Mr. MINETA. Mr. Speaker, reserving the right to object, I would like to inquire of the chairman of the committee, as he has just outlined, from what I can garner on this, that takes us up to roughly 6 hours and 40 minutes, if we have votes on all of the 10 amendments being offered, plus the 1 hour on the Boehlert, 30 minutes on the Gilchrest and 20 minutes, altogether that takes us a total, including voting, of 6 hours 40 minutes. Even if we start right now that would take us to 7:10 this evening.

I am wondering, given the request being made here, my preference right now is to just agree to the 1 hour on the Boehlert substitute, or to then have a time agreement through completion of our work in the Committee on the Whole. That would then take us through the completion of title X as well.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I would say to my good friend that would be my preference also, but we have not been able to work out an agreement on title X at this point. We are still attempting to work out an agreement on title X, so at this point we only have agreement up to through title IX.

I would also point out to my friend that some of the amendments I believe will be accepted, so we should not have recorded votes and will not take a full 20 minutes. And I would hope that even on some of the contentious amendments, we will not use the full time.

Mr. MINETA. Mr. Speaker, further reserving my right to object, it seems to me that without some idea about what is happening, what is going to happen in title X, I would have some reservations on the time limitation that is being outlined here. I am wondering, pending our being able to complete that discussion, could we just agree to the 1 hour on the Boehlert substitute for the time being?

Mr. SHUSTER. Until the conclusion of the 1 hour consideration, I have no problem. What about Gilchrest as well, to include Boehlert and Gilchrest?

Mr. MINETA. Thirty minutes on the gentleman from Maryland [Mr. GILCHREST], that would be fine with me.

Mr. SHUSTER. Mr. Speaker, I revise my unanimous consent request to include only the first two amendments, the Boehlert amendment for 1 hour and the Gilchrest amendment for 30 minutes.

The SPEAKER pro tempore. Is it the Chair's understanding that would include other amendments thereto?

Mr. SHUSTER. Mr. Speaker, I would expect to make a unanimous-consent request on the remaining amendments at the conclusion of either Boehlert or Gilchrest, but my unanimous-consent request at this point is only for the Boehlert and the Gilchrest amendments and the amendments thereto.

Mr. MINETA. Further reserving the right to object, Mr. Speaker, let me yield to our colleague, the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding. It is my understanding that title X will in effect act as an amendment to a previous amendment brought to the floor and passed relative to the Coastal Zone Management Act.

If the new title is accepted and is voted affirmatively, I would like to reserve the right, if that is the necessary language, to offer a substitute to the bill, which would in effect amend title X. I understand that I have the right to do that under the current rule, and I would like to affirm that that is in fact the case and that nothing being done here would abridge that right.

Mr. SHUSTER. Mr. Speaker, if the gentleman will yield, I would say to my friend nothing would abridge that right. This does not deal with title X at all and my friend would be protected.

Mr. SAXTON. I thank the gentleman.

Mr. MINETA. Mr. Speaker, again, based on the 1 hour for the Boehlert substitute and the 30 minutes on the Gilchrest amendment, I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. It is the understanding of the Chair the distinguished gentleman from Pennsylvania wants to pursue the unanimous consent request?

Mr. SHUSTER. The Chair is correct.

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

There was no objection.

CLEAN WATER AMENDMENTS OF 1995

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

☐ 1235

IN THE COMMITTEE OF THE WHOLE

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

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, May 15, 1995, pending was the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Under the order of the House of today, there is 1 hour of debate remaining on the amendment and any amendments thereto, equally divided between the gentleman from New York [Mr. BOEHLERT] and the gentleman from Pennsylvania [Mr. SHUSTER].

The chair recognizes the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. BORSKI], the ranking member of the Subcommittee on Water Resources and the Environment.

Mr. BORSKI. Mr. Chairman, we have heard a lot about how the States know this program better than anyone else.

This amendment would strike title VIII of the bill and substitute the Wetlands and Watershed Management Act of 1995 proposed by the National Governors Association.

This is the proposal of the Nation's Governors on wetlands.

This amendment is similar to the amendment that I offered in committee and identical to the wetlands language in the Saxton substitute that was offered last week.

It is clear that the States do not like what this bill proposes for the wetlands program.

Here is why: The bill will eliminate protection for 60 to 80 percent of the existing wetlands.

In my State of Pennsylvania, 40 percent of all wetlands will be removed from protection, including more than 150,000 acres of floodplain wetlands that protect the Chesapeake Bay from polluted runoff.

In New Jersey, 35 to 50 percent of all wetlands would lose protection.

In Delaware, more than 50 percent of the wetlands would lose protection.

H.R. 961 decides, without regard to science, what wetlands will be protected and which will not.

There are serious problems with the administration of the wetlands permitting program, but H.R. 961, by eliminating protection for so many wetlands, does not solve them.

The National Governors Association has proposed a fast-track system for minor permits and an advisory committee from all levels of government to reduce duplication and overregulation.

On March 7, Mr. Chairman, the Association of State Wetland Managers pleaded with the Transportation and Infrastructure Committee not to adopt the language in title VIII.

Their testimony said H.R. 961 will create a program,

> That will result in massive Federal budget requirements, lead to environmental degradation and result in bureaucratic quibbling. Please do not create a new wetland regulatory program that is not fundable, not implementable, and not acceptable to the States.

The State association predicted that the 2 States, New Jersey and Michigan, that currently have assumed the section 404 program and the 13 that issue programmatic general permits will give back their programs if title VIII is adopted as written.

This amendment also includes the same exemptions for agricultural uses and the same expanded role for the Department of Agriculture that were included in the Boehlert-Roemer-Saxton substitute that we considered on Wednesday.

The Agriculture Department would have the sole authority to perform delineation of agricultural lands.

I urge my colleagues to take this opportunity on this amendment to show that we really do want to listen to the voice of the States.

Vote for this amendment, vote with the National Governors Association and back up all the words about a new partnership with the States.

I urge Members to vote for the Boehlert National Governors Association amendment.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas [Mr. DELAY], the distinguished majority whip.

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me this time and I appreciate all the hard work the gentleman and his committee have done.

Mr. Chairman, I rise in opposition to the Boehlert amendment. Like the Saxton-Boehlert substitute amendment which was soundly defeated, this amendment seeks to undermine everything this House accomplished during the first 100 days of this session to promote regulatory reform and property rights.

First, it strikes all property rights provisions, including the right to compensation for property owners whose land is devalued by more than 30 percent due to Federal wetlands regulations. These provisions are identical to provisions in H.R. 925, the Private Property Protection Act, which the House passed on March 3 with 277 votes, including 72 Democrats.

My colleagues, let us not reverse the strides we made so recently for the rights of private property owners when it comes to wetlands regulations.

Second, it eliminates the three-tier classification system created by the bill which is designed to give greatest priority to those wetlands that are in most need of protection. This flies in the face of common sense. Every wetland is not the same. The current expansive definition of a wetland is the root of the overregulation so onerous to this country's municipalities. Only by making critical distinctions will we ensure sensible conservation and a healthy future for our local and national economies.

And third, it removes provisions that streamline the current highly bureaucratic system for wetlands permitting, giving four agencies the power to veto a wetlands permit application. This is sheer and utter nonsense. I spoke last week about Lake Jackson's current difficulties in the permitting process. I can only imagine the cost in time, money, and effort the city would expend in merely getting through the submission process if this amendment were adopted.

The American people have been crying out for relief from the intrusiveness of Government, and applauded heartily when the House voted overwhelmingly to give it to them. We cannot go back on the contract we made with America to bring sound science and common sense to the regulatory process, as well as to take into account the rights of property owners. I strongly urge a ''no'' vote on the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me this time and compliment our colleague, the gentleman from New York [Mr. BOEHLERT], for the leadership he has demonstrated so vigorously and intensively on behalf of clean water and particularly, in the case, on the wetlands issue.

Mr. Chairman, our Nation was rich in wetlands when the settlement of America began. But civilization took its harsh toll: agriculture, highways, railroads, cities, suburbs, exurbs, flood control, destroying the wetlands along our Nation's major riverways and our coastal waterways. All in the interest of progress and without concern for an understanding of the enormous power and strength of the wetlands as a filtering device, preventing sediment from getting into the streams, preventing pollution from getting into our major waterways, estuaries, and lakes.

By the time I was elected to Congress in the mid-1970's, the lower 48 States had been diminished in wetlands by half. Our migratory waterfowl have declined in numbers over the years, and few are here in the Chamber today who can remember, but all of us surely should have studied the dust bowl days of the 1930's caused, not by drying up of the rains, but by man's thoughtless and senseless use and overuse of the land, draining the wetland-rich prairie pothole region of America's midsection.

One-third of our endangered and threatened species are sheltered by wetlands.

□ 1245

Coastal wetlands are the nursery and spawning grounds for half to 90 percent of the Nation's fish catch. Wetlands protect against floods. They recharge our groundwater. They filter pollution. They store water for recycling. They are a buffer against erosion.

We used to call them swamps and bogs and worse and drained them, dredged them and filled them in, then dug them up to grow crops on them and put housing on them and pave them over. We cannot do that any longer.

We are today at the point where I am reminded of the commons of medieval England where herdsmen were accustomed to bringing as many of their sheep as possible to graze on the commons pasture. They overgrazed and overused it and war and disease reduced the commons to a place of filth and destruction, and the carrying capacity declined, and so did the commonality of civilization until the people realized that they needed to restore the commons and build it back.

The tragedy of the commons is a story about mankind's determination to populate the planet to death and develop it to death. One farmer can benefit by putting one more sheep on the commons even though each time they do so they degrade it. That is what we are doing to the wetlands, putting more and more pressure on them, degrading and destroying these irreplaceable storehouses of water.

Let us work together to learn the lesson of the commons and let it not be the epitaph for our generation that we permitted the destruction of our commons, the nation's wetlands. Please support the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the issue of wetlands is a tremendously difficult issue. I think both sides have done a good job of actually trying to improve a piece of legislation that has had some difficulty in the area of the definition of wetlands.

But I learned something, and that is development is forever. I saw a man at Rehoboth Beach, DE, one day. He said, ''Mike, have you ever seen a shopping center converted into a park?'' The answer, of course, is ''No,'' and I would ask, ''Have you ever seen a wetland which has been used for some other use ever converted back to a wetland?'' And the answer to that is also, ''No.''

Sometimes we talk about substitute wetlands. The bottom line is once you lose them, they are lost forever.

There are some problems, I think, with the present legislation. There are costly delays and vague regulations. The farmers and homeowners do properly, I think, complain about wetland permit decisions and the time it takes to get them. The availability of general permits for projects having minimal impact on wetlands should be expanded, and I believe the Boehlert amendment addresses each of these very, very well.

The amendment adopts the National Governors' Association proposal on wetlands. The Governors' proposal would help coordinate protection efforts in the most efficient use of States' scare resources and minimize inconsistency between State, Federal, and local programs.

Wetlands management should be integrated with other resource management programs, and I cannot stress that enough, such as flood control, allocation of water supply, protection of fish and wildlife and storm water and nonpoint source pollution control. Wetlands delineation criteria and management policy should recognize the significant regional and even State variants of wetlands, and land use regulations are traditionally a State and local function, and decisions on wetlands management should be made at the local level.

They really differ. They differ from my State of Delaware than from California or Texas or Maine. They differ

all over the United States of America, and we should give that authority back to the States and the Governors where we can, and I believe that made a lot of sense when they came up with that particular program which addressed all of these issues.

In addition to that, the Boehlert amendment implements a fast track permitting process for minor and general wetlands permits that is absolutely needed in America and provides technical assistance.

For all of these reasons, I would encourage each and every one of us to consider this amendment. Look very carefully at it.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Iowa [Mr. LATHAM].

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

Mr. LATHAM. Mr. Chairman, I thank the chairman for yielding me this time.

I rise today in strong opposition to the amendment to title 8 offered by my good friend, the gentleman from New York [Mr. BOEHLERT].

First of all, let me say that everyone who will speak against this amendment today shares a commitment to protecting genuine wetlands. The key issue, as I hope to demonstrate in a moment, is how broadly a wetland is defined. Because if you are a bureaucrat with the EPA or other Federal agency, wetland does not mean something is a pond or a bog or a swamp or a marsh. In fact, over the last 8 years, we have seen areas defined as wetlands where water never actually stands or where there is a low spot in a cornfield, and regulators, in their never ending search for more control, have stretched laws designed to affect navigable waters so that they can regulate farmland in north central Iowa that is at least 100 miles from any navigable water. That is how the environmental extremists come up with their astonishing claims about wetlands being left unprotected by this bill.

In the ideal world the overwhelming majority of Americans currently live in areas that could be defined as wetlands. If you define everything as a wetland, no matter how against common sense that definition may be, you can pretty much give yourself the right to regulate what every American does with his or her property.

Property owners and the general public no longer know what a wetland is. They expect to see a swamp or marsh or bog, only to be told by regulators that land that is usually dry is a wetland or that a set spot in a field of corn is wetland. This abuse has gone on far too long.

The current guidelines can allow an area to be called a wetland even if water never stands on it or even if the surface on the ground is never saturated.

As these photographs will demonstrate, the term ''wetland'' no longer means what the everyday commonsense interpretation suggests or what Congress envisioned as the limits of Federal regulatory jurisdiction.

The first photo is what we would all believe would be a wetland, obviously saturated, a pond. The problem today with the definition is that this land up here is also considered to be a wetland, far beyond the scope and definition of what should be considered. These photographs also show this is land under cultivation. The regulators can now say it is a wetland or have determined to be a wetland even though they have been in production for years and years. You can see obviously this land has been or is slightly damp, but in a couple of days in north central Iowa this will be dry. It has been under production probably for well over 100 years, generation after generation, and now a Federal regulator is coming in and telling this farmer he can no longer farm that land, and it has totally gone out of control.

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

Mr. LATHAM. I yield to the gentleman from Maryland.

Mr. GILCHREST. It is my understanding that prior to converted cropland, any land converted to cropland prior to 1985 does not fall under jurisdiction of wetlands by any Federal agency. There are also a number of farms and ag areas around the country that can continue to farm wetlands even though they still function as a wetland. They can continue to do that

Mr. LATHAM. Reclaiming my time, if that is the case, then why are there Federal regulators out today in prior converted agricultural lands defining that as wetlands, changing the use those people have? This is a very important point, a point that has to be gotten through to many of you people who continually think that agricultural land or that somehow we are abusing the wetlands. These lands are in production. They have continued to be. A lot of the tile in here was hand dug and today regulators are saying they are not.

Mr. GILCHREST. If the gentleman will continue to yield, the confusion on that, the Boehlert amendment completely eliminates that.

Mr. LATHAM. I understand that. By your definition, you will continue to have regulators out there defining that as wetlands. You certainly will, by your definition.

Mr. GILCHREST. No, we will not.

Mr. LATHAM. We will need a clear and defined definition of wetlands. I think it is very interesting that many of the proponents of this amendment who want to make it supposedly easier for agriculture also voted in the Lipinski amendment to take away 56 percent of the funds for the State of Iowa to comply with your regulations. Tell me the justice in that.

I think it is time that we finally brought some common sense back into the argument, and for people to put the dollars that go to the States like Iowa and then say that they are trying to help us is absolutely ludicrous.

