

**CONGRESSIONAL RECORD APRIL 29, 1977**

**Legislative History**

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**123 CONG.REC. H3810**

**April 29, 1977**

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Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

H3810 The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

H3810 The question was taken; and the Speaker announced that the ayes appeared to have it.

H3810 Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

H3810 The SPEAKER. Evidently a quorum is not present.

H3810 The Sergeant at Arms will notify absent Members.

H3810 The vote was taken by electronic device, and there were - yeas 309, nays 1, not voting 123, as follows:

H3810 [Roll No. 170]

H3810 YEAS - 309

H3810 Akaka

H3810 Alexander

H3810 Allen

H3810 Ambro

H3810 Ammerman

H3810 Anderson, Calif.

H3810 Anderson, Ill.

H3810 Andrews, N.Dak.

H3810 Annunzio

H3810 Applegate

H3810 Archer

H3810 Armstrong

H3810 Ashbrook

H3810 Badillo

H3810 Bafalis

H3810 Baldus

H3810 Baucus

H3810 Bauman

H3810 Bedell

H3810 Beilenson

H3810 Benjamin

H3810 Bennett

H3810 Bevill

H3810 Bingham

H3810 Blanchard

H3810 Blouin

H3810 Bolling

H3810 Bonior

H3810 Bowen

H3810 Brademas

H3810 Breckinridge

H3810 Brodhead

H3810 Brooks

H3810 Broomfield  
H3810 Brown, Calif.  
H3810 Broyhill  
H3810 Buchanan  
H3810 Burgener  
H3810 Burke, Mass.  
H3810 Burlison, Tex.  
H3810 Burlison, Mo.  
H3810 Burton, John  
H3810 Burton, Phillip  
H3810 Butler  
H3810 Byron  
H3810 Caputo  
H3810 Carney  
H3810 Carr  
H3810 Carter  
H3810 Clausen, Don H.  
H3810 Clawson, Del  
H3810 Cochran  
H3810 Cohen  
H3810 Coleman  
H3810 Collins, Ill.  
H3810 Collins, Tex.  
H3810 Conable  
H3810 Conte  
H3810 Corcoran  
H3810 Corman  
H3810 Cornell  
H3810 Cornwell

H3810 Coughlin  
H3810 D'Amours  
H3810 Daniel, Dan  
H3810 Daniel, R.w.  
H3810 Danielson  
H3810 de la Garza  
H3810 Dellums  
H3810 Derwinski  
H3810 Devine  
H3810 Dickinson  
H3810 Dicks  
H3810 Dingell  
H3810 Dornan  
H3810 Drinan  
H3810 Duncan, Oreg.  
H3810 Duncan, Tenn.  
H3810 Eckhardt  
H3810 Edgar  
H3810 Edwards, Ala.  
H3810 Edwards, Calif.  
H3810 Edwards, Okla.  
H3810 Emery  
H3810 English  
H3810 Erlenborn  
H3810 Ertel  
H3810 Evans, Colo.  
H3810 Evans, Del.  
H3810 Fary

H3810 Fascell  
H3810 Fenwick  
H3810 Findley  
H3810 Fisher  
H3810 Flippo  
H3810 Flood  
H3810 Flowers  
H3810 Flynt  
H3810 Ford, Tenn.  
H3810 Fowler  
H3810 Frey  
H3810 Gammage  
H3810 Gaydos  
H3810 Gephardt  
H3810 Giaimo  
H3810 Gibbons  
H3810 Ginn  
H3810 Glickman  
H3810 Goldwater  
H3810 Gonzalez  
H3810 Goodling  
H3810 Gore  
H3810 Grassley  
H3810 Gudger  
H3810 Guyer  
H3810 Hagedorn  
H3810 Hall  
H3810 Hamilton  
H3810 Hanley

H3810 Hanaford  
H3810 Harris  
H3810 Hawkins  
H3810 Heckler  
H3810 Hightower  
H3810 Hillis  
H3810 Hollenbeck  
H3810 Holt  
H3810 Holtzman  
H3810 Howard  
H3810 Hubbard  
H3810 Huckaby  
H3810 Hughes  
H3810 Hyde  
H3810 Jacobs  
H3810 Jeffords  
H3810 Jenkins  
H3810 Jenrette  
H3810 Johnson, Calif.  
H3810 Johnson, Colo.  
H3810 Jones, N.C.  
H3810 Jones, Okla.  
H3810 Jordan  
H3810 Kasten  
H3810 Kastenmeier  
H3810 Kazen  
H3810 Kelly  
H3810 Kemp

H3810 Keys  
H3810 Kildee  
H3810 Kindness  
H3810 Kostmayer  
H3810 Krebs  
H3810 LaFalce  
H3810 Lagomarsino  
H3810 Le Fante  
H3810 Leach  
H3810 Lederer  
H3810 Lehman  
H3810 Levitas  
H3810 Lloyd, Calif.  
H3810 Lloyd, Tenn.  
H3810 Long, La.  
H3810 Lott  
H3810 Luken  
H3810 Lundine  
H3810 McClory  
H3810 McCloskey  
H3810 McCormack  
H3810 McDade  
H3810 McDonald  
H3810 McFall  
H3810 McHugh  
H3810 McKinney  
H3810 Madigan  
H3810 Maguire  
H3810 Mann

H3810 Markey  
H3810 Marks  
H3810 Marienee  
H3810 Marriott  
H3810 Martin  
H3810 Mathis  
H3810 Mattox  
H3810 Meeds  
H3810 Michel  
H3810 Mikulski  
H3810 Mikva  
H3810 Miller, Calif.  
H3810 Miller, Ohio  
H3810 Mineta  
H3810 Minish  
H3810 Mitchell, N.Y.  
H3810 Moffett  
H3810 Mollohan  
H3810 Montgomery  
H3810 Moore  
H3810 Moorhead, Pa.  
H3810 Moss  
H3810 Mottl  
H3810 Murphy, Pa.  
H3810 Murtha  
H3810 Myers, Gary  
H3810 Myers, Michael  
H3810 Myers, Ind.

H3810 Natcher  
H3810 Nedzi  
H3810 Nichols  
H3810 Nix  
H3810 Nowak  
H3810 O'Brien  
H3810 Oakar  
H3810 Oberstar  
H3810 Obey  
H3810 Ottinger  
H3810 Panetta  
H3810 Patten  
H3810 Pattison  
H3810 Pease  
H3810 Pepper  
H3810 Perkins  
H3810 Pettis  
H3810 Pike  
H3810 Poage  
H3810 Pressler  
H3810 Preyer  
H3810 Pursell  
H3810 Quie  
H3810 Quillen  
H3810 Rahall  
H3810 Regula  
H3810 Reuss  
H3810 Rhodes  
H3810 Richmond

H3810 Risenhoover  
H3810 Robinson  
H3810 Rodino  
H3810 Rogers  
H3810 Roncalio  
H3810 Rosenthal  
H3810 Rostenkowski  
H3810 Rudd  
H3810 Runnels  
H3810 Russo  
H3810 Ryan  
H3810 Santini  
H3810 Satterfield  
H3810 Scheuer  
H3810 Schroeder  
H3810 Schulze  
H3810 Seiberling  
H3810 Sharp  
H3810 Shipley  
H3810 Shuster  
H3810 Sikes  
H3810 Simon  
H3810 Skelton  
H3810 Skubitz  
H3810 Slack  
H3810 Smith, Iowa  
H3810 Smith, Nebr.  
H3810 Solarz

H3810 Spellman  
H3810 Spence  
H3810 Staggers  
H3810 Stangeland  
H3810 Stanton  
H3810 Steers  
H3810 Stockman  
H3810 Stratton  
H3810 Studds  
H3810 Stump  
H3810 Thompson  
H3810 Thone  
H3810 Tonry  
H3810 Traxler  
H3810 Treen  
H3810 Tribble  
H3810 Tsongas  
H3810 Tucker  
H3810 Udall  
H3810 Ullman  
H3810 Van Deerlin  
H3810 Vento  
H3810 Waggonner  
H3810 Walker  
H3810 Walsh  
H3810 Wampler  
H3810 Watkins  
H3810 Waxman  
H3810 Weaver

H3810 Weiss  
H3810 Whalen  
H3810 White  
H3810 Whitley  
H3810 Whitten  
H3810 Wilson, Bob  
H3810 Wilson, Tex.  
H3810 Winn  
H3810 Wirth  
H3810 Wolff  
H3810 Wright  
H3810 Wylie  
H3810 Yates  
H3810 Yatron  
H3810 Young, Alaska  
H3810 Young, Fla.  
H3810 Young, Mo.  
H3810 Young, Tex.  
H3810 Zablocki  
H3810 NAYS - 1  
H3810 Symms  
H3810 NOT VOTING - 123  
H3810 Abdnor  
H3810 Addabbo  
H3810 Andrews, N.C.  
H3810 Ashley  
H3810 Aspin  
H3810 AuCoin

H3810 Badham  
H3810 Barnard  
H3810 Beard, R.I.  
H3810 Beard, Tenn.  
H3810 Biaggi  
H3810 Boggs  
H3810 Boland  
H3810 Bonker  
H3810 Breaux  
H3810 Brinkley  
H3810 Brown, Mich.  
H3810 Brown, Ohio  
H3810 Burke, Calif.  
H3810 Burke, Fla.  
H3810 Cavanaugh  
H3810 Cederberg  
H3810 Chappell  
H3810 Chisholm  
H3810 Clay  
H3810 Cleveland  
H3810 Conyers  
H3810 Cotter  
H3810 Crane  
H3810 Davis  
H3810 Delaney  
H3810 Dent  
H3810 Derrick  
H3810 Diggs  
H3810 Dodd

H3810 Downey  
H3810 Early  
H3810 Eilberg  
H3810 Evans, Ga.  
H3810 Evans, Ind.  
H3810 Fish  
H3810 Fithian  
H3810 Florio  
H3810 Foley  
H3810 Ford, Mich.  
H3810 Forsythe  
H3810 Fountain  
H3810 Fraser  
H3810 Frenzel  
H3810 Fuqua  
H3810 Gilman  
H3810 Gradison  
H3810 Hammerschmidt  
H3810 Hansen  
H3810 Harkin  
H3810 Harrington  
H3810 Harsha  
H3810 Hefner  
H3810 Heftel  
H3810 Holland  
H3810 Horton  
H3810 Ichord  
H3810 Ireland

H3810 Jones, Tenn.  
H3810 Ketchum  
H3810 Koch  
H3810 Krueger  
H3810 Latta  
H3810 Leggett  
H3810 Lent  
H3810 Long, Md.  
H3810 Lujan  
H3810 McEwen  
H3810 McKay  
H3810 Mahon  
H3810 Mazzoli  
H3810 Metcalfe  
H3810 Meyner  
H3810 Milford  
H3810 Mitchell, Md.  
H3810 Moakley  
H3810 Moorhead, Calif.  
H3810 Murphy, Ill.  
H3810 Murphy, N.Y.  
H3810 Neal  
H3810 Nolan  
H3810 Patterson  
H3810 Pickle  
H3810 Price  
H3810 Pritchard  
H3810 Quayle  
H3810 Railsback

H3810 Rangel  
H3810 Rinaldo  
H3810 Roberts  
H3810 Roe  
H3810 Rooney  
H3810 Rose  
H3810 Rousselot  
H3810 Roybal  
H3810 Ruppe  
H3810 Sarasin  
H3810 Sawyer  
H3810 Sebelius  
H3810 Sisk  
H3810 Snyder  
H3810 St Germain  
H3810 Stark  
H3810 Steed  
H3810 Steiger  
H3810 Stokes  
H3810 Taylor  
H3810 Teague  
H3810 Thornton  
H3810 Vander Jagt  
H3810 Vanik  
H3810 Volkmer  
H3810 Walgren  
H3810 Whitehurst  
H3810 Wiggins

H3810 Wilson, C.H.

H3810 Wydler

H3810 Zeferetti

H3810 So the motion was agreed to.

H3810 The result of the vote was announced as above recorded.

H3810 IN THE COMMITTEE OF THE WHOLE

H3810 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. 2, with Mr. SMITH of Iowa in the chair.

H3810 The Clerk read the title of the bill.

H3810 The CHAIRMAN. When the Committee of the Whole rose on Thursday, April 28, 1977, title V had been considered as read and open to amendment at any point.

H3810 Are there further amendments?

H3810 AMENDMENT OFFERED BY MR. BAUCUS

H3810 Mr. BAUCUS. Mr. Chairman, I offer an amendment.

H3810 The Clerk read as follows:

H3810 Amendment offered by Mr. BAUCUS: Strike all of section 510(b)(5), page 258, lines 21-25 and page 259, lines 1-22 and insert in lieu thereof:

H3810 (5) the proposed surface coal mining operation if located west of the one hundredth meridian west longitude, would -

H3810 (A) not be located within an alluvial valley floor, or

H3810 (B) not materially damage the quantity or quality of water in surface or underground water systems that supply these valley floors referred to in (A) of subsection (B)(5): Provided, That this paragraph, (5) shall not apply to those surface coal mining operations located within or adjacent to alluvial valley floors which in the year preceding the enactment of this Act were engaged in the commercial production of coal or which had obtained prior to January 4, 1977, specific permit approval by the State regulatory authority to conduct surface coal mining operations within said alluvial valley floors; and

H3810 (Mr. BAUCUS asked and was given permission to revise and extend his remarks.)

H3810 Mr. BAUCUS. Mr. Chairman and members of the committee, I think that it is obvious to all of us that our Nation is embarking upon a tremendous coal rush that will last for the rest of this century. Certainly, the President's energy message told the country of the mandatory conversion of utilities to coal and industrial plants to coal.

H3810 There is no doubt that we in America, particularly the Western States, have been providing the bulk of America's energy needs. At the same time, I would like to point out to the committee that one of the most important resources, in addition to coal in the West, is alluvial valleys and water. I need not remind the committee of the arid conditions in the West, particularly the Great Plains, and I also need not remind the committee that, particularly this year, we in the West are experiencing a tremendous drought, which makes the value of our water resource even more precious.

H3810 The amendment which I am offering seeks to protect this resource, to help bring into balance the conflict between providing coal for America's energy needs and the necessity for protecting the most valuable resource in the West - water.

H3810 The problem is that alluvial valleys, which are unconsolidated aquifers and stream beds in the West, of silt and sand materials, are extremely fragile.

H3810 Alluvial valleys are those lowlands in the arid West where there is some water, not very much, but there is some. Alluvial valleys are those lowlands where there is water available for irrigation or subirrigation, that is, where there is water just below the surface of those lowlands.

{H3811} The problem is that we do not have enough information to know if we can adequately protect them, because underneath these alluvial valleys we have underground water resources. We in the West are extremely concerned that if we proceed with mining of alluvial valleys not only are we going to destroy the cropland, the little cropland that is available for this part of the country, but also we will disturb the underground resources.

H3811 The amendment I am offering today is a ban on alluvial valley surface mining, with two grandfathers. Those companies which have a permit before January 1, are grandfathered and those companies which during the preceding year were in commercial production are grandfathered.

H3811 The main point I want to make is that this amendment is fair to America's energy needs. Only 2 percent to 3 percent of the total strippable coal presently lies in alluvial valleys. If we add in the grandfather, that even lowers that percentage. Again, on the other hand, 97 percent to 98 percent of total strippable coal in the West is outside of the alluvial valleys and is not covered by this amendment.

H3811 Further, this amendment only applies to those alluvial valleys west of the 100th meridian. That is western coal. It does not apply to Appalachian coal, Pennsylvania coal, or other coal that is found in the East.

H3811 Second, this amendment provides that those companies with permits before January 4 are grandfathered. Those companies which were engaged in commercial production the prior year are grandfathered.

H3811 Secretary Andrus informed me by phone today that he will make arrangements for those companies who would not be exempt or grandfathered to swap leases. Thus, their damage, if any, would be minimized.

H3811 Furthermore, I think my amendment constitutes a reasonable approach. We have to buy time. If we are going to be engaged in this pellmell headlong rush to develop coal, at least we can do it a little more reasonably. Let us back off. Let us protect this very fragile resource on the West.

H3811 If it turns out that alluvial valleys can be completely reclaimed after mining, then we can at least revise the ban. If it turns out, on the other hand, that we are damaging this fragile system, then we have protected it.

H3811 I say, let us exercise caution, let us be reasonable, and let us adopt the amendment and take care of those competing needs with the proper balance.

H3811 Mr. RONCALIO. Mr. Chairman, I intend to seek additional time so we may have a rather long colloquy and put in the RECORD certain and definite facts dealing with this most important amendment, in my opinion, one of the most important we will consider.

H3811 I now refer to page H3735 of yesterday's CONGRESSIONAL RECORD, and I direct the attention of the gentleman in the well to the fact that I submitted schedules yesterday on said page

covering three classes of coal mines in Wyoming. Some have already exceeded 1 million tons a year of production.

H3811 Some are now producing, others with permits but not yet producing, and class III mines neither licensed or producing, but on which substantial money has already been expended in preparing to mine.

H3811 The CHAIRMAN. The time of the gentleman from Montana (Mr. BAUCUS) has expired.

H3811 (On request of Mr. RONCALIO and by unanimous consent, Mr. BAUCUS was allowed to proceed for 5 additional minutes.)

H3811 Mr. RONCALIO. Mr. Chairman, will the gentleman yield further?

H3811 Mr. BAUCUS. I yield to the gentleman from Wyoming.

H3811 Mr. RONCALIO. Mr. Chairman, I ask, is my good friend familiar with the three categories of mines I have referred to?

H3811 Mr. BAUCUS. Yes, I am familiar with those.

H3811 Mr. RONCALIO. The third category are those mines in alluvial valley floors, with neither production or permits granted yet, and they include these:

H3811 These class III items are: Amax - Belle Ayr North, 4.43 square miles; Carter Oil Co. - Caballo, 8.24 square miles; Kerr-McGee No. 2 Gillette, 4.7 square miles; Peabody - Rochelle, 3.21 square miles; Sun Oil Co. - Belle Fourche, 6.42 square miles; and Arco - Coal Creek, 9.42 square miles.

H3811 None of these has yet received a mining permit from the State, although each of these companies holds mining permits or is now in production on similar operations within a few miles, in the same county, on the same type of soils.

H3811 Under the gentleman's amendment, I would like him to show me how these corporations could continue to mine these class III leases on which they have already spent vast sums of money to acquire the property, to purchase the surface, or to purchase equipment. They do not have a permit on these class III acreages, and I want to know the intent of the author of this amendment - the gentlemen in the well, if they may be permitted to mine because they have made substantial legal and financial obligations.

H3811 Mr. BAUCUS. Mr. Chairman, first of all, it is my understanding that where there are mining plans included covering portions in alluvial floors, those are very, very small, compared with the total acreages.

H3811 Mr. RONCALIO. That is correct. But if the gentleman will yield, let me proceed further.

H3811 Does the gentleman's amendment preclude them from getting any permit in any area at all, because the amendment knocks out of the bill the fact that they may even be considered for a permit? They may be permitted to mine under the grandfathered provision under the bill in my opinion, but under the amendment may they be granted permits? The amendment, it seems to me, has knocked our picture askew.

H3811 Mr. BAUCUS. Mr. Chairman, the answer to the gentleman's question is that those portions that lie in alluvial valleys where the company does not have a permit or where the company has not engaged in prior commercial production are very, very small. Second, as I pointed out earlier, the Secretary of the interior can make trades. He can trade those portions that would be banned by my amendment for other portions outside alluvial valleys that are adjacent to the other portion of the mining plan.

H3811 In no way is this amendment intended to exclude production permits.

H3811 Mr. RONCALIO. Then, Mr. Chairman, let me ask the gentleman this again specifically:

H3811 Regarding the Arco - Coal Creek site or coal mine, comprising the 9.24 square miles, there is 0.19 percent thereof - or about 2 percent alluvial valley - lies in the proposed alluvial valley floor.

H3811 Does the gentleman say that his amendment would deny a mining permit to only the 0.19 of an acre, and not the 9 square miles?

H3811 Mr. BAUCUS. That is absolutely correct. Even in that chance there is a good chance that the Secretary of the Interior could make an arrangement relating to that particular portion.

H3811 Mr. RONCALIO. And similarly then, as to the Belle Fourche mine of the Sun Oil Co., with 6.42 square miles, with the Carter Oil Co. - Caballo, where only 2 percent of that area lies in

the alluvial valley, the gentleman's amendment OK's a permit to the 8 square miles, and not to the 2 percent classed as an alluvial valley floor?

H3811 Mr. BAUCUS. That is correct.

H3811 Mr. RONCALIO. And that is similarly true of the other mines in the list appearing on page H3735 in class III?

H3811 Mr. BAUCUS. That is correct.

H3811 Mr. RONCALIO. Mr. Chairman, the gentleman may well have converted some Members with his approach to this amendment, but let me ask him a few more questions.

H3811 If the gentleman's amendment is adopted, will all mines which produced coal in commercial quantities in the year prior to enactment of this act be exempt from having to meet the criteria of section 510(b) (5)?

H3811 Mr. BAUCUS. That is exactly one of the purposes of the amendment.

H3811 Mr. RONCALIO. If the gentleman's amendment is approved, will all mines which had received State permits prior to January 4, 1977, be exempt from having to meet the criteria of that section?

H3811 Mr. BAUCUS. That is correct.

H3811 Mr. RONCALIO. If the gentleman's amendment is approved, will mines located adjacent to alluvial valley floors be allowed permits if their operations would not materially damage the quality and quantity of water available for farming and ranching on these valley floors?

H3811 Mr. BAUCUS. Yes.

H3811 Mr. RONCALIO. Lastly, will the gentleman's amendment assure that the essential hydrologic functions of alluvial valley floors are preserved?

{H3812} Mr. BAUCUS. Absolutely.

H3812 Mr. RONCALIO. I thank the gentleman very, very much.

H3812 Mr. BAUCUS. Mr. Chairman, I have two further points to make.

H3812 This amendment is strongly supported by the administration. Secretary Andrus favors this amendment. In fact, he appears to favor this amendment for the reasons I have outlined; but the second reason is that the present provisions in the bill restricting mining in alluvial valleys is a

matter which also provides exceptions and is an administrative nightmare as well as being unworkable. The language is so vague as to be unintelligible.

H3812 The CHAIRMAN. The time of the gentleman from Montana (Mr. BAUCUS) has expired.

H3812 (On request of Mr. BAUMAN and by unanimous consent, Mr. BAUCUS was allowed to proceed for 2 additional minutes.)

H3812 Mr. BAUCUS. Mr. Chairman, the second point I want to make is that I also talked with Dr. Schlesinger. He supports this amendment. I asked him whether he does, and he does.

H3812 Mr. Chairman, if anybody is for providing energy through coal, I think it would be Dr. Schlesinger.

H3812 Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

H3812 Mr. BAUCUS. I yield to the gentleman from Maryland.

H3812 Mr. BAUMAN. Mr. Chairman, I am glad to hear the gentleman's belated concern about administrative nightmares. Every page of this bill contains that kind of potential.

H3812 The question I have is this: In the course of the gentleman's assurances in response to the questions of the gentleman from Wyoming (Mr. RONCALIO), the gentleman made the rather surprising statement that if these coal companies are suffering by losing the right to mine certain lands, as a result of his amendment, the Secretary can somehow make provisions to alleviate the situation by allocating other nonalluvial lands to the company.

H3812 Mr. Chairman, I know of no authority under the Coal Leasing Act of under this bill that permits any transfer by the Secretary in a situation like that. Therefore, there is going to be a significant loss of coal production, at least in the areas affected by the gentleman's amendment. The impact of the amendment is much broader in scope than the gentleman has admitted today.

H3812 Mr. Chairman, will the gentleman respond to that. Where is the authority he describes to switch around coal lease areas in the West to meet the losses that your amendment is going to produce?

H3812 Mr. BAUCUS. Mr. Chairman, it is my understanding, from a conversation with the

Secretary, that there is no authority to do that in certain areas.

H3812 I am not as familiar with this portion of the bill as is the gentleman from Maryland (Mr. BAUMAN). All I can go on is on the assurance that the Secretary gave me. Of course, there cannot always be a 100-percent certainty.

H3812 Mr. BAUMAN. If the gentleman will yield further, from what I know of the situation, there is no existing authority in law to do what the gentleman is talking about, despite Mr. Andrus' personal opinion.

H3812 The CHAIRMAN. The time of the gentleman from Montana (Mr. BAUCUS) has expired.

H3812 (On request of Mr. RONCALIO and by unanimous consent, Mr. BAUCUS was allowed to proceed for 5 additional minutes.)

H3812 Mr. BAUCUS. Mr. Chairman, the Secretary is very aware that this will occur in very few instances, but there will be unwarranted hardships in certain cases. In those cases he is going to do what he can within the authority he now has, at least, to do what he can to help out. It is the Secretary's intention to do what he can to help out in those situations.

H3812 Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

H3812 Mr. BAUCUS. I yield to the gentleman from Wyoming.

H3812 Mr. RONCALIO. Mr. Chairman, I would like the record to show that I place no faith in assurances by which the Secretary of the Interior will relieve any hardships. We have to go by strict statute from this day forward in the western areas.

H3812 Mr. Chairman, I have already observed the Secretary of the Interior refusing to take advantage of the very provisions of section 39, under which we gave him authority last year in the Coal Leasing Act, to alleviate hardships and cut bureaucratic redtape regarding coal lease modifications.

H3812 However, Mr. Chairman, I commend the gentleman in the well for his assurance on my questions today. If future applicants do not qualify for a permit, and there is one instance in which the Tongue River in Wyoming is involved, then it would appear they do not come under the provisions of the grandfather clause; is that correct?

H3812 Mr. BAUCUS. That is correct.

H3812 Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

H3812 Mr. BAUCUS. I yield to the gentleman from Massachusetts.

H3812 Mr. TSONGAS. Mr. Chairman, one of the arguments used against this is that it will lower recovery capabilities in terms of our energy needs.

H3812 The fact is that one could only get this from industry sources.

H3812 There are enormous supplies of coal in the West, that would probably last for 100, 200, or 300 years, an extraordinary period.

H3812 What the gentleman is attempting to do in the West and what the bill is attempting to do is to set the direction in which the companies must go in order to gain or get the coal we need.

H3812 Let me illustrate, to see whether the gentleman from Montana agrees.

H3812 The first area, as I understand, that would be used would be strippable coal on nonprime lands, nonalluvial valley coal. Second, after that has been depleted we would go into deep-mine reserves, and everybody is aware that deepmine reserve coal is greater than strippable coal, even in the gentleman from Montana's State I believe the ratio is 2 to 1. And then, and only then, would we move into areas where we would upset the prime agricultural lands and alluvial valley floors, so that only in the last resort when the country would be to the point of desperation would we encourage the incursion of mining in those lands that are necessary for agricultural production.

H3812 Is that a correct analysis?

H3812 Mr. BAUCUS. Mr. Chairman, I think the gentleman from Massachusetts (Mr. TSONGAS) has stated the situation very well; the gentleman has stated the categories and the priorities we will be pursuing as we mine coal. Obviously there is some coal that we should mine before we mine the other coal. The gentleman has outlined that very well.

H3812 Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

H3812 Mr. BAUCUS. I yield to the gentleman from Utah.

H3812 Mr. MARRIOTT. Mr. Chairman, I would ask the gentleman from Montana whether the gentleman is willing to accept the definition of alluvial valley floor that is contained in the bill?

H3812 Mr. BAUCUS. Mr. Chairman, I must say that as a lawyer, I am never satisfied with any definition, but I believe the definition in the bill is workable.

