

Waterways Operators, National Rural Electric Cooperative Association, the American Shipbuilding Association, the National Stone, Sand and Gravel Association.

I could go and on. But you see that we have business groups supporting this bill, labor groups supporting this bill, governmental organizations supporting this bill; and so I think this is a bill that deserves bipartisan support. It is a very fiscally conservative bill.

But I think perhaps even more importantly, we have passed WRDA bills and water resource development bills usually every 2 years for many years. No WRDA bill in the history of this Congress has done more to be environmentally friendly, none has done more for environmental infrastructure projects, none has gone further in setting up peer review procedures for our major projects; and so I think this is a bill that will receive and will deserve the support of a very large number of Members on both sides of the aisle.

Mr. Speaker, I thank the Rules Committee for their help and assistance and cooperation, and I urge passage of this rule and passage of the underlying bill.

Ms. MATSUI. Mr. Speaker, I yield myself the balance of my time.

I encourage Members to support the rule. I look forward to the debate and hopeful passage of the underlying bill.

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

Mrs. CAPITO. Mr. Speaker, I yield myself the balance of my time. I urge all of my colleagues to support this fair rule and the bipartisan underlying legislation which provides critical funding to improve our Nation's water infrastructure. From clean drinking water and wastewater treatment to transportation on our rivers, it is crucial to invest in our water infrastructure.

This is a jobs bill that will spur economic growth and development in communities across our Nation. I believe all Members should be able to support this rule and the underlying legislation.

Mr. Speaker, 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.

#### RECESS

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

Accordingly (at 1 o'clock and 27 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1354

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore (Mr. BOOZMAN) at 1 o'clock and 54 minutes p.m.

#### APPOINTMENT OF CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2005

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

#### MOTION TO INSTRUCT OFFERED BY MRS. CAPPS

Mrs. CAPPS. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mrs. CAPPS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 (An Act to ensure jobs for our future with secure, affordable, and reliable energy) be instructed not to agree to the inclusion of any provisions in the conference report modifying the liability with respect to methyl tertiary butyl ether (MTBE).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from California (Mrs. CAPPS) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this motion would do one thing: it urges conferees to reject a provision granting MTBE manufacturers a waiver from liability for the damage their products have caused to groundwater supplies throughout this country.

This broad liability waiver for MTBE manufacturers should be rejected for a number of reasons.

First, and most recent, a new draft risk assessment on MTBE written by the Environmental Protection Agency has concluded that MTBE is a likely, and I quote "likely," human carcinogen. According to the publication "Inside EPA," the study pinpoints kidney and lymph node tumors as a result of MTBE exposure.

Up until now, most of the concern about MTBE contamination has been that a tiny bit of it makes water smell and taste like kerosene, rendering the water unusable. But now EPA has released information that says MTBE in water may mean more than an unpleasant taste or smell: it may threaten your health.

MTBE contamination is a huge problem, and it is not going away. To date, this contamination has been found in over 2,300 water systems serving 36 States. Two recent studies have reconfirmed that the cost of removing MTBE from drinking water is substantial. The new studies put MTBE cleanup costs in

the range of \$25 billion to \$33 billion and could be as high as \$85 billion or more, and that is the cost for existing pollution.

Third, documents unearthed in court cases show that MTBE manufacturers knew as early as the mid-1980s about the damage their products caused to groundwater sources; and yet they continued to add it to gasoline. That is why juries have found that MTBE is a defective product. They also found that oil companies acted with malice because they knew what could happen with MTBE, and they did not do anything to stop it. That is why these oil companies have settled their cases. They did not pay millions of dollars to Tahoe, Santa Monica, and other communities out of good citizenship. They did it because they knew that juries would lower the boom on them for their actions. That is why this bill voids defective product lawsuits, because that is the way oil companies are being held accountable for their actions.

Fourth, CBO has found that the liability waiver in this House bill is an unfunded mandate. This protection for MTBE manufacturers is a huge unfunded liability that would shift the cost of the cleanup, literally billions of dollars, on to towns, cities, and water districts, on to your constituents, I say to my colleagues; and that is just plain wrong.

Mr. Speaker, 2 months ago, the House narrowly voted down my amendment to strike the MTBE liability waiver from our bill. Many Members voted "no" because of some impending deal to address the cleanup issue once and for all. Well, reports of this deal have leaked out. They are not pretty, and they will not address the MTBE contamination that your constituents face today or may face in the future.

The deal would provide full liability protection to MTBE producers and establish a \$4 billion to \$8 billion trust fund to address the contamination crisis. One big problem: remember, the cleanup of MTBE contamination is going to cost between \$25 billion and \$33 billion and could be as high as \$85 billion, dwarfing this deal's cleanup fund.