I strongly oppose this amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I would just like to make three very quick, and, I hope, succinct points. I came to this House and served for a number of years on the Merchant Marine and Fisheries Committee, and while I was there, I found myself taking part in debates similar to this where we were making policy decisions based on a number of factors, and after a couple of years of serving there and weighing those factors, I came to the conclusion that we did not pay a lot of attention to science, and this debate today points out that back in those days that I thought I was right I can prove that, in fact, I was right, because, as a matter of fact, the National Academy of Sciences does not agree in any way, shape, or form with the definition of wetlands as it occurs today in H.R. 961.

One of the major thrusts of the Boehlert amendment is that it changes that definition so that it is in concert with what we think is a good definition based on science.

Second, H.R. 961, as it currently stands, would allow for destruction of well over half of the Nation's wetlands, and those of us who recognize the value of wetlands in terms of the life cycle, in terms of its use to slow down floodwater and act as a filter for pollutants which enter our waters upstream, recognize that it would be a disaster to permit an opportunity to destroy more than half of the Nation's wetlands.

And, third, let me point out that the debate that just occurred between my friend from Maryland and my friend from Iowa, I think, is ample evidence that we ought to listen to what the Governors say, because my friend from Maryland perceives wetlands as being one thing, and my friend from Iowa, a different State with a different structure, land structure, perceives wetlands as something quite different. And the Boehlert amendment adopts the National Governors Association proposals on wetlands reform, part of which is to give the States more say in defining and carrying out the wetlands programs.

So I wholeheartedly and strongly support the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I rise in opposition to the Boehlert amendment.

This amendment adds even more uncertainty and bureaucracy to the regulatory process we are already enveloped in.

You see, it gives the Government an even bigger hammer to penalize landowners and ignores the fact that law-abiding citizens have been charged with fines and sent to prison for trying to be good stewards of the land.

The most egregious aspect of this amendment is that it ignores private property rights.

I would like to thank the chairman of the Committee on Transportation and Infrastructure for working with me to include the Chenoweth provision in this bill before us today, a provision with would require the Federal Government to receive written permission from private property owners when going on their land for the purpose of mapping wetlands. It is important to keep the Federal Government in check, and I believe the notification provision I recommended will ensure that the mapping process is carried out in accordance with our constitutional rights.

It is time for fairness, and it is time for sanity, and it is time for reason in this program.

Title 8 of H.R. 961 recognizes that. That is why I urge my colleagues to oppose the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentlewoman, because I want to congratulate her. This is her first amendment on a major piece of transportation legislation. Your involvement has really been significant, and I want to congratulate you and thank you very much for your participation.

Mr. BOEHLERT. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], a leader in the environmental movement.

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Boehlert amendment, and I would like to address some specifics rather than the generalities.

This wetlands proposal is not about some abstract ideas of beauty or maybe even idealists' idea of wildlife, but it has many direct economic impacts, and I want to concentrate on them.

□ 1300

After all, wetlands do act as Mother Nature's sponges when water levels rise, when we are talking about rivers rising for floods, hurricanes, or whatever the case may be, and the wetlands help fight shoreline erosion in States like New Jersey. This is essential for protecting our beaches. They help purify the water tables by serving as filters and also for toxic pollutants from man-made runoffs.

When we look at the whole committee bill, of course we take a serious setback from a 20-year effort, and it is a big step backward. The committee bill offers a very narrow definition of wetlands, and that is wrong to do. While we may find that their definition is feasible in some areas of the country, in New Jersey it would do serious damage to all of our pioneering efforts.

New Jersey, remember, is a densely populated State, and so we have to have a system under the law that will apply to all States, not a one-size-fits-all situation. In New Jersey we would be very, very concerned that it would be a huge setback for all the efforts that Governors in both parties have persevered on and pioneered on. The Boehlert amendment would adopt, and I want to stress this for all those, particularly on my side of the aisle, that revere block grants and Governors' proposals; I want to stress that the Boehlert amendment adopts the National Governors Association wetlands proposal in order to replace the committee's wetlands language. Here the Governors are right, and we should listen to them and act upon their advice.

The Boehlert amendment is not one size fits all. What is good for Alaska is not good for New Jersey or maybe even for Louisiana's protection. Vote yes on the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, last evening I spoke about the severe problems with the present policies that we have on wetlands. This bill makes some badly needed reforms, and the Boehlert amendment would take us in the opposite direction. It would not be helpful to the real concerns that we have.

I spoke last evening of Nancy Klein. She and her husband bought 350 acres in Sonoma, intended to farm that. It has been farmed continuously every year since 1930. In 1989, the owner of the land raised cattle instead of farming. When the Kleins, with their five children, tried to begin their farming, they were informed by the Corps of Engineers that they could not do that, and they were threatened with $25,000 a day fines and were actually at one point, for most of 1994, criminally investigated.

Mr. Chairman, I would like to read from the letter that she wrote. It is really prepared testimony that she gave to the task force on wetlands of the Committee on Resources which I chaired, and we had a hearing, and she came and offered this. This volume of testimony will be printed and available for all to see in a couple of weeks, but just quoting from her letter:

> The FBI and EPA interrogated neighbors, acquaintances and strangers. They asked about our religion, whether we were intelligent, did we have tempers. They asked how we treat our children. Our property was surveyed by military Blackhawk helicopters. Their cars monitored our home and our children's school. They accused Fred of paying neighbors to lie. The FBI actually told one terrified neighbor that this investigation was top secret with national security implications. The community reeled, as did we. Our personal papers were subpoenaed; the grant jury was convened. We spent thousands of additional dollars to hire more attorneys. The Justice Department told our attorneys that, unless we would plead guilty and surrender our land, they would seek a criminal indictment of both Fred and me. According to one government attorney I was to be included because I had written a letter to the editor of a local paper, in their opinion, quote unquote, publicly undermining the authority of the Army Corps.

Mr. Chairman, the present law has allowed for this kind of abuse, tremendous abuse by the Federal Government in the area of wetlands regulation. The bill that we are supporting, coming out of the committee, provides for a good definition of wetlands, a classification system that uses good science to determine which wetlands are the most valued, those that get the greatest protection through this classification system, A, B or C. For that reason I urge defeat of the Boehlert amendment and support of the committee bill.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA], the ranking minority member of the committee.

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

Mr. MINETA. Mr. Chairman, no issue has so defined the controversy of Clean Water Act reauthorization as has wetlands. We have now debated issues back and forth for 5 days on this floor and countless hours in our committee rooms.

There is general agreement on one thing—the wetlands program is in need of reform. However, I strongly disagree with those who would gut the wetlands program to the point that 60–80 percent of the Nation's wetlands are no longer subject to any portion of the wetlands protection program.

I have listened to passionate arguments on both sides of the issue. Some of my California colleagues were quite emphatic in that we must reduce the scope of Federal regulatory jurisdiction. I would remind my colleagues, however, that California has already lost over 90 percent of its historic wetlands, including some of its most valuable wetlands. I do not believe that we can now acquiesce in the potential loss of the majority of the small number of wetlands which remain.

The issue is whether we will reform the wetlands program to make it more efficient, reasonable and user-friendly; or, will this House choose to use the wetlands program shortcomings as an excuse to undo most of the protections in the Clean Water Act for wetlands.

The Boehlert amendment removes small, incidental, and manmade wetlands from the regulatory program. H.R. 961 removes 60–80 percent of wetlands from the program by creating an arbitrary, inflexible definition of wetlands. And it does so in the face of, and contrary to, the just released study of the National Academy of Sciences on wetlands.

The Boehlert amendment addresses the issue of differing values of wetlands by directing that regionalization be considered in delineating wetlands. H.R. 961 creates an expensive and infeasible nationwide classification scheme which the National Academy of Sciences stated is beyond the state of the art to accomplish.

The Boehlert amendment protects the rights of the property owners in this country by adhering to the rights under the fifth amendment which have served citizens well for over 200 years. When property has been taken for public use, the Constitution will guarantee compensation. H.R. 961 adopts the unsound takings provisions which are opposed by the States and which will cost the Government tens of billions of taxpayer dollars—billions of dollars when we are trying to balance the budget. H.R. 961 ignores the rights of the commercial fishermen who harvest over $10 billion annually, ignores the rights of waterfowl hunters who spend over $300 million annually, and ignores the rights of recreational users of wetlands who spend nearly $10 billion annually.

The Boehlert amendment will fix the wetlands problem. H.R. 961 would destroy wetlands protection and raid the Treasury. Most people do not want that. Support the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I rise in opposition to the Boehlert amendment and in support of the committee bill, and I believe that one of the most important points that needs to be made on this legislation is that the Boehlert amendment effectively strips out the private property rights protection that was included in the committee bill, and I want to explain why that is so important, that we include the protection of private property rights.

The fifth amendment of the Constitution, which was passed for one reason, to protect private property rights, stated, ''nor shall property be taken for public use without just compensation,'' and for 200 years we operated quite effectively with that protection under the fifth amendment of the Constitution.

Twenty years ago, Mr. Chairman, this body began to pass legislation which increased the regulatory might and the regulatory power of the Federal Government dramatically, to the point where in the past 10 years people have began to lose their private property to the regulation of the Federal Government without compensation.

Now, if the Federal Government were to come in, and take someone's property to build a project, a dam, a road, a highway, to take their property to put in a park, they would be required under current law and under current practice to pay for that without any questions asked. I say to my colleagues, they're taking your property; they should pay for that. But if they were to come in and use a regulation like wetlands, section 404, the Clean Water Act, and they effectively took away all use or value of someone's property, under current practice and under the guise of some of my colleagues here they would not have to pay for that property even though they took away the value of the property, they took away the use of the property, they took away the ability for someone to continue to make their mortgage payments and to pay their property taxes. It is OK because it is all in the name of the Clean Water Act and preserving wetlands. Well, that is wrong.

When we passed the takings legislation through this House, I felt that was an important first step in protecting private property, but the second step in protecting private property is including that protection in the Clean Water Act, the Endangered Species Act and other regulatory issues that we take up under the House. It is extremely important.

Mr. Chairman, I just want to tell my colleagues, if you voted for private property rights protection as part of the takings legislation and regulatory reform through this House, you have got to support private property rights and vote against the Boehlert amendment because effectively it strips——

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, preceding speakers have provided plenty of examples of extreme and arrogant actions by EPA, and certainly it is true that we are here in part to reform the Clean Air Act because EPA has been high-handed and was abusive of the people of America. But let us do it right. If we adopt the Boehlert amendment, we will be adopting the recommendations of the Governors themselves as to how to make the Clean Water Act effective and citizen friendly. We will adopt all of the exemptions from the wetlands permitting found in the underlying bill, normal farming, ranching, plowing, seeding, grazing, repairs of dams and levees and so on. We will also be adopting expanded use of general permits. We will be adopting a fast track permitting process for minor and general permits for people seeking to fill or drain a wetland area in one acre or less. Those folks will have an answer in 60 days. We will be providing landowners with an effective appeals process using the very same language in the underlying bill, and we will be giving the Secretary of Agriculture total control over agricultural wetlands issues as in the underlying bill.

This is a good, modest, logical amendment, but it does a couple of things that the underlying bill does not do that are terribly important to Connecticut. It provides, for instance, grants for technical assistance to small towns. Our towns have wetland commissions, and they are dealing very well with the permit process, but they need better information. They fear the classification system. They fear the classification system will do to my people what some of the arrogant EPA bureaucrats have done to people in other parts of the country. They fear the classification system with deny them the right in a State with lots of wetlands and very dependent on groundwater, will deny them the right to determine best use of properties within their boundaries.

Mr. Chairman, I urge support for the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

☐ 1350

Mrs. MORELLA. Mr. Chairman, I rise in strong support of the Boehlert wetlands amendment. This amendment will be our last opportunity in this bill to reform our Nation's wetlands programs by providing the States with the flexibility they need to manage their wetlands.

As other speakers have mentioned, this amendment incorporates the National Governors Association's wetlands proposal and is identical to the wetlands provisions included in the earlier substitute. This amendment streamlines the permitting process without endangering millions of acres of wetlands.

Protection of wetlands is crucial to both the protection of our wildlife and the maintenance of our water quality. Wetlands are vital biological filters, removing sediments and pollutants that would otherwise suffocate our waters. Over half of the Nation's wetlands have disappeared since the time of Columbus. Recognizing the importance of this resource, President Bush pledged ''no net loss of wetlands'' during his administration.

Sadly, we are falling short of even this modest and reasonable goal. During the 1980's, despite the scientific recognition of the value of wetlands, our own Chesapeake Bay lost wetlands at the rate of 8 acres a day. No resource can long endure such depredation.

The Boehlert wetlands amendment adopts the National Governors Association proposal and deserves our support. Vote ''Yes'' on the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is the property rights vote, 1995. This amendment strikes property rights from the wetlands bill.

Now, just a few short weeks ago 205 Republicans and 72 Democrats voted in favor of property rights compensation to landowners in wetlands regulations. Today is a real test. We are going to see today whether 205 Republicans who signed a contract promising to assist American landowners in their property rights battles with the Federal Government in wetlands regulations are ready to keep that contract, or whether they just signed a piece of paper. We are going to see whether 72 Democrats who voted for their farmers, for their homeowners, for the landowners of America

who have been regulated to death under this wetlands regulation, that nobody ever passed into law, that regulators simply built upon, one regulation after the other, we are going to find out whether 72 Democrats really believe in private property rights, or whether they just vote for it one day and vote against it another day.

If there is one thing people in America are sick and tired of, it is the old politics as usual. Vote for something one day and claim you were for it, and vote against it another day when it really counts. Well, today it really counts. Today it really counts.

The President of the United States has declared on Earth Day before a throng of his environmental friends that he intends to veto the property rights bill we passed just a few short weeks ago. That bill is on its way to death, and it has not even been considered by the Senate.

This bill today is your chance to say you really meant it when you voted for property rights just a few weeks ago. This is your chance to put property rights in the wetlands bill, where it belongs. So make sure that when the Government takes people's property by regulation, that it does what the Constitution says it ought to do, that it pays them fair and just compensation. That is simple. There is no way around this.

In just a few short minutes this debate will end and people will come from their offices back to this Chamber, and we will find out whether 205 Republicans really meant it when they signed a contract in favor of property rights, and whether 72 Democrats really meant it when they voted for property rights. We will find out today if they are prepared to vote ''No'' on this Boehlert amendment, and stand up for Americans who deserve and are entitled to be compensated when regulations take away the use and value of their property.

Mr. Chairman, there is the day of reckoning. There will be other smaller amendments offered on the property rights issue, but this is the big one. This is the property rights vote of 1995. This vote and the one that will come on endangered species when we finally take up the reform of the Endangered Species Act, will really tell Americans how you stand on this issue central to this debate. If you believe, as I do, that regulations to protect wetlands are certainly important and regulations to protect endangered species are certainly important, but so are people, so land and rights, so are property rights, so are jobs, so is the economy in this country, and there ought to be a balance, that when the Government regulates people's land in such a way that they cannot use it anymore or their use is heavily restricted, if you believe as I believe, as most in America I think believe, then this is your chance to vote no on the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

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

Mr. DURBIN. Mr. Chairman, I rise in support of the Boehlert amendment. People who are listening to this debate who do not own land may wonder what difference it makes whether we have wetlands or how many of them. What it boils down to is this: These wetlands act as filters for our underground water supply that we all rely on. When the wetland system, the natural system, fails, we have to step in at great expense to build filtration plants to make sure that the water we drink is pure.

As taxpayers, we have a vested interest in helping mother nature do her job, because it is very expensive to build filtration systems to try to make up for mistakes which we have made. That is why this is an important debate. In my part of the world, in the Midwest, where there is a lot of row crop farming, there is a lot of concern about wetlands.