H3812 Mr. MARRIOTT. Mr. Chairman, I must say to the gentleman from Montana that in Utah we have a lot of arid land which is eroded and only gets water about 10 days out of the year. During the time that this land gets the water, of course, we do have this drainage, and it would appear to meet the requirements under the definition of this bill. Would it be the intent of the gentleman from Montana that that type of land would not be classified as alluvial valley floor land?

H3812 Mr. BAUCUS. Mr. Chairman, I wish that I could answer the gentleman from Utah with a definite yes or no but the decision has to be worked out. It is a problem that depends upon whether or not my amendment is agreed to. My amendment has nothing to do with the definition of alluvial valley floor but that is a question that will have to be worked out.

H3812 Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

H3812 Mr. BAUCUS. I yield to the gentleman from Colorado.

H3812 Mr. JOHNSON of Colorado. Mr. Chairman, I frankly do not understand why the gentleman from Montana feels that there is a need for this particular amendment since the bill contains a provision that says that there will be no mining in alluvial valley floors except in undeveloped range land which are not significant to farming on said alluvial valley floors and those lands as to which the regulatory authority finds that the farming that will be interrupted, discontinued, or prevented is of such small acreage as to be of negligible impact.

H3812 The CHAIRMAN. The time of the gentleman has again expired.

H3812 (On request of Mr. JOHNSON of Colorado, and by unanimous consent, Mr. BAUCUS was allowed to proceed for 2 additional minutes.)

H3812 Mr. JOHNSON of Colorado. Mr. Chairman, if the gentleman will yield further, the bill already takes care of the impact of mining on farming land and agriculture and the gentleman from Montana is going a step further and says that there will be no mining whatsoever even in areas where there is no agriculture and where agriculture is not contemplated.

{H3813} Why is the gentleman from Montana so restrictive about mining in areas that are

essentially undeveloped range lands? What is so essential in the undeveloped range lands in those parts of the West where there is no farming of any kind going on?

H3813 Mr. BAUCUS. In the first place, the portion of the bill to which the gentleman from Colorado referred is very vague and actually the exceptions are larger than the rule.

H3813 Mr. JOHNSON of Colorado. Let me ask the gentleman from Montana what is vague about the term undeveloped range lands? I would assume that to mean range land that is not developed. That is not difficult to understand.

H3813 Mr. BAUCUS. The point is that a company could secure leases on the land of undeveloped range land and then develop that land and thus boot strap itself into an exception so it could mine.

H3813 The problem is that the exceptions could very easily be as large as the rule itself. That is why I believe this to be an administrative nightmare.

H3813 The second point is yes, I do want to cut down on the availability of strip mining in alluvial valley floors.

H3813 The point is that we have sufficient strippable coal anyway and let us not use the alluvial valleys. I believe that is all we are trying to do.

H3813 What is happening here is merely a microcosm of energy solutions in the entire country - East, West, North, and South. Each section of the country will have to accept a little bit of sacrifice and will have to give in a little bit. All I am asking is that all of us in the country realize that the proper balance is to restrict some of the mining in the alluvial valley floors.

H3813 The CHAIRMAN. The time of the gentleman from Montana has expired.

H3813 (On request of Mr. ROVCALIO, and by unanimous consent, Mr. BAUCUS was allowed to proceed for 5 additional minutes.)

H3813 Mr. BAUMAN. Mr. Chairman, the gentleman has suggested a scenario where the company will buy up these alluvial valley floors and not develop them for a long time and claim they are undeveloped range land and then they will be able to get exceptions.

H3813 The Department of the Interior can force them to develop that and if they are going to go

through that sort of ruse the Department of the Interior can invalidate their leases.

H3813 Mr. BAUCUS. If we give a lot of exemptions or categories, for example, a coal company can find and there are all kinds of ways to skin a cat. I am trying for the sake of public policy and clarity to tighten these exemptions.

H3813 Mr. RONCALIO. Is the gentleman familiar with Clear Creek that flows through the area?

H3813 Mr. BAUCUS. I know the area.

H3813 Mr. RONCALIO. Would that not generally apply as an alluvial valley floor?

H3813 Mr. BAUCUS. I would say yes.

H3813 Mr. RONCALIO. Is the gentleman familiar with the Campbell County area and east thereof and would not the strip mining apply there?

H3813 Mr. BAUCUS. As the gentleman describes the area it sounds like this would be outside that alluvial valley.

H3813 Mr. RONCALIO. I regret very much that in the years we have been working on this complex matter we could not have taken ultra-high-elevation photos with infrared shots of the alluvial valley floors, and made precise definitions that mandated certain sections and townships as barred, and certain sections and townships could be mined. That would have been an appropriate way to write this law.

H3813 I am terribly uneasy with this amendment. I am proud of what the gentleman is trying to do but he must understand our situation. We have labored in committee with this for 4 or 5 years and then he comes in here on the last day of the legislation, and causes my concern.

H3813 Mr. BAUCUS. I thank the gentleman for his comments.

H3813 Mr. BAUMAN. Mr. Chairman, I rise in opposition to the amendment. There may be some question about an effete easterner standing up and defining what a western alluvial valley floor is but some Members may be in doubt. These areas in the West have infrequent rains but may have underground water supplies. There is at least enough water so there is a possibility of agricultural development and many areas in the West fall into this category.

H3813 Unfortunately from the point of view of some these areas also often contain deposits of minerals such as coal. I remember once passing over one such area in Kansas which was called the Republican River. Members on the other side of the aisle may be pleased to know it was bone dry, as is the situation around here sometimes.

H3813 But what the gentleman from Montana is suggesting by his amendment is a total banning of any mining in these alluvial areas. The committee considered this section at great length. The gentleman from Arizona (Mr. UDALL) and others worked on compromise language and they put into the bill - and I do not particularly like the language in the bill - what is almost a total ban right now. But as the gentleman from Colorado pointed out, there are two exceptions permitted.

H3813 The bill before us has more than adequate protective language covering alluvial valley floors and mining. The bill allows the regulatory authority to say no, you cannot mine. There is plenty of protection for these kinds of areas.

H3813 The gentleman is presenting an extreme position in this amendment. The real issue the amendment raises is in terms of current and future coal production. I refer again to the EPA-CEQ report which addressed itself to this kind of absolute ban. It would force up the utility rates in Cleveland and Chicago and New York. By 1985, the Environmental Protection Agency tells us, we will lose 211 million tons if a complete alluvial valley ban is imposed. That is current production. But more importantly it will probably remove permanently known reserves of 12.6 billion tons. I refer the Members again to a report which was prepared by these agencies which has been completely ignored in this debate. It says plainly that this kind of ban is not needed.

H3813 If this amendment is adopted it guarantees that we are going to have a significant loss in coal production with no great benefit to the environment as a balance. We will also have a significant rise in coal prices and utility prices. This position was rejected by the committee and ought to be rejected by the House. Certainly to come in at the last minute is not warranted.

H3813 What the gentleman from Montana is seeking in his amendment is a prohibition against mining in "alluvial valley floors." This proposed amendment is not unlike the "prime agriculture land" amendment offered yesterday and subsequently defeated by this body.

H3813 I would urge my colleagues to listen to some of the facts that have been developed from studies conducted by governmental agencies as well as private consulting firms:

H3813 The ICF study to which I referred yesterday points out that -

H3813 There are indications that under site-specific circumstances, it is possible to mine on alluvial valley floors and still be able to preserve the hydrologic functions.

H3813 The provisions could impact not only those mines on the alluvial valley floors, but also those mines which could affect the water flowing into alluvial valley floors. Thus, if a mine site contains (or is near) any alluvial valley floor, the entire mining operation could conceivably be impacted. To this end, a more meaningful indication of the portion of the industry which could be affected might be the percentage of the areas leased which contain any alluvial valley floors. Of the 88 sites examined by EPA, 62 sites (or 70 percent) contained alluvial valley floors.

H3813 Impacts on coal production and reserve impacts which would likely result if we approve the Baucus amendment would be "211 million tons by 1985" and "12.6 billion tons" respectively.

H3813 On page 4 of a letter to Chairman UDALL from Mr. John A. Green, Regional Administrator, EPA relating to alluvial valley floors, dated February 15, it states in part that -

H3813 The information also shows that larger amounts of coal, ranging from ten percent up to one hundred percent of the coal in a mining operation intersecting an alluvial valley floor could be affected by an outright ban on any mining affecting an alluvial valley floor.

H3813 The amendment proposed by the gentleman from Montana would certainly impose such an outright ban. On page 7 of attachment II of the same letter it goes on to state that -

H3813 Based on work we have supported in Montana, our close association with other scientists, and the effort conducted by this Regional Office of EPA, we believe that . . . areas of alluvial valley floors can be surface mined without adverse impact on the longterm productivity of those agricultural lands. Prevention of mining in all alluvial valley floors is, we believe, unwarranted.

H3813 Based on these statements by the EPA and ICF, Inc., I would urge my colleagues to reject

the gentleman's amendment.

{H3814} Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

H3814 Mr. BAUMAN. I yield to the gentleman from Colorado.

H3814 Mr. JOHNSON of Colorado. Mr. Chairman, I would like to point out that the language of the bill as presently written states, if anything, a slight discretion for the Secretary. When we are talking about the small acreage and negligible impact on agricultural livestock production, that gives the Secretary some discretion. I suppose we could argue that should be removed; but the other portion says there will be no mining on alluvial valley floors, except undeveloped rangelands which are not significant and farms or lands presently grazed only by cattle or sheep.

H3814 Why do we want to prevent mining in areas where there is only grazing for cattle or sheep? That makes no sense to me whatever.

H3814 I think the extension of the gentleman's amendment goes too far and is not warranted.

H3814 Mr. BAUMAN. Mr. Chairman, I would point out that the gentleman from Colorado is a sponsor of the bill and the gentleman takes the position that I take here.

H3814 I might say that the gentleman from Michigan (Mr. RUPPE) takes the same position. The gentleman has been a strong supporter of the bill and opposes this amendment.

H3814 The amendment goes too far. If we believe Mr. Carter when he says we need energy, this is the kind of amendment that ought to be stopped.

H3814 Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

H3814 Mr. BAUMAN. I yield to the gentleman from Kansas.

H3814 Mr. SKUBITZ. Mr. Chairman, I stated I would support the bill, where we have a delicate balance. We have a situation where I agreed to go along. If we start this sort of thing, some of us will fall along the wayside.

H3814 Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words.

H3814 (Mr. MEEDS asked and was given permission to revise and extend his remarks.)

H3814 Mr. MEEDS. Mr. Chairman, I rise in reluctant opposition to the amendment of the gentleman from Montana.

H3814 Let me point out at the outset that I have been one of the cosponsors of every strip mining bill which has come down the pike since 1970, the first one.

H3814 I strongly support this bill. I will vote for the bill, whether or not the Baucus amendment passes. I think it is essential that we have good strip mining legislation. I think this bill encompasses and brings us good strip mining legislation; but I have to say that I do think that this portion of the bill, if it is changed as the gentleman from Montana suggests it be changed, will become extremely unfair on some people.

H3814 Now, if we will look at the section with which we are dealing, as the gentleman from Colorado correctly pointed out, there are just two exceptions for mining in alluvial valleys. In those exceptions, we will note that the concept is that where people have invested money, invested capital and have started or have obtained permits, they are allowed to continue. As the bill now reads, if they have invested "substantial sums of money or made substantial legal commitments," they also may continue.

H3814 The concept of the substantial financial commitment and legal commitment is the same as the permit or as the development which has gone on. The purpose there is to give those people who have already changed their position and invested money and time and effort the opportunity to proceed. Those are the very limited exceptions that the bill allows.

H3814 I think those who have made substantial financial commitments because they felt they could mine those areas should not now be shut out by an amendment adopted on the floor, because it becomes very unfair to them; just as it becomes unfair to people who have made substantial legal commitments. Now, there are many instances where they are already mining. There are other instances where they have permits, and there are a few instances where people have made substantial financial commitments. They have gone and looked at these areas and made substantial legal commitments for leases because they expected to mine coal there.

H3814 The other parts of the act applies to them. They are not going to ravage the alluvial valley floors. They are not going to tear up the earth. They are going to do this in a proper manner. I would not be here supporting an amendment which I thought was going to undo the very fine work I think this committee has done, but if we change that "or" to "and," we make this bill very unfair to some

people.

H3814 Mr. BAUCUS. Mr. Chairman, will the gentleman yield?

H3814 Mr. MEEDS. I yield to the gentleman from Montana.

H3814 Mr. BAUCUS. Mr. Chairman, first I would like to commend the gentleman for his work on this bill. He has worked long and hard for many years on it. The gentleman knows better than I the tortuous history of the bill, and I commend the gentleman for his very diligent and fair work on it.

H3814 I am wondering if the gentleman could tell me the number of companies or the amount of financial hardship those companies would incur if this amendment were adopted.

H3814 Mr. MEEDS. I tried to get that information and was unable to get it in the very short time that we have. I was just informed that this amendment would be presented yesterday, and the language "or" is in the act now. I am informed that there are not very many people involved, but we just made arrangements to exempt - it seemed to me - practically the whole State of Wyoming for the gentleman from Wyoming. Perhaps we could exempt the rest of the country, which I am sure is not very significant.

H3814 Mr. BAUCUS. The point obviously is that where there are a few companies - and the gentleman said there are only a few - the Secretary is going to make every assurance to alleviate those hardships. The Secretary is sympathetic with these problems in the few cases where there will be hardships. It seems to me where that is the case, the Secretary under his present authority, can help relieve that unnecessary hardship and burden. Yet, he cannot take care of everything. The bottom line of all this is, I think, that it is important to protect the alluvial valleys.

H3814 The CHAIRMAN. The time of the gentleman from Washington has expired.

H3814 (On request of Mr. EVANS of Colorado and by unanimous consent Mr. MEEDS was allowed to proceed for 4 additional minutes.)

H3814 Mr. MEEDS. I have the same apprehension that the gentleman from Colorado and the gentleman from Maryland expressed. That is, No. 1, I do not know where the authority for those transfers exist of the Secretary. There may be some authority, but I am unaware of it.

H3814 Second, and very importantly, as the gentleman from Maryland stated, we passed the Coal Leasing Act, and under that act the holders of leasehold interests are required to proceed with diligence. A 5-year delay is going to put them into the position of not having responded to the Coal Leasing Act, and I am afraid they are going to be out of their leases.

H3814 Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

H3814 Mr. MEEEDS. I yield to the gentleman from Colorado.

H3814 Mr. EVANS of Colorado. I would like a clarification of the requirements of section 510(5) (A). Subsection (5) on page 258 appears to have two provisions; one in which it states, "the proposed surface coal mining operations . . ." and continues, "would not interrupt, discontinue, or prevent farming on alluvial valley floors."

H3814 That is subparagraph (A), and on page 259 subparagraph (A) ends with the word "or,". Then, you have a new subparagraph (B), which says, "not materially damage the quantity or quality of water in surface or underground water systems that supply these valley floors."

H3814 It is my understanding, in reading both subsections (A) and (B), that an applicant would have to satisfy both subsection (A) and subsection (B). It is not (A) or (B), but both (A) and (B), is that correct?

H3814 Mr. MEEEDS. I agree with the gentleman. I do not want, by my position, to be understood to be opening alluvial valley floors for indiscriminate mining. I think they still have to, "not materially damage the quantity or quality of water in surface or underground water systems."

H3814 Mr. EVANS of Colorado. Even though they were not interrupting or discontinuing?

H3814 Mr. MEEEDS. That is correct.

H3814 Mr. EVANS of Colorado. I thank the gentleman.

H3814 Mr. MEEEDS. I think it should be interpreted very tightly, but I do not feel that those people who have made substantial investments should now, by an amendment on the floor, lose their rights.

H3814 And notice, also, that they have to have acquired those rights and those substantial

financial investments or legal obligations prior to January 4, 1977. So this is nothing that somebody is going to come in on. They have to have been there in January, of this year, before this bill was conceived.

{H3815} Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

H3815 Mr. MEEDS. I yield to the gentleman from Utah (Mr. MARRIOTT).

H3815 Mr. MARRIOTT. I thank the gentleman for yielding.

H3815 Mr. Chairman, I applaud the gentleman in his opposition to this amendment. I think it is a bad amendment.

H3815 I would like to put in the RECORD the words of the distinguished Chairman of the EPA, and his remarks read as follows:

H3815 Based upon work we have supported in Montana, our close association with other scientists, and the effort conducted by this Regional Office of EPA, we believe that selected areas of alluvial valley floors can be surface-mined without adverse impact on the long-term productivity of these agricultural lands.

H3815 The CHAIRMAN. The time of the gentleman from Washington has expired.

H3815 (By unanimous consent, Mr. MEEDS was allowed to proceed for 1 additional minute.)

H3815 Mr. MARRIOTT. If the gentleman will yield further, this goes on to say:

H3815 However, only the effort EPA has supported in Montana has begun to identify the true role of the alluvial valley floor in the agricultural economy. Prevention of mining in all alluvial valley floors is, we believe, unwarranted.

H3815 Mr. BAUCUS. Mr. Chairman, will the gentleman yield for a question?

H3815 Mr. MEEDS. I yield to the gentleman from Montana (Mr. BAUCUS).

H3815 Mr. BAUCUS. I thank the gentleman for yielding.

H3815 Mr. Chairman, that letter the gentleman quotes from is from an earlier time. Subsequent to that letter, the Administrator of EPA has checked off and agreed to this amendment.

H3815 Mr. MARRIOTT. This is a February 15 letter.

H3815 Mr. BAUCUS. Subsequent to that time the Administrator of EPA has agreed to the ban. It is a matter which the Administrator of EPA has checked off on. This is the administration's position. The Administrator wants this amendment.

H3815 Mr. MEEDS. Apparently the administration and EPA have given way to the giants in Wyoming also. But what about the smaller people who have made a substantial investment? If we accept the amendment, we miss them.

H3815 Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

H3815 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

H3815 Mr. UDALL. Mr. Chairman, I have the feeling that I have been here before. Nothing in these last 4 or 5 years has taken more time and controversy than the protection of these fragile alluvial valley floors, which are so critical out in the West. We have always had one position in the committee, and there was a much stronger and different position in the House.

H3815 The identical amendment offered by the gentleman from Montana (Mr. BAUCUS) was offered by the gentleman from Colorado (Mr. EVANS) in the last two Congresses, and each time it carried on the floor. When we went to the conference committee, the Senate had a much weaker environmental position on this than the House did, and we had to make some accommodation.

H3815 I had thought that in the committee we did a pretty good job protecting these alluvial valley floors. I want to protect them. They are fragile; they are critical. But there we are again, in the same old situation. As for myself, I am going to vote for the Baucus amendment. I am going to vote for it because it has been the position of the House twice before, because this is not the final word. The final word will be written at conference committee. The administration, which I support as often as I can, feel that this is the single important remaining environmental issue to be resolved. So I am going to vote for this.

H3815 Mr. BAUMAN. Mr. Chairman, will the gentleman yield at that point?

H3815 Mr. UDALL. I yield to the gentleman from Maryland (Mr. BAUMAN).

H3815 Mr. BAUMAN. I thank the gentleman for yielding.

H3815 Can we characterize this as one of the gentleman's "I am not happy with this but"

speeches?

H3815 Mr. UDALL. The gentleman can say that. I thought in the beginning that we did a pretty good balanced job in committee in protecting the alluvial valley floors. We have had a whole barrage of calls from environmental groups and calls from administrative officials, who think this gives more adequate protection.

H3815 Mr. Chairman, we think somehow this is going to give more protection. I do not think it gives very much more, and I do not view this as much of a lockup. We do not protect the whole valley; we protect the valley floor. In most cases this comprises a hundred yards. This is the subterranean stream, or this is where the alfalfa and forage crops are raised.

H3815 They can mine in the valley up to the floor, but they cannot mine in the floor itself.

H3815 Mr. BAUMAN. Mr. Chairman, does the gentleman from Arizona (Mr. UDALL) not admit that the hydrological preservation requirement of this particular section could extend the area of the ban which has been proposed miles and miles away from the valley floor?

H3815 Mr. UDALL. No. I do not think so.

H3815 Mr. Chairman, I think the amendment ought to be agreed to and I am going to vote for it.

H3815 Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding.

H3815 Mr. UDALL. Mr. Chairman, I promised the leadership last night, as well as a number of our brethren today, that we would try to get through by 1 or 2 o'clock this afternoon. We have already taken an hour on this amendment, and we have quite a few more to consider.

H3815 Therefore, Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 12:20 o'clock p.m.

H3815 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3815 Mr. SEIBERLING. Mr. Chairman, reserving the right to object, I believe the gentleman is too generous.

H3815 Let us make it 12:15 p.m.

H3815 Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on this amendment

and all amendments thereto close at 12:20 o'clock p.m. That should give every Member enough time.

H3815 Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I wonder if we could establish with the consideration of this amendment the fact that there will be none of this strawman business of standing up while Members yield to other Members. If we do that, I would have to object. I would hope that we can have an honest debate.

H3815 Mr. UDALL. Mr. Chairman, I will withdraw my unanimous-consent request and put it in the form of a motion.

H3815 Mr. Chairman, I move that all debate on the pending amendment and all amendments thereto close at 12:20 o'clock p.m.

H3815 The motion was agreed to.

H3815 The CHAIRMAN. Members standing at the time the motion was agreed to will each be recognized for 45 seconds each.

H3815 The Chair recognizes the gentleman from Colorado (Mr. JOHNSON).

H3815 Mr. JOHNSON of Colorado. Mr. Chairman, the only reason I am taking this time to speak again on this subject is because I think the chairman of the committee misspoke himself when he said something. I would like to correct it and give him the opportunity to correct it, unless I am wrong.

H3815 I thought the gentleman said that this was to try to prevent farming that was taking place. The gentleman gave the example when we were speaking of the amendment offered by the gentleman from Montana (Mr. BAUCUS) that this was to stop farming from taking place.

H3815 The bill already provides for that, and there will not be any farming operations which are interrupted except for that one narrow exception that I pointed out earlier. This would essentially stop mining in areas that are presently being grazed by cattle and sheep.

H3815 Mr. Chairman, I will ask the gentleman, is that not correct?

H3815 Mr. UDALL. Mr. Chairman, if the gentleman will yield, if it is in the valley floor itself, then there would be a ban in the valley floor.

H3815 Mr. JOHNSON of Colorado. That is where there is no present operation?

H3815 Mr. UDALL. That is right, where there is no mining in the valley floor.

H3815 The CHAIRMAN. The Chair recognizes the gentleman from Vermont (Mr. JEFFORDS).

H3815 (Mr. JEFFORDS asked and was given permission to revise and extend his remarks.)

H3815 Mr. JEFFORDS. Mr. Chairman, you may consider a question of risk and I strongly support the amendment.

{H3816} If we vote for the amendment, we may prevent what the administration feels is a significant risk to the alluvial valley floors. If we do not vote for it, we will create that risk.

H3816 At the same time it has been demonstrated that we are not running any risk by voting for it, with respect to the energy crisis because there is not any significant amount of coal there, and there are much more substantial amounts of coal lying outside this area that can be mined without any hindrance to filling our energy needs.

H3816 These floors are particularly rich agricultural areas, and as many of my colleagues here know, we are facing a severe attrition in our prime agricultural lands. The Soil Conservation Service has stated that strip mining as it is currently practiced in much of the Nation either ruins or severely degrades the productivity of these lands. And it is still not clear that we have the ability to restore these prime lands satisfactorily after they are strip mined. I am aware that much of the land in question is used for cattle grazing, and is not presently under cultivation. But the underground water systems which would be endangered by strip mining present a long-term potential for crop cultivation, and with the annual attrition of prime lands, these floors may well be needed in the near to midterm future. They, therefore, represent an insurance policy which we need to retain.

H3816 We will find, I think, that husbanding these agricultural resources now, while we mine our coal outside prime lands will pay dividends many times over, and I commend my colleague for his farreaching reaching perspective in offering his amendment.

H3816 The CHAIRMAN. The Chair recognizes the gentleman from Idaho (Mr. SYMMS).

H3816 (Mr. SYMMS asked and was given permission to revise and extend his remarks.)

H3816 Mr. SYMMS. Mr. Chairman, I am surprised that the chairman of the committee would be for this amendment when we have, I believe, in the bill struck a delicate balance and reached some sense of equity, as far as unified competition from State to State is concerned.

H3816 On the bottom line, Mr. Chairman, what this will do is preclude the mining of coal in many areas where we have low sulphur coal, areas in which the cowboys say the cattle have to do 30 miles an hour to keep from starving to death because the grass is so sparse, these are the areas that this amendment will deny Americans from mining.

H3816 Mr. Chairman, we are going to stop mining there and force mining of coal in areas like Ohio, where there is high sulphur coal.

H3816 If we want a good environmental vote, let us vote against this amendment because it is only going to be a way to block mining in Wyoming and in Montana and in places where we have the most and biggest source of low-sulphur coal, the cleanest kind of coal, and the best kind to use to solve our energy crisis.

H3816 Mr. Chairman, I urge defeat of the amendment.

H3816 AMENDMENT OFFERED BY MR. RONCALIO TO THE AMENDMENT OFFERED BY MR. BAUCUS

H3816 Mr. RONCALIO. Mr. Chairman, I offer an amendment to the amendment.

H3816 The Clerk read as follows:

H3816 Amendment offered by Mr. RONCALIO to the amendment offered by Mr. BAUCUS: at the end thereof, add: "or for which financial commitments for equipment or surface rights as determined by the Secretary of Interior had been made prior to January 4, 1977."

H3816 (Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

H3816 Mr. RONCALIO. Mr. Chairman, we have all heard my good friend, the gentleman from Montana (Mr. BAUCUS), say that if determinations were made by the Secretary which would warrant the granting of a permit for those areas which were elucidated in the prior colloquy here, the permit should issue.

H3816 That is all this amendment does, and I urge its adoption.

H3816 The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

H3816 (Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

H3816 Mr. SEIBERLING. Mr. Chairman, I think the amendment which the gentleman from Wyoming (Mr. RONCALIO) just offered points up the basic defect in the language of the bill which would be stricken by the gentleman from Montana (Mr. BAUCUS).

H3816 Mr. Chairman, we already moved the cutoff date for the grandfather clause January 4 of this year. The industry has known for 2 years of this potential ban on mining on alluvial valley floors and has had ample time to obtain permits.

H3816 If the Members will look at page 119 of the committee report, they will see that we are talking about 2 to 3 percent of the western coal reserves, which are only a fraction of the Nation's coal. that could be affected by a ban on stripping alluvial valley floors. Therefore, we are not talking about a lot of coal here.

H3816 Consequently, Mr. Chairman, it seems to me that the amendment offered by the gentleman from Wyoming is the wrong amendment. If I were offering an amendment, it would be to knock out the grandfather clause that covers substantial financial commitments. but restantial the rest of the language of the section, which I think is reasonable language.

H3816 The CHAIRMAN. The Chair recognizes the gentleman from Utah (Mr. MARRIOTT).

H3816 (Mr. MARRIOTT asked and was given permission to revise and extend his remarks.)

H3816 Mr. MARRIOTT. Mr. Chairman, our distinguished chairman indicated that this bill would not have a wide-range effect.

H3816 I would again like to quote from the EPA report of 15 days ago, on page 4:

H3816 But the information also shows that large amounts of coal, ranging from 10 percent up to 100 percent of the coal in a mining operation intersecting an alluvial valley floor could be affected by an outright ban on any mining affecting an alluvial valley floor.

H3816 Mr. Chairman, I hope we will strike down both of these amendments.

H3816 The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

H3816 (Mr. SKUBITZ asked and was given permission to revise and extend his remarks.)

H3816 Mr. SKUBITZ. Mr. Chairman, I rise in opposition to the amendment.

