthly basis to the President of the Senate and the Speaker of the House of Representatives for appropriate referral. Such reports shall also include information on the extent to which recommendations of the advisory boards established pursuant to subsection (c) of this section were integrated into timber sale decisions as well as reasons for modifying or not adopting recommendations made by the advisory boards. Such reports shall be submitted as directed beginning on December 1, 1989, and ending on September 30, 1990.

(i) Except for provisions of subsection (a)(1) of this section, the provisions of this section apply solely to the thirteen national forests in Oregon and Washington and Bureau of Land Management districts in western Oregon known to contain northern spotted owls. Nothing contained in this section shall be construed to require the Forest Service or Bureau of Land Management to develop similar policies on any other forest or district in Oregon or Washington.

(j) The advisory boards established under this section shall be subject to the Federal Advisory Committee Act (86 Stat. 770).

(k) Timber sales offered to meet the requirements of subsection (a) of this section shall be subject to the terms and conditions of this

section for the duration of those sale contracts. All other provisions of this section shall remain in effect until September 30, 1990.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment sets terms and conditions applicable only for fiscal year 1990 for making timber sales on Federal lands in Oregon and Washington, for managing habitat for northern spotted owls, and for minimizing fragmentation of significant old growth forest stands.

The managers have agreed to this provision because a large portion of the Forest Service's and Bureau of Land Management's (BLM) fiscal year 1989 timber sale programs on the thirteen national forests in Oregon and Washington and five BLM administrative districts in western Oregon known to contain northern spotted owls have been interrupted due to legal challenges, and because these challenges have raised serious concerns about the adequacy of planned actions of the agencies with regard to managing habitat for the northern spotted owl and minimizing fragmentation of old growth stands. The managers are extremely concerned that the agencies did not pursue avenues to resolve the conflicts or more adequately address the issues raised in these legal challenges, thereby requiring the inclusion of this section. The extraordinary measures included in this section, particularly with regard to judicial processes, have been reluctantly agreed to because of the failure of the agencies to take steps on their own to resolve these matters in a manner which could have prevented the current situation. These measures included in this provision have been provided on an interim basis for fiscal year 1990 only, during which the BLM and Forest Service are expected to take further action to address these concerns, as discussed in the Act and in this statement. Except for provisions relating to timber sale volume, this section does not apply to the six National Forests in Region Six which do not contain northern spotted owls.

In developing the amendment, the managers have sought to balance the goals of ensuring a predictable flow of public timber for fiscal year 1990 and protecting the northern spotted owl and significant old growth forest stands. In reconciling these often conflicting goals, the managers have limited all provisions in this subsection to fiscal year 1990, except that the timber sales offered under this section in fiscal year 1990 are covered by its terms and conditions throughout the length of the timber sale contracts. Sales offered under this section but not awarded and withdrawn after October 1, 1990 under normal Forest Service and BLM procedures may not be reoffered in subsequent fiscal years under the terms of this section. While it may be difficult to prepare substantial new sale volumes, the managers encourage the Forest Service to make every effort possible to prepare and offer new sales as part of the fiscal year 1990 program.

The managers have included language to ensure that the fiscal year 1990 sales volume is distributed in the same proportion between the states of Oregon and Washington, and to encourage proportional distribution of sales released through subsection (f). The managers agree that the proportional distribution should be based on the time frame of fiscal years, 1986, 1987, and 1988 to reflect an

accurate historic sales time period on which to base the sales program. The Department provides discretion to this section.

The placement of timber sales proximate to Spotted Owl Habitat Areas (SOHAs). However, as the language in the Act states, the Forest Service should give consideration to the location and quality of proximate habitat in the course of sequencing areas for timber sales, by giving priority to timber sales in areas of lesser quality prior to consideration of sales in areas of greater quality, as necessary to meet the timber targets. The agencies are also urged to give consideration in the planning, scheduling, and offering of timber sales in fiscal year 1990 to minimize, to the extent feasible, the possibility that existing spotted owl populations will become isolated.

