We have to manage our forests. They are in an unhealthy state, with the Forest Service's own estimate placing 40 million acres at high fire risk. I saw the high fuel loads; lodgepole pines so thick it looked like toothpicks had been dropped from the sky, and the high levels of brush on the ground.

We need to find a way to restore many of our forests to a more healthy, natural state that includes managing prescribed burns and thinning. We may not agree on every aspect of getting to that natural state, but we can find common areas that we can agree on; that fuels reduction is better than fuels feeding these catastrophic fires in our forest. The old adage that an ounce of prevention is worth a pound of cure is very appropriate.

A well-funded fuels reduction program will pay significant dividends in reducing the firefighting and restoration costs over time. Think how far the $1 billion we are spending on fighting these fires this summer would have gone towards fuels reduction. We also have to come up with an approach to rehabilitate and restore these fire-stricken lands that works for all of those who are interested in the care of our Nation's forests.

As I was meeting with the staff and operations managers in the fire camp, I also noticed something was missing. It took me a while to figure it out, but I finally realized that there was a lack of younger personnel who would be taking the place of the fire managers as they retire in the years to come. Recent hiring freezes and reductions in personnel have left a gap in the level of experience that we have coming up to fight future fires. Men and women who have been working for 20 to 30 years fighting fires have institutional knowledge about the dynamics and management of firefighting in these warlike conditions. Ensuring that the agencies have adequate funding for personnel in these crucial positions is critical to the security of our forests.

We also need to address the current pay system that acts as a disincentive for experienced fire personnel to work on the lines, although I was pleased to hear there has been a temporary correction to this policy.

Mr. Speaker, these are but a few of the things I discovered while spending time on the Clear Creek fire. Healthy forests and fuel management is an issue Congress has to spend more time discussing and finding answers to. My fellow colleagues, the gentlewoman from Idaho (Mrs. CHENOWETH-HAGE) and the gentleman from Virginia (Mr. GOODLATTE), have each been seeking more proactive ways to manage our Nation's forests. I have asked that their respective forest committees hold a joint hearing to explore future avenues for forest management, including fuels reduction and treatment, in order to decrease the likelihood of a future catastrophic fire. I am hopeful this hearing will generate the necessary dialogue so that we can start the process of restoring and rehabilitating our Nation's forests.

Finally, Mr. Speaker, I want to thank George Matejko, forest supervisor for the Salmon-Challis National Forest, who allowed my chief of staff and I to get a first-hand look at the fires. I also want to thank Tom Hutchinson, fire management officer for the Valvermo Ranger District of the Angeles National Forest. Tom served as the incident commander for the California Incident Management Team 4 that was managing the fire. He and Virginia Gibbons, public affairs specialist for the Deschutes National Forest, gave us a close look at how fire operations work.

Finally, I want to thank all of those who have given their time and efforts to protect Idaho and the West from these catastrophic fires. The people of Idaho and I thank you.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

(Mrs. MINK of Hawaii addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

WORK MADE FOR HIRE AND COPYRIGHT CORRECTIONS ACT OF 2000

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. COBLE) is recognized for 5 minutes.

Mr. COBLE. Mr. Speaker, today I am introducing, along with the gentleman from California (Mr. BERMAN), the ranking member of the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary, H.R. 5107, the Work Made for Hire and Copyright Corrections Act of 2000. This bill addresses the controversy over the recent amendment to the Copyright Act that added sound recordings to the list of works eligible to be works made for hire. It resolves the controversy and is supported by all parties involved. It also includes other noncontroversial corrections to the Copyright Act.

First, some background about sound recording as works made for hire is necessary. A work made for hire is, one, a work prepared by an employee within the scope of his or her employment; or, two, a work especially ordered or commissioned for use as a contribution to a collective work if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

The Copyright Act provides authors a right to terminate a grant of right 35 years after the grant. The termination right, however, does not apply to works made for hire. Since 1972, sound recordings have been registered by the Copyright Office as works made for hire, even though they were not statutorily recognized as such prior to the enactment of the Intellectual Property and Communication Omnibus Reform Act of 1999. This statute, known as IPCORA, included a provision that added sound recordings to the list of works eligible for work made for hire status.