H3816 As I pointed out a few minutes ago, this is one of the provisos in the bill or that was discussed by the committee for some time. We finally agreed upon the proviso found in the bill. What is happened to that so-called delicate balance which the gentleman from Arizona (Mr. UDALL) speaks about when he agrees in principle with amendment presented but defends the bill?

H3816 I regret that the chairman of the committee, who I thought would support the committee bill as it came out of committee, is now supporting this amendment.

H3816 The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. BAUCUS).

H3816 (Mr. BAUCUS asked and was given permission to revise and extend his remarks.)

H3816 Mr. BAUCUS. Mr. Chairman, first I commend the gentleman from Wyoming (Mr. RONCALIO) for trying to accommodate different purposes here, but I have to oppose his amendment because in my view it could exempt mining in alluvial valleys where expenditures for equipment or surface rights of any kind were made. Such an exemption may be too broad in certain circumstances.

H3816 I will have to oppose the amendment offered by the gentleman from Wyoming (Mr. RONCALIO) because it basically would exempt any expenditures whatsoever for equipment or surface rights permits. I think that is too sweeping, and I will therefore oppose it.

H3816 With regard to the major amendment. I would like to remind the committee that the amount of coal in the alluvial valleys is very, very insignificant. At most it is 3 percent, and perhaps not even that much.

H3816 The fundamental point is that we are now engaged in a pellmell rush for coal in America in this decade and the next so let us protect at least the alluvial valleys where there is such a small amount covered by strip mines.

H3816 Let us buy time so that we can protect the underground water, the water tables. If we do

not, we in the West where we have such an arid country, and which now is suffering from a drought, will be put in a very, very difficult position.

H3816 So, Mr. Chairman, I strongly urge that the Members adopt my amendment.

H3816 The CHAIRMAN. The Chair now recognizes the gentleman from Washington (Mr. MEEDS).

H3816 (Mr. MEEDS asked and was given permission to revise and extend his remarks.)

H3816 Mr. MEEDS. Mr. Chairman, I might remind the Members of the House that when all else fails, support the committee.

{H3817} I will have to say that I am opposed to both amendments. First of all, the amendment offered by the gentleman from Montana (Mr. BAUCUS) calls for an exemption of people who have made substantial financial and legal commitments. The amendment offered by the gentleman from Wyoming (Mr. RONCALIO) goes too far because it includes everybody who has made any financial commitment.

H3817 This would really open the barn door. I do not think we ought to do that. I think we ought to support the compromise now in the committee bill that came to the floor of this House and not agree to either one of these amendments.

H3817 The CHAIRMAN. The Chair now recognizes the gentleman from Maryland (Mr. BAUMAN).

H3817 (Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

H3817 Mr. BAUMAN. Mr. Chairman, the debate on this amendment is a microcosm of the major issue that is raised by this bill. Less than 2 weeks after we heard the President of the United States state that we are engaged in a crisis comparable to war and that we have to depend on coal in order to meet our needs for energy, we are presented with the amendment offered by the gentleman from Montana (Mr. BAUCUS) that would result in the loss of 211 million tons by 1985 and would lock up forever 12.6 billion tons of coal reserves.

H3817 If that is what the Members want to do, go ahead.

H3817 There are plenty of environmental safeguards in the bill already. I do not think we ought

to be going backward in what the President has described as a serious crisis. If we adopt these amendments, we do exactly that.

H3817 The CHAIRMAN. The Chair now recognizes the gentleman from Arizona (Mr. UDALL).

H3817 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

H3817 Mr. UDALL. Mr. Chairman, I oppose the amendment offered by the gentleman from Wyoming (Mr. RONCALIO) because it opens too wide a loophole. I think, for the reasons that I stated earlier, the amendment offered by the gentleman from Montana (Mr. BAUCUS) ought to be adopted. The final version of the bill, of course, will have to be that adopted in the committee of conference and we can take a look at these issues at that time.

H3817 The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO) to the amendment offered by the gentleman from Montana (Mr. BAUCUS).

H3817 The amendment to the amendment was rejected.

H3817 The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. BAUCUS).

H3817 The question was taken; and on a division (demanded by Mr. BAUCUS) there were - ayes 26, noes 41.

H3817 RECORDED VOTE

H3817 Mr. BAUCUS. Mr. Chairman, I demand a recorded vote.

H3817 A recorded vote was ordered.

H3817 The vote was taken by electronic device, and there were - ayes 170, noes 149, answered "present" 1, not voting 113, as follows:

H3817 [Roll No. 171]

H3817 AYES - 170

H3817 Akaka

H3817 Allen

H3817 Ambro

H3817 Ammerman

H3817 Anderson, Calif.

H3817 Anderson, Ill.

H3817 Applegate

H3817 Badillo

H3817 Baldus

H3817 Baucus

H3817 Beard, R.I.

H3817 Bedell

H3817 Beilenson

H3817 Benjamin

H3817 Bennett

H3817 Bingham

H3817 Blanchard

H3817 Blouin

H3817 Bolling

H3817 Bonior

H3817 Brademas

H3817 Brodhead

H3817 Broomfield

H3817 Brown, Calif.

H3817 Burgener

H3817 Burke, Mass.

H3817 Burton, John

H3817 Burton, Phillip

H3817 Byron

H3817 Carney

H3817 Carr

H3817 Cohen

H3817 Coleman  
H3817 Conte  
H3817 Conyers  
H3817 Corman  
H3817 Cornell  
H3817 Cornwell  
H3817 Coughlin  
H3817 Danielson  
H3817 Dellums  
H3817 Diggs  
H3817 Dingell  
H3817 Drinan  
H3817 Eckhardt  
H3817 Edgar  
H3817 Edwards, Calif.  
H3817 Emery  
H3817 Ertel  
H3817 Fascell  
H3817 Enwick  
H3817 Fisher  
H3817 Fowler  
H3817 Gammage  
H3817 Gephardt  
H3817 Giaimo  
H3817 Gibbons  
H3817 Glickman  
H3817 Goldwater  
H3817 Gonzalez  
H3817 Gore

H3817 Hagedorn  
H3817 Hamilton  
H3817 Hanley  
H3817 Hannaford  
H3817 Harris  
H3817 Hawkins  
H3817 Heckler  
H3817 Hightower  
H3817 Hollenbeck  
H3817 Holtzman  
H3817 Howard  
H3817 Hughes  
H3817 Jacobs  
H3817 Jeffords  
H3817 Kasten  
H3817 Kastenmeier  
H3817 Kazen  
H3817 Keys  
H3817 Kildee  
H3817 Kostmayer  
H3817 Krebs  
H3817 Lagomarsino  
H3817 Le Fante  
H3817 Lehman  
H3817 Levitas  
H3817 Lloyd, Calif.  
H3817 Long, Md.  
H3817 Luken

H3817 Lundine  
H3817 McCloskey  
H3817 McDade  
H3817 McHugh  
H3817 Madigan  
H3817 Maguire  
H3817 Markey  
H3817 Mattox  
H3817 Mikulski  
H3817 Mikva  
H3817 Miller, Calif.  
H3817 Miller, Ohio  
H3817 Mineta  
H3817 Mitchell, Md.  
H3817 Mitchell, N.Y.  
H3817 Moffett  
H3817 Mollohan  
H3817 Mottl  
H3817 Myers, Gary  
H3817 Neal  
H3817 Nedzi  
H3817 Nichols  
H3817 Nolan  
H3817 Nowak  
H3817 Oakar  
H3817 Oberstar  
H3817 Obey  
H3817 Ottinger  
H3817 Panetta

H3817 Pattison  
H3817 Pease  
H3817 Pepper  
H3817 Perkins  
H3817 Pike  
H3817 Pressler  
H3817 Pursell  
H3817 Rahall  
H3817 Reuss  
H3817 Richmond  
H3817 Rinaldo  
H3817 Rodino  
H3817 Rogers  
H3817 Rosenthal  
H3817 Rostenkowski  
H3817 Roybal  
H3817 Russo  
H3817 Ryan  
H3817 Scheuer  
H3817 Schroeder  
H3817 Seiberling  
H3817 Sharp  
H3817 Sikes  
H3817 Simon  
H3817 Skelton  
H3817 Slack  
H3817 Solarz  
H3817 Spellman

H3817 Staggers  
H3817 Steers  
H3817 Stokes  
H3817 Studds  
H3817 Thompson  
H3817 Traxler  
H3817 Tsongas  
H3817 Tucker  
H3817 Udall  
H3817 Ullman  
H3817 Van Deerlin  
H3817 Vander Jagt  
H3817 Vanik  
H3817 Vento  
H3817 Weaver  
H3817 Weiss  
H3817 Whalen  
H3817 Wilson, Bob  
H3817 Wilson, Tex.  
H3817 Wirth  
H3817 Wolff  
H3817 Wylie  
H3817 Yates  
H3817 Young, Mo.  
H3817 NOES - 149  
H3817 Alexander  
H3817 Andrews, N.C.  
H3817 Andrews, N.C.  
H3817 Andrews, N.Dak.

H3817 Annunzio  
H3817 Archer  
H3817 Armstrong  
H3817 Ashbrook  
H3817 Bauman  
H3817 Bevill  
H3817 Bowen  
H3817 Breckinridge  
H3817 Brown, Ohio  
H3817 Broyhill  
H3817 Buchanan  
H3817 Burleson, Tex.  
H3817 Burlison, Mo.  
H3817 Butler  
H3817 Caputo  
H3817 Carter  
H3817 Clausen, Don H.  
H3817 Clawson, Del  
H3817 Cochran  
H3817 Collins, Tex.  
H3817 Conable  
H3817 Corcoran  
H3817 D'Amours  
H3817 Danlel, Dan  
H3817 Danlel, R.W.  
H3817 de la Garza  
H3817 Dent  
H3817 Derwinski

H3817 Devine  
H3817 Dickinson  
H3817 Dicks  
H3817 Dornan  
H3817 Duncan, Oreg.  
H3817 Duncan, Tenn.  
H3817 Edwards, Ala.  
H3817 Edwards, Okla.  
H3817 English  
H3817 Erlenborn  
H3817 Evans, Colo.  
H3817 Evans, Del.  
H3817 Fary  
H3817 Findley  
H3817 Flipppo  
H3817 Flood  
H3817 Flowers  
H3817 Flynt  
H3817 Foley  
H3817 Ford, Tenn.  
H3817 Fountain  
H3817 Frey  
H3817 Gaydos  
H3817 Ginn  
H3817 Goodling  
H3817 Grassley  
H3817 Gudger  
H3817 Guyer  
H3817 Hall

H3817 Hansen  
H3817 Hillts  
H3817 Holt  
H3817 Hubbard  
H3817 Huckaby  
H3817 Hyde  
H3817 Jenkins  
H3817 Jenrette  
H3817 Johnson, Calif  
H3817 Johnson, Colo.  
H3817 Jones, N.C.  
H3817 Jones, Okla.  
H3817 Jordan  
H3817 Kelly  
H3817 Kemp  
H3817 Kindness  
H3817 LaFalce  
H3817 Leach  
H3817 Lederer  
H3817 Lloyd, Tenn.  
H3817 Long, La.  
H3817 Lott  
H3817 McClory  
H3817 McCormack  
H3817 McDonald  
H3817 McFall  
H3817 McKinney  
H3817 Mann

H3817 Marks  
H3817 Marlenee  
H3817 Marriott  
H3817 Martin  
H3817 Meeds  
H3817 Michel  
H3817 Minish  
H3817 Moore  
H3817 Moorhead, Pa.  
H3817 Moss  
H3817 Murphy, Pa.  
H3817 Murtha  
H3817 Myers, Michael  
H3817 Myers, Ind.  
H3817 Natcher  
H3817 Nix  
H3817 O'Brien  
H3817 Patten  
H3817 Pettis  
H3817 Poage  
H3817 Quie  
H3817 Quillen  
H3817 Regula  
H3817 Rhodes  
H3817 Risenhoover  
H3817 Robinson  
H3817 Roncalio  
H3817 Rudd  
H3817 Runnels

H3817 Santini  
H3817 Satterfield  
H3817 Schulze  
H3817 Shipley  
H3817 Shuster  
H3817 Sisk  
H3817 Skubitz  
H3817 Smith, Iowa  
H3817 Smith, Nebr.  
H3817 Spence  
H3817 Stangeland  
H3817 Stanton  
H3817 Stump  
H3817 Symms  
H3817 Thone  
H3817 Tonry  
H3817 Treen  
H3817 Tribble  
H3817 Waggonner  
H3817 Walker  
H3817 Walsh  
H3817 Wampler  
H3817 Watkins  
H3817 White  
H3817 Whitley  
H3817 Whitten  
H3817 Wiggins  
H3817 Winn

H3817 Yatron  
H3817 Young, Fla.  
H3817 Young, Tex.  
H3817 Zablocki  
H3817 ANSWERED "PRESENT" - 1  
H3817 Bafalis  
H3817 NOT VOTING - 113  
H3817 Abdnor  
H3817 Addabbo  
H3817 Ashley  
H3817 Aspin  
H3817 AuCoin  
H3817 Badham  
H3817 Barnard  
H3817 Beard, Tenn.  
H3817 Biaggi  
H3817 Boggs  
H3817 Boland  
H3817 Bonker  
H3817 Breaux  
H3817 Brinkley  
H3817 Brooks  
H3817 Brown, Mich.  
H3817 Burke, Calif.  
H3817 Burke, Fla.  
H3817 Cavanaugh  
H3817 Cederberg  
H3817 Chappell  
H3817 Chisholm

H3817 Clay  
H3817 Cleveland  
H3817 Collins, Ill.  
H3817 Cotter  
H3817 Crane  
H3817 Davis  
H3817 Delaney  
H3817 Derrick  
H3817 Dodd  
H3817 Downey  
H3817 Early  
H3817 Eilberg  
H3817 Evans, Ga.  
H3817 Evans, Ind.  
H3817 Fish  
H3817 Fithian  
H3817 Florio  
H3817 Ford, Mich.  
H3817 Forsythe  
H3817 Fraser  
H3817 Frenzel  
H3817 Fuqua  
H3817 Gilman  
H3817 Gradison  
H3817 Hammerschmidt  
H3817 Harkin  
H3817 Harrington  
H3817 Harsha

H3817 Hefner  
H3817 Heftel  
H3817 Holland  
H3817 Horton  
H3817 Ichord  
H3817 Ireland  
H3817 Jones, Tenn.  
H3817 Ketchum  
H3817 Koch  
H3817 Krueger  
H3817 Latta  
H3817 Leggett  
H3817 Lent  
H3817 Lujan  
H3817 McEwen  
H3817 McKay  
H3817 Mahon  
H3817 Mathis  
H3817 Mazzoli  
H3817 Metcalfe  
H3817 Meyner  
H3817 Milford  
H3817 Moakley  
H3817 Montgomery  
H3817 Moorhead, Calif.  
H3817 Murphy, Ill.  
H3817 Murphy, N.Y.  
H3817 Patterson  
H3817 Pickle

H3817 Preyer  
H3817 Price  
H3817 Pritchard  
H3817 Quayle  
H3817 Railsback  
H3817 Rangel  
H3817 Roberts  
H3817 Roe  
H3817 Rooney  
H3817 Rose  
H3817 Rousselot  
H3817 Ruppe  
H3817 Sarasin  
H3817 Sawyer  
H3817 Sebelius  
H3817 Snyder  
H3817 St Germain  
H3817 Stark  
H3817 Steed  
H3817 Steiger  
H3817 Stockman  
H3817 Stratton  
H3817 Taylor  
H3817 Teague  
H3817 Thornton  
H3817 Volkmer  
H3817 Walgren  
H3817 Waxman

H3817 Whitehurst

H3817 Wilson, C.H.

H3817 Wright

H3817 Wydler

H3817 Young, Alaska

H3817 Zeferetti

H3817 The Clerk announced the following pairs:

H3817 On this vote:

H3817 Mr. Addabbo for, with Mr. Teague against.

H3817 Mr. Volkmer for, with Mr. Montgomery against.

H3817 Mr. Heftel for, with Mr. Eilberg against.

H3817 Mr. Rangel for, with Mrs. Boggs against.

H3817 Mr. Boland for, with Mr. Jones of Tennessee against.

H3817 Mr. Zeferetti for, with Mr. Price against.

H3817 Mr. Cotter for, with Mr. Roberts against.

H3817 Messrs. LOTT, FLOWERS, and FLIPPO changed their vote from "aye" to "no."

H3817 Mr. ERTEL changed his vote from "no" to "aye."

H3817 So the amendment was agreed to.

H3817 The result of the vote was announced as above recorded.

H3817 AMENDMENT OFFERED BY MR. SEIBERLING

H3817 Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

H3817 The Clerk read as follows:

H3817 Amendment offered by Mr. SEIBERLING: Beginning on line 23, page 302, through line 2, page 303, delete subsection (e).

H3817 Also, on page 303, line 7, in lieu of the word "last", put the word "first".

H3817 Also on line 7, page 303, delete the word "above" and insert "required by subsection (a)".

H3817 Also on lines 15 and 16, page 303, delete the phrase "twice a week for two consecutive

weeks" and replace with the following phrase: "at least one week in advance of the date of the hearing."

{H3818} } Mr. BAUCUS. Mr. Chairman, will the gentleman yield?

H3818 Mr. SEIBERLING. I yield to the gentleman from Montana.

H3818 (Mr. BAUCUS asked and was given permission to revise and extend his remarks.)

H3818 [Mr. BAUCUS addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3818 Mr. SEIBERLING. Mr. Chairman, this is a very simple amendment. It is one that is aimed at simplifying procedures that mine operators have to go through with respect to bond release.

H3818 On page 302 of the bill, subsection (e) provides that before a decision is made to release an operator from a bond the regulatory authority must notify the municipality in which the coal mining operation is located by certified mail at least 30 days prior to the release of all or a portion of the bond.

H3818 It seems to me that that is an unnecessary procedure. The municipality is already required to be notified of the proposed bond release when the application is made for release, and from that point on it can follow the matter if it so desires. There is no need for adding a further 30 days delay, which only costs money.

H3818 Second, this would change the requirement that any person with a valid legal interest be notified of this proposed release 30 days after the last publication of the notice of the original application for release to 30 days after the first publication, and this saves about 10 days of additional time.

H3818 Finally, section (3)(f) on page 303 would require that public hearings, if they have to be held on the proposed release of the bond, instead of being advertised, as the committee print now requires, twice a week for 2 consecutive weeks, which means additional delay, would simply have to be advertised at least 1 week in advance of the date of the hearing.

H3818 Mr. Chairman, I believe that the Members want to see this provision further streamlined as far as redtape is concerned, and I believe they will want to support this amendment.

H3818 Mr. MURPHY of Pennsylvania. Mr. Chairman, will the gentleman yield?

H3818 Mr. SEIBERLING. I yield to the gentleman from Pennsylvania, who I understand has a different approach.

H3818 Mr. MURPHY of Pennsylvania. Mr. Chairman, I thank the gentleman from Ohio for yielding.

H3818 Mr. Chairman, the gentleman from Ohio (Mr. SEIBERLING) has introduced an amendment which in part will make it more palatable for the release or partial release of bonding. However, I do not believe he goes far enough to make it expeditious.

H3818 I would, therefore, like to offer a substitute amendment for his amendment and then explain the ramifications of my substitute.

H3818 The CHAIRMAN. Does the gentleman from Ohio (Mr. SEIBERLING) yield back his time?

H3818 Mr. SEIBERLING. Mr. Chairman, I yield back the balance of my time.

H3818 AMENDMENT OFFERED BY MR. MURPHY OF PENNSYLVANIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SEIBERLING

H3818 Mr. MURPHY of Pennsylvania. Mr. Chairman, I offer an amendment as a substitute for the amendment.

H3818 The Clerk read as follows:

H3818 Amendment offered by Mr. MURPHY of Pennsylvania as a substitute for the amendment offered by Mr. SEIBERLING: Section 519(a), page 300 lines 4 through 22: Commencing on line 4 with the work "within" delete the remaining section in its entirety through line 22, and insert the following: "As a part of any bond release application, the applicant shall submit a copy of a letter which he has sent to the property owners, whose surface was affected and to the appropriate local governmental body, notifying them of his intention to seek release from the bond."

H3818 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

H3818 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3818 There was no objection.

H3818 Mr. MURPHY of Pennsylvania. Mr. Chairman, the substance of my amendment is to adopt the Pennsylvania plan for the returning of bonds following the reclamation of land.

H3818 We have found over several years of experience that we have many small operators and they are doing a very good job of mine reclamation. When they apply to the Pennsylvania Department of Mines Bureau of Reclamation for a return of their bond in whole or in part, the inspector from the State goes out and views the site in accordance with their application. If the State inspectors are satisfied that reclamation has been fully complied with, the department then may order a refund of the bond and allow that miner, who is usually a small operator, to proceed then with his next application.

H3818 We have found that bonds are extremely difficult to get. Only the good operators are able to be bonded in Pennsylvania.

H3818 Only the good operators secure a release of their bond from our Bureau of Reclamation.

H3818 Mr. Chairman, this is the way it should be. However, the way the bill is presently drafted, it has a very, very cumbersome procedure in it that could stretch out from a minimum of 60 days to a maximum of 3 months to 100 days before that operator could receive the return of any part of his bond, thus precluding him from entering into the next job, because he has a certain limitation of the size or amount of the bond that he may secure.

H3818 Mr. Chairman, the way the bill is presently drafted, any person with a "valid interest" may object after the cumbersome procedure, causing a mandatory public hearing by the regulatory authority.

H3818 It is our belief in Pennsylvania and it is the belief of our Bureau of Reclamation that this will add a tremendous burden to the Bureau by frivolous objections being made, perhaps by competing operators, perhaps by people from across the State who have no interest or from people across the country who have no interest, thus mandating public hearings that our Bureau must hold.

H3818 Mr. Chairman, I remind my colleagues that under this bond provision in section 515 the regulatory authority must retain a portion of the bond for upward of 5 years so that revegetation can

be secured. I am not so sure whether I agree that the 5-year period of time is necessary, particularly in Pennsylvania; but that is thought to be a safeguard in the bill.

H3818 Mr. Chairman, we feel that the cumbersome process set forth in this section before a bond may be returned will totally eliminate every small operator in the Commonwealth of Pennsylvania.

H3818 Let me tell my good colleague here that our experience with the small operators has been the best experience. They are the ones who are going out and competing for a lease on that farm next month and on that adjoining farm the following month. They know what they are doing. They know their work, and they know they must satisfy our Bureau of Reclamation or they will not be reissued a mining permit.

H3818 Our experience in Pennsylvania has been a good one, and we plead with the Members not to encumber us with this cumbersome section.

H3818 Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

H3818 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

H3818 Mr. UDALL. Mr. Chairman, this section deals with a very important process, and that is the final moment when the revegetation has occurred, the 5 years have passed, and the last portion of the bond is about to be released.

H3818 Mr. Chairman, one of the big objections of people in the coal mining areas has been that at that point where we have the last remaining leverage on the operator, there has not been public participation. There is not a chance to make a case that an adequate reclamation job has not been done.

H3818 Mr. Chairman, we took a good, hard look at the Pennsylvania procedure. In the bill we have adopted a procedure including an informal conference, which can be used in lieu of public hearings. This is the Pennsylvania practice. We put in a strict time limitation at the instigation of the Pennsylvania operators.

H3818 Mr. Chairman, the amendment of the gentleman from Ohio (Mr. SEIBERLING) goes a little bit further to meet the legitimate concerns expressed by the gentleman from Pennsylvania (Mr. MURPHY), a very valuable member of our committee.

H3818 Therefore, Mr. Chairman, I think we would have a balanced bill and a balanced provision with respect to bond release if we would defeat the Murphy substitute and adopt the Seiberling amendment.

H3818 Mr. GOODLING. Mr. Chairman, will the gentleman yield?

{H} } 3819 Mr. UDALL.I yield to the gentleman from Pennsylvania.

H Mr. GOODLING. Mr. Chairman, I would ask the gentleman, Does any State have a better history of reclamation than the State of Pennsylvania?

H Mr. UDALL. No.

H Mr. GOODLING. Then why should we do anything differently from what we are presently doing? If we have done so well, why could we not just model the bill after Pennsylvania?

H Mr. UDALL. We are writing a national bill. There are variations in the situation around the country. We are trying to write a bill to serve the needs of all of the States.

H Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

H Mr. UDALL. I yield to the gentleman from Ohio.

H Mr. SEIBERLING. Mr. Chairman, first of all, I want to emphasize that I understood the chairman is not opposing my amendment. He is opposing the substitute to my amendment.

H Second, I want to comment on the questions just raised. We are dealing with a concept here that involves due process of law. The amendment of the gentleman from Pennsylvania (Mr. MURPHY) would say that the only people that need to be notified of an application for a bond release are the property owners whose surface is affected and the appropriate local government body. It does not even specify what sort of time and advance notice they are going to give and who are the property owners affected by the improper and premature release of bonds. The inability to correct a possible slide or water pollution can affect people downstream for many miles. It could affect people in areas far beyond the location of the immediate property owners.

H Therefore, Mr. Chairman, what our bill does is to say that any party with a valid legal interest - and I stress "a valid legal interest" - can request a hearing.

H That does not mean he is going to get a delay. It does not mean that he is going to be able to

hold up the release of the bond.

H But at least the regulatory authority should grant that person the right to be heard. The regulatory authority under the bill could decide that the request was frivolous, or that he did not have a valid legal interest, and that would dispose of it then and there. But, certainly, anyone who does have a valid legal interest should have the right to be heard. Indeed, I believe the Constitution guarantees that right, as a matter of due process of law.

H Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield, I believe that basically what we are being presented with here today is a bill to control the application of strip mining and its impact on the environment. In other sections of the bill there are other provisions that if, in fact, a State is not doing its job properly, then they can be taken to court or the Federal Government can come in and inflict certain controls on them. So that if a State has a pattern of giving the bond money back too soon, and where the basic law is not being adhered to, that can be handled. I repeat if, in fact, there is such a pattern that a State is releasing the bond money too early and not requiring the law to be abided by, that there is, in fact, such protection in this bill already.

H All we are talking about in this particular instance is how do we get a small operator back into the position where he can go out and start another operation?

H I agree that if, in fact, any State is not handling their responsibilities correctly that that should be corrected, but why hold it over the head of the small operators? That is what we are doing here.

H Mr. SEIBERLING. Suspending a State's program for control of strip mining just because certain people are affected by premature bond release is like using an elephant gun to swat a fly. That is not the way to do it. Let us set up a procedure that makes sense, a procedure whereby we give anyone having a legitimate interest the opportunity to be heard. Then we will not have all these environmental lawsuits that bother some people so much.

H Mr. GARY A. MYERS. Mr. Chairman, I move to strike the requisite number of words.

H (Mr. GARY A. MYERS asked and was given permission to revise and extend his remark.)

H Mr. GARY A. MYERS. Mr. Chairman, I think it is essential that I emphasize one thing. The

gentleman from Ohio said something about it is like hitting something with an elephant. I did not understand exactly what the gentleman said.

H Mr. SEIBERLING. I said it is like using an elephant gun to swat a fly.

H Mr. GARY A. MYERS. I thank the gentleman from Ohio for his characteristic explanation.

H The problem we are confronted with simply is this: We ask for a bond to be set aside so that the State can have leverage to make sure the cleanup job is done correctly. The bill already provides that the States have to make sure that certain criteria are fulfilled. But, if there is a pattern in any State along the line of the surveillance of this act which is not working properly, then they can be sued.

H Mr. GOODLING. Mr. Chairman, if the gentleman will yield, the gentleman from Arizona (Mr. UDALL) talks about the delicate balance. I might say, Mr. Chairman, that I supported the bill before and supported overriding the Presidential veto, but it would appear, in fact, now, that we are trying to put the small operators in Pennsylvania out of business, where strip mining is a very difficult job and a very expensive business, and this at a time when we need all of the energy that we can get, and in a State like Pennsylvania where coal gasification is moving ahead rapidly, and I do not believe we should do that.