I have to concede the critics are right. The administration of the wetlands program is far from exemplary and should be improved. The Boehlert amendment does that. The Boehlert amendment is a much more sensible choice than the alternative. He follows the National Governors Association, gives to the Department of Agriculture the power to delineate what a wetland is, and sensible farming practices are allowed. I think we should support this amendment as a commonsense approach to help the environment and to reduce the tax burden which all families will face if our wetlands fail.

Let me close by saying this: I have listened to this debate over the last 2 days. The references to ''gestapos'' and ''heavy handed tactics by the Federal agencies'' fuel the gross national paranoia which we see so much of in this country. I beg my colleagues on both sides of the aisle to temper their rhetoric and realize that some people who have violence in their heart listen for these code words. We have an important debate here that does not have to reach that level.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Kansas [Mr. ROBERTS], the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there is no paranoia here and in the remarks that I want to make, no code words, no hint of violence; it is just straight facts. And the straight facts are these: The House defeated this amendment last week as part of a substitute to the committee bill. It should be defeated in regard to this time around as well.

This amendment does nothing to solve the problems farmers and ranchers are having as they attempt to go about their daily lives, subject to the constant hassle, and that is a real word, of Federal wetlands regulators.

The problem with this amendment is this: It keeps the 1987 Army corps manual. That manual is the big part of the whole problem. It continues in effect something called a memorandum of agreement between the Department of Agriculture, the EPA, the Fish and Wildlife Service and the corps. Too many agencies in the wetlands soup. And that document is the source of a lot of possible mischief, even though the President and the administration has hailed it as the problem solver for farmers and ranchers.

I think it is time to understand that conserving wetlands is the goal. That is the goal, not conserving Federal rules and regulations.

The Boehlert amendment expands the permitting program with monitoring and tracking systems. It sets up all sorts of coordinating committees and ecosystem restoration programs. We have already seen the first hints of ecosystem management in the proposed regulations that were published by the Forest Service. Nobody knows what an ecosystem is, much less how one should be managed.

The gentleman from Louisiana [Mr. TAUZIN] last week pointed out to Members that the new definition of dredging and filling contained in the amendment would make cutting grasslands on a wet spot to be a violation of the Clean Water Act. That is exactly the kind of problem we have had before.

Now, under the Boehlert amendment the regulators, the corps, the EPA, the Fish and Wildlife Service and the Natural Resource Conservation Service at the USDA, the old SGS, we changed the name, they would be given carte blanche authority to develop supplemental delineation standards for different regions of the country, add to plant and soil lists and supplement hydrology standards. This will all be done through the regulatory process. The same manual, the same regulatory process, the same hassle, and the same problem for ranchers and farmers. What is needed is a clear policy of where the Congress wants the regulators to take the wetlands legislation.

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

Mr. BOEHLERT. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to make a comment very briefly about the previous speaker. There really are all the exemptions that a farmer would ever want in order to continue farming and certainly preserve vital land contained in the Boehlert amendment.

What I want to talk about briefly here, this is the map of the United States, and I unfortunately had to omit Alaska and Hawaii, but I have a great strong feeling for those two illustrious States, but at the top of the map

of the United States, who benefits from wetlands? I wanted to ask the question first, what do wetlands do? What is the function of a wetland?

Well, wetlands purify water, they prevent flooding, they ensure wildlife habitat, and they ensure that fish in coastal regions, whether it is a tidal estuary or fresh water estuary, will continue to be able to reproduce.

Who would benefit from pure water, from an area that will not flood, from wildlife habitat and all the diversity that goes along with that, and abundant fish? Who benefits? Whose property that is near those areas would be increased in value? I would say that everybody in the United States will benefit from a preservation program that ensures the quality of America's wetlands.

Now, this thick book here is the 1991 field testing manual of the changes in wetlands delineation criteria. It was proven to be unworkable. The Bush administration set it aside. This particular manual was very restrictive, and everybody agreed that we would lose 50 percent of our wetlands if we used this manual. Now we are using a bill that is even more restrictive on wetlands, so we can conclude that we will lose about 60 percent of our wetlands across the United States.

What I want to do is read from the illustrious text of the National Academy of Sciences study on wetlands. I am on page 29. We are going to deal with water quality and flooding and so on. Here is a quote. ''As wetland acreage declines within a watershed, functional capacity such as maintenance of water quality begins to become impaired.''

Right out of the text. If we lose wetlands acreage, water quality in those particular areas decline.

Now, I want to give some examples. I am not targeting anybody in particular, but just some examples. This is also found in the new NAS study on page 30, if you want to look it up. California has lost since 1780, 91 percent of its wetlands. As a direct result of those wetlands lost, you have 220 animals and 600 plant species that are threatened or endangered.

Since 1955, according to the NAS study, the mallard population is down 35 percent, pintails are down 50 percent. Forty-one fish species have become extinct in this century as a result of lost wetlands. Twenty-eight percent of fresh water species have seriously been reduced. Prairie potholes are very important for migrating waterfowl. Floods in New Orleans, the Midwest, California, and many other areas have been mainly to a large extent caused as a result of where people build. And if you build on a wetlands, the water is going to go someplace else.

I wanted to put up one other map. I want to say something about whether this should be State regulated or the Federal Government should work in harmony with the States and with the local communities. If each State can do what they wanted, look what will happen to the Chesapeake Bay. Up here you see Washington, DC, which is not a part of Maryland. We could have real strict controls over our wetlands, and you can see the silt that is washed out of the Potomac River into the Chesapeake Bay.

□ 1330

A little further, I have great respect for the State of Virginia, you see in the James River, right here, more silt coming into the Chesapeake Bay.

I urge my colleagues to vote for the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. EHLERS]. I am pleased to have this distinguished scientist supporting the Boehlert amendment.

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

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding time to me.

I also want to begin by expressing my appreciation to the gentleman from Pennsylvania, the chairman of the committee, for his effort to rewrite the Clean Water Act, which certainly needs revision. I appreciate his efforts and, by and large, appreciate the result of what came out of committee. At the same time, I did vote against the bill coming out of committee and primarily did that for just one reason; that was the wetlands section.

I believe that in our effort to revise what I call the regulatory overburden that we have with wetlands, we must not lose sight of our primary objective, and that is to try to maintain viable wetlands in the United States.

I come from a State that has its own wetlands law. I believe it is the only State in the Union that does, and it is one of only two that is delegated total authority by the EPA. We have a lot of experience with wetlands. Michigan has a lot of wetlands and they are very important to us. We have regulated them well.

I am concerned about what the bill does to the regulation of wetlands, but even more I am concerned about what happens to the actual standards that are in the bill, not about the effort to reduce regulation. I admire that effort to reduce regulation and I think it is excellent. But we have to be careful that we do not relax the standards to the point that we begin to lose viable wetlands.

You may ask, why am I concerned about this since I am from Michigan and we already have our own law? I am concerned on behalf of Michiganites, but I am also concerned with others throughout the United States. For example, we have a tremendous population of hunters in our State and many who come from other States to hunt waterfowl. Without proper maintenance of migratory waterfowl flyway wetlands, we will not have an adequate population of waterfowl to satisfy the needs and desires of those in the sporting professions who hunt waterfowl.

Similarly we need to maintain wetlands so we can maintain pure water in our Nation.

My plea then is to reduce regulation but not to reduce standards. I urge support for the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, a little over two decades ago our predecessors stood in this well and argued the Clean Water Act. Must have been a tough philosophical stance to be in favor of clean water and by implication, I suppose, against dirty water. Not one word of that debate was uttered regarding wetlands, because an obscure section buried in the bill became the vehicle by which bureaucrats and regulators could add onto a dredge and fill bill, meaning most of the Mississippi River, and a lawsuit in 1978, an appearance in the Senate and then three delineation manuals elevating an obscure paragraph to a national debate, a national debate that by our opponents in this, with the offer of their amendment, would have not one EPA but now four Federal agencies able to veto each and every permit request in America. I do not know the definition of streamlining, but that is not it.

I have heard a great deal about science. The science that is lacking in this debate is psychiatry, because only a study of psychiatry could tell me why in Grand Junction, CO, at 11,000 feet above sea level, I have got a wetland, the jurisdictional waters of the United States, on the side of a mountain. Only a psychiatrist could explain to me why the ducks and geese apparently who travel around the country are so much better at delineating wetlands than five Federal agencies. At least they can figure out where to land. They have never landed in the parking lot at the Sands Hotel which, by the way, has been declared the jurisdictional waters of the United States of America.

You can either decide that what occurred since 1972 was that those who could care less about clean water but cared about land use made the conclusion that you cannot pass a bill in this House that will regulate people's land and zone it nationally, but you can get to it if you call it a wetland. And if it escapes from there, you can get to it if you claim it has an endangered species and you can terrify people by putting criminal sanctions in the Clean Water Act and send them to prison for not complying with regulations that no sane person in so many instances would be able to understand applied to their property.

In a few minutes, we are going to vote, we are going to vote on the distinction between the rights of individuals and the arrogance and power of government.

Mr. BOEHLERT. Mr. Chairman, I yield myself the balance of my time.

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

Mr. BOEHLERT. Mr. Chairman, as we have come to the close of this debate on wetlands, I just want to be sure that everyone understands exactly what this amendment would do. This amendment adopts the National Governors Association proposal on wetlands reform word for word. And this amendment gives the Secretary of Agriculture sole control over all agricultural wetlands.

We have had a spirited debate and sometimes people get carried away a little bit with the spirit and say some things that just are not accurate. So I need to correct some misstatements about this amendment.

It has been alleged that this amendment protects the status quo. The fact is this amendment would rewrite the wetlands provisions of the Clean Water Act and dramatically reduce the burden of Federal regulation. It has been alleged that this amendment gives Federal bureaucrats unbridled authority. The fact is this amendment would reduce Federal control over wetlands and give more authority to the States. That is why the National Governors Association promoted this proposal.

It has been alleged that this amendment is insensitive to the need of farmers. The fact is this amendment contains each and every agriculture exemption contained in the committee bill, plus an additional exemption for the repair and reconstruction of tiles requested by midwestern farmers.

It has been alleged that this amendment creates new bureaucracies. The fact is this amendment would create no additional bureaucracies whatsoever, just a local/State/Federal advisory panel uncompensated. This amendment would reduce the bureaucracy overseeing agriculture wetlands, giving the Department of Agriculture sole jurisdiction.

Now let us get down to some specific cases that came up over the past few days in debate. We heard about someone who had to go through a convoluted approval process to use a wetland that was only one-eighth of an acre. What this amendment would actually do would provide fast-track authority that would require a response within 60 days for wetlands permits of 1 acre or less.

We heard that grazing land was being classified as wetlands. What this amendment would do is exempt all grazing and ranching lands from this section 404 wetlands permitting process.

We heard about wetlands created by a leaky pipe or a feeding trough. What this amendment would actually do is exempt incidentally created wetlands from regulation.

We heard that the maintenance of flood control channels would be regulated under this amendment. What this amendment actually would do is exempt the maintenance and reconstruction of flood control channels.

So many of the stories we have heard about this amendment are simply fiction. They are in the long American tradition of tall tales, and the regulators and regulations they allege to be part of this amendment are about as real as Paul Bunyan and his blue ox.

Let me tell you something about the committee bill. The committee bill would create an expensive new Federal bureaucracy. Thousands of new Federal bureaucrats will have to be employed under H.R. 961 at a cost of over $1 billion.

H.R. 961 would avoid the findings of science. The report of the National Academy of Sciences is not even being used as a reference. It is being totally ignored. Why are we afraid of science?

Most importantly, H.R. 961 would allow the destruction of more than half the Nation's wetlands. That destruction could cost the Nation billions and billions of dollars in lost tourism, in fishing, and flood control.

I will say again, we are offering a moderate sensible bipartisan amendment, language presented to us by the National Governors Association, the same language that was in last week's substitute.

This amendment should have the support of everyone who believes that we can reform environmental legislation without eliminating its safeguards, and that we can protect the environment without unduly burdening the citizenry.

I operate under the assumption that we did not inherit the Earth from our ancestors. We are borrowing it from our children. We owe them an accounting of our stewardship. The American people should have as a birthright clean air, pure water, dedicated public officials.

I thank my colleagues for their patience. I thank the chairman of the committee. I thank all who have participated in this very important debate. What we are about is the future of America, the next generation. Let us give them clean water.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

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

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

I want to address a matter that has been of great concern to me throughout much of the wetlands debate. That is the issue of legislation by anecdote.

I am deeply troubled by some of the stories that have been recited during floor debate last night and today, and throughout consideration of amendments to the wetlands title of the Clean Water Act.

My concern prompted me to direct my staff to look into the anecdotes that have been raised as examples of the problems with wetlands program. To the extent that the anecdotes are accurate, as a few of them may be, they must be addressed legislatively. I am as troubled as anyone by the flaws in the program, such as permitting delays.

But I am also gravely concerned about the use by Members of this distinguished body of anecdotes that are not accurate, in order to influence the legislation. Using anecdotes that so exaggerate the actual events is irresponsible and dangerous, and does a great disservice to this body, to our constituents, and to the people whose experiences get distorted to serve political ends.

If there is a problem with the wetlands title, let's fix it. If there is a need to illustrate the problem through examples, by all means let's do so, if the examples are accurate. Frankly, if an experience has to be grossly exaggerated because the undistorted truth does not demonstrate the existence of a problem, then I must question the seriousness of the problem.

For example: We were told that the court awarded Mr. Harold Bowles only $4,500 for the taking of his property. The real story is that he was awarded $55,000 plus interest for the taking of his property.

We were told that wetlands regulations precluded construction of a new school in Juneau, AK. The rest of the story includes that members of the local community raised several serious concerns about the proposed location for construction of the school, and the city failed to evaluate the availability of alternative sites what would not destroy wetlands, as required under the law, even though there was at least one alternative that had broad community support, lower costs, and less environmental impact.

We were told about the case of Nancy Cline. What we were not told is that by filling approximately 100 acres of wetlands, the Clines damaged adjacent property owned by their neighbor.

We were told that a church could not be built in California due to wetlands regulation. What we were not told is that the Corps of Engineers assisted the group in redesigning their project so that it would impact less than an acre of wetlands and be exempt from the requirement for an individual permit. With the corps' assistance, the Church was authorized to proceed, but proceeded to drain a vernal pool without authorization, destroying the wetland.

A Member letter circulated to Members of the House stated that the Clean Water Act never mentions the word ''wetlands.'' That is not so: I am aware of at least five instances where the word ''wetlands'' appears in the Clean Water Act, in sections 119, 120, 208 (twice) and 404.

It is not my intention to consume our precious debate time by arguing over the details of anecdotes. But, nor can I listen to what I know are inaccurate statements without calling attention to them.

Finally, in the face of all of these negative anecdotes about the impacts of wetlands regulation, I would like to share some examples of the many instances where wetlands regulation protects citizens from property damage from flooding and other causes.

In the case of Mr. John Pozsgai, who was convicted by a jury on 40 counts of knowingly filling wetlands without a Clean Water Act permit, neighbors had flooded basements and other property damage from the filling.

In the case of Mr. Ray Hendley in Georgia, neighboring homeowners began experiencing flooding problems after Mr. Hendley built houses on illegally filled wetlands.

These are just a few of many examples of the important role that wetlands regulation

plays in protecting the property and livelihood of everyday citizens.

I urge my colleagues to refrain from the irresponsible use of anecdotes, and to support the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield myself the balance of my time.