Following the passage of the amendment last year, recording artists argued that the change was not a clarification of the law and that it had substantively affected their termination rights. When apprised of these arguments, I agreed to hold a hearing on the issue of sound recordings as works made for hire. The subcommittee subsequently held a hearing on May 25, 2000, after which the gentleman from California (Mr. BERMAN) and I encouraged both sides to seek a mutually satisfactory resolution through private negotiations. Representatives of the artists and the recording industry negotiated diligently and in good faith, and during the August work period they presented us with a compromise solution.

H.R. 5107, Mr. Speaker, implements that solution. It is a repeal of the amendment without prejudice. In other words, it restores both parties to the same position they were in prior to the enactment of the amendment in November 1999. The bill states that in determining whether any work is eligible to consider a work made for hire, neither the amendment in IPCORA nor the deletion of the amendment through this bill shall be considered or otherwise given any legal significance or shall be interpreted to indicate congressional approval or disapproval of any judicial determination by the courts or the Copyright Office.

Given the complex nature of copyright law, this compromise was not easily reached, but I believe it is a good solution and I want to thank everyone who worked so diligently to resolve this controversy. I want to give special thanks as well to the gentleman from California (Mr. BERMAN), ranking member on our subcommittee, and the ranking member of the full committee, the gentleman from Michigan (Mr. CONYERS), for their participation and cooperation.

I also want to recognize Mr. Cary Sherman of the RIAA, the recording industry, and Mr. Jay Cooper, who represents the recording artists, for their efforts to find a solution.

H.R. 5107 also includes other noncontroversial corrections to the Copyright Act. These amendments remove expired sections and clarify miscellaneous provisions governing fees and recordkeeping procedures. These are necessary amendments which will improve the operation of the Copyright Office and clarify U.S. copyright law.

Mr. Speaker, it was my belief this amendment merely codified existing practice and that remains my belief, and there is ample authority that supports my contention. In fairness to the artist community, there is also ample and convincing authority that supports the artists' contention regarding this

issue. I believe we have reached a fair compromise with which all parties can live.

In conclusion, Mr. Speaker, I think H.R. 5107 is a good, noncontroversial bill. I urge my colleagues to support H.R. 5107 when it is considered on the floor, hopefully imminently, maybe even within the next couple weeks.

Mr. BERMAN. Mr. Speaker, today, Representative HOWARD COBLE and I have introduced H.R. 5107, the Work Made for Hire and Copyright Corrections Act of 2000. Because of the very important nature of this bill, I believe it merits an extensive explanation.

Section 2(a)(1) of this bill would remove the words ''as a sound recording'' from paragraph (2) of the definition of ''works made for hire'' in Section 101 of the Copyright Act—words that this Congress added less than a year ago through Section 1000(a)(9) of Public Law Number 106–113. When Congress enacted Section 1000(a)(9) last year, we believed it was a non-controversial, technical change that merely clarified current law. However, since that time, we have been contacted by many organizations, legal scholars, and recording artists who take strong issue with Section 1000(a)(9), asserting that it constitutes a significant, substantive change in law. We have discovered that there exists a serious debate about whether sound recordings always, usually, sometimes, or never fall within the nine, pre-existing categories of works eligible to be considered ''works made for hire,'' and thus there exists a serious debate about the substantive or technical nature of Section 1000(a)(9).

In testimony before the House Judiciary Subcommittee on Courts and Intellectual property on May 25, 2000, esteemed legal scholars took broadly divergent views. Professor Paul Goldstein of Stanford University Law School stated that ''the contribution of an individual sound recording as one of several selections on a CD or other album will typically constitute a 'contribution to a collective work,' '' while Professor Marci Hamilton of Cardozo School of Law maintained that, in a vast majority of instances, sound recordings would fail to qualify as ''contributions to collective works'' or as ''compilations.'' Marybeth Peters, the Register for Copyrights in the United States Copyright Office, testified that, depending on the particular facts surrounding its creation, a sound recording might, or might not, constitute a contribution to a collective work. In a letter received by Congressman Coble and me prior to that May 25, 2000 hearing, twenty-five highly respected professors of Law stated ''there may be particular situations in which a musical artist would be considered as having contracted to provide a 'contribution to a collective work,' '' but asserted that, prior to the addition of the words, ''as a sound recording'' to Section 101 of the copyright Act, sound recordings would most often fail to qualify under the nine pre-existing categories of works eligible to be ''made for hire.''

