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House of Representatives

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. FUNDERBURK].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 15, 1995.

I hereby designate the Honorable DAVID FUNDERBURK to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA] for 5 minutes.

SETTING THE RECORD STRAIGHT

Mr. MICA. Thank you, Mr. Speaker.

Mr. Speaker, I come before the House this morning to set the record straight, to provide you, Mr. Speaker, and my colleagues, with correct information on statements that have been made about comments that I made on the floor in the regulatory reform debate which took place recently in the House of Representatives during our debate on the Contract With America, and specifically on the regulatory reform issues that came before this Congress.

In this Congress and during the past Congress, I have been an outspoken

critic of the manner and conduct of the regulatory process at the Federal level. Quite frankly, I came here several years ago believing that the regulatory edicts and mandates sent out by the Federal Government had overreached their bounds, had imposed undue burdens and costs on our citizens, on our local governments, on business and industry, and were eating at the very fabric of productivity and competitiveness in this country.

During the debate on the question of regulatory reform, I stood at that podium and I talked about several instances of what I considered excess regulation and regulatory overkill.

I used several examples, and two of the examples I used were actually from my local dentist, who when I was in his dental chair and in his dental office had told me several years ago about some of the excesses of certain Federal departments and agencies, and how he felt imposed upon by those agencies and how he was constricted by those agencies, and at least felt the pressures of those agencies on his practice and on his professional conduct.

So I made those comments in the regulatory reform debate in the House, and shortly thereafter "ABC News" and Peter Jennings and company made a little series, and I wanted to report to the House on that series, and also on the response. The people of the United States and Congress tuned into the "ABC News" and heard a certain response, and I never got an opportunity. You know, they interview you for, in this case, about an hour of tape, and then they take little segments out, and then they put on the national news those segments.

Interestingly enough, and as Paul Harvey said, there is a little bit more. Here is the rest of the story. I want to present that to the House this morning.

Let me quote from the National Review, and I did not prompt their doing

this piece or I did not ask them to look into this matter. It just appeared, and some of my constituents sent it to me. But let me quote exactly from it. I will read it.

Hot on the heels of the GOP's capture of Congress, ABC World News Tonight has unveiled a new segment, "For the Record," designed to ferret out congressmen who engage in exaggeration, false statistics, misleading anecdotes, and other evils. The inaugural segment focused on Representative John Mica (R., Fla.), who alleged that certain Occupational Safety and Health Administration regulations forbid kids to take pulled teeth home from the dentist, and that others compel dentists to keep logs for possession and disposal of white-out. Wild congressional exaggeration, right? Actually, OSHA's Blood Borne Pathogen Standard labels bodily tissues as biohazards. Teeth are considered tissue, and technically must therefore be placed in a red bag and picked up by a licensed disposer. Furthermore, because certain brands of white-out contain toluene, OSHA requires that Manufacturers Safety Data Sheets be kept in office files. Dr. Edward Stein, a health scientist at OSHA, says that white-out's levels of toluene are far below those which concern OSHA and that the requirement does not pertain to offices with fewer than 10 people. However, he concedes that if an individual in an office with fewer than 10 people filed a complaint about white-out, OSHA would be free to investigate. As for the teeth? A dentist in the Northeast refused to return a tooth to a 6-year-old boy because he was concerned about the health regulation. OSHA's unofficial position is that this was unnecessary. However, the regulation does require such action. For the Record.

In conclusion, this story by National Review does set the record straight, and that is, my colleagues, the rest of the story.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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Accordingly (at 10 o'clock and 37 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FUNDERBURK] at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us always, gracious God, to use our words as instruments of information and understanding, as agents of communication and contact, so that our expressions bring us together and allow us to share in our common heritage and our collective concerns. Remind us that we should choose our words wisely for we know that comments clearly stated and given for the purpose of knowledge can promote harmony and mutual assurance and can lead all people to greater respect and reverence toward one another. Bless us and all Your people, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 64. Concurrent resolution authorizing the 1995 Special Olympics Torch Relay to the run through the Capitol Grounds.

VETERANS BENEFITS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, check this out. Military bases are closing all over America. Veterans benefits are

being cut. Veterans cost-of-living allowances are being cut. Veterans outpatient clinics are being closed. Veterans pensions are being slashed.

Think about that. What bothers me is our Government is going to provide 25,000 dollars' worth of vouchers to buy houses for Russian soldiers. Beam me up. Maybe I missed something down here. We have got veterans literally sleeping on steel grates, trying to find an opportunity to get a job, but we are giving \$160 million to Russia so that these Russian troops coming back from the Baltics will be able to find a place to live. If they cannot, we, the American taxpayer, will build them a house for \$25,000.

Ladies and gentlemen, is there any reason why we are bankrupt? America has the best government that Russia ever had and that most of these other countries ever had. While we are going south, they are all doing well with our tax dollars.

I say it is time to send some of these American gurus who made this decision over to Siberia, let them freeze their buns a little bit over there and maybe it will get them a house back here in America.

(Mr. TRAFICANT asked and was given permission to proceed out of order for 3 minutes.)

H.R. 390

Mr. TRAFICANT. Mr. Speaker, since no one else is here at this point, H.R. 390 is a bill that would change the burden of proof in the tax case. Right now, if you go to a tax court on a civil case, the IRS can lien your house, take your bank account, take your parakeet, take your rubber ducky, and you have to prove you are innocent because you are considered guilty in that court.

H.R. 390 says, first of all, whenever a taxpayer goes to court in America there is one standard, and that is an American is innocent until proven guilty, and I shall switch and the American taxpayer shall be deemed innocent as well.

Second of all, you have 10 days where the IRS has to let you know what problem you have with your tax form. Cite the position of the regulation or the statute, in which your tax report has some problems. And finally, before they can take your house, take your car, take your bank account, they have to present facts to a court of law and have a court order to do so.

I think it is time, my colleagues. If innocent until proven guilty worked for the Son of Sam and Jeffrey Dahmer, how is it that grandma and grandpa, mom and dad or American taxpayers are guilty and a court must prove them innocent? Let us get on with our business. I am asking whoever is in the Congress who may be watching this to cosponsor H.R. 390 and have the Committee on Ways and Means bring the bill out.

The American people should be treated at least as well as a common murderer in a tax court.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 6 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. YOUNG of Alaska) at 12 o'clock and 23 minutes p.m.

MORE FOREIGN AID CUTS URGED

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, America's foreign policy structure needs to be overhauled. The current system is a relic of the cold war. It is duplicative and inefficient, and its foreign aid programs are a disaster.

Despite billions of dollars, those we have given aid to are mired in poverty. In fact, we have done these countries more harm than good by promoting socialist economic and agricultural programs. Of the 15 countries receiving the most U.S. aid, the Heritage Foundation's freedom index rates 12 as "mostly unfree," 1 has a repressed economy, and 2 are rated "mostly free."

A foreign aid program which supposedly buys the good will of foreign leaders while they ruin their own countries cannot be tolerated. If it is to be handed out it must promote free market reforms. Also a majority of the countries receiving U.S. aid consistently vote against us at the U.N. Foreign aid must be tied to America's interests. Is it not about time we had an American desk at the State Department.

At a time we are talking about cutting back on housing, student aid, and farming programs it is not fair to cut foreign policy programs by only \$1 billion each year for the next 5 years as the International Relations Committee bill does. It is not enough. Streamlining the State Department's bureaucracy both here and abroad is vital. Let us tell the American people that we are serious about setting new priorities for American foreign policy. Let us cut the fat at Foggy Bottom.

WHO WILL BE HURT BY CUTS TO MEDICARE AND MEDICAID?

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. PALLONE. Mr. Speaker, I would like to use my 1 minute to quote some sections of a Star Ledger editorial

which was in the Star Ledger, New Jersey's largest circulation daily, on Thursday, May 11. It says:

The Republicans have offered a budget resolution that does it all, reduces the deficit, balances the budget, and saves Medicare from bankruptcy—a piece of work crafted of smoke and mirrors. The only thing they do not tell you is how to cut \$256 billion from Medicare and \$175 from Medicaid, or who is going to get hurt if and when the cuts are made.

You cannot make up that kind of money by switching everybody in Medicare and Medicaid to managed care insurance.

You cannot make it up by cutting fees to doctors and hospitals, unless you want to see the old and the poor turned away.

Medicare is getting all the attention because it is the program for the elderly, a stronger political lobby than people on Medicaid, the program for the poor.

No one bothers to mention that Medicaid clients are mainly women and their children, or that the biggest bite from that budget provides the only hope most of us will have of keeping our mothers and fathers in nursing homes without our families going bankrupt.

Many of the same Republicans who ranted last year that a national health care program would result in health care rationing are among the crowd now calling for the kind of budget cuts which could very well mean rationing for the elderly and the poor. Shows what a difference a year and an election can make.

Mr. Speaker, I include this whole editorial for the RECORD:

[From the Star-Ledger, May 11, 1995]

MEDICARE'S CUTTING EDGE

Why did Willie Sutton rob banks? Because that's where the money is, he said.

Why are Medicare and Medicaid scheduled to take the biggest blow in the budget cutting proposed by congressional Republicans? Same reason. Same crime.

The Republicans have offered a budget resolution that does it all, reduces the deficit, balances the budget and saves Medicare from bankruptcy—a piece of work crafted of smoke and mirrors. All you have to do is trim a bit from this, a bit from that and a whole bunch from Medicare and Medicaid over the next few years and voila!

The only thing they don't tell you is how to cut \$256 billion from Medicare and \$175 billion from Medicaid or who is going to get hurt if and when the cuts are made.

You cannot make up that kind of money by switching everybody in Medicare and Medicaid to managed care insurance. The best managed care plans are not holding health care increases down to the point that would have to be matched in order to reap the savings the Republican budget resolution promises.

You cannot make it up by cutting fees to doctors and hospitals, unless you want to see the old and the poor turned away.

Medicare is getting all the attention because it is the program for the elderly, a stronger political lobby than people on Medicaid, the program for the poor.

No one bothers to mention that Medicaid clients are mainly women and their children or that the biggest bite from that budget provides the only hope most of us will have of keeping our mothers and fathers in nursing homes without our families going bankrupt.

Many of the same Republicans who ranted last year that a national health care program would result in health care rationing are among the crowd now calling for the kind of budget cuts which could very well

mean rationing for the elderly and the poor. Shows what a difference a year and an election can make.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FUNDERBURK). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed will be taken after debate is concluded on all motions to suspend the rules, but not before 5 p.m. today.

GREENS CREEK LAND EXCHANGE ACT OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1266) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1266

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Greens Creek Land Exchange Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings: (1) The Alaska National Interest Lands Conservation act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96-487 (94 Stat. 2371);

(3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;

(4) the term "Green Creek Claims" means those patented mining claims of Kennecott

Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

SEC. 4. RATIFICATION OF THE AGREEMENT.

The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

SEC. 5. IMPLEMENTATION OF THE AGREEMENT.

(a) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(b) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the "Greens Creek Land Exchange Account" into which shall be deposited the first \$5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to subsection (c) of this section. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to subsection (a) of this section.

(c) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(d) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(e) ADMINISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(f) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the

Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(g) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this Act shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

SEC. 6. REVISION RIGHTS.

Within 60 days of the enactment of this Act, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this Act. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes, and the gentleman from Hawaii [Mr. ABERCROMBIE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. YOUNG of Alaska. First of all, Mr. Speaker, let me thank the gentleman from Hawaii [Mr. ABERCROMBIE] for his work and cooperation on this bill.

Mr. Speaker, I am pleased to rise in support of the Greens Creek Land Exchange Act of 1995.

This act will approve a land exchange agreement between the U.S. Forest Service and Kennecott Greens Creek Mining Co. ("Kennecott"). These lands surround the Greens Creek Mine, a zinc-lead-silver-gold mine, located on Admiralty Island in southeast Alaska. The land exchange agreement is the product of a nearly 10-year-long negotiation between the two parties.

Under the Greens Creek Land Exchange Agreement, Kennecott receives the right to mine mineral deposits on about 7,500 acres of land, located in Admiralty Island National Monument. In return, Kennecott will: First, pay a royalty to the Federal Government on any production from these lands, and second, purchase and donate to the U.S. Forest Service 1 million dollars' worth of inholdings located within the Admiralty National Monument—an amount of land equal in value to the land received under the agreement.

The royalty is based on the value received from 1 sales after deduction of shipping, smelting, and refining charges. The royalty has two tiers depending on the value of the ore. When metal prices are average or better, the royalty will be 3 percent, and at low metal prices, the royalty will be three-quarters of 1 percent. This two-tier

royalty will encourage the Greens Creek Mine to continue operation in times of low metal prices.

This land exchange will help promote sound economic and environmentally responsible resource development, support land consolidation in conservation system units within the Tongass National Forest, and raise revenues for the Federal Government.

Mr. Speaker, I urge an "aye" vote on H.R. 1266 and thank GEORGE MILLER for his leadership in the effort to approve this land exchange agreement. I look forward to the successful completion of the Greens Creek land exchange and hope that it will help provide new economic opportunities for those who live in southeast Alaska.

Mr. Speaker, I include for the RECORD the text of the Greens Creek Land Exchange Agreement:

AGREEMENT

This Agreement, by and between Kennecott Greens Creek Mining Company, Inc., a Delaware corporation ("KGCMC") and The United States of America, by and through the U.S.D.A. Forest Service ("USFS"), dated , 1994.

Whereas, on December 2, 1980, Congress established the Admiralty Island National Monument (the "Monument") by enactment of the Alaska National Interest Lands Conservation Act ("ANILCA") (P.L. 96-487):

Whereas, the Monument was established as part of the Tongass National Forest for the purpose of protecting objects of ecological, cultural, geological, historical, prehistorical and scientific interest, in particular its wildlife and supporting habitats;

Whereas, Congress designated approximately nine hundred thousand acres of the Monument as wilderness under ANILCA;

Whereas approximately 17,000 acres of the Monument was designated as non-wilderness to permit the development of a silver, lead, zinc and gold deposit;

Whereas, KGCMC, as manager of the Greens Creek Joint Venture ("GCJV") has developed the Greens Creek Mine (the "Mine") on 17 claims which were located prior to the establishment of the Monument (the "Existing Claims");

Whereas, operation of the Greens Creek Mine, which is located approximately 15 miles from Juneau, Alaska, can produce 450,000 tons of ore per year and contribute over 265 jobs to the local economy of Southeast Alaska;

Whereas, KGCMC hopes that the life of the Mine and the jobs it provides can be extended by further exploration and development of subsurface lands within the non-wilderness portion of the Monument adjacent to the Existing Claims;

Whereas, such development can occur without significant adverse environmental effects by utilizing existing facilities of the mine for the most part and minimizing surface disturbance on Monument lands;

Whereas, further exploration and potential development of the Mine can be accomplished without significant impact to the Monument and its purposes;

Whereas, KGCMC has proposed a land exchange to acquire rights to explore and mine adjacent subsurface lands in return for conveyance to the United States, through the USFS, of important private inholdings located within the Monument and/or other Conservation System Units within the Tongass National Forest, the assignment to the United States of a royalty interest in the returns from any future development from

mining the lands acquired by KGCMC through the exchange, and a restrictive covenant and future interest in the Existing Claims, Mill Site #1 (MS 2514), and other lands held by KGCMC located on Admiralty Island;

Whereas, the result of such land exchange would include consolidation of Federal land ownership in the Monument Wilderness in return for the right through title to explore and mine the subsurface lands adjacent to the Mine within the existing non-wilderness area of the Monument, in an environmentally sound manner.

Whereas, the accomplishment of such land exchange for the purposes of Conservation System Unit consolidation and for the purpose of permitting further exploration and development of the Greens Creek Mine is in the public interest under the terms of Section 1302(h) of ANILCA; and

Whereas, this land exchange is being accomplished under the land exchange authority of Section 1302(h) of ANILCA:

Now, therefore, the parties to this Agreement agree as follows:

1. *General Description of the Exchange.* The USFS agrees to exchange the mineral estate, subject to a future interest and other provisions of this Agreement, in 7500 acres, more or less, of subsurface public land (the "Exchange Properties") delineated on a map and description title "KGCMC Exchange Properties" dated March 26, 1993, designated Exhibit A of this Agreement. KGCMC agrees to exchange in return: i) title, or alternatively, funds to acquire title, to private inholdings ("Exchange Inholdings") totalling no less than \$1,000,000 in fair market value from lands located within Admiralty Island National Monument and, if necessary, other Conservation System Units within the Tongass National Forest, from a list titled "KGCMC Exchange Inholdings" dated November 6, 1993, designated Exhibit B hereto; ii) a royalty interest in "Net Island Receipts" realized from the sale of minerals that may be mined from the Exchange Properties, (excluding those minerals which are property of KGCMC by operation of extralateral rights); and iii) a restrictive covenant and future interest in the Existing Claims, Millsite #1 (MS 2514), and any other lands held by KGCMC located on Admiralty Island. The specific interests to be exchanged and terms and conditions thereto are described elsewhere in this Agreement.

2. *Effective Date.* This Agreement shall become effective upon its execution by both parties and approval by Act of Congress. The effective date of this Agreement shall be the date of enactment of Federal legislation approving this exchange.

3. *Termination.* In the event the exchange closing described in Section 4.A is not completed within seven years from the effective date of this Agreement, this Agreement shall terminate and become null and void upon expiration of seven years from the effective date. The terms of this Agreement shall otherwise be incorporated in the conveyances completed pursuant to this Agreement. Both parties state their intent to exert reasonable best efforts to complete the exchange closing as soon as practicable in advance of seven years from the effective date.

4. Exchange Details.

A. there shall be a single exchange closing. At the closing, the following conveyance shall occur:

(i)(a) the United States shall receive fee title via general warranty deeds to the surface and subsurface estate of Exchange Inholdings totalling no less than \$1,000,000 in fair market value, subject only to any reservations, exceptions, or conditions approved prior to closing by the USFS. Upon conveyance, each Exchange Inholding shall become

and be managed by the USFS as part of the Conservation System Unit having exterior boundaries within which the Inholding is located.

(b) In the event that the Congress enacts legislation establishing a special fund in the Treasury for the deposit of monies to be available until expended, without further appropriation, for the acquisition by the Forest Service of lands and interests in lands within the exterior boundaries of Admiralty Island National Monument or other Conservation System Units within the Tongass National Forest, KGCMC shall, in lieu of the conveyances described in (i)(a), pay to the United States the sum of \$1,100,000 at the closing, for deposit in said fund. Monies from said fund shall be available for the purchase of lands and interests in lands and related administrative costs.

(ii) KGCMC shall receive title to the entire interest of the United States in the form of a patent upon completion, at KGCMC expense, of a survey meeting Bureau of Land Management standards, to the Exchange Properties, comprising the subsurface mineral estate of the lands described in Exhibit A, along with rights appurtenant to such estate identical to those provided for an "unperfected claim" as defined in section 504 of ANILCA (16 U.S.C. 432 note) once patent to the minerals of such claim is conveyed by the United States. Provided, the Exchange Properties conveyance shall specifically reserve the restrictive covenant and future interest in the United States as described in Section 8, and shall specifically except extralateral rights as described in Section 4.B;

The Exchange Properties conveyance shall furthermore be specifically subject to:

- a. valid existing rights;
- b. the covenants described in Sections 4.C. and 4.D.;
- c. the Net Island Receipts interest described in Section 6 and Exhibit C hereto; including but not limited to the right of USFS to enter and inspect the Exchange Properties as provided in Exhibit C hereto;
- d. a coextensive right of USFS to enter and inspect the Exchange Properties to monitor compliance with Sections 4.B and 4.C.;

The Exchange Properties conveyance shall be furthermore subject only to any other exceptions, reservations, or conditions approved prior to closing by KGCMC.

B. The parties expressly agree that no extralateral rights for the Exchange Properties shall be conveyed under the terms of this Agreement. This Agreement shall not enlarge nor diminish any extralateral rights which KGCMC may now have or in the future establish with respect to its existing claims.

C. The parties expressly agree that no minerals extracted from the Exchange Properties other than hardrock and metalliferous minerals available for location and patent under the general mining laws of the United States (30 U.S.C. 21-53 *et seq.*) may be sold for commercial purposes. Any other mineral or mineral material on the Exchange Properties may be extracted and utilized by KGCMC in the exploration, development, mining and beneficiation process of Existing Claims and Exchange Properties for hard rock and metalliferous minerals, without payment to the United States.

D. Use and occupancy by KGCMC, its successors, or assigns of the surface overlying the Exchange Properties shall be limited as follows:

(1) Use and occupancy of the surface estate overlying the Exchange Properties shall be minimized to the maximum extent practicable, including but not limited to consolidating facilities and operations to the maximum extent practicable with facilities and operations related to the existing Greens

Creek Mine, and reclamation in accordance with applicable law and regulation.

(2) There shall be no use or occupancy of the surface estate overlying the Exchange Properties until the operator, as defined in the regulations referenced herein, has applied for and received approval of a plan of operations, including reclamation, in accordance with the provisions of 36 CFR 228.80 and 36 CFR 228, Subpart A in effect on the effective date of this Agreement.

(3) There shall be no use or occupancy of the surface estate overlying the Exchange Properties for purposes of open pit, hydraulic, or other surface mining, or smelting operations.

(4) Neither the existence of privately owned minerals nor any provision of this Agreement shall be construed to preclude the United States and its assigns, including the general public, from occupancy or use of the surface estate overlying the Exchange Properties. The USFS shall as appropriate impose reasonable restrictions upon public occupancy and use for purposes of avoiding conflict with KGCMC operations, to protect public safety, or for other purposes. This provisions shall not be construed to alter respective tort liability, if any, between USFS and KGCMC or other entities under applicable law.

E. Evidence of title to Exchange Inholdings shall be in a form acceptable to and in conformance with standards of the Attorney General of the United States.

F. USFS shall bear its own attorney fees, costs of document preparation for conveyance of the Exchange Properties to KGCMC, and costs of recording documents conveying Exchange Inholdings and other property interests to the United States. KGCMC shall bear all other closing costs, including abstract of title or title insurance, transfer taxes, brokerage fees, its attorney fees and recording costs. KGCMC shall also bear the cost of survey required for issuance of patent to the Exchange Properties and any survey required by the United States to complete conveyance of any Exchange Inholdings to the United States. Provided, if USFS completes the acquisition of Exchange Inholdings pursuant to Section 4.A(i)(b), the USFS shall bear all closing costs for the Exchange Inholdings. All costs borne by KGCMC pursuant to this paragraph shall not be credited against the \$1,000,000, Net Island Receipts interest, or other consideration owing to the United States under this Agreement. The provisions of Public Law No. 91-646 shall not apply to this Agreement. KGCMC shall not be construed as an agent of the United States in acquiring Exchange Inholdings or otherwise under this Agreement.

G. The USFS agrees to cooperate with KGCMC in attempting to effect the transactions contemplated herein as tax free exchanges pursuant to Section 1031 of the I.R.C. (26 U.S.C. 1031 *et seq.*), but expressly disclaims any jurisdiction to determine or influence Internal Revenue Service determinations of the tax consequences of any transactions.

5. Valuation of Exchange Inholdings

A. Attached as Exhibit B of this Agreement is a list of the properties which the USFS lists as qualified for conveyance as Exchange Inholdings. KGCMC shall be permitted to acquire and designate any such properties as Exchange Inholdings and convey or cause to be conveyed to the USFS such properties as is necessary to effect the Exchange. No particular lands are required to be conveyed, and there is no priority for these potential Exchange Inholdings except as described in Section C below.

B. The fair market value of each Exchange Inholding shall be the lesser of the actual

amount paid for the Inholding by KGCMC, excluding closing costs borne by KGCMC described in Section 4.E above, or the fair market value adjusted to the effective date of this Agreement, determined by an appraisal. The appraisal for each Exchange Inholding shall be completed by KGCMC at its own expense and the appraisal report provided to USFS no sooner than 1 year and no later than 60 days in advance of closing for the Inholding concerned, for review and approval. Said appraisal shall be completed according to the then current Uniform Appraisal Standards for Federal Land Acquisitions. In the event KGCMC is not able to acquire Exchange Inholdings totalling exactly \$1,000,000 in fair market value, KGCMC shall be obligated without further consideration to convey and bear the expense of acquiring any additional Exchange Inholding required to bring the total fair market value of the Exchange Inholdings conveyed to at least \$1,000,000.

C. Exhibit B is divided into two parts: Part A lists lands located within Admiralty Island National Monument. Part B lists lands located within other Conservation System Units within the Tongass National Forest. KGCMC shall use reasonable efforts to acquire lands from the Part A list when available at fair market value and only acquire lands from the Part B list upon a determination by the USFS that lands from the Part A list are not available at fair market value after such reasonable efforts. KGCMC shall otherwise consult and cooperate with USFS in identifying opportunities of acquisition at fair market value of particular lands listed in Exhibit B, and use reasonable efforts to acquire such lands.

6. *Net Island Receipts Royalty Interest*—The Parties agree that the United States shall receive a percentage of the Net Island Receipts from mineral production from the Exchange Properties as described in Exhibit C of this Agreement. The United States shall be provided reasonable access by KGCMC to the Exchange Properties and any books, records, documents, and mineral samples, to audit the payment of the Net Island Receipts interest as provided in Exhibit C.

7. *Existing Extralateral Rights*—This Agreement, including the grant of the Net Island Receipts interest described in paragraph 6 and Exhibit C shall not enlarge or diminish any rights KGCMC may now have or in the future establish to minerals lying with the Exchange Properties through application of extralateral rights extending from KGCMC's Existing Claims. The Net Island Receipts interest to be granted to the United States under this agreement shall not burden, nor entitle the United States to any monies realized by KGCMC from the sale of concentrates or other mineral products from ores, the title to which belongs to KGCMC by operation of extralateral rights extending from KGCMC's existing claims and property interests.

8. *Restrictive Covenant and Future Interest in the United States.*

A. KGCMC shall grant the United States a restrictive covenant and future interest in (i) the Existing Claims; (ii) Millsite #1 (MS 2514); and (iii) the Exchange Properties, and the right to a future interest in (iv) the "Future Acquired Lands," defined as follows: any lands on Admiralty Island to which KGCMC, its successors, or assigns acquires title after the effective date of this agreement and prior to the vesting of title in the United States as defined in Section 8.B. occurs, excepting Exchange Inholdings conveyed to the United States pursuant to this Agreement. The grant shall be effected by: (1) a conveyance by deed regarding the Existing Claims and Millsite; (ii) a reservation and/or exception in the conveyance from the

United States regarding the Exchange Properties; and (iii) a contractual right to conveyance by deed upon KGCMC acquiring title, regarding the Future Acquired Lands. KGCMC shall grant the restrictive covenant and future interest and rights thereto described herein at the exchange closing.

B. The terms of the restrictive covenant and future interest to be granted to the United States in Section 8.A. are as follows:

(1) Restrictive Covenant: Use of the subject lands by KGCMC, its successors, and assigns shall be limited solely to bona fide good faith mineral exploration, development, and production activities, including reclamation work. This covenant shall run with the land until such time as the vesting of title to the United States occurs.