Make no mistake about it, my colleagues, this Boehlert amendment guts the wetlands section of our legislation. Make no mistake about it, this Boehlert amendment does not reform wetlands but actually adds new procedures and new controls to the existing program which has been a nightmare.

This amendment we have before us creates an 18-member bureaucracy chaired by EPA. And guess who appoints 10 of the 18 mechanics? A majority? The EPA. And what is the purpose of this EPA-controlled new bureaucracy? To ''help coordinate regulatory programs,'' to ''help develop criteria and strategies, to help develop national policies on delineation, classification and mitigation.'' We have had about all the help we can stand from the bureaucrats at EPA, and we do not need an additional bureaucracy to give the American people more help.

This amendment before us is so bad that it actually expands the list of regulatory activities by adding new categories. It mandates—get this—it mandates the use of the 1987 wetlands manual, which we have heard so much criticism about.

It pretends to include exemptions from permits but it allows the regulators, the bureaucrats to deny those exemptions.

Now, we have heard it said how wonderful this amendment is for agriculture. Then why, why, I must ask, is virtually every agricultural organization in America in writing opposed to this amendment? Well, they are opposed to it because they realize it is more regulation, not less regulation.

We have heard the claim that this amendment will fast track permit processing. Yes, but—and this is the big but—the so-called fast track is limited to ''minor activities affecting one acre or less.'' And guess who determines whether it is a minor activity or not? You have got it right. It is the bureaucrats who will determine what the definition of minor is.

We have heard from some of our good friends in New Jersey, Michigan, and Maryland supporting this amendment because it is so important to their State. I say to my good friends from New Jersey and Maryland and Michigan and any other state, if they would like to have more stringent wetlands regulations, then adopt them in your State. There is nothing in our legislation that stops them from imposing stricter wetlands. They are free to do it. But what is good for New Jersey may not be good for Idaho.

So let us have a little common sense here. Let us say that the States know something. And let us say there can be flexibility.

Members can impose whatever wetlands they care to impose upon their State, but do not try to stuff it down the throats of the rest of the American people. We have heard a lot about good science, and about the National Academy of Sciences. We have heard the claim that 60 percent of the wetlands will be lost, and we have said the National Academy of Sciences says that.

Do they really? During a question-and-answer session at a briefing, the chairman, Dr. William Lewis of the committee that wrote the report, was asked, ''What percentage of wetlands currently under the jurisdiction of the program would be deregulated'' under our bill? Do Members know what his first response was? It was, and I quote, ''I don't know.''

Then he was pushed further for an answer. By the way, the person asking the question was my good friend, the gentleman from New York [Mr. BOEHLERT], who was pushing this, and when pushed further, he said, and I quote, ''I guess the amount would be in the tens of percent; 20, 30, maybe 40 percent.''

Mr. Chairman, I would respectfully suggest it is highly irresponsible for the chairman of the committee, no doubt a scientist, to guess on such an important issue, then to have that wild guess taken and turned here on this floor into something right out of the New Testament.

The last part of his answer, ''40 percent,'' differs from the first part by a 100 percent margin of error. Is that good science, that margin of error? I think not.

We have also been told how the National Governors Association supports the Boehlert amendment. What are the facts? The facts are the only record in which a subcommittee of that organization went on record was the National Governors Association's wetlands policy. In 1992, 3 years ago, they voted in support of the kind of Boehlert amendment we have before us. It was not the Governors themselves.

Today, indeed, we have different Governors, and the Governors have already said they are going to reconsider their position, so I say vote down the Boehlert amendment, do not gut this bill.

Mr. CHAMBLISS. Mr. Chairman, today we will vote on an amendment to the clean water bill which will severely weaken the wetlands reform contained in this bill.

H.R. 961 is a renewed investment and commitment in our Nation's clean water infrastructure. It reinstates the basic constitutional right to obtain compensation for takings. This bill unamended, will allow farmers and landowners to seek a determination of whether a wetland exists on their property.

My farmers and landowners in the Eighth District of Georgia are in desperate need of relief from the overburdensome and heavily regulated Federal wetlands policy. H.R. 961, unamended, will give eighth district farmers and landowners in towns like Ashburn and Enigma the relief they need. The Republicans have promised the American people that the status quo will no longer be the norm. Unfortunately, this amendment does nothing to change the status quo. We have a responsibility to protect the environment, yet do so without over-regulating the farmers and businesses that drive our economy. I urge my colleagues to vote ''no'' against any amendment which weakens wetlands reform.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 242, not voting 7, as follows:

[Roll No. 332]

AYES—185

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gilman
Gonzalez
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klug
Kolbe
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Porter
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—242

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono

Brewster	Hamilton	Oxley
Browder	Hancock	Packard
Brownback	Hansen	Parker
Bryant (TN)	Hastert	Paxon
Bunn	Hastings (WA)	Payne (VA)
Bunning	Hayes	Peterson (MN)
Burr	Hayworth	Petri
Burton	Hefley	Pickett
Buyer	Hefner	Pombo
Callahan	Heineman	Pomeroy
Calvert	Herger	Portman
Camp	Hilleary	Poshard
Canady	Hilliard	Pryce
Chabot	Hobson	Quillen
Chambliss	Hoekstra	Quinn
Chapman	Hoke	Radanovich
Chenoweth	Holden	Regula
Christensen	Horn	Riggs
Chrysler	Hostettler	Roberts
Clement	Houghton	Roemer
Clinger	Hunter	Rogers
Coble	Hutchinson	Rohrabacher
Coburn	Hyde	Rose
Collins (GA)	Inglis	Roth
Combest	Istook	Royce
Condit	Johnson (SD)	Salmon
Cooley	Johnson, Sam	Scarborough
Costello	Jones	Schaefer
Cox	Kasich	Schiff
Cramer	Kim	Seastrand
Crane	King	Sensenbrenner
Crapo	Kingston	Shadegg
Cremeans	Knollenberg	Shaw
Cubin	LaFalce	Shuster
Cunningham	LaHood	Sisisky
Danner	Largent	Skeen
de la Garza	Latham	Skelton
Deal	LaTourette	Smith (MI)
DeLay	Laughlin	Smith (TX)
Dickey	Leach	Smith (WA)
Dooley	Lewis (CA)	Solomon
Doolittle	Lewis (KY)	Souder
Dornan	Lightfoot	Spence
Dreier	Lincoln	Stearns
Duncan	Linder	Stenholm
Dunn	Livingston	Stockman
Edwards	Longley	Stump
Ehrlich	Lucas	Talent
Emerson	Manzullo	Tanner
English	Martinez	Tate
Ensign	McCollum	Tauzin
Everett	McCrery	Taylor (NC)
Ewing	McDade	Tejeda
Fazio	McHugh	Thomas
Fields (TX)	McInnis	Thornberry
Flanagan	McIntosh	Tiahrt
Foley	McKeon	Traficant
Fowler	Mica	Volkmer
Franks (CT)	Miller (FL)	Vucanovich
Frisa	Minge	Waldholtz
Funderburk	Molinari	Walker
Gallegly	Montgomery	Walsh
Ganske	Moorhead	Wamp
Gekas	Murtha	Watts (OK)
Geren	Myers	Weldon (FL)
Gillmor	Myrick	Weller
Goodlatte	Nethercutt	White
Goodling	Neumann	Whitfield
Gordon	Ney	Wicker
Graham	Norwood	Wilson
Gunderson	Nussle	Young (AK)
Gutknecht	Ortiz	Zeliff
Hall (TX)	Orton	

NOT VOTING—7

Berman	Gephardt	Lipinski
Bryant (TX)	Kleczka	
Collins (IL)	Klink	

□ 1406

Messrs. COOLEY, BAESLER, BONILLA, ROEMER, and POMEROY changed their vote from ''aye'' to ''no.''

Messrs. PASTOR, HASTINGS of Florida, and OLVER changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GILCHREST

Mr. GILCHREST. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILCHREST: Page 309, strike lines 8 through 12.

Page 309, line 13, strike ''(10)'' and insert ''(9)''.

Page 312, line 10, strike ''(11)'' and insert ''(10)''.

Mr. GILCHREST. Mr. Chairman, it occasionally happens that rather small provisions of bills which very few people know about have a tremendous impact.

This amendment seeks to strike such a provision which will have a significant effect on hunters and other people who enjoy migratory birds.

The gentleman from Michigan and the gentleman from Pennsylvania, who are both members of the Migratory Bird Commission, are coauthors of this amendment.

Mr. Chairman, I yield to my friend the gentleman from Pennsylvania [Mr. WELDON].

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

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise in strong support of this amendment.

Mr. Chairman, the gentleman from Michigan [Mr. DINGELL] and I serve as the House Members on the Migratory Bird Commission and as such we work on ways to preserve in a voluntary way the wetlands of this National and North America that are important to waterfowl.

Over the past several decades that this program has existed, we have in fact preserved 7 million acres of wetlands through the North American Wetlands Conservation Fund and 4 million acres through the Migratory Bird Commission funding. All of that has been done voluntarily.

This amendment allows us to continue to recognize those lands that are important for the development and the growth of waterfowl in this country. It is a good bipartisan amendment. I applaud my colleague for offering it. I applaud my colleague, the gentleman from Michigan [Mr. DINGELL], for joining in support of this amendment.

Mr. Chairman, I include my statement in support of the amendment as follows:

Mr. Chairman, I rise today to offer this amendment with my colleagues, Mr. GILCHREST and Mr. DINGELL. This provision in H.R. 961—which will deny Federal protection for wetlands that are solely used by migratory birds—is not only unnecessary but dangerous for the future of our Nation's migratory birds.

As members of the Migratory Bird Conservation Commission, Mr. DINGELL and I have witnessed first hand the role wetlands protection plays in the recovery and protection of our Nation's migratory birds. Through the use of primarily duck stamp monies together with other proceeds, the commission has provided for the acquisition and enhancement of waterfowl habitat through the National Wildlife Refuge System.

However, the wildlife refuges alone cannot provide sufficient habitat to support the millions of waterfowl which annually migrate across America. As a result, thanks to the effort of my friend, Mr. DINGELL, the North American wetlands conservation fund was created. NAWCF is truly one of the most cost effective wetlands preservation initiatives in existence. It operates as a private-public partnership, with Federal grant monies being matched, often times at rates as high as 4 to 1.

Mr. Chairman, H.R. 4308, a bill to re-authorize and expand the North American wetlands fund, passed the House by a vote of 368 to 5 last year. Almost every single one of our colleagues recognized the need to preserve our Nation's wetlands in order to protect important migratory bird populations. The provision on page 309 of H.R. 961 which eliminates protection of wetlands which are solely used by migratory birds will halt the progress we have achieved through the work of the Migratory Bird Commission.

We must take into consideration that even after passage of the North American wetlands conservation fund, much more still needs to be done. Recent estimates of North America's breeding duck population is 18 percent below the average of the last 40 years. For certain species, the numbers are far worse. Mallard populations, for example, are down 20 percent and the North Pintail population has declined by half. Other migratory species have suffered as well. Populations of Franklin Gulls, Black Terns, and Soras all have declined significantly since the early 1950's. It is clear we cannot roll back the clock in preserving these species.

Mr. Chairman, the migratory bird provision in H.R. 961 not only puts at risk our migratory bird populations, but contradicts case law on this subject. As Mr. DINGELL has stated, the U.S. Court of Appeals, Seventh District, has specifically ruled in Hoffman Homes versus Administrator, U.S. Environmental Protection Agency, that EPA is within its jurisdiction to view migratory birds as a connection between wetlands and interstate commerce. Proponents to H.R. 961 will argue that this case gives the EPA carte blanche to run rough shod over private landowners. Not true. In fact, the court ruled in favor of Hoffman, citing the EPA's inability to provide substantial evidence of migratory bird use. So you can see, the burden is on EPA to prove the wetlands is essential to migratory bird populations.

In addition, I would like to bring to the attention of my colleagues—especially those who are most concerned with the economic impact on our citizens with regard to the laws we pass—exactly the impact H.R. 961, in its current form, will have on our hunting and tourism industry. In 1991, $3.6 billion was spent on hunting migratory birds such as waterfowl and shore birds, $15.9 billion was spent on nonconsumptive uses of migratory birds. Together, they contribute almost $20 billion to our Nation's economy.

I urge my colleagues to support the Dingell-Weldon-Gilchrest amendment to H.R. 961. Last year you showed your support for our migratory birds. If you have constituents in your district who like to hunt, trap, or observe migratory birds, I urge you to show your support again this year.

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from Michigan [Mr. DINGELL].

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

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding to me. My comments will be brief.

Mr. Chairman, I want to commend the distinguished gentleman from Maryland and my dear friend, the gentleman from Pennsylvania [Mr. WELDON], who serves so ably with me on the Migratory Bird Commission for their fine leadership on this matter.

This is a good amendment. I want to thank my friends, the chairman of the committee and also the ranking minority member and the other members of the committee who have been accommodating to us on this.

This will make possible the conservation of a very precious natural resource much loved by millions of Americans, by duck hunters, by nonhunters and by ordinary citizens who enjoy it.

I am grateful to the gentleman for the leadership he has shown. I thank my good friend from Pennsylvania. I urge the amendment be adopted.

Mr. GILCHREST. Mr. Chairman, I yield to the gentleman from California [Mr. MINETA].

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

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Gilchrest-Dingell amendment. I also applaud his tenacity in working to improve the wetlands provisions of this bill.

The Gilchrest-Dingell amendment would delete from the bill another of the arbitrary limitations which have been included to reduce the protection which is afforded wetlands, regardless of the value of the wetland. Without this amendment, the bill will deny protection to virtually all isolated wetlands—the very wetlands which are so valuable to migratory waterfowl, and which can serve a variety of valuable functions such as groundwater recharge and flood control.

As we all know, the Federal Government is one of limited powers. Often, the basis of the Federal Government's authority to regulate an activity is the commerce clause of the Constitution. In the case of isolated wetlands which do not cross State boundaries, the presence of migratory birds has been a sufficient nexus to interstate commerce so as to justify a Federal interest in the wetland.

If H.R. 961 is allowed to proceed in its current form, there will be no Federal jurisdiction over isolated wetlands. The mere fact that a wetland is isolated should not make it automatically less protected than one which is directly linked to the otherwise navigable waters of the United States. I remind my colleagues that in the debate on the original Clean Water Act in 1972, the subject of the breadth of its coverage was specifically debated, and the decision was that the act should have the broadest application possible. This amendment defeats that original purpose with no concern for water quality or other impacts.

Mr. Chairman, the Gilchrest-Dingell amendment will allow the wetlands program of the Clean Water Act to exercise its jurisdiction as allowed by the Constitution. Anything less is yet another attempt to assure the continuing loss of our Nation's valuable wetland resources.

Support the Gilchrest-Dingell amendment and leave the constitutional interpretation of the Clean Water Act alone.

Mr. GILCHREST. Mr. Chairman, I yield to the distinguished gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think this is an excellent amendment, and I urge its adoption.

Mr. GILCHREST. I thank the chairman of the committee.

Mr. Chairman, I urge support of the Gilchrest-Dingell amendment.

Mr. LUTHER. Mr. Chairman, I believe H.R. 961, as presently drafted, goes too far. The bill, as reported out of committee, contains a provision which states that water or wetlands would no longer be subject to Federal protection solely because they are used by migratory birds. That provision will open thousands of wetlands used by migratory birds to destruction.