H Mr. UDALL. Mr. Chairman, if the gentleman will yield, I do not know where this great issue came from, or who is stirring this up. We had a worse provision and a stronger position than this in the bill 2 years ago and in the bill 4 years ago and at the instigation of the Pennsylvania operators, I sat down with them and we made about three additional concessions in the bill.

H Now we are being told that the last 10 percent of the bond release, that, somehow, that is the most critical. What is going on?

H Mr. GOODLING. Because the energy situation has become critical.

H Mr. GARY A. MYERS. I believe this is an unnecessary part of the bill and places an undue burden because the rest of the bill actually provides the protection in law that we want. The only question here is whether or not the States have an expeditious procedure for getting the money back to the small operators who really depend upon the bond issue release more than the large operators.

H Mr. DENT. Mr. Chairman, I move to strike the last word.

H I just want to say it is true that the chairman of the committee spoke with some of the coal operators. I am speaking for the State of Pennsylvania's government. I am speaking for the DER and the Surface Mining Bureau of the State of Pennsylvania.

H We had this hit-or-miss situation in Pennsylvania for many years. Sometimes we were held up as much as a year trying to get a bond released. The situation is very simple. We have to bond every acre of coal land that we are going to strip, from \$1,000 to \$3,500 per acre. One a 100-acre plot the bonding costs \$350,000. In order to be able to afford that we have to cut our operation up in such a manner that we can bond 20 acres, never more than 20 percent of the acreage we are going to strip. As we proceed with the stripping we follow with the reclamation.

H When we are within two or three acres of finishing that particular strip operation, the DER sends their man in to the scene and inspects it, the bonding agent is called to the scene, and the operator and the owner are called to the scene, and the municipal officials are called to the scene. They agreed that the reclamation has been done as required by law. They can relieve the bonding necessity on the number of acres that have been approved. The operator then turns around and bonds that many more acres ahead.

H Members must understand we are talking about something that has never been done before anywhere else in any stripping area in the country, and the bonding is based upon the overburden or what many people call high wall or the highest amount they have taken. The \$1,000 an acre is all we charge for a 5-foot overburden, but when they get to 150 feet of overburden it goes up to \$3,500.

H In that particular instance we must understand we also have a very strict law as to how much high wall can be exposed at one time. We allow only 400 feet of high wall to be exposed at one time. They must never have unreclaimed more than 500 feet of high wall.

H But when we get into this situation of paying \$3,500 for retrieving, remember there are 3 to 5 tons of coal per acre-foot. If we are at the limit we can get in our areas at home, which is about 5 feet, and that is really good high coal, and they are taking up a 150-foot overburden, they are retrieving 750 tons of coal per acre. They are only getting out 250 tons of coal out of that particular split and taking off 350.

{H} } 3820 Out in the West they take out there, incidentally, at a mine that is operating that has no more than 150 feet of overburden, they have got it developed, it is known, and they have 30 feet of coal that they can take out.

H But there is no feature in this bill whatsoever for bonding the reclamation part. If this bill supersedes the Pennsylvania law our operators cannot be forced to put a \$1,000 or \$3,500 bond on their operation.

H Where is the bonding feature? What guarantee are we going to have? If we have that kind of a bonding feature, and they have admitted we have the best reclamation program in the whole country, it is better than any country that has strip mining. I have seen strip mining in South Africa. I have seen strip mining in Rhodesia. I have seen strip mining in England and I have seen strip mining in Czechoslovakia. None of these countries have any law like what we have. I defy anybody to ride over the State of Pennsylvania and see two hills anywhere together, one that has been reclaimed by reclamation and the other that has not.

H The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

H (By unanimous consent, Mr. DENT was allowed to proceed for 2 additional minutes.)

H Mr. DENT. Mr. Chairman, one has been reclaimed and the other has not. I defy anybody to tell me the hill that has been mined and which has not. I can tell, because the greener grass, the taller corn, is growing on land we have reclaimed.

H All I ask this House to do is leave us alone. Let us go our way. It took us from 1947 to 1968.

H I am also going to ask the chairman if the gentleman will accept an amendment to allow Pennsylvania to get back its \$5 00 million bonded in 1968 to reclaim the old mines, not coal mines, but old coal mines. We are going to take money out of my State for reclamation and reclaim old coal mines. This House is not going to allow us to pay back the State of Pennsylvania the \$5 00 million still owed at a high rate of interest and the taxes for our obligation.

H I will offer that amendment, if the gentleman from Arizona will accept it.

H Mr. UDALL. Mr. Chairman, if the gentleman will yield, I do not see how I could accept that in

fairness to the other States, some of which have done reclamation, but none of which have done as good a job as the State of Pennsylvania.

H Mr. DENT. All right, make it for any State that has a bonded indebtedness. Why are we going back and taking coal mines that have made no contribution to this? Why are we going back to reclaim those old mines? We reclaimed some of ours. We tried to make ours the prettiest State in the Union, as it once was, and we will if this House will let us alone.

H Mr. Chairman, I am asking again, will the gentleman from Arizona accept that? What is the gentleman from Arizona (Mr. UDALL) doing in this bill? Is this a reclamation bill?

H By the way, I want it clearly understood, I have been told right on this floor by a member of the staff of the gentleman from Arizona (Mr. UDALL) that the environmentalists are against our position. The Governor of the State of Pennsylvania and the Pennsylvania environmentalists have informed me they are for our position.

H Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and amendments thereto close in 5 minutes.

H The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H There was no objection.

H The CHAIRMAN. Members standing at the time the motion was made will be recognized for three-quarters of a minute each.

H The Chair recognizes the gentleman from Pennsylvania (Mr. ERTEL).

H (By unanimous consent, Messrs. ERTEL and MURTHA yielded their time to Mr. MURPHY of Pennsylvania.)

H (Mr. MURPHY of Pennsylvania asked and was given permission to revise and extend his remarks.)

H Mr. MURPHY of Pennsylvania. Mr. Chairman, I just want to reiterate that my amendment does not weaken the reclamation portions of this bill. In fact, it does not touch it. This bill provides for a strong water and land reclamation program in every State, including my own, and I am in favor of and support those provisions.

H This bill, including my amendment, requires a doubling of the bond now posted in Pennsylvania and restricts the return of that bond for up to 5 years and only 60 percent of it can be returned upon land backfill reclamation. All those procedures are contained and left by my amendment. The property owners must be notified. The municipality must be notified. The regulatory authority must fully inspect and guide. All these things my amendment does. It does not weaken the bill in one iota.

H Mr. MURTHA. I would like to commend the chairman and the members of the committee who have done such an outstanding job on this particular piece of legislation. I think we can refine it a little better by accepting the Murphy of Pennsylvania amendment.

H The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

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

H Mr. SEIBERLING. Mr. Chairman, the issue is really very simple. My amendment cuts the time for the bond release and eliminates some of the redtape. What Mr. MURPHY'S amendment would do would be to prevent notice being given to any other interested party except the property owner. I submit that would violate due process of law.

H The bill says any person with a valid legal interest is entitled to notice, and I think under the Constitution he would be declared to have a right to have that. So, why take away that and raise a constitutional objection? The bill, as amended by my amendment, does not produce any greater delay, but merely provides that other people have a right to notice. The regulatory authority can find that their request is frivolous, and that they do not have a valid legal interest, and that would dispose of the matter; but if they do have such an interest they should be entitled to be heard.

H The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. EDWARDS).

H (Mr. EDWARDS of Oklahoma asked and was given permission to revise and extend his remarks.)

H Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of the remarks of the gentleman from Pennsylvania (Mr. DENT). I think Mr. DENT had a very good point when he

pointed out the problem of this bill is that it is not just a reclamation bill, as the Members have been led to believe, but goes far beyond reclamation, and that, Mr. Chairman, is why I am going to oppose this bill.

H (By unanimous consent Mr. EDWARDS of Oklahoma yielded the balance of his time to Mr. BAUMAN).

H The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

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

H Mr. BAUMAN. Mr. Chairman, I rise in support of the Murphy amendment. I am glad to see, as a result of the debate occurring here, that many of the Members who do not serve on the Interior Committee now perceive the extent to which many of the bill's provisions apply. This particular provision ought to be stricken since it will work great hardship on small coal companies.

H Members have to understand one basic premise: The reason the big coal companies, the multinational corporations run by the oil companies, are not hollering too loudly against this bill is that they have the hundreds of millions of dollars which will be necessary, in many instances, to comply with the provisions of this bill. What we see here are provisions which are going to strike hard at the small companies with small capitalization, who cannot afford these bonds for extended periods of time.

H I honestly believe that a broad effort has been made by the drafters of this bill to deal small companies out of the business simply because, many times, they have been the most offensive environmentally.

H I do not happen to agree with this. I think we can bring them up to environmental standards, but this is one small help we might give to many small businesses processing a great deal of coal. Incidentally, they are providing a lot of jobs for people, and we do not want to see them unemployed.

H Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

H Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

H Mr. COUGHLIN. Mr. Chairman, I rise in support of the Murphy amendment. I think it is

important to recognize that there are differences in mining in different parts of the country.

{H3821} The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. LONG).

H3821 (Mr. LONG of Maryland asked and was given permission to revise and extend his remarks.)

H3821 Mr. LONG of Maryland. Mr. Chairman, I'd like to ask a question of the author of the amendment. Could he give some idea of what his amendment would mean financially, in terms of saving per ton?

H3821 Mr. MURPHY of Pennsylvania. If the gentleman will yield, I have not made a financial estimate of that.

H3821 Mr. LONG of Maryland. Just approximately.

H3821 Mr. MURPHY of Pennsylvania. It unquestionably could cost far more per ton of coal if we have to go through the cumbersome proceedings before an operator -

H3821 Mr. LONG of Maryland. What does the gentleman mean, "far more"? Does he mean \$1; \$10?

H3821 Mr. MURPHY of Pennsylvania. No, it certainly would not be a dollar. I would say somewhat less than a dollar. The biggest thing is that it would cause the doubling of our Pennsylvania Bureau of Reclamation in staff personnel, and time in processing the paperwork.

H3821 Mr. LONG of Maryland. If the saving is less than a dollar per ton I find it hard to be impressed.

H3821 The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

H3821 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

H3821 Mr. DENT. Mr. Chairman, will the gentleman yield?

H3821 Mr. UDALL. I yield to the gentleman from Pennsylvania (Mr. DENT).

H3821 Mr. DENT. I thank the gentleman for yielding.

H3821 Mr. Chairman, I just want to say that over 80 percent of the coal mined in Pennsylvania by strip mining is mined in plots of less than 100 acres.

H3821 Mr. UDALL. Mr. Chairman, Pennsylvania has the best law, it does the best job. In fact, the bond release program, a minor part of H.R. 2, is modeled on Pennsylvania.

H3821 We have gone the extra mile. We have adopted about nine features of the Pennsylvania plan, and the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) adopts a couple more features.

H3821 I am for the small operator. I have stood on this hill in this photograph with those 35-degree slopes. The small operators are the ones who are doing a good job. I stood on the hill over here in West Virginia in this other photo. This operation is a subsidiary of Pittston, one of the largest companies in the world.

H3821 The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURPHY) as a substitute for the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

H3821 The question was taken; and on a division (demanded by Mr. UDALL) there were - ayes 35, noes 20.

H3821 So the amendment offered as a substitute for the amendment was agreed to.

H3821 The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING), as amended.

H3821 The amendment, as amended, was agreed to.

H3821 AMENDMENT OFFERED BY MR. WAMPLER

H3821 Mr. WAMPLER. Mr. Chairman, I offer an amendment.

H3821 The Clerk read as follows:

H3821 Amendment offered by Mr. WAMPLER: On Page 227, following line 3, strike the period at the end of line 3 and add the following language, renumbering succeeding subsections accordingly; "except as provided in subsection (d).

H3821 "(d) All existing surface coal mining operations producing 250,000 tons or less per year on lands on which such operations are regulated by a State shall be allowed 30 months from the date of enactment of this Act to comply with the provisions of section 515 of this Act."

H3821 (Mr. WAMPLER asked and was given permission to revise and extend his remarks.)

H3821 Mr. WAMPLER. Mr. Chairman, under subsection (c) of section 502 of H.R. 2, as it is presented to us, existing surface coal operations are given 9 months to comply with the environmental provisions of this act.

H3821 My amendment would give the small operations - and I classify and define a "small operation" as those producing 250,000 tons or less per year - additional time to comply with these provisions, or 30 months from the date of enactment of this bill.

H3821 Our small surface coal producers provide the largest percentage of our surface coal production in my State of Virginia. Many will most likely be forced out of business if H.R. 2 is enacted into law, as their financial resources for meeting the various provisions of the act required in this section are limited and they do not have the expertise necessary for the required tests and studies readily available.

H3821 Figures supplied to me by the Virginia Department of Conservation show that 13,873,000 tons of coal were obtained by surface methods in Virginia in 1976, and this included both strip mining and auger mining; 351 individual mine sites produced less than 250,000 tons, while only 3 individual sites produced in excess of 250,000 tons.

H3821 Of the companies involved in surface mining operations in Virginia, 248 had a production of less than 250 tons while only 34 had a production greater than 250,000 tons.

H3821 Mr. Chairman, very clearly, the bulk of our coal production comes from these small producers, the ones who will be hardest hit by the implementation of this act.

H3821 I simply ask in this amendment that we put them in a position which will hopefully keep them producing coal to meet our current and vital energy needs. If that is to happen, I feel this amendment is most necessary.

H3821 Mr. Chairman, in the hearings of the Legislative Committee there is a communication from the Governor of the Commonwealth of Virginia, the lieutenant governor, the attorney general, the commissioner of taxation, and the commissioner of employment, in which they state unequivocally from their study of H.R. 2 that it will have a substantial economic impact in Virginia.

It will result in substantial unemployment, and I would say to the committee that to the extent there is competition in the coal industry today in Virginia it is provided largely by the small, independent surface miners and operators.

H3821 A typical surface mining operation in my district would employ 10, 15, and perhaps 20 employees. In many cases they are family-type operations.

H3821 I say to the committee that an amendment of this type will at least give the small operators an opportunity to comply with what I consider to be overly restrictive and unnecessary provisions as contained in H.R. 2.

H3821 I am also advised that the President of the United States today sent his specific recommendations to the Congress to meet the energy goals that he has set for this country. I repeat what I said yesterday, that I think it is the height of inconsistency for the President to suggest on the one hand that we increase production of coal by two-thirds by the year 1985 and then support unnecessary legislation such as we have before us which will unquestionably make it more difficult and more costly to mine coal to meet the critical energy needs of this country.

H3821 Mr. Chairman, I think it is unfortunate that H.R. 2. the bill before us, has been written on the basis of what the several States did not do 10 years ago rather than on the basis of what they are doing now. My State of Virginia has recognized this problem. They passed a meaningful surface mining regulatory statute in 1966, and it has been twice amended. There are regulations pending which hopefully will be fully implemented by July of this year. I am asking in the name of equity that we adopt this amendment to help preserve competition, to help keep the price of coal at a reasonable level, to help the consumer, and to help those of us who believe that this Nation should once again become self-sufficient in energy.

H3821 Mr. Chairman, I ask for an aye vote on my amendment.

H3821 Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

H3821 Mr. Chairman, of all the amendments that have been considered in this debate, this provides the biggest loophole. It is the biggest "granddaddy" of them all.

H3821 Ineffect, what this amendment says - and mark it well - is that for 30 months, for 2 1/2 years, all of next year, the year after that, and the remainder of this year, these operators can go

ahead and do exactly what they are now doing.

H3821 I respect the gentleman from Virginia (Mr. WAMPLER), but in my judgment the State that has the furthest to go, the State that has made the least progress toward coming into modern methods of mining coal, is the State of Virginia.

H3821 These people down in southwest Virginia are determined that they are going to go ahead and do this as long as they can.

{H3822} } The amendment has one very basic defect. It says, "existing surface coal mining operations." It does not say, "operators." It says, "operations." We could have Consolidation Coal, the world's largest coal company, covered by this amendment, and as long as no single operation produced more than 250,000 tons of coal a year - and many of them do not - they are exempt. Under this amendment the big operators are exempted for 30 months as well.

H3822 Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

H3822 Mr. UDALL. I yield to the gentleman from Virginia.

H3822 Mr. WAMPLER. Mr. Chairman, would the gentleman accept a modification of the amendment if it were restricted to read, "operators?"

H3822 Mr. UDALL. I would say to the gentleman that would be an improvement. I do not want to be in the position of helping the gentleman clean up his amendment.

H3822 Mr. WAMPLER. But the gentleman will not support it even then?

H3822 Mr. UDALL.No. It would still give us the biggest loophole we have heard in this whole debate if this would occur. The committee defeated a similar amendment by a very large margin.

H3822 We do not have a very strong balance toward the environment in our committee; I do not believe it is even as strong as it is in the House as a whole.

H3822 Even if the change were made, the amendment would not fly. It would open the door; it would detract from the objectives of this bill. We would really be wiping this bill out for 30 months if we adopted this amendment.

H3822 Mr. Chairman, I hope the amendment will be defeated.

H3822 The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. WAMPLER).

H3822 The question was taken; and on a division (demanded by Mr. UDALL) there were - ayes 22, noes 27.

H3822 Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

H3822 A recorded vote was refused.

H3822 So the amendment was rejected.

H3822 AMENDMENT OFFERED BY MR. NOLAN

H3822 Mr. NOLAN. Mr. Chairman, I offer an amendment.

H3822 The Clerk read as follows:

H3822 Amendment offered by Mr. NOLAN: After line 24, add the following new sub-section (f) to section 522: (f), Page 319:

H3822 For five years following the date of enactment, no application for a permit or revision thereof shall be approved unless the applicant demonstrates that prime farmland does not comprise more than 15% of the surface area to be disturbed pursuant to an applicant's mining plan. Such demonstration shall be based upon soils maps and data verified for accuracy by the Secretary of Agriculture; provided that nothing in this subparagraph shall apply to any permit issued prior to April 1, 1977, or to any revisions or renewals thereof including those authorizing contiguous expansion of such permitted areas. Provided, however that the regulatory authority may, after consultation with the Secretary of Agriculture, and pursuant to regulations issued hereunder by the Secretary of Interior with the concurrence of the Secretary of Agriculture, grant a variance if the operator demonstrates and the regulatory authority finds on the basis of data relating to prime farmlands comparable to those covered by the permit application that the operator can restore the land affected to a condition at least fully capable of supporting the uses least fully capable of supporting prior to any mining. Within 60 days of the date of enactment, the Secretary of Agriculture shall publish a definition of "prime farmland" and a notification of methods for determination thereof. Within four years of the date of enactment, the Secretary of Agriculture shall conduct such research, experimentation and studies as are necessary to determine whether, and with what reclamation procedures, prime farmlands should be made available for surface mining operations and based thereon make appropriate recommendations to the President.

H3822 Mr. NOLAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

H3822 The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

H3822 Mr. BAUMAN. Mr. Chairman, I reserve the right to object.

H3822 Mr. NOLAN. Mr. Chairman, I can clarify the amendment for the gentleman.

H3822 Mr. BAUMAN. Mr. Chairman, I will yield to the gentleman from Minnesota (Mr. NOLAN) for that purpose.

H3822 Mr. NOLAN. Mr. Chairman, I thank the gentleman for yielding.

H3822 This is roughly the same amendment that was proposed by the gentleman from Vermont (Mr. JEFFORDS) and the gentleman from South Dakota (Mr. PRESSLER).

H3822 It does amend a different section of the bill, and it represents a modification in the amount of farmland that would trigger the special review procedure.

H3822 My purpose in offering the amendment at this point is not to delay the proceedings here in the Committee of the Whole.

H3822 I realize the matter has been fully debated. It is my hope that this modification of the amendment offered yesterday will make the amendment more acceptable and insure its favorable consideration.

H3822 The CHAIRMAN. Will the gentleman from Minnesota (Mr. NOLAN) suspend until we hear whether there is objection to further reading of the amendment?

H3822 Mr. BAUMAN. Mr. Chairman, if we are going to plow back over all of the same ground we plowed over yesterday when we defeated a similar amendment, we may stay here all day.

H3822 Mr. Chairman, I object.

H3822 Mr. SYMMS. Mr. Chairman, I reserve a point of order against the amendment.

H3822 The CHAIRMAN. The Clerk will read the amendment first.

H3822 The Clerk concluded the reading of the amendment.

H3822 The CHAIRMAN. Does the gentleman from Idaho (Mr. SYMMS) wish to press his point of order?

H3822 Mr. SYMMS. I do, Mr. Chairman, I reserve a point of order against the amendment.

H3822 The CHAIRMAN. The gentleman from Idaho (Mr. SYMMS) reserves a point of order against the amendment.

H3822 (Mr. NOLAN asked and was given permission to revise and extend his remarks.)

H3822 Mr. NOLAN. Mr. Chairman and members of the committee, it is not my intention at this point to further discuss the merits of the amendment. I think that they have been amply discussed and were amply discussed in the Committee of the Whole yesterday.

H3822 Mr. SYMMS. Mr. Chairman, will the gentleman yield at that point?

H3822 Mr. NOLAN. I will be glad to yield to the gentleman from Idaho.

H3822 Mr. SYMMS. Mr. Chairman, the gentleman from Minnesota says that they have been amply discussed in the Committee of the Whole. When was that?

H3822 Mr. NOLAN. Yesterday, because a similar amendment was offered at that time.

H3822 Mr. SYMMS. How similar was that amendment to this amendment?

H3822 Mr. NOLAN. It was exactly the same, with the exception of one modification. In offering the amendment. I would also like to ask for a recorded vote on it. We did not do so yesterday on the other amendment because we were trying to cooperate with the committee in its efforts to complete the proceedings yesterday without having to come back in for a session today. The committee having decided it wanted to come back in today, we decided to bring the amendment up, to modify it with the hope of getting additional support. In the amendment offered yesterday, the special review procedure was triggered when in excess of 10 percent of the land to be strip mined was established prime agricultural land. My amendment raises that triggering feature to 15 percent.

H3822 Mr. KAZEN. Mr. Chairman, will the gentleman yield?

H3822 Mr. NOLAN. I yield to the gentleman from Texas.

H3822 Mr. KAZEN. Mr. Chairman, do I understand the gentleman's amendment to provide that sometime in the future the Secretary would define what prime agricultural land is? Is that the provision in the gentleman's amendment?

H3822 Mr. NOLAN. It does provide for the involvement of the Secretary in a special review procedure for the prime agricultural land.

H3822 Mr. KAZEN. But my question is whether the definition of prime agricultural land is to be put off until some Secretary somewhere down the line defines what that term means. And the gentleman is asking the House of Representatives right now to vote on that proposition without knowing what is involved, what the definition of prime agricultural land is going to be?

H3822 Mr. JEFFORDS. Mr. Chairman, I believe the amendment is clear that the definition of prime agricultural land under the amendment and under the bill must be defined immediately or as soon thereafter as the Secretary can do it. It was my understanding the amendment does not postpone the definition of prime agricultural land at all.

H3822 Mr. NOLAN. Prime agricultural land is generally defined as land capable of producing sustained high yields of basic agricultural commodities.

{H3823} Mr. HUCKABY. Mr. Chairman, if the gentleman would yield, would the gentleman consider as prime agricultural land nothing but grass?

H3823 Mr. NOLAN. No.

H3823 Mr. HUCKABY. According to the definition in the bill today, as it defines prime agricultural land, it includes virtually everything except deserts.

H3823 Mr. NOLAN. No. I do not believe that to be the definition. And from everything I know about the definitions of the Secretary of Agriculture, it has not included those kinds of lands in the past.

H3823 Mr. HUCKABY. For example, it says with a Phenyl factor of 4.5. One cannot find land with more acidity than this.

H3823 Mr. JEFFORDS. The definition of prime agricultural land is very explicit. It sets out a definition, and actually the 1975 studies shall determine what prime agricultural land is, and it certainly can be improved and reviewed by additional studies under the regulatory provisions mandated by this bill with or without this amendment. But it certainly is not a broad and all-encompassing definition as some would like us to believe. All of the different sections of the country have been mapped. My own State has been mapped, and it is definable and it has to be

defined in this bill as it is now. You are raising a point that is not in this bill.

H3823 Mr. KAZEN. Mr. Chairman, will the gentleman yield for just one observation?

H3823 Mr. NOLAN. I yield to the gentleman from Texas.

H3823 Mr. KAZEN. Mr. Chairman, if that is true, why do we not put the definition in this bill, and let us not leave it to choice or to chance in the future?

H3823 The CHAIRMAN. The time of the gentleman from Minnesota has expired.

H3823 (On request of Mr. JEFFORDS, and by unanimous consent, Mr. NOLAN was allowed to proceed for 5 additional minutes.)

H3823 Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

H3823 Mr. NOLAN. I yield to the gentleman from Oklahoma.

H3823 Mr. EDWARDS of Oklahoma. Mr. Chairman, I would like to say to the gentleman from Vermont that despite his assurance, this amendment which I have before me says specifically that:

H3823 . . . the Secretary of Agriculture shall publish a definition of "prime farmland" and a notification of methods for determination thereof.

H3823 I do not agree that we know what prime farmland is. This amendment says specifically the Secretary of Agriculture will define it for us.

H3823 Mr. JEFFORDS. Mr. Chairman, will the gentleman yield on that point?

H3823 Mr. NOLAN. I yield to the gentleman from Vermont.

H3823 Mr. JEFFORDS. Mr. Chairman, obviously the term "prime agricultural land" implies what is meant by that and the Secretary of Agriculture does not have the authority in any law to go beyond the normal definitions but specifically he is to define it within the term used. I do not see any problem with this more than is already in the bill. Certainly it is regularly done with the regulatory agencies in order to make the law administrable.

H3823 Mr. NOLAN. The gentleman is quite correct.

H3823 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3823 Mr. NOLAN. I yield to the gentleman from Arizona.

H3823 Mr. UDALL. Mr. Chairman, I must say I share some of the distress that was mentioned by the gentleman from Maryland (Mr. BAUMAN) a while ago. Of all the amendments before us this amendments before us this amendment has had more discussion time today as well as yesterday, than almost any other. The gentleman is entirely within his rights in bringing up today this amendment in the bill but I hope we will not beat our heads off again today debating this and I hope that, the gentlemen having brought it up again, we can vote on it fairly soon.

H3823 Yesterday I voted fairly reluctantly for it. I thought we had done a good job in defining and protecting the prime agricultural land. Since then the administration and others have made such a fuss about this and they will not quit. I hope the majority can work its will. I just hope we will take a vote one way or the other on it.

H3823 Mr. NOLAN. That is also the hope of the sponsor of the amendment.

H3823 Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

H3823 Mr. NOLAN. I yield to the gentleman from Maryland.

H3823 Mr. BAUMAN. Mr. Chairman, I want to ask the gentleman from Arizona this question. I think there is a problem to be solved. I know he is anxious to vote on it, but I wonder whether he will vote for it on the grounds that have already been stated.

H3823 Mr. UDALL. If the gentleman will yield, I had limited enthusiasm for it yesterday and I must say I have less today.

H3823 Mr. BAUMAN. How does that translate into the terms of the gentleman's vote?

H3823 Mr. SYMMS. Mr. Chairman, will the gentleman yield?

H3823 Mr. NOLAN. I yield to the gentleman from Idaho.

H3823 Mr. SYMMS. Mr. Chairman, we voted on this once yesterday. The House is trying to cooperate and get through with this but at the rate we are mining and stripmining the agricultural lands, it will take 175 years at the rate we are going today without any Federal legislation to take over 1 percent of our prime agricultural lands. Perhaps we should go after the water projects like the central Arizona project, because they have to flood land to develop the projects, or urban lands they take up much more!