(2) Future interest: Right of Reentry: The United States shall have a right to reenter and take title and possession to all right, title, and interest in the subject lands upon the following, whichever occurs earlier:

(a) abandonment by KGCMC, its successors, or assigns, of all bona fide good faith mineral exploration, development, and production activities, including reclamation work, on each and all of i) the Existing Claims; ii) Millsite #1 (MS 2514); iii) the Exchange Properties; and iv) the Future Acquired Lands. Complete cessation for ten consecutive years of all bona fide good faith mineral exploration, development, and production activities, including reclamation work, on all the lands listed in i) through iv) herein, shall be conclusively deemed to constitute abandonment, without prejudice to abandonment occurring otherwise.

(b) January 1, 2045; if as of December 1, 2044, KGCMC, its successors, or assigns are not engaged in bona fide good faith mineral exploration, production, or production activities, including reclamation work, on any of the lands listed in (i) through (iv) in (a) above.

(c) January 1, 2095, irrespective of any ongoing activities and subject to the right of reentry occurring sooner based upon abandonment as described in (a) above.

The right of reentry and all other terms herein shall not in any way relieve KGCMC, its successors, or assigns of obligations described in Section 9 [indemnity] of other obligation otherwise applicable.

9. *Hazardous Waste and other Indemnity.* KGCMC, Kennecott Corporation, and their successors and assigns shall indemnify, defend and hold harmless the United States, its various agencies and employees, from any damage, loss, claim, fines, penalties, and costs whatsoever arising in any way and at any time from any use, occupancy or activities, past, present or future (provided said use, occupancy, or activities occur no later than the time at which title reverts to the United States), by any entity, on the Exchange Inholdings, Existing Claims, Millsite #1 (MS 2514) and other property in which a restrictive covenant and future interest is granted to the United States under this Agreement, specifically including, but not limited to: (a) those activities by which hazardous substances, hazardous materials, or wastes of any kind were generated, released, stored, used, or otherwise disposed on the described property or facility thereon, and (b) any response or natural resource damage actions conducted pursuant to any federal, state, or local environmental law, regulation, or rule, and related in any manner to said hazardous substances, hazardous materials, or wastes.

10. *Disclaimer of Value Warranty.* The parties expressly disclaim any warranty of value for any of the lands or interests exchanged under this Agreement. It is expressly recognized by the parties that potential revenues or proceeds from any of the

lands or interests exchanged herein are purely speculative.

11. *Loss or Damage Prior to Conveyance.* Both parties agree not to do, or suffer others to do, any act prior to the conveyance described in this Agreement by which the value of the real property herein identified for exchange may be diminished or further encumbered. In the event any such loss or damage occurs from any cause, including acts of God, to the real property herein identified for exchange before execution of deed, the party who is grantee under this Agreement as to that property shall not be obligated to accept title to said property, and an equitable adjustment in the consideration shall be made at the option of said party. Information obtained from exploratory drilling or other acts otherwise authorized shall not be construed as diminishing or further encumbering the identified property, for purposes of this Agreement.

12. *Status Quo Ante.* In the event this Agreement becomes null and void prior to the completion of the exchange closing by operation of its terms or by order of a court of competent jurisdiction, the parties shall return to their status and rights prior to execution of the Agreement.

13. *Notices*—Notices required to be delivered under this Agreement shall be delivered in writing by U.S. mail, hand delivery with return receipt, or fax with confirmation as follows:

KGCMC

General Manager
Kennecott Greens Creek Mining Co.
3000 Vintage Park Road
Juneau, Alaska 99801

General Counsel
Kennecott Corporation
10 East South Temple
Salt Lake City, Utah 84113
U.S. Forest Service

Regional Forester
Region 10
P.O. Box 21628
Juneau, Alaska 99802-1628

14. *Signatures for Execution.* The signers shall be: (i) for Kennecott Corporation and Kennecott Greens Creek Mining Company, respectively, the authorized officer for the Corporation and for the Company; and (ii) for the United States of America, Department of Agriculture, Forest Service, the USDA Assistant Secretary for Natural Resources and Environment.

15. *Counterparts.* This Agreement may be signed in separate counterparts by the parties which, when each have so signed, shall be deemed a single Agreement.

16. *Entirety of Agreement.* This instrument and attachments embody the whole Agreement of the parties. The Exhibits referenced herein are attached hereto and incorporated by reference as part of this Agreement. There are no promises, terms, conditions, or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

17. *Modification.* This Agreement may be modified only upon written Agreement of the parties thereto and after notification in writing to the appropriate committees of the U.S. Congress.

18. *Clerical and Typographical Errors.* Clerical and typographical errors contained herein may be corrected upon notice to the Parties. Unless such errors are deemed substantive by either party within ten (10) days notice, corrections may be made without for-

mal ratification by the Parties. In the event the delineation of a boundary upon a map included in an exhibit to this Agreement conflicts with a textual description of the boundary included in the exhibit, the map boundary shall control, subject to correction of errors in map boundaries under this section.

19. *Covenant Not to Sue.* The parties to this Agreement mutually covenant not to sue each other challenging the legal authority of either to enter into their Agreement or to effectuate any terms herein. Either party may enforce the covenants, terms, and conditions of this Agreement in a court of competent jurisdiction.

20. *Officials Not to Benefit.* No Member of Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom unless it is made with a corporation for its general benefit (18 U.S.C. 431, 433).

Third Party Beneficiaries. This agreement is not intended, and shall not be construed, to create any third party beneficiary. Nothing in this Agreement shall be construed as creating any rights of enforcement by any person or entity that is not a party to this Agreement.

Successors and Assigns.

A. This Agreement shall be effective and binding upon each party and any successors or assigns thereto. The parties shall have the right to assign, transfer, convey, lease, sell or alienate any of their rights under this Agreement. The Parties further acknowledge that a transfer from KGCMC to Greens Creek Joint Venture, operating as a joint venture, is expressly permissible upon written notice to the USFS. An assignment, transfer conveyance, lease, sale or other alienation of rights, however, shall not release a party from its duties under this Agreement, except that an agency of the United States shall be released from its duties if the transfer is to a successor agency.

B. An assignment, transfer, conveyance, lease, sale or alienation shall not release any of the covenants or conditions which run with the land imposed by this Agreement. The covenants and conditions contained in this Agreement shall be construed as running with the land unless they are clearly intended as personal to a party to this Agreement. The parties may contract for the disposition or utilization of any rights granted by this Agreement.

23. *Equal Value and Public Interest Determination.* The Parties recognize the impossibility of precisely valuing the respective considerations flowing between the United States and GCJV pursuant to this Agreement. In accordance with Section 1302(h) of ANILCA, the USFS Regional Forester, Region 10, pursuant to authority delegated by the Secretary of Agriculture, has determined that although the mutual consideration flowing between the Parties may be unequal, it is in the public interest to consummate this exchange. This paragraph shall be construed as a finding by the Secretary that the public interest values of the interests in land exchanged pursuant hereto are equal.

In Witness Whereof, Kennecott Corporation, Kennecott Greens Creek Mining Company, and the USDA Assistant Secretary for Natural Resources and Environment, acting for and on behalf of the United States Department of Agriculture, has executed this Agreement.

United States Department of Agriculture
By: _____
Assistant Secretary for Natural Resources and Environment
Date: _____
Kennecott Greens Creek Mining Company
By: _____

Its: _____
Date: _____

Kennecott Corporation
By: _____
Its: _____

Date: _____

EXHIBIT B—PART A

KGCMC EXCHANGE INHOLDINGS—ADMIRALTY ISLAND NATIONAL MONUMENT

| Tract | Acres | Location | Legal description | USGS quad |
|---|--------|---------------|------------------------------------|-------------------|
| USS 796 (406906) | 7.88 | Wheeler Creek | T44S, R65E, CRM | JUN A-3. |
| USS 1058 | 54.04 | Hood Bay | T52S, R68E, CRM | SIT B-2. |
| USS 1159 (938822) (Homestead Entry No. 85) | 71.47 | Wheeler Creek | T44S, R65E, CRM | JUN A-3. |
| Fraction of HES 85 totaling approx. 22 acres subdivided as: | | | | |
| Tract A | 4.965 | | | |
| Tract B | 4.965 | | | |
| Tract C | 4.965 | | | |
| Tract D east part | 0.366 | | | |
| Tract D west part | 1.5 | | | |
| Tract E Lot 1 | 2.48 | | | |
| Tract E Lot 2 | 2.48 | | | |
| Fraction of HES 85 totaling approx. 16 acres | | | | |
| Fraction of HES 85 totaling approx. 33 acres | | | | |
| USS 1351 | 134.53 | Mole Harbor | T49S, R70E, CRM | SIT C-1. |
| Tract A | 3.44 | | | |
| Tract B | 131.09 | | | |
| USS 1480 (T&M Pat. 1027446) | 10.24 | Hood Bay | T52S, R69E, Sec7 | SIT B-2. |
| USS 1575 | 14.63 | Gambier Bay | T51S, R71E, CRM | SUM B-6. |
| Tract A | 3.905 | | | |
| Tract B | 4.069 | | | |
| Tract C | 2.544 | | | |
| Tract D | 2.239 | | | |
| Tract E | 1.875 | | | |
| USS 1984 (1061484) | 32.59 | Pybus Bay | T53S, R71E, CRM. | SIT B-1. |
| Parcel 1&2 | 21.50 | | | |
| Parcel 3 | 11.09 | | | |
| USS 2412: | | | | |
| Lot 16 | 3.51 | Hood Bay | T52S, R68E, Sec12. | SIT B-2. |
| Tract A | 1.981 | | | |
| Tract B & C | 1.528 | | | |
| USS 2412: | | | | |
| Lot 21 | 4.55 | Hood Bay | T52S, R68E, Sec12. | SIT B-2. |
| (Homesite Pat. 1126506) | | | | |
| Lot 23 | 5.00 | Hood Bay | T52S, R68E, Sec12. | SIT B-2. |
| (Homesite Pat. 1130390) | | | | |
| USS 2413: | | | | |
| Lot 28 | 3.90 | Hood Bay | T52S, R69E, CRM | SIT B-2. |
| Lots 30-37 (PLO 774) | 23.1 | Hood Bay | T52S, R69E, CRM | SIT B-2. |
| PLO's 593, 774, 5156 & 5188 totaling: | 612.63 | Hood Bay | T52S, R68E, CRM T52S, R69E, Sec 7. | SIT B-2. |
| USS 10438: | | | | |
| Lot 1 | 3.98 | Hood Bay | T52S, R68E, CRM | SIT B-2. |
| Lot 2 | 22.59 | Hood Bay | T52S, R68E, CRM | SIT B-2. |
| USS 10444 | 100.0 | Hood Bay | T52S, R68E, CRM | SIT B-2. |
| USS 10459 | 60.0 | Chaik Bay | T52S, R69E, CRM | SIT B-2. |
| MS 312 | 132.67 | Kanalku Bay | T50S, R68E, CRM | SIT B-2. |
| MS 1032 | 82.28 | Greens Creek | T43S, R66E, CRM Sec. 31 & 32 | JUN A-2, JUN A-3. |
| 1152018 | 18.00 | Murder Cove | T56S, R68E, CRM | SIT A-2. |
| Fraction | 16.00 | | | |
| Fraction | 2.00 | | | |
| AA-7741 | 158.04 | Mitchell Bay | T50S, R68E, SEC 12. | SIT C-2. |
| Native Allot. Patent No. 50-93-0148 | | | | |
| Native Allot. | 104.48 | Favorite Bay | T51S, R68E | SIT B-2. |

The above list of private holdings within Admiralty Island National Monument are considered desirable for acquisition. Data is from the USDA Forest Service, R-10 data files and State of Alaska, Juneau District Recorders Office. The listing is considered to be approximately 95% complete as of the date of this agreement. Parcels to be considered under this exchange shall also include holdings conveyed into private ownership subsequent to the date of this agreement. The parcels are listed in numerical order without any regard as to priority or availability for acquisition.

EXHIBIT B—PART B

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS

| Tract | Acres |
|--|--------|
| Misty Fjords National Monument/Wilderness: | |
| MS 2267 | 647.12 |
| USS 1663 | 10.08 |
| USS 1980 | 14.00 |
| USS 287 | 34.53 |
| USS 1342 | 5.00 |
| USS 2975 | 79.87 |
| USS 2662 | 4.96 |
| USS 2667 | 84.07 |
| USS 1445 | 65.25 |

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

| Tract | Acres |
|--|----------|
| USS 2629 | 28.13 |
| USS 2320 | 116.77 |
| USS 2740 | 124.19 |
| IC 1072 | 12.75 |
| IC 1424 | 11.40 |
| IC 1188 | 19.20 |
| IC 929 | 4.65 |
| Subtotal | 1,261.87 |
| South Prince of Wales Wilderness: | |
| USS 310 | 13.75 |
| IC 1107 | 33.20 |
| IC 1115 | 3.10 |
| Subtotal | 50.05 |
| Peterson Creek/Duncan Salt Chuck Wilderness: | |
| MS 652 | 78.16 |
| USS 310 | 7.75 |
| Subtotal | 85.91 |
| Stikine-LaConte Wilderness: | |
| USS 1023 | 160.00 |
| USS 2358 | 4.93 |
| Pat'd Land | 159.63 |
| Pat'd Land | 151.35 |
| Pat'd Land | 141.65 |
| Pat'd Land | 135.39 |

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

| Tract | Acres |
|-----------------------------------|----------|
| Pat'd Land | 114.38 |
| Pat'd Land | 157.76 |
| Subtotal | 1,025.09 |
| West-Chichagof/Yakobi Wilderness: | |
| MS 2257 | 15.00 |
| MS 1574 | 201.64 |
| MS 965A | 39.96 |
| MS 1587 | 32.84 |
| MS 1046 & 1453 | 35.79 |
| MS 1046 | 7.35 |
| MS 1460 | 33.53 |
| MS 936 | 23.56 |
| MS 1047 | 13.75 |
| MS 864 | 42.82 |
| MS 1576 | 12.34 |
| MS 1575 | 12.62 |
| MS 1461 | 4.77 |
| MS 1594 | 35.39 |
| MS 1498 | 16.66 |
| MS 1502 A & B | 162.42 |
| MS 1504 | 19.81 |
| MS 957A | 13.38 |
| MS 1497 | 1.17 |
| USS 1476 | 12.70 |
| Subtotal | 737.50 |
| Chuck River Wilderness: | |
| MS 791 | 35.43 |
| MS 964 | 55.02 |
| MS 42 | 9.87 |

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

| Tract | Acres |
|------------------------------------|--------|
| MS 1085 | 62.47 |
| MS 577 | 154.46 |
| MS 37, 38 & 39 | 55.45 |
| USS 1509 | 40.22 |
| USS 1940 | 37.66 |
| USS 3082 | 4.51 |
| MS 424 | 12.96 |
| MS 525A | 25.55 |
| MS 267 A & B; 268 A & B; 269; 270. | 63.98 |
| MS 579 A & B | 111.85 |
| MS 40 & 41 | 28.00 |
| USS 2845 | 3.78 |
| Subtotal | 701.21 |

The above list of private holdings within Conservation System Units on the Tongass National Forest are considered desirable for acquisition. Data is from the USDA Forest Service, R-10 data files and State of Alaska, Juneau District Recorders Office. The listing is considered to be approximately 95% complete as of the date of this agreement. Parcels to be considered under this exchange shall also include holdings conveyed into private ownership subsequent to the date of this agreement. The parcels are listed in random order without any regard as to priority or availability for acquisition.

EXHIBIT C—NET ISLAND RECEIPTS ROYALTY

A. DEFINITION OF NET ISLAND RECEIPTS

"Net Island Receipts (NIR)" shall be any excess of "Revenues Received (RR)" over "Allowable Deductions (AD)" for any calendar year. Net Island Receipts shall be calculated using the following formula: NIR = RR - AD.

Where:

NIR = Net Island Receipts for the calendar year (in dollars);

RR = Revenues received during the calendar year, as defined in Section D. below (in dollars);

AD = Allowable deductions incurred during the calendar year, as defined in Section D. below (in dollars);

B. ROYALTY CALCULATION

The dollar amount of the royalty payable to the Interest Holder shall be calculated using the following formula: Royalty = (X) (NIR).

Where (X) = three percent (3%) of NIR when NIR exceeds \$120/ton, and three-fourths of one percent (0.75%) when NIR is equal to or less than \$120/ton. Provided, the \$120/ton threshold shall be adjusted annually according to the Gross Domestic Product Implicit Price Deflator, until the sooner of the following dates, whichever occurs earlier:

(1) the date 20 years subsequent to the date upon which mining operations commence at the Greens Creek Mine, whether or not operations include the Exchange Properties; or

(2) the date 30 years subsequent to the effective date of the Agreement.

C. PAYMENTS OF ROYALTY

The payor shall deliver to the Interest Holder a payment equal to the percentage, as set forth in section B. above, of all NIR realized by the Payor during any calendar year (January 1-December 31), within thirty days after the end of said calendar year, together with a copy of the accounting made in connection with such payment. All payments of royalty to the Interest Holder shall be subject to adjustment, including interest on any such adjustment at the rate provided by 31 U.S.C. 3717, on March 31.

D. OTHER DEFINITIONS

1. "Exchange Properties" shall mean the "Exchange Properties" described by Exhibit A of the Agreement.

2. "Payor" shall mean KGCMC, its successors and assigns.

3. "Interest Holder" shall mean United States of America, pursuant to the terms of the Agreement.

4. "Revenues Received (RR)" shall mean the payments received or credited from the sale of ores or products produced from ores mined from the Exchange Properties at the point of sale before subtracting the Allowable Deductions (AD). Sales to affiliates of KGCMC shall be valued at the fair market value of the products sold. Any credits or payments received from a buyer by KGCMC shall be credited as RR.

5. "Allowable Deductions" shall mean the following actual costs incurred by Payor: costs of all transportation and insurance for ores or products produced from ores mined from the Exchange Properties, between KGCMC Admiralty Island loading facilities and the point of delivery of said ores or products, smelting and/or refining charges, treatment charges, penalties, umpire charges, independent representative charges and all charges by purchasers of said ores or products.

E. ACCOUNTING MATTERS

All Revenues Received (RR) and Allowable Deductions (AD) shall be determined in accordance with generally accepted accounting principles and practices consistently applied. RR and AD shall be determined by the accrual method.

F. COSTS OF COMMON FACILITIES

Where any AD are incurred in conjunction with like costs for mineral products from other Properties controlled by the Payor, such costs shall be fairly allocated and apportioned in accordance with generally accepted practices in the mining industry.

G. AUDIT AND DISPUTES

1. The Interest Holder, upon written notice, shall have the right to have an independent firm of certified public accountants or utilize its own personnel at its own cost to audit the records that relate to the calculation of the NIR royalty within 24 months after receipt of a payment described in Section C of this Exhibit.

2. The Interest Holder shall be deemed to have waived any right it may have had to object to a payment made for any calendar year, unless it provides notice in writing of such objection within 25 months after receipt of final payment for the calendar year. The parties may elect to submit the dispute to a mutually acceptable certified public accountant, or firm of certified public accountants, for a binding resolution thereof.

H. GENERAL

1. Unless otherwise specified, capitalized terms used herein shall have the same meaning as given to them in the Agreement.

2. Accurate records of tonnage, volume of products, analyses of products, weight, moisture, assays of pay metal content and other records related to the computation of the NIR royalty hereunder shall be kept by the Payor.

3. Up to four times per year, the Interest Holder or its authorized representative on not less than five (5) business days written notice to the Payor, may enter upon all portions of the Exchange Properties for the purpose of inspecting the Exchange Properties, all improvements thereto and operations thereon, and may inspect and copy all records and data pertaining to the computation of the NIR royalty, including without limitation such records and data which are maintained electronically. The Interest Holder or its authorized representative in exercising entry and inspection rights may not unreasonably hinder operations on or pertaining to the Exchange Properties. This provision does not diminish any other independent right which the Interest Holder may

have to enter and inspect Payor's properties, records or data.

4. All notices or communications hereunder shall be made and effective in accordance with the provisions of the Agreement.

5. The NIR royalty interest shall be a real property interest that runs with the Exchange Properties and shall be applicable to any person who processes and sells products from the Exchange Properties.

6. All information and data provided to the Interest holder shall be treated as confidential by the USFS and disclosed to other parties only to the extent, if any, required by law.

7. The Payor shall have the right to commingle ore and minerals from the Exchange Properties with ore from other lands and properties; provided, however, that the Payor shall calculate from representative samples the average grade of the ore and shall weigh (or calculate by volume) the ore before commingling. If concentrates are produced from the commingled ores by the Payor, the Payor shall also calculate from representative samples the average recovery percentage for all concentrates produced during the calendar year. In obtaining representative samples, calculating the average grade of the ore, and calculating average recovery percentages the Payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

Mr. Speaker, I reserve the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ABERCROMBIE asked and was given permission to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, good morning and aloha, and good morning and aloha to my good friend and most excellent chairman, the gentleman from Alaska [Mr. YOUNG].

Both the chairman, the gentleman from Alaska [Mr. YOUNG], and the ranking member, the gentleman from California [Mr. MILLER], introduced this bill, a hallmark of bipartisan cooperation dearly to be cherished and assiduously sought after in legislation to come. In my view, Mr. Speaker, and in the view of the gentleman from California [Mr. MILLER], H.R. 1266 provides for a beneficial resolution, both for the economy and the environment of southeast Alaska.

Mr. Speaker, the Committee on Resources has a long history of concern for the management of Admiralty Island National Monument.

□ 1230

While the wilderness and wildlife values of Admiralty Island are very special, responsible operation of the Greens Creek Mine is not necessarily compatible with the conservation purposes for which the monument was established. This legislation would allow Greens Creek to explore 7,500 acres of nonwilderness lands adjacent to the existing mine, allowing mine operations to expand with relatively little surface disturbance.

By virtue of the agreement negotiated between the Forest Service and Kennecott, the environment will benefit both in the short term through \$1.1

million of land acquisition from willing sellers, and in the long term when mining operations cease and the lands revert back to the Forest Service.

In addition, the bill creates a land acquisition account to be funded by the first \$5 million of royalties collected for further land purchases in the Tongass National Forest, with priority to non-Federal lands within the national monument.

Pursuant to the terms of the agreement, if Greens Creek fails to purchase and deliver title to \$1.1 million worth of lands acceptable to the Forest Service, the land exchange will not be consummated.

Mr. Speaker, it is important to consider this agreement in the context of efforts to reform the mining law of 1872. The notion that those of us who favor modernizing the mining laws are opposed to the mining industry in this country is simply false. My support of this legislation, which is likely to significantly enhance the economics and life of the Greens Creek Mine, should put that falsehood to rest.

This legislation does set an important precedent that the Government should receive a royalty share for the development of public lands. At the same time, I do not consider the 3-percent net royalty negotiated in this agreement as universally applicable for purposes of mining reform.

I recognize there were concessions from both sides in the negotiating process and I am reluctant to rewrite the deal. On balance, however, I applaud both Kennecott and the Forest Service for their efforts, and I ask Members to support the bill.

May I add personally, Mr. Speaker, again my congratulations to the gentleman from Alaska [Mr. YOUNG], the chairman, and the appreciation of all the members on the minority side for his openness and, as always, his willingness to be cooperative with us.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I could only echo what the gentleman just said. There is a way we can work on many of these issues and solve the problem if we seek to do so.

The gentleman from Hawaii has always been able to work with me on his issues especially in his great State. We have a great deal in common. We hope to solve some of his problems with the Hawaiian natives which we have also solved in Alaska. I do compliment him.

I may suggest to the gentleman from California [Mr. MILLER], the ranking member, we ought to let the gentleman from Hawaii [Mr. ABERCROMBIE] manage these bills more often.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FUNDERBURK). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 1266, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 1266, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

CRONYISM INVOLVED IN REPUBLICAN BUDGET PROPOSAL

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. FURSE. Mr. Speaker, can this really be true? The 1996 budget before us cuts school lunches, makes Medicare more expensive, guts environmental protection, all in the name of balancing the budget, but the biggest item of all is not touched. In fact, it is increased. The millions of Americans who thought that the end of the cold war meant the end of huge Pentagon budgets will be sadly disappointed.

For years, when thoughtful people said that the waste in the Pentagon was enormous, we were criticized for not being strong on defense. But, of course, we were right all along.

An article in Sunday's Washington Post states, "Each year the Department of Defense inadvertently pays contractors millions of dollars that it does not owe."

"In addition," the article says, "the department has spent \$15 billion"—and I repeat, \$15 billion—"it cannot account for over the last decade."

Why are we cutting education, nutrition, health care, and environmental protection, but increasing Pentagon spending? Could it possibly be that defense contractors make huge contributions? But children, seniors, endangered species, they do not.

This is not an issue of security. This is an issue of cronyism.

Mr. Speaker, the article referred to is as follows:

[From the Washington Post, May 14, 1995]

LOSING CONTROL—DEFENSE DEPARTMENT—BILLIONS GO ASTRAY, OFTEN WITHOUT A TRACE

(By Dana Priest)

Each year, the Defense Department inadvertently pays contractors hundreds of mil-

lions of dollars that it does not owe them, and much of the money is never returned.

In addition, the department has spent \$15 billion it cannot account for over the past decade.

And Pentagon purchasing agents appear to have overdrawn government checking accounts by at least \$7 billion in payment for goods and services since the mid-1980s, with little or no accountability.

Unlike the infamous \$7,600 coffee pot and \$600 toilet seat pricing scandals of years past, these problems, and many more, are the result of poor recordkeeping and lax accounting practices that for years have characterized the way the Defense Department keeps track of the money—\$260 billion this year—that it receives from Congress.

According to a series of investigations by the Department's inspector general and the General Accounting Office, and ongoing work by Pentagon Comptroller John J. Hamre, the department's systems of paying contractors and employees are so antiquated and error-prone that it sometimes is difficult to tell whether a payment has been made, whether it is correct, or even what it paid for.

Just how much money does the poor accounting waste?

Former deputy defense secretary and new CIA Director John M. Deutch wouldn't hazard a guess. "Lots," he scribbled recently on a reporter's notebook in response to a question.

For months after he took the job as chairman of the Joint Chiefs of Staff in late 1993, Gen. John Shalikashvili received paychecks for the wrong amount. In the last year and a half, Comptroller Hamre counted six problems with his own pay.

A paper-based system in which items frequently are misplaced or lost and computers that often cannot talk to each other are part of the problem. But there are other major systemic weaknesses. A lack of basic accounting procedures—such as matching invoices and payment records, or keeping track of money spent on a given piece of equipment from one year to the next—has made it impossible to determine how billions of dollars have been spent by each of the service branches.

In addition, Hamre explained, tracking the money has been nearly impossible because 300 different program directors—the Air Force F-16 fighter program director, the commanding officer of an aircraft carrier, the head of a maintenance depot, for example—have had separate checkbooks, each one free to write checks without regard to the balance in the Pentagon's central registry.

The U.S. Treasury has always paid the bills, even when there was no money in a given project's account, because it assumes any error was unintentional and someday would be corrected, said Pentagon officials and inspector general investigators.

"There's this huge pot of money over there in the Treasury that you can keep drawing down," said the Deputy Inspector General Derek J. Vander Schaaf. "As long as your [overall] checkbook's good," he said, meaning the Treasury, "nobody screams."