As any one of the thousands of sportsmen and women from Minnesota can tell you, protection of isolated wetlands is important for the continued, stable growth of our migratory waterfowl. The wetlands which this amendment seeks to protect are particularly important for certain species of waterfowl, including mallards, teal, and pintails—whose numbers are critically low.

I was born and raised on a farm in Minnesota, near a principal breeding area for waterfowl in the United States. I come from a family of hunters, and have fond memories of the time we spent, enjoying the sport, and absorbing the beauty of Minnesota. If this amendment is not accepted and isolated wetlands are left unprotected, future generations may not be able to experience the recreational opportunities so many of us have had, and the gains we have made in replenishing our wildlife population over the past several years could be lost forever.

During our recent district work period I held many listening sessions and the message my constituents gave me was clear: Cut back on Federal over-regulation and micromanagement, but do not roll back essential protections for our most vital natural resources. Mr. Chairman, there is a legitimate role for the Federal Government to play in protecting isolated wetlands for the benefit of all Americans. I therefore urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GILCHREST

Mr. GILCHREST. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILCHREST: Page 243, strike line 9 and all that follows through line 7 on page 249 and insert the following:

''(c) WETLANDS CLASSIFICATION.—The Secretary shall issue regulations for the classification of wetlands to the extent practicable based on the best available science. Requirements of this title based on the classification of wetlands as type A, type B, or type C wetlands shall not become effective until regulations are issued under this subsection.

Page 282, line 11, strike ''subparagraphs (B) and (C)'' and insert ''subparagraph (B)''.

Page 282, strike line 12 and all that follows through line 22 on page 283.

Page 283, strike line 23 and all that follows through ''any'' on line 25 and insert the following:

''(B) NORMAL CIRCUMSTANCES.—Any

Page 311, line 17, strike ''section,'' and insert ''section and''.

Page 311, lines 18 through 20, strike '', and no exception shall be available under subsection (g)(1)(B),''.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Maryland [Mr. GILCHREST] and a Member opposed will each be recognized for 15 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is extremely straightforward. It seeks to strike the bill's provisions for delineation and classification of wetlands. These are the provisions with which the National Academy of Sciences disagreed most strongly and they are the provisions which have driven the Association of State Wetlands Managers to oppose the bill.

The provisions in question require that wetlands be inundated for 21 consecutive days in the growing season, that they meet a very strict vegetation requirement, and that they have hydric soils present.

Under such a definition, an acre of land could be a swamp from October to March, saturated the first 20 days of the growing season and the last 20 days of the growing season, and not meet the hydrology requirement. It could be a swamp year round but not display the right sort of vegetation and not be considered a wetland. Or a landowner could simply wait for a drought year when very few acres will display wetland hydrology and again not have the parcel considered a wetland.

□ 1415

Now I know that many of us have been eager for a statutory definition of what constitutes a wetland. But H.R. 961 contains a definition which is clearly wrong—it's definition will only protect a fraction of acres that function as wetlands in the United States. The National Academy of Sciences could not assign any scientific justification, let me say that one more time. The National Academy of Sciences could not assign any scientific justification to the wetlands definition contained in H.R. 961.

Where did the committee get this definition, you might ask? Well, the definition is almost identical to the proposed 1991 manual revisions, but a little stricter. Those revisions were a

complete disaster during field testing, with the inter-agency team calling them ''technically unsound'' and urging that the manual be adopted. This definition was such an utter failure that the Bush administration had to abandon its own proposal.

Now I've heard that States could provide higher levels of protection for wetlands than what is provided under the bill. With all due respect, the nutrients and toxics in surrounding States very often cause a tremendous amount of problems in my State, which borders on the Chesapeake Bay. Until we can make waterways respect State boundaries, wetlands are going to remain an interstate matter. Mr. Chairman, every time farmers from States bordering my State put down fertilizer in a non-best-management practice, they hurt watermen in the State of Maryland, and nobody's going to talk about compensating the State of Maryland fisherman, although if we adopt this bill I think we should gain that debate.

My amendment also strikes the wetlands classification system in the bill. Obviously, we would like to say that this wetland is more important than that wetland, but according to the National Academy of Sciences, we do not have the science right now to make that determination. This bill blindly subscribes to the wetter is better theory, but the National Academy of Sciences essentially says, and we all want to deal with science and we have the report, the National Academy of Sciences report right here, it says we cannot do that.

Under my amendment the Army Corps of Engineers would be required to publish regulations for wetland classification when sufficient science is available. This replaces the bill's requirements that classification systems be implemented whether the science is available or not. If we go along with this bill, we are going to determine what is a wetland without science. Is that OK? I do not think so.

Let me take a minute about what this amendment does not do. It does not change any of the bill's provisions about permitting. It does not change the compensation provisions. It does not remove any of the six pages of exempted activities. All this amendment does is remove the two provisions that the National Academy of Sciences say are unworkable and unscientific.

My friends from Louisiana, and they are my friends, from Louisiana will argue that Congress should decide which wetlands to regulate, and obviously that is our duty. But in delineating wetlands, literally drawing lines around wetlands, we should use an appropriate scientific definition of wetlands. Once we have delineated those wetlands, we may decide not to regulate them, and indeed, H.R. 961 contains about 80 other pages which deregulate various wetlands. But at the very least, let us keep a little science in the question of wetlands delineation.

Most of the groups who oppose title VIII of the bill, the Governors, the State legislators, the fishermen, among others, oppose this provision more than any other. And while I cannot say they would support it with this provision gone, that means we take out the delineation criteria, and we inject it with science, at the very least it would temper their opposition. That means we would have support of the National Governors Association, we would have the support of fishermen, we would have the support of people who truly want clean water, who want to prevent flooding, who want wildlife habitat, who want a whole range of things that improve the quality of our lives.

Last week the gentleman from New Jersey [Mr. ZIMMER] told a story which I hope everyone heard. He talked about how a certain State legislature voted to change pi. Remember in eighth grade in your math class. It was not apple pie, it was a mathematical equation, the circumference for circles. The definition of what is a functional wetland is every bit as scientific as pi. If we have to deregulate wetlands, this bill does that. But at the very least, for delineation purposes, let us keep a scientific definition of wetlands in place.

Let us talk some sense about what we do today for tomorrow's children.

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

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] will control the opposition to the amendment and is recognized for 15 minutes.

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent to temporarily yield the control of that time to the distinguished gentleman from Missouri [Mr. EMERSON].

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

There was no objection.

Mr. EMERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, this is the study that has been referenced here before of the National Academy of Sciences, and my copy says advance copy, not for public release, before Tuesday, May 9, 1995, eastern standard time; in other words, right after I can take advantage of it for news purposes, but too late for anyone to go through it and criticize it. It is also interesting when you turn a few pages, I find out the academy was doing a lot of nonscientific things, unless of course you mean political science. One of the things they did was make sure they noted on page 2 that this was paid for by the EPA and then later after nearly 3 years of work and a mere 19 months late, they concluded what we should base science on an EPA delineation manual. That must have been a tough and rigorous decision. They also had to do so under some terrible circumstances. They were forced to travel to Sedona, Vicksburg, over to Maryland, over to Florida, over to North Dakota, all around the country spending our tax dollars on field hearings. But most interestingly of all, it required four different EPA folks to travel with them to Arizona to tell them what a wetland was. And you wonder why people are having problems. It required four Fish and Wildlife Service members from Washington to go to North Dakota, and then most importantly, of course, I wonder how long was the determination that Raphael Lopez of San Diego would do the cover art of drawing a crane for $1,500.

I do not believe we need to have waited the 19 months to get a report that merely said Federal agencies have the leverage to have scientists who are misled by regulator after regulator after regulator affect what should be a scientific process, which is why I have letters now from different environmental consultants across the Nation telling me that their participation was constantly interrupted not by the scientists but by regulators, that the questions came from regulators, that the regulators were leading the panel talking about how you actually implement the manual.

Both scientists and regulators need to go back to the field, back to talk to landowners and find out what policy should be.

Mr. GILCHREST. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] has 13 minutes remaining and the gentleman from Maryland [Mr. GILCHREST] has 9 minutes remaining.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding time to me. I commend my Republican colleague from Maryland for this excellent amendment. I rise in strong support. We do need a workable and scientific description of wetlands.

I want to speak on behalf of the oldest industry in this country, our commercial fishing industry. That industry contributes more than $111 billion annually and provides jobs for 1½ million Americans.

This fishing industry will be put in jeopardy by H.R. 961. More than 75 percent of fish and shellfish species rely on wetlands for some portion of their cycle. Yet, H.R. 961 would allow more than half of all wetlands to go unprotected by simply redefining them as dry land.

It is for these reasons that the Pacific Coast Federation of Fishermen's Associations, that is the largest organization of fishermen and fisherwomen in the entire length of the west coast, why they have come out in opposition of H.R. 961.

If Members care about the future of America's fishing industry or if they just like to eat fish, I urge they vote yes on the Gilchrest amendment.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS],

chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding the time. I would like to engage in a colloquy that is very important to the agricultural sector and would ask the distinguished chairman the following question: In the chairman's en bloc amendment that was agreed to earlier there is a section beginning on line 20, page 284, that grandfathers wetlands delineations made by the Secretary of Agriculture under the 1985 Food Security Act—1985 FS Act—as amended, if those delineations were administratively final upon enactment of this legislation. I appreciate the Transportation Committee's willingness to amend the committee bill as reported to incorporate this provision in the law. It is very important to American farmers and ranchers; however, I note that there appears to be a difference between the term ''delineation'' as used in the clean water amendments and the term as used in the Food Security Act of 1985.

Under the terms of the 1985 Food Security Act, as first enacted, the term ''delineation'' was not used. However, in the period 1986 through 1990 several thousand administrative determinations were made by the Secretary exempting persons from the program ineligibility provisions of section 1221 of the Food Security Act of 1985. In the 1990 amendments to section 1222 of the Food Security Act of 1985, made by the Food, Agriculture, Conservation, and Trade Act of 1990—FACT Act of 1990—the concept of delineation was first introduced in the Food Security Act. The Secretary of Agriculture under section 122 amended by the FACT Act of 1990 included an on-site visit to make a delineation determination, if the landowner requests such an on-site visit.

In addition, section 1222(a)(4) of the 1985 Food Security Act requires the Secretary to provide a process for the periodic review and update of the delineations, but a landowner may not be adversely affected by any actions the owner may have taken based on an earlier wetland determination made by the Secretary of Agriculture.

Chairman SHUSTER, I assume it was your intent by grandfathering delineations of the Secretary of Agriculture that were final upon enactment of this bill to mean that administrative determinations made by the Secretary of Agriculture under the Food Security Act would also be grandfathered. In other words, the term delineation as used in the clean water amendments of 1995 is meant to include the administrative finality of determinations as that term is used in section 1222 of the 1985 Food Security Act, as amended.

Mr. SHUSTER. If the gentleman will yield, I would answer by saying that he is correct, the committee intends for a wetland delineation made under the Clean Water Act as we are amending it today would provide finality of determinations made by the Secretary of Agriculture under the Food Security Act.

Mr. ROBERTS. I thank the gentleman for his clarification. And I would only add at this time, Mr. Chairman, that I would also like to rise in opposition to the Gilchrest amendment.

Now the Gilchrest amendment, in the eyes of the sometimes powerful House Committee on Agriculture and its members, would provide authority to the Federal regulatory community to decide what classifications will be used for various functions and values of wetlands. The gentleman from Louisiana [Mr. HAYES] has already spoken to that. I associate myself with his remarks. And to some of these regulators, quite frankly, every wet spot is a valuable wetland. That is the problem. That is the problem with the gentleman's amendment. They will use a seat-of-the-pants science to determine wetlands. I would imagine they would go out in the field, sit down on the ground, and if their pants get damp, why then it would be a wetland.

The Gilchrest amendment eliminates the statutory wetlands delineation process of H.R. 961 which requires land to actually be wet for a significant part of the growing season. The committee bill requires some water-loving plants to be found on the ground.

The gentleman from Maryland [Mr. GILCHREST] would eliminate that requirement. He would eliminate the requirements for how hydric soils are delineated.

In short, I would tell my colleagues that the Gilchrest amendment guts the committee's well-reasoned, commonsense approach and replaces it with a program ruled by those who write the rules, EPA and Fish and Wildlife. That is part of the problem.

We do not need this amendment. The gentleman's intent is good, his leadership is good, he is a fine Member but we should oppose his amendment. Let us get on with the adoption of H.R. 961 and defeat this amendment.

Mr. GILCHREST. Mr. Chairman, I want to make a comment to my good friend the gentleman from Kansas that the reason America's agriculture is as advanced as it is today is because we use good science. We do not want to reverse ourselves and go back to a Third-World-nation status not using the best available knowledge to pursue the agricultural industry.

Mr. Chairman, I yield 2 minutes to my good friend the gentleman from California [Mr. WAXMAN].

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

□ 1430

Mr. WAXMAN. Mr. Chairman, this issue that we have before us is not a new one. The Competitiveness Council under Vice President Quayle tried to define, redefine, wetlands in very much the same way that H.R. 961 does, and at that time Governor Wilson from the State of California did a very smart thing. He asked State officials to assess the impact of this new definition on California.

He wrote, because he was so alarmed, on December 13, 1991, to President Bush to protest the wetlands definition of the Competitiveness Council, essentially the same definition in this bill. And he said, ''This would cause irreparable damage to the State's natural resource base.'' He found that definition we are considering today would eliminate half of California's wetlands. In southern California, the State biologists found the coastal wetlands would be reduced by 75 percent. Half of San Francisco's bay tidal marshes, which are essential habitats for numerous fish species, would also lose protection.

He asked that we have a National Academy of Sciences study, and that report is now before us, and now this study is being ignored.

For years we have heard opponents of environmental protection in this body talk about the need for sound science. When we passed H.R. 9 earlier this year, legislation that rolls back 25 years of environmental protection, we were told that we were acting in the name of sound science. When we debated a whole host of bills, opponents of environmental protection gave impassioned and eloquent lectures on the need for sound science.

In my remarks in the RECORD I am going to quote back some of the statements made by our colleagues. Apparently many Members want sound science only if it matches their political views.

What we have today is a new political correctness that has captured this House.

The National Academy of Sciences, our Nation's premier scientific organization, has completed a rigorous and comprehensive analysis and concluded that H.R. 961 does not reflect good science. The bill's sponsors react to this news not by amending their bill and accepting the Gilchrest amendment but by denouncing the National Academy of Sciences.

The message is clear. This Congress will accept sound science only if the science fits its political agenda. I think that is wrong, and that is why I am going to vote for the Gilchrest amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

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

Mr. EMERSON. Mr. Chairman, I rise in opposition to the Gilchrest amendment, and I want to talk a little bit about wetlands delineation.

Ordinary people no longer know what a wetland is. They expect to see a swamp or a marsh, only to be told by regulators that land that is usually dry is a wetland, or that a field of corn is a wetland. It is really time to get the water back into wetlands.

The current guidelines can allow an area to be called a wetland even if water never stands on it or even if the surface of the ground is never saturated. For Federal regulation under the Clean Water Act there should be a real influence of water as well as the presence of wetland vegetation and soils before property comes under regulatory control. Some say this approach is unscientific.

Well, the scientists have had 20 years to decide this, and there is still no clear, understandable, agreed upon approach. We have heard a lot of rhetoric.

The gentleman from California was just talking about the National Academy of Sciences study which was released on Tuesday, and while I am personally more than a little suspicious of their timing and of consideration for the NAS's political motivations in releasing this report to coincide with the debate here in the House of the Clean Water Act, I am glad to see them finally come forward with a report.