As I stated, the testimony and correspondence of these intellectual property law experts and others demonstrate the existence of a serious debate about whether and the extent to which sound recordings were eligible to be ''works made for hire'' under paragraph 2 of the definition prior to enactment of Section 1000(a)(9) of Public Law Number 106–113. By mandating that all sound recordings are eligible to be works made for hire, Section 1000(a)(9) effectively resolved this debate, and impaired the ability of authors of sound recordings to argue that particular sound recordings and sound recordings in general cannot be works made for hire. Since it eviscerates the legal arguments of those on one side of this debate, Section 100(a)(9) may constitute a substantive change in certain situations and to the extent that courts might otherwise have upheld those arguments.

This leads to the question of why it is necessary to undo Section 1000(a)(9) by removing the words ''as a sound recording'' from Section 1010 of the Copyright Act. The change embodied by Section 2000(a)(9) precludes authors of sound recordings from arguing that their sound recordings are not eligible to be considered works made for hire, and thus effectively prevents those authors from attempting to exercise termination rights under Section 203 of Title 17. Because Section 1000(a)(9) has the potential to have such a negative effect on the legal arguments and rights of authors of sound recordings, Congress should have undertaken more extensive deliberations before making this change. While Section 1000(a)(9) was published in the Congressional Record more than a week prior to its final passage, and while the Members on the Conference Committee were fully aware of its existence, there were no congressional hearings or committee mark-ups in which Section 1000(a)(9) was considered or discussed.

It is my opinion that we should immediately undo Section 1000(a)(9) so as to prevent any prejudice to the legal arguments of authors of sound recordings. Then a future Congress, after more extensive deliberation and careful consideration, could decide whether this legal debate should be resolved through legislation.

However, we are sensitive that, in undoing the amendment made by Section 1000(a)(9), we must be careful not to adversely affect or prejudice the rights of other interested parties. Specifically, we do not want the removal of the words ''as a sound recording'' from the definition of works-made-for-hire in Section 101 of the Copyright Act to be interpreted to preclude or prejudice the argument that sound recordings are eligible to be works made for hire within the nine, pre-existing categories. In essence, we want the removal of the words ''as a sound recording'' from Section 101 of the Copyright Act to return the law to the status quo ante, so that all affected parties have the same rights and legal arguments they had prior to enactment of Section 1000(a)(9).

It is for those reasons that we were convinced of the need to include Section 2(a)(2) within this statute. Section 2(a)(2) intends to ensure that the removal of the words ''as a sound recording'' will have no legal effect other than returning the law to the exact state existing prior to enactment of Section 1000(a)(9).

Our legal research shows that a simple repeal of a previous amendment may not be interpreted by the courts as simply returning the law to its previous state, but may be seen as actually altering that state. For instance, in American Automobile Association v. United States, 367 U.S. 687 (1961), the plaintiff had for years been using an accounting method that it believed was permitted under a general provision of law despite the absence of a statute specifically allowing this practice. Subsequently, Congress enacted Section 452 of the Internal Revenue Code of 1954, which specifically allowed this accounting practice, but one year later repealed Section 452. In interpreting this repeal, Justice Scalia wrote for the majority: ''the fact is that [Section] 452 for the first time specifically declared petitioner's system of accounting to be acceptable for income tax purposes, and overruled the long-standing position of the Commissioner and courts to the contrary. And the repeal of the section the following year . . . was just as clearly a mandate from the Congress that petitioner's system was not acceptable for tax purposes.''

The present set of circumstances are quite similar. For years, record companies have treated sound recordings as works made for hire, and have entered into contracts to this effect, whether enforceable or not, with recording artists. Though previous law did not specifically list sound records as a category of works made for hire, record companies regarded sound recordings as fitting with the nine, existing categories of works made for hire. Section 1000(a)(9) represented the first specific, statutory declaration by Congress that sound recordings are a category of works made for hire.