Another problem: at least half of this fund comes from taxpayers. Mr. Speaker, why should taxpayers pay to clean up MTBE contamination? MTBE manufacturers caused this problem, and they knew it when they did it. They should clean it up.

This is a deal written by the industry for the industry. And it is no surprise that no one from the water industry, no cities, no counties, the people who will have to deal with the contamination, none of these people support this bill.

Finally, these are the controversial MTBE provisions that killed the energy bill in the last Congress. The Senate bill did not include MTBE provisions in their bill, and for good reason. They knew that giving these manufacturers protection from liability would

end the chances of the bill becoming law. With the country continuing to experience record energy prices, the need for comprehensive energy legislation is clear, and MTBE provisions once again threaten the passage of this bill.

Mr. Speaker, the MTBE industry knowingly caused widespread groundwater pollution, and now it is trying to shirk its responsibility to the communities living with this huge problem.

So I urge my colleagues to support the Capps motion to instruct conferees and to reject this ridiculous bailout for the MTBE industry.

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

□ 1400

Mr. BARTON of Texas. Mr. Speaker, I rise just to say that I object to the motion to instruct.

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

Mrs. CAPPS. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I rise in strong support of the motion to instruct. I commend the Congresswoman for her extraordinary leadership, for working to protect communities from MTBE and from unfunded mandates that shift of cost of clean-up to communities without the funding to match.

For 5 years, Republicans have pushed policies to give billions of dollars to special interests which then reaped record profits. Republicans are not listening to the American people's concerns about the need for safe drinking water, clean air, or for lowering the price at the pump of gasoline.

Instead of siding with the Americans strangled by high gas prices, President Bush's own Department of Energy said that the energy bill would actually raise gas prices, and that the President's proposals would increase our foreign oil dependence by 85 percent.

But nowhere is Republican pandering more on display than in the provisions relating to MTBE. Mr. Speaker, as you probably know, a few drops of MTBE can poison whole drinking water supplies. The industry knew that MTBE would leak from gasoline storage tanks when they lobbied for its use.

They deliberately hid this fact from Congress. The result of their malfeasance is clear: MTBE contaminated groundwater in every single State in America with estimated clean-up costs between \$25 and \$85 billion.

Incredibly, instead again of siding with communities poisoned by MTBE, House Republicans lined up to protect polluters from liability. Last year, the Majority Leader, the gentleman from Texas (Mr. DELAY) added language to the energy bill to protect MTBE polluters knowing it would kill the legislation and he did the same this year.

The House-passed bill protects MTBE producers from lawsuits. By their actions, House Republicans imposed an

unfunded mandate on local communities to protect polluters. This is contrary to a fundamental principle that in our society polluters must pay for the damage they cause, not our children with their health.

The Republicans said to localities, not only will we protect the people who poisoned your water, but we are going to leave you with the bill.

Mr. Speaker, we are spending our time debating yet another huge subsidy for profitable oil and gas companies at taxpayer's expense, when we should be focusing on what consumers want, clean water to drink and relief from high prices at the pump.

This is a disgrace. Conferees should insist on the Senate version that excludes this shameful MTBE liability waiver. Only then can we reaffirm our commitment to strengthening community by promoting a clean and healthy environment where polluters pay again for the damage they cause, not our children with their health.

Again, I thank the gentlewoman from California, (Mrs. CAPPS) for seizing this opportunity as she did when the House first considered this legislation. I urge my colleagues to vote for the motion to instruct so that we can end this disgraceful giveaway to oil companies and MTBE polluters that poison water all across the country.

Mrs. CAPPS. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I rise in support of the Capps motion. The House Energy Bill contains a so-called "Fuels Safe Harbor" that hands over get-out-of-court-free cars to the big oil companies responsible for polluting our communities' drinking water supplies with MTBE. The MTBE safe harbor is really a pirates cove for corporate polluters.

If enacted, it will let corporate polluters off the hook for water contamination and other damages to the environment and public health resulting from MTBE contamination.

A few months ago, President Bush said, "I will tell you, with \$55 oil, we do not need to give incentives to oil and gas companies to explore, there are plenty of incentives."

Well, the President is right. Oil prices are now up to \$60 a barrel, but the Republican energy bill would nonetheless hand billions of dollars worth of tax and regulatory subsidies over to wealthy oil companies. The MTBE liability waiver is only the tip of the vast iceberg of subsidies in this bill. \$8 billion in tax subsidies and incentives for energy companies in the energy bill; \$3 billion for the oil and gas industry; billions more in the Senate bill for the oil and gas industry.