The managers have chosen to substitute adjusted interim standards for SOHAs for national forest lands in lieu of the spotted owl management Record of Decision (ROD) published in December, 1988. The designations contained in this section are made without prejudice to the validity of the Forest Service's ROD. However, the Forest Service is directed to review its ROD and make revisions to it as appropriate. In so doing, the Forest Service should develop documentation to support any revisions to the ROD. It is expected that the agency will give careful consideration to the recommendations of the Interagency Scientific Committee in reaching any final decisions regarding revisions to the ROD. The managers expect that the agency will make available to the Congress and the public explanations of any decisions to modify or reject such recommendations.

The legal adequacy of and prohibition against judicial review of the SOHA framework established in this section should not be construed to moot future action after fiscal year 1990 in the *Seattle Audubon Society/Washington Contract Loggers Association v. Robertson* cases against the current Forest Service owl management ROD or any cases which may be filed against a revised ROD.

The managers expect that the Forest Service shall make every reasonable effort to complete land and resource management plans by the end of fiscal year 1990.

The managers have chosen for fiscal year 1990 to expand by 12 sites the network of SOHAs identified through the December, 1987 agreement between the Bureau of Land Management and the Oregon Department of Fish and Wildlife (ODFW). This expanded reservation of areas for spotted owls again is deemed adequate to address for fiscal year 1990 only the concerns raised in the *Portland Audubon Society v. Lujan* case. The legal adequacy of and prohibition against judicial review of the SOHA framework established in this section should not be construed to moot future action after fiscal year 1990 in the *Portland Audubon Society v. Lujan* case against current BLM owl management activities or any cases which may be filed against future BLM management decisions.

The BLM shall continue to work in consultation with ODFW and the U.S. Fish and Wildlife Service to ensure that, to the extent practicable, the agencies coordinate their efforts in identifying and defining the 12 additional high priority spotted owl habitat areas. Section (b)(6)(A) does not pass on the legal sufficiency of the existing Forest Service ROD or the BLM/ODFW agreement insofar

as each addresses concerns about the northern spotted owl. However, inasmuch as subsections (b)(3) and (b)(5) establish interim SOHA standards for fiscal year 1990 which protect more habitat than currently protected by the Forest Service and BLM, subsection (b)(6)(A) removes for fiscal year 1990 the sufficiency or insufficiency of those standards as a reason for injunctive relief. These provisions do not expire for the contracts resulting from timber sales offered through September 30, 1990 and subsequently awarded under this section. Subsection (b)(6)(A) should be read in combination with subsection (g) which establishes expedited procedures for challenging timber sales in court. Together, these two subsections preserve the opportunity for judicial review of individual timber sales on a single-sale basis.

This section in no way alters application of the Endangered Species Act or other environmental laws to Forest Service and BLM management activities.

Nothing in this section is intended to prejudice any future decision with regard to the current listing process for the northern spotted owl pursuant to the Endangered Species Act, any final decisions that may be reached by a Federal court in the *Seattle Audubon/Washington Contract Loggers Assoc. v. Robertson* cases and the *Portland Audubon v. Lujan* case, or any revisions that may be made by the Forest Service to the ROD or any revisions that may be made by BLM to its owl management policies. In addition, nothing in this section is intended to affect any decision by the Forest Service to offer for sale after fiscal year 1990 any timber volume which was not sold during fiscal year 1990 pursuant to subsection (f) of this section or the process by which sales are prepared and offered after fiscal year 1990.

Seven-member advisory boards are to be established to provide input on the agencies' timber sale programs. The managers intend these boards to be established on a national forest-by-national forest or BLM district-by-district basis, and to be comprised of persons knowledgeable about the resource values of the particular forest or district. The boards will review timber sales and make their recommendations about which sales should be prohibited, released, or modified in furtherance of all provisions of this section, and the agencies are urged to consider fully these recommendations. The managers intend that the boards will be comprised of and will fairly represent the diverse views of the interests affected by this section. The managers expect the advisory boards to seek to minimize conflicts involved in this issue.

The section limits administrative appeals to one level of review in each agency, and sets time limits on the resolution of appeals in cases where an action is stayed. Also, appellants need not exhaust their appeal opportunities before filing suit under the terms of this section. No other changes to the appeals process are made.