H3823 Mr. NOLAN. It is the intention of the sponsor to stop the use of prime agricultural land for a whole wide variety of commercial uses.

H3823 Mr. SYMMS. The gentleman intends to go after those too?

H3823 Mr. NOLAN. Certainly we do.

H3823 Mr. SYMMS. Today?

H3823 Mr. NOLAN. Not today. We will have to take them one at a time.

H3823 Mr. SYMMS. If my friend will yield further, I would say we voted on this issue once yesterday. Let us vote this amendment down.

H3823 Mr. Chairman, I reserved a point of order against the amendment offered by the gentleman from Minnesota and I find that it is exactly the same amendment, give or take where it applies to the bill and the percentage points, and we have already voted on this, but I am sure my point of order will be overruled, so I will withdraw it at this point. I hope the Members will realize we have already plowed this ground. Once is enough.

H3823 Mr. UDALL. Mr. Chairman, I move all debate on the pending amendment now cease.

H3823 The CHAIRMAN. The gentleman from Minnesota still has the time.

H3823 Mr. UDALL. I am sorry.

H3823 Mr. NOLAN. I yield to the gentleman from Arizona.

H3823 Mr. BAUMAN. Mr. Chairman, I rise in opposition to the amendment.

H3823 The CHAIRMAN. The gentleman from Minnesota still has the time.

H3823 Mr. NOLAN. I yield to the gentleman from Arizona.

H3823 Mr. UDALL. Mr. Chairman, I had asked for the time for the purpose of making the motion to have the debate cease.

H3823 The CHAIRMAN. The time of the gentleman from Minnesota has expired.

H3823 m. BAUMAN. Mr. Chairman, I rise in opposition to thd amendment.

H3823 Mr. Chairman, I said yesterday:

H3823 Mr. Chairman, this bill has a specific section written at the suggestion of the U.S. Soil Conservation Service officials and others, who appeared before the committee. It prescribes the manner of reclamation desirable for prime agricultural lands. It is a very appealing concept,

particularly for one from a rural area, to decide to exempt prime agricultural land from any mining. There are roughly 380 million acres in this country that fall into the category of prime agricultural land and an almost infinitesimal part of that is touched by strip mining; less than one-half of 1 percent. But that one-half of 1 percent of land produces nearly 75 million tons of coal each year.

H3823 The worst possible case that we have heard, if the amendment is adopted, was a first year's production loss of roughly 75 million tons. A 5-year moratorium on new production alone could mean even greater losses in coal. Where are we going to make up those losses in other sources of energy, if this amendment is adopted?

H3823 I will not burden the House by making the same remarks I made yesterday, but we can see the impact this amendment will have on our energy supplies.

H3823 Mr. Chairman, we debated this thoroughly. The bill has a provision that protects prime agricultural land. I do not see why we have to come in today, when we had this last night, and go over and over these amendments. I can see this bill never being finished.

H3823 Mr. UDALL. Mr. Chairman, I move that all debate on this amendment and all amendments thereto now cease.

H3823 The motion was agreed to.

H3823 The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. NOLAN).

H3823 The question was taken; and on a division (demanded by Mr. NOLAN) there were - ayes 9, noes 41.

H3823 Mr. NOLAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

{H3824} The CHAIRMAN. The Chair will count. One hundred and six Members are present, a quorum.

H3824 Mr. NOLAN. Mr. Chairman, I renew my demand for a recorded vote.

H3824 A recorded vote was refused.

H3824 So the amendment was rejected.

H3824 AMENDMENT OFFERED BY MR. SEIBERLING

H3824 Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

H3824 The Clerk read as follows:

H3824 Amendment offered by Mr. SEIBERLING: On page 283, after line 24, insert the following paragraph and renumber the succeeding paragraph accordingly:

H3824 (E) Only such amount of spoil will be placed off the mountaintop bench as is necessary to achieve the planned postmining land use, ensure stability of the spoil retained on the mountaintop and meet the other requirements of this Act.

H3824 (Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

H3824 Mr. SEIBERLING. Mr. Chairman, the committee report on page 111 brings out the fact there is a very high potential for rapid water runoff and flooding in the central Appalachian region. Of course, within the month parts of Appalachia have experienced some very severe flooding.

H3824 Traditional strip mine practices in the mountains accelerate the runoff and increase flood hazards, both from the volume of water and increased siltation. The Kentucky Commissioner of Natural Resources, Robert Bell, for example, stated during the floods this April:

H3824 Areas that have strip mining as a general rule are like a parking lot . . . it's natural that water will run off asphalt faster than sod.

H3824 However, under some conditions spoil can act like a sponge; that is, store water and release it slowly. Reclaimed and stable spoils in the Tradewater watershed of western Kentucky have such properties. They do reduce the size of peak runoff and increase in periods of steam flow duration. This is also documented on page 111 of the committee report.

H3824 On the other hand, I might say - and this is brought out on page 101 of the committee report - that the ultimate stability of West Virginia and Kentucky head of hollow fills - and that is true of other Appalachian States - is unknown. Yet, our bill authorizes mountaintop mining and authorizes fills to be made from spoil taken off the top of the mountain. All this amendment does is try to encourage the retention of as much of that spoil on top as possible, and still carry out the approved land rise plan for the mountaintop and insure stability of the soil retained on top. I think it is a noncontroversial amendment.

H3824 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3824 Mr. SEIBERLING. I yield to the gentleman from Arizona.

H3824 Mr. UDALL. One of the major concessions we made to the coal industry was that we would permit the technique known as mountaintop removal, where they mine clear through the mountain and replace it and revegetate it, in perhaps a more civil form. This clarifies on the environmental side that we are going to put as little of the spoil as possible in surplus spoil disposal areas and rearrange as much as possible on top.

H3824 Mr. SEIBERLING. Let me emphasize that this amendment is not intended to be used to block mountaintop removal under the provisions of this bill. If the post-mining land use plan is to take all the spoil off for some sort of industrial development on a rock plateau on the mountaintop, then that would be permissible. But, on the other hand, if the plan is for the mountaintop to be an area for grazing or agriculture, then it may be that only a little spoil needs to be taken off. In the latter case, most of it could be retained on the mountaintop, assuring the other requirements of the bill are met.

H3824 The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

H3824 The amendment was agreed to.

H3824 AMENDMENT OFFERED BY MR. SEIBERLING

H3824 Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

H3824 The Clerk read as follows:

H3824 Amendment offered by Mr. SEIBERLING: On page 302, line 16, after the word "however," insert the following: "That the regulatory authority may retain that portion of the total bond covering areas affected by surplus spoil disposal under paragraph 515(b) (11) for a period of up to 10 years past the completion of stabilization and revegetation of such areas in order to provide adequate funding to correct any failure that may occur; and further Provided".

H3824 Mr. SEIBERLING. This amendment was also discussed with Mr. RUPPE's staff, and I understood that basically they had no problems with it.

H3824 Let me say that this also relates to the problem of the spoil that would be removed from

the mountaintop under the mountaintop removal section of the bill. As is brought out on page 101 of the committee report, the stability of these fills over the long term is unknown. These are differences among professional engineers as to what is the best way to design and construct these fills in order to adjust in long term stability.

H3824 All this amendment does is direct the regulatory authority to retain a portion of the bond covering these completion of the fill area and its revegetation.

H3824 The bond is to cover the possible correction of any failure, that is, erosion of the surface, mass movement of the spoil pile or drainage that might occur during the period of responsibility. Otherwise, we could find that, since this is still an experimental process, we would end up with a huge spoil pile that was unstable.

H3824 I call the attention of the Members to the terrible tragedy at Buffalo Creek in West Virginia a few years ago from a similar situation. If there is a similar possibility with respect to these spoil piles, we ought to have a little longer period of time for the regulatory authority, so that the people injured by the spoil pile would not suffer the injury and expense or the State have to pay the expense of correcting a faulty spoil pile.

H3824 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3824 Mr. SEIBERLING. I yield to the gentleman from Arizona (Mr. UDALL).

H3824 Mr. DUALL. I thank the gentleman for yielding.

H3824 Mr. Chairman, this is a good amendment, and I support it.

H3824 Mr. BAUMAN. Mr. Chairman, I rise in opposition to the amendment.

H3824 (Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

H3824 Mr. BAUMAN. Mr. Chairman, I just want to point out that the bill already has a 5-year period of time during which companies remain bonded and are responsible for revegetation or stabilization. This amendment doubles it to 10 years. The worst possible impact is going to be, once again, on the smaller companies who are not going to be able to continue these bonds and tie up their finances with this kind of a provision. This is 100 percent worse.

H3824 The gentleman referred to the collapse which occurred in West Virginia. That was the collapse of a dam, in which water pourec down the valley, not stabilized soil.

H3824 This is just another added period of time piled not just on the backs of these companies, but on the backs of the consumers who will ultimately pay the costs.

H3824 I think it is an unwise amendment.

H3824 Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

H3824 Mr. BAUMAN. I yield to the gentleman from Ohio (Mr. SEIBERLING).

H3824 Mr. SEIBERLING. I thank the gentleman for yielding.

H3824 Of course, I referred to the Buffalo Creek disaster only to show that there are things that we do not know enough about, from an engineering standpoint. This practice of disposing of huge amounts of spoil in hollows, where there may be springs, et cetera, is something on which the engineers are still experimenting. We ought to retain some sort of safety provision.

H3824 Mr. BAUMAN. I will say to the gentleman that we do. We have a 5-year period, and the gentleman is doubling it to 10 years.

H3824 Mr. SEIBERLING. This is not mandating anything.

H3824 Mr. BAUMAN. Nothing is ever mandated in the bill according to the gentleman. But I would guess it will be enforced in the worst possible manner. The gentleman lives in a dream world if he thinks otherwise.

H3824 Somewhere along the line, reason must intrude in these deliberations.

H3824 Mr. SEIBERLING. If the gentleman will kindly yield further, I will elaborate. This applies to the State regulatory authority. They may or may not exercise this discretion. Furthermore, we are only talking about the revegetation requirement which is only a fraction of the total bond. I cannot see that this is any great burden.

H3824 The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

H3824 The question was taken; and on a division (demanded by Mr. UDALL) there were - ayes 18, noes 26.

{H3825} } So the amendment was rejected.

H3825 Mr. MARLENEE. Mr. Chairman, I move to strike the last word.

H3825 (Mr. MARLENEE asked and was given permission to revise and extend his remarks.)

H3825 [Mr. MARLENEE addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3825 Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on title V and all debate on all amendments to title V close at 2:15 o'clock p.m.

H3825 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3825 Mr. KAZEN. Mr. Chairman, reserving the right to object, let me ask the gentleman, how many amendments are there?

H3825 Mr. UDALL. Mr. Chairman, if the gentleman will yield, I do not know of any major controversial amendments that are left. There are a couple of minor amendments that I am going to accept, and the gentleman from Ohio (Mr. SEIBERLING) wishes to engage in a colloquy.

H3825 Mr. KAZEN. Mr. Chairman, further reserving the right to object, may I inquire of the Chair how many amendments are at the desk on this title?

H3825 The CHAIRMAN. The Chair will inform the gentleman that there are nine amendments remaining.

H3825 Mr. KAZEN. Nine amendments remain to be offered.

H3825 Mr. UDALL. Mr. Chairman, if the gentleman will yield further, I am not certain that all of those amendments are going to be offered. There are a number of amendments, but I am sure that we can handle them in that time.

H3825 Mr. Chairman, if any Member strongly objects, I will not make a motion at this time.

H3825 Mr. KAZEN. Mr. Chairman, I withdraw my reservation of objection.

H3825 The CHAIRMAN. The unanimous-consent request of the gentleman from Arizona (Mr. UDALL) is that all debate on title V and all amendments to title V end at 2:15 o'clock p.m.

H3825 Is there objection to the request of the gentleman from Arizona?

H3825 Mr. WAMPLER. Mr. Chairman, reserving the right to object, I wish to direct a parliamentary inquiry to the Chair.

H3825 The CHAIRMAN. The Chair will hear the gentleman.

H3825 PARLIAMENTARY INQUIRY

H3825 Mr. WAMPLER. Mr. Chairman, the gentleman from Virginia has published at least three amendments in the RECORD. I would inquire of the Chair, since I have three amendments to title V published in the RECORD, whether my rights would be protected under the rules.

H3825 The CHAIRMAN. The Chair will inform the gentleman that under the rules the gentleman has a guarantee of protection.

H3825 Mr. WAMPLER. I thank the Chair, and I withdraw my reservation of objection.

H3825 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3825 There was no objection.

H3825 The CHAIRMAN. Members standing at the time the unanimous consent requested was agreed to will each be recognized for 2 minutes.

H3825 The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY).

H3825 [Mr. MURPHY of Pennsylvania addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3825 AMENDMENT OFFERED BY MR. HUCKABY

H3825 Mr. HUCKABY. Mr. Chairman, I offer an amendment.

H3825 The Clerk read as follows:

H3825 Amendment offered by Mr. HUCKABY: Section 521(a)(5), on page 311, line 13, insert after "occurs", "; Provided, That any notice or order issued pursuant to this section which requires cessation of mining by the operator shall expire within 10 days of actual notice to the operator unless a public hearing is held at the site or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of public hearing.

H3825 (Mr. HUCKABY asked and was given permission to revise and extend his remarks.)

H3825 Mr. HUCKABY. Mr. Chairman, this amendment guarantees due process of law and fundamental fairness to the operator who has received notice of a cessation order issued without opportunity for a hearing

H3825 As the bill is presently read, Mr. Chairman, an operator could receive a notice that he was in violation; and he might go for days, weeks, or months with his equipment and machinery tied up.

H3825 This amendment simply says that a hearing must be held within 10 days.

H3825 Mr. Chairman, I urge adoption of this amendment.

H3825 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3825 Mr. HUCKABY. I yield to the gentleman from Arizona.

H3825 Mr. UDALL. Mr. Chairman, this amendment is addressed to an important matter. The gentleman has worked out an improved procedure that we had in the bill.

H3825 Therefore, Mr. Chairman, I think the bill is better with the amendment and I support it.

H3825 The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. HUCKABY).

H3825 The amendment was agreed to.

H3825 AMENDMENT OFFERED BY MR. MURPHY OF PENNSYLVANIA

H3825 Mr. MURPHY of Pennsylvania. Mr. Chairman, I offer an amendment.

H3825 The Clerk read as follows:

H3825 Amendment offered by Mr. MURPHY of Pennsylvania: On page 279, between lines 4 and 5, insert a new paragraph "(D)", as follows:

H3825 "(D) provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half mile of any portion of the permitted area the applicant or permittee shall conduct a pre-blasting survey of such structures and submit the survey to the regulatory authority and a copy to the resident or owner making the request. The area of the survey shall be decided by the regulatory authority and shall include such provisions as the Secretary shall promulgate."

H3825 (Mr. MURPHY of Pennsylvania asked and was given permission to revise and extend his remarks.)

H3825 [Mr. MURPHY of Pennsylvania addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3825 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3825 Mr. MURPHY of Pennsylvania. I yield to the gentleman from Arizona.

H3825 Mr. UDALL. Mr. Chairman, the gentleman from Pennsylvania (Mr. MURPHY) has helped to strengthen this bill in the area of blasting.

H3825 This problem has been one of the most troublesome for individuals living in such areas.

H3825 The gentleman offered several amendments to protect homeowners and to provide notice in case of blasting. I think this is a good amendment and strengthens the bill.

H3825 Therefore, Mr. Chairman, I support the amendment.

H3825 The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURPHY).

H3825 The amendment was agreed to.

H3825 (By unanimous consent, Mr. MARRIOTT and Mr. EDWARDS of Oklahoma yielded their time to Mr. BAUMAN).

H3825 AMENDMENT OFFERED BY MR. WAMPLER

H3825 Mr. WAMPLER. Mr. Chairman, I offer an amendment.

H3825 The Clerk read as follows:

H3825 Amendment offered by Mr. WAMPLER: Page 269, line 11, delete all following the colon in line 11 through page 270, line 22 and in lieu thereof insert the following: "And provided further, That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that the amount of overburden and other spoil and waste materials cannot be economically restored to the approximate original contour, the operator shall backfill, grade, and compact (where advisable) the overburden and other spoil and waste materials to the maximum extent possible in accordance with regulations of the regulatory authority and to cover all acid-forming and other toxic materials, in order to achieve and ecologically sound land use compatible with the surrounding region in accordance with the requirements of subsection (c) (3) and that such overburden or spoil shall be shaped and graded in such way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this Act;

H3825 (Mr. WAMPLER asked and was given permission to revise and extend his remarks.)

H3825 Mr. WAMPLER. Mr. Chairman, in keeping with my strong belief that the regulation of surface mining should be left to the discretion of the several States, my amendment would allow optional reclamation methods for postmining uses where the amount of overburden and other spoil and waste materials cannot be economically restored to the approximate original contour.

H3825 Mr. Chairman, the Virginia Board of Conservation and Economic Development will meet in May to discuss and finalize regulations prepared by the Virginia Division of Mined Land Reclamation, the Virginia State Water Control Board, the U.S. Department of Agriculture Soil Conservation Service, the Extension Division of Virginia Polytechnic Institute and State University, and representatives of the Virginia surface mining industry.

{H3826} Mr. Chairman, included in these new State regulations is a new proposal which will limit the bench width on the initial cut as a function of slope, thereby requiring reduction of the high wall to the maximum extent feasible.

H3826 In my amendment it would still provide for achievement of an ecologically sound land use that would be compatible with the surrounding region, but would not require the strict conformation to original contour now present in H.R. 2, with the complete elimination of all high walls.

H3826 Mr. Chairman, the distinguished gentleman from Arizona (Mr. UDALL) in earlier debate alluded to the fact that in his judgment Virginia had the worst record of surface mining reclamation of any State in the Union. I respectfully disagree with the gentleman. I would have hoped that either the gentleman from Arizona or some member of his committee would have at least reviewed the proposed regulations that the State of Virginia has developed, because we do have a situation that I think is somewhat unique in that over 85 percent of the contour surface mining that occurs in Virginia occurs on slopes greater than 20 degrees.

H3826 H.R. 2 requires restoration to the approximate original contour. Experts in Virginia, who have studied this problem for many years, conclude that in many instances the best postmining use of surface mined lands would be denied if we were required to restore to the approximate original contour in every instance.

H3826 I think this points out that H.R. 2 in trying to apply the same reclamation standards to each of the 50 States simply will not work and will not achieve the desired results.

H3826 My amendment would provide the discretion of allowing optional procedures under which we can surface-mine coal over the country, and where we can properly reclaim the land. To require the restoration to the approximate original contour as H.R. 2 does, in my judgment, will be transferring the problem of erosion, water management, and revegetation to another site on the mountainside.

H3826 I ask for a ye a vote on my amendment.

H3826 The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. WAMPLER).

H3826 The question was taken; and on a division (demanded by Mr. WAMPLER) there were -  
ayes 16, noes 27.

H3826 So the amendment was rejected. The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

H3826 Mr. SEIBERLING. Mr. Chairman, I wish to engage in a colloquy with the chairman of the committee. I wonder if the distinguished chairman of the committee would answer several questions about the Secretary's discretion to award costs of participation under section 525(e). As I understand it, the Secretary is the one to make the determination. Is that correct?

H3826 Mr. UDALL. Yes; that is correct. In the initial administrative proceeding, the Secretary would have discretion to make the assessment. If the agency action is reviewed in the courts, then, of course, it would be appropriate for the courts to review the assessment and award, under the usual standards for review of an administrative action. In addition, the courts could assess and award costs for a person's participation in the judicial review.

H3826 Mr. SEIBERLING. Are there any standards or guidelines for the Secretary to use to determine which persons are to be awarded costs?

H3826 Mr. UDALL. The Secretary would have broad discretion. It would normally be appropriate for him to award costs to a person whose participation has contributed substantially to a

full and fair consideration of the facts and issues involved in the proceeding, taking into account, where appropriate, the financial resources of the participant. In general, an award would be governed by the same kinds of considerations as would govern a court in a court action, as outlined in the last two paragraphs of page 90 of the committee report.

H3826 Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, the gentleman from Arizona has just addressed himself to section 525(e) and I believe the gentleman from Maryland was the one who offered the language which allowed the Court to assess the costs against either party as the Court deemed proper. I am not quite sure, although I listened to the remarks the gentleman made, it was the intention of the offerer of that amendment that either party could receive compensation. That was the intention of the entire committee debate, and that the Court would have the right to determine that. It was never the intention that this section of the bill should expand the scope of the Secretary of the Interior's authority as defined by the Administrative Procedure Act.

H3826 Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, this is entirely consistent with that, and while I did not agree with the gentleman's amendment, I obviously have to recognize that the amendment does permit an award to either party, but the same principles of equity should be followed by the Secretary as would govern a court in deciding the extent to which the award should be made.

H3826 Mr. BAUMAN. It is my understanding the Administrative Procedure Act would govern the extent to which the Secretary could make an award of costs.

H3826 Mr. SEIBERLING. To the extent it does, but it does not go into detail as to the kinds of considerations that would enter into a decision by the Secretary.

H3826 Mr. BAUMAN. I am sure though that law provides general equity.

H3826 Mr. SEIBERLING. But the Secretary has discretion and there obviously has to be some way he is going to use his discretion and he is going to resort to the Court precedents, I presume, in a particular case to determine whether to award costs, for example, if somebody is bringing an objection purely for vexatious purposes, the Secretary ought to take that into consideration and not give him the award of costs.

H3826 Mr. UDALL. Mr. Chairman, if the gentleman will yield, the gentleman believes the intent

of the author of the amendment was the same as mine.

H3826 Mr. BAUMAN. I have a strong feeling that the gentleman from Arizona's intention governs in all matters pertaining to this bill.

H3826 The CHAIRMAN. There being no further amendments to title V, the Clerk will read title VI.

H3826 The Clerk read as follows:

H3826 TITLE VI - DESIGNATION OF LANDS UNSUITABLE FOR NONCOAL MINING

H3826 DESIGNATION PROCEDURES

H3826 SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

H3826 (b) An area of Federal lands may be designated under this section as unsuitable for mining operations if (1) such area consists of Federal land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain, or (2) such area consists of Federal land where mining operations would have an adverse impact on lands used primarily for residential or related purposes, or (3) such mining operations could result in irreversible damage to important historical, cultural, scientific, or esthetic values or natural systems, of more than local importance, or could unreasonably endanger human life and property.

H3826 (c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within the State within a reasonable time and finding with reasons therefor upon the matter of their petition. In any instance where a Governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or

leasing pending such review: Provided, however, That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

H3826 (d) In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary. The Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

H3826 (e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

{H3827} (f) When the Secretary designates an area of Federal lands as unsuitable for all or certain types of mining operations for minerals and materials other than coal pursuant to this section he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting from such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

H3827 (g) Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States district court for the district in which the pertinent area is located.

H3827 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

H3827 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3827 There was no objection.

H3827 AMENDMENT OFFERED BY MR. RONCALIO

H3827 Mr. RONCALIO. Mr. Chairman, I offer an amendment.

H3827 The Clerk read as follows:

H3827 Amendment offered by Mr. RONCALIO: Undwr title VI, section 601(d), page 334, line 1, strike the following sentence: "Valid esisting rights shall be preserved and not affected by such designation."

H3827 (Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

H3827 Mr. RONCALIO. Mr. Chairman, title VI, designation of lands unsuitable for noncoal mining, subsection 601(b), explains what lands under that title may be designated as unsuitable for noncoal mining. No. 3 under the subsection applies to a proposed limestone quarry on the edge of the small picturesque town of Story, Wyo.

H3827 If that limestone quarry is allowed to go into operation, the degradation to the neighboring vicinity would indeed be regrettable. The quarry location is in the Big Horn National Forest at the very edge of Story and only a few hundred yards from a Wyoming State Game and Fish Commission fish hatchery. It neighbors the site of the historic Wagon Box Indian fight where soldiers from nearby historic Fort Phil Kearney, the Army's defender of the old Bozeman Trail, stood their ground against Chief Red Cloud 110 years ago. It is a lovely place - and not the place for a limestone quarry.

H3827 The location meets every requirement under title VI for withdrawal. In fact, the adjacent lands have already been withdrawn from mineral entry by the Bureau of Land Management and the Forest Service. However, because a claim has already been established for the quarry, these administrative actions cannot prevent its moving ahead. Through adoption of my amendment, situations like Story will have some remedy.

H3827 Sufficient opportunities are provided under the title for in-depth review and hearings before any area is designated as unsuitable for noncoal mining. I do not foresee this title being used

indiscriminantly against hard rock miners or against existing valid, though acceptable, mining claims.

H3827 There are those who may be reluctant to approve my amendment saying that this would amount to a "taking" and that the Government would in turn be liable for reimbursement and other associated costs. I would hope that the Secretary might facilitate an exchange whereby a location of similar mineral value might be received for whatever claim is to be withdrawn or if that may not be feasible, it very well may be in the public interest to negotiate payment. Each situation can and should be reviewed in total and on its own merits.

H3827 I urge adoption of the amendment.

H3827 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3827 Mr. RONCALIO. I yield to the gentleman from Arizona.

H3827 Mr. UDALL. Mr. Chairman, I would have to oppose the amendment, because it takes from the bill a statement that valid legal rights should be preserved. I do not think we should do that without paying compensation under the fifth amendment.

H3827 I recognize the problem the gentleman has in Wyoming. We have tried to set up a structure where the Governor can move in and protect the land and protect communities in the kind of situation the gentleman is talking about.

H3827 Mr. RONCALIO. Mr. Chairman, I believe the amendment is a valid one. I think we have to honor property rights in Wyoming. I think it would be a tragedy if this legislation will not give to a Governor the right to hold up strip mining for 3 years on noncoal property. These limestone quarries are really in the heart of a lovely town in Wyoming. There is no lovelier area in Wyoming than Story, Wyo., and the whole mountain is nothing but limestone, so there is no earthly reason - short of profits - for its location abutting the town.

H3827 Four years ago I asked the Forest Service to look to a swap of limestone and they said it could be done. It has not yet been done. Four years ago my opponent, for Congress, promised relief through a State agency. The people are still waiting for assurance. I feel they will be snookered with this limestone dread, if this amendment is not agreed to.

H3827 Mr. UDALL. Mr. Chairman, if the gentleman will stick with me this year, Mr. KAZEN will get a new mining law to handle this.

H3827 Mr. RONCALIO. We have heard all this before.

H3827 I urge passage of this amendment, which would restore the language in title VI that was in H.R. 24 last year and that was in the bill that the President vetoed twice before. This language is a new twist that was not to my liking.

H3827 The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO).

H3827 The amendment was rejected.

H3827 The CHAIRMAN. Are there further amendments? If not, the Clerk will read title VII.