The problems were created over several decades and made worse during the 1980s Reagan administration defense buildup during the latter days of the Cold War, when there was little political will to scrutinize the record sums being spent.

Today, however, even ardent defense hawks have become disturbed over the mismanaged flow of funds. Some Republicans who looked deeply into the matter are suggesting a freeze on military spending until the Pentagon's corroded payment system can be permanently fixed.

"The defense budget is in financial chaos," said Sen. Charles E. Grassley (R-Iowa), who

is advocating a freeze. "The foundation of the defense budget is built on sand."

A Senate Armed Services subcommittee is scheduled to hold a hearing on the problems Tuesday. It will be chaired by Sen. John Glenn (Ohio), a Democrat, who was authorized by Republicans to conduct it because of his long-standing interest in the subject.

Among the problems detailed by the Defense Department, the Pentagon inspector general and the GAO:

Of the 36 Pentagon departments audited by the inspector general (IG) in the last year, 28 used "records in such terrible condition" as to make their annual financial statements—an accounting of money collected and money spent—utterly worthless, said Vander Schaaf.

Financial officials cannot account for \$14.7 billion in "unmatched disbursements," checks written for equipment and services purchased by all military units within the last decade. This means that accountants know only that a certain amount of money was spent on the overall F-16 jet account, for example, but not how much was spent on F-16 landing gear or pilot manuals because they cannot find a purchase order from the government to match the check.

"You don't know what you're really paying for," Vander Schaaf said.

The \$14.7 billion represents "hardcore problems" where department accountants have tried but failed to find the records. "We could be paying for something we don't need or want," said Russell Rau, the IG's director of financial management.

In the last eight years, various military offices appear to have ordered \$7 billion worth of goods and services in excess of the amount Congress has given to them to spend. These "negative unliquidated obligations" may indicate that a bill has been paid twice or mistakenly charged to the wrong account because bookkeepers at hundreds of maintenance depots, weapons program offices and military bases did not keep track of payments they made, said Vander Schaaf.

Of the \$7 billion "the government has no idea how much of this balance is still owed," Rau said.

Hamre has threatened to take part of the \$7 billion out of the military services' current operating budget if they cannot find documentation for the expenditures by June 1.

Every year the Defense Department pays private contractors at least \$500 million it does not owe them, according to Vander Schaaf. The GAO believes the figure is closer to \$750 million.

The payment system is in such bad shape that the Pentagon relies on contractors to catch erroneously calculated checks and return them. Many of the overpayments are due to errors made on a paper-based system in which harried clerks are judged by how quickly they make payments. And because there is no adequate way to track the amount of periodic payments made on a contract, businesses often are paid twice for the work they have done.

Defense Department finance officials believe they are recouping about 75 percent of the overpayments, although they admit they have no way of knowing exactly how much is being overpaid.

Today, after an 18-month struggle by Hamre to turn the situation around, the department still has 19 payroll systems and 200 different contracting systems.

Hamre, who wins praise from Republicans and Democrats for his efforts, has undertaken a major consolidation of payroll and contracting offices. He has opened more than 100 investigations into whether individual program managers or service agencies violated the law by using money appropriated

for one program for something else or for paying contracts that exceeded their budget.

He has frozen 23 major accounts and has stopped payment to 1,200 contractors whose records are particularly troublesome. In July, clerks will be prohibited from making payments over \$5 million to any contractor "unless a valid accounting record" of the contract can be found. By October, the amount drops to \$1 million, which means it will affect thousands more contracts.

According to Hamre and Rau, a number of cases are under investigation for possible violations of the Anti-Deficiency Act, the law that governs how congressionally appropriated money must be spent. Penalties range from disciplinary job action to criminal prosecution. Investigators are trying to determine:

Why there is an unauthorized expenditure of around \$1 billion on the Mark 50 torpedo, and the Standard and Phoenix missiles. Hamre and Rau suspect that Navy officials used money appropriated for other items or wrote checks on empty accounts to pay contracts from 1988 and 1992.

Whether Air Force officials used money from various weapons programs to build a golf course at Wright-Patterson Air Force Base in Ohio beginning in 1987.

What happened when some programs ran out of money. "There are some [cases] in the Air Force now that really stink," Hamre said. When money for the Advanced Cruise Missile ran out, Air Force officials simply terminated the existing contract and re-wrote another, more expensive one the following day. Pentagon investigators recently concluded. In order to pay for cost overruns associated with the new C-17 cargo plane, contract officials simply reclassified \$101 million in development costs as production costs.

Hamre said the services allowed such money mingling to go on partly because of the complexity of the yearly congressional appropriations process. "People want to find an easier way to get the job done," he said. "They are trying to get some flexibility in a very cumbersome system."

But, he added, some services also have resisted correcting problems and punishing wrongdoers. "I'm very frustrated by it," he said. "In the past, they just waited until people retired. It was the old boy network covering for people."

The Defense Department is unlike any government agency in scope and size. It sends out \$35 million an hour in checks for military and civilian employees from its main financing office in Columbus, Ohio. And it buys everything from toothbrushes to nuclear submarines; about \$380 billion flows within the various military purchasing bureaucracies and out to the private sector each year.

It takes at least 100 paper transactions among dozens of organizations to buy a complex weapons system. Some supply contracts have 2,000 line items and, because of the congressional appropriations process, must be paid for by money from several different pots.

Fixing the problems without throwing the entire system into chaos, Hamre said, "is like changing the tire on a car while you're driving 60 miles per hour."

But some argue it has never been more important to make the fixes quickly.

"Here we are in a period of reduced spending, it's critically important today that we get a bigger bang for the buck," said Sen. William V. Roth Jr. (R-Del.), chairman of the Government Affairs Committee, where many of the current problems were first revealed. "We've got to put pressure on to expedite it. At best, it will take too long."

But in the world of Defense Department financing, time is not always a solution, as one small example illustrates.

In 1991, because of a computer programming error, the department's finance and accounting service centers erroneously paid thousands of Desert Storm reservists \$80 million they were not owed. When officials realized the mistake, they began to send letters to service members to recoup the overpayments. Many veterans complained to Congress, which then prohibited the Pentagon from collecting any overpayment of less than \$2,500 and made it give back money collected from people who received less than that amount.

To comply, the Defense Finance and Accounting Service (DFAS) payment centers in Cleveland, Denver, Indianapolis and Kansas City created new computer programs to cancel the debts and issue refunds. But they did not adequately test the new programs, IG and GAO investigators found.

As a result, the appropriate debts were not canceled, and improper amounts of refunds were issued, often to the wrong service member. The DFAS center in Denver, for example, canceled \$295,000 that service members owed it for travel advances. In all, the botched effort to follow Congress's direction cost taxpayers an additional \$15 million, Pentagon officials said.

"It isn't possible now" to recoup the money, Hamre said. "We can't reconstruct the records. We admit were really, really bad. We won't do it again." The IG's office has agreed that it would be too costly to reconstruct the records and recoup the loss.

As he often does when he testifies about these matters on Capitol Hill, Hamre confessed to the Senate Armed Services Committee recently: "We've made a lot of progress. Boy, we've got a long way to go."

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 36 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1243

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WELLER] at 12 o'clock and 43 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 614, THE NEW LONDON NATIONAL FISH HATCHERY CONVEYANCE ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 146 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 146

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility.

The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILEN-SON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 146 is the rule for the consideration of H.R. 614, a bill to convey the New London National Fish Hatchery to the State of Minnesota.

This is an open rule. It provides for 1 hour of general debate, to be divided between the chairman and ranking minority member of the Resources Committee. After general debate, the bill will be considered for amendment under the 5-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. Finally, the rule provides for a motion to recommit.

This underlying bill will convey the New London Fish Hatchery to the State of Minnesota, which has been operating the hatchery since 1983 when the Federal Government decided to discontinue operations. Minnesota assumed operations to ensure that the State's fish stocking program would continue into the future. The hatchery plays an important role in the walleye and muskie stocking program.

To date, Minnesota has spent nearly \$800,000 on operations, maintenance, and improvement of the facility and has a strong interest in making certain capital improvements on the facility, but without ownership, they are, understandably, reluctant to do so. This bill would transfer all right, title, and interest in the hatchery so that the State may make those improvements. Should the State discontinue operations, ownership returns to the United States with the understanding that the facility be returned to the Federal Government in equal or better condition than it was at the time of transfer.

This rule provides for fair, open debate and is brought up under an open rule at the request of the chairman. Some Members may wonder why this bill is coming up under an open rule

rather than coming up on the suspension calendar.

During consideration of the bill by the Subcommittee on Fisheries, Wildlife and Oceans, two amendments were offered by members of that subcommittee. While the first amendment was adopted, the second amendment was rejected by voice vote. This rule will allow that amendment to be brought up on the floor for consideration by the full House.

The amendment, offered by the gentleman from California [Mr. MILLER], would require the State of Minnesota to pay the Federal Government the fair market value for the fish hatchery facility at the time of transfer. Since amendments can not be offered under suspension of the rules, Congressman Miller would have been prohibited from offering his amendment on the floor. This open rule will protect the right of Members to bring important issues to the floor by allowing that amendment, and any others, to be offered on the floor for consideration by the full House.

Mr. Speaker, I urge my colleagues to adopt this rule. It provides for fair consideration of a bill that is very important to the people of Minnesota, and at the same time it protects the rights of Members to offer amendments for consideration by the full House.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILEN-SON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule, which the Committee on Rules reported for a noncontroversial bill. We support the rule, and we urge our colleagues to approve it today.

The Committee on Rules heard testimony last week about the noncontroversial nature of H.R. 614, which transfers ownership, without reimbursement, of the New London Fish Hatchery to the State of Minnesota. We were told that the State of Minnesota wants to preserve this property and is willing to make improvements and implement long-term plans if it can assume ownership.

This is just one of several fish hatcheries, formerly operated by the Federal Government, that the Fish and Wildlife Service plans to transfer to States, all without reimbursement to the United States for the land, equipment, and buildings at the hatchery sites.

The gentleman from California [Mr. MILLER] may offer an amendment to the bill that would require the State of Minnesota to pay the Federal Government the fair market value of the property.

Under this rule, the amendment is in order, as is any other germane amendment. Our colleagues will be able to hear Mr. MILLER'S arguments for requiring an appraisal of this and the other fish hatcheries being transferred to States that are evidently using them, very successfully, for State recreational purposes. His amendment

will also require the State to pay the Federal Government the fair market value of the property.

Mr. Speaker, again, we support this open rule and urge our colleagues to approve it today.

Mrs. WALDHOLTZ. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 584, CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 145 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 145

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. WELLER). The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILEN-SON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 145 is a very simple resolution. The proposed rule is an open rule providing for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Resources.

After general debate the bill shall be considered as read for amendment under the 5-minute rule. At the conclusion of consideration of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted.

Finally, Mr. Speaker, the rule provides one motion to recommit.

Mr. Speaker, the chairman of the Committee on Resources, Mr. YOUNG, requested an open rule for this legislation. The open rule was reported out of the Committee on Rules by voice vote. Under the proposed rule each Member has an opportunity to have their concerns addressed, debated, and ultimately voted up or down by this body.

Once again, Mr. Speaker, the underlying legislation directs the Secretary of the Interior to convey a Federal fish hatchery, this time located in the State of Iowa in Fairport, IA. For the last 22 years the State of Iowa has operated the facility. And at this point in time the State would like to upgrade the facility, but is unable to justify the expense of the improvements without having legal title to the property.

H.R. 584 would transfer ownership of the hatchery and immediate property and buildings to the State of Iowa. The bill is supported by both the State of Iowa and the U.S. Fish and Wildlife Service, and it was reported out of the Committee on Resources by voice vote.

Once again, Mr. Speaker, this rule provides for any amendments to be brought up. We understand that a similar amendment to the preceding legislation that was just discussed may be offered, but under the open rule all Members will have the opportunity to have their voices aired, discussed, and voted on.

Mr. Speaker, I urge my colleagues to support this open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is, as the gentlewomen pointed out, an open rule for a noncontroversial bill. We support the rule, and we urge our colleagues to do the same.

We also support the objective of the bill, H.R. 584, to convey the fish hatchery to the State of Iowa, which has been operating it for several years now.

We do have some concerns about transferring this property to the State of Iowa, which has been using the hatchery very successfully for State recreational purposes, without reimbursement. The gentleman from California [Mr. MILLER], who is the ranking member on the Resources Committee and its former chairman, may offer an amendment to the bill that we think deserves the attention of our colleagues.

Mr. MILLER raised several important points in his dissenting views on this bill. He questioned the give-away of Federal assets to the State of Iowa without reimbursement to the Federal taxpayers for their investment, especially since no one knows the true value of the property—there has been no appraisal of the buildings and land since 1983.

His amendment would require an updated appraisal of this property that

has a choice location and a commercial potential that could result in significant revenue for the United States. Mr. MILLER'S amendment would also require payment of fair market value by the State to reimburse Federal taxpayers for their investment.

Under this open rule, Mr. MILLER and any other Member may offer germane amendments such as this one.

Again, we urge our colleagues to approve this rule for the bill conveying ownership of the Fairport Fish Hatchery to the State of Iowa.

Mr. Speaker, I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 535, THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 144 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 144

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 144 is another open rule providing for the consideration of H.R. 535, legislation directing the Secretary of the Interior

to convey Corning National Fish Hatchery to the State of Arkansas.

Specifically, this rule provides 1 hour of general debate equally divided and controlled by the chairman and the ranking member of the Committee on Resources. After general debate is completed, the bill will be considered for amendment under the 5-minute rule. The bill and the amendment recommended by the Resources Committee now printed in the bill shall be considered as read. Finally, the rule provides one motion to recommit.

Mr. Speaker, House Resolution 144 will permit the House to consider legislation sponsored by our colleague, Representative BLANCH LAMBERT LINCOLN, to convey the Corning National Fish Hatchery, which is located in Corning, AR, to the State of Arkansas.

As will be described in more detail later, the State of Arkansas assumed control of the fish hatchery from the U.S. Fish and Wildlife Service in 1983, when it was closed as a result of Federal budget cuts. Currently, no Federal funds are being used to operate or maintain the hatchery. It is my understanding that the State is now interested in making capital improvements to the facility, in addition to long-term plans for its use. However, the State is hesitant to do so without first obtaining title to the property.

H.R. 535 would facilitate the transfer to the State of Arkansas of all right, title, and interest of the United States in and to the property of the Corning Fish Hatchery. An amendment adopted during subcommittee consideration of the bill would ensure that these rights and interests will revert to the United States if the property is used for any purpose other than fishery resources management.

Mr. Speaker, let me take just a moment to respond to those who might question why we are considering this legislation under a rule at all, rather than under suspension of the rules. As our colleagues know, suspension of the rules is an effective tool for considering relatively noncontroversial legislation in an expedited manner. Debate is limited to just 40 minutes, and bills considered under suspension are unamendable on the floor of the House.

During our Rules Committee hearing on the bill last week, we discussed the possibility of at least two amendments to H.R. 535, including one to be offered by the sponsor of the bill, and one by the ranking minority member of the Resources Committee requiring the State of Arkansas to pay the Federal Government the fair market value of the Corning facility at the time of transfer. Under suspension, any such floor amendments would be prohibited. Under this open rule, however, an open amendment process is guaranteed. Any Member can be heard on any germane amendment to the bill at the appropriate time.

Mr. Speaker, H.R. 535 was favorably reported out of the Committee on Resources by voice vote, as was this rule

by the Rules Committee. In fact, the Committee on Rules reported this resolution unanimously, without a single "nay" vote. I urge my colleagues to support this very open rule, and con-

tinue the spirit of openness and thoughtful debate that has enhanced the overall deliberative process in the House this year.

Mr. Speaker, I am including for the RECORD this chart that shows what rules have been offered in the 104th Congress and the 103d Congress.

The chart follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,¹ 103D CONGRESS V. 104TH CONGRESS

[As of May 12, 1995]

| Rule type | 103d Congress | | 104th Congress | |
|---------------------------------|-----------------|------------------|-----------------|------------------|
| | Number of rules | Percent of total | Number of rules | Percent of total |
| Open/Modified-open ² | 46 | 44 | 27 | 77 |
| Modified Closed ³ | 49 | 47 | 8 | 23 |
| Closed ⁴ | 9 | 9 | 0 | 0 |
| Totals: | 104 | 100 | 32 | 100 |

¹ This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

² An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

³ A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

⁴ A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 12, 1995]

| H. Res. No. (Date rept.) | Rule type | Bill No. | Subject | Disposition of rule |
|--------------------------|-----------|-----------------|--|-----------------------------------|
| H. Res. 38 (1/18/95) | O | H.R. 5 | Unfunded Mandate Reform | A: 350-71 (1/19/95) |
| H. Res. 44 (1/24/95) | MC | H. Con. Res. 17 | Social Security | A: 255-172 (1/25/95) |
| | | H.J. Res. 1 | Balanced Budget Amdt. | |
| H. Res. 51 (1/31/95) | O | H.R. 101 | Land Transfer, Taos Pueblo Indians | A: voice vote (2/1/95) |
| H. Res. 52 (1/31/95) | O | H.R. 400 | Land Exchange, Arctic Nat'l. Park and Preserve | A: voice vote (2/1/95) |
| H. Res. 53 (1/31/95) | O | H.R. 440 | Land Conveyance, Butte County, Calif | A: voice vote (2/1/95) |
| H. Res. 55 (2/1/95) | O | H.R. 2 | Line Item Veto | A: voice vote (2/2/95) |
| H. Res. 60 (2/6/95) | O | H.R. 665 | Victim Restitution | A: voice vote (2/7/95) |
| H. Res. 61 (2/6/95) | O | H.R. 666 | Exclusionary Rule Reform | A: voice vote (2/7/95) |
| H. Res. 63 (2/8/95) | MO | H.R. 667 | Violent Criminal Incarceration | A: voice vote (2/9/95) |
| H. Res. 69 (2/9/95) | O | H.R. 668 | Criminal Alien Deportation | A: voice vote (2/10/95) |
| H. Res. 79 (2/10/95) | MO | H.R. 728 | Law Enforcement Block Grants | A: voice vote (2/10/95) |
| H. Res. 83 (2/13/95) | MO | H.R. 7 | National Security Revitalization | PQ: 229-100; A: 227-127 (2/15/95) |
| H. Res. 88 (2/16/95) | MC | H.R. 831 | Health Insurance Deductibility | PQ: 230-191; A: 229-188 (2/21/95) |
| H. Res. 91 (2/21/95) | O | H.R. 830 | Paperwork Reduction Act | A: v.v. (2/22/95) |
| H. Res. 92 (2/21/95) | MC | H.R. 889 | Defense Supplemental | A: 282-144 (2/22/95) |
| H. Res. 93 (2/22/95) | MO | H.R. 450 | Regulatory Transition Act | A: 252-175 (2/23/95) |
| H. Res. 96 (2/24/95) | MO | H.R. 1022 | Risk Assessment | A: 253-165 (2/27/95) |
| H. Res. 100 (2/27/95) | O | H.R. 926 | Regulatory Reform and Relief Act | A: voice vote (2/28/95) |
| H. Res. 101 (2/28/95) | MO | H.R. 925 | Private Property Protection Act | A: 271-151 (3/1/95) |
| H. Res. 104 (3/3/95) | MO | H.R. 988 | Attorney Accountability Act | A: voice vote (3/6/95) |
| H. Res. 103 (3/3/95) | MO | H.R. 1058 | Securities Litigation Reform | |
| H. Res. 105 (3/6/95) | MO | | | A: 257-155 (3/7/95) |
| H. Res. 108 (3/7/95) | Debate | H.R. 956 | Product Liability Reform | A: voice vote (3/8/95) |
| H. Res. 109 (3/8/95) | MC | | | PQ: 234-191; A: 247-181 (3/9/95) |
| H. Res. 115 (3/14/95) | MO | H.R. 1158 | Making Emergency Supp. Appropriations | A: 242-190 (3/15/95) |
| H. Res. 116 (3/15/95) | MC | H.J. Res. 73 | Term Limits Const. Amdt | A: voice vote (3/28/95) |
| H. Res. 117 (3/16/95) | Debate | H.R. 4 | Personal Responsibility Act of 1995 | A: voice vote (3/21/95) |
| H. Res. 119 (3/21/95) | MC | | | A: 217-211 (3/22/95) |
| H. Res. 125 (4/3/95) | O | H.R. 1271 | Family Privacy Protection Act | A: 423-1 (4/4/95) |
| H. Res. 126 (4/3/95) | O | H.R. 660 | Older Persons Housing Act | |
| H. Res. 128 (4/4/95) | MC | H.R. 1215 | Contract With America Tax Relief Act of 1995 | A: 228-204 (4/5/95) |
| H. Res. 130 (4/5/95) | MC | H.R. 483 | Medicare Select Expansion | A: 253-172 (4/6/95) |
| H. Res. 136 (5/1/95) | O | H.R. 655 | Hydrogen Future Act of 1995 | A: voice vote (5/2/95) |
| H. Res. 139 (5/3/95) | O | H.R. 1361 | Coast Guard Auth. FY 1996 | A: voice vote (5/9/95) |
| H. Res. 140 (5/9/95) | O | H.R. 961 | Clean Water Amendments | A: 414-4 (5/10/95) |
| H. Res. 144 (5/11/95) | O | H.R. 535 | Fish Hatchery—Arkansas | |
| H. Res. 145 (5/11/95) | O | H.R. 584 | Fish Hatchery—Iowa | |
| H. Res. 146 (5/11/95) | O | H.R. 614 | Fish Hatchery—Minnesota | |

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Mr. BEILENSON. Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding the customary 1/2 hour of debate time to me.

Mr. Speaker, I yield myself such time as I can consume.

Mr. Speaker, this is an open rule, as the gentlewoman has stated.

The Committee on Rules reported the rule for this basically noncontroversial bill. We support the rule. We urge our colleagues to approve it today.

The gentlewoman from Arkansas [Mrs. LINCOLN] appeared before our

committee last week to support the open rule for this bill, a bill which she herself originally introduced. She reminded us of similar legislation passed last year under suspension of the rules and of the noncontroversial nature of the measure.

We also appreciated her testimony. The State of Arkansas wants to preserve this property and is willing to make improvements and implement long-term plans if it can assume ownership.

The State of Arkansas, along with several other States, is evidently operating these hatcheries with a good deal of success for recreational purposes.

The Fish and Wildlife Service plans to transfer several other excess properties to other States, all without reimbursement. The gentleman from California [Mr. MILLER] may again offer an amendment to the bill which would require the State of Arkansas to pay the Federal Government the fair market value of the property.

Mr. Speaker, again, we support this open rule and urge our colleagues to approve it today.

Also, Mr. Speaker, I am inserting extraneous material at this point in the RECORD.

The material referred to follows:

Floor Procedure in the 104th Congress; Compiled by the Rules Committee Democrats

| Bill No. | Title | Resolution No. | Process used for floor consideration | Amendments in order |
|-----------|---------------------------|----------------|--|---------------------|
| H.R. 1* | Compliance | H. Res. 6 | Closed | None. |
| H. Res. 6 | Opening Day Rules Package | H. Res. 5 | Closed; contained a closed rule on H.R. 1 within the closed rule | None. |

Floor Procedure in the 104th Congress; Compiled by the Rules Committee Democrats—Continued

| Bill No. | Title | Resolution No. | Process used for floor consideration | Amendments in order |
|---------------|---|-----------------|--|---------------------|
| H.R. 5* | Unfunded Mandates | H. Res. 38 | Restrictive: Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference. | N/A |
| H.J. Res. 2* | Balanced Budget | H. Res. 44 | Restrictive: only certain substitutes | 2R: 4D. |
| H. Res. 43 | Committee Hearings Scheduling | H. Res. 43 (OJ) | Restrictive: considered in House no amendments | N/A |
| H.R. 2* | Line Item Veto | H. Res. 55 | Open: Pre-printing gets preference | N/A |
| H.R. 665* | Victim Restitution Act of 1995 | H. Res. 61 | Open: Pre-printing gets preference | N/A |
| H.R. 666* | Exclusionary Rule Reform Act of 1995 | H. Res. 60 | Open: Pre-printing gets preference | N/A |
| H.R. 667* | Violent Criminal Incarceration Act of 1995 | H. Res. 63 | Restrictive: 10 hr. Time Cap on amendments | N/A |
| H.R. 668* | The Criminal Alien Deportation Improvement Act | H. Res. 69 | Open: Pre-printing gets preference; Contains self-executing provision | N/A |
| H.R. 728* | Local Government Law Enforcement Block Grants | H. Res. 79 | Restrictive: 10 hr. Time Cap on amendments; Pre-printing gets preference | N/A |
| H.R. 7* | National Security Revitalization Act | H. Res. 83 | Restrictive: brought up under UC with a 6 hr. time cap on amendments | N/A |
| H.R. 729* | Death Penalty/Habeas | N/A | Closed: Put on suspension calendar over Democratic objection | None. |
| S. 2 | Senate Compliance | N/A | Restrictive: makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision. | 1D. |
| H.R. 831 | To Permanently Extend the Health Insurance Deduction for the Self-Employed. | H. Res. 88 | Open | N/A |
| H.R. 830* | The Paperwork Reduction Act | H. Res. 91 | Restrictive: makes in order only the Obey substitute | 1D. |
| H.R. 889 | Emergency Supplemental/Rescinding Certain Budget Authority | H. Res. 92 | Restrictive: 10 hr. Time Cap on amendments; Pre-printing gets preference | N/A |
| H.R. 450* | Regulatory Moratorium | H. Res. 93 | Restrictive: 10 hr. Time Cap on amendments | N/A |
| H.R. 1022* | Risk Assessment | H. Res. 96 | Open | N/A |
| H.R. 926* | Regulatory Flexibility | H. Res. 100 | Restrictive: 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text. | 1D. |
| H.R. 925* | Private Property Protection Act | H. Res. 101 | Restrictive: 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it. | 1D. |
| H.R. 1058* | Securities Litigation Reform Act | H. Res. 105 | Restrictive: 7 hr. time cap on amendments; Pre-printing gets preference | N/A |
| H.R. 988* | The Attorney Accountability Act of 1995 | H. Res. 104 | Restrictive: makes in order only 15 germane amendments and denies 64 germane amendments from being considered. | 8D: 7R. |
| H.R. 956* | Product Liability and Legal Reform Act | H. Res. 109 | Restrictive: Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) of rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment. | N/A |
| H.R. 1158 | Making Emergency Supplemental Appropriations and Rescissions | H. Res. 115 | Restrictive: Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered. | 1D: 3R |
| H.J. Res. 73* | Term Limits | H. Res. 116 | Restrictive: Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments. | 5D: 26R |
| H.R. 4* | Welfare Reform | H. Res. 119 | Open | N/A |
| H.R. 1271* | Family Privacy Act | H. Res. 125 | Open | N/A |
| H.R. 660* | Housing for Older Persons Act | H. Res. 126 | Open | N/A |
| H.R. 1215* | The Contract With America Tax Relief Act of 1995 | H. Res. 129 | Restrictive: Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute. | 1D |
| H.R. 483 | Medicare Select Extension | H. Res. 130 | Restrictive: waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time. | 1D |
| H.R. 655 | Hydrogen Future Act | H. Res. 136 | Open | N/A |
| H.R. 1361 | Coast Guard Authorization | H. Res. 139 | Open: waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute. | N/A |
| H.R. 961 | Clean Water Act | H. Res. 140 | Open: pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business. | N/A |
| H.R. 535 | Corning National Fish Hatchery Conveyance Act | H. Res. 144 | Open | N/A |
| H.R. 584 | Conveyance of the Fairport National Fish Hatchery of the State of Iowa | H. Res. 145 | Open | N/A |
| H.R. 614 | Conveyance of the New London National Fish Hatchery Production Facility. | H. Res. 146 | Open | N/A |

* Contract Bills, 67% restrictive; 33% open. ** All legislation, 59% restrictive; 41% open. *** Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. **** Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was on the table.