But let me try to dispel some of the distortions and unfounded allegations that occurred regarding the bill's delineations provisions. Some of the self-serving special interest groups backed by environmental extremists have claimed the bill is going to result in anywhere from 50 to 60 to 80 percent reduction in the amount of private property that is regulated as so-called wetlands. There is no scientific basis other than their own self-interest and political motivations to make such claims.

We should be dealing with the truth; the truth is that nobody knows the extent of wetlands in this Nation, even under the existing rules. The truth is that our bill requires that there be a reasonable relationship, a reasonable relationship between water and Federal regulation under the Clean Water Act. We have obtained information on how our bill would affect the extent of Federal jurisdiction in the Florida Everglades but we believe that this would be helpful, because the liberal extremists claimed our bill would remove the Everglades from Federal jurisdiction. The consultants found that our bill would actually result in an increase in jurisdiction and not a decrease.

This increase will certainly not occur in every case throughout the country, but it serves as a helpful example of just how desperate some of the opponents of this bill have become.

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume.

If I could, I would like to quickly respond to the gentleman from Missouri. Approximately 66 percent of the 1989 wetlands acreage at interagency test sites would have failed the proposed 1991 criteria comments of the Missouri River Division.

Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I rise to strongly support the Gilchrest amendment. I would hate to believe that the long awaited National Academy of Sciences study has not gotten here just in time. A million dollars is what we put down to get somebody objective to look at this problem.

The reduction in wetland acres, my colleagues, is awesome.

This is a radical change based on ignorance.

Indeed, the provisions that are objectionable are based on discredited provisions of the 1991 manual. How can we use a 1991 manual that failed field testing and not a state-of-the-art study?

In this area, we are spending tax dollars to restore wetlands. Let the Amy Corps of Engineers use the NAS study, the only study with any integrity, to develop delineation criteria. The wetlands title before us is an act of ignorance.

Please, support the Gilchrest amendment.

Mr. GILCHREST. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I am pleased to support my colleague's amendment.

The Gilchrest amendment would strike the classification provisions of the wetlands title, and replace them with a requirement that any wetlands classification regulations be based on the best available science. It also strikes the arbitrary restrictions on delineation of wetlands which are contrary to the findings of the National Academy of Sciences.

The Gilchrest amendment is an opportunity to correct one of the inconsistencies of H.R. 961. The sponsors of the bill are fond of stating how environmental decisions need to be based upon sound science and the best information available. Yet, when it comes to the issue of what is a wetland, the bill ignores science and creates its own arbitrary and unscientific definition of what is a wetland. This is particularly troubling in light of the recently released report of the National Academy of Sciences.

The bill includes an absolute standard for wetlands hydrology of 21 days of inundation. Yet, the Academy says that Federal regulation should reflect regional differences. If the Gilchrest amendment is adopted, the wetlands program will have the flexibility to acknowledge the differences in wetlands which occur in this country.

H.R. 961 is often a contradiction in terms. The use of accurate scientific information is only to be used when the polluter believes that it would be to the polluter's benefit.

The bill requires States and EPA to spend millions to develop new test species to determine water quality violations, even when EPA says that such expenditures are not necessary. Yet there will be no risk assessment when determining whether increased amounts of toxics will be released into the water because industry says that such expenditures are not necessary.

The National Academy of Sciences says that there should be flexibility in the regional determination of what is a wetland, yet the bill insists that there must be standing water at the surface for 21 days—a requirement that will leave parts of the Everglades out of the wetlands program. The result is that the bill ignores science when it is in the interest of the polluter to do so.

It is time to bring some common sense and supportable facts to the wetlands debate. Support the Gilchrest amendment and allow the wetlands program to protect true wetlands.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

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

Mr. OLVER. Mr. Chairman, I rise in support of the Gilchrest amendment. This is a straightforward amendment which simply replaces what are artificial definitions in H.R. 961, with a reliance on the best available science.

We have repeatedly heard, the Republicans have said repeatedly, they want to rely on sound science in reforming our environmental laws and other areas within the Congress. The Speaker himself, Speaker GINGRICH himself, has endorsed this principle. Yet here we have a case where the National Academy of Sciences, a nonpartisan, reliable and highly respected body, has assembled a panel, a very broad and diverse panel, which has studied for 2 years the issue of how to identify a wetland, and they have found there is absolutely no scientific justification for the wetlands provisions and the wetlands definitions in this legislation, H.R. 961.

So if you support using sound science in regulatory decisions, then you must support the Gilchrest amendment, and anything less would be sheer hypocrisy.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. BORSKI], a member of the committee.

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

Mr. BORSKI. Mr. Chairman, I support the amendment offered by the gentleman from Maryland to eliminate the delineation requirements and to require that classification of wetlands be based on the best available science.

What could be more common sense than to require that a technical subject such as classification of wetlands be required to be based on science?

It makes no sense to set up a classification that has nothing to do with scientific findings.

Just last week, the National Academy of Sciences at the request of Congress, issued its report on wetlands which shatters the entire foundation of title VIII of H.R. 961.

Title VIII defines wetlands without any regard to science. It doesn't just ignore scientific findings—it flies directly in the face of science.

Supporters of title VIII say this decision is not a scientific decision—it is a policy decision.

But policy must be based on the best information possible. H.R. 961 has ignored this information.

It is true that we in Congress should make the policy determinations. But we cannot, as a matter of policy, determine what is a wetland and what is not.

H.R. 961 attempts to define wetlands despite the scientific finds. We might as well attempt to define the color of the sky or the grass.

We cannot do that. What we can do, based on a scientific definition of wetlands, is determine whether we want to protect those wetlands.

H.R. 961 has determined that it will withdraw protection from 60 to 80 percent of the Nation's wetlands.

That is a policy decision but it is the wrong policy decision.

I compliment the gentleman from Maryland for attempting to make sure that our national wetlands policy is based on the best available science.

Mr. Chairman, I urge support for the amendment.

Mr. GILCHREST. Mr. Chairman, I yield myself the remainder of my time.

My last couple of comments will deal with who benefits from wetlands. The people who benefit from wetlands are those people who want clean water, those people who want floods prevented in their neighborhoods and in their regions, those people who understand the esthetic value, the appeal and the quality of life when it comes to habitat for wildlife, those people who feel a sense of closeness to nature, to the economic value of the coastal fisheries. All Americans benefit from sound wetlands policy.

I urge my colleagues to support this amendment.

Mr. SHUSTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, make no mistake about it, just as the previous amendment which we disposed of overwhelmingly gutted the wetlands provision of this bill, so does this provision as well. This is simply another gutting amendment. It is gutting amendment, because it eliminates all efforts to require that wetlands have a closer relationship to water.

Now, this argument that the approach in the bill is not scientific is baloney. The approach in the bill is just as scientific as the much more rigid approach taken by my good friend from Maryland. Indeed, the amendment we have before us now eliminates all the requirements requiring that a degree of regulation has got to match the relative value of the wetlands. That is what we say in the bill.

We say it has got to be under water 21 days. They say 15 days. Which is more scientific? One is as scientific as the other.

In fact, very interesting, when we keep hearing about all of this science and the importance of it, I refer again to the very, very importantly point that the chairman of the National Academy of Sciences committee, when asked how many wetlands would be affected by our legislation, his response was, ''I don't know.'' And when pushed finally, he said, ''Well, maybe in the 10 percent, or 20, or 30 or 40.'' That is science? ''I don't know,'' and then, ''Maybe 10 percent, maybe 20 percent, maybe 30 percent, 40 percent.'' Some science.

□ 1445

So the science we provide in our bill is every bit as accurate. In fact we require rulemaking by the Army Corps of Engineers to define and determine which category of wetland the various wetlands fall under. And I would emphasize again:

If you do not like what the bill does, if your State does not like what the bill does, your State can impose tougher wetlands regulations. We do not inhibit the States from imposing their own regulations. What we do through is sat that the State of New Jersey cannot force the State of Idaho to adopt the provisions that the State of New Jersey seems to think are important for that state.

And yes, we have heard about the Governors' Association supporting their wetlands provision. Well, I have a letter sent to us today from the vice-chairman of the Governors' Association National Resources Committee in which he says the National Resources Committee will be reviewing its current policy at its annual meeting in July. Since many new Governors have joined the NGA this year, we believe it is important to examine all the current policies to determine if the sitting Governors are in agreement with what was passed by this subcommittee 3 years ago, and he goes on to say, and this is important, I quote, H.R. 961, our bill, does provide States with flexibility to regulate wetlands in accordance with State needs. So it is important to realize that the National Governors' Association, which has come out in support of our overall bill, in fact in expressing their reservations about this particular amendment that we have before us.

My colleagues, this is simply another gutting amendment. It should be defeated.

I will close by referring to two examples of what would be a wetland if this amendment were to be adopted by friend from Maryland.

Riverside, CA, a picture of a desert. Well, this desert wants to be the site of a public flash control project. It was delineated as waters of the United States, waters of the United States, a desert. That is a wetland under the amendment we have before us. And in Phoenix, AZ, a picture of another desert. Yes, this property was declared, quote, water of the United States for regulatory purposes, a desert. That is a wetland.

Let us bring common sense to wetlands. Let us, just as we overwhelmingly did on the last amendment, let us defeat this amendment so we can have real wetland reform in the interest of America and in the interest of sound environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GILCHREST. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 247, not voting 7, as follows:

[Roll No. 333]

AYES—180

Abercrombie	Goss	Owens
Ackerman	Green	Pallone
Andrews	Greenwood	Payne (NJ)
Baldacci	Gutierrez	Pelosi
Barrett (WI)	Hall (OH)	Peterson (FL)
Becerra	Harman	Porter
Beilenson	Hastings (FL)	Pryce
Bereuter	Hinchey	Rahall
Bishop	Jackson-Lee	Ramstad
Boehlert	Jacobs	Rangel
Bonior	Jefferson	Reed
Borski	Johnson (CT)	Reynolds
Boucher	Johnson, E. B.	Richardson
Brown (CA)	Johnston	Rivers
Brown (FL)	Kanjorski	Ros-Lehtinen
Brown (OH)	Kaptur	Rose
Bryant (TX)	Kelly	Roukema
Cardin	Kennedy (MA)	Roybal-Allard
Castle	Kennedy (RI)	Rush
Clay	Kennelly	Sabo
Clyburn	Kildee	Sanders
Collins (MI)	Kingston	Sanford
Conyers	Klink	Sawyer
Coyne	Klug	Saxton
Davis	Kolbe	Schroeder
DeFazio	LaFalce	Schumer
DeLauro	Lantos	Scott
Dellums	Lazio	Serrano
Deutsch	Levin	Shays
Diaz-Balart	Lewis (GA)	Skaggs
Dicks	LoBiondo	Slaughter
Dingell	Lofgren	Smith (NJ)
Dixon	Lowey	Stark
Doggett	Luther	Stokes
Doyle	Maloney	Studds
Ehlers	Manton	Stupak
Ehrlich	Markey	Thompson
Engel	Martini	Thurman
Eshoo	Mascara	Torkildsen
Evans	McCarthy	Torres
Farr	McDermott	Torricelli
Fattah	McHale	Towns
Fawell	McKinney	Tucker
Fields (LA)	Meehan	Velazquez
Filner	Meek	Vento
Flake	Menendez	Visclosky
Foglietta	Meyers	Walker
Forbes	Mfume	Waters
Ford	Miller (CA)	Watt (NC)
Fox	Mineta	Waxman
Frank (MA)	Mink	Weldon (PA)
Franks (NJ)	Moakley	White
Frelinghuysen	Mollohan	Williams
Furse	Moran	Wise
Gejdenson	Morella	Wolf
Gekas	Nadler	Woolsey
Gibbons	Neal	Wyden
Gilchrest	Oberstar	Wynn
Gilman	Obey	Yates
Gonzalez	Olver	Zimmer

NOES—247

Allard	Bartlett	Boehner
Armey	Barton	Bonilla
Bachus	Bass	Bono
Baesler	Bateman	Brewster
Baker (CA)	Bentsen	Browder
Baker (LA)	Bevill	Brownback
Ballenger	Bilbray	Bryant (TN)
Barcia	Bilirakis	Bunn
Barr	Bliley	Bunning
Barrett (NE)	Blute	Burr

Burton	Hayworth	Paxon
Buyer	Hefley	Payne (VA)
Callahan	Hefner	Peterson (MN)
Calvert	Heineman	Petri
Camp	Herger	Pickett
Canady	Hilleary	Pombo
Chabot	Hilliard	Pomeroy
Chambliss	Hobson	Portman
Chapman	Hoekstra	Poshard
Chenoweth	Hoke	Quillen
Christensen	Holden	Quinn
Chrysler	Horn	Radanovich
Clayton	Hostettler	Regula
Clement	Houghton	Riggs
Clinger	Hoyer	Roberts
Coble	Hunter	Roemer
Coburn	Hutchinson	Rogers
Coleman	Hyde	Rohrabacher
Collins (GA)	Inglis	Roth
Combest	Istook	Royce
Condit	Johnson (SD)	Salmon
Cooley	Johnson, Sam	Scarborough
Costello	Jones	Schaefer
Cox	Kasich	Schiff
Cramer	Kim	Seastrand
Crane	King	Sensenbrenner
Crapo	Knollenberg	Shadegg
Cremeans	LaHood	Shaw
Cubin	Largent	Shuster
Cunningham	Latham	Sisisky
Danner	LaTourette	Skeen
de la Garza	Laughlin	Skelton
Deal	Leach	Smith (MI)
Dickey	Lewis (CA)	Smith (TX)
Dooley	Lewis (KY)	Smith (WA)
Doolittle	Lightfoot	Solomon
Dornan	Lincoln	Souder
Dreier	Linder	Spence
Duncan	Livingston	Spratt
Dunn	Longley	Stearns
Durbin	Lucas	Stenholm
Edwards	Manzullo	Stockman
Emerson	Martinez	Stump
English	Matsui	Talent
Ensign	McCollum	Tanner
Everett	McCrery	Tate
Ewing	McDade	Tauzin
Fazio	McHugh	Taylor (MS)
Fields (TX)	McInnis	Taylor (NC)
Flanagan	McIntosh	Tejeda
Foley	McKeon	Thomas
Fowler	McNulty	Thornberry
Franks (CT)	Metcalf	Thornton
Frisa	Mica	Tiahrt
Frost	Miller (FL)	Traficant
Funderburk	Minge	Upton
Gallegly	Molinari	Volkmer
Ganske	Montgomery	Vucanovich
Geren	Moorhead	Waldholtz
Gillmor	Murtha	Walsh
Goodlatte	Myers	Wamp
Goodling	Myrick	Ward
Gordon	Nethercutt	Watts (OK)
Graham	Neumann	Weldon (FL)
Gunderson	Ney	Weller
Gutknecht	Norwood	Whitfield
Hall (TX)	Nussle	Wicker
Hamilton	Ortiz	Wilson
Hancock	Orton	Young (AK)
Hansen	Oxley	Young (FL)
Hastert	Packard	Zeliff
Hastings (WA)	Parker	
Hayes	Pastor	

NOT VOTING—7

Archer	DeLay	Lipinski
Berman	Gephardt	
Collins (IL)	Kleczka	

□ 1508

Mr. INGLIS of South Carolina and Mr. WHITFIELD changed their vote from ''aye'' to ''no.''