H3827 The Clerk read as follows:

H3827 TITLE VII - ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

H3827 DEFINITIONS

H3827 SEC. 701. For the purposes of this Act -

H3827 (1) "alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities;

H3827 (2) "approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with section 515(b)(8) of this Act;

H3827 (3) "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce;

H3827 (4) "Federal lands" means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands;

H3827 (5) "Federal lands program" means a program established by the Secretary pursuant to section 523 to regulate surface coal mining and reclamation operations on Federal lands;

H3827 (6) "Federal program" means a program established by the Secretary pursuant to section 504 to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act;

H3827 (7) "fund" means the Abandoned Mine Reclamation Fund established pursuant to section 401;

H3827 (8) "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement;

H3827 (9) "Indian lands" means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe;

H3827 (10) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary;

H3827 (11) "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

H3827 (12) "Office" means the Office of Surface Mining, Reclamation, and Enforcement established pursuant to title II;

H3827 (13) "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location;

{H3828} (14) "other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form;

H3828 (15) "permit" means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program;

H3828 (16) "permit applicant" or "applicant" means a person applying for a permit;

H3828 (17) "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 509 of this Act and shall be readily identifiable by appropriate markers on the site;

H3828 (18) "permittee" means a person holding a permit;

H3828 (19) "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

H3828 (20) "prime agricultural lands" means those lands so defined by the Secretary of Agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability and erosional characteristics and which historically have been used for intensive agricultural purposes and whose present agricultural use provides a significant contribution to the local economy of the area;

H3828 (21) "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 508;

H3828 (22) "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering this Act under a Federal program;

H3828 (23) "Secretary" means the Secretary of the Interior, except where otherwise described;

H3828 (24) "State" means a State of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

H3828 (25) "State program" means a program established by a State pursuant to section 503 to regulate surface coal mining and reclamation operations, on lands within such State in accord with the requirements of this Act and regulations issued by the Secretary pursuant to this Act;

H3828 (26) "State regulatory authority" means the department or agency in each State which has primary responsibility at the State level for administering this Act;

H3828 (27) "surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations after the date of enactment of this Act;

H3828 (28) "surface coal mining operations" means -

H3828 (A) activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: Provided, however, That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 2/3 per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 512 of this Act; and

H3828 (B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or

materials on the surface, resulting from or incident to such activities; and

H3828 (29) "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

#### H3828 OTHER FEDERAL LAWS

H3828 SEC. 702. (a) Nothing in this Act shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321-47), or any of the following Acts or with any rule or regulation promulgated thereunder, including, but not limited to -

H3828 (1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721-740).

H3828 (2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742.)

H3828 (3) The Federal Water Pollution Control Act (79 Stat. 903), as amended (33 U.S.C. 1151-1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

H3828 (4) The Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

H3828 (5) The Solid Waste Disposal Act (42 U.S.C. 3251-3259).

H3828 (6) The Refuse Act of 1899 (33 U.S.C. 407).

H3828 (7) The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 66-666c).

H3828 (b) Nothing in this Act shall affect in any way the authority of the Secretary or the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

H3828 (c) To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this Act.

H3828 (d) Approval of the State programs, pursuant to section 503(b), promulgation of Federal programs, pursuant to section 504, and implementation of the Federal lands programs, pursuant to

section 523 of this Act, shall constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

#### H3828 EMPLOYEE PROTECTION

H3828 SEC. 703. (a) No person shall discharge, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

H3828 (b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein his findings and an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue a finding. Orders issued by the Secretary under this subsection shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this Act.

H3828 (c) Whenever an order is issued under this section to abate any violation, at the request of the applicant a sum equal to the aggregate amount of all costs and expenses (including attorneys'

fees) to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

H3828 (d) The Secretary shall conduct continuing evaluation of potential losses or shifts of employment which may result from the enforcement of this Act or any requirement of this Act including, where appropriate, investigating threatened mine closures or reductions in employment allegedly resulting from such enforcement or requirement. Any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of the enforcement or requirement of this Act, or any representative of such employee, may request the Secretary to conduct a full investigation of the matter. The Secretary shall thereupon investigate the matter, and, at the request of any interested party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall promptly make finding of fact as to the effect of such enforcement or requirement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Secretary or a State to modify or withdraw any enforcement action or requirement.

{H3829} PROTECTION OF GOVERNMENT EMPLOYEES

H3829 SEC. 704. Section 1114, title 18, United States Code, is hereby amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section. Any person who shall, except as permitted by law, willfully resist, prevent, impede, or interfere with the Secretary or any of his agents in the performance of duties pursuant to this Act shall be punished by a fine of not more than \$5 ,000 or by imprisonment for not more than one year, or both.

H3829 GRANTS TO THE STATES

H3829 SEC. 705. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 50 per centum of the total costs incurred during the first and subsequent years.

H3829 (b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include -

H3829 (1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

H3829 (2) assistance in preparing and maintaining a continuing inventory of information on surface coal mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface coal mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

#### H3829 ANNUAL REPORT

H3829 SEC. 706. The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the States pursuant to this Act. Among other matters, the Secretary shall include in such report recommendations for additional administrative or legislative action as he deems necessary and desirable to accomplish the purposes of this Act.

#### H3829 SEVERABILITY

H3829 SEC. 707. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

#### H3829 ALASKAN SURFACE COAL MINE STUDY

H3829 SEC. 708. (a) The Secretary is directed to contract to such extent or in such amounts as

are provided in advance in appropriation Acts with the National Academy of Sciences-National Academy of Engineering for an indepth study of surface coal mining conditions in the State of Alaska in order to determine which, if any, of the provisions of this Act should be modified with respect to surface coal mining operations in Alaska.

H3829 (b) The Secretary shall report on the findings of the study to the President and Congress no later than two years after the date of enactment of this Act.

H3829 (c) The Secretary shall include in his report a draft of legislation to implement any changes recommended to this Act.

H3829 (d) Until one year after the Secretary has made this report to the President and Congress, or three years after the date of enactment of this Act, whichever comes first, the Secretary is authorized to suspend the applicability of any provision of this Act, or any regulation issued pursuant thereto, to any surface coal mining operation in Alaska from which coal has been mined during the year preceding enactment of this Act if he determines that it is necessary to insure the continued operation of such surface coal mining operation. The Secretary may exercise his suspension authority only after he has (1) published a notice of proposed suspension in the Federal Register and in a newspaper of general circulation in the area of Alaska in which the affected surface coal mining operation is located, and (2) held a public hearing on the proposed suspension in Alaska.

H3829 (e) There is hereby authorized to be appropriated for the purpose of this section \$250,000: Provided, That no new budget authority is authorized to be appropriated for fiscal year 1977.

#### H3829 STUDY OF RECLAMATION STANDARDS FOR SURFACE MINING OF OTHER MINERALS

H3829 SEC. 709. (a) The Chairman of the Council on Environmental Quality is directed to contract to such extent or in such amounts as are provided in appropriation Acts with the National Academy of Sciences-National Academy of Engineering, other Government agencies or private groups as appropriate, for an in-depth study of current and developing technology for surface and open pit mining and reclamation for minerals other than coal designed to assist in the establishment of effective and reasonable regulation of surface and open pit mining and reclamation for minerals other than coal. The study shall -

H3829 (1) assess the degree to which the requirements of this Act can be met by such technology and the costs involved;

H3829 (2) identify areas where the requirements of this Act cannot be met by current and developing technology;

H3829 (3) in those instances describe requirements most comparable to those of this Act which could be met, the costs involved, and the differences in reclamation results between these requirements and those of this Act; and

H3829 (4) discuss alternative regulatory mechanisms designed to insure the achievement of the most beneficial postmining land use for areas affected by surface and open pit mining.

H3829 (b) The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than eighteen months after the date of enactment of this Act; Provided, That, with respect to surface or open pit mining for sand and gravel the study shall be submitted no later than twelve months after the date of enactment of this Act: Provided further, That with respect to mining for oil shale and tar sands that a preliminary report shall be submitted no later than twelve months after the date of enactment of this Act.

H3829 (c) There are hereby authorized to be appropriate for the purpose of this section \$500,000: Provided, That no new budget authority is authorized to be appropriated for fiscal year 1977.

#### H3829 INDIAN LANDS

H3829 SEC. 710. (a) The Secretary is directed to study the question of the regulation of surface mining on Indian lands which will achieve the purpose of this Act and recognize the special jurisdictional status of these lands. In carrying out this study the Secretary shall consult with Indian tribes. The study report shall include proposed legislation designed to allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface mining of coal on Indian lands.

H3829 (b) The study report required by subsection (a) together with drafts of proposed legislation and the view of each Indian tribe which would be affected shall be submitted to the Congress as soon as possible but not later than January 1, 1978.

H3829 (c) On and after one hundred and thirty-five days from the enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by subsections 515(b) (2), 515(b) (3), 515(b) (5), 515(b) (10), 515(b) (13), 515(b) (19), and 515(d) of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

H3829 (d) On and after thirty months from the enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by sections 507, 508, 509, 510, 515, 516, 517, and 519 of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

H3829 (e) With respect to leases issued after the date of enactment of this Act, the Secretary shall include and enforce terms and conditions in addition to those required by subsections (c) and (d) as may be requested by the Indian tribe in such leases.

H3829 (f) Any change required by subsection (c) or (d) of this section in the terms and conditions of any coal lease on Indian lands existing on the date of enactment of this Act, shall require the approval of the Secretary.

H3829 (g) The Secretary shall provide for adequate participation by the various Indian tribes affected in the study authorized in this section and not more than \$7 00,000 of the funds authorized in section 712(a) shall be reserved for this purpose.

#### H3829 EXPERIMENTAL PRACTICES

H3829 SEC. 711. In order to encourage advances in mining and reclamation practices, the regulatory authority with approval by the Secretary may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 515 and 516 of this Act. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operations approved for particular land-use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by

promulgated standards.

#### H3829 AUTHORIZATION OF APPROPRIATIONS

H3829 SEC. 712. There is authorized to be appropriated to the Secretary for the purposes of this Act the following sums; and all such funds appropriated shall remain available until expended:

H3829 (a) For the implementation and funding of sections 502, 523, 405(b) (3), there are authorized to be appropriated to the Secretary of the Interior for the sum of \$1 0,000,000 for the fiscal year ending September 30, 1978, and \$10,000,000 for each of the two succeeding fiscal years.

H3829 (b) Commencing in the fiscal year ending September 30, 1978, and for each fiscal year for a period of fifteen fiscal years thereafter, for the implementation and funding of section 507(c) there are authorized to be appropriated sums reserved by section 401(b) (3) for the purposes of section 507(c) and such additional sums, for the fiscal year ending September 30, 1978, and for each fiscal year for a period of fifteen fiscal years thereafter, are authorized to be appropriated as may be necessary to provide an amount not to exceed \$10,000,000 to carry out the purposes of section 507(c).

{H3830} } (c) For the implementation and funding of section 705 for the administrative and other purposes of this Act, except as otherwise provided for in this Act, authorization is provided for the sum of \$2 0,000,000 for the fiscal year ending September 30, 1978, and \$30,000,000 for each of the two succeeding fiscal years and such funds that are required thereafter.

#### H3830 RESEARCH AND DEMONSTRATION PROJECTS OF ALTERNATIVE COAL MINING TECHNOLOGIES

H3830 SEC. 713. (a) The Secretary is authorized to conduct and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to -

H3830 (1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal

seams and very deep seams; and

H3830 (2) safety and health in the application of such technologies, methods, and means.

H3830 (b) In conducting the activities authorized by this section, the Secretary may enter into contracts to such extent or in such amounts as are provided in advance in appropriation Acts with and make grants to qualified institutions, agencies, organizations and persons.

H3830 (c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, \$3 5,000,000 for each fiscal year beginning with the fiscal year 1978, and for each year thereafter for the next four years.

H3830 (d) At least sixty days before any funds are obligated for any research studies, surveys, experiments, or demonstration projects to be conducted or financed under this Act in any fiscal year, the Secretary in consultation with the Administrator of the Energy Research and Development Administration and the heads of other Federal agencies having the authority to conduct or finance such projects, shall determine and publish such determinations in the Federal agency. On that such projects are not being conducted or financed by any other Federal agency. On March 1 of each calendar year, the Secretary shall report to the Congress on the research studies, surveys, experiments or demonstration projects, conducted or financed under this Act, including but not limited to, a statement of the nature and purpose of each project, the Federal cost thereof, the identity and affiliation of the persons engaged in such projects, the expected completion date of the projects and the relationship of the projects to other such projects of a similar nature.

H3830 (e) Subject to the patent provisions of section 306(d) of this Act, all information and data resulting from any research studies, surveys, experiments, or demonstration projects conducted or financed under this Act shall be promptly made available to the public.

#### H3830 SURFACE OWNER PROTECTION

H3830 SEC. 714. (a) The provisions of this section shall apply where coal owned by the United States under land the surface rights to which are owned by a surface owner as defined in this section is to be mined by methods other than underground mining techniques.

H3830 (b) Any coal deposits subject to this section shall be offered for lease pursuant to section

2(a) of the Mineral Lands Leasing Act of 1920, as amended.

H3830 (c) The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent. Valid written consent given by any surface owner prior to the enactment of this Act shall be deemed sufficient for the purposes of complying with this section.

H3830 (d) In order to minimize disturbance to surface owners from surface coal mining of Federal coal deposits and to assist in the preparation of comprehensive land-use plans required by section 2(a) of the Mineral Lands Leasing Act of 1920, as amended, the Secretary shall consult with any surface owner whose land is proposed to be included in a leasing tract and shall ask the surface owner to state his preference for or against the offering of the deposit under his land for lease. The Secretary shall, in his discretion but to the maximum extent practicable, refrain from leasing coal deposits for development by methods other than underground mining techniques in those areas where a significant number of surface owners have stated a preference against the offering of the deposits for lease.

H3830 (e) For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who -

H3830 (1) hold legal or equitable title to the land surface;

H3830 (2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface coal mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations; and

H3830 (3) have met the conditions of paragraphs (1) and (2) for a period of at least three years prior to the granting of the consent. In computing the three-year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

H3830 (f) This section shall not apply where the surface owner is an Indian tribe or title to the land surface is held in trust for or by an Indian tribe.

H3830 (g) Nothing in this section shall be construed as increasing or diminishing any property rights by the United States or by any other landowner.

#### H3830 FEDERAL LESSEE PROTECTION

H3830 SEC. 715. In those instances where the coal proposed to be mined by surface coal mining operations is owned by the Federal Government and the surface is subject to a lease or a permit issued by the Federal Government, the application for a permit shall include either:

H3830 (1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land, or in lieu thereof;

H3830 (2) evidence of the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved to secure payment of any damages to the surface estate which the operations will cause to the crops, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the parties involved, or as determined by the parties involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under this Act.

#### H3830 ALASKA COAL

H3830 SEC. 716. Nothing in this Act shall be construed as increasing or diminishing the rights of any owner of coal in Alaska to conduct or authorize surface coal mining operations for coal which has been or is hereafter conveyed out of Federal ownership to the State of Alaska or Federal ownership to Native Claims Settlement Act: Provided, That such surface coal mining operations meet the requirements of the Act.

#### H3830 WATER RIGHTS AND REPLACEMENT OF SUPPLIES

H3830 SEC. 717. (a) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources provided in advance in appropriation Acts.

H3830 (b) The operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural,

industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from such surface coal mine operation.

H3830 ADVANCE APPROPRIATIONS

H3830 SEC. 718. Notwithstanding any other provision of this Act. no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

H3830 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

H3830 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3830 There was no objection.

H3830 AMENDMENT OFFERED BY MR. MURPHY OF PENNSYLVANIA

H3830 Mr. MURPHY of Pennsylvania. Mr. Chairman, I offer an amendment.

H3830 The Clerk read as follows:

H3830 Amendment offered by Mr. MURPHY of Pennsylvania: Page 361, after line 22, insert a new section, "section 719," as follows:

H3830 "CERTIFICATION AND TRAINING OF BLASTERS

H3830 "SEC. 719. In conformance with this Act, the Secretary of the Interior (or the Approved state regulatory authority as provided for in Section 503 of this Act) shall promulgate regulations requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations."

H3830 Mr. MURPHY of Pennsylvania. Mr. Chairman, the amendment is selfexplanatory.

H3830 Persons who are responsible for use of explosives in surface minin - the most extensive use of explosives nationally - should be knowledgeable about how to protect mine workers, the neighboting public and property from the inherent dangers of the use of explosives. This new subsection providing for the training and certification of blasters is designed to encourage safety and minimize unnecessary damages to health and proerty caused by unqualified or oll-prepared

personnel engaging in blasting operations during surface strip mining. According to geologists, explosives manufacturers, engineers, and government officials, proper blasting technique is one of the most significant factors in preventing fly-rock and minimizing ground vibration. The more efficiently an explosive is used, the less its energy dissipates into the surrounding rock and air as vibration; operators and the public alike benefit from such maximum-fracture, minimum-vibration blasts.

{H3831} } An efficient method of controlling blasting problems would be through comprehensive training for those responsible for the use of explosives and blasting. Presently, very few States require the licensing of such persons. A program should also require passing an exam on information contained in an "explosive manual" dealing with the unique problems associated with surface coal mining and such activities near residential communities and water supply systems. Pennsylvania requires a 1-year training program under a "learner's permit" upon completion of a qualified course.

H3831 The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURPHY).

H3831 The amendment was agreed to.

H3831 AMENDMENT OFFERED BY MR. CONTE

H3831 Mr. CONTE. Mr. Chairman, I offer an amendment.

H3831 The Clerk read as follows:

H3831 Amendment offered by Mr. CONTE: Page 355, after line 19, add the following new subsection.

H3831 "(d) For the implementation and funding of section 401, there are authorized to be appropriated out of the sums deposited in the Treasury of the United States as miscellaneous receipts under section 9 of the Outer Continental Shelf Lands Act, such amounts as are necessary to make the income of the fund not less than \$3 00,000,000 for the fiscal year ending September 30, 1978 and for the fiscal year thereafter. Amounts appropriated under this subsection shall remain in the fund until expended, provided further that the reclamation fees authorized by subsection 401(d) shall not be levied or collected unless and until the funds authorized to be appropriated by this subsection are exhausted."

H3831 (Mr. CONTE asked and was given permission to revise and extend his remarks.)

H3831 Mr. CONTE. Mr. Chairman, my amendment seeks to add to the level of justice in this proposed act. The amendment seeks to remove the penalty that the "captive body of consumers" must bear under the provisions of section 401 of the proposal. The proposed fees under section 401 call for a 35-cents-per-ton fee on surface coal and lignite, and 15-cents-per-ton fee for deep-mined coal. Such an oppressive tax will hit those consumers of electricity who, today, are facing enormous increases in their bills as a result of the increased cost of oil. I am speaking about the people of New England in particular. These people, and others in similar situations, have been paying for these increases as they are passed through to them in the form of the adjustment clause.

H3831 A recently released study, compiled by the Federal Energy Administration, demonstrated what these consumers have been forced to bear. The figures for calendar 1975 show that the cost for all forms of energy in New England was 31 percent higher than the rest of the Nation. This was in 1975, long before the tremendous increases in costs these people had to pay for energy this past winter, with its severe cold weather. As the figures clearly demonstrate, the people of New England carried more than their share of the energy burden over the years.

H3831 Mr. Chairman, the utilities in my State, as an example, rely on oil for 80 percent of the required boiler fuel energy. Under this proposal, as contained in the abandoned mine section - title IV - the cost to electrical consumers, in 1975 figures, would have amounted to \$2 .86 million annually. This is in addition to the high cost they have had to bear in comparison to the rest of the Nation. This is the minimum that these hearty people will have to bear. Added to this burden, the FEA has issued notices of intent Monday to 18 utility sites, seven of which are in New England. Additionally, FEA has stated that they soon will be issuing notices to large industrial consumers of oil.

H3831 These notices are to inform the recipients that they may have to convert to coal, from their present consumption of oil or gas, within the next 2 years. All of this is to assist our Nation in its attempt to conserve our dwindling supplies of petroleum. The residents of New England are happy to assist in this effort. However, it is unjust to require that these residents assume the burden that this tax will place upon them.

H3831 Mr. Chairman, we all agree with the objectives of the abandoned mine reclamation program, as desirable to correct our past unwise activities. With a new awareness of the effects this type of mining can inflict on our environment, this program assists our Nation in removing these past "scars." This is highly desirable as we embark on a new program of increased coal production. However, Mr. Chairman, I submit that it is unjust to require that the consumers automatically bear this burden, in the form of the proposed tax, when they have already suffered through so much.

H3831 My amendment is a rational alternative to the proposed funding of the abandoned mine reclamation fund. The amendment would require that a portion of the Outer Continental Shelf leasing receipts be earmarked for the funding of this worthy program. Current OCS revenues are projected to amount to \$3 .4 billion. A portion of these funds are earmarked for the funding of the land and water conservation fund, as well as the trust for historic preservation. However, there remains approximately \$2 billion of unearmarked funds that currently go into the General Treasury funds annually. My amendment would earmark only \$300 million of the \$2 billion available, for the funding of the abandoned mine reclamation program. I certainly believe that \$3 00 million is a very small piece of the big pie, in return for equitable treatment for the consumers who will be required to make the additional sacrifices if the proposed energy policy is enacted.

H3831 Mr. Chairman, my amendment would require that this \$3 00 million be expended, for the reclamation program, before the tax could be levied. This would assure the funding of the program and protect the consumers of electricity from the adverse impact this tax would have on their family budgets. If the funding of the program was to exceed the proposed \$3 00 million, the tax would be "triggered" and the program would continue just as is presently provided for in the bill.

H3831 In conclusion, Mr. Chairman, I believe this amendment is a balanced approach to the problem faced by the consumers, mining operators, and those who desire to protect our Nation's beauty. I strongly urge the adoption of this amendment.

H3831 The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

H3831 (By unanimous consent, Mr. CONTE was allowed to proceed for 3 additional minutes.)

H3831 Mr. ARCHER. Mr. Chairman, will the gentleman yield?

H3831 Mr. CONTE. I yield to the gentleman from Texas (Mr. ARCHER).

H3831 Mr. ARCHER. I thank the gentleman for yielding.

H3831 Mr. Chairman, may I properly infer from the gentleman's amendment that the Outer Continental Shelf off the coast of Massachusetts will be leased immediately for oil and gas?

H3831 Mr. CONTE. Mr. Chairman, I appreciate the piercing question of the gentleman from Texas. In answer to his question, I am not in a position to know when leases will be granted for oil and gas off the Outer Continental Shelf. I have long favored outer continental oil drilling with proper safeguards.

H3831 Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

H3831 Mr. CONTE. I yield to the gentleman from Ohio (Mr. SEIBERLING).

H3831 Mr. SEIBERLING. I thank the gentleman for yielding.

H3831 Mr. Chairman, I would like to ask the gentleman if I am to understand that the reclamation fee is not a tax on the consumer, it is a fee paid by the producers of coal. I do not know whether the gentleman was present yesterday during the colloquy on the McDade amendment.

H3831 Mr. CONTE. Mr. Chairman, I wish to advise the gentleman that I have heard that story.

H3831 The gentleman from Arizona knows where I stood with him on this bill, against my President and against vetoes and everything else. This tax is going to be passed off. The gentleman from Ohio sold tires. And if the Federal Government put a tax on his tires, the gentleman from Ohio would have passed them off to the gasoline dealer. The gentleman from Ohio is a good businessman, and he knows as well as I know that the tax has to be passed on.

H3831 Mr. McDADE. Mr. Chairman, will the gentleman yield?

H3831 Mr. CONTE. I yield to the gentleman from Pennsylvania (Mr. McDADE).

H3831 Mr. McDADE. Mr. Chairman, I could not agree more with what the gentleman from Massachusetts has said.

H3831 The people are going to pay this tax. That is exactly what it amounts to. It will be the consumers of the Nation who pay it.

H3831 We have a clear choice in front of us today. We can eliminate the tax and take just a tiny part of the OCS receipts to repair the land.

{H3832} The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

H3832 Mr. McDADE. Mr. Chairman, I move to strike the requisite number of words.

H3832 Mr. Chairman, I will not take my full 5 minutes. I will just say to the Members that we have an option, and it is a reasonable one. Are we going to put this tax on and then go home and see our consumers and say, "Yes; your utility bills are going up, and we did nothing to stop it?" Or are we going to say, "Yes; we did at least one thing to keep these utility bills from rising"?

H3832 We take off this tax, and we earmark out of the estimates this year of \$3 1/2 billion in OCS receipts \$3 00 million to repair the orphaned, abandoned lands in this Nation which need to be repaired so badly.

H3832 Mr. Chairman, there is precedence for this. There is precedence for it in the water fund and in the historic preservation section. We looked at the land and water conservation fund, and we raised that by \$4 50 million this year alone. All of us in this House did that.

H3832 Mr. Chairman, we can do it one more time. Let us make it \$3 00 million. Let us dedicate it to reclaiming these destroyed lands.

H3832 Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

H3832 Mr. McDADE. I yield to the gentleman from Wyoming.

H3832 Mr. RONCALIO. Mr. Chairman, I hope the gentleman recognizes that if we are to survive we should look at this very carefully. We would be taking away half of the tax dollar that comes back to the local areas. These are important receipts in the Western States.

H3832 Mr. McDADE. Mr. Chairman, I would say to my friend, the gentleman from Wyoming, that this would put the energy issue where it belongs. It is up to all the people today, and this should

come from the OCS receipts. It goes back to the land of this Nation, to the repair of the land, and it would encourage more reasonable utility rates. It would also, for once in our lifetimes, get a tax off the backs of the people. It would come from receipts from the Outer Continental Shelf which belong to all the people and dedicate it to holding down rates for electricity.

H3832 Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

H3832 Mr. McDADE. I yield to the gentleman from Massachusetts.

H3832 Mr. TSONGAS. Mr. Chairman, some of us from the Northeast, from New England and Massachusetts, are very much concerned about this.

H3832 I would like to say that this amendment is a mistake. I would point out that there are people in other areas of the country who are going to be ravaged by mining. I think the responsibility is on the part of the consumers. If that is to be the case, the reclamation of these lands should come from the revenues of the particular product.

H3832 Mr. Chairman, this issue was discussed yesterday, and this idea was defeated. I hope the amendment will be defeated today as well.

H3832 Mr. McDADE. Mr. Chairman, I will say to the gentleman that there is no justification for the statement that the coal industry is going to pay for this. The people are going to pay for it, the people in Pennsylvania, in New England, in California, in Ohio, all across the Nation. Those States that are now getting their electricity from coal-fired grids will pay for this, and I say to my friend, the gentleman from Massachusetts (Mr. TSONGAS), that the people in Massachusetts will pay for it, too.

H3832 The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

H3832 The question was taken; and on a division (demanded by Mr. CONTE) there were - ayes 33, noes 36.

H3832 RECORDED VOTE

H3832 Mr. CONTE. Mr. Chairman, I demand a recorded vote.

H3832 A recorded vote was ordered.

H3832 The vote was taken by electronic device, and there were - ayes 86, noes 226, answered "present" 1, not voting 120, as follows:

H3832 [Roll No. 172]

H3832 AYES - 86

H3832 Ammerman

H3832 Anderson, Ill.

H3832 Andrews, N.Dak.

H3832 Annunzie

H3832 Ashbrook

H3832 Broomfield

H3832 Brown, Mich.

H3832 Brown, Ohio

H3832 Buchanan

H3832 Burke, Mass.

H3832 Butler

H3832 Carter

H3832 Clawson, Del

H3832 Cohen

H3832 Conable

H3832 Conte

H3832 Corcoran

H3832 Coughlin

H3832 Devine

H3832 Duncan, Tenn.

H3832 Emery

H3832 Erlenborn

H3832 Ertel

H3832 Evans, Colo.

H3832 Fenwick

H3832 Findley

H3832 Flood  
H3832 Flowers  
H3832 Gaydes  
H3832 Giaimo  
H3832 Goldwater  
H3832 Goodling  
H3832 Grassley  
H3832 Guyer  
H3832 Hagedorn  
H3832 Hansen  
H3832 Heckler  
H3832 Hillis  
H3832 Hubbard  
H3832 Hyde  
H3832 Jones, N.C.  
H3832 Kindness  
H3832 Kostmayer  
H3832 LaFalce  
H3832 Leach  
H3832 Lederer  
H3832 Lloyd, Tenn.  
H3832 McClory  
H3832 McDade  
H3832 McKinney  
H3832 Madigan  
H3832 Marks  
H3832 Michel  
H3832 Miller, Ohio  
H3832 Mitchell, Md.