ELIMINATING NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL FROM THE GOALS 2000: EDUCATE AMERICA ACT

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1045) to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1045

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

SECTION 1. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.

(a) REPEALS.—Subsection (b) of section 241, sections 211 through 218 of Part B of title II, and section 316 of the Goals 2000: Educate America Act (20 U.S.C. 5841 et seq.) are repealed.

(b) AMENDMENTS TO GOALS 2000: EDUCATE AMERICA ACT.—

(1) Section 201(3) of the Goals 2000: Educate America Act (20 U.S.C. 5812(3)) is amended by striking all that follows after "opportunity-to-learn standards" and inserting a period.

(2) Section 203(a) of such Act (20 U.S.C. 5823(a)) is amended by striking paragraphs (3) and (4) and by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(3) Section 204(a)(2) of such Act (20 U.S.C. 5824) is amended by striking "described in section 213(f)".

(4) Section 219 of such Act (20 U.S.C. 5849) is amended—

(A) in subsection (a)(1) by striking "consistent with the provisions of section 213(c)."; and

(B) by striking subsection (b) and inserting the following:

"(b) APPLICATIONS.—Each consortium that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require."

(5) Section 220(a) of such Act (20 U.S.C. 5850(a)) is amended by striking "to be used" and all that follows through "by the Council".

(6) Section 221(a) of such Act (20 U.S.C. 5851(a)) is amended—

(A) in paragraph (1)—

(i) subparagraph (A), by striking "and the Council"; and

(ii) by striking subparagraphs (B) and (C) and redesignating subparagraph (D) as subparagraph (B); and

(B) in paragraph (2), by striking "and the Council, as appropriate."

(7) Section 308(b)(2)(A) of such Act (20 U.S.C. 5888(b)(2)(A)) is amended by striking "including—" and all that follows through the end of clause (ii) and inserting "including through consortia of States".

(8) Section 314(a)(6) of such Act (20 U.S.C. 5894(a)(6)) is amended by striking "if—" and all that follows through "(B)" and inserting "if".

(9) Section 315 of such Act (20 U.S.C. 5895) is amended in subsection (b)—

(A) paragraph (1)(A), by striking "paragraph (4) of this subsection" and inserting "paragraph (3)";

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(D) in subparagraph (B) of paragraph (3) (as redesignated), by striking "paragraph (5)," and inserting "paragraph (4)."; and

(E) in paragraph (4) (as redesignated), by striking "paragraph (4)" each place it appears and inserting "paragraph (3)".

(c) NATIONAL SKILL STANDARDS ACT OF 1994.—

(1) Section 503 of the National Skill Standards Act of 1994 (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "28" and inserting "(27)";

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking "subparagraphs (E), (F), and (G)" each place it appears and inserting "subparagraphs (D), (E), and (F)";

(iii) in paragraph (2), by striking "subparagraph (G)" and inserting "subparagraph (F)";

(iv) in paragraph (4), by striking "(C), and (D)" and inserting "and (C)"; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking "subparagraph (E), (F), or (G)" and inserting "subparagraphs (D), (E), or (F)"; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking "subparagraph (E)" and inserting "subparagraph (D)"; and

(ii) in paragraph (2), by striking "subparagraphs (E), (F), and (G)" and inserting "subparagraphs (D), (E), and (F)".

(2) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(d) AMENDMENT TO ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 14701(b)(1)(B)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8941(b)(1)(B)(v)) is amended—

(1) by inserting "and" before "the National Education Goals Panel"; and

(2) by striking ", and the National Education Statistics and Improvement Council".

(d) AMENDMENT TO GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103-382), is amended by striking "the National Education Standards and Improvement Council,".

SEC. 2. TECHNICAL AND COINFORMING AMENDMENTS.

The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II, by striking the items relating to sections 211 through 218 of part B of such title and the item relating to section 316.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would announce in advance that the floor prep statement put out by my side of the aisle is incorrect on this particular issue.

Mr. Speaker, today we are considering H.R. 1045, a bill to repeal the National Education Standards and Improvement Council [NESIC]. This legislation has bipartisan support and I hope that when we pass this legislation today, the other body will take it up immediately and send it to the President for his signature.

The National Education Standards and Improvement Council [NESIC] created by Goals 2000 is a Presidentially appointed council that has the mission of reviewing and certifying national education standards and State education standards that are voluntarily submitted. Because decisions about educating our children are primarily decided at the local level by parents, teachers and students, NESIC, commonly referred to as a "national school board," has generated great controversy about continued local control of education.

The distance between standards and curriculum is not very great. Currently, there is a prohibition on the Federal Government dictating curriculum to States and school districts and there is good reason to be wary of Federal involvement in certifying education standards. The seriously flawed and justifiably controversial history standards illustrate how the standards-setting process can go awry and point out the dangers of having a Presidentially appointed unaccountable body certifying education standards.

However, I want to make it very clear, academic standards based reform remains one of the most promising strategies for improving education for all children in our Nation. Academic standards are a statement of learning outcomes. What children need to know and be able to do. I think parents want to know what their children actually learned rather than that they spent 180 days in school and earned a Carnegie unit. There must be rigorous academic standards and not vague and fuzzy attempts to shape students' attitudes and values, matters that should be left to parents. The most important standards development must take place in our local communities and school districts. However, Federal certification of these standards is not necessary for this process to be effective or constructive.

While I recognize that many of my colleagues would like to go much further in limiting Federal involvement in education, I want to assure them that they will have the opportunity as our committee considers broader education reform legislation. By enacting this legislation today, it is my hope that this will put a stop to an unwarranted Federal intrusion into education while preserving education standards development by States and local school districts. To do less will certainly hamper any hope of the United States doing well in a very competitive world.

We must develop voluntary national and international standards in the aca-

demically subject areas and develop voluntary assessment tools to determine whether the standards are met. Teachers must then be prepared to teach to these higher standards.

I, therefore, urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this compromise.

I also want to thank my committee chairman and friend, BILL GOODLING, for his efforts. We have a long history of bipartisan cooperation in our committee and that, in large measure, is due to the influence of our committee chairman.

As someone who has served on this committee for 18 years, I want to underscore my own belief that education is a State responsibility, a local function, and an important Federal concern.

That is an appropriate balance which has deep roots in our Nation's history.

Our Nation is in the midst of a period of profound change. We are facing economic challenges from our global competitors that make it absolutely imperative that our children achieve to the highest possible academic standards. We are now a highly mobile society. People do not always live and work in the communities in which they were born. And, rarely does the employment base stay the same. Business and industry respond to the demands of the marketplace and so must our schools. We owe that to the children.

Mr. Speaker, reform of our system of public education is one of the most critical tasks we face. We made a good deal of progress in the last Congress. I believe the bill we have before us today will preserve that progress while it meets the consideration of those who felt some concern.

Again, my thanks to my committee chairman GOODLING and I would also like to acknowledge the hard work of your staff, particularly John Barth, Sally Lovejoy, Vic Klatt, and Jomarie St. Martin. And our staff Sara Davis, Broderick Johnson, and Dr. June Harris.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 1045, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1045, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BROKEN PROMISES TO THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the minority whip.

Mr. BONIOR. Mr. Speaker, I rise this afternoon to express my deep concern over the proposed Republican budget cuts in Social Security and in Medicare and Medicaid. What is quite disturbing to me about these cuts is that they are broken promises to the American people, to our seniors who have labored so hard in this country to provide for this great Nation of ours, and what is equally disturbing about these cuts, which will cost the seniors, the Medicare cuts, will cost the seniors in the year 2002, 7 years from now, \$1,000 a year.

What is additionally so disturbing is that in the same budget proposal are tax cuts for the wealthiest people in our society. Over 50 percent of the tax cuts; it is a \$100 billion tax cut over 10 years, over 50 percent of those tax cuts go to people making over \$100,000 a year.

There is something called the alternative minimum tax, and for those of you who are not familiar with that, back in the early 1980's we found that major corporations, in fact, 130 of the top 250 corporations in America, were paying no taxes at all between 1981 and 1985, during at least 1 year, no taxes. And it was, the rest, the burden was picked up by everyone else. So we decided to change that law. Even Ronald Reagan agreed that it was embarrassing, and it was an outrage. We changed the law that required major corporations to pay at least something, a minimal tax.

Well, under the tax proposal we passed last month under the Contract With America, the Republicans got rid of that minimum tax, and now we are back to where we were, where we will have major corporations not contributing their fair share to the tax burden on the American people. So what you have in this tax bill is getting rid of the alternative minimum tax, you have got 50 percent of the benefits going to the top virtually 1 percent, so if you are making \$230,000 a year, you are going to get \$11,000 in tax breaks.

We think the tax cut is weighted very too heavily to benefit the wealthiest people in our society. And to give you an example of that, I should talk to you about one provision we had on

the floor about a month and a half ago that would allow billionaires in our society, and millionaires, very few billionaires, but there are some, to avoid paying taxes if they renounce their American citizenship. We tried to close that loophole on the floor of the House. Republicans defended it all. All but 5 Republicans voted to keep that loophole for the wealthiest people in our society. You might say, "Well who does that?" About 24 people. You know what the cost to us as a country is over 10 years as lost revenue because of that? \$3.6 billion.

So they have got this tax bill that benefits primarily the wealthiest people in our society, and they have got this budget bill that will hit the most vulnerable people in our society, our young people and our older people, and when it comes to Medicare, they take a giant whack out of the disposable income of our senior citizens.

Let me just tell you exactly what they do. The Republicans in Congress are proposing a new budget that will mean serious cuts. It will even cut back COLA increases. Over the next 7 years, Medicare will be cut by 25 percent. Medicaid, which provides the only long-term care many seniors now have access to at all, will be cut by 30 percent. Social Security COLA's will be cut by 0.6 percent a year starting in 1999. For the average senior citizen, this will mean higher out-of-pocket expenses, fewer benefits, less choice of doctors. It will mean higher Medicare premiums, higher deductibles, higher copayments.

By the year 2002, Medicare costs will increase over \$1,000, as I said, for every senior citizen. Social security COLA's will be \$240 less for every senior. Cuts in Medicaid will mean 2.9 million Americans will lose long-term care.

When we talk about Medicaid, it is not only the poor in this country, but we are talking about a program that provides, I believe, about 40 percent of long-term care for our seniors in this country. 2.9 million Americans will lose long-term care, and these cuts will not pay for fixing the Medicare system. Instead they will go into a tax package that provides tax breaks for the wealthiest people in the country and allows some of our wealthiest corporations, as I said, to pay no tax at all. That is not fair. It is not right. It is a broken promise to the American people.

These cuts in Medicare and Medicaid and Social Security are not just going to affect senior citizens. Now, how is the average working family going to pay for additional costs of caring for their parents and grandparents? How will they pay for the rising costs of long-term care, prescription drugs, home health care, and hospital bills? How are the middle-aged children of these elderly people in our society, how are they going to maintain these increased costs for their parents and their grandparents? And if they have kids who may want to move up in our

society through the education system and get a college education and if their kids are on student loans, those kids, in fact, will, in fact, be hit hard because under the same budget proposal the costs of a student going to college who is on student loans now, we call them Stafford loans, but they are better known as student loans around the country, in Michigan, that student will pay an extra \$4,000.

□ 1315

So, they are getting squeezed on each end. If you got kids, and you got elderly parents, you are going to get hit on both ends.

Mr. Speaker, it was 50 years ago last week that Americans defeated Nazi Germany in World War II, and all over America we celebrated that day by remembering the brave men and women on both the battlefield and the home front who led our country to victory, and, looking at pictures of our parents and our grandparents from back then, they were so young, and they were so full of life, it is hard to believe that they would ever grow old. But they have, Mr. Speaker.

The generation that beat Hitler, built our economy, raised our families, are now America's senior citizens, and today many of them are living on fixed incomes. Their Social Security is the only thing many older Americans have each month to pay their rent, to pay their heating bills, to pay for their food, for medicine and doctor bills, and for most of them it is not easy. They have to struggle to make ends meet. Those of us who go home each weekend in our district meet them constantly. We know of the struggle they have to go through.

But today, instead of trying to make life easier and more fulfilling for them, Mr. Speaker, Republicans in Congress are trying to make their lives harder. In their budget proposal House Republicans have not only proposed cutting Social Security by \$240 a person, they are also asking every senior to pay an additional \$3,500 for Medicare.

Now, as I have said, Medicare, of course, is the system we have in this country for health insurance for our senior citizens. We did not have that before 1965. You did not have Medicare, and, as a result, many seniors, when they got into their senior years, had no health insurance and fell directly into poverty. Social Security adopted by Franklin Roosevelt, a Democrat, in 1935; Medicare, adopted in the administration of a Democratic President, Lyndon Johnson, and a Democratic Congress; changed the lives of tens of millions of American seniors and kept them out of poverty in their senior years.

After sending out press releases after press releases bragging about how they were going to leave Social Security and Medicare alone, House Republicans have broken that promise, and they have targeted our seniors, and the worst part, Mr. Speaker, they are not

being asked to sacrifice to balance the budget, or to cut the deficit, or to make the Medicare system even stronger. The Republicans, as I said, are cutting Medicare and Social Security for one reason and one reason only, to pay for tax breaks, over 50 percent of which go to the wealthiest people in our society. And if you look at the numbers, they nearly match up. Their Medicare cuts equaled the tax breaks, what the Wall Street Journal called the biggest tax bonanza in years for the upper-income Americans. It is not me saying it, but the Wall Street Journal. The voice of the wealthy in this country said it was the biggest tax savings bonanza in years for upper-income Americans, and, under the Republican plan, we are going to take more money from seniors whose average income is \$17,000 a year so we can give a \$20,000 tax break to families earning over \$250,000 a year.

Does that sound fair to you? Is that what this country is all about? Is that what this last election was all about? Is that what our parents fought for and sacrificed for in the greatest battle for democracy in human decency that the world has even seen? I do not think so.

Last week the New York Times revealed in an article by Robert Pear, in a confidential memo, something that every American should read. It was circulated. This memo was circulating among House Republicans, a memo detailing where some of these Medicare cuts will come from. Among other things, it recommended doubling the annual deductible, increasing the monthly premium by 50 percent, charging patients for a portion of home health care, and the list goes on, and on, and on, and this just does not affect seniors. You know, as I said earlier, where is the average working family going to come up with the money to pay for this?

Well, Mr. Speaker, in the past week we have seen Republican after Republican come to this floor and try to convince us that nobody is going to be hurt by these cuts, and they bring out charts, and they throw numbers around, and they talk about limiting growth on projected spending, and they try to tell us how a cut really is not a cut.

But, you know, none of this Washington bureaucratic talk means much to a constituent of mine, Iris Doyle who I have known for a long time. Iris Doyle is a proud senior citizen who lives in my district. For 16 years she taught a class on U.S. citizenship. She literally spent her life helping people gain access to the American dream, and to this day she still has a framed copy of the Declaration of Independence hanging on her wall. But the times have not been easy for Iris. Eleven years ago her husband died, 3 years after that her only son died, and during the time of their illnesses she was sick herself; she had cancer. For 18 months she endured chemotherapy treatment after chemotherapy, and she says, "Thank god.

Thanks to the wonders of modern medicine the cancer is in remission."

In order to pay off their hospital bills which totaled over \$12,000, she literally had to sell her house. Then more bad luck hit. She came down with Legionnaire disease which forced her to stop working. Today she lives on a monthly Social Security check totaling about \$550, and a small school pension kicks in in another 134 months. Out of that small amount of money she has to pay for everything, rent, and food, and medicine, and heat, and transportation, and clothing, as well as her medical bills which thankfully, are not as high as they could be. Now twice a year she sees an oncologist for cancer, but Medicare does not cover the cost of the visit because she does not quite meet the annual deductible. So her oncologist let her set a payment plan. Every 6 months she pays about a \$75 bill. And you know what? She struggles to make that payment.

Now you tell Iris these Medicare cuts are not going hurt anybody. Tell Iris that a 50-percent increase in Medicare premiums is nothing. Tell her that she can afford these cuts. Because, if you do, she will probably tell you what she told me. She said, "You know, DAVID, it's unfortunate that when you get in the later years of your life, when you've taught kids, and you have to worry about things like this, but I don't think those people in Washington know what they're doing to people," and then she said, "I don't think they care."

Mr. Speaker, I think she is right. I do not think my friends, many of my friends in this institution, realize what these cuts are going to do to these people, particularly my friends on the other side of the aisle. But I do know one thing. This is not what the American people voted for last November. We did not vote to cut Medicare in order to pay for tax breaks for the privileged few. Our parents and our grandparents stood by America in times of war and peace, and we must stand by them today. That is the sacred promise that we made on Medicare, and I believe it is time we lived up to that promise.

We will be engaged in a very vociferous debate for the remainder of this week, and I daresay for the remainder of this Congress, on this very issue. The cuts that have been put forward by the Republicans in the House, in the Senate, will devastate millions of people in this country, not only seniors, but their children who must care for them in their later years. This is an unconscionable act in light of the outrageously inappropriate, unfair, unequal tax cut that the Republicans have put forward for the wealthiest few in our society.

I do not know how to get this message across to the American people except to talk to them at home and to talk to them on the floor of the House of Representatives. There was an interesting piece today in the Washington

Post on the front page about how a large majority of people in this country today do not read the newspaper, do not watch the national news, and only pick up their news from talk radio and, occasionally, from tabloid television, and so in many instances miss the news, and those are the very people that will be hurt by what the Republicans are trying to do to Social Security, to Medicare, and to Medicaid.

Now I can only say to my colleagues that this is in my almost 20 years in this institution, or 19 years in this institution and 4 years as an elected official in Michigan, the most inequitable and the most egregious acts of unkindness in terms of a budget that I have ever seen. I assume people will become outraged. I know the AARP issued a report on Friday detailing the effects of these cuts. I know the Hospital Association is concerned because what these cuts really mean in addition is that many of our hospitals are going to close around the country.

I know our seniors are going to be concerned because, if they have a doctor that they like to go to, basically what this plan does is move them into a managed care system where they will not have the choice of the doctor they want unless they pay an even higher premium that I have quoted on the floor this afternoon. So, you are losing choice of doctor, you are paying more out of your pocket, all in order to save \$300 billion over 7 years, \$300 billion that will be used to pay for this tax cut that will go to the wealthiest people in our society.

I do not think I have seen in my years of public service anything as bold and as inequitable as this tradeoff. It is right there for everyone to see, and people will have to make up their minds whether this is what they had in mind when they voted on November 8, 1994.

The American family is squeezed today. Since 1979, 98 percent of all new income growth in the country went to the top 20 percent of households in America. The other 80 percent stayed even or went down, and most of them went down. We are seeing a bifurcation in our society today of wealth and people who cannot make it, and it is tearing this country apart, and it is having more of an effect on this Nation than just pure buying power or economics.

□ 1330

It is making people lose faith in the system. It is making people feel hopeless. It is what drives gangs to violence in inner cities and militias to violence in rural areas. We have to get back to the time in our country and our society and in this institution where there is some basis of equity and fairness and justice. The rich cannot have it all, and that is the direction we are going. This latest assault on seniors is a rollback not only of the New Deal of Franklin Roosevelt or the Fair Deal of Harry Truman or the programs of the Great

Society of Lyndon Johnson, it is a rollback to the days when we were indeed a society of extreme wealth and people struggling to make ends meet.

We bridged a lot of that gap. We made America a place of promise for virtually 80 percent of our population after the Second World War. And this latest budget is a rollback.

So I would say to my senior friends particularly who are watching, but also to my friends and colleagues from the country who approximate my age, 50, that these cuts will take a terrible, terrible toll, a psychological toll, a financial toll, and a spiritual toll, on the Nation.

I urge my colleagues in this body to reject this budget when we vote on it on Thursday of this week. Send it back to the Committee on the Budget. Let us have hearings on it. This was rolled out at midnight, by the way. Nobody saw it. Democrats did not see this until 1 o'clock in the morning, and they rolled it out a few days later on votes.

The American people need to see what is in this budget, and when they get a load of what has happened, to students, to our seniors, to Social Security. There was a promise made by the Speaker, Mr. GINGRICH, sitting up directly behind me, that they would not touch Social Security, and they have. They have cut COLA's, and it will affect every senior in this country hundreds, if not thousands, of dollars.

They said they would not monkey with Medicare, but they have. They have. It should not be surprising that they have. The majority leader, Mr. ARMEY, when he first ran for Congress, ran against Social Security. He does not really think we ought to have it, he thinks we can devise a better system, we should get rid of it. Back in 1986, Speaker GINGRICH hedged Medicare and the payments on Medicare against additional defense spending.

There are no friends of Social Security or Medicare, or few friends, I should say, on this side of the aisle. There are some. I do not mean to impugn the motives and actions of all of the Members on the Republican side of the aisle, because there are some who do care for these. But, for the most part, they will be voting in lockstep on Thursday to implement these cuts.

So I would just like to conclude, Mr. Speaker, by urging each and every one of my colleagues to look at the Robert Pear piece in the New York Times which outlines the memo that talks about the additional cuts in Social Security, the additional deductibles on Medicare, the additional premium increases, and also to look at the AARP report with respect to the same issue.

One final comment on choice, because I know it is so important, because so many of our seniors rely on a certain doctor for their care. They have confidence in that doctor. They should know that with this new system that we are about to embark on, if it becomes law, that choice will be taken away. Or you can keep it if you want,

but you are going to have to pay an even higher premium, an even higher premium than I have talked about here on the floor this afternoon.

RECESS

The SPEAKER pro tempore. Without prejudice to the resumption of legislative business, pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 1 o'clock and 36 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WELLER] at 5 o'clock p.m.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1114

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1114.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1120

Mr. RAMSTAD. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 1120.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERSONAL EXPLANATION

Mr. HANCOCK. Mr. Speaker, for the first time in over 6 years, I was out of town on personal business last Thursday and Friday, and missed a portion of the rollcall votes on H.R. 961. I ask that the RECORD reflect that had I been present, I would have voted in the following manner: "No" on rollcall votes 321, 322, 323, 324, 325, and 328; and "aye" on rollcall votes 326, 327, and 329.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 2 minutes p.m.), the House adjourned subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WELLER] at 6 o'clock and 3 minutes p.m.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO SIT TOMORROW, TUESDAY, MAY 16, 1995, DURING 5-MINUTE RULE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on International Relations and its subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole under the 5-minute rule.

It is my understanding the minority has been consulted and there is no objection to this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 140 and rule XXIII the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 961.

□ 1804

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, May 12, 1995, the amendment offered by the gentleman from Texas [Mr. DE LA GARZA] had been disposed of, and title VIII was open at any point.

Are there any amendments to title VIII?

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT: Strike title VIII of the bill (page 239, line 3, through page 322, line 22) and insert the following:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordinating Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as co-chairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than \$500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than \$300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a

National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) PERMIT MONITORING AND TRACKING.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: “The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.”

(b) ISSUANCE OF GENERAL PERMITS.—Paragraph (1) of section 404(e) is amended by inserting “local,” before “State, regional, or nationwide basis” in the first sentence.

(c) REVOCATION OR MODIFICATION OF GENERAL PERMITS.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting “or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.”

(d) PROGRAMMATIC GENERAL PERMITS.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

“(3) PROGRAMMATIC GENERAL PERMITS.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

“(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State,

regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

“(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

“(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

“(ii) mapping of—

“(I) the boundary of the plan area;

“(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

“(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

“(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

“(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.”

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

“(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.”

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

“(f) EXEMPTIONS.—

“(1) ACTIVITIES NOT REQUIRING PERMIT.—

“(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

“(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

“(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

“(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines (including resloping of drainage ditches to control bank erosion);

“(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

“(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

“(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are ‘wetlands’ under this section;

“(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

“(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.”

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

“(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

“(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

“(i) Irrigation ditches excavated in uplands.

“(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

“(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

“(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

“(v) Temporary, water filled depressions created in uplands incidental to construction activity.

“(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

“(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

“(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.”

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

“(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

“(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than \$15,000; and

“(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

“(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

“(A) the delineation of wetlands,

“(B) wetland permitting requirements; and

“(C) wetland restoration and other matters considered relevant.”

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(v) DELINEATION.—

“(1) IN GENERAL.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this sec-

tion until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

“(2) AGRICULTURAL LANDS.—

“(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

“(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

“(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.”

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

“(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

“(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.”

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

“(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

“(A) measures shall first be undertaken by the permittee to avoid any adverse effects on

wetlands caused by activities authorized by the permit.

“(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

“(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

“(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

“(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

“(2) The Secretary in consultation with the Administrator shall ensure that compensatory mitigation by a permittee—

“(A) is a specific, enforceable condition of the permit for which it is required;

“(B) will meet defined success criteria; and

“(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.”.

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

“(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

“(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

“(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

“(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

“(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

“(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

“(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursu-

ant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

“(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

“(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

“(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

“(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

“(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

“(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

“(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

“(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

“(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

“(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

“(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

“(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.”.

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

“(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

“(2) to study techniques for managing and restoring wetlands within a watershed context;

“(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

“(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.”.

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(aa) ADMINISTRATIVE APPEALS.—

“(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

“(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

“(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

“(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

“(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

“(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

“(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

“(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

“(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

“(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public

comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided."

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program."

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection."

SEC. 817. AGRICULTURAL LANDS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(dd) AGRICULTURAL LANDS.—

"(1) PERMIT AUTHORITY.—The Secretary of Agriculture is authorized to issue permits under this section for any activity subject to permitting under this section that is carried out on agricultural land (other than agricultural land subject to sections 1221–1223 of the Food Security Act of 1985 (16 U.S.C. 3821–3823)). Any activity allowed by the Secretary of Agriculture under such sections 1221–1223 shall be treated as having a permit issued under this section and no individual request for or granting of a permit shall be required under this section.

"(2) MITIGATION.—Any mitigation approved by the Secretary of Agriculture for agricultural lands shall be accepted by the Secretary as mitigation under this section."

SEC. 818. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock."

Conform the table of contents of the bill accordingly.

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, it is unfortunate what is now happening, because both cloakrooms have indicated that there will be no votes this evening, and consequently Members understandably have remained in their districts or with their families. At a

time when we have scheduled debate on one of the most sensitive environmental issues not just of the day or the week or the month, of the year, but probably of this generation. We are talking about the Clean Water Act amendments, the Clean Water Act of 1972, which history demonstrates has been one of the most successful pieces of environmental legislation in history.

What we should have, what the American people are entitled to, is spirited debate, give and take. Those who have problems with the Clean Water Act amendments should have the opportunity to present those problems on the floor. Those who have proposed solutions, and I am among that group, should be able to offer their proposed solution.