Messrs. SERRANO, GONZALEZ, and TORRES changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

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

Mr. Chairman, I would like to engage in a colloquy with the chairman concerning a matter that is of great importance to me and to my constituents.

A question has arisen as to whether the issuance of livestock grazing permits is subject to State certification under section 401 of the Clean Water Act.

It is my understanding that under current law section 401 only applies where a conveyance of some sort is involved in the discharge. That conveyance may be, but is not necessarily, a point source.

My interest is in clarifying that section 401 does not apply to a Federal lease or permit to authorize livestock grazing on lands owned or under the control of the United States, unless there is a conveyance from which pollutants are or may be discharged. Recent litigation in the district court in Oregon has increased the need to clarify the intent and scope of section 401.

Is it the chairman's understanding that section 401 State certification would not apply absent a conveyance?

Mr. SHUSTER. If the gentleman will yield, the gentleman is exactly correct. The answer is yes. Section 401 would generally not apply to grazing permits. Where there is no point source or other conveyance such as a pipe or ditch. The State certification provision under section 401 should not apply.

I thank the gentleman for raising this issue so that many people in farming and the ranching communities concerned about this issue may have some clarification.

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

Mr. COOLEY. I yield to the gentleman from California.

Mr. MINETA. I thank the gentleman for yielding.

Mr. Chairman, I would agree with the chairman that section 401 was not intended to apply to discharges that do not involve some sort of conveyance.

Mr. COOLEY. Mr. Chairman, I thank the chairman and ranking minority member. Based upon this clarification of existing law, I will not insist on offering an amendment at this time.

AMENDMENT OFFERED BY MR. MINGE

Mr. MINGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MINGE: Page 274, after line 19, add the following:

''(10) MITIGATION OF AGRICULTURAL LANDS.—Any mitigation requirement approved by the Secretary under this section for agricultural lands shall be developed in consultation with the Secretary of Agriculture.''

Mr. MINGE. Mr. Chairman, this amendment is a pale substitute for an amendment that was printed in the RECORD last week and reported in the House action reports. My goal with these amendments to the Clean Water Act has been to simplify the process for the public.

Tragically, farmers, ranchers, and other landowners have had to go from agency to agency asking for clarification, seeking permits, and making sure action that they plan to take in using their own land does not violate the law. Three Federal departments, one major Federal agency, and a handful of State and local agencies are involved in this process.

Regulatory reform ought to at a minimum include simplification, one-stop shopping. Answers ought to be prompt, understandable, and consistent. The frustration, the delay, and the expense inherent in the present way that we go about making decisions regarding wetlands is a tragic story. It is done as much to drive the demand for regulatory reform as any other factor.

Mr. Chairman, it is my goal to coordinate this convoluted multi-agency process for dealing with wetlands. In consulting with the chair of the committee, I understand that the amendment as revised is acceptable.

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

Mr. MINGE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I do rise in support of the revised amendment. It is consistent with the overall theme of the bill, and I urge its support.

Mr. MINGE. Mr. Chairman, reclaiming my time, I would like to also point out that the amendment as offered deals with the topic of mitigation, and it is extremely important that we not set up a process under the Clean Water Act that has a framework for mitigation that is incompatible with swampbuster, which is a part of the Food Security Act of 1985.

□ 1515

Landowners who comply with the requirements of one Federal law should not find that it is impossible to comply with the requirements of another Federal law because the laws are inconsistent. Instead, we should make sure that these laws work together to achieve a common goal.

Landowners should not have to go to two different Federal departments and satisfy each with respect to what is involved in mitigation. Instead, they should be able to deal with one Federal agency. And the benefit of this amendment is to require that the Secretary of the Army and the Secretary of Agriculture work together, that the Secretary of the Army will consult with respect to mitigation procedures and their development with the Secretary of Agriculture.

I am optimistic that I will be able to pursue the rest of the amendments that I had intended to offer in the context of the 1995 farm bill. I look forward to working with the chair of this committee and the chair of the Committee on Agriculture and other officials in trying to develop a consistent, comprehensive Federal one-stop-shopping process for landowners in America.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this simply to announce that we have just passed 28

hours of debate on this bill, three times the amount of time spent on the original act. And I urge support for the amendment that is now before us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. MINGE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RIGGS: On page 276, strike lines 3 through 7 and insert in lieu thereof the following: ''ponds, wastewater retention or management facilities (including dikes and berms, and related structures) that are used by concentrated animal feeding operations or advanced treatment municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;''.

Mr. RIGGS. Mr. Chairman, I do believe that this will go quickly and that my amendment is of a noncontroversial nature, having cleared it with the ranking minority member as well as, of course, the chairman of the full committee.

Mr. Chairman, this amendment is a companion to one I offered earlier to title IV, dealing with antibacksliding provisions of the Clean Water Act.

The present proposal would amend language in section 404, as modified by the committee. It adds wastewater reuse operations to the list of activities that are exempt from the section 404 permit process if advanced treatment practices are followed. Applicable water quality standards would, of course, still have to be met.

One of the purposes of H.R. 961, as expressed in the committee report, is to encourage communities to utilize alternative treatment systems such as constructed wetlands. This amendment encourages wastewater reuse in agriculture and wetlands by providing relief to municipalities from the unintended consequences of current law.

Section 404, as presently written, fails to recognize the net environmental benefits that can be provided by wastewater reuse. Without my amendment, more wastewater will be disposed of into the ocean or local rivers.

Years of studies have shown that advanced-treated wastewater can be used without adverse effects in wetlands to restore habitat and remove nutrients that would harm rivers and oceans—but not wetlands. Existing regulations and policies that are based on section 404 leave the decision about whether to allow restoration of wetlands with reclaimed wastewater to bureaucrats.

In northern California and elsewhere, projects that provide the dual benefit of wetland restoration and water quality improvement have been arbitrarily and systematically prevented.

Mr. Chairman, my amendment, together with other provisions of H.R. 961, would help reverse the counterproductive and unintended impact of section 404. By granting relief from the permitting process to municipal wastewater facilities that utilize advanced treatment practices, the effect of the amendment will be to encourage cities to use properly treated wastewater to restore degraded wetlands and create new wetlands—precisely what the Clean Water Act should be encouraging, not discouraging.

I urge approval of the amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield.

Mr. RIGGS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, we have examined this amendment. It is a good one and we urge its support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer two amendments, printed in the RECORD as amendments No. 42 and No. 43.

The CHAIRMAN. The Clerk will designate the amendments.

Amendments offered by Mr. PALLONE: Amendment No. 42. Page 240, line 23, after the semicolon insert ''and''.

Page 241, line 5, strike the semicolon and all that follows through the period on line 9 and insert a period.

Page 242, line 4, after the semicolon insert ''and''.

Page 242, line 7, strike the semicolon and all that follows through the period on line 11 and insert a period.

Page 276, line 10, strike the comma and all that follows through the comma on line 11.

Page 292, line 17, after the semicolon insert ''and''.

Page 292, strike lines 18 through 20.

Page 292, line 21, strike ''(G)'' and insert ''(F)''.

Page 292, strike line 24, and all that follows through line 6 on page 294.

Page 294, line 7, strike ''(3)'' and insert ''(2)''.

Page 295, line 3, strike ''(4)'' and insert ''(3)''.

Page 295, line 16, strike ''(5)'' and insert ''(4)''.

Page 315, strike lines 11 through 15.

Page 315, line 16, strike ''(K)'' and insert ''(J)''.

Page 315, line 19, strike ''(L)'' and insert ''(K)''.

Page 315, line 21, strike ''(M)'' and insert ''(L)''.

Page 316, line 14, strike ''(N)'' and insert ''(M)''.

Amendment No. 43: Strike title IX of the bill (pages 323 through 326).

Mr. PALLONE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

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

There was no objection.

Mr. PALLONE. Mr. Chairman, my amendments strike the bill's provisions which reassign certain regulatory authority over ocean dumping and navigational dredging permits from the EPA to the Army Corps of Engineers. Under existing law, ocean dumping of dredged material currently falls for the most part under the jurisdiction of the Marine Protection Research and Sanctuaries Act. Under that act, the EPA sets up criteria for reviewing and evaluating permit applications, the EPA designates recommended sites and times for dumping. The Secretary of the Army Corps makes permit decisions on the dumping of dredged materials using the EPA criteria and siting recommendations.

The EPA has veto power over the Army Corps' permitting decisions and the EPA grants permit waivers to the Army Corps.

Under H.R. 961, the committee mark, the corps would be responsible for all ocean dumping permit decisions. The corps would set up criteria for reviewing and evaluating permit applications. The Army Corps would designate recommended sites and times for dumping, and the Army Corps would grant its own permit waivers.

The corps only has to consult with the EPA before issuing a permit, and the EPA no longer has veto power.

And most importantly, H.R. 961 requires that ''the least costly environmentally acceptable disposal alternative will be selected.''

The problem with removing the EPA from the dredging process is essentially that the corps has engineering and dredging expertise but not expertise in environmental management, science, protection and conservation. The Army Corps in my opinion should not be the lead agency to develop plans that are supposed to ensure protection of the marine environment and human health. Keeping the Army Corps environmental authority will jeopardize our oceans, allowing them to be exposed to dioxins like PCB's and other cancer causing pollutants.

Removing the EPA also creates a conflict of interest in my opinion for the Army Corps because under H.R. 961 the corps would grant its own permits, select its own sites and even grant its own waivers.

If I could just read a selection from a paper that my own State of New Jersey department of environmental protection put forward, they say:

The amendments contained in H.R. 961 will affect dredging in New Jersey in several ways. The elimination of the U.S. Environmental Protection Agency from their oversight role in dredging operations will put the Army Corps of Engineers, the agency charged with keeping navigation channels open, in the role of both permitting and enforcing their own operations. This creates a perceived if not an actual conflict of interest in the management of dredging operations. While there would be definite value to consolidating the process in one agency, the environmental protection value of the permits is best managed by the EPA. Perhaps this conflict would better then be resolved by eliminating the corps from the process instead of the EPA.

Last week, Mr. Chairman, the EPA released its toxicity results from the mud dump site which is off the coast of my district in New Jersey and showed

that sediments there do not meet ocean dumping criteria. I maintain that these sediments are another indication of what will happen if the EPA is removed from the dredging process.

Also, I would like to stress this problem with requiring the least costly disposal alternative which is what H.R. 961 does. Waste disposal should not be predicated on what is cheapest but on what methods best ensure that human environmental health are not jeopardized. The least costly disposal alternative is always ocean disposal, but it should not be the one that we choose.

I would also like to mention that in my own State of New Jersey, our Governor, who happens to be a Republican, has been in the forefront of saying that contaminated dredged material should not be disposed of offshore, and I think that her efforts will be undercut by having the Army Corps solely administer the dredging disposal permitting process as opposed to the EPA.

My amendment returns the dredging process to the status quo, gives the interagency working group on the dredging process the latitude to implement its recommendations. In December 1994, after a couple years, the EPA and the Army Corps together came up with an action plan that basically seeks to deal with dredging in a cooperative way and move the permitting process forward and streamline it pursuant to existing law with the two agencies working together. Let these two agencies work together, continue under the current law. They have devised an action plan that will do well without having to change the basic underlying statute.

Mr. Chairman, H.R. 961 would change the way that dredging is done in America. It would break the partnership that currently exists between the EPA and the Army Corps, handing over authority of every dredging activity solely to the corps. If H.R. 961 passes, America's oceans could be exposed to toxics like PCB's dioxin and other cancer causing pollutants. That is why I am asking for support of my amendment to strike the dredging provisions in H.R. 961. I think the action plan that both the EPA and the corps have put together is the right way to go. Let us not gut this legislation.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word, and I rise in strong opposition to this amendment.

Mr. Chairman, this amendment would delete the reforms that are achieved in this bill for our Nation's navigational dredging program. Our country's ports and harbors are a vital link not only to interstate commerce but to global commerce, the national economy and very importantly, the creation of jobs.

Under implementation of the current law, necessary dredging activities, even though the vast majority are environmentally sound, are subject to excessive delay and to interagency disputes.

Our bill addresses the problem by streamlining the regulatory requirements applicable to navigational dredging without sacrificing the environment. And it places a single agency, the Corps of Engineers, which certainly has been criticized here today for being too environmental, places the Corps of Engineers solely in charge of running the program so we have an environmentally sensitive agency in charge. It does not share, therefore, the responsibility with other agencies, creating needless interagency disputes.

Without these reforms, our balance of trade will continue to suffer and jobs will be lost. I urge defeat of this amendment.

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

Mr. SHUSTER. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me.

Mr. Chairman, representatives of our Nation's ports, including those in North Carolina, support the committee's inclusion of title VIII and IX in H.R. 961. Title VIII and IX modifies the regulatory provisions of the Ocean Dumping Act to transfer from the Administrator of the Environmental Protection Agency to the Secretary of the Army the responsibility for navigational dredging. If enacted, the U.S. Army Corps of Engineers would be the lead Federal agency for: First, issuing ocean dumping permits for dredged material; second, designating dumping sites; and third, developing permit criteria.

Consolidation of the management of navigational dredging in the U.S. Army Corps of Engineers will make this task more efficient, without compromising the environment. The corps is well-versed in the relevant Federal environmental statutes as well as the delicate art of dredging. Since the Chief of Engineers wears both hats, it makes sense to reassign this responsibility to the corps.

As my colleagues understand, commercial navigational is critical to our economy and the maintenance of our Nation's ports is necessary to enhance commerce within—and throughout our States—and to boost U.S. exports. We must streamline the dredging process to eliminate unnecessary delays in this process.

During committee consideration of H.R. 961, I supported the Franks amendment to reduce EPA's role in the permitting process for navigational dredging. The committee overwhelmingly approved this streamlining amendment.

Mr. Chairman, I urge my colleagues to accept the Franks amendment to this title which clarifies that the corps only gains jurisdiction over dredge material. I commend the gentleman from New Jersey for offering this amendment.

On the other hand, I must object to the amendment being offered to title VIII and IX by another of our colleagues from New Jersey, Congressman FRANK PALLONE, which would strike all of this title. As I have outlined, the committee and our constituents have argued for the efficiency and common sense which title IX provides.

Mr. Chairman, I urge my colleagues to vote for the Franks amendment and against the Pallone amendment. I yield back the balance of my time.

□ 1530

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time, and I urge a ''no'' vote on this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. PALLONE].

The amendments were rejected.

Mr. CRANE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure, in a colloquy so I might clarify my understanding of a provision in title VIII. Specifically, I refer to page 311, line 16 of the bill, which makes reference to previously-denied permits. I have provided the chairman with a copy of the specific language.

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

Mr. CRANE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I am happy to engage the gentleman from Illinois in a colloquy.

Mr. CRANE. Mr. Chairman, let me preface my remarks by regrettably stating that regardless of the understanding I hope to reach in this colloquy regarding this provision, I do not support this provision, and believe it is inconsistent with the intent and goals of the legislation.

However, for clarification purposes, I would ask the chairman of the committee to confirm my understanding of how this provision would apply to a party that has applied twice for a section 404 permit and has been denied a permit both times by the Corps of Engineers. If the party applying for the permit litigates the second permit denial and is successful in court in overturning the Corps of Engineers' second permit denial, will the party be able to file another permit application, or have their permit application reconsidered under this provision?

Mr. SHUSTER. If the gentleman will continue to yield, Mr. Chairman, I would reply that the gentleman is correct. Should the party be successful in court in overturning the corps' decision in such a circumstance, it could do one of the following: First, have their permit application reconsidered, second, amend their permit application, or third, reapply to the corps for a permit.