Release of 1.1 billion board feet of net merchantable timber sales prepared for the Forest Service's fiscal year 1989 program shall be achieved through either of two mechanisms: an agreement between the Forest Service and plaintiffs in the *Seattle Audubon Society v. Lujan* case or, in the absence of such an agreement on a timely basis, by the Forest Service. Sales prepared but not released under either of

these matters shall not be available as part of the fiscal year 1990 sale program.

The section narrows the time frame for filing civil actions in court and prohibits the issuance of pre-trial restraining orders and injunctions. It does encourage, however, that trials be scheduled and decided expeditiously.

The managers take note of the new Cedar River Municipal Watershed policies recently adopted by the City of Seattle for management of the City's 81 percent ownership of the watershed. The policies balance City land management in the Cedar River Municipal Watershed between habitat preservation and timber management. The United States owns about 18 percent of the Cedar River Municipal Watershed in the Mt. Baker-Snoqualmie National Forest. The managers note the long history of cooperation between the City of Seattle and the Forest Service in managing the Cedar River Municipal Watershed. The City and Forest Service have agreed in the past to use land exchanges to achieve City ownership of the watershed for water quality protection. The managers note that the recently adopted City policies require comprehensive negotiations between the City and the Forest Service to achieve land and timber exchanges. The managers support this negotiation process and encourage both parties to continue to strive for expeditious agreement.

The Forest Service and BLM shall, upon request, make available within five working days timber sale environmental assessments and related documentation.

The managers are encouraged by the formation of the Interagency Scientific Committee for the purpose of developing a strategy for conservation of the northern spotted owl. The managers understand that the Committee expects to complete its recommendations by no later than June, 1990 and encourage the agencies to provide necessary support to complete expeditiously the work of the Committee. The managers expect that the recommendations and report of the Committee will be made available to the public.

The managers expect that by January 30, 1990, the BLM will provide to the appropriate committees of Congress a report explaining agency actions and intentions to coordinate and integrate spotted owl management plans on its administration districts containing spotted owls. The managers further expect that the BLM will consider carefully any recommendations made by the Interagency Scientific Committee in the development of its new land and resource management plans.

Within 30 days of receipt, the Forest Service and BLM will make available to the public recommendations received from the Fish and Wildlife Service pursuant to actions undertaken in accordance with provisions of the Endangered Species Act.

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 319. (a)(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following new section:

§ 1352. Limitation on use of appropriated funds for Federal contracting and financial transactions.

(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in paragraph (2) of this subsection.

(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

(A) The awarding of any Federal contract.

(B) The making of any Federal grant.

(C) The making of any Federal loan.

(D) The entering into of any cooperative agreement.

(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requires or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection—

(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

(B) copies of declarations received by such person under paragraph (5).

(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain—

(A) a statement setting forth whether such person—
(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

(ii) has agreed to make any such payment;
(B) with respect to each such payment (if any) and each such agreement (if any)—

(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

(iii) the amount paid, to be paid, or reasonably expected to be paid;

(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

"(3) A statement filed by a person pursuant to paragraph (1)(A) of this section in connection with a commitment providing for the United States to insure or guarantee a loan shall contain—

"(A) a statement setting forth whether such person—
 "(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guaranty; or
 "(ii) has agreed to make any such payment; and
 "(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

"(4) A person referred to in paragraph (1)(A) of this subsection shall file a declaration referred to in that paragraph—
 "(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;

"(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and
 "(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

"(6)(A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation shall be available for public inspection 30 days after the receipt of the report by the Secretary and the Clerk.

"(B) Notwithstanding subparagraph (A)—

"(i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Commit-

tee on Intelligence of the Senate, the Permanent Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

"(ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

"(iii) information reported in accordance with this subparagraph shall not be available for public inspection.

"(7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

"(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

"(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

"(B) A filing of a declaration or a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

"(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

"(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

"(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the comments imposed by this section on the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure

or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

"(2) The report of an agency under paragraph (1) of this subsection shall include the following:

"(A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.