But the problem is, because of the change from last Thursday, when we were told we would go into session today at 5 o'clock, and then we would have votes on the Suspension Calendar, then we would proceed with this very important debate, and people had every right to expect that the People's House would take up one of the most serious issues of this Congress and we would have good attendance, we would have good participation, and we would go about the people's business in a responsible manner.

But as I say, the Cloakrooms have advised Members that no votes are intended this evening. So we have here a few die-hard, spirited individuals.

The gentleman from Alaska [Mr. YOUNG] always can be there and counted on, the gentleman from Louisiana [Mr. HAYES], the gentleman from California [Mr. MINETA], a few Members who are here because they really care. The Members who are not here really care too. This is not to fault them. We have been working at a hectic pace since the first of the year, since January 4. This House has done outstanding work for the first 100 days of this historic 104th Congress. We have dealt with a balanced budget amendment, we have dealt with welfare reform and a line-item veto, the list goes on and on. This House has been responsive, has been dealing in a serious manner with serious issues.

Now we have another serious issue that deserves that serious attention. But unfortunately we are going to have to carry over until tomorrow, so that the Members can come back from their districts, their meetings, and their families and participate as they should, as they want to participate.

The amendment I am offering is designed to streamline current law while continuing to safeguard vital wetlands. It is in full the National Governors' Association language on wetland protection. Let me repeat this: My amendment is the National Governors' Association language on wetland protection.

Now that deserves special emphasis, because I think one of the messages of November 8, 1994, is that the American people are saying to us, loudly and

clearly, that Washington is not the source of all wisdom. They want those of us who have special responsibility here in our Nation's Capital to reach out across America, to deal with State and local governments in a responsible manner, and to ask of them input and guidance as we develop national policy that will apply in like manner to all, and we have done that.

This amendment, the Boehlert wetlands amendment, contains the National Governors' Association language in full. And it is identical to the proposal I made as parts of last Wednesday's substitute. Let me point that out once again. It is identical in language as it deals with wetlands to the proposal I made as part of last Wednesday's substitute, which earned 184 votes.

There would have been more. People said to me well, you have a very comprehensive package, I like certain component parts, particularly as you deal with wetlands, but I cannot accept the entire package. One hundred eighty-four did, and boy did we defy the odds. People said, "BOEHLERT, you are not going to get more than 100 votes; it's a done deal." We got 184, and there are more waiting, there are more waiting, because they have been listening to America. They have been reading editorial comment across this Nation. And they recognize that we have a special responsibility.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 5 additional minutes.)

Mr. BOEHLERT. I want to emphasize that we start from the same premises as the drafters of H.R. 961 did. Keep in mind, I am privileged to serve as chairman of the Subcommittee on Water Resources and the Environment. I have been through the entire deliberations. I have chaired seven hearings, six in Washington, DC, to which we brought experts from all over the country, and one specifically geared to nonpoint-source pollution in upstate New York. Seven hearings, experts from all over America, from all walks of life came before us. So we start as the drafters of H.R. 961, the committee bill, did, with the same premise. We want to remove redtape, to increase local control, to address the legitimate concerns of farmers and other property owners, but unlike H.R. 961, we have managed to accomplish those goals without allowing the wholesale elimination of more than half of our Nation's wetlands.

During last week's debate opponents of the National Governors' Association wetlands proposal often mischaracterized it, so let me lay it out right at the outset how this amendment, the National Governors' Association proposal, would reform current law.

First, our amendment recognizes the needs of farmers. Agriculture is vital

to the American economy, and we recognize it.

Our amendment not only includes each and every agriculture exemption granted by H.R. 961, the committee bill, but it also adds an additional exception for the repair of tiles.

Second, our amendment increases local control, very important. Not everything coming from Washington, not all of the decisionmaking coming from Washington. We say we are partners with State and local governments and we want to increase local control.

Our amendment makes it easier and faster for States to become the permitting authority for their wetlands.

Third, our amendment does not create any new regulating entity. The coordinating committee that was referred to in last week's debate is an advisory body that includes State and local representatives as well as Federal officials. State, local, Federal, serving on an advisory panel.

Fourth, our amendment speeds the regulatory process, and boy is this long overdue. We provide a fast-track permitting process that would require decisions involving wetlands of 1 acre or less within 60 days, 2 months, no longer.

Fifth, our amendment provides a reasonable appeals process. You have to have an appeals process. If you do not like the decision, where do you go for an appeal? We provide a mechanism for that. In fact we have exactly the same administrative appeal provisions as the committee bill, H.R. 961.

These are real reforms, reforms the Nation's Governors have requested.

What neither the Governors nor the public have requested is the wholesale elimination of wetlands; what neither the Governors nor the public have requested is a bill that cavalierly ignores the findings of science; what neither the Governors nor the public have requested is a wetland regime that threatens our tourism and fishing industries and increases the likelihood of flooding.

A lot has been said these past few days about the last elections. To my knowledge, the public did not vote for dirty water, did not vote for environmental destruction, did not vote for the end of any sense of common good.

□ 1815

What the public did vote for is a reduction in the size of the Federal Government, an end to overreaching regulation, and a reversion of local control.

We have responded to that vote in this amendment. I will not belabor this. We have been through it many, many times.

But H.R. 961 poses a false choice between regulatory reform and environmental protection. Both are possible simultaneously. Both are accomplished in this moderate, sensible, bipartisan amendment that would codify the National Governors' Association proposal.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us make it clear for the record: There is no National Governors' Association support for this legislation. There has not been, and there is none today.

I would like to go through what the gentleman has just stated. What is wrong with the amendment? In the amendment there is no reform to wetlands delineation criteria. That is a fact. There is no recognition of different wetland values in the processing of permits. That is a fact. There is no compensation of property owners for devaluation of the properties. I want to stress that again. The one thing that has driven this amendment process and the bill process has been this Government is under attack today imposing their thoughts and their wisdom upon the private property holders without compensation. That is not in the amendment. It, in fact, does not compensate the private property landholders at all.

It, in fact, does not reform the wetlands program at all. It adds to the existing programs that exist today which become so burdensome. It has serious implications regarding Federal land use and planning regarding nonpoint sources, which reminds me, I just received a letter from the American Farm Bureau Federation strongly opposing this amendment, in fact, all amendments to the bill that is truly a clean water bill; H.R. 961 creates true ecological clean water policy.

And I can also suggest that is not the only one, that says this amendment that is being offered today is totally wrong. We can go all the way through this list of about 16 other different groups that are not manufacturing groups that strongly oppose this, most of them agricultural groups.

The amendments were written by and for wetlands by regulatory bureaucrats. I want to stress that. This amendment was written by regulatory bureaucrats. It was not written by the gentleman from New York. It was written by this individual bureaucratic group that insists that their position is the right position. And, in fact, this amendment guts the reforms of H.R. 961 that we tried to achieve. Now, that is what is wrong with the amendment.

Now, I also, if I may say, Mr. Chairman, we were notified last Thursday that if anyone wishes to debate this issue should be on the floor tonight. We were also notified it followed that any votes would be taken upon suspension of the rules. There were no votes today, because no one asked for them. I want to clear that up for the record.

Let us go over that H.R. 961 really does in section 404. It represents a long overdue reform of the troubled wetlands regulatory section of the 404 program. The regulatory burdens are currently excessive, and costs in time and money too often do not result in significant environmental benefits.

Title VIII, modeled after the earlier version of H.R. 1330, and by the way, 6 sponsors of that bill are now Governors

of States, 6 sponsors of the original bill 2 years ago are now Governors of States, the major reforms made by H.R. 961 include wetlands must be clarified based on relative value and to be regulated accordingly. Wetlands must have a reasonable relationship to water. No longer any 10,000-foot mountains can be considered wetlands, nor that sloping hills around Juneau can no longer be considered wetlands, and we cannot build a school.

A property owner must be compensated for regulatory action that significantly devalues his property, and that is the Supreme Court decision and is what should be put into law. Property owners are allowed to appeal agency decisions. States are encouraged to share the responsibility in implementing the program. Permit requirements are routine; for routine and minor activities are eliminated.

Mr. Chairman, this, as it is written, is a good bill. Now, the gentleman from New York had an opportunity in the committee to offer his amendment to the committee and was defeated overwhelmingly by a bipartisan effort because I have heard that word used here today. In fact, 13 of the 26 Democrats voted against his amendment, plus I believe, of our side, only 4 were voted on his side of the amendment.

One of the weaknesses of this system is we have amendments after public hearing offered in the committee process, soundly defeated, and yet people are allowed to bring them to the floor, bring them to the floor and discuss them supposedly after they have been decided in the committee they do not have great worth or value. I am suggesting, very frankly, this is a mischievous amendment to destroy something that is very crucial to this bill.

And, last, it is hard for me to keep away from it, that the amendment offered by the gentleman from New York neglects to acknowledge the right of private property owners and the right of States that own land and the rights of the individual American native that acquired the lands from this Congress. He now tells those people that were given land by this body that their land is of no value, because they, the bureaucrats, have decided it is a wetland.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, their land has no longer any value because the Government has decided it is wetland. If anything I have heard enough about the Government today, in the last 3 or 4 weeks, if you wonder why there is an unrest out there, and it does exist today, regardless of what our President says or what I hear from certain Members on this floor of the House, is because of the heavy-handedness and the lack of recognition of this Congress that the individual rights of a person or a select

group of individuals who were given property by this Congress has to be protected, yet we do not recognize that.

I am going to suggest to the gentleman from New York you have got to go out and walk in their moccasins; he ought to be able to look at their land, and say, "We gave it to you, but we are going to take it back because I think it is wetland. For the good of the environment, we are going to protect it." I say to the gentleman from New York that is absolutely immoral and wrong. We have an opportunity in the original bill, as passed out of this committee as a good bill, to protect those wetlands, and those are the good wetlands that will be protected, but if, in fact, in the national interest they are that valuable, that individual shall be compensated.

This amendment should be voted down, turned down overwhelmingly.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the distinguished ranking member. I would like to respond to my distinguished colleague from Alaska because he made several points that need to be addressed.

First of all, he said this is not the National Governors' Association language; it is written by some bureaucrat someplace.

Let me point out here that I will submit at the proper time for the RECORD a letter from the National Governors' Association. Let me read a couple of excerpts.

Mr. YOUNG of Alaska. If the gentleman will yield, what is the date of the letter?

Mr. BOEHLERT. The letter is March 28. The gentleman from California has the time. He has yielded some time to me, and I am going to respond to that.

The letter is addressed to me:

We have been greatly encouraged by your willingness, as well as that of Representative Shuster and others in the bipartisan group, to include States in the development of H.R. 961.

Very important that we be inclusive.

We support the intent of this bill to provide substantially greater flexibility for States and local governments in our efforts to protect water. We support the water resources and environmental subcommittee in its efforts to expeditiously move this comprehensive legislation reforming the Clean Water Act. We have not yet completed our review of all provisions of the bill. However, as you know, the provisions on wetlands are not consistent with the recommendation of the National Governors. We raised concerns over this issue in our March 22 letter to Representative Shuster. In response to your request, we enclose an alternative approach to wetlands reform, developed by the Association of State Wetlands Managers based on National Governors' Association policy recommendations.

Now, this is very important. The Boehlert amendment, the pending

amendment, word for word contains every single word and phrase of the National governors' Association recommendations, plus we had some exemptions that we feel are very important for agriculture.

The second point the gentleman from Alaska made, that there were votes last Thursday and it was announced to all that we would be considering this matter Monday evening. He is absolutely right. He is right more often than he is wrong. But he fails to tell what Paul Harvey wants us all to know, the rest of the story, and the rest of the story is simply this: Last Thursday we had every expectation we would return to Washington on Monday and we would have a spirited debate and votes, which is an incentive for people to come back, when suddenly we announced there are not going to be any votes.

What does the typical Member of Congress do? Continues with the responsibilities at home in the district, meeting with business people and schoolchildren and going to hospitals and spending a little time with their families. I understand that. This is a family-friendly Congress. No votes scheduled tonight. So we do not have widespread attendance here. I understand that. So does my distinguished colleague from Alaska.

Next, I would like to point out that he says that there was a vote in the committee. And why are we revisiting this subject here when we have already spoken to the subject in the committee? Well, I read the Constitution. There is nothing in the Constitution about committees, although they are very important, but there is a lot in the Constitution about the House of Representatives, which serves as the representative body for all 250 million Americans and all 50 States. The committees work their will, and I was very much a part of that process, as was my distinguished colleague from Alaska. We acted on that bill in committee.

Now we bring it to the full House for open consideration, and that is what we are doing right now.

I thank my distinguished ranking minority member, the gentleman from California [Mr. MINETA], for yielding to me.

Mr. MINETA. Mr. Chairman, I thank our fine colleague from New York for his clarifying statement and for his clarity on this amendment as it relates to the wetlands.

Mr. Chairman, I rise to support the Boehlert amendment. While I do not believe that the amendment will solve all of the issues which confront the section 404 program, I believe that it is infinitely preferable to the existing provisions in H.R. 961, and it will assist in the goal of greatly encouraging State participation in the wetlands program.

Throughout this debate, I have been told consistently that this is not a bill written by polluters or for polluters. No, I have been told that this bill represents a wide range of interests, and

that it is designed to be consistent with the wishes of State and local governments, and not just the regulated business community. I have been told that this is not a bill written by special interests because so much of the bill represents the wishes of the States. I have been told that we have to listen to the people in the States who are actually running the program to know what the new Clean Water Act should look like.

The Boehlert amendment listens to the States. The Boehlert amendment reflects the preferred position of the National Governors Association. The Boehlert amendment is the position of the people in the States who actually administer wetlands programs. It reflects the product of the Association of State Wetlands Managers.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent, Mr. MINETA was allowed to proceed for 5 additional minutes.)

Mr. MINETA. Mr. Chairman, the States want a workable program with increased State participation. The States have testified in favor of a wetlands program based upon science. The National Academy of Sciences study says that hydrology, vegetation, and soils must all be considered in order to accurately assess what is or is not a wetland. H.R. 961, in contrast, imposes a very simplistic test which considers only one aspect of hydrology, namely surface inundation, and ignores not only vegetation and soils, but also other aspects of hydrology such as soil saturation.

Mr. Chairman, the States are not interested in creating huge new loopholes in the wetlands program, they are interested in preserving wetlands resources, and the Boehlert amendment reflects that.

The States are not interested in convoluted interpretations of the fifth amendment and similar amendments in State constitutions, and States remain opposed to the takings provisions in the wetlands program in H.R. 961. And the Boehlert amendment reflects that.

The States are not interested in expensive and arbitrary wetlands classification schemes, and they have not proposed one. In fact, the State wetlands managers have opposed the classification system of H.R. 961. The States recognize that there are infinitely better ways to evaluate wetlands and use scarce government resources.

The recent report of the National Academy of Sciences concludes that it simply is not within the state of the art to do a nationwide prior classification study establishing relative values of wetlands in very different regions. The underlying bill requires exactly what the NAS says is not feasible.

The committee has continually been told that this provision or that provision should be supported because it has

wide, bipartisan support. Well, the Boehlert amendment has wide, bipartisan support among the Governors and the environmental leaders of our State governments.

In fact, the States have indicated that States would not take a greater role in assuming wetlands permitting responsibilities should H.R. 961 become law. And, the two States which have assumed the wetlands program would likely return it.

If you are supportive of the wishes of the States, support the Boehlert amendment. If you are supportive of special interests over the needs of the States do not support the amendment. But if this amendment fails, you will have defined your allegiance as not to the States, but to those who would weaken wetlands protection and shamelessly raid the Treasury.

Support the Boehlert amendment.

□ 1830

Mr. WAMP. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Mr. Chairman, I very reluctantly rise in opposition to my distinguished chairman's amendment. He was gracious enough to ask me to serve as the vice chairman of the Subcommittee on Water Resources through which this legislation moved. But today this is a litmus test issue, I believe, on whether or not we are going to stand for any more Government regulation.

The people spoke clearly last year. They believe they are overregulated, overtaxed, overlitigated, and I rise in grave concern tonight.

Just last week our friends in the Senate said to the American people they were going to retreat from litigation reform. The folks back home tell me, "Do not retreat from regulatory reform, do not retreat from litigation reform," and today I bring my colleagues an elaborate chart on the wetland process. I mean this is unbelievable.

We are here to try to bring the pendulum and the balance of regulations back to the middle, and I am showing my colleagues a chart of exactly how complicated it is to actually get a permit for a wetland in our country. This is a chart which actually shows how mischievous it can be for our Federal bureaucrats to slow the progress and actually take away, over time, the constitutional rights of our citizens.

I say to my colleagues, Let's say that you inherited a piece of property, and then you determine that maybe one-tenth of one acre of this multiacre site may happen to be lower than the threshold of the water table, and it's determined to be a wetland. So, first you have to go and demonstrate, through this elaborate process, that, yes, in fact it's a wetland, and that's not easy to do, to determine whether or not you even have a wetland. Then you have to make a decision through these regulatory processes exactly what kind of a wetland it is, and that's

a whole other process, takes weeks, costs a lot of money. Now you're ready to apply for a permit for your wetland, and then they say, "Wait a second, wait a second here now. Have you been to the Corps of Engineers? How about the Environmental Protection Agency? How about the Fish and Wildlife folks? And what about all those State and local agencies?" In my home State you also have to go to the Tennessee Valley Authority.

I say to my colleagues, By this time you're about to give up. It's taken weeks and months, and you spent countless moneys trying to determine whether or not in fact this property is yours or whether this property belongs to the Federal Government. I mean after all don't we live in the United States of America where we have a clear definition in the Constitution of what belongs to us and what belongs to the Government? This is a complex maze, and you have to get through it.

The Boehlert amendment was conceived by good folks with good intentions, but let me tell my colleagues this. It costs more money than what we have today, and it adds to the bureaucracy over and above the level of bureaucracy that we have today. Wetlands, unlike point-source and nonpoint-source pollution, which I understand why we need a balance of regulation with respect to point-source and nonpoint-source pollution. We need some regulations.

Wetlands in many parts of this country are nonsensical. Our legislative initiatives in the past have led to a system of frustration. The American people are not achieving justice through the regulation of wetlands. Many people's constitutionally guaranteed private property rights have been usurped by a Federal Government gone amuck. All we are asking by reforming the Clean Water Act here in 1995 is that we return to common sense.

The chairman's mark with respect to wetlands, which we are here to pass, H.R. 961, addresses wetlands in a sensible, reasonable, rational approach. The Boehlert amendment gives us more Federal Government. Our party, I am grateful to say, the Republican Party, is big enough for the gentleman from New York [Mr. BOEHLERT] and his vice chairman, myself, to debate this issue and very much disagree, and I am glad that we have a party big enough to have these differing opinions.

But I take the side of the constitutionalists, the Framers, those that guaranteed private property rights, those who said, "Beware of the Federal Government becoming too big and too powerful. Over time it can creep up on you. You don't even know it's happening," and here we are in 1995 saying wetlands is a constitutional question.

I am going to side with those who framed this Constitution, those who own the private property across this country. Let us clean this mess up. Let us give the power back to the citizenry. Let us take this bureaucratic system

and reduce it to something that is reasonable.

I urge our colleagues to vote against this amendment.

Mr. VENTO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I want to commend the gentleman from New York for offering this amendment, for demonstrating the type of courage in his party, I say a party that many adhere to and take on the label of conservative, but I have yet to find some conservationists or as many conservationists that call themselves conservatives as I would like to. I would be happy to yield to one that I think can and probably does wear that label.

Mr. BOEHLERT. Mr. Chairman, I would ask the pages if they would return to the easel with that very dramatic permit process chart because I would like to use it for a moment. All the work that went into the preparation of this chart, I do not want it to go to waste.

Let me tell my distinguished vice chairman from Tennessee I could not agree more with him. The American people are overtaxed and overregulated, and this is exactly, this convoluted maze is exactly, why we need the Boehlert amendment, because we want to change the permitting process. We want to give more control, more authority, to State governments. We want to bring them into the process, and he talks about the problem people in Tennessee have, people around the country, with, as my colleagues know, pieces of land one-eighth acre. I could not agree more with him; he is absolutely right.

That is why the Boehlert amendment provides the fast-track provisions for all property across this country of 1 acre or less. The permitting process would take no longer than 60 days, the clock would start running, and, boy, the American public is entitled to a swift and complete answer from the Government, and it would be provided under the Boehlert amendment.

I would also like to point out one last thing, and then I will sit down. Over 90 percent of the permits applied for are approved, over 90 percent. There is only a small fraction that causes some problems and causes some delays.

Mr. VENTO. Mr. Chairman, I thank the gentleman from New York [Mr. BOEHLERT] for his advocacy of this position. I just suggest to my colleagues:

Can we have a strong national environmental policy with a weak role for the Federal Government?

The fact of the matter is that the types of confrontation that my colleagues and the type of conflicts that they have repeatedly tried to demonstrate in terms of the Federal and State governments and local governments is, I think, more based on myth, and anecdotes, and what I call

cockamamie stories, than it is based on, in fact, on fact. To most of the people that we represent, the distinction between the Federal Government and its role in the State governments and our local governments is almost one that is seamless. In fact, it is based more on cooperation than collaboration and very much an interdependency in order to accomplish this.

Can, in fact, the Mississippi River be protected only in Minnesota? I think not. I think that when we are talking about the environment, we are talking about natural resources, we are almost inherently talking about issues that do not respect the boundaries.

The legislation before us frankly reneges, it retreats, in terms of clean water. We stand up here and talk about the progresses that have been made in 25 years, and in the next breath, then there is an effort to try and destroy that.

I see the evidence right in my own State. I suggest most of my colleagues see it in their own States, but all of a sudden the de facto policies in terms with regards to wetlands are no longer satisfactory. Those de facto policies, because of development, because of pressure, because of what is going on in regard to progress and because of what we are learning, we have the obligation not just to do what was good enough in 1960 or 1970. We have an obligation to bring to the front the best and the finest and the information, the knowledge, the new knowledge, that has been acquired and to put that into policy and law.

Is it uncomfortable? Is it difficult? Is it tough? I say to my colleagues, "You bet," and we have compounded that problem by cutting back during the 1980's and the 1990's on the number of land use planners and managers that we have that are trying to accomplish that task. There is a breakdown of communication, and there are those that are obviously promoting their own interests, and their interests are to walk away from the Federal Government's commitment to renege on this important issue of wetland preservation.

These wetlands are absolutely essential in terms of our communities. I say to my colleagues, "If you care about a clean water supply, if you care about the aquifers, if you care about the groundwater supply, if you care about erosion of the land and flooding, if you care about the natural resources and the type of biosphere or the type of biodiversity that occurs in that environment, then you have to care about these wetlands."

Mr. Chairman, how we solve these problems will set the benchmark, not just for today, but for many decades to come in terms of if we are going to take and march forward with progress with regards to wetlands or if we are going to renege and abandon this particular fight.

This legislation that comes before us takes 60 to 80 percent of the lands that

have wetland protection, sets up a three-tier scheme, and then turns around and says, "If a county has more than 20 percent of the wetlands in it, then you deny that. Then you pull the rug out from under it, and you don't do it."

This is not a scientific approach. This might be a good political solution, but this represents political expediency, not a good solution to the problem, and I hope that the chairman and those that have the votes, maybe, on these issues will begin to pay attention to some of the facts. We have an obligation to stand on the shoulders of those that came before us and did the tough work, that did the sweat, blood and tears, to make these laws work, not to abandon them, and that is what this legislation does, and that is why my colleagues should support, at the very least, the Boehlert amendment.

Mr. Speaker, I rise in support of the Boehlert amendment to H.R. 961, to strike the bill's wetlands provisions and replace them with language based on a proposal by the National Governors' Association. The amendment is far from perfect, but a great improvement on the basic measure being advanced by the majority party in Congress today. I credit the gentleman Mr. BOEHLERT for standing up to others in this body for this amendment.

The bill H.R. 961, as proposed, eliminates 60 to 80 percent of the Nation's remaining wetlands from protection using scientifically indefensible definitions, H.R. 961 arbitrarily divides the surviving wetlands into three categories, intended to correspond to high, medium, and low value wetlands. This policy flies in the face of sound science and defies even common sense. Worse still, the measure then withdraws protection from even the high value wetlands when such land is concentrated above a certain amount in a county.

The Boehlert amendment recognizes that there have been problems with the wetlands permitting process, but unlike the current wetland provisions in H.R. 961 which greatly weaken wetland protection, the Boehlert amendment streamlines the permitting process without leaving millions of acres of wetlands unprotected. The proposed amendment utilizes recommendations made by the National Governor's Association to simplify and expedite the wetlands permitting process without establishing an overburdened paperwork classification system. This amendment gives States the flexibility they need to manage their wetlands and offers technical assistance to private landowners at the same time affording sound management and conservation of our Nation's wetlands.

I think most of us realize how important wetlands are for water quality, flood control, and wildlife. Dismantling wetland protection will have serious long-term ramifications—as we all should understand, every action has a consequence, what we do on one parcel of land, indeed affects another. What has been missing from this wetlands debate is an acknowledgment that regulations are motivated by a desire for a healthier and safer society. They are promulgated to empower people and policy in protection of private lands and citizens. Congress should continually strive to make these work better, not tear them down for special interest concerns and short-term goals.

On May 9, the National Academy of Sciences issued a report which confirmed that there is absolutely no scientific justification for the wetland provision currently in H.R. 961. This should not have come as a surprise. The authors of this measure, H.R. 961, were and are responding as a purely political gesture to developers, industry, and a small but vocal number of property owners who feel that their property rights have been violated. This is shortsighted, arrogant, and irresponsible. We should use sound science to make environmental policy and not fall prey to the politics of the moment and legislation by anecdote.

John Chaconas, now the celebrated citizen from St. Amant, LA pretty well sums the situation up in his statement:

I believe wetland regulations can and do work well * * * Property rights are essential. Like most Americans I believe my property rights do not extend to harming the property of my neighbors. What is wrong here is not wetland policy gone awry, but the arrogant belief that some can do whatever they want with their property and all others be damned.

Even opponents of wetland protection might agree that the National Academy of Sciences [NAS] study is not just any study. In 1992, Congress commissioned the NAS to complete a study which would resolve the confusion surrounding wetlands science. This project was intended to be the definitive study of wetlands functions and values, ultimately answering the question, What is a wetland?

While it is true that this study only defines functional wetlands and it is up to Congress to decide what a jurisdictional wetlands should be, it is beneficial to take what this study tells us to heart. The NAS study verifies that the wetlands regulations dictated under H.R. 961 are without merit. Furthermore, the committee leadership chose to move forward without the benefit of this study. Today, they only have themselves to blame for the careless and haphazard policy measure, H.R. 961, that they bring to the House floor.

Sound wetland policy; hydrology, must consider the nature of re-charge areas for ground water and aquifer replenishment. Often the affects of such modification does not become apparent for decades. Furthermore, these wetlands provide areas and regions for water purification, filtering out and slowing down runoff, holding back harmful erosion, breaking down the pollutants and nutrients, providing aerobic and anaerobic action. To naturally clean the surface waters before they concentrate in rivers, lakes, and our oceans.