There is something called royalty relief for the oil industry, which basically suspends requirements for oil companies to pay the Government for drilling on public land. There is a \$2 billion subsidy for ultradeep water

drilling R&D, and they also get a special exemption from the Clean Water Act.

With oil prices hovering at \$60 a barrel, they do not need these breaks. Exxon reported \$25 billion worth of profits last year; Conoco, \$8 billion; royal Dutch Shell, \$18 billion; BP, \$16 billion; Chevron-Texaco, \$13 billion. They do not need any incentives from the taxpayer, they are already in the pockets of the very same people as consumers, tipping them upside down.

And just think about it. The oil companies are making more money than they can ever spend, and Congress, in this bill, is going to pass a bill totally immunizing MTBE producers from any legal liability for producing an inherently defective product.

If there is an industry that can pay for this problem, it is the industry that has made more profits in the last year than any industry in the history of the world. We are going to do this despite scientific studies which have shown that MTBE causes cancer in laboratory animals.

Ladies and gentlemen, this is a huge mistake, the House "safe harbor" from legal liability will shift the burden of cleaning up MTBE contamination from the companies back to the local community. So again, the consumer will be paying high gasoline prices, high home heating oil prices, they will be paying out of their tax dollars to give subsidies to the oil companies, and then they will have to go into their pockets again to clean up the mess which is left over.

Vote yes for the Capps motion to instruct the conferees.

Ms. CAPPS. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my distinguished colleague for her leadership, not only on this issue, but on so many others that come before the House Commerce Committee.

Mr. Speaker, I rise in support of this motion to instruct. It may indeed be our very last chance to get something right in this flawed energy bill, so-called energy bill. According to the independent analysts at the U.S. Energy Information Administration, this bill has virtually no impact on energy production, on consumption, on imports or on prices at the pump.

In fact, these independent analysts say that gas prices will increase. So wake up, America. Look what is happening to you under a so-called energy bill. The price that you pay at the pump is going to go up. Is that what we need the Congress for? I do not think so.

If the House bill did nothing, that would be one story. But the truth is that the bill imposes huge costs on taxpayers. And that is what we are protesting here on the floor, and why there is this motion to instruct.

Probably the worst provision of the bill is the MTBE liability waiver. What is it? It provides a safe place, a safe

harbor that prevents refiners and MTBE manufacturers from being held accountable in court for selling a defective product. What this safe harbor does is relieve the industry of any obligation to pay even a portion of the estimated \$29 to \$85 billion cost of cleaning up drinking water that has been contaminated by the product.

So who pays? You pay. Not those that are responsible for it, but you. All under the guise of we want to lower your taxes. Imagine what is going to happen in your local community. Do you think your local government has this money? Mine does not.

The Congressional Budget Office calls this an unfunded mandate—you have to do it, but there is no money to do it—on local and State governments, because they have to pay for the cleanups on their own.

This is not just a matter of accounting. It is a matter of public health. Just last week it was reported in a new EPA draft report that MTBE is a likely carcinogen. And when MTBE is found in drinking water, we know we have to clean it up. There is not an option on this. I do not want my kids drinking it. I do not want yours to.

Successful lawsuits in California have led to substantial settlements with oil companies. And these settlements have enabled communities to begin cleaning up their drinking water supplies. Now, because communities are winning these suits, the industry wants Congress to let them off the hook.

Mr. Speaker, there is no reason to do this. If they are losing in court, it is because they have a lousy case. And there is a reason that these settlements are taking place, the industry is responsible for the mess and they have known about the threat for years.

So why is a safe harbor being created for the industry? No one outside the industry thinks this is a good idea. In May of this year, the Governor of California wrote to us and said that this provision should be stripped from the bill. I think that my California colleagues should be paying attention to that.

Along with the Governor, the National League of Cities, National Association of Counties, the Association of California Water Agencies and many others have sent letters voicing their opposition. This is a bad provision.

Last Congress the provision sank the bill. And it should have. This year we should strip it from the bill. Vote for the motion to instruct.

Mrs. CAPPs. Mr. Speaker, I yield 3½ minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I rise in support of the gentleman from California (Mrs. CAPPs') motion to instruct energy bill conferees to strike the MTBE liability waiver provision from the final energy bill.

The conferees should understand that we want an energy bill, not an energy subsidy bill. What is more important?

The profits of oil companies or the health of our people and the financial health of States and communities in which we live?

The liability waiver assumes that Congress mandated MTBE use in 1990. But that is really not true. Congress mandated the use of an oxygenate in reformulated gasoline, but MTBE is not and was not the only oxygenate.