"(B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

"(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

"(c)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

"(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person, or any payment of reasonable compensation to an officer or employee of a person, requesting or receiving a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

"(C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law.

"(2) The reporting requirements in subsection (b) of this section shall not apply to any person with respect to—

"(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

"(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subcontract that does not exceed \$100,000; and

"(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that

does not exceed \$150,000 including a contract or subcontract to carry out any purpose for which such a loan is made.

"(f) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

"(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

"(h) As used in this section:

"(1) The term 'recipient', with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

"(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

"(2) The term 'agency' has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

"(3) The term 'person'—

"(A) Includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

"(4) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

"(5) The term 'local government' means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

"(A) A local public authority.

"(B) A special district.

"(C) An intrastate district.

"(D) A council of governments.

"(E) A sponsor group representative of a local government.

"(F) Any other instrumentality of a local government.

"(6)(A) The terms 'Federal contract', 'Federal grant', 'Federal cooperative agreement' mean, respectively—

and loan guaranty commitments that are entered into or made more than 60 days after the date of the enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Section 319 prohibits recipients of Federal grants, contracts, loans, or cooperative agreements from using Federal funds to pay persons to influence or to attempt to influence executive or legislative decisionmaking in connection with the awarding of any contract, grant, loan or cooperative agreement.

In the case of a payment, or progress payment, received by a contractor for performance of a contract, the portion of the payment properly allocable to the contractor's profit is not appropriated funds.

The managers agree that Federal actions defined in subsection (a)(2) do not include claims and settlements against the Federal Government. Activities related to such actions are not prohibited. The amendment is not intended to prohibit any citizen's right to petition Congress for a redress of grievances and does not proscribe legislative activities supporting or opposing programs within the purview of the government.

The section also requires that any person requesting or receiving a Federal grant, contract, cooperative agreement, loan, loan guarantee, or loan insurance, must report to the relevant agency the name of any lobbyists or consultants paid with non-Federal funds, the amounts such lobbyists or consultants were paid, and the purpose for which they were paid.

All Federal agencies will be required to file, on a semi-annual basis beginning May 31, 1990, a report compiling the information gathered regarding payments, including the names and addresses and amounts paid to all lobbyists or consultants who were paid with non-Federal funds for influencing (or attempting to influence) executive or legislative decisionmaking on Federal grants, contracts, cooperative agreements, loans, loan guarantees, or loan insurance.

The provision in subsection (c)(1) and (c)(2) sets civil penalties of a minimum of \$10,000 and a maximum of \$100,000 for each violation of the prohibition on the use of Federal funds to pay lobbyists and for each failure to report the information required when they are paid with non-Federal funds.

In determining whether to impose a civil penalty, and the amount of any such penalty, by reason of a violation by any person, the head of an agency shall consider the nature, circumstances, extent, and gravity of the violation, the effect on the ability of such person to continue in business, any prior violations by such person, the degree of culpability of such person, the ability of the person to pay the penalty, and such other matters as may be appropriate.

The provisions do not prohibit any reasonable payments to consultants (or officers or employees of persons) for professional, technical, or other similar services in connection with meeting requirements for receiving Federal contracts, loans, or cooperative agreements.

The managers agree that "agency and legislative liaison activities" referred to in subsection (e)(1)(A) include the provision of in-

"(i) a contract awarded by an agency; (ii) a grant made by an agency or a direct appropriation made by law to any person; and (iii) a cooperative agreement entered into by an agency.

"(B) Such terms do not include— (i) direct United States cash assistance to an individual; (ii) a loan; (iii) loan insurance; or (iv) a loan guaranty.

"(7) The term 'Federal loan' means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

"(8) The term 'reasonable payment' means, a payment in an professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"(9) The term 'reasonable compensation' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"(10) The term 'regularly employed', with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(11) The terms 'Indian tribe' and 'tribal organization' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)."

"(2) The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

"1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

(b) The first report submitted under subsection (b)(6) of section 1352 of title 31, United States Code (as added by subsection (a)), shall be submitted on May 31, 1990, and shall contain a compilation relating to the statements received under subsection (b) of such section during the six-month period beginning on October 1, 1989.