Today we can no longer depend upon de facto protection, rather we must establish a State-Federal partnership, a cooperative effort not one of confrontation—the relationship is seamless but can we have a sound, natural national environmental policy.

Certainly sound science and sound judgment based on a reasonable approach to the role of the Federal and State government is the basis of good policy. Set the politics aside and support the Boehlert amendment to H.R. 961.

Mr. EMERSON. Mr. Chairman, I move to strike the last word.

(Mr. EMERSON asked and was given permission to revise and extend his remarks.)

Mr. EMERSON. Mr. Chairman and my colleagues, I rise in very strong opposition to the amendment offered by

the gentleman from New York [Mr. BOEHLERT]. I truly believe the gentleman from New York has offered his amendment in very good faith. But I do not know about the terrain of upstate New York. I have not been there. But I have certainly been in the terrain of southern Missouri, in that area bordering the Mississippi River, and I think I do know a true, pristine wetland from a mud puddle.

□ 1645

Now, the problem is most mud puddles are being classified these days as wetlands.

Now, the Boehlert amendment has been cited as being the recommendation of the National Governors Association, and it may well have the blessing of the National Governors Association. But everyone in reality knows that this amendment was written or consulted by the Association of State Wetlands Managers in consultation with environmental groups. A lot of people report to Governors, but that does not mean that the Governors all know the intimate details of what they are signing off on here.

The fact of the matter is, and it is a fact, and the gentleman from New York and the gentleman from Maryland probably know this, that the word "wetlands" does not appear in the main provisions of the 1972 Clean Water Act, and that the word appears only once in a parenthetical phrase in 9 U.S. Code annotated pages of the current section 404 text.

I can tell you that over the last 15 years, as I have traveled around my district hearing the problems of farmers and small landowners related to wetlands, I have been challenged, "How can you hold us accountable to these wetlands definitions, when in fact there really isn't such a thing in the basic law? It is all a matter of regulation that has come to us through the rulings of four different agencies of the Government, all of which are in conflict one with the other?"

There was a point in time through the delineation manual that they got more together than apart, but the fact of the matter is, most people who are being regulated about wetlands are being regulated essentially at the whim of four different agencies who do not in fact have their common purpose always in focus before them.

This amendment does not streamline or reform the 404 program, but it adds new regulatory requirements to the existing law. The emphasis is on restoring wetlands and watershed management, and not on reform. The claims of reform mask the real intent of this amendment.

I am afraid this amendment also aggravates the existing multi-agency mismanagement by creating yet another bureaucracy, a new bureaucracy, to oversee the program. This new committee headed by the EPA would include four other Federal agency heads, representatives from three additional

organizations, and 10 State wetlands experts, hand picked by the EPA.

This is adding gross insult to injury, to exacerbate an already indefensible and ill-advised policy of our Government. We have got to reform the current process and the current regulations, and we have got to do that by law, which the basic bill here does. This amendment would create new roles for regulators and land use planners at every level, but virtually no role for the regulated public or the private property owner.

I have a letter here that is signed by a number of different organizations, but when I give you the names of some of them, you will recognize them as organizations representing people who would be confronted on a daily basis with wetland law and regulation.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I want to compliment the gentleman for his statement. If there is anything that we need to do in this clean water bill, it is reform wetlands and eliminate, at least reduce, the horror stories which the American people have told us up to the thousands. I compliment the gentleman for pointing out that indeed rather than reforming wetlands, this actually incredibly creates a new bureaucracy, a new committee headed by the EPA, which includes four other Federal agencies, representatives from three additional organizations, and 10 so-called State wetland experts, picked by whom? Picked by the EPA.

I compliment the gentleman for focusing on this. If there is anything that needs reforming and real reform, it is the wetlands provision. The gentleman has been a leader in this area, and through your knowledge and your persuasiveness, I think we have a good opportunity of making some real reform, and I would emphasize that the amendment we have before us now completely guts any chance of reform of this troubled wetlands regulatory program.

So I join with the gentleman in attempting to defeat this amendment so that we can have real wetlands reform.

Mr. EMERSON. Mr. Chairman, reclaiming my time, I thank the gentleman. If I still have some time, I will not read the entire letter, but it is a letter in strong opposition to the Boehlert amendment urging that we keep the language of the bill. Among those organizations registering in strong opposition, and that is their word, "strong," are the American Farm Bureau Federation, the American Soybean Association, the National Association of Wheat Growers.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 1 additional minute.)

Mr. EMERSON. Mr. Chairman, the Wheat Growers, the Cattlemen's Association, the Corn Growers, the Cotton Council, National Council of Farmer Cooperatives, National Water Resources Association, United Fresh Fruit and Vegetable Association, and on and on and on. Those are just some representative groups. I might also say, the gentleman from Minnesota [Mr. VENTO] made a little talk about conservationists and saying the fact of the matter is on the Republican side there are not many conservationists.

Most of the Members on the Republican side are conservationists, and the conservationist point of view is represented by the text of H.R. 961. I might say with due deference and respect to everyone, that it is the elitist preservationist point of view that is represented by the Boehlert amendment. It is by the Government regulators. They are the ones who are supporting the Boehlert amendment, and not the people who have to live with these onerous laws everyday.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(On request of Mr. BOEHLERT, and by unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. EMERSON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to thank the gentleman from Missouri for yielding and for the very fine work he has contributed to the work of the full Committee on Transportation and Infrastructure.

A couple of things I want to point out: First, the Boehlert amendment includes the same exemptions for agriculture as the committee bill. One of the reasons why it does is that the gentleman from Missouri has been so persuasive, so we have included those same exemptions as the committee bill. Plus we have added an exemption in response to a concern expressed by our colleague, the gentleman from Iowa [Mr. LATHAM] to deal with repair and construction of tiles on agriculture land.

I would also point out this convoluted committee that creates so much concern is an advisory committee. What we do is reach out to the States, to the Governors, and to local governments and say we are going to work with you, Federal, State, and local government, but we are shifting the decisionmaking authority from Washington to the States.

Two States right now have performed in an exemplary manner: One is New Jersey and the other is Michigan. I think more States should follow their lead. I could not agree more with the gentleman from Missouri. Washington

is not the source of all wisdom, and agriculture is important, and both of those facts are recognized in the Boehlert amendment.

I thank the gentleman for his generosity.

Mr. EMERSON. I thank the gentleman for asking for the additional time. I would only reply to the gentleman that the signers of this letter, and I refer to them, I do not agree with your amendment for the reasons that I have stated, but these are the people who live with the current regulations and would live with your law, were your substitute, your amendment, to prevail.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. EMERSON. Mr. Chairman, these people are not just a bunch of dumb farmers, a term I hear thrown around. These are people who have obviously looked at your amendment and, because of their vast experience going back over a number of years, have some means, intellectually, of gauging the effect of your amendment.

They say there has been a lot of misinformation circulated regarding the Boehlert wetlands amendment. It is being portrayed as being 70 percent of the text of H.R. 961 and as being friendly to agriculture. It is in fact neither. The Boehlert substitute, and it goes on to say other things, will have serious negative impact on agriculture and small landowners. It substitutes the use of, and I know you are going to say this is to the substitute and not to the amendment, however, let me say to the gentleman, substitutes, perpetuates, perpetuates the use of the 1987 manual and greatly expands the reach and the complexity of wetlands regulation. The 1987 manual is in fact a very large part of the current regulatory mess.

I will be delighted to yield to the gentleman.

Mr. BOEHLERT. Mr. Chairman, I am glad the gentleman read the substitute. What you are referring to is an amendment, a broad-based amendment considered last week by the House. We earned 184 votes. We did not get the majority, but we earned 184. I would assume all of those would stay with us as we go on with the wetlands. But when you more narrowly look at the wetlands issue, as we have done in this specific amendment, and when you specifically address the needs of agriculture, and I am proud to serve as chairman of the northeast agriculture caucus, I am very mindful that our farmers are among our best stewards of our land, and I wanted to work with them and not against them.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 1 additional minute.)

Mr. EMERSON. Mr. Chairman, I understand what the gentleman has just said. However, I want to point out, there are references to the Boehlert substitute and the Boehlert amendment. In the interest of time I was not reading the entire letter in its context. But inasmuch as the letter is dated today, May 15, there is no question that they are referring to your amendment, and not to the substitute that we acted upon last week. For everyone who may be concerned about the interests of agriculture and small land owners and other people who are subject to onerous land use regulation, without reference to law, it is mostly a matter of regulation and not law. I urge your most serious consideration and opposition to, and a vote against the Boehlert amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words in support of the Boehlert amendment.

Mr. Chairman, I rise also in support of the Boehlert amendment, and would like to point out that one of the major reasons why I do support it and why I think it should pass is because of the support by the National Governors Association. Their support is there primarily because of concerns that States have about the impact of the committee mark, of the bill itself, on the various State wetlands programs.

One of the main points that I would like to get across today is the fact that the Boehlert amendment helps the States. The Boehlert amendment is the one that the States generally prefer because of their concern they have about their existing programs.

As the gentleman from New York [Mr. BOEHLERT] mentioned, my own State of New Jersey is particularly concerned because we do have an excellent program approved by the Federal Government. Many States have developed wetlands protection programs that mimic the framework of the Federal program developed under the Clean Water Act. Each of the States committed large amounts of time and resources working with Federal officials and the public to develop and win approval for their programs.

All that could be wasted if the Federal wetlands program is scrapped by H.R. 961. Every State law and regulation will have to be revisited and revised for a lower standard of protection. I know some will say what is to stop the States from doing something on their own under the committee mark? The pressure will build, I believe, for States to change their programs.

With regard to the definition of the wetlands, the new definition contained in this bill contributes to elimination of protection for up to 80 percent of wetlands currently protected. In my home State of New Jersey, the definition contained in this bill would eliminate virtually all of New Jersey's wetlands from regulatory protection. The

proposed definition is the same unanimously ejected across the Nation when proposed by the EPA in 1991 because it has no scientific basis and would be administratively burdensome to implement.

□ 1900

Now, with regard to preclassification, preparing wetland maps suitable for the proposed classification system, not including functional assessment, would cost an estimated \$500 million in the lower 48 States. In New Jersey, our current mapping effort would be rendered worthless under H.R. 961, a waste of \$3.4 million that has already been spent.

If you look at the takings issue, and again the Boehlert amendment basically changes that considerably, the Congressional Budget Office estimates that the cost of buying all high value wetlands in the lower 48 States would cost between \$10 and \$45 billion. Although I do not have specifics for the State of New Jersey, price estimates on six properties for which the New Jersey DEP has information range from \$590,000 for a 9.4-acre parcel in Morris County to \$2.6 million for a 67-acre property in Ocean County.

Beyond that, the takings provisions in the bill imply that any public benefit that may result from wetlands regulation is secondary to the onerous restraints it places on the private property owner. As was mentioned before, in my home State, 94 percent of permit applications are approved. So if you think about it, if there are so many approved, why is it such a negative impact on property owners?

Mitigation. I am very concerned that the committee mark relies too greatly on mitigation to replace wetlands protection. A number of State studies have shown that there are limits to the effectiveness of mitigation because of the limited knowledge of the inherent values of wetlands. It is an ecological mistake to rely on mitigation to replace wetlands protections, in my opinion.

I would really like to stress more than anything else the effect of this bill on State programs. This bill, I believe, would ultimately destroy New Jersey's wetland program and all the important gains that have been made since the program was implemented in 1988. The bill eliminates incentives for States to take their own initiatives to implement a wetlands program. As I mentioned, pressure will exist on States to change their laws to reflect the weak provisions of the bill.

Ultimately, I think that is going to cause conflict, uncertainty and a lot of delay at the State level.

By contrast with the bill, the Boehlert amendment would essentially, which has been developed by the National Governors Association, would provide incentives for States to assume authority over wetlands regulation through increased delegation from the EPA. This is exactly what happened in

New Jersey. This is what we want to see if we want the States to take a larger role.

It also sets up this coordinating committee of Federal, State and local officials to help develop and field test national wetlands policies and strategies. Again, recognizing that there need to be some changes in the program.

But the amendment does not include any provisions like those in the bill establishing the new requirements to compensate landowners for losses in property value resulting from the Federal regulation. Again, the substitute or, I should say, the amendment in this case would actually eliminate those provisions and the costs that would be incurred because of it.

So I would urge my colleagues to support the Boehlert amendment.

I would also like to enter into the record an editorial that was in the Sunday New York Times, this Sunday, May 14, that basically talks about the bill and why the bill, the wetlands provisions of the bill essentially do not make sense.

They cite, of course, the report from the National Academy of Sciences. And essentially, Mr. Chairman, the reason why the New York Times takes the position that it does is because they feel that the existing bill, existing statute, I should say, the current law strikes a sensible balance between conservation and the need for economic growth. I do not think we should change that.

Mr. Chairman, I include for the RECORD the article to which I just referred.

Mr. KIM. Mr. Chairman, I move to strike the requisite number of words.

(Mr. KIM asked and was given permission to revise and extend his remarks.)

[From the New York Times, May 14, 1995]
POLITICS AND SCIENCE IN THE HOUSE

Unless its members have an attack of good sense, the House of Representatives will shortly reverse two decades of struggle to preserve the nation's valuable but diminishing wetlands. If it does so, it will be sacrificing sound science to political expediency and corporate lobbying. It will also be committing an act of supreme mischief against America's environment.

Early this week the House will vote on a bill concocted by a group of anti-regulatory Republicans and their conservative Democratic allies. The bill would cripple many of the basic protections provided by the Clean Water Act of 1972. This act has been regarded by experts in both parties as a major environmental success story, not least because it has rescued one-third of America's lakes and streams from terminal decline.

There is much in this retrograde bill to dislike, but the most controversial of its "reforms" would establish a new and far narrower definition of what constitutes a wetland. Scientists now estimate that there are just over 100 million acres of wetlands remaining in the 48 contiguous states, doing what wetlands do so well: filtering pollutants, providing habitat for wildlife and nourishing organisms essential to the food chain. The bill's narrower definition would make at least half of this irreplaceable acreage available to developers, farmers and industry, mainly the oil and gas companies.

This is a fool's tradeoff. We would lose natural areas the country desperately needs in exchange for development areas the economy can do without. Yet the tradeoff is hardly surprising since the bill was drafted in tandem with special interests that would love to get their hands on land that is properly off limits under existing Federal regulations.

Equally unsurprising, though terribly disappointing, is that the bill's sponsors did not have the courage or wisdom to wait for and acknowledge the results of a National Academy of Sciences report on what is admittedly a combustible issue. The report was ordered by Congress itself two years ago to provide a credible scientific basis for regulating wetlands, thus removing the issue from politics. But in matters of the environment, the hallmark of this new Congress is to place servility to special interests ahead of science.

The report, released last week, does not directly address the House bill. Even so, it is a convincing indictment, making clear that the bill's assumptions have no basis in research or theory.

To take only one example, the bill says a wetland would not be eligible for Federal protection unless it is saturated by water at the surface for 21 consecutive days during the growing season—the warmer and drier months of the year. The academy says a far more accurate definition would involve saturation over shorter periods, saturation in the root zone of plants rather than at the surface, and saturation that occurs during the fall and winter.

The 21-day test is the same definition that Dan Quayle's Competitiveness Council tried unsuccessfully to foist on the Environmental Protection Agency in the waning days of the Bush Administration. At the time, Federal scientists warned that Mr. Quayle's definition would leave half the nation's wetlands unprotected, including a big chunk of the Everglades, the bottomland hardwood forests in the South, the wetlands along most Western trout streams and nearly every "prairie pothole" used by migratory birds. This disastrous scenario is almost certain to play out if the House bill is approved. Taken together, its provisions are even more threatening than anything Mr. Quayle had in mind.

The academy describes the existing regulatory system as "scientifically sound and effective in most respects." What it is really saying is that the nation has already struck a sensible balance between the imperatives of conservation and the need for economic growth. That balance has taken years to achieve, and the House would be reckless to disturb it.

Mr. KIM. Mr. Chairman, I rise in opposition to the Boehlert amendment, because it deletes section 803 of H.R. 961.

This deletion will have a tremendous impact on California. Section 803 exempts maintenance of flood control channels and drinking water reservoirs from the wetlands permit requirement.

During the committee markup I pushed for the flood control exemption and I offered the drinking water reservoir exemption. Our committee had a full debate on these issues. My amendment was unanimously approved and the bill passed 42 to 16.

Now the Boehlert amendment strikes these out and that's why I can't support this amendment.

Let me tell you why the flood control and drinking water reservoir issues are so important not only to California, but also the entire Nation.

First, flood control channels require periodic maintenance. They have to be clear and free of obstructions and debris otherwise water will back up and flood all over the place during storms.

Under current law, flood control agencies must obtain wetland permits to clear vegetation out of a channel with mechanized equipment. It's OK if you clear it by hand, but you can't use power equipment or a bulldozer without a permit.

The problem is that it takes months to get a wetlands permit out of the Federal Government. And if you've ever lived in California, you know that when it rains, it pours. There is simply no time to get a Federal permit.

Let me give you one example of a major problem we had in Ventura County, CA, during the 1992 floods.

Ventura County tried for months—unsuccessfully—to obtain a wetlands permit to clear vegetation from a flood control channel. When torrential rains finally came, it took two Congressmen and Governor Wilson to secure an emergency wetlands permit.

The county sent bulldozers into the channel during the storm just a few hours before the flood hit. While that area was saved, other communities were devastated.

Because of problems like these, I made sure H.R. 961 specifically exempted flood control channels.

The second point I made in committee was to amend the bill to exempt maintenance activities in drinking water reservoirs. The problem is that when water levels are low, vegetation grows on the edges and inside the reservoir. Then the water rises again, the vegetation is obviously submerged and the Government calls it a wetland and requires a permit.

Come on, that's not a wetland.

Without my amendment, each time you lower the water level of a drinking water reservoir to clear the vegetation from the sides—or make structural repairs—you must obtain a wetlands permit.

Once again, under current law it's OK to do it by hand, but not with a machine.

In California, water districts have to hire small armies of manual laborers to clean out reservoirs. That's ridiculous.

Again, these two concerns, the timely maintenance of flood control facilities and drinking water reservoirs, are particularly important to California.

These concerns were well addressed during the full committee markup session, and our committee approved them unanimously.

It's sad this amendment strikes out these two important, already approved provisions.

I urge my colleagues to defeat this amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. KIM. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the gentleman from California raised some

legitimate concerns. We are sort of feverishly checking through these.

Mr. KIM. Check section 803, which was deleted by this amendment.

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, I want to read from the exemption section of my substitute: "exemptions are for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently serviceable structures, such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs, where such maintenance involves periodic water drawdowns which provide water predominantly to public drinking water systems, groins, riprap, breakwaters."

The point is, you have a legitimate concern and we have addressed it in the Boehlert amendment. I wanted to share that language with you so I think that perhaps you might be supportive of the Boehlert amendment.

Mr. KIM. I would like to see that.

Ms. DELAURO. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Boehlert amendment.

Mr. Chairman, I rise in strong support of the Boehlert amendment to protect the wetlands that are vital both to our environment and to our economy.

Wetlands are life-sustaining filters of our natural world—they remove pollutants from our water and provide critical habitats for fish, plants, and other wildlife.

I believe we must maintain strong protections for our wetlands. Like many of my colleagues, I also believe we need to expedite the wetlands permitting process and provide more consistency. This amendment does that.

But the bill before us is much too extreme. Rather than fix wetlands regulations it guts them entirely. This bill puts at risk as much as 80 percent of all wetlands in this country. In my home State of Connecticut, more than half the wetlands would be endangered under this bill. More than 97,000 acres of Connecticut's wetlands could be lost.

This is bad environmental policy and it is bad economic policy. I know this firsthand from the experience with Long Island Sound in my district and State.

Wetlands serve to filter out nutrients and toxics that otherwise would end up in Long Island Sound. Our current policies have allowed us to successfully restore more than 1,500 acres of critical tidal wetlands along Long Island Sound. The result is cleaner water in the sound and a substantial reduction in beach closings along the sound in Connecticut, from 292 in 1991 to 174 in 1993.

Wetlands are also vital to the fisheries industry that is so important to my home State of Connecticut. Connecticut is second only to Louisiana in oyster farming. This industry depends on wetlands to provide necessary food and habitat for spawning. In Connecti-

cut, oyster farming is responsible for more than 400 jobs and contributes \$200 million to the economy annually. The destruction or degradation of our wetlands would have a devastating impact on this industry.

Wetlands are a precious commodity. I urge my colleagues to protect this valuable resource and support the Boehlert amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what I would like to do is show a few illustrations to my colleagues in the Chamber this evening that show some contradictions to the, I guess, to some of the testimony we have heard here.

First, I want to offer a perspective to the Clean Water Act to the Members of the House and the American people. That is, this is an act to clean America's water. Usually when we look at lakes, rivers, streams, we have no sense of the small amount of water that we actually have for the purposes of human consumption. If you took all the water on the planet and put it into a 1-gallon jug, you would see that you would have less than a teaspoon of that gallon of water for use and purposes that we as human beings need it.

So water, regardless of what the planet looks like, is a very scarce resource.

I would like to refer to this chart here showing the complexity of the permitting process under the existing Clean Water Act regulations.

The complexity of the process that someone has to go through to get an individual permit is rather complex. I have to admit to my colleagues that a general permit is extremely, or actually well over 95 percent of all people who apply for general permits get them with no problem at all. They do not have to go through this lengthy process.

What I would like to tell you that is in the Boehlert amendment, and I would encourage everybody to do this, is to pick up the Boehlert amendment and turn to pages 22 to 24 and see how pages 22 to 24 just about completely eliminate much of the complexity in the permitting process by a whole series of exemptions.

What I would like to do is go back to the reason we have a Clean Water Act. I want everybody to look at this picture. This was not an untypical picture of pollution coming out of a pipe like this 20 years ago. I know we are debating wetlands. We are not debating nonpoint or we are not debating point pollution, which is what this was.

□ 1915

What the Clean Water Act did over the many years was to eliminate problems like this. Problems of point source pollution, which the Clean Water Act has eliminated over the last 20 years, the point source pollution caused problems such as this. We are trying to get rid of this. We do not

want to bring this back. We are dealing with wetlands, we are dealing with a much more complicated situation than point source pollution, we are dealing with nonpoint source pollution, and we do not want our rivers to look like this. The Clean Water Act, to show you its success, and to show you that same picture, has cleaned up that river.

We all recognize there are problems with the complexity of getting a permit, or there are too many agencies involved in getting the permit. These kinds of things can be eliminated and they can be solved.

Mr. Chairman, what I would like to explain, and one of my problems with the existing bill, is if we want our rivers to look like this, the Clean Water Act up to this point has adhered to a large extent to science. We do not want to get rid of the science. I will hold this picture up.

Mr. Chairman, if we abide by the regulations that are in the act or in the bill before us now, this particular picture, which everyone in here would agree is wet, this particular picture would not be considered a wetland. It would not be protected. The reason for that is, it is a little complex, it deals with science.

The existing bill calls for 21 consecutive days' saturation at the surface, which this meets. It calls for hydric soil, which this meets. Also, it calls for an obligate wetland species which is not present here, because in a few weeks after this picture was taken this begins to dry out. It begins to dry out because the forest here, it is a forested wetland, begins to take up the moisture.

Rather than getting into, like I said, some of the science here which is a little too complex, one of the major problems with the bill before us is that it excuses, it eliminates, it has nothing to do with science and the criteria on which we base what a wetland is. If we want clean water, we have to get, I admit, rid of some of the regulations, which this amendment does, but we have to hold onto the science.

I want to give one other example, and I will do this for the farmers and people that live in urban areas. If Members will bear with me just for a moment, I am going to draw another picture.

This is the land. On the left side of the picture, we are going to see corn. When farmers put fertilizer and a bunch of other things on their fields, there is a certain amount of nitrogen that goes through the soil that is not taken up by the corn.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCREST] has expired.

(By unanimous consent, Mr. GILCREST was allowed to proceed for 1 additional minute.)

Mr. GILCREST. Mr. Chairman, when the nitrogen goes through the soil, some of it is taken up by the corn, but much stays in the soil and will go down into the groundwater.

On the other side we might have an urban area, on the other side of that

cornfield. The urban area has a problem with stormwater runoff. Let us say in the middle of these two places you have a forested wetland. That forested wetland could have been the picture that I showed you that does not meet the criteria, but what a forested wetland does, what all wetlands do, as the groundwater moves underneath it, it takes up that nitrogen, purifies the water, adds to the quality of it, so people do not have to worry about drinking water that is polluted. Wetlands filter out well over 90 percent of the pollution. Forested wetlands are some of the most important. Wetlands have different characteristics from one part of the country to the other.

My time is up, Mr. Chairman. I strongly urge my colleagues to support the Boehlert substitute.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Boehlert amendment. The Boehlert amendment will protect our Nation's wetlands by replacing H.R. 961's faulty wetlands provisions with reasonable reforms.

Mr. Chairman, I represent the Santa Rosa Plain, in Sonoma County, CA, which is covered by more than 5,000 acres of seasonable wetlands. These wetlands are a valuable part of the area's ecosystem and provide habitat for endangered plant and animal species.

Unfortunately, the wetlands of the Santa Rosa Plain were being destroyed, often due to inappropriate development. Therefore, in Santa Rosa, local, State, and Federal agencies under the guidance of the Corp of Engineers began working with the Sonoma County environmental and business communities to help craft a preservation plan for the Santa Rosa Plain. This plan is close to completion.

When it is complete, it will determine what parts of the plain can be developed and what parts must be preserved. Once the plan is completed, wetlands on the plain will no longer be destroyed, and developers will know which areas are safe to develop, thereby eliminating costly delays.

Mr. Chairman, the Santa Rosa preservation plan is an example of how Federal agencies, in cooperation with local entities, can implement the Clean Water Act to successfully protect precious wetlands while permitting appropriate development. Mr. Chairman, I believe Congress should continue to support cooperation like this. The bill we are considering today, however, H.R. 961, will do just the opposite.

H.R. 961 guts wetlands protections. It ensures that the Santa Rosa Plain preservation plan will be useless, and thousands of acres of precious wetlands in my district and around the Nation will be lost forever.

Mr. Chairman, the Boehlert amendment is a sensible alternative which streamlines regulations without destroying our Nation's wetlands. I urge

my colleagues to support the Boehlert amendment and preserve the wetlands of the Santa Rosa Plain and the wetlands of the Nation.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. The regulations and policies which have been promulgated under section 404 of the Clean Water Act have evolved into an impenetrable maze of conflicting and confusing rules, restrictions, and enforcement measures that are wreaking havoc throughout the country, and particularly in my northern California district.

These sprawling and invasive regulations come not from one but three different government agencies, each pushing a different agenda, and each operating according to its own prescribed set of rules.

Mr. Chairman, this morass of regulations has moved far beyond the simple protection of our Nation's wetlands. What once were reasonable and necessary laws and regulations have been taken to ridiculous extremes. The promotion of wise stewardship has changed into an all-out effort to further preservationists' agendas. Regulations based on cooperation between policymakers and property owners has been replaced with intimidating and heavy-handed enforcement measures which devalue property and disregard rights guaranteed by the Constitution.