As a result of the close parallel between the current situation and the facts in American Automobile Association, it appears possible that courts would interpret a simple repeal of Section 1000(a)(9) in the same way the Supreme Court interpreted the simple repeal of Section 452 in that case—namely as a sign that Congress does not consider sound recordings to be eligible for works made for hire status.

The probability of the courts interpreting a simple repeal in this manner is increased by the existence of two U.S. District Court opinions that some may argue are on point. Under a well-known canon of statutory construction, courts assume that Congress is aware of existing judicial decisions when it enacts legislation and, unless Congress indicates otherwise and to the extent reasonable, courts interpret such legislation to be consistent with those decisions. Prior to the enactment of Section 1000(a)(9), U.S. District Courts in Staggers v. Real Authentic Sound and Ballas v. Tedesco stated, in dicta, that sound recordings were not eligible to be considered works made for hire because they were not specifically included as a category of works eligible to be works made for hire under Section 101 of the Copyright Act. Though the eligibility of sound recordings for inclusion within the nine categories of works made for hire was not briefed or argued by the parties in either case, and though the courts did not provide a detailed rationale for their comments in dicta, future courts might interpret a simple repeal bill to indicate Congressional acquiescence to these decisions.

These considerations indicate that a simple repeal bill would negatively prejudice the argument, available prior to enactment of Section 100(a)(9), that a particular sound recording was eligible to be considered a work made for hire because it fit within one of the nine, pre-existing categories. Because of the potential prejudice to this argument, it appears that a simple repeal of the words ''as a sound recording'' would not accomplish our goal, which is to return the law on the eligibility of sound recordings for work made for hire status to its state prior to enactment of Section 1000(a)9).

Therefore, we have crafted Section 2(a)(2) to ensure that the removal of the words ''as a

sound recording'' will not have prejudicial effect. With the inclusion of Section 2(a)(2) in this bill, we ensure that courts will interpret Section 101 exactly as they would have interpreted it if neither Section 1000(a)(9) nor this bill were ever enacted.

Lastly, Section 2(b)(1) gives Section 2(a) retroactive effect. The need to make these sections retroactive stems from the confusion and injustice that would otherwise result. Because these sections will have retroactive effect, there will be only one, uninterrupted law governing the eligibility of sound recordings to qualify as works made for hire—namely the same law that existed prior to the November 29, 1999 enactment of Section 1000(a)(9). If Section 2(a) were not given retroactive effect, then sound records created or contracted for between November 29, 1999 and the date of enactment of this bill could be treated differently than sound recordings created before or after those dates. Such a result would be both confusing for the courts to administer and unfair to those who happened to enter into agreements to author sound recordings after November 29, 1999 and before the date of this bill's enactment.

Unfortunately, there is some question as to whether it is constitutional under the Fifth and Fourteenth Amendments of the U.S. Constitution to give Section 2(a) retroactive effect. If the courts disagree with our conclusion that Congress can constitutionally make these provisions retroactive, we have added a severability clause in Section 2(b)(2) to ensure that the courts will not strike down the whole bill.

In short, we believe passage of this bill is vital to ensure that whatever rights the authors of sound recordings may have had previously are restored, and that such restoration is achieved in a way that does not unfairly impair the rights of others. I urge all my colleagues to support this legislation when it is brought to the House floor for their consideration.

A DISASTER FOR SAN DIEGO: DEREGULATION OF ELECTRIC UTILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise tonight to tell my colleagues about a tragic situation going on in San Diego, California. Like all of my colleagues, I went home at the beginning of August for a work period in our district, but what I found in San Diego was a disaster, and not a natural disaster but a man-made disaster, a disaster made by a few companies who are willing to put the whole quality of life of San Diegoans at risk for their own profit; a disaster that did not affect only a few people, but affected all of the residents of San Diego County, 2½ million people.