H3832 Moorhead, Pa.  
H3832 Murphy, Pa.  
H3832 Murtha  
H3832 Myers, Michael  
H3832 Myers, Ind.  
H3832 Nix  
H3832 Nowak  
H3832 O'Brien  
H3832 Ottinger  
H3832 Rhodes  
H3832 Robinson  
H3832 Runnels  
H3832 Satterfield  
H3832 Scheuer  
H3832 Schulze  
H3832 Shipley  
H3832 Shuster  
H3832 Simon  
H3832 Slack  
H3832 Smith, Nebr.  
H3832 Stanton  
H3832 Steers  
H3832 Symms  
H3832 Tribble  
H3832 Vander Jagt  
H3832 Walker  
H3832 Walsh  
H3832 Wampler

H3832 Whitten  
H3832 Yatron  
H3832 Young, Fla.  
H3832 NOES - 226  
H3832 Akaka  
H3832 Alexander  
H3832 Allen  
H3832 Ambro  
H3832 Anderson. Calif.  
H3832 Andrews, N.C.  
H3832 Applegate  
H3832 Archer  
H3832 Armstrong  
H3832 Badillo  
H3832 Baldus  
H3832 Baucus  
H3832 Bauman  
H3832 Beard, R.I.  
H3832 Bedell  
H3832 Beilenson  
H3832 Benjamin  
H3832 Bennett  
H3832 Bingham  
H3832 Blanchard  
H3832 Blouin  
H3832 Bolling  
H3832 Bonior  
H3832 Bowen  
H3832 Brademas

H3832 Breckinridge  
H3832 Brodhead  
H3832 Brooks  
H3832 Brown, Calif.  
H3832 Broyhill  
H3832 Burgener  
H3832 Burleson, Tex.  
H3832 Burlison, Mo.  
H3832 Burton, John  
H3832 Burton, Phillip  
H3832 Byron  
H3832 Caputo  
H3832 Carney  
H3832 Carr  
H3832 Clausen, Don H.  
H3832 Cochran  
H3832 Coleman  
H3832 Collins, Tex.  
H3832 Conyers  
H3832 Corman  
H3832 Cornell  
H3832 Cornwell  
H3832 D'Amours  
H3832 Daniel, Dan  
H3832 Daniel, R.W.  
H3832 Danielson  
H3832 de la Garza  
H3832 Dellums

H3832 Derwinski  
H3832 Dickinson  
H3832 Dicks  
H3832 Dingell  
H3832 Dornan  
H3832 Drinan  
H3832 Duncan, Oreg.  
H3832 Eckhardt  
H3832 Edwards, A'a.  
H3832 Edwards, Calif.  
H3832 Edwards, Okla.  
H3832 English  
H3832 Evans, Del.  
H3832 Fary  
H3832 Fascell  
H3832 Fisher  
H3832 Flippo  
H3832 Flynt  
H3832 Floey  
H3832 Ford, Mich.  
H3832 Ford, Tenn.  
H3832 Fountain  
H3832 Fowler  
H3832 Frey  
H3832 Gammage  
H3832 Gephardt  
H3832 Gibbons  
H3832 Ginn  
H3832 Glickman

H3832 Gonzalez  
H3832 Gore  
H3832 Gudger  
H3832 Hall  
H3832 Hamilton  
H3832 Hanley  
H3832 Hannaford  
H3832 Harris  
H3832 Hefner  
H3832 Hightower  
H3832 Holt  
H3832 Holtzman  
H3832 Howard  
H3832 Huckaby  
H3832 Hughes  
H3832 Jacobs  
H3832 Jenrette  
H3832 Johnson, Calif.  
H3832 Johnson, Colo.  
H3832 Jones, Okla.  
H3832 Jordan  
H3832 Kasten  
H3832 Kastenmeier  
H3832 Kazen  
H3832 Kelly  
H3832 Kemp  
H3832 Keys  
H3832 Kildee

H3832 Krebs  
H3832 Lagomarsino  
H3832 Lehman  
H3832 Levitas  
H3832 Lloyd, Calif.  
H3832 Long, La.  
H3832 Long, Md.  
H3832 Lott  
H3832 Luken  
H3832 Lundine  
H3832 McCloskey  
H3832 McCormack  
H3832 McDonald  
H3832 McFall  
H3832 McHugh  
H3832 Maguire  
H3832 Mann  
H3832 Markey  
H3832 Marlenee  
H3832 Marriott  
H3832 Martin  
H3832 Mattox  
H3832 Meeds  
H3832 Mikulski  
H3832 Mikva  
H3832 Miller, Calif.  
H3832 Mineta  
H3832 Minish  
H3832 Moffett

H3832 Mollohan  
H3832 Moore  
H3832 Moss  
H3832 Mottl  
H3832 Mvers, Gary  
H3832 Natcher  
H3832 Neal  
H3832 Nedzi  
H3832 Nichols  
H3832 Nolan  
H3832 Oakar  
H3832 Oberstar  
H3832 Obey  
H3832 Panetta  
H3832 Patten  
H3832 Pattison  
H3832 Pease  
H3832 Pepper  
H3832 Perkins  
H3832 Pettis  
H3832 Pike  
H3832 Poage  
H3832 Preyer  
H3832 Pursell  
H3832 Quie  
H3832 Rahall  
H3832 Regula  
H3832 Reuss

H3832 Richmond  
H3832 Rinaldo  
H3832 Risenhoover  
H3832 Rodino  
H3832 Rogers  
H3832 Roncalio  
H3832 Rosenthal  
H3832 Rostenkowski  
H3832 Roybal  
H3832 Rudd  
H3832 Russo  
H3832 Ryan  
H3832 Santini  
H3832 Schroeder  
H3832 Seiberling  
H3832 Sharp  
H3832 Skelton  
H3832 Skubitz  
H3832 Smith, Iowa  
H3832 Solarz  
H3832 Spellman  
H3832 Spence  
H3832 Staggers  
H3832 Stangeland  
H3832 Stockman  
H3832 Stokes  
H3832 Studts  
H3832 Stump  
H3832 Thompson

H3832 Thone  
H3832 Tonry  
H3832 Traxler  
H3832 Treen  
H3832 Tsongas  
H3832 Tucker  
H3832 Udall  
H3832 Ullman  
H3832 Van Deerlin  
H3832 Vanik  
H3832 Vento  
H3832 Waggonner  
H3832 Watkins  
H3832 Waxman  
H3832 Weaver  
H3832 Whalen  
H3832 White  
H3832 Whitley  
H3832 Wilson, Bob  
H3832 Wilson, Tex.  
H3832 Winn  
H3832 Wirth  
H3832 Wolff  
H3832 Wright  
H3832 Wylie  
H3832 Yates  
H3832 Young, Alaska  
H3832 Young, Mo.

H3832 Young, Tex.  
H3832 Zablocki  
H3832 ANSWERED "PRESENT" - 1  
H3832 Bafalis  
H3832 NOT VOTING - 120  
H3832 Abdnor  
H3832 Addabbo  
H3832 Ashley  
H3832 Aspin  
H3832 AuCoin  
H3832 Badham  
H3832 Barnard  
H3832 Beard, Tenn.  
H3832 Bevill  
H3832 Biaggi  
H3832 Boggs  
H3832 Boland  
H3832 Bonker  
H3832 Breaux  
H3832 Brinkley  
H3832 Burke, Calif.  
H3832 Burke, Fla.  
H3832 Cavanaugh  
H3832 Cederberg  
H3832 Chappell  
H3832 Chisholm  
H3832 Clay  
H3832 Cleveland  
H3832 Collins, Ill.

H3832 Cotter  
H3832 Crane  
H3832 Davis  
H3832 Delaney  
H3832 Dent  
H3832 Derrick  
H3832 Diggs  
H3832 Dodd  
H3832 Downey  
H3832 Early  
H3832 Edgar  
H3832 Eilberg  
H3832 Evans, Ga.  
H3832 Evans, Ind.  
H3832 Fish  
H3832 Fithian  
H3832 Florio  
H3832 Forsythe  
H3832 Fraser  
H3832 Frenzel  
H3832 Fuqua  
H3832 Gilman  
H3832 Gradison  
H3832 Hammerschmidt  
H3832 Harkin  
H3832 Harrington  
H3832 Harsha  
H3832 Hawkins

H3832 Heftel  
H3832 Holland  
H3832 Hollenbeck  
H3832 Horton  
H3832 Inchord  
H3832 Ireland  
H3832 Jeffords  
H3832 Jenkins  
H3832 Jones, Tenn.  
H3832 Ketchum  
H3832 Koch  
H3832 Krueger  
H3832 Latta  
H3832 Le Fante  
H3832 Leggett  
H3832 Lent  
H3832 Lujan  
H3832 McEwen  
H3832 McKay  
H3832 Mahon  
H3832 Mathis  
H3832 Mazzoli  
H3832 Metcalfe  
H3832 Meyner  
H3832 Milford  
H3832 Mitchell, N.Y.  
H3832 Moakley  
H3832 Montgomery  
H3832 Moorhead, Calif.

H3832 Murphy, Ill.

H3832 Murphy, N.Y.

H3832 Patterson

H3832 Pickle

H3832 Pressler

H3832 Price

H3832 Pritchard

H3832 Quayle

H3832 Quillen

H3832 Railsback

H3832 Rangel

H3832 Roberts

H3832 Roe

H3832 Rooney

H3832 Rose

H3832 Rousselot

H3832 Ruppe

H3832 Sarasin

H3832 Sawyer

H3832 Sebelius

H3832 Sikes

H3832 Sisk

H3832 Snyder

H3832 St Germain

H3832 Stark

H3832 Steed

H3832 Steiger

H3832 Stratton

H3832 Taylor

H3832 Teague

H3832 Thornton

H3832 Volkmer

H3832 Walgren

H3832 Weiss

H3832 Whitehurst

H3832 Wiggins

H3832 Wilson, C.H.

H3832 Wydler

H3832 Zeferetti

H3832 Messrs. APPELATE, McDONALD, and REGULA changed their vote from "aye" to "no."

H3832 So the amendment was rejected.

H3832 The result of the vote was announced as above recorded.

H3832 Mr. UDALL. Mr. Chairman, I move to strike the last word.

{H3833} I take this time to advise my colleagues of the status of the debate and see if we cannot expedite and conclude our work this afternoon.

H3833 We are now on title VII, which is the last title of the bill. I know of no major amendments left. There is a one-sentence amendment by the gentleman from Wyoming (Mr. RONCALIO), that I propose to accept, so it will be my purpose in just a moment to ask unanimous consent that all debate on title VII and any amendments thereto close in 10 minutes, after which the gentleman from Maryland (Mr. BAUMAN) may have a motion to recommit and we can vote on final passage and conclude our day's work.

H3833 Mr. Chairman, I ask unanimous consent that all debate on title VII and on the bill conclude in 10 minutes.

H3833 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3833 There was no objection.

H3833 The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for 2 1/2 minutes each.

H3833 AMENDMENT OFFERED BY MR. RONCALIO

H3833 Mr. RONCALIO. Mr. Chairman, I offer an amendment.

H3833 The Clerk read as follows:

H3833 Amendment offered by Mr. RONCALIO: Title VII, section 714, page 359, line 19 through 21, strike subsection (f) and insert a new subsection as follows:

H3833 (f) This section shall not apply to Indian lands.

H3833 (Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

H3833 Mr. RONCALIO. Mr. Chairman, to make a long story short, we are attempting in this legislation to treat Indians as much as humanly possible with respect, and particularly the request that they make for the management of their affairs in the West.

H3833 Mr. Chairman, this amendment is offered on behalf of the National Congress of American Indians. Inc.; the Crow Tribe of the Crow Reservation, Montana; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Arapahoe Tribe of the Wind River Reservation, Wyoming.

H3833 It would put back certain respect for the treaty relationship of the tribal reserves, subject to mineral rights and Indian development.

H3833 Mr. Chairman, I urge adoption of the amendment.

H3833 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3833 Mr. RONCALIO. I yield to the gentleman from Arizona.

H3833 Mr. UDALL. Mr. Chairman, we accept the amendment.

H3833 Mr. RONCALIO. Mr. Chairman, I am happy the gentleman has accepted the amendment. I thank the gentleman.

H3833 The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO).

H3833 The amendment was agreed to.

H3833 The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr.

EDWARDS).

H3833 (Mr. EDWARDS of Oklahoma asked and was given permission to revise and extend his remarks.)

H3833 Mr. EDWARDS of Oklahoma. Mr. Chairman, I want to first say, as a freshman member of the Committee on Energy, I have been very impressed by the expertise that the members of this committee on both sides of the aisle have brought to this complex issue.

H3833 I have also been very impressed by the chairman of the committee and a fairness with which the gentleman has handled this matter. This is not an easy issue for me, because I believe in reclamation. I have supported reclamation in my home State. If this was a reclamation bill, I would support it without any question; but I think the issue goes beyond reclamation. The issue goes beyond environmental standards, which I think are necessary and which may of the States have moved to adopt.

H3833 I think the real problem here is that we have an energy question. There is a great need in this country for more energy. If we could achieve a program or a bill here where we could come up with adequate safeguards for energy production without unduly messing up the environment, I think that is what we would all want.

H3833 I believe this bill has gone a little bit too far to satisfy the environmental extremes, and I would urge that Members of this body, if they truly want to preserve the right, as the President has said, to increase coal production in this Nation, I would urge the Members to vote no; or alternatively, to vote to recommit, or to commit this bill to the Ad Hoc Committee on Energy.

H3833 The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

H3833 (Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

H3833 Mr. BAUMAN. Mr. Chairman, my colleagues, when we arrive at the point when the minority traditionally has a right to offer a motion to recommit this legislation, it is my intention to offer, not a motion to recommit, but to offer a motion to commit - to commit this legislation to the Ad Hoc Committee on Energy.

H3833 We have heard a great deal of discussion in the days since President Carter addressed the House of Representatives and the Senate, in joint session assembled, about the need for a coordinated energy policy. Indeed, when the gentleman from Texas (Mr. WRIGHT), the majority leader, addressed the House on April 21 and presented the resolution creating the Ad Hoc Committee on Energy, he specifically referred to the need for - and these are his words - "one general, comprehensive overview" to solve our energy problems.

H3833 He said further:

H3833 So, this is an effort to permit the House to look at the energy problem as one comprehensive problem, and to treat it as one problem.

H3833 That is all my motion will do. Whether Members are for or against this legislation, this is not an effort to delay a strip mining bill. Members will hear the argument that we have had this bill, or similar bills, before us for the last 6 years, but we have never considered a strip mining bill in the context that we consider it today, with more than 50 percent of our petroleum supply coming from abroad; with the Nation facing a critical energy shortage comparable to a national disaster such as a war, as the President said; when nuclear power is under attack and may be curbed. We have a bill before us today which in effect imposes the first Carter energy taxes, which every coal consumer and electric consumer will pay; a bill that will drive up electric costs and hamper the production of coal considerably.

H3833 The President has told us that coal must be our principal energy source, and if we have any responsibility in this House it is to consider that request in the context of all our energy needs.

H3833 My motion will instruct the Ad Hoc Committee on Energy to hold hearings promptly, consider this strip mining bill and all its ramifications, and return it to the House as part of a comprehensive energy package. It makes no sense to pass a bill which seriously impairs this Nation's ability to deal with its energy needs and pretend that we are dealing with it as it should be dealt with.

H3833 I appeal to the Members, support the motion. It will do no violence to the jurisdiction of this committee or its rights. They can bring it back within a reasonable period of time and tell us the true dimensions of what this bill will do and what its effect is. We owe that caution to the people we

represent.

H3833 AMENDMENT OFFERED BY MR. UDALL

H3833 Mr. UDALL. Mr. Chairman, I offer an amendment.

H3833 The Clerk read as follows:

H3833 Amendment offered by Mr. UDALL: Insert a new section 719 on page 361, line 23:

H3833 On and after the date of enactment no surface coal mining operation shall mine within five hundred feet from underground mines in order to prevent breakthroughs and to protect health or safety of miners: Provided, That the regulatory authority shall permit an operator to mine closer to such a mine provided it does not create hazards to the health and safety of miners and the mining activities are jointly approved by the regulatory authorities concerned with surface mine regulation and the health and safety of underground miners or shall permit an operator to mine near, through or partially through an abandoned underground mine working where such mining through will achieve improved resources recovery, abatement of water pollution or elimination of hazards to health and safety of the public and such mining shall be consistent with the provisions of this Act.

H3833 Mr. UDALL (during the reading).Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

H3833 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3833 There was no objection.

H3833 Mr. UDALL.Mr. Chairman, this is an amendment which I have worked out with the gentleman from West Virginia (Mr. MOLLOHAN) to clarify the ramifications as between underground mining, handled by MESA, and surface mining, governed by this bill.

{H3834} } Mr. Chairman, surface coal mine and underground coal mine operations can be interspersed within the same local area. Provision needs to be made to assure that the activities of one type of operation do not endanger miners in the other type of mine.The regulatory agency concerned with the health and safety of underground and surface miners should approve the mine plan in order to assure the safety of miners.

H3834 This amendment stipulates that such an approval be obtained. The conditions of such an approval are to be determined on a mine-by-mine basis and are dependent upon the nature, timing, sequencing of the mine operations as well as the physical characteristics of the mine site.

H3834 The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL).

H3834 The amendment was agreed to.

H3834 The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

H3834 Mr. UDALL. Mr. Chairman, on the motion to recommit, the argument is made by the gentleman from Maryland that we ought to send this to the new Ad Hoc Energy Committee so that we can have it as a part of the energy package. The comprehensive energy policy consists of several things. Some of them will be laws that are already on the books. Some will be the laws that are in preparation, such as this one, in the legislative process. Some will be long-range things we have to do down the road.

H3834 The President of the United States, in the energy package he is sending to Congress, does not include the strip mine legislation. He asked in his message before the Congress that we pass this now. So, I do not want H.R. 2 to go to the Ad Hoc Energy Committee; the President does not want it there.

H3834 The Energy Director, Mr. Schlesinger, does not want it. The gentleman from Ohio (Mr. ASHLEY) does not want it. The Speaker does not want it. The majority leader does not want it. The only people who want this bill in the Ad Hoc Committee on Energy are people who are opposed to any strip-mining legislation.

H3834 Mr. Chairman, the motion to recommit ought to be defeated, and we ought to pass the bill as soon as we can.

H3834 Mr. BEVILL. Mr. Chairman, I rise in opposition to H.R. 2, the Surface Mining Control and Reclamation Act of 1977.

H3834 While I feel that I must oppose this legislation, at the same time, I would take this opportunity to commend Chairman UDALL and the House Committee on Interior and Insular

Affairs for the improvements they have made in this bill over provisions contained in its predecessors.

H3834 These improvements considered, it remains my belief that Federal legislation, such as H.R. 2, is not the proper way to enforce an effective reclamation policy in our coal mining States.

H3834 It is my contention that reclamation enforcement should be the responsibility of the individual States. This contention is one of three major reasons why I oppose H.R. 2.

H3834 Enactment of this legislation would result in more redtape that would obviously be created by the establishment of a new Office of Surface Mining Reclamation and Enforcement. Such an office would be created if H.R. 2 becomes law.

H3834 The other reason behind my opposition to this legislation concerns the pressing need for an increase in the production of coal to help meet our energy demands as President Carter illustrated in his recent message to Congress.

H3834 Concerning the argument of Federal reclamation enforcement versus State enforcement, it should be noted that 38 States currently have surface mining laws that are being enforced. Adoption of one all inclusive piece of Federal legislation to oversee the reclamation process would weaken and eventually destroy the existing State enforcement programs, most of which have been vastly improved and strengthened in recent years.

H3834 The various State laws vary in enforcement procedures and this is as it should be. The State laws differ to take into account the widely differing climate, geology, terrain, biology, soil chemistry, and in some instances even social conditions which are unique to the individual areas.

H3834 It is my opinion that the States are doing, for the most part, an adequate job of enforcing existing reclamation laws. Because of the vast natural differences that exist, it seems much more sensible to allow the reclamation process to be handled at the State level. Such an approach seems the logical way to address problems presented by differences in land contours as opposed to trying to provide a single piece of Federal legislation that seeks to include provisions for every particular circumstance.

H3834 Approval of H.R. 2 will undoubtedly increase the bureaucratic network. Its approval

could lead to years of regulatory delays, litigation, and uncertainty which certainly go against the best interests of our long-range environmental and energy objectives.

H3834 The proposed legislation, in present form, leaves itself open to numerous court cases which will have a negative effect on our drive for maximum production of all existing energy sources. Delays will occur as a result of litigation that is seemingly invited by the numerous ambiguities contained in the bill.

H3834 In his recent energy message to Congress, President Carter called for a concentrated shift from oil and natural gas as our major energy source to the more plentiful supplies of coal. Despite the helpful amendments that have been made to H.R. 2, unfortunately it still has significant potential for reducing coal production. The fact these production losses would come at a time when coal must be used as our primary energy source seems inconsistent with President Carter's proposed energy policy.

H3834 And it is not hard to figure that if a drop in coal production occurs, there will likewise be employment losses. And any measure that would directly or indirectly affect unemployment figures should be avoided.

H3834 In summation, H.R. 2 has the power to destroy existing State reclamation laws which are being enforced effectively, to reduce coal production, raise coal costs which will be reflected in higher utility bills for consumers, produce an enormous amount of litigation for the already overworked court system, and seriously impair the Nation's ability to successfully meet the challenge of the very real energy crisis.

H3834 For these reasons, all of which are related in some manner to both economic and energy questions, I urge my colleagues to oppose H.R. 2, the Surface Mining Control and Reclamation Act of 1977.

H3834 Mr. SAWYER. Mr. Chairman, I wish to add my support for H.R. 2, the Surface Mining Control and Reclamation Act. I have been favorably impressed that the legitimate concerns involved, both coal and environmental interests, have been reckoned with in fairness and sincerity to bring about the legislation before us today.

H3834 No one can argue over the basic need to minimize danger to the environment which has

often times been overlooked and forgotten after coal has been extracted by strip mining. As we begin to look into the future where we will require increased emphasis on coal, it is essential we resolve the controversy on this issue to allow the orderly development of our Nation's coal reserves.

H3834 A workable strip mining bill will permit minor disruption of the environment and allow continued mining of coal. We cannot afford to restrict development of valuable coal resources. Presently coal accounts for only a small percentage of our national energy consumption, however, coal reserves promise to be our best alternative to dwindling oil and gas supplies.

H3834 The Congress will soon be considering incentives to encourage industrial use of coal as a primary energy source and we must, therefore, guarantee continued availability of coal at reasonable prices.

H3834 I believe H.R. 2 is a sound approach to a complex issue and I urge its passage without further delay.

H3834 Mr. STUMP. Mr. Chairman, I rise in opposition to H.R. 2, the Surface Mining Control and Reclamation Act.

H3834 We are continually hearing about the energy crisis, the cost of electricity and the need for jobs, particularly outside Phoenix and Tucson and on the Indian reservations.

H3834 I voted against H.R. 2 because those three matters have a higher priority for our immediate future than new controls on strip mining. Arizona must have coal to meet its energy needs. Within the next 5 years 80 percent or more of the electricity that our State needs will be produced by coal-fired generators. This bill not only throws up a major roadblock to getting and using new coal, but also establishes a regulatory structure that will raise the cost of coal in general, and electric rates in particular. High electricity rates are hurting every home and business.

H3834 We were told during the debate on this bill that H.R. 2 will eliminate uncertainty in the regulation of coal mining and expedite the development of this needed resource. These assertions bring to mind Ralph Waldo Emerson's observation: "What can be thought can be written." This may be the case in literature but not in legislation.

{H} 3835 For example, H.R. 2 would create a new Office of Surface Mining Reclamation and

Enforcement with power to carry out extensive environmental controls, de facto Federal land use planning, detailed mining permit application forms and data requirements, unfounded monitoring and enforcement programs, and so on for 181 pages of fine print.

H These Federal regulations usurp the rights of Arizonans to make their own decisions about how coal resources should be developed, H.R. 2, will require recruiting a new army of bureaucrats just to police the provisions in this legislation.

H Mr. Speaker, I am disappointed that nowhere in the dialog have we talked about the cost of lawsuits to clear up the ambiguities of H.R. 2. I respectfully refer my colleagues to one specific finding in the report prepared for the EPA and CEQ that "imprecise and undefined terms create a high degree of uncertainty in predicting impacts and could likely lead to extensive litigation."

H The President has called on the country to increase coal production at least 400 million tons per year. Yet, the EPA/CEQ study also concluded that the prohibitions in this bill could result in loss of more than 50 million tons of coal production during the first year of regulation and as much as 100 million tons each year after that.

H In short, the costs and delays of the procedural requirements in this bill are obstacles to the needed expansion of existing surface mines and the development of new mines. These costs will be paid by the ultimate energy consumer. Make no mistake about it, these costs will be substantial, and the benefits alleged to accrue, in my opinion, without basis in either fact or need.

H H.R. 2 makes about as much sense as trying to put out a fire by pouring gasoline on it.

H The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

H The committee amendment in the nature of a substitute, as amended, was agreed to.

H The CHAIRMAN. Under the rule, the Committee rises.

H Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. SMITH of Iowa, 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. 2) to

provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, pursuant to House Resolution 523, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

H The SPEAKER pro tempore (Mr. WRIGHT). Under the rule, the previous question is ordered.

H Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

H If not, the question is on the amendment.

H The amendment was agreed to.

H The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

H The bill was ordered to be engrossed and read a third time, and was read the third time.

H MOTION TO RECOMMIT OFFERED BY MR. BAUMAN

H Mr. BAUMAN. Mr. Speaker, I offer a motion to recommit.

H The SPEAKER pro tempore. Is the gentleman opposed to the bill?

H Mr. BAUMAN. I am, Mr. Speaker.

H The SPEAKER pro tempore. The Clerk will report the motion to recommit.

H The Clerk read as follows:

H Mr. BAUMAN moves to commit the bill, H.R. 2, to the Ad Hoc Committee on Energy, with instructions to consider the bill in relation to the message of the President dated April 20; 1977 (H.Doc. 95-128) or any other messages or communications related thereto and to promptly hold hearings thereon.

H The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

H Mr. BAUMAN. Mr. Speaker, I shall not take much time, except to say to the gentleman from Arizona (Mr. UDALL) that he is not totally accurate in his assertion that those who support this bill oppose this motion.

H The gentleman from Kansas (Mr. SKUBITZ), the ranking minority member, supports this motion. The gentleman from California (Mr. DON H. CLAUSEN), a cosponsor of this bill, testified before the committee that he would like to see this considered as a part of a comprehensive energy policy before it is finally passed. Many others share that view.

H Mr. UDALL. Mr. Speaker, if the gentleman will yield, I stand corrected with regard to the majority of the Members the gentleman mentions. I am sorry.

H Mr. BAUMAN. I thank the gentleman.

H The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

H There was no objection.

H The SPEAKER pro tempore. The question is on the motion to recommit.

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

H Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

H The yeas and nays were ordered.

H The vote was taken by electronic device, and there were - yeas 83, nays 228, answered "present" 1, not voting 121, as follows:

H [Roll No. 173]

H YEAS - 83

H Archer

H Ashbrook

H Bauman

H Benjamin

H Bowen

H Broomfield

H Brown, Mich.

H Brown, Ohio

H Broyhill

H Burleson, Tex.