Mr. Chairman, I cannot see how this amendment, which creates more bureaucracy, rather than removing it, can help the situation. The family farms, small family owned businesses, and rural communities in our country do not need more committees and studies. What they do need is relief from the oppressive and extremist-driven bureaucracy and regulations which are driving them into the ground.

They need a reasonable definition of wetland that does not require the same degree of protection and mitigation for seasonal puddles that is given to legitimate habitat. They need policies that require the Federal Government to compensate them when it devalues their property. They need to be assured that preserving the livelihoods of families is at least as important as preserving habitat.

Mr. Chairman, title VIII of H.R. 961 will unscramble the regulatory maze under section 404, and begin to bring common sense back to our wetlands laws. It will consolidate confusing and conflicting jurisdictions into one regulatory body. It will begin to reverse the preservationists' extremism that is relentlessly chipping away at private property rights. It will remove the confusion and fear that is intimidating property owners who are unable to understand, much less adhere to the law. It will require the Government to pay property owners when it devalues their land.

In short, Mr. Chairman, title VIII requires Federal bureaucrats to protect

people as well as habitat, and bring our current law back within the parameters of the Constitution. Mr. Chairman, we do not need more regulation, we just need more common sense. I strongly urge my colleagues to join me in voting no on the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman, Mr. Chairman, because I could not agree more with the gentleman about the excess of bureaucracy and regulations in Washington. That is precisely why we crafted the Boehlert amendment in the manner in which we did. We do not create a huge new bureaucracy. What we do do is create an advisory committee, composed of a representative from the National Governors Association, the National League of Cities, and the National Association of Counties. What we want to do is bring these people in in an advisory capacity.

Second, we agree with you that there have been loose definitions of what a wetland really is. That is why we tried very hard to delay action until we had the benefit of the National Academy of Sciences report, which was just released last week. The National Academy of Sciences report really says in the committee bill the basis for defining wetlands has no scientific basis whatsoever. It is by the seat of their pants.

What we are trying to do is have good science define wetlands. I am not mad at the scientists of America. I want to use them to the best advantage, and have common sense prevail, as the gentleman wishes, too. I thank the gentleman.

Mr. HERGER. Mr. Chairman, I would like to comment to the gentleman from New York, who is the author of the amendment. I have 10 counties in my rural 36,000 square mile district, with unemployment as high as 20 percent in some of them.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has expired.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Frist, Mr. Chairman, let me set the record straight. The scientific report that was just issued to define wetlands did not say to this Congress "You should necessarily protect every wetland as we scientifically define it." It did not. What it said is: "What we are going to give you is a reference definition. Then you make the policy decisions as to which of these so-called wetlands, by scientific definitions, to protect."

The point is the Academy said: "This is our reference definition of what a wetland is. That means that is what you use as a reference, what you are going to use as a reference, to see which of these you want to protect,

which you want to protect more strongly, which deserve more or less protection."

Let me also put the thing in perspective. What we are debating right now is an amendment that was contained in the substitute which this House already turned down last week, an amendment that deals with the part of that substitute that would, in fact, delete, almost, the wetland reforms that are in the bill, and substitute, instead, a package of language that the House would have to adopt if they adopted this amendment, authored by those who have opposed property rights in this body, and who want every wetland, as defined by those scientists, to be subjected to the kinds of protection current law does under the 1987 manual.

Let me tell the Members what is wrong with that. First, what is wrong with that is if we do not in this bill, as the bill currently does, begin to define wetlands on the basis of which wetlands are truly functional, which really makes sense protecting with this heavy hand of Federal regulation, and define instead those that have some limited functional value, and those which have no real functional value whatsoever, such as an isolated wetland inside an urban area, if we do not do that in this bill, we are left with the status quo. We are left with laws and regulations built around what some scientists declare to be a wetland, which may not even resemble a wetland in your home State and in your home county.

Second, Mr. Chairman, if we adopt this amendment, we completely undo, we completely reverse, what this House has done with 72 Democrats and almost, the great majority, I guess 90 percent, of the Republicans earlier this year in the 100 days in defining the right of private property owners to compensation when the Government regulates their lands values away.

□ 1930

I want to take a brief minute to reacquaint Members with that issue.

In the case of Florida Rock, a case that started in 1978 when the Corps issued a cease and desist order upon the plaintiff not to use his property, a case that is still in court, that was again decided in the court of appeals, I think, for the second or third time, and has now been remanded to the Court of Claims for the second or third time, the court said in that case, in answer to the defendant's complaint, the U.S. Government, the defendant argued that, well, using this property, this activity, would eliminate wetlands protection within the valuable habitat and food chain resources.

The court said,

Defendant's argument stands our traditional concepts of private property rights on their head. It is impossible to use one's property in society without having some impact, positive or adverse, on others. Courts do not view the public's interest in environmental and aesthetic values as a servitude upon all private property, but as a public benefit that

is widely shared and therefore must be paid for by all.

In short, the Government in protecting wetlands in America, which is indeed a good and worthy goal, cannot create a servitude on your or my property for the public good without compensating us. That is what the court said, that is what the bill does, that is what gets eliminated by this amendment.

The court cited a list of other laws that protect the environment where Congress has already specified that some sort of compensation must be given: the Wilderness Act, the National Trail Systems Act, the Wild and Scenic Rivers Act, and the Water Bank Act.

Here is a quote from the court of appeals in the Florida Rock case:

"What these regulatory schemes have in common is that in each case the property owner's interest has been considered and accommodated, not sacrificed on the alter of public interest. By contrast, the regulatory scheme pursuant to which plaintiff's land was rendered economically useless—the wetlands laws—'provides for no accommodation whatsoever of plaintiff's right to use and enjoy its property.'"

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. I want to take you quickly through a real case, too, the Bowles decision.

Here is a fellow who bought a lot in a subdivision, specifically lot 29 of Treasure Island Subdivision, Brazoria County, TX. None of his neighbors applied for nor did they require a Corps of Engineers permit to build their House.

This fellow had that property, I think, for about 10 years, and litigated 10 years in court for the right to build on the property ought to be compensated.

The Corps of Engineers in his case, because he checked to see whether he needed a Corps of Engineers permit, said, "No, you can't build on that property."

This was a \$70,000 lot, pretty expensive waterfront lot. All of his neighbors are building on that property all this while. The Corps says, "You can't build on it. We think it's a wetland." Not you and I, not the people of the United States defining what a wetland is and what is going to be regulated in Congress. What the Corps of Engineers said a wetland was.

The Corps said, "You can't use the property." Then they said, "If you sue us for compensation we're willing to pay you what it's now worth, \$4,500."

Our Justice Department litigated that case for 10 years. Mr. Bowles, I should add, was one of the good guys. He was on the conservation committee. He was in the nature conservancy in Texas. But he was denied the right to build on his property, specifically the right to get a permit to put a septic tank in so he could build his house.

Ten years later, the court of appeals finally said he was due in the Court of Claims compensation equal to the value of his lot before the Government took away the use of that property, the \$70,000 he was taken, that was stolen from him when the Corps of Engineers said you can no longer build on this property.

The court rendered in his favor and said, "This case presents in sharp relief the difficulty that current takings law forces upon both the Federal Government and the private citizen. The Government here had little guidance from the law. The citizen likewise had little more precedential guidance than faith in the justice of his cause," and I might add a 10-year trip in the court of appeals and the Court of Claims.

What this amendment does that we are debating today is to tell Mr. Bowles, and everyone like him, "If you don't like the way the Federal Government treats your property, if you don't like the way the Corps of Engineers defines a wetland, if you don't like the way they regulate the use of your property away, well, you go to court and settle it over the next 10 years if you can afford it. If you can't afford it, I'm sorry, you don't get justice in America."

That is what this amendment does, because it takes away the private property rights compensation provisions of this wetlands reform.

Let me say it again. The bill does two things critical that the amendment destroys. The one thing it does, it gives some guidance in law as to what wetlands are truly going to be protected all the way and which ones are going to be protected somewhat and which ones are truly not worthy of the kind of functional protection that Mr. Bowles was subjected to when he could not build on his residential lot.

Second, it provides compensation. This amendment destroys both of those reforms. It ought to be rejected just as the substitute was earlier rejected.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(On request of Mr. BOEHLERT, and by unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank my distinguished colleague for yielding. I always enjoy listening to him. He is very eloquent. But I would remind my colleague that if you refer to a peach as a banana and keep referring to a peach as a banana, it does not make a peach a banana.

Mr. TAUZIN. I am certainly glad we had that conversation today.

Mr. BOEHLERT. The fact of the matter is this House has spoken on the issue of takings and on the issue of private property rights. That matter is now before the Senate. What is resolved between the House and the Senate will apply to this matter, and you know it.

Mr. TAUZIN. Reclaiming my time, Mr. Chairman, you cannot say that.

Mr. BOEHLERT. I just did.

Mr. TAUZIN. Well, you said it but you cannot really mean it. The President of the United States stood up on Earth Day and in effect said, "I don't care what's in the private property rights bill that's over in the Senate right now, how it's completed, what it says, what's in it, I'm going to vote "no" on it by vetoing it."

That bill has already been vetoed by the President in a speech he made on Earth Day. If we are going to protect private property rights, we now have to do it in the bills where it pertains, in the wetlands reform bill and in the endangered species reform bill. That is our only chance of giving compensation to landowners.

Mr. BOEHLERT. If the gentleman will further yield, my puzzlement is, what do the opponents have against good science? We have finally received a long-awaited report, 2 years in the making, over \$1 million in expenditure to develop this report. Incidentally, the prominent scientists that participated were not paid. They produced a report that was released to the American people last week, "Wetlands, Characteristics and Boundaries."

Among other things, they point out something that you have done repeatedly, that there are different wetlands in different areas of the country. If I may read for just a moment from an excerpt on a report,

The United States contains many different kinds of wetlands, from the cypress swamps of Florida to the peatlands of northern Minnesota and from mountainous headwaters to tidal salt marshes. The differences among wetlands in various parts of the country account for much of the difficulty in wetlands delineation.

Wetlands regulation—a source of considerable friction between private landowners and the Federal Government—is needlessly complicated by multiple definitions, field manuals and agency responsibilities. The use of a single regulatory definition, a single manual to identify wetlands—

Keeping in mind the geographic differences—

And, even more ambitiously, the consolidation of regulatory authority within a single Federal agency would improve the regulation of wetlands substantially.

Mr. TAUZIN. Reclaiming my time, the gentleman has made his point. Let me counter that point.

First of all, it is a single definition of wetlands that cause the problem. It is the definition designed by the agencies with the scientists telling them what they think scientifically a wetland is which has caused these problems in America. It is 5 or 6 agencies meeting behind closed doors that produced the last manual that sent this country into a tizzy.

It is time for policymakers now to make a decision in this Congress as to which wetlands deserve how much protection. That has long been overdue.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Let me make a point. If you will look at the very last conclusion in that manual, in the scientific report, you will see that the scientists very carefully said,

We're not telling you what kind of policy to make on wetlands. We're not telling you whether to protect all wetlands the same way because they are different. We're not telling you that our definition of wetlands should be a legal policy definition. What we've written for you is a reference definition. You take our definition and you define from it which wetlands you need full protection for, which wetlands are you going to treat differently in what region of the country.

That is what the bill does, I should say to my friend. My friend destroys that class A, class B, class C determination as we have in the bill, substitutes a single definition again, which has caused us so much problems, and then destroys the compensation provision by saying in effect that that is out of the bill.

I can say to my friend again, if you truly oppose property rights, I understand that, that is a fair debate, but that is what your amendment does. It takes property rights out of the bill. If you truly like the system where Federal bureaucrats and their scientists are making policy for America, they will love your amendment and I know you support it.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. I have one quick question for the gentleman from Louisiana, one question about the Florida Rock case.

It is a situation where the gentleman bought a parcel of land for about \$3,000 an acre. It was going to be a type of gravel pit. If he could have sold it for this type of gravel pit, he could have gotten \$10,000 an acre for it, but since it was delineated as a wetland, the value was reduced so he could only get \$6,000 an acre for it.

My question is, since it is delineated as a wetland and protected as a wetland, if it was not preserved as a wetland and he did use it and it diminished the value of someone else's property downstream, who would have paid for the devaluation of the property owner downstream?

Mr. TAUZIN. I will be happy to answer the question. There is law in all of our jurisdictions, I know in my State, I assume in Maryland, that provides if I use my property and damage my neighbor, I am answerable to him, I am answerable to him in the State court for my damages. That is current law.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, the current law says that if you do something to your property to damage your neighbor, you have got to pay for that. The bill on property takings that we wrote makes it clear that the only time you get compensated is when the use that has been denied you is not a zoning use prohibited, is not a nuisance use prohibited but only a use that is designed to protect environmental wetlands.

Second, let me say to my friend, I am not saying the law should not protect the wetlands in the Florida Rock case. Maybe they should have been protected. All I am saying is that if they are protected and the use of that property is denied the owner as in Florida Rock, that he ought not to have to spend from 1968 to 1995 trying to get an answer as to what he should be compensated for.

Mr. GILCHREST. If the gentleman will yield further, I think if you destroy those kinds of wetlands, a number of people whose property would be devalued because their ground water would be contaminated, the vast number of people who would have their property devalued, there is not enough money in America to pay for all that property.

Mr. TAUZIN. Reclaiming my time, if the use is one that damages your neighbor, you don't get compensated under the bill, and you know it.

Mr. PAXON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to engage in a colloquy with the chairman of the Transportation and Infrastructure Committee regarding the definition of concentrated animal feeding operations [CAFO's].

A recent Second Circuit Court of Appeals decision, *C.A.R.E. v. Southview Farm*, broadly interpreted and—in my view—misconstrued the definition of CAFO's. In particular, the court confused the difference between feedlots and areas that do not involve growing operations and misinterpreted the terms "lot," "facility," and "area of confinement."

The result is that certain agricultural operations, such as dairy operations, could be improperly considered as CAFO's and therefore point sources.

Is my understanding correct that the chairman intends that the term "CAFO's" and the term "concentrated animal feedlot" do not include farming operations where crops, vegetation forage growth or post harvest residues are sustained in the normal growing season over any portion of the farming operation?

□ 1945

Mr. SHUSTER. Will the gentleman yield?

Mr. PAXON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the gentleman is absolutely correct. Several of the H.R. 961 provisions, particularly section 503, refer precisely to concentrated animal feed operations. As the primary sponsor of this legislation, I can assure the gentleman that at no time did we intend that the terms of the act and the accompanying regulations be construed as broadly.

Mr. PAXON. Mr. Chairman, I thank the gentleman for this clarification, for his overall efforts to ensure a proper balance between environmental regulation and agricultural operations.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield for a question?

Mr. PAXON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to thank the gentleman for bringing up that issue which does not directly affect the wetlands debates on the Boehlert amendment, but I want the gentleman to know that I strongly support the position taken by the gentleman from New York, and I strongly support the language in the committee report referred to by the chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER].

We have addressed the special concerns of agriculture in America and the committee bill does that. The wetlands provision that I am introducing and we are debating right now contains the same exemptions as does the committee bill, plus we add a new exemption for repair and construction of tiles which are so very important to agriculture.

So I thank the gentleman from New York.

Mr. PAXON. I thank the gentleman for his support and again the chairman of the committee for his very helpful efforts in clarifying this matter.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, listening to the debate one would draw the conclusion not only by inference but by express statement by the opposition that this really is a battle about those who care about clean water versus those who do not.

I am here to reject that characterization, Mr. Chairman. In fact, wetlands and the environment are very important to me, and I know of no Member in this House to whom they are not important. So let us all stipulate that we are for the environment, as well as for the American flag, motherhood, and apple pie. Those are all good things; we are all for them.

What this battle is really about, and I cannot think of a better crystallization of the difference between the old Congress, the belief in bigger, more powerful Federal agencies and, in essence, a bigger, better, more powerful Federal Government, versus a smaller, more accountable Federal Government. That is what the debate is really about with this Clean Water Act, Mr. Chairman.

You know, we ought to stop and ask ourselves: Where does the U.S. Congress derive the authority to regulate wetlands, for example? It comes from the U.S. Constitution, from the so-called commerce clause, which happily is finally starting to be properly interpreted after 60 years of abuse by the Congress and the Supreme Court, and in the Perez decision decided recently we finally got a reasonable definition of the limits of the power of Congress under the commerce clause. Those things which Congress seeks to regulate under the commerce clause have to bear some reasonable relation to the clause.

Mr. Chairman, this is a battle between those who support a bigger Federal Government versus those who support a smaller and more accountable Federal Government. It is really a battle between those who want to empower bureaucrats with vast discretionary authority versus those who believe elected officials ought to be making our policy in the U.S. Congress. It is really a battle between arbitrary administrative rulings versus good science. Ironically enough, I say to the gentleman from New York, we believe in good science. That is why H.R. 961, as reported by the committee to the floor, is here. It embodies good science, and we believe very deeply in good science.

Let me just mention why the Boehlert amendment is flawed, in my opinion. No. 1, it strikes all the property rights provisions out of the bill, including the right to compensation for property owners whose land is devalued by more than 20 percent due to the Federal wetlands regulations. No. 2, it eliminates the three-tier classification system created by the bill which is designed to give greatest priority to those wetlands that are in most need of protection. No. 3, it retains the current expansive definition of wetlands. Indeed, under the Boehlert amendment, and this is true under present law, this is deemed to be a water of the United States. Is that not ludicrous? This picture is north of Stockton, CA; yes, this is a wetland according to existing law and according to what it will be if the gentleman's amendment should be enacted.

H.R. 961 was produced with an aim to ending this kind of administrative abuse.

Also, this Boehlert amendment removes the provisions that streamline the current highly bureaucratic system for wetlands permitting, giving four agencies the power to veto wetlands permit applications. The committee bill makes the Corps of Engineers the sole agency with the power to grant or to refuse a permit.

So, those are the reasons why I think this is an undesirable amendment. If you believe in Big Government, if you believe in bureaucrats, if you believe in arbitrariness, keep the status quo, because it works great. The only ones who are disadvantaged by it are those

who happen to own property by the sweat of their brow and cannot get through the permit process. And we heard from the gentleman from Minnesota, I think who said this, maybe the gentleman from New York: 90 percent of all of these Corps of Engineers permits are granted. What that figure fails to mention is the number of people that dropped out.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 2 additional minutes.)

Mr. DOOLITTLE. Ninety percent, the figure was 90 percent of the permits are granted by the Corps of Engineers. It ignores the fact that a huge number of people fell out of that statistic, those who tried and just gave up. They did not have the 2 years or 4 years or 5 years or as in the case of Chico, I will tell you about the 16 years to get through the process. They gave up and they were not counted, because it did not count in that statistic. So it is a very misleading statistic. I just throw that out; it is very misleading.

I chaired the wetlands task force for the Resources Committee. We went around the country and held various hearings. Let me just tell you briefly what we found out. We heard from Bob Wilson, a man who owns property in Idaho. He went through with his permit, the corps came out, they had extensive negotiations. The corps finally granted his permit to build a house. He built a very expensive, about a half-million-dollar house, and then, incredibly, a corps field official came along and discovered quote unquote that the hydrology had changed on this particular land and what was once an upland when the house was built was now a wetland, and demands were being made for him to do something about it.

Well, he went through the process again and that managed to get it straightened out, probably because the corps was too embarrassed to actually be willing to take that case forward and expose it to the harsh light of public review.

Pastor Enns, pastor of a church in Chico, CA, known as the Pleasant Valley Assembly of God, this is a 500-member congregation, all of its contributions are received voluntarily.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(By unanimous consent, Mr. DOOLITTLE was allowed to proceed for 3 additional minutes.)

Mr. DOOLITTLE. This gentleman began the process of building his church. Sixteen years later, \$300,000 of his congregation's money down the drain and there is no church, and 25 percent of it has been roped off as a wetland.

These people are not in the business of development. They are trying to build a church.

The Sares Regis Corp., they are in the business of development, and they are in Mr. POMBO's district, in the northern end of it. They have about a 1,200-acre parcel of land. In 1988 the first application was made for a permit. We are in 1995 today. Seven years later they have still not done anything with it because the different agencies keep upping the ante. First they wanted 15 percent of the land set aside because it contained features like this right here, and then it went up to 25 percent, and they finally agreed to 25 percent. A demand was made for more, and they agreed to 30 percent, and that is not enough. Thirty percent, in fact it was more than 30 percent, it was nearly one-third of their land, 356 acres with a development value of \$30 million, and that was not enough to satisfy the Federal bureaucrat. That is an abuse, Mr. Chairman. And that is what this bill is designed to correct amongst other things.

I want to tell you about Mrs. Cline. Nancy Cline, Sonoma, CA, bought land, 350 acres of land, been in farming continuously since 1930. One year the owner of the land, in fact the next to the last year the former owners of the land grazed cattle. These folks tried to farm their land and the bureaucrats showed up and they said, "You can't do that, you need a permit, you are filling a wetland." They said, "What do you mean. It has been farmed since 1930. I am sorry." They threatened them with \$25,000-a-day civil fines and actually at one point threatened if they did not give in to criminally indict them. They had to hire an attorney to defend themselves. They went around, and I would love to read you this but my time is running out, I will tell you the FBI and EPA went door to door to the neighbors and interviewed the neighbors. What is these people's religion? Do they have a temper? What are they like?

George Washington said power is not reason, it is not eloquence, it is force, and like fire it is a dangerous servant and a fearful master. And I would submit to you that we uncovered many examples of the heavy hand of government, naked force.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Maryland to ask his question.

Mr. GILCHREST. One comment and one quick question. The comment is we want to get rid of the bureaucracy that creates the kind of horror stories.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. GILCHREST and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. I yield to the gentleman from Maryland.

Mr. GILCHREST. The other thing is I really wish some of the Corps and EPA people from California could come to

Maryland and see how we work out our problems, and we really do work the problems out in apparently a much simpler manner than it is done in some of the Western States, but looking at the picture I would like to ask, it really looks like there is some farming activity being done there. It looks like tractor tires and the field has just been plowed up. I would like to ask the gentleman if that is a farming area. Then it is now without either one of the bills exempt from regulatory jurisdiction of the Corps as far as wetlands is concerned because of the prior converted cropland; also the Corps allows people to farm wetlands if they have been farming wetlands.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. POMBO. I can explain what is going on in this picture. It is grazing land, which the Corps does not consider agriculture. So they cannot.

In California under current law what is happening right now, grazing is not agriculture. Therefore they cannot plow that up. That is what they are doing right now.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I just cannot let pass the statement by my good friend from Maryland about how wonderful everything is in Maryland. My congressional district borders Maryland, and I can tell you in western Maryland there are hundreds of people who are furious about the environmental Gestapo which is there and which is attempting to tell them how to live their lives and what to do with their land beyond all reason. So things might be well on the Eastern Shore, my good friend, but in the neck of the woods I come from which borders on western Maryland there is outrage at what this environmental Gestapo is doing.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from New York.

Mr. BOEHLERT. I want to allay the gentleman's concerns, because the Boehlert amendment provides a specific exemption for grazing land, so I say to the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. DOOLITTLE], I want you to know we addressed your concern.

Let me tell you who is outraged. The American people are outraged by the prospect of eliminating 60 percent to 80 percent of our Nation's wetlands.

□ 2000

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(By unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. Mr. Chairman, I ask for an additional minute to reply because this is not the whole story. I need to reply.

Let me just say here that in our part of the State there is a lot of land like this and there are a lot of people like this that would like to grow houses, not farms, on it or not grazing, and they owned the property, and under your amendment you are not going to let them do that because this is going to be classified as a wetland for which a permit must be granted, must be required, in order to do anything, and your amendment does not let good science prevail, because you do not see the framework for the classification, A, B, or C.

I heard you read from the report. Let me just say we make the policy that the Secretary is to promulgate, a classification system, A, B, or C, according to the most ecologically significant land in that order. That is where the good science is going to come, helping us determine whether it is A, B, or C.

Mr. BOEHLERT. If the gentleman will yield further, there is nothing, nothing, absolutely nothing, let me repeat, nothing in the committee bill that refers to science.

What are we afraid of? We spent \$1 million in 2 years to hear a report from the National Academy of Sciences, and we are ignoring it.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. HAYES, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. HAYES. Will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Louisiana.

Mr. HAYES. I have a letter addressed to me today where numerous agricultural groups, including the Farm Bureau, American Feed Industries, American Meat Institute, Sheep Industry Association, Soybean Association, and others, are all in opposition by name to the Boehlert amendment.

My question to the gentleman would be: If the agricultural provisions are supposedly taken care of, then do I have 50 or so incompetent agricultural organizations, or do I have a continued inability of some to recognize that they are not helping farmers but hurting them under either the current situation or the proposed amendment?

Mr. BOEHLERT. If the gentleman will yield, let me stress, on page 21 of the Boehlert amendment, there is a whole list of exemptions for agriculture. Given the choice, we understand human nature, given the choice of no regulation or some regulation,

what are people going to choose? Obviously, no regulation. But the fact of the matter is there are 250 million Americans from coast to coast who are concerned about drinking water, who are concerned about flooding, who are concerned about tourism and fishing, who are concerned about so many things that are ignored.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I ask for the time for me to respond to my good friend.

I cannot let pass, and I am sure my good friend does not mean, really mean, no regulation. To suggest our bill provides no regulation is obviously false. Our bill provides substantial regulation.

What it does do, it sets up three categories of wetlands, A, B, and C. So, for my good friend, I know in the hyperbole of the moment, to talk about no regulation, I am sure he does not mean that, and our bill does provide regulation. It simply does not, and I plead guilty, it does not provide the onerous, heavy-handed regulation that the gentleman's amendment provides.

Mr. BOEHLERT. If the gentleman will yield further, because it is the gentleman's time, the fact of the matter is this is not my opinion. It is prominent scientists. The 17 scientists who developed the Academy of Sciences report on wetlands estimate 60 percent of our Nation's wetlands will be lost if we adopt the committee bill.

I agree with the chairman; I have the highest regard for the chairman.

That is why we are trying to incorporate in our amendment special exemptions for agriculture, and we are trying to address the needs of Governors and State and local governments.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I wish to respond to the last statement.

I believe what the report says is not that 60 percent of wetlands will be lost, but rather that 60 percent of the wetlands will be unregulated by the Federal Government. There is a vast difference, and indeed I am informed by several people that even the 60 percent figure is something that is not substantiated. So there is a vast difference between wetlands being lost and wetlands not being regulated by the Federal Government.

Mr. HAYES. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Louisiana.

Mr. HAYES. Under no instance in the report is there a reference to this loss.

It has been thrown around on this House floor as if it is somewhere scientifically written. It is specifically never covered in that report. It does a disservice to the chairman to make that reference. But if so, would the gentleman give us a page number in which such a percentage or reference is made?

Mr. SHUSTER. And I would say further, under our bill, if the gentleman's State wishes to impose more stringent wetlands regulations, the gentleman's State may do so.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. BOEHLERT, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. I yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. I thank the gentleman very much. I appreciate that.