(c) The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) of such section.

(d) Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments,

formation requested by Federal agencies and Congress and the making of presentations to agency personnel related to the qualities and characteristics of products or services sought to be sold to the Federal Government.

Upon enactment of this section, the Office of Management and Budget (OMB) will have 60 days to issue guidance to all agencies of government as to how compliance with these provisions is to be carried out. The Conferees expect that all agencies shall expeditiously promulgate regulations to implement the requirements of this section, and that all such regulations shall be uniform and shall comply with the government-wide guidance issued by the Director of the Office of Management and Budget pursuant to paragraph (b)(7). Also, major agencies, as designated by OMB, shall issue a common rule complying with the guidance issued by OMB.

The Inspector General or the equivalent, of every agency of government, is required to submit an annual report commenting on the effectiveness of each Agency's compliance with these provisions and recommending any changes that may be necessary to strengthen or improve upon these provisions.

The provision exempts grants, contracts, cooperative agreements, subcontracts and subgrants of \$100,000 or less and loans (and Federal commitments to insure or guarantee loans and certain contracts and subcontracts relating to loans) that do not exceed \$150,000. This serves to exempt small contractors and individuals who seek Federally-insured loans (for the purchase of personal residences, for example) from these provisions.

The definitions of "recipient" in (g)(1) and "person" in (g)(3) are expanded to exclude Indian tribes, tribal organizations, or any other Indian organization for specific purposes permitted by other Federal law. Such Indian tribes and tribal organizations are defined in (g)(11) based on the Indian Self-determination and Education Assistance Act. Alaska Natives are included for this purpose under the definitions of Indian tribes in that Act.

The Conferees have deleted provisions of the Senate amendment which would have authorized cancellation or termination of a contract, grant, cooperative agreement, loan, loan insurance, or loan guarantee for violation of the payment prohibition or the reporting requirement of this section. This action was taken in light of the Conferees' concern with the legal or practical problems raised by authorizing the head of an agency to take such action in these circumstances. The Conferees recommend that the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives review and report appropriate legislation to institute such authority as is deemed appropriate and necessary.

APPLICATION OF GENERAL REDUCTIONS

The level at which reductions shall be taken pursuant to the Deficit Reduction Act of 1985, if such reductions are required in fiscal year 1990, is defined by the Committee as follows:

As provided for by section 252(a)(1)(B)(i) of Public Law 99-177 and for the purposes of a Presidential Order issued pursuant to section 252 of said Act, the term "program, project, and activity" for items /

under, the jurisdiction of the Appropriations Subcommittees on the Department of the Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, or accompanying committee reports or the conference report and accompanying joint explanatory statement of the managers of the committee of conference; (2) any Government-owned or Government-operated facility; and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges, research units, regional, state and other administrative units and the like, for which funds are provided in fiscal year 1990.

The Committee emphasizes that any item for which a specific dollar amount is mentioned in an accompanying report, including all increases over the budget estimate approved by the Committee, shall be subject to a percentage reduction no greater or less than the percentage reduction applied to all non-defense accounts.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follow:

New budget (obligational) authority, fiscal year 1989	\$10,228,751,000
Budget estimates of new (obligational) authority, fiscal year 1990	9,128,704,000
House bill, fiscal year 1990	11,063,887,000
Senate bill, fiscal year 1990	10,884,101,000
Conference agreement, fiscal year 1990	11,180,742,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	+951,991,000
Budget estimates of new (obligational) authority, fiscal year 1990	+2,052,038,000
House bill, fiscal year 1990	+116,855,000
Senate bill, fiscal year 1990	+286,641,000

SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
LES AUCOIN,
TOM BEVILL,
CHESTER G. ATKINS,
JAMIE L. WHITTEN,
RALPH REGULA,
JOSEPH M. MCDADE,
BILL LOWERY,
SILVIO O. CONTE,

Managers on the Part of the House.

ROBERT C. BYRD,
J. BENNETT JOHNSTON,
ERNEST F. HOLLINGS,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
DALE BUMPERS,
HARRY REID,
DANIEL K. INOUIE,