H Butler  
H Caputo  
H Carter  
H Clausen, Don H.  
H Clawson, Del  
H Cochran  
H Collins, Tex.  
H Corcoran  
H Daniel, Dan  
H Daniel, R. W.  
H de la Garza  
H Derwinski  
H Dornan  
H Duncan, Tenn.  
H Edwards, Ala.  
H Edwards, Okla.  
H English  
H Erlenborn  
H Flipppo  
H Flowers  
H Fountain  
H Gammage  
H Goldwater  
H Gonzalez  
H Goodling  
H Grassley  
H Guyer  
H Hansen

H Hillis  
H Holt  
H Hubbard  
H Hyde  
H Jacobs  
H Jones, Okla.  
H Kazen  
H Kelly  
H Kemp  
H Kindness  
H Lott  
H McClory  
H McCormack  
H McDonald  
H Marks  
H Marriott  
H Martin  
H Michel  
H Miller, Ohio  
H Moore  
H Myers, Ind.  
H Nichols  
H O'Brien  
H Rhodes  
H Risenhoover  
H Robinson  
H Rudd  
H Runnels  
H Satterfield

H Shuster  
H Skubitz  
H Slack  
H Smith, Nebr.  
H Spence  
H Stump  
H Symms  
H Treen  
H Tribble  
H Vander Jagt  
H Waggonner  
H Wampler  
H Watkins  
H White  
H Wilson, Bob  
H Winn  
H NAYS - 228  
H Akaka  
H Alexander  
H Allen  
H Ambro  
H Ammerman  
H Anderson, Calif.  
H Anderson, Ill  
H Andrews, N.C.  
H Andrews, N.Dak.  
H Annunzio  
H Applegate

H Armstrong  
H Badillo  
H Baldus  
H Baucus  
H Beard, R.I.  
H Bedell  
H Beilenson  
H Bennett  
H Bingham  
H Blanchard  
H Bolling  
H Bonior  
H Brademas  
H Breckinridge  
H Brodhead  
H Brooks  
H Brown, Calif.  
H Buchanan  
H Burgener  
H Burke, Mass.  
H Burlison, Mo.  
H Burtion, John  
H Burton, Phillip  
H Byron  
H Carney  
H Carr  
H Cohen  
H Coleman  
H Collins, Ill.

H Conable  
H Conte  
H Conyers  
H Corman  
H Cornell  
H Cornwell  
H Coughlin  
H D'Amours  
H Danielson  
H Dellums  
H Devine  
H Dickinson  
H Dicks  
H Dingell  
H Drinan  
H Duncan, Oreg.  
H Eckhardt  
H Edwards, Calf.  
H Emery  
H Ertel  
H Evans, Colo.  
H Evans, Del.  
H Fary  
H Fascell  
H Fenwick  
H Findley  
H Fisher  
H Flood

H Flynt  
H Foley  
H Ford, Mich.  
H Ford, Tenn.  
H Fowler  
H Frey  
H Gaydos  
H Gephardt  
H Giaimo  
H Gibbons  
H Ginn  
H Glickman  
H Gore  
H Gudger  
H Hagedorn  
H Hall  
H Hamilton  
H Hanley  
H Hannaford  
H Harris  
H Heckler  
H Hefner  
H Hightower  
H Holtzman  
H Howard  
H Huckaby  
H Hughes  
H Jenrette  
H Johnson, Calif.

H Johnson, Colo  
H Jones, N.C.  
H Jordan  
H Kasten  
H Kastenmeier  
H Keys  
H Kildee  
H Kostmayer  
H Krebs  
H LaFalce  
H Lagomarsino  
H Leach  
H Lederer  
H Lehman  
H Levitas  
H Lloyd, Calif.  
H Lloyd, Tenn.  
H Long, La.  
H Long, Md.  
H Luken  
H Lundine  
H McCloskey  
H McDade  
H McFall  
H McHugh  
H McKinney  
H Madigan  
H Maguire

H Mann  
H Markey  
H Marlenee  
H Mathis  
H Mattox  
H Meeds  
H Mikulski  
H Mikva  
H Miller, Calif.  
H Mineta  
H Minish  
H Mitchell, Md.  
H Moffett  
H Mollohan  
H Moorhead, Pa.  
H Moss  
H Murphy, Pa.  
H Murtha  
H Myers, Gary  
H Myers, Michael  
H Natcher  
H Neal  
H Nedzi  
H Nix  
H Nolan  
H Nowak  
H Oakar  
H Oberstar  
H Obey

H Ottinger  
H Panetta  
H Patten  
H Pattison  
H Pease  
H Pepper  
H Perkins  
H Pettis  
H Pike  
H Poage  
H Preyer  
H Pursell  
H Quie  
H Rahall  
H Regula  
H Reuss  
H Richmond  
H Rinaido  
H Rodino  
H Rogers  
H Roncalio  
H Rosenthal  
H Rostenkowski  
H Roybal  
H Russo  
H Ryan  
H Santini  
H Scheuer

H Schroeder  
H Schulze  
H Selberling  
H Sharp  
H Shipley  
H Simon  
H Skelton  
H Smith, Iowa  
H Soiarz  
H Spellman  
H Staggers  
H Stangeland  
H Stanton  
H Steers  
H Stockman  
H Stokes  
H Studds  
H Thompson  
H Thone  
H Tonry  
H Tsongas  
H Tucker  
H Udall  
H Ullman  
H Van Deerlin  
H Vanlk  
H Vento  
H Walker  
H Walsh

H Waxman  
H Weaver  
H Whalen  
H Whitley  
H Whitten  
H Wilson, Tex.  
H Wirth  
H Wolff  
H Wright  
H Wylie  
H Yates  
H Yatron  
H Young, Alaska  
H Young, Fla.  
H Young, Mo.  
H Young, Tex.  
H Zablocki  
H ANSWERED "PRESENT" - 1  
H Bafalis  
H NOT VOTING - 121  
H Abdnor  
H Addabbo  
H Ashley  
H Aspin  
H AuCoin  
H Badham  
H Barnard  
H Beard, Tenn.

H Bevill  
H Biaggi  
H Blouin  
H Boggs  
H Boland  
H Bonker  
H Breaux  
H Brinkley  
H Burke, Calif.  
H Burke, Fla.  
H Cavanaugh  
H Cederberg  
H Chappell  
H Chisholm  
H Clay  
H Cleveland  
{H3836} Cotter  
H3836 Crane  
H3836 Davis  
H3836 Delaney  
H3836 Dent  
H3836 Derrick  
H3836 Diggs  
H3836 Dodd  
H3836 Downey  
H3836 Early  
H3836 Edgar  
H3836 Eilberg  
H3836 Evans, Ga.

H3836 Evans, Ind.  
H3836 Fish  
H3836 Fithian  
H3836 Florio  
H3836 Forsythe  
H3836 Fraser  
H3836 Frenzel  
H3836 Fuqua  
H3836 Gilman  
H3836 Gradison  
H3836 Hammerschmidt  
H3836 Harkin  
H3836 Harrington  
H3836 Harsha  
H3836 Hawkins  
H3836 Heftel  
H3836 Holland  
H3836 Hollenbeck  
H3836 Horton  
H3836 Ichord  
H3836 Ireland  
H3836 Jeffords  
H3836 Jenkins  
H3836 Jones, Tenn.  
H3836 Ketchum  
H3836 Koch  
H3836 Krueger  
H3836 Latta

H3836 Le Fante  
H3836 Leggett  
H3836 Lent  
H3836 Lujan  
H3836 McEwen  
H3836 McKay  
H3836 Mahon  
H3836 Mazzoli  
H3836 Metcalfe  
H3836 Meyner  
H3836 Milford  
H3836 Mitchell, N.Y.  
H3836 Moakley  
H3836 Montgomery  
H3836 Moorhead, Calif.  
H3836 Mottl  
H3836 Murphy, Ill.  
H3836 Murphy, N.Y.  
H3836 Patterson  
H3836 Pickle  
H3836 Pressler  
H3836 Price  
H3836 Pritchard  
H3836 Quayle  
H3836 Quillen  
H3836 Railsback  
H3836 Rangel  
H3836 Roberts  
H3836 Roe

H3836 Rooney  
H3836 Rose  
H3836 Rousselot  
H3836 Ruppe  
H3836 Sarasin  
H3836 Sawyer  
H3836 Sebelius  
H3836 Sikes  
H3836 Sisk  
H3836 Snyder.  
H3836 St Germain  
H3836 Stark  
H3836 Steed  
H3836 Steiger  
H3836 Stratton  
H3836 Taylor  
H3836 Teague  
H3836 Thornton  
H3836 Traxler  
H3836 Volkmer  
H3836 Walgren  
H3836 Weiss  
H3836 Whitehurst  
H3836 Wiggins  
H3836 Wilson, C.H.  
H3836 Wydler  
H3836 Zeferetti  
H3836 The Clerk announced the following pairs:

H3836 Mr. Addabbo with Mr. Teague.  
H3836 Mr. Ireland with Mr. Bevill.  
H3836 Mrs. Boggs with Mr. Chappell.  
H3836 Mr. Zeferetti with Mr. Montgomery.  
H3836 Mr. Boland with Mr. Davis.  
H3836 Mr. Le Fante with Mr. Milford.  
H3836 Mr. Cavanaugh with Mr. Abdnor.  
H3836 Mr. Cotter with Mr. Burke of Florida.  
H3836 Mr. Harrington with Mr. Gradison.  
H3836 Mr. Eilberg with Mr. Beard of Tennessee.  
H3836 Mr. Sikes with Mr. Harsha.  
H3836 Mr. Biaggi with Mr. Lent.  
H3836 Mr. Florio with Mr. Crane.  
H3836 Mr. Pickle with Mr. Jeffords.  
H3836 Mr. Fithian with Mr. Wydler.  
H3836 Mr. Koch with Mr. Fish.  
H3836 Mr. Stratton with Mr. Horton.  
H3836 Mr. Stark with Mr. Wiggins.  
H3836 Mr. Metcalfe with Mr. Gilman.  
H3836 Mrs. Burke of California with Mr. Taylor.  
H3836 Mrs. Meyner with Mr. Cederberg.  
H3836 Mr. Volkmer with Mr. Steiger.  
H3836 Mr. McKay with Mr. Snyder.  
H3836 Mr. Evans of Indiana with Mr. Frenzel.  
H3836 Mr. AuCoin with Mr. Railsback.  
H3836 Mr. Rangel with Mr. Quillen.  
H3836 Mr. Krueger with Mr. Hollenbeck.  
H3836 Mr. Weiss with Mr. Lujan.  
H3836 Mr. St Germain with Mr. Sawyer.

H3836 Mr. Mazzoli with Mr. Mitchell of New York.

H3836 Mr. Dodd with Mr. Ruppe.

H3836 Mr. Diggs with Mr. Pressler.

H3836 Mr. Dent with Mr. Sarasin.

H3836 Mr. Delaney with Mr. Rousselot.

H3836 Mr. Breaux with Mr. Hammerschmidt.

H3836 Mr. Ashley with Mr. Badham.

H3836 Mr. Aspin with Mr. Rose.

H3836 Mr. Fraser with Mr. Steed.

H3836 Mr. Fuqua with Mr. Mahon.

H3836 Mr. Price with Mr. Mottl.

H3836 Mr. Roberts with Mr. Evans of Georgia.

H3836 Mr. Rooney with Mr. Early.

H3836 Mr. Sisk with Mr. Downey.

H3836 Mr. Bonker with Mr. Derrick.

H3836 Mr. Blouin with Mr. Cleveland.

H3836 Mr. Barnard with Mr. Brinkley.

H3836 Mr. Hawkins with Mr. Edgar.

H3836 Mr. Heftel with Mr. Forsythe.

H3836 Mr. Roe with Mr. Harkin.

H3836 Mr. Moaklev with Mr. Holland.

H3836 Mrs. Chaisholm with Mr. Pritchard.

H3836 Mr. Clay with Mr. Quavle.

H3836 Mr. Thornton with Mr. Sebelius.

H3836 Mr. Traxler with Mr. Walgren.

H3836 Mr. Charles H. Wilson of California with Mr. Whitehurst.

H3836 Mr. Ichord with Mr. Jones of Tennessee.

H3836 Mr. Jenkins with Mr. Ketchum.

H3836 Mr. Murphy of Illinois with Mr. Latta.

H3836 Mr. Moorhead of California with Mr. Leggett.

H3836 Mrs. SMITH of Nebraska and Mr. WHITE changed their votes from "nay" to "yea."

H3836 So the motion to recommit was rejected.

H3836 The result of the vote was announced as above recorded.

H3836 The SPEAKER pro tempore. The question is on the passage of the bill.

H3836 Mr. UDALL. Mr. Speaker, on that I demand the yeas and nays.

H3836 The yeas and nays were ordered.

H3836 The question was taken; and there were - yeas 241, nays 64, answered "present" 1, not voting 127, as follows:

H3836 [Roll No. 174]

H3836 YEAS - 241

H3836 Akaka

H3836 Allen

H3836 Ambro

H3836 Ammerman

H3836 Anderson, Calif.

H3836 Anderson, Ill.

H3836 Andrews, N.C.

H3836 Andrews, N.Dak.

H3836 Annunzio

H3836 Applegate

H3836 Armstrong

H3836 Badillo

H3836 Baldus

H3836 Baucus

H3836 Beard, R.I.

H3836 Bedell

H3836 Beilenson  
H3836 Benjamin  
H3836 Bennett  
H3836 Bingham  
H3836 Blanchard  
H3836 Bolling  
H3836 Bonior  
H3836 Brademas  
H3836 Breckinridge  
H3836 Brodhead  
H3836 Brooks  
H3836 Broomfield  
H3836 Brown, Calif.  
H3836 Brown, Mich.  
H3836 Brown, Ohio  
H3836 Broyhill  
H3836 Buchanan  
H3836 Burgener  
H3836 Burke, Mass.  
H3836 Burlison, Mo.  
H3836 Burton, John  
H3836 Burton, Phillip  
H3836 Byron  
H3836 Caputo  
H3836 Carney  
H3836 Carr  
H3836 Clausen, Don H.  
H3836 Cohen

H3836 Coleman  
H3836 Collins, Ill.  
H3836 Conable  
H3836 Conte  
H3836 Conyers  
H3836 Corcoran  
H3836 Corman  
H3836 Cornell  
H3836 Cornwell  
H3836 Coughlin  
H3836 D'Amours  
H3836 Danielson  
H3836 Dellums  
H3836 Dicks  
H3836 Dingell  
H3836 Dornan  
H3836 Drinan  
H3836 Duncan, Oreg.  
H3836 Eckhardt  
H3836 Edwards, Ala.  
H3836 Edwards, Calif.  
H3836 Emery  
H3836 Erlenborn  
H3836 Ertel  
H3836 Evans, Colo.  
H3836 Evans, Del.  
H3836 Fary  
H3836 Fascell  
H3836 Fenwick

H3836 Findley  
H3836 Fisher  
H3836 Flipppo  
H3836 Flood  
H3836 Flowers  
H3836 Foley  
H3836 Ford, Mich.  
H3836 Ford, Tenn.  
H3836 Fountain  
H3836 Fowler  
H3836 Frey  
H3836 Gaydos  
H3836 Gephardt  
H3836 Giaimo  
H3836 Gibbons  
H3836 Ginn  
H3836 Glickman  
H3836 Goodling  
H3836 Gore  
H3836 Gudger  
H3836 Guyer  
H3836 Hagedorn  
H3836 Hamilton  
H3836 Hannaford  
H3836 Harris  
H3836 Hefner  
H3836 Hillis  
H3836 Holtzman

H3836 Howard  
H3836 Huckaby  
H3836 Hughes  
H3836 Hyde  
H3836 Jacobs  
H3836 Jenrette  
H3836 Johnson, Colo.  
H3836 Jones, N.C.  
H3836 Jordan  
H3836 Kasten  
H3836 Kastenmeier  
H3836 Keys  
H3836 Kildee  
H3836 Kostmayer  
H3836 Krebs  
H3836 LaFalce  
H3836 Lagomarsino  
H3836 Leach  
H3836 Lederer  
H3836 Lehman  
H3836 Levitas  
H3836 Lloyd, Calif.  
H3836 Lloyd, Tenn.  
H3836 Long, La.  
H3836 Long, Md.  
H3836 Luken  
H3836 Lundine  
H3836 McClory  
H3836 McCloskey

H3836 McDade  
H3836 McFall  
H3836 McHugh  
H3836 McKinney  
H3836 Madigan  
H3836 Maguire  
H3836 Markey  
H3836 Marks  
H3836 Marlenee  
H3836 Martin  
H3836 Mattox  
H3836 Meeds  
H3836 Michel  
H3836 Mikulski  
H3836 Mikva  
H3836 Miller, Calif.  
H3836 Mineta  
H3836 Minish  
H3836 Mitchell, Md.  
H3836 Moffett  
H3836 Mollohan  
H3836 Moorhead, Pa.  
H3836 Moss  
H3836 Murphy, Pa.  
H3836 Murtha  
H3836 Mvers, Garv  
H3836 Myers, Michael  
H3836 Myers, Ind.

H3836 Neal  
H3836 Nedzi  
H3836 Nichols  
H3836 Nix  
H3836 Nolan  
H3836 Nowak  
H3836 O'Brien  
H3836 Oakar  
H3836 Oberstar  
H3836 Obey  
H3836 Ottinger  
H3836 Panetta  
H3836 Patten  
H3836 Pattison  
H3836 Pease  
H3836 Pettis  
H3836 Pike  
H3836 Preyer  
H3836 Pursell  
H3836 Quie  
H3836 Rahall  
H3836 Regula  
H3836 Reuss  
H3836 Richmond  
H3836 Rinaldo  
H3836 Rodino  
H3836 Rogers  
H3836 Roncalio  
H3836 Rosenthal

H3836 Rostenkowski  
H3836 Roybal  
H3836 Russo  
H3836 Ryan  
H3836 Santini  
H3836 Scheuer  
H3836 Schroeder  
H3836 Schulze  
H3836 Seiberling  
H3836 Sharp  
H3836 Shipley  
H3836 Simon  
H3836 Skelton  
H3836 Skubitz  
H3836 Smith, Iowa  
H3836 Smith, Nebr.  
H3836 Solarz  
H3836 Spellman  
H3836 Staggers  
H3836 Stangeland  
H3836 Stanton  
H3836 Steers  
H3836 Stockman  
H3836 Stokes  
H3836 Studts  
H3836 Thompson  
H3836 Thone  
H3836 Tonry

H3836 Tsongas  
H3836 Udall  
H3836 Ullman  
H3836 Van Deerlin  
H3836 Vander Jagt  
H3836 Vanik  
H3836 Vento  
H3836 Walker  
H3836 Waxman  
H3836 Weaver  
H3836 Whalen  
H3836 White  
H3836 Whitley  
H3836 Wilson, Bob  
H3836 Wilson, Tex.  
H3836 Winn  
H3836 Wirth  
H3836 Wolff  
H3836 Wright  
H3836 Wylie  
H3836 Yates  
H3836 Yatron  
H3836 Young, Alaska  
H3836 Young, Fla.  
H3836 Young, Mo.  
H3836 Zablocki  
H3836 NAYS - 64  
H3836 Archer  
H3836 Ashbrook

H3836 Bauman  
H3836 Bowen  
H3836 Burleson, Tex.  
H3836 Butler  
H3836 Carter  
H3836 Clawson, Del  
H3836 Cochran  
H3836 Collins, Tex.  
H3836 Daniel, Dan  
H3836 Daniel, R.W.  
H3836 de la Garza  
H3836 Derwinski  
H3836 Devine  
H3836 Dickinson  
H3836 Duncan, Tenn.  
H3836 Edwards, Okla.  
H3836 English  
H3836 Flynt  
H3836 Gammage  
H3836 Goldwater  
H3836 Gonzalez  
H3836 Grassley  
H3836 Hall  
H3836 Hansen  
H3836 Hightower  
H3836 Holt  
H3836 Hubbard  
H3836 Johnson, Calif.

H3836 Jones, Okla.

H3836 Kazen

H3836 Kelly

H3836 Kemp

H3836 Kindness

H3836 Lott

H3836 McCormack

H3836 McDonald

H3836 Mann

H3836 Marriott

H3836 Mathis

H3836 Miller, Ohio

H3836 Moore

H3836 Natcher

H3836 Perkins

H3836 Poage

H3836 Rhodes

H3836 Risenhoover

H3836 Robinson

H3836 Rudd

H3836 Runnels

H3836 Satterfield

H3836 Shuster

H3836 Slack

H3836 Spence

H3836 Stump

H3836 Symms

H3836 Treen

H3836 Tribble

H3836 Waggonner  
H3836 Wampler  
H3836 Watkins  
H3836 Whitten  
H3836 Young, Tex.  
H3836 ANSWERED "PRESENT" - 1  
H3836 Bafalis  
H3836 NOT VOTING - 127  
H3836 Abdnor  
H3836 Addabbo  
H3836 Alexander  
H3836 Ashley  
H3836 Aspin  
H3836 AuCoin  
H3836 Badham  
H3836 Barnard  
H3836 Beard, Tenn.  
H3836 Bevill  
H3836 Biaggi  
H3836 Blouin  
H3836 Boggs  
H3836 Boland  
H3836 Bonker  
H3836 Breaux  
H3836 Brinkley  
H3836 Burke, Calif.  
H3836 Burke, Fla.  
H3836 Cavanaugh

H3836 Cederberg  
H3836 Chappell  
H3836 Chisholm  
H3836 Clay  
H3836 Cleveland  
H3836 Cotter  
H3836 Crane  
H3836 Davis  
H3836 Delaney  
H3836 Dent  
H3836 Derrick  
H3836 Diggs  
H3836 Dodd  
H3836 Downey  
H3836 Early  
H3836 Edgar  
H3836 Eilberg  
H3836 Evans, Ga.  
H3836 Evans, Ind.  
H3836 Fish  
H3836 Fithian  
H3836 Florio  
H3836 Forsythe  
H3836 Fraser  
H3836 Frenzel  
H3836 Fuqua  
H3836 Gilman  
H3836 Gradison  
H3836 Hammerschmidt

H3836 Hanley  
H3836 Harkin  
H3836 Harrington  
H3836 Harsha  
H3836 Hawkins  
H3836 Heckler  
H3836 Heftel  
H3836 Holland  
H3836 Hollenbeck  
H3836 Horton  
H3836 Ichord  
H3836 Ireland  
H3836 Jeffords  
H3836 Jenkins  
H3836 Jones, Tenn.  
H3836 Ketchum  
H3836 Koch  
H3836 Krueger  
H3836 Latta  
H3836 Le Fante  
H3836 Leggett  
H3836 Lent  
H3836 Lujan  
H3836 McEwen  
H3836 McKay  
H3836 Mahon  
H3836 Mazzoli  
H3836 Metcalfe

H3836 Meyner  
H3836 Milford  
H3836 Mitchell, N.Y.  
H3836 Moakley  
H3836 Montgomery  
H3836 Moorhead, Calif.  
H3836 Mottl  
H3836 Murphy, Ill.  
H3836 Murphy, N.Y.  
H3836 Patterson  
H3836 Pepper  
H3836 Pickle  
H3836 Pressler  
H3836 Price  
H3836 Pritchard  
H3836 Quayle  
H3836 Quillen  
H3836 Railsback  
H3836 Rangel  
H3836 Roberts  
H3836 Roe  
H3836 Rooney  
H3836 Rose  
H3836 Rousselot  
H3836 Ruppe  
H3836 Sarasin  
H3836 Sawyer  
H3836 Sebelius  
H3836 Sikes

H3836 Sisk

H3836 Snyder

H3836 St Germain

H3836 Stark

H3836 Steed

H3836 Steiger

H3836 Stratton

H3836 Taylor

H3836 Teague

H3836 Thornton

H3836 Traxler

H3836 Tucker

H3836 Volkmer

H3836 Walgren

H3836 Walsh

H3836 Weiss

H3836 Whitehurst

H3836 Wiggins

H3836 Wilson, C.H.

H3836 Wydler

H3836 Zeferetti

H3836 The Clerk announced the following pairs:

H3836 On this vote:

H3836 Mr. Addabbo for, with Mr. Teague against.

H3836 Mr. Ireland for, with Mr. Bevill against.

H3836 Mr. Rangel for, with Mr. Roberts against.

H3836 Mr. Le Fante for, with Mr. Montgomery against.

H3836 Mr. Eilberg for, with Mr. Jones of Tennessee against.

H3836 Mr. Zeferetti for, with Mr. Milford against.

H3836 Mr. Cotter for, with Mr. Davis against.

H3836 Mr. Gradison for, with Mr. Sebelius against.

H3836 Mr. Frenzel for, with Mr. Taylor against.

H3836 Mr. Steiger for, with Mr. Badham against.

H3836 Mrs. Heckler for, with Mr. Lujan against.

H3836 Mr. Boland for, with Mr. Volkmer against.

H3836 Until further notice:

H3836 Mr. Rooney with Mr. Aspin.

H3836 Mrs. Boggs with Mr. Abdnor.

{H3837} } Mr. Biaggi with Mr. Fish.

H3837 Mr. Fuqua with Mr. Gilman.

H3837 Mr. Price with Mr. Whitehurst.

H3837 Mr. Pepper with Mr. Horton.

H3837 Mr. Sikes with Mr. Burke of Florida.

H3837 Mr. Heftel with Mr. Ruppe.

H3837 Mrs. Burke of California with Mr. Hollenbeck.

H3837 Mr. Delaney with Mr. Latta.

H3837 Mr. Dent with Mr. Lent.

H3837 Mr. Mazzoli with Mr. Mitchell of New York.

H3837 Mr. Traxler with Mr. Sarasin.

H3837 Mr. Charles H. Wilson of California with Mr. Ketchum.

H3837 Mr. Weiss with Mr. Cederberg.

H3837 Mr. Krueger with Mr. Patterson of California.

H3837 Mr. Sisk with Mr. Forsythe.

H3837 Mr. St Germain with Mr. Hammerschmidt.

H3837 Mr. Murphy of New York with Mr. Quayle.

H3837 Mr. Florio with Mr. Cleveland.

H3837 Mr. Downey with Mr. Wiggins.

H3837 Mr. Dodd with Mr. Snyder.  
H3837 Mr. McKay with Mr. Crane.  
H3837 Mr. Derrick with Mr. Pressler.  
H3837 Mr. Diggs with Mr. Quillen.  
H3837 Mr. Clay with Mr. Harsha.  
H3837 Mr. Chisholm with Mr. Rousselot.  
H3837 Mr. Chappell with Mr. Sawyer.  
H3837 Mr. Cavanaugh with Mr. Wydler.  
H3837 Mr. Breaux with Mr. Pritchard.  
H3837 Mr. Bonker with Mr. Walsh.  
H3837 Mr. Jenkins with Mr. Railsback.  
H3837 Mr. Iehord with Mr. Tucker.  
H3837 Mr. Hawkins with Mr. Thornton.  
H3837 Mr. Harrington with Mr. Stratton.  
H3837 Mr. Harkin with Mr. Steed.  
H3837 Mr. Ashley with Mr. Evans of Georgia.  
H3837 Mr. Holland with Mr. Fraser.  
H3837 Mr. Blouin with Mr. Hanley.  
H3837 Mr. AuCoin with Mr. Koch.  
H3837 Mr. Beard of Tennessee with Mr. Fithian.  
H3837 Mr. Early with Mr. Jeffords.  
H3837 Mr. Edgar with Mr. Leggett.  
H3837 Mr. Evans of Indiana with Mr. Mahon.  
H3837 Mrs. Meyner with Mr. Metcalfe.  
H3837 Mr. Barnard with Mr. Moorhead of California.  
H3837 Mr. Moakley with Mr. Mottl.  
H3837 Mr. Murphy of Illinois with Mr. Roe.  
H3837 Mr. Pickle with Mr. Rose.

H3837 Mr. Stark with Mr. Brinkley.

H3837 So the bill was passed.

H3837 The result of the vote was announced as above recorded.

H3837 A motion to reconsider was laid on the table.