The gentleman from Louisiana [Mr. HAYES], I would like to point out that the estimate of 60 percent loss of the Nation's wetlands comes from William M. Lewis, Jr., Chair, who is professor and Chair of the department of environmental population at the University of Colorado. That statement was made at the public briefing provided for Members of Congress, their staff, and the news media. I was there. A limited number of Members of Congress, a lot more staff, and a lot of media, and that is why the media has picked up on this 60 percent loss of wetlands, because it comes from the Chair of the committee, a very distinguished scientist. I have no idea if he is a Republican or a Democrat or a green or a brown or whatever he is, but I know he is concerned about our environment.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I ask for the additional minute to quote what Dr. Lewis actually said. I have in front of me, during the question and answer session of the briefing, Dr. Lewis, previously referred to, was asked, "What percentage of wetlands currently under the jurisdiction of the 404 program would be deregulated?" Deregulated, not eliminated, deregulated, after the 21 consecutive day requirements were enacted. His first response was, and I quote, "I don't know." When prompted further, he said, "I guess the amount would be in the tens of percent, 20, 30, maybe 40 percent." End of story.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. HAYES, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 2 additional minutes.)

Mr. HAYES. If the gentleman would yield further and give me a moment to

ask a question of the chairman, who was it who made that inquiry?

Mr. SHUSTER. If the gentleman will yield, I understand it was the gentleman from New York [Mr. BOEHLERT] that made the inquiry.

Mr. HAYES. The gentleman from New York [Mr. BOEHLERT] made the inquiry; it is not secondhand. I hope he would recall it.

Mr. SHUSTER. That makes this story even better. Thank you.

Mr. DOOLITTLE. Let me make my statement.

Mr. BOEHLERT. We are up to 40 percent. We are getting closer.

Mr. DOOLITTLE. I would just like to point out here: What in the world are we afraid of? We are not talking about plowing over all the Nation's wetlands by this bill. We are saying the Federal Government has gone too far in trying to assert its jurisdiction. We are going to, as the new Congress, make a correction in the course. The State of Maryland or any other State, if they feel that the policy should be different, is free to take that policy. But under the U.S. Constitution, in our view, our jurisdiction needs to be cut back. This bill provides a policy that assures protection to wetlands that uses a classification system, A, B, or C. It assures reason, balance, and flexibility, which we have none of under the present system, where all we have is the naked hand of Government, \$25,000-a-day civil fines, being threatened by Federal agencies, and if they fail at that, they will threaten to indict you, as they did Mrs. Cline.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Maryland.

Mr. GILCHREST. The gentleman from California said, "What are we afraid of?" Why do we not use the classification or the delineation criteria from the National Academy of Sciences, which I think we all, after looking at it, would have some sense that is a good classification, and then we can use their criteria in this bill, and then we can regulate or not regulate, whatever we want to.

Mr. DOOLITTLE. Reclaiming my time, we are going to do that. We have got A, B, and C. We, the elected officials, set that up. Then we are going to use the science that is in that report because the Secretary is the one that makes those determinations, and he is going to specify in the regulations what are the criteria for A, B, and C.

Mr. EWING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find this debate very interesting tonight and believe that maybe it is time that a voice from the Midwest is heard on this problem.

We have heard a lot from the South and from the West about the problems with the wetlands, but I want to say that I strongly oppose the amendment to H.R. 961 on wetlands. This amendment would strip out the provisions of this bill in title VIII, reject sensible

wetlands policy reforms which have been crafted in this bill, and replace the language with a much more workable form of regulation for our wetlands. In fact, the House rejected the bureaucratic language of the sponsor of this amendment as part of the Saxton substitute.

For many years, farmers and businessmen and landowners have struggled and wasted millions of dollars on lawyers' fees, trying to make sense out of the current wetlands permitting process. Critics of the wetlands provision in H.R. 961 make it sound as though the current section 404 of wetlands delineation process is an orderly, scientifically sound process. Anybody outside of Washington, DC, who has tried to obtain a section 404 permit knows the present system is a bureaucratic morass, subject to the whims of EPA, the U.S. Corps of Engineers, Fish and Wildlife Service, and the bureaucrats of the Federal Government.

In fact, when I was visiting in what is now the consolidated Farm Service agency in my home county, I asked them how they established wetlands in my home county. "Oh," they said, "We got out some maps, and we sat there, and that is the way we decided what was wetlands," in this highly developed agricultural county, and, of course, if anybody came in, they probably made some adjustments. But most people did not even know about the delineation.

So, when we talk about the loss of wetlands, what we really have to do is establish what were and are and is truly wetlands because it was not done in a very scientific way.

And if the present system is not bad enough, this amendment directs the EPA to establish a wetlands coordinating committee. The committee is to develop a national wetlands strategy and recommend new, new regulations to the EPA and the Army Corps, among other things.

My colleagues, issuing additional wetlands regulations and creating new bureaucracy is absolutely ludicrous. Have the proponents of this amendment not learned anything from the November election? I would also hope that Members will not be fooled by the rhetoric of the supporters of this amendment.

The Boehlert amendment does not embrace sound science. Its primary purpose is to keep the current, unworkable Federal wetlands policy in place, the net effect of which is to keep property off limits to acceptable alternative uses.

Simply stated, if you want to preserve and expand the present section 404 permitting bureaucracy, then you should support the Boehlert amendment. But if you want to replace the current wetlands permitting with clear, sound public policy, then you would reject this amendment.

It is no accident that American agriculture supports title VIII of H.R. 961 as is. Farmers are sick and tired of the Federal bureaucrats determining that

mandate drainage ditches are navigable waters of the United States, are sick and tired of Federal bureaucrats walking onto their farms and determining that ag areas are wetlands. If agriculture is to receive major reductions in programs, there must be corresponding relief from meaningless, useless, and inappropriate Government regulations, such as the current wetlands situation.

Anybody who listened to voters last November knows that the citizens are absolutely fed up with big Government and bureaucratic arrogance. The voters are demanding smaller and more sensible government.

Agricultural people know what true wetlands are. Agricultural people are certainly interested in preserving true wetlands because they know the benefits. We do not want to destroy wetlands, but we do not want to be encumbered by wetlands designations for property that is not wetlands.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. EWING] has expired.

(By unanimous consent, Mr. EWING was allowed to proceed for 2 additional minutes.)

Mr. EWING. Mr. Chairman, I believe, as do most, that the provisions of H.R. 961, as is, will do what is a reasonable job of defining our wetlands.

I do not question the proponents of this amendment are well intended, but you have provisions under this bill through different State legislatures to enact if additional regulations are needed.

Finally, Members of this body who support the restoration of personal property rights contained in this amendment, in this bill, should support the wetlands language of 961 and vote against the Boehlert amendment.

In closing, I would urge Members to join the chairman and vote for fair, clear wetlands delineation as currently in this bill.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from New York.

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Mr. BOEHLERT. I do not want to point out a misstatement. I think it was inadvertent. The Federal, State and local government coordinating committee, contrary to what was alleged, does not have any regulatory authority. It serves in an advisory capacity only. Why did we create it? To reduce duplication, to resolve potential conflicts and to efficiently allocate manpower and resources at all levels of government.

Mr. EWING. To whom will they be reporting?

Mr. BOEHLERT. We include representatives from the National Governors' Association, the National League of Cities, the National Association of Counties, in an advisory capacity. In effect, what we say is, "Come let us reason together."

Mr. HAYES. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Louisiana.

Mr. HAYES. Would the gentleman accept an amendment to his amendment stating that it has no regulatory power whatsoever?

Mr. BOEHLERT. I would be more than happy to.

Mr. HAYES. Then I will be delighted to make that tomorrow.

Mr. EWING. Reclaiming my time, the purpose of the committee is then—will have no influence on regulations?

Mr. BOEHLERT. It is there to serve in an advisory capacity.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. EWING] has expired.

(On request of Mr. SHUSTER and by unanimous consent, Mr. EWING was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This so-called advisory committee was made up of 18 people. Ten of the 18, a majority, will be handpicked by the EPA, so the people the EPA picks will recommend to the EPA what kind of regulations to impose upon the American people.

Does the gentleman begin to get the drift of who is going to be calling the shots here? It is the same old regulatory crowd, the same old environmental gestapos, that is who, and that is why we should defeat this amendment.

Mr. EWING. Reclaiming my time, the chairman has adequately and very accurately stated just the reason that we cannot stand any more committees. We cannot stand any more of this regulatory overkill that we have had in America, and an 18-member committee, with 10 of them appointed by the EPA, bodes very, very bad for regulatory relief.

Mr. BOEHLERT. Mr. Chairman, would the gentleman yield?

Mr. EWING. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, this committee will serve without compensation. This committee will serve—

Mr. EWING. Reclaiming the balance of my time, I think that is totally irrelevant to whether this committee is going to be another bureaucratic agency.

Mr. SHUSTER. That means they will be committed fanatics.

Mr. EWING. Absolutely.

I yield back the balance of my time.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that this debate has been very interesting for a number of reasons, and I think that, if we look at what the debate has centered upon, I know earlier in testimony they talked about clean water, and one

of the things that they brought up was a picture of a polluted stream.

As my colleagues know, we are all against water pollution, we are all in favor of clean water. And that is not what the debate is about. What the debate centers upon is whether or not the U.S. Congress will make the tough decisions.

For a number of years, actually since the Clean Water Act was passed and they somehow found wetlands within it, Congress has refused to make the tough decisions, the policy decisions. Therefore, all of the decisions governing wetlands have been made by regulators, bureaucrats, and by the courts.

And I say to the gentleman from New York, Mr. BOEHLERT, you talked about using good science. Well, I strongly believe that we need to use good science and that that should be the basis for our environmental decisions. But I also believe that it is our obligation and responsibility to make tough policy decisions.

One of the problems in this picture was brought up earlier. One of the problems that we have out west is wetlands that look like this, that have nothing to do with—we cannot tell from this picture, but there is no inlet or outlet from this wetland. It is a mud puddle. It is a hole in the ground. It is a low place.

Now I say to my colleague, "You have said that you know in your amendment that grazing is agriculture and would be exempted from the regulations of the permitting process." I will tell my colleague one thing that happened in my district in an area that looked exactly like this. It was grazing land, and had been for many, many generations, and for those of my colleagues that do not know, cattle business has not been so great lately, and the gentleman decided that he would be better off trying to farm the land in order to try to make a profit off of it, and he wanted to plant vineyards on it. And they told him he could not plant vineyards on it because of wetlands like this that were on the property, and he said, "But agriculture is exempt from it. Under current law, agriculture is exempt."

And they said, "Well, no, because you are converting from one agricultural use to another. Therefore, you are changing the use of the land from grazing to vineyards."

So I say to my colleague, "Even under your language that you bring out, I don't believe that the bureaucrats would take that as an answer for it."

So, what he told him was,

Okay: I'll stay out of the wetlands. I won't plant any vineyards in the wetlands. I'll just plant them on the sides of the hills, and I'll contour the hills and just stay completely away from them. I'm putting in a drip irrigation system so there won't be any runoff.

The answer came back, "No, you can't do that because you will change the drainage on the land from what is currently there, and you can't do that."

So he was struck with an unprofitable piece of property because the cattle business is not real good right now. He was stuck with an unprofitable piece of property that he could not make any money off of, that he could pay the mortgage on and pay the property taxes on, but he could not make any money off it because they were restricting what agricultural use.

Now, notice I have not talked about development of any kind, not about building a single home on any of this. It is one agricultural use to another, and, under the current definition, they are saying, "You can't do that. You can't change from one agricultural use to another, and they are restricting his ability."

Mr. Chairman, that is why I believe that the property rights provisions in the chairman's bill are so important, because right now we have the regulators and bureaucrats running out there who, at no cost to them, at no downside to them whatsoever, and actually an upside because they just expanded greatly their jurisdiction by taking a wetlands that looked like this, they expanded greatly their jurisdiction by taking a wetlands that looked like this, they expanded greatly their jurisdiction. Therefore, they need more employees, a bigger budget, more pickups, more helicopters so they can go out and search their land and look for these valuable wetlands that look like this. They expanded their agencies because they expanded their jurisdiction, and because of that property rights and the takings part—

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 4 additional minutes.)

Mr. POMBO. If there is a cost to the agency, if there is a cost associated with taking this person's livelihood away from them, taking their property away from them, all of a sudden wetlands like this, they will no longer put those kinds of restrictions on them.

Now, we all know, as my colleagues know, I went around the country as part of the wetlands task force and had the opportunity to see wetlands that I have never seen before. My entire district, except for the tops of the hills that my colleagues see here, is considered a wetland, my entire district, because of the idea that, if the water rises to within 18 inches of the surface, that that makes it a wetland, and that was, in mind's eye, what a wetland was all about, and this was land that people farmed, that they had been farming for 4 or 5, 6 generations, and they only time it ever got wet was when it rained or when they irrigated.

Now, when I went to Louisiana, I saw wetlands; I mean they had water on the ground, 18 inches of water, 2 feet of water, standing on the ground. Now, I can understand, OK that is wetlands, but why is this a wetlands?

I say to my colleague, now, if you don't have property rights protection

in there, there is no book to stop the agency from getting out of control. In your amendment you talk about going back to the 1987 delineation manual and sticking to that until we get something better. You define wetlands in your definitions of your amendment as land that supports aquatic vegetation or wetlands-type vegetation. That is your definition of a wetland.

I say to my colleague, now, on your way home tonight, or when you come in in the morning, because it's going to be dark here, go by just 395, make a right, go down about a mile, and you'll see a sign that says the future site of the Fairmount Hotel, and it's an acre or two of land that has toolies, that has sitting water on it, that looks, by every definition, as a wetland, but this is land that's been developed for a long time that we tore down an old building. They're putting up a new one.

I say to my colleagues, I mean you have got to have something more to it than that. You've got to define the difference between the wetlands I saw in Louisiana and this. You've got to define the difference between what the value of these wetlands are to the environment. You don't do that; that's what we're trying to fix.

Mr. Chairman, we are trying to stop the agencies from going out, and running amok, and trying to do this type of thing. That is what has to stop. I say to my colleague, your amendment to this bill doesn't do that, and I understand the importance of wetlands in different parts of the country. I heard the people in North Carolina talk about the importance of wetlands to their area. I heard the people in Louisiana talk about the fishermen, talk about the importance of wetlands to their livelihood. I heard the people in Vancouver talk about the importance of wetlands to their livelihood, but there is a big difference between the wetlands that they talk about and the wetlands that look like this. They are not the same thing.

Mr. BOEHLERT. Mr. Chairman, would the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOELERT. I would like to read one section, section 818, definitions. The term "wetland" means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and that, under normal circumstances, do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

Mr. POMBO. OK. Now, does the gentleman understand his definition because I am going to ask the gentleman a question about that?

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 3 additional minutes.)

Mr. POMBO. I say to the gentleman, if you understand your definition of

what is in your amendment, if I had a broken water pipe, and the land was sufficiently saturated so that it would support the kind of vegetation that is in a wetland, would that not fit your definition?

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOEHLERT. No, it would not, because that was manmade, and it is frequency that the gentleman is ignoring. That was a one-time occurrence.

Mr. POMBO. Reclaiming my time, I have read the gentleman's amendment. Reclaiming my time, the gentleman's definition states that it is land that is saturated enough so that it will sustain aquatic vegetation.

Mr. BOEHLERT. But the gentleman is forgetting the frequency part of the definition. That is important.

Mr. POMBO. Yes, if the land is wet long enough, it will support that kind of vegetation.

In my house in California, across the street they have a cattle trough, and it runs over all the time because it comes out of a spring and it supports aquatic vegetation. It has got toolies down the cattle pasture. It is saturated long enough to fit the gentleman's definition, and it is not a wetland, and that is the kind of stuff we are trying to stop. I say to the gentleman, You don't allow us to do that. You're getting back into the original reason that the Clean Water Act was passed. We wanted to stop polluted rivers. We wanted to stop polluted rivers.

Now, somewhere along the line they decided that we were going to regulate wetlands under the Clean Water Act, and there is a reason to protect wetlands. We all understand that. Any of us that have done our homework understands the reason to protect wetlands, real wetlands. But there is a big difference between differing types of wetlands. I say to the gentleman, What you have in your home State is not the same as what I have in my district.

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What Mr. HAYES has in Louisiana is not the same as what is in my district. You are not giving us the ability to differentiate between those. You are throwing it back to the bureaucrats, throwing it back to the regulators and telling them you are going to make the decision. You are avoiding making the tough policy decisions that have to be made. Let us give it to the bureaucrats.

One of the things that has frustrated me the most about serving in this body is that we intentionally draft legislation to be as vague as possible so that we can always blame it on the regulators. We can always blame it on the bureaucrats. It is always their fault. It is never our fault.

Unless we start making changes like this bill has in it, we will never correct these problems. Make the tough decisions.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HAYWORTH) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE REPORT ON CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1996

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until midnight tonight to file its report on the concurrent resolution on the budget for fiscal year 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HAYWORTH). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MEDICARE AND THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, our Republican colleagues tell us they want to fix Medicare. But I find it curious that fixing Medicare was never a Republican priority until they needed to pay for a \$345 billion tax break for the wealthy.

Even now the Republicans have failed to put forth a concrete plan that will ensure the long-term solvency of Medicare without compromising health care costs and quality for our Nation's seniors. All the Republicans have put forward is a proposal to cut Medicare by \$285 billion. This plan is all cuts and no reform.

This convenient discovery of a Medicare crisis is nothing but a smoke-screen for the real Republican goal: They want to use Medicare as a piggy bank for their tax giveaway to the wealthiest 1 percent of the taxpayers.

The GOP budget takes away \$1,060 in Medicare benefits from seniors on fixed incomes to pay for a \$20,000 a year windfall to those Americans making over \$350,000. Courageous? Hardly.

And, what of the Republican plan for reform? While the Republicans don't mind being specific about tax giveaways and Medicare cuts, they've

taken a Let's Make a Deal approach to Medicare reform. They've given us door No. 1, door No. 2, and door No. 3, but they want to pass the buck on who makes the painful choices.

Regardless, it's clear that seniors will be stuck with the booby prizes. Secret documents from the House Budget Committee show that the Republican plan would force seniors to pay more in deductibles, premiums, and copayments.

According to House budget committee documents, options the GOP has proposed would:

Increase the deductible that beneficiaries must pay for doctors' services before Medicare coverage begins. The annual deductible, now \$100, would be raised to \$150.

Nearly double the monthly \$46 premium to \$84 by the year 2002. That would be an increase of \$456 a year for seniors—just in increased monthly premiums.

Charge co-payments of 20 percent for home health care and laboratory tests.

Republicans call these extra costs for seniors part of the fair shared sacrifice needed to balance the budget. But there's nothing fair and nothing shared about this sacrifice. All the sacrifice will come from seniors, many on fixed incomes who simply can't afford these extra costs. And the benefits go primarily to the wealthy in the form of tax cuts.

It's no wonder that Republican Representative GEORGE RADANOVICH of California said the following: "If we had come out with this budget as our Contract, they wouldn't have voted us in."

Amazingly, while some Republicans are honest enough to admit that balancing the budget will be painful, Speaker GINGRICH claims that \$283 billion in Medicare cuts will be painless. The Speaker wants to have it both ways: He claims that the Republican plan saves money and balances the budget, and in the same breath he also claims that this plan increases Medicare spending. These claims beg a simple question: If the Republicans aren't cutting Medicare, then where are the savings?

True, overall Medicare spending in the year 2002 will be more than it is today. But the spending level in the Republican plan falls woefully short of keeping pace with health care inflation or with increased enrollment in the program. The consequence of the Republican plan will be reduced benefits, higher costs, or both. Republicans know this is the case and it's time to come clean with the American people.

These drastic cuts in Medicare have come as a surprise to many Americans. Even to many Americans who voted in the new Republican majority in 1994. Remember the GOP "Contract With America"? Medicare cuts weren't included in the Republican blueprint.

But now that the Republicans have given away all the goodies of the Contract in the first 100 days, they need to

find someone to pay for them. And seniors on Medicare are a convenient target. That's what this is all about.

Promises made, promises kept—that's been the Republican rallying call of late. But it seems that Republicans have forgotten our solemn promises to America's seniors.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

[Mr. GONZALEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

[Mr. UNDERWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), on May 15 and 16, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Ms. PELOSI.

Ms. SLAUGHTER.

Mr. KANJORSKI in two instances.

Mr. POSHARD.

Mr. KENNEDY of Rhode Island.

Mr. VOLKMER.

Mr. RUSH in two instances.

Mrs. MALONEY.

Mrs. MEEK of Florida.

Mr. JOHNSON of South Dakota.

Mr. GEPHARDT.

Mr. GEJDENSON.

(The following Members (at the request of Mr. EHLERS) and to include extraneous matter:)

Mr. BLILEY.

Mr. RAMSTAD.

Mr. BEREUTER.

Mr. HOUGHTON.

Mrs. KELLY.

Mr. DAVIS.

Mrs. MORELLA.

Mr. CRANE.

Mr. FLANAGAN.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Tuesday, May 16, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 or rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

876. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize the Department of Energy to sell Eklutna and Snettisham projects administered by the Alaska Power Administration, and for other purposes; jointly, to the Committees on Resources, Commerce, Ways and Means, the Judiciary, Transportation and Infrastructure, Government Reform and Oversight, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 1590. A bill to require the Trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds (Rept. 104-119, Pt. 1). Ordered to be printed.

Mr. KASICH: Committee on the Budget. House Concurrent Resolution 67. Resolution setting forth the congressional budget for the U.S. Government for fiscal years, 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. 104-120). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GEPHARDT (by request):

H.R. 1635. A bill to combat domestic terrorism; to the Committee on the Judiciary, and

in addition to the Committees on Banking and Financial Services, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLILEY (for himself, Mr. MCINTOSH, Mr. CONDIT, and Mr. STENHOLM):

H.R. 1636. A bill to provide a more complete accounting of national expenditures and the corresponding benefits of Federal regulatory programs through issuance of an accounting statement and associated report every 2 years, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. CRANE:

H.R. 1637. A bill to amend the Internal Revenue Code of 1986 to repeal the requirement that a taxpayer must receive a ruling from the Secretary of the Treasury in order to determine the deduction for contributions to a reserve for nuclear decommissioning costs, and for other purposes; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 1638. A bill to amend the Immigration and Nationality Act to provide that petitioners for immigration classification on the basis of immediate relative status to a citizen shall be required to pay only one fee when such petitioners are filed at the same time; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts:

H.R. 1639. A bill to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, House Oversight, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida (for himself and Mr. RIGGS):

H.R. 1640. A bill to provide a low-income school choice demonstration program; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. FRAZER, Mr. UNDERWOOD, and Mr. WARD.

H.R. 66: Ms. WOOLSEY.

H.R. 70: Mr. FALEOMAVAEGA.

H.R. 359: Mr. HALL of Texas, Mr. FOX, Mr. STENHOLM, and Mrs. LINCOLN.

H.R. 399: Mr. GREENWOOD and Mr. CLYBURN.

H.R. 407: Mr. ROEMER.

H.R. 427: Mr. SENSENBRENNER, Mr. MCHUGH, Mr. LAUGHLIN, Mr. BARTON of Texas, Mr. BONO, and Mr. HANCOCK.

H.R. 433: Mr. GALLEGLEY.

H.R. 526: Mr. HEINEMAN, Mr. FUNDERBURK, Mr. COBLE, and Mr. BARTLETT of Maryland.

H.R. 534: Mr. FRANK of Massachusetts, Mr. ENGEL, Mr. FRANKS of Connecticut, Mr. COSTELLO, Mr. BREWSTER, Mr. CARDIN, Mr. HOKE, Mr. TORKILDSEN, Mr. HYDE, Mr. CRANE, Mr. TRAFICANT, Ms. FURSE, Mr. BATEMAN, Mr. COYNE, Mr. OBERSTAR, Mr. PETRI, and Mr. VISCLOSKEY.

H.R. 580: Ms. PRYCE, Mr. BAKER of Louisiana, and Mr. WARD.

H.R. 592: Mr. HEFLEY.

H.R. 713: Mr. MENENDEZ.

H.R. 731: Mrs. MEEK of Florida, Miss COLLINS of Michigan, Mr. LAUGHLIN, and Mr. BRYANT of Texas.

H.R. 783: Mr. JACOBS, Mr. RADANOVICH, Mr. BROWDER, Mr. STENHOLM, and Mr. QUILLEN.

H.R. 803: Mr. TAYLOR of North Carolina, Mr. KENNEDY of Rhode Island, and Mr. MARKEY.

H.R. 899: Mr. MCCRERY, Mr. HAYES, Mr. ZIMMER, Mr. CAMP, Mr. MCCOLLUM, and Mr. SCARBOROUGH.

H.R. 927: Mr. MCCOLLUM, Mr. ROYCE, Mr. DORNAN, Mr. CALVERT, Mr. SHAW, Mr. GUTIERREZ, and Mr. DUNCAN.

H.R. 957: Mr. GILMAN.

H.R. 1118: Mr. MCCRERY.

H.R. 1161: Mr. JACOBS.

H.R. 1242: Mr. LATHAM, Mr. HOBSON, and Mr. TATE.

H.R. 1362: Mr. MCINTOSH, Mr. MORAN, Mr. CANADY, Mr. BATEMAN, Mr. MYERS of Indiana, and Mr. QUILLEN.

H.R. 1425: Mr. TORRES.

H.R. 1448: Mr. TAYLOR of Mississippi and Mr. MONTGOMERY.

H.R. 1486: Mr. RADANOVICH.

H.R. 1490: Mr. ACKERMAN, Mrs. SCHROEDER, and Mr. DORNAN.

H.R. 1533: Mr. WAMP, Mr. BONO, Mr. CALVERT, and Mr. HEFLEY.

H.R. 1560: Mr. BARRETT of Wisconsin, Mr. COLEMAN, Mr. CONYERS, Mr. DURBIN, Mr. SERRANO, and Mr. WATT of North Carolina.

H.R. 1566: Mr. NEAL of Massachusetts.

H.R. 1594: Mr. LOBIONDO, Mr. ENGLISH of Pennsylvania, Mr. KNOLLENBERG, and Mr. EMERSON.

H. Con. Res. 35: Mr. CALVERT.

H. Con. Res. 42: Mr. SOLOMON, Mr. MATSUI, Mr. HOLDEN, and Mr. BLUTE.

H. Con. Res. 50: Mr. HOLDEN and Mr. ANDREWS.

H. Res. 30: Mr. SANFORD, Ms. NORTON, Mr. HANSEN, Mr. WICKER, Mr. FATTAH, Mr. HOYER, Mr. CASTLE, Mr. CONDIT, and Ms. MCKINNEY.

H. Res. 138: Mr. BAKER of California, Mr. GUTKNECHT, Mr. SHADEGG, Mr. NEUMANN, Mr. DOOLITTLE, Mr. UPTON, Mr. MILLER of Florida, Mr. STEARNS, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. ZIMMER, Mr. INGLIS of South Carolina, Mr. FOX, Mr. EWING, Mr. CHRYSLER, Mr. THORNBERRY, Mr. FOLEY, Mr. TIAHRT, Mr. STOCKMAN, Mr. CHABOT, Mr. METCALF, and Mr. JONES.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1114: Mr. ROYCE.

H.R. 1120: Mr. RAMSTAD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 66: On page 276, strike lines 3 through 7 and insert in lieu thereof the following:

"ponds, wastewater retention or management facilities (including dikes and berms, and related structures) that are used by concentrated animal feeding operations or advanced treatment municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;"