MTBE was used extensively in non-RFG areas where no mandate applied. Furthermore, MTBE was marketed and used extensively before 1990. Maine's experience really illustrates the MTBE problem.

Maine volunteered to phase into the Federal reformulated gas program in 1991. And in 1995 reformulated gas containing MTBE entered the marketplace in Maine. Two years later, in 1997, the Maine Bureau of Health reported MTBE in 7 percent of Maine public water supplies.

One year later, 1998, MTBE was detected in 16 percent of the public water supplies. So starting that year, 1998, Maine began phasing out the use of MTBE, and in 2007, Maine will impose a partial ban of MTBE.

□ 1415

This liability waiver creates a massive unfunded mandate. Communities face a 25 to \$85 billion bill to clean up the MTBE. And juries in some cases have recently found the MTBE manufacturers, lax Texas oil firms, were dishonest about the impact of their product on groundwater. The juries concluded that the companies are liable for the cost of cleanup.

One reason is when you go back to 1981, the Shell engineers were joking with each other that MTBE stood for "menace threatening our bountiful environment" or "most things biodegrade easier." They knew what the impact of this substance would be.

Just this month, just this month EPA developed a draft risk analysis that concludes that MTBE is a "likely" human carcinogen. If finalized, this would dramatically increase the cost of MTBE cleanup.

So this liability waiver provision takes away the best claim that communities and States have to require manufacturers to help clean up the mess they created by manufacturing a defective product.

Now, finally, we hear a lot about a deal in the works to address this crisis. I would ask, will this deal protect communities from having to pay to clean up MTBE? Will this deal cover the cost of cleaning up the water, or will it just pay to remove leaking tanks? Will this deal be subject to an annual appropriations at a time when funding for clean water programs here in Congress is being cut, or will it charge cleanup costs to the American people in order to bail out Texas oil companies?

I encourage all of my colleagues to support the motion.

Mrs. CAPPs. Mr. Speaker, I yield 2 minutes to the gentleman from Massa-

chusetts (Mr. MCGOVERN), a member of the Committee on Rules.

Mr. MCGOVERN. Mr. Speaker, I rise in strong support of the Capps motion to instruct.

Though this administration and the Republican majority often stress the need for an energy bill, citing rising gas prices, this bill will not do anything to lower energy prices in this country. Gas prices continue to rise, and this bill does nothing to lower them.

The Republican energy bill does nothing to reduce our Nation's dependency on foreign oil. It harms our environment, and in the end it is nothing more than a big fat giveaway to the oil and gas industries at a time when they do not need these giveaways.

If that were not bad enough, oil companies have knowingly contaminated our Nation's water systems with the fuel additive MTBE, polluting the same drinking water that serves 45 million Americans. These companies were fully aware of MTBE's ability to seep in the water supply, and they understood the impact that this potential human carcinogen could have on public health. Yet they still chose to use MTBE for nearly 20 years. And now the Republican leadership wants to protect these same oil companies from any liability for the damages they have caused.

Instead, they want to leave it up to our State and local governments to pick up the tab. This is unconscionable. This motion to instruct is based on common sense. These companies should be held responsible for the damages they caused.

Now, we all know the arguments. This is an unfunded mandate passed on to our State and local governments. Many communities have filed legitimate suits to recover the costs of MTBE cleanup estimated to exceed \$29 billion. Yet this bill essentially blocks these suits and could preempt hundreds more, leaving communities with a multibillion dollar unfunded mandate at the hands of this Congress.

Mr. Speaker, the party of States' rights has become the party of Big Business. This bill is another handout to the oil, gas, and MTBE producers. Support the Capps motion to instruct and strike this lousy provision.

Mrs. CAPPs. Mr. Speaker, I yield 3 minutes to the gentleman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I would like to commend the work of the gentleman from California (Mrs. CAPPs) on this important issue that not only affects California but the entire country.

Mr. Speaker, today I rise in strong support of the motion to instruct conferees on the MTBE provision in the House energy bill. I adamantly oppose the language in the House bill passed which would give a free ride to manufacturers of MTBE, leaving taxpayers across the country holding the bag for cleanup. This is not an issue where a deal can be struck.

The industry, the only supporters of these deals, has been spreading false

statements about the cleanup of MTBE being paid for by responsible parties and wants us to believe that future cleanup will be paid for. But who ends up paying that? The taxpayers.