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What was the basis of this disaster? San Diego is the first area in California to fully deregulate the electrical utility industry, to fully deregulate, which means that San Diegans pay the market price for electricity. The market price is determined by the few generators of electricity who control the power grid into San Diego.

So what was the result of this deregulation, a deregulation which was supposed to bring competition and lower the cost? It doubled and then tripled the cost of electricity in just 3 months. In just 3 months, if they were a resident in San Diego County, their bill went up from $45 to $50 to $100 one month and $150 the next month. If they were a small business struggling to get by, their $800 bill went up to $1,500 in one month and then went up to $2,500 the next month.

How could they stay in business with those increases in prices?

Hospitals, libraries, youth centers, schools, the military, all of their budgets thrown into turmoil. And what was the reaction of people? Rebellion. Many people just tore up their bills.

Elected bodies in San Diego County said they are not going to pay the doubled or tripled price, they are going to pay only what they paid the year before, because they knew their costs were not determined by a supply-and-demand function but by price gouging and manipulation of the market.

Rallies were held. Demonstrations took place. Political figures at the city, county, State level tried to begin to solve this problem. The State legislature acted earlier this week by putting a cap on the retail price of electricity, a cap on the retail price. But what the State legislature did was merely put a Band-Aid on a bleeding city. Because that price was just deferred to a later time. It was not refunded. It was deferred. And the people who would have to pay that price were not the folks who gouged San Diegans to begin with, but the actual consumers who were the victims of this price gouging.

We must go beyond what the State of California's legislature did. The Federal Government must act and can act. The wholesale price of electricity can be set by the Federal Energy Regulatory Commission. And this Congress should direct that commission, known as FERC, to in fact roll back the wholesale price of electricity to the price that was paid before deregulation in which people had made profits and good profits at that price; and yet they were charging and are now charging prices double, triple, quadruple, five times what they were before deregulation.

I have a bill, my colleagues, called the Help San Diego Act: Halt Electricity Price Gouging in San Diego and Halt it Now.

The people in San Diego cannot survive the doubled and tripled prices of electricity rates. Small businesses are going under. Seniors are having to make choices between using their air conditioning or paying for their food or medical prescriptions.

I ask my colleagues to look closely at San Diego, a little dot on the southwest corner of our Nation, because we are the poster children for the future. The rest of the State of California will soon be deregulated. Many of my colleagues in their States have deregulation bills in their legislatures. This House has deregulation bills in front of it. This deregulation cannot work, my colleagues, when a basic commodity is controlled by a few monopoly corporations.

The San Diego example makes it clear the consumer must be protected if this kind of policy is going to be pursued.

Deregulation in California took place without consumer protection. It took place in an atmosphere of monopoly control of a basic commodity. My city was in danger of dying economically. We have stopped it temporarily with State legislative action. But the Federal Government must act now. FERC must roll back the wholesale price of electricity retroactively.

The people, the companies, who forced these unconscionable rates on the citizens of San Diego should pay the price and not the consumers, the victims themselves.

My colleagues, look closely at San Diego. Your city may be next.

SLORC REGIME INTENSIFIES CRACKDOWN ON OPPOSITION IN BURMA

The SPEAKER pro tempore (Mr. TANCREDO). Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, yes, I think the people should watch San Diego. It is a pity that the liberal-left coalition that controls the Democratic Party is so allied with extreme environmentalists that for 20 years they have prevented the development of any new energy resources in California. So now the people of San Diego and all of California suffer under this loss because we are having an energy shortage in a State where we should have abundance in energy.

Unfortunately, the only solution that we have being offered seems to be price controls rather than developing new energy sources, which will only make the situation worse.

But tonight I need to talk about what is going on in Burma, which is something of importance now because thousands of lives are at stake in that country.

During the past week, the SLORC regime, which controls Burma with an iron fist, a regime backed by the Communist Chinese, has intensified their crackdown on the opposition in Burma. This is a new round of brutality by the SLORC regime, and it occurred after democracy leader Aung San Suu Kyi was prevented from leaving Rangoon to visit her party's members outside the capital city.

Soldiers surrounded her car. This is a Nobel Prize winner, the person who is the rightful governmental leader of that country because of the elections