These groups are ignoring two important items. One is that the leaking underground storage tank program which the manufacturers believe will bail them out is not appropriately funded right now. They are not cleaning anything up as they should be and many of the State programs are broke. Right now EPA oversees 700,000 leaking underground storage sites. Of the 700,000 underground storage sites, 136,000 are currently leaking, and they are not being cleaned up.

EPA anticipates that over the next 10 years, 120,000 new leaks will occur. Despite the need for cleanup funds and the growing inability of the funds needed to clean these up, we know that this administration cut back by 8 percent that fund.

State programs right now like California and other places are also being starved of this much needed funding.

Twelve States have funds with more claims than money. Two State funds have gone bankrupt. Fifteen State funds are funded only by gas taxes, and five States do not even have cleanup funds.

The provision in the House energy bill and any deal that may be struck is going to leave our taxpayers holding the bag. No deal is going to help our communities bear the burden for the rest of the cleanup. The only way to fairly and adequately pay for the cleanup is to allow for those manufacturers to be found responsible and accountable.

Lastly, I want to say also that the House Republican energy bill fails to address the Nation's record gas prices; and according to the Bush administration's own energy department, they would actually cause gas prices to increase.

Hello? What are we doing here today by not addressing the consumers' needs right now where gas prices and a barrel of oil is up to \$60 a barrel.

We need reform. We need something that is going to help our consumers, and we do not want to see more of our water polluted by MTBE. Support the motion to instruct.

Mr. BARTON of Texas. Mr. Speaker, how many speakers does the gentlewoman have?

Mrs. CAPPS. Mr. Speaker, I do not have any further speakers, just closing comments of my own.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, back in the middle of the Depression in the late 1920s or the early 1930s, the east Texas oil field was discovered, and at that time it was the world's largest oil field. And since it was discovered by a man named Joiner

who was an independent, all kinds of folks rushed in to get a piece of that action.

It was not discovered by the major oil companies, and so literally tens of thousands of people from all over the country came to east Texas and to Kilgore and to Longview to try to make their fortune.

The law enforcement facilities and the personnel were just overwhelmed. So finally in desperation, one of the county judges called down to Austin to speak to the Governor of Texas. He said, Governor, we are being overwhelmed here. We have a riot on our hands. Can you send the Texas National Guard and the Texas Rangers? Could you send us some help so we can restore law and order? The Governor of Texas said, I will be happy to do that.

So about a day later, the sheriff and the county judge and some of the county commissioners, they went to the train station to meet the help. And they were expecting hundreds, if not thousands, of troops and Rangers to step off the train; and one lonely Texas Ranger, a grizzled old guy stepped off the train. The county judge says, I called the Governor and I asked for help, where is it? The Ranger said, You are looking at it. The county judge said, We got a riot on our hands. And the Ranger said, How many riots? And the judge said, One. The Ranger said, Well, I am one Ranger. One Ranger, one riot. And he proceeded to quell the disturbance.

Well, we have heard from our friends, and they are my friends, every one of them except for one that just spoke is a member of the Committee on Energy and Commerce. They are all good people. Not one of them voted for the energy bill. That is okay. That is what democracy is all about.

You have heard the other side of the story, but that may not be the whole story. There is another side to this story on MTBE, and let us talk about it.

Our distinguished minority leader, the gentlewoman from California (Ms. PELOSI), when she spoke, stood up and said that back when they began to put MTBE in the gasoline, the manufacturers knew that it would leak. They knew that it would leak.

Well, let me ask you a question. If you put something in a tank underground and the tank is not tight, is it going to leak or not leak? The answer is it is going to leak if you do not have a tank that is not leakproof. So to say they knew MTBE would leak is to say they knew there were leaking underground storage tanks.

You put gasoline in a storage tank underground, whatever is in that gasoline, if there is a leak in the tank, it is going to leak. That is a fact. So when MTBE leaks, which is a fact, it is not just the MTBE. It is everything else in the gasoline. It is the benzene and all the other additives and the gasoline itself.

Now, to say that the solution to that is to ban MTBE is to say if I cut my

arm and it is bleeding, instead of putting a BandAid on it and stopping the leak, I drain the blood out of my body. That is one way to stop the leak. But that may not be the most cost-effective and the most sensible way.

Now, surprising as it may be, under existing law we have a leaking underground storage tank fund called the LUST fund. It was specifically set up in law to prevent tanks from leaking, to have a mechanism to pay to repair these underground storage tanks. Just one problem, the law did not say the money that goes into the fund has to be used just for leaking underground storage tanks.

So what have the States done? They have used it for every purpose but that. We set up this fund. We funded it. We put money into the trust fund. We send that money to the States, and the States use it for any purpose. Some States actually do use it to repair and maintain leaking underground storage tanks, but not many.

This bill that my friends who have just been speaking voted against has a provision in it that says the States have to use some of the money for the underground storage tanks. And, in fact, it doubles the amount and it sets up a maintenance program where the States have to go out and actually enforce the law in this bill that is pending. That is my first point.

The gentlewoman who is offering the amendment said, and she is right, there are 2,600 water systems in this country that have MTBE contamination. She says it and I am going to say it is a fact. I have no reason to doubt that.

What she does not say because the reports that she studies do not tell her is what the level is. Now, the EPA standard is somewhere between 20 and 40 parts per billion. Some States have a tighter standard, as low as 13 parts per billion. The problem is, with all of these lawsuits that have been filed, the trial lawyers have found out that you can detect MTBE down to one part per billion. Somebody shows up in your city council office and says, we have a lawsuit on MTBE contamination. Can we check your water supply? Of course they are going to say, sure, check the water supply.

They come back and say, you got MTBE contamination, 2 parts per billion. Oh, my God. Let us join up. Well, unless you have got the most sensitive nose, you are not even going to be able to smell it, but it is there. It is way below the standard.

Now, if the State wants to set a standard even lower than 13 parts per billion, I have got no problem with that. If the State wants to ban MTBE, which some States have, I have got no problem with that. But to sit here and say that you have all this contamination, well, I could take a thumbful of MTBE and take it out and throw it on the ground out here in the Capitol. And if it rains very quickly after that, the thumbful gets into the water system, the wastewater run-off here in Washington, D.C., and some of that goes to

a reservoir and the city of Washington gets some of its drinking water from that reservoir, it might show up at one part per billion.

□ 1430

That does not mean it is contaminated in the real sense, but it does mean there is some MTBE in there.

So the fact that we have all these water systems that claim contamination, part of that is because the trial lawyers have been going on and recruiting people to join the lawsuit, and they go out and study their water supply and they may actually be able to find a little MTBE in it.

The next thing, and my friend from Maine talked about the fact that MTBE was not mandated under the Clean Air Act Amendments of 1991. He is telling you the truth. But, again, as he pointed out, we did not mandate MTBE but we did mandate that you had to put an oxygenate requirement of 2 percent by weight. At that time, there were two ways to do it: One was ethanol and the other was MTBE.

Now, since that time, the oil and gas industry has come up with a product called reformulated gasoline that meets the minimum standard for combustion under the Clean Air Act Amendments, so there are now three ways to do it. But at the time there were two, and it was a mandate. So we told the industry, if you are in a non-attainment area, you have to put one of two things, MTBE or ethanol, in your gasoline during certain parts of the year so that you get better combustion in the engine so that you get cleaner air quality.

That was a good thing, not a bad thing. And what did they find out? They found out that those communities who used the MTBE, it was much more cost effective. It cost less money; and two, it cleaned the air better, about 40 percent better than ethanol, 40 percent. But, as has been pointed out, if you store it in a tank that leaks, it may leak. And when the gasoline leaks, the MTBE as part of the gasoline leaks and the MTBE does get into the water table and that does cause an odor.

Now, the last thing I want to talk about is this study that has been leaked. Is it not interesting we are having a debate about leaking underground storage tanks and a study has been leaked from the EPA? Heaven help us. This study that has been leaked is a draft study. It has not been peer reviewed. It will probably never become part of an actual public document that is presented to the Congress. But the folks at EPA understand the energy bill is about to go to conference, and those that agree that MTBE is not a good thing, somebody over there has conveniently leaked a draft report that says MTBE is now a likely carcinogen. Likely.

Well, I drink a lot of Diet Dr. Pepper. And my guess is if I were to drink ten gallons of Diet Dr. Pepper everyday for

the rest of my life, I might develop cancer because of that. I do not think that MTBE, under the standard that is in current law, is a carcinogen, and all the studies that I have seen that have tried to prove it have come back just the opposite. So to hang our hat now on a draft study that has not been peer reviewed and has been leaked by the EPA, to me, is pretty weak soup indeed.

Let me just say that we are getting ready to go to conference with the other body. That is a good thing, not a bad thing on the energy bill. We need to find a compromise on MTBE. I think that is a good thing, not a bad thing. And I agree with some of the proponents of the Capps amendment that the manufacturers and the distributors and the retailers and the refiners, the people in the chain of custody for MTBE should help pay to clean up the water systems that are contaminated. Should. Should. So the compromise that we have been working on for several months now says that they have to do that.

We actually are going to set up a specific fund just for MTBE remediation, and that fund is going to be sufficiently funded to pay for the actual cleanup and remediation of contaminated sites. It is not going to pay for trial lawyers' contingency fees. Not going to do that. But if you are one of these water systems that has real contamination and you want it cleaned up, if this compromise becomes a part of the bill and the bill becomes law, you are going to get your water site cleaned up very quickly and you are not going to have any MTBE contamination in it.

If what you are really trying to do is enrich the pockets of the trial lawyers, when they talk about \$85 billion or \$30 billion or whatever the number is, most of that money is trial lawyer contingency fees. I am not in that game. I am about good government. I am about real cleanup. I am about a cleaner environment. And the bill that I hope to report back as a conference report, if I have anything to do with it, is going to have a compromise on MTBE that does exactly that.

The people that have helped cause the problem are going to help pay for it and help to clean it up. The communities that want clean water are going to get it quicker and sooner under the compromise that will be in our bill. I would think that the majority of the House, including 41 Democrats who voted for the energy bill when it went to the Senate, are going to continue to agree with me. And if that is the case, I hope they will vote against this Capps motion to instruct, as they already have done once at the end of the debate on the energy bill, and let us go to conference and find a real compromise to solve this problem.

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

Mrs. CAPPS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to thank my esteemed colleague, who is in opposition to this amendment and, indeed, he, the chairman of the Committee on Energy and Commerce, is my friend and friends of all of us who have spoken today who are members of his committee. But I wish to comment on some of the remarks he made in his speech.

First, regarding the list funds which he spoke about as being a place for managing this pollution. Stopping the leaks from the tanks stops additional MTBE contamination, Mr. Chairman, but it does nothing about existing contamination, and that is the contamination that has polluted over 2,300 water districts across this country in 36 different States.

Second, the chairman referred to the very minute amounts of MTBE that have polluted all of this groundwater that we have been discussing. And it is true that the groundwater is rendered unusable because of the strong smell and taste of kerosene, even in a very small amount of MTBE which is in the groundwater. But I would argue, respectfully, that the American people deserve to know that the Environmental Protection Agency has a report, even though it is a draft report, because it identifies the state of a likely carcinogen that MTBE contains. Even if it is nothing more than a small amount, I do not believe, as a public health nurse, that we want to contaminate our drinking water with even a small amount of a likely carcinogen.

Third, I want to get back to the point about the liability of manufacturers of MTBE who knew when they created this product in the 1970s as an additive to gasoline that it was toxic and that it would pollute groundwater. Here is a statement from the deposition of Curt Stanley, a Shell Oil remediation expert, which is part of the testimony for the South Lake Tahoe water district when it was presented with a huge lawsuit against the Shell Company.

The question was asked: "So is it fair to say," and this is taken from testimony, "that by 1981, the Shell Oil Company knew that MTBE in its gasoline could contaminate public drinking water supplies?" The answer is: "Yes." Question: "And is it also fair to say that they knew by that time that it created taste and odor problems in public drinking water supplies?" The answer: "Yes." And the final question: "And did you report those facts to the Shell management?" And the answer is: "Yes."

Since at least that time, 1981, the oil companies, the MTBE manufacturers knew that they were making a defective product and knowingly they continued to manufacture it.

Now, the chairman described the compromise that has been worked out on the underlying bill, and in doing so, interestingly, acknowledges fault on the part of the MTBE manufacturers, because they are liable if they are going to be part of the deal in coming to a conclusion. "They should pay," he

says. I say, "they must pay." They must be held accountable. And the deal that is struck is one in which they will pay only a portion of the damages and the taxpayers will pay the remainder.

The House Republican energy bill fails to address this Nation's record gas prices. And according to the Bush administration's own Energy Department would actually cause gas prices to increase, and that at a time when they are increasing. This energy bill we are now going to be considering in conference will do nothing to cause containment of that increase in gas prices. Instead of giving real relief to consumers, this Republican bill gives loads of new tax breaks and loopholes to special interests. And the worst example of these special interest giveaways is the complete liability shield for MTBE manufacturers, a shield that will shift billions of dollars in cleanup costs from MTBE manufacturers to the American taxpayer.

MTBE is responsible for polluting groundwater in so many communities across this country. Cleanup costs are estimated in the billions, \$28 billion to maybe as high as over \$50 billion. MTBE manufacturers are now being held accountable in court, but this provision would end that accountability. I would remind Members that it was the special protections granted to MTBE manufacturers that brought this bill down in the last Congress. Senate leaders have made it clear they are not including this grossly unwanted get-out-of-jail-free card for the MTBE this year either.

So I know many Members of the House have school boards, have water districts or towns with lawsuits against MTBE manufacturers, and those lawsuits are going to be voided. Null. They are not going to be able to proceed under this energy bill. Your constituents would lose their right to hold these manufacturers of MTBE accountable for the pollution in their groundwater. And the billions in MTBE cleanup that your communities face will be shifted from the oil companies, who have record profits and who caused the problem, to your constituents, who have to live with the problem.

Make no mistake, that is what this vote is all about. By voting for the motion to instruct conferees, you will be saying that it is not okay to make your constituents pay for pollution that they did not cause, but that was caused by MTBE manufacturers. The special protection in this bill for MTBE manufacturers is completely unwarranted and it will cost your constituents a fortune.

So I urge you to vote for the motion to instruct conferees. Vote for the Capps motion.

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

The SPEAKER pro tempore (Mr. BOOZMAN). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Mrs. CAPPs).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. CAPPs. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1445

#### DEFICIT CONTINUES TO SHRINK

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

Mr. CRENSHAW. Mr. Speaker, this morning the President announced some very good economic news: Our economy continues to grow and our deficit continues to shrink. That is good news. Why is that happening?

Number one, we gave tax relief to the American people so they can keep more of what they earned, and that has helped create an awful lot of new jobs, and this year we put the brakes on Federal spending when we wrote our budget and passed our spending bills this year. We actually spend less money next year than we did last year. Spending goes down. When we take out homeland security and defense, discretionary spending is reduced.

Mr. Speaker, that is what every American family has to do. They write a budget and then they stay within the budget, and we did just that. That is great news for the American taxpayers, that is why the economy continues to grow. That is why interest rates are down. That is why jobs are up and unemployment is down.

That economic news is something we have been waiting to hear. When you give tax relief and put the brakes on Federal spending, good news happens and the economy is growing.

#### SHRINKING BUDGET DEFICIT

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

Mr. RYAN of Wisconsin. Mr. Speaker, the Office of Management and Budget just released their deficit figures today. It is very telling.

A year ago, we projected the Federal budget deficit would be \$521 billion. This year we projected the deficit would be \$427 billion. Well, the budget deficit just came in at \$333 billion. Down \$94 billion this year, down \$188 billion from last year. This is progress.

Mr. Speaker, why did this happen? Two reasons. When we cut taxes 2 years ago almost to this day, we increased economic growth in jobs. Many people said when we were going to cut tax, by

cutting taxes on families and small businesses and job creators, we would blow a hole through the deficit and increase the deficit.

What happened? Tax receipts from those taxes went up. Taxes receipts are up. There has been a 41 percent increase in corporate tax revenues, 17 percent increase in individual income tax revenues. Because we lowered the tax on workers and people, we grew jobs and have more tax revenues coming in.

The next thing we have to do is watch our spending. That is why it is important we kept the level on spending as we have done this year. We need to stay on this course to get rid of this budget deficit once and for all by growing the economy, keeping taxes low and keeping the lid on pending.

#### KARL ROVE HAS COOPERATED

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

Mr. BLUNT. Mr. Speaker, I rise today with concern and in opposition to the partisan attacks on Karl Rove. I think we see too many efforts now where people quickly rush to judgment, rush to call for the most bizarre solutions to problems that are problems which are often just created in their own minds.

Karl Rove has fully cooperated in any investigation and, for more than a year now, has permitted investigators to talk to him. I think The Wall Street Journal put it best today when, in an editorial that I will submit as part of my remarks, and to quote directly from that editorial, the editors summed up this episode by stating: "In short, Joe Wilson hadn't told the truth about what he discovered in Africa, how he'd discovered it, what he'd told the CIA about it, or even why he was sent on the mission. The media and the Kerry campaign promptly abandoned him, though the former never did give as much prominence to his debunking as they did to his original accusations. But if anyone can remember another public figure so entirely and thoroughly discredited, let us know."

Mr. Speaker, I will submit The Wall Street Journal editorial for the RECORD.

[From the Wall Street Journal, July 13, 2005]  
KARL ROVE, WHISTLEBLOWER

Democrats and most of the Beltway press corps are baying for Karl Rove's head over his role in exposing a case of CIA nepotism involving Joe Wilson and his wife, Valerie Plame. On the contrary, we'd say the White House political guru deserves a prize—perhaps the next iteration of the "Truth-Telling" award that The Nation magazine bestowed upon Mr. Wilson before the Senate Intelligence Committee exposed him as a fraud.

For Mr. Rove is turning out to be the real "whistleblower" in this whole sorry pseudoscandal. He's the one who warned Time's Matthew Cooper and other reporters to be