Mr. CRANE. Mr. Chairman, I thank the gentleman profoundly.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAYLOR of Mississippi: Page 292, line 20, strike ''and''.

Page 292, after line 20; insert the following:

(G) standards and procedures that, to the maximum extent practicable and economically feasible, require the creation of wetlands and other environmentally beneficial uses of dredged or fill material associated with navigational dredging; and

Page 292, line 21, strike ''(G)'' and insert ''(H)''.

Mr. TAYLOR of Mississippi. Mr. Chairman, for many decades the Corps of Engineers, being like all of us, were creatures of habit in that when they dredged, they would take the spoils and throw it to the nearest possible place without much regard for the effects on the environment, whether they were destroying an oyster reef, whether they were filling in a marsh, whether they were destroying a swamp. To their credit, the corps has now gone in another direction, and perhaps to an extreme.

Just recently in south Mississippi a 7-mile pipeline was constructed to remove the dredged material from Biloxi Bay and pump it farther inland. In another instance, what is known to be toxic dredged materials in the harbor at Pass Christian is being hauled inland, but in not every instance, as the gentleman from New Jersey [Mr. PALLONE] has pointed out, is the dredge material polluted. In many instances it is virgin bottom, it is not polluted, and it can be used for other things.

I think the Corps of Engineers would be very wise to consider a third alternative other than ocean dumping, other than hauling the material inland. That would be to create coastal marshes or wetlands with the dredged material. This would do three very valuable things. No. 1, it would create wetlands. As we all know, we have lost about half the wetlands in this country in the past 100 years.

No. 2, it would save money, because in most instances it would be the cheapest way to dispose of the dredged material, the closest to the channels that are being dredged. No. 3, in States like Louisiana and my home State of Mississippi, we are losing some very valuable property to coastal erosion. There is a national historic landmark, the lighthouse at Rhode Island, MS, that is soon to wash into the sea if something is not done to prevent the erosion of that island.

Last, Mr. Chairman, it would create wildlife habitat. Therefore, I have spoken to both the majority and minority on this matter. We are asking, but not directing, the Corps of Engineers that whenever practicable, to take this dredged material and consider the use of it for creating wetlands and marshes with this dredged material, rather than, A, hauling it inland, or B, dragging it out to the middle of the ocean.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I think the gentleman's amendment is an excellent environmental contribution to the bill, and I accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRELINGHUYSEN

Mr. FRELINGHUYSEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRELINGHUYSEN: In the matter proposed to be inserted as section 404(l) of the Federal Water Pollution Control Act by section 803 of the bill (as amended by Mr. Shuster's amendment) strike paragraph (8) and insert the following:

(8) TREATMENT OF EXISTING PROBLEMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

Mr. FRELINGHUYSEN. First, Mr. Chairman, I would like to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, for adding language to his en bloc amendment to address the concerns of New Jersey and Michigan regarding their current operation of wetlands permitting under the section 404 program of the current Clean Water Act. What I am offering now is simply a perfecting amendment.

Unfortunately, part of the language that was included in the en bloc amendment contradicts the goal of States rights. I believe that the language in the amendment en bloc goes too far. As the chairman rightly stated in his opening remarks on this bill, his goal is to provide the States with maximum flexibility in wetlands permitting, and to encourage them to take leadership roles. New Jersey is currently doing just that. This amendment simply allows two States that have already assumed the responsibility of permitting wetlands to keep their current programs without going through another lengthy procedure, and without having the final decision thrown into the political arena. It gives my Govenror the choice to either accept the new delineation process, or keep intact the current program. The argument is simple. The gentleman from Pennsylvania [Mr. SHUSTER] was right in his opening statement on the bill. Let the States decide. Give them the option. These two States have gone through several years of the lengthy assumption process. Let us not penalize them for doing the right thing and for taking the initiative in creating programs that actually do work. I urge adoption of this amendment, coauthored by the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. SHUSTER, Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I oppose this amendment because if any part of our legislation that is now on the books is broken, it is the disastrous 404 wetlands program. We are simply saying that the two States which have adopted their own program in conformity with the Federal program should not hide behind a Federal program which is now being changed. The States will have the total freedom to adopt whatever State law they want to adopt for their own wetlands program, but they should not be able to continue to use, in effect hide behind, a Federal program which is being changed here.

Mr. Chairman, it is of great importance, I think, to recognize that a State may want to assume management of the program. That is what the political process is all about at the State level. That is why we have worked hard to make State assumptions more attractive and more flexible in the bill.

In fact, the committee's amendment in the nature of a substitute included a modification specifically designed to allow the opportunity for a State to petition the Secretary for deviations from the requirement of this bill. This allows for the real possibility that States could tailor their Federal delegated program, but does so within the context of a deliberate, open decision process that would allow for input from all affected parties.

Mr. Chairman, we tried to strike a balance between total, unconstrained delegation of programs and the need to achieve some degree of reform, even in States with federally delegated programs. This bill already does that. This amendment simply goes too far. Therefore, Mr. Chairman I would say the State may adopt their own State law. They should not hide behind a Federal law which no longer is going to exist. For that reason, we should defeat this amendment.

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

Mr. Chairman, I am pleased to rise in support of the Frelinghuysen amendment. Two States, New Jersey and Michigan, have assumed responsibility for administering the section 404 wetlands program. Those States should be encouraged to retain the program, and other States should be encouraged to participate as well. The Frelinghuysen amendment respects the rights of Michigan and New Jersey to continue to operate their wetlands program as they are today. My chairman has repeatedly asked this House to respect State flexibility, because States know how to best protect State interests. The Frelinghuysen amendment respects their efforts and the interests of the State, and should be supported.

Mr. Chairman, I rise in strong support of this amendment.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Frelinghuysen amendment. I, too, look

at this as a States' rights issue. As has been pointed out by the gentleman from New Jersey [Mr. FRELINGHUYSEN] and the gentleman from California [Mr. MINETA], we have a unique problem. My home State of Michigan has been administering its own wetlands program for some 15 years. We are not trying to hide behind a Federal program, we are trying to maintain the program that we have which works. I do not believe in every facet of this program. In fact, I believe that Michigan and New Jersey should look to the gentleman here as a road map to some reform. However, I believe that the Governor, the Governors of given States, should have maximum flexibility to govern the transition from the current program to a new and better one. This amendment will simply give the Governor that flexibility by allowing him to either continue the current program, adopt the new Federal guidelines, or work with the Secretary of the Army to craft a hybrid approach that uses the best from both plans. This is consistent, I believe, with the current philosophy here in Washington, and certainly with this Congress, to give States the specific flexibility to do what is best for the particular State.

Mr. Chairman, I would like to express my appreciation to the gentleman from Pennsylvania [Mr. SHUSTER], the chairman. He was very generous in his time. We did spend a great deal of time in trying to work out an agreement. Although we could not reach that agreement, I sincerely thank him for his courtesy and his generosity in terms of time, effort, and consideration. I do urge, however, the adoption of the amendment.

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

Mr. Chairman, I also rise in support of the Frelinghuysen amendment. In 1993, New Jersey became the second State to assume regulatory authority of its wetlands program, and I believe the State assumption streamlines the permit process while ensuring environmental protection of wetlands. Under current law, States like New Jersey adopt their own wetlands programs to be implemented in place of the Federal program if that program is at least as stringent as the Federal program. Under H.R. 961, New Jersey would be forced to apply to the Army Corps of Engineers in order to continue to implement its own wetlands program. This application would take place in about a year and a half, when New Jersey's program next comes up for review. To receive additional approval, most likely New Jersey would have to severely weaken its existing program in order to comply with the demands for the new title VIII wetlands program, such as the classification and delineation that we have already discussed in this House today and the previous day.

The new wetlands program, under H.R. 961, I believe, will destroy New Jersey's existing program and all the important gains that have been made since the program was implemented in 1988. Unlike current law, which allows a State to administer its own program with limited oversight by the Federal Government, H.R. 961 says the States administering their own programs have to submit notices to the corps for permit applications. Again, this erases the greatest benefit of assumption, elimination of the duplicative Federal review process, and this severely weakens the incentive for New Jersey to reapply for assumption of its wetlands program. Eventually, I think New Jersey and Michigan would probably just simply go along with the new Federal program if we do not have the Frelinghuysen amendment. The Frelinghuysen amendment allows our States to maintain the existing programs, and exempts them permanently from having to apply for corps approval of their programs.

This would protect the gains that these two States have already made in wetlands protection. It would give New Jersey the latitude to have State law as stringent or more stringent than Federal law, and it would negate the message, most important, Mr. Chairman, that H.R. 961 currently sends, and that is that those States that actively work to make progress in environmental protection and compliance with the Clean Water Act made a mistake in doing so because their efforts would be wasted because of the changes, and the drastic changes, that are being proposed under H.R. 961.

□ 1545

Mr. Chairman, I urge adoption of the Frelinghuysen amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. FRELINGHUYSEN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRELINGHUYSEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 181, noes 243, not voting 10, as follows:

[Roll No. 334]

AYES—181

Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Boehlert
Bonior
Bono
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Castle
Chapman
Chrysler
Clay
Clement
Clyburn
Collins (MI)
Conyers
Costello
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Ehlers
Ehrlich
Engel
Ensign
Eshoo
Evans
Farr
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gordon
Greenwood
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Horn
Houghton
Hoyer
Jackson-Lee
Johnson (CT)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Knollenberg
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moran
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Porter
Portman
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Saxton
Scarborough
Schroeder
Schumer
Scott
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Wise
Wolf
Woolsey
Wyden
Yates
Zimmer

NOES—243

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Frank (MA)
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kim
King
Kingston
Klink
Klug
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Orton
Oxley
Packard

Parker	Schaefer	Taylor (MS)
Pastor	Schiff	Taylor (NC)
Paxon	Seastrand	Tejeda
Payne (VA)	Sensenbrenner	Thomas
Peterson (MN)	Serrano	Thornberry
Petri	Shadegg	Thornton
Pickett	Shaw	Tiahrt
Pombo	Shuster	Traficant
Poshard	Sisisky	Volkmer
Pryce	Skeen	Vucanovich
Quillen	Skelton	Waldholtz
Quinn	Smith (MI)	Walker
Radanovich	Smith (TX)	Walsh
Regula	Smith (WA)	Wamp
Riggs	Solomon	Watts (OK)
Roberts	Souder	Weldon (FL)
Roemer	Spence	Weller
Rogers	Stearns	White
Rohrabacher	Stenholm	Whitfield
Ros-Lehtinen	Stockman	Wicker
Rose	Stump	Williams
Roth	Talent	Wilson
Royce	Tanner	Young (AK)
Salmon	Tate	Young (FL)
Sawyer	Tauzin	Zeliff

NOT VOTING—10

Berman	Gephardt	Lipinski
Boucher	Gilman	Wynn
Collins (IL)	Jacobs	
Fattah	Kleczka	

□ 1605

Messrs. CALLAHAN, HASTERT, KASICH, and GONZALEZ changed their vote from ''aye'' to ''no.''

Mr. DEFAZIO changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Chairman, I regret that my being involved in an event on the Senate side prevented me from voting on rollcall No. 334. Had I been able to vote, I would have voted ''yea.''

PERSONAL EXPLANATION

Mr. WYNN. Mr. Chairman, I was unavoidably detained during rollcall vote No. 334. Had I been present, I would have voted ''yea.''

Mr. SHUSTER. Mr. Chairman, I move to strike the last word for the purposes of a colloquy, and I yield to my good friend, the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, currently the Army Corps of Engineers and the Environmental Protection Agency regulations for implementing section 404(f) exemptions for agricultural and related activities require that an activity ''must be part of an 'established' or 'ongoing' farming, silviculture or ranching operation''.

Mr. Chairman, what is the gentleman's intent in amending section 404(f) with respect to these exemptions? Under the amended section 404(f), will it be permissible to change from one exempted agriculturally related activity to another without triggering the permit requirements?

Mr. SHUSTER. Yes, the gentleman is absolutely correct. Changing from one exempted agricultural activity, such as grazing, to another exempted agricultural activity, such as plowing, will not cause the exemption to end. Furthermore, there is no requirement that the exempted activity be established or ongoing as the regulations currently require.

In fact, I emphasize to my good friend, the gentleman from California that this is one of the significant differences between current law and what we are doing in this reform. Under current law the bureaucrats can and have used the exemption process to say that when you move from one agricultural activity to another process you are not exempt, and that is what we fix in this legislation.

Mr. HERGER. Mr. Chairman, I thank the gentleman from Pennsylvania.

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WYDEN: Page 251, after line 2, insert the following:

''(C) PREVENTION OF REDUCTION IN FAIR MARKET VALUE OF PRIVATE HOMES—No compensation shall be made under this section with respect to an agency action that prevents or restricts any activity that is likely to result in a total reduction in the fair market value of one or more private homes of $10,000 or more.

Page 315, after line 15, insert the following:

''(K) PRIVATE HOME.—The term 'private home' means any owner occupied dwelling, including any multi-family dwelling and any condominium.

Page 315, line 16, strike ''(K)'' and insert ''(L)''.

Page 315, line 19, strike ''(L)'' and insert ''(M)''.

Page 315, line 21, strike ''(M)'' and insert ''(N)''.

Page 316, line 14, strike ''(N)'' and insert ''(O)''.

Mr. WYDEN. Mr. Chairman, this is a straightforward amendment to protect the rights of private homeowners whose property values would be reduced by $10,000 or more when a developer fills in a wetland.

Right now the bill creates a double standard. There are one set, a generous set of rules for protecting the rights of those who want to develop property, and a far weaker set of rules for the neighboring homeowners who live nearby. If we do not vote to correct this double standard, Members will find citizens coming up to them and asking, Why did you vote to lower the property value of my house?

Here is why Members are going to get that question: By voting for this bill there are going to be more wetlands filled. Wetlands help limit flooding by acting as a huge sponge that can soak up water and rainfall. When a wetland is filled, the excess water has to find someplace to go, and that could be the basement or the backyard of the homeowners living downstream from the development.

That is why Members are going to get asked, if we do not vote to correct the double standard in this bill, why they have been willing to go along with reducing the value of their neighbor's house under this bill.

In addition, for those who are concerned about the deficit issues in this bill, this amendment should also be appealing. A 1992 congressional budget analysis estimated the cost of compensating wetland owners for not developing their property could be as high as $10 to $15 billion. The entire corps regulatory budget is in the millions.

Let us make sure that we recognize that those who develop property in our country deserve fair treatment. But let us also recognize that the homeowners who live next door to wetlands that are going to be filled under this legislation also deserve fair treatment.

Vote to give those homeowners a fair shake by supporting this amendment.

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

Mr. WYDEN. I am happy to yield to my friend, the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I want to make sure I understand the gentleman's amendment. Is the gentleman saying if I happen to have my home next to wetland and the developer goes on that wetland under this bill and somehow fills it in with a landfill or whatever so he can build a subdivision or building of some sort, as a result my property, my basement floods or something happens to my property, that I have a right to recover for my loss?

Mr. WYDEN. What I am saying is the standard to protect you as a homeowner is far weaker than the standard that protects the developer. The developer, for example, gets compensated if their property value is just diminished as a result of the activity that this bill addresses. You, as a homeowner, do not get any concern under this bill if your property value is reduced. You actually have to have the flooding in your basement before there is any consideration.

Mr. DURBIN. If the gentleman will yield, if a person is really in favor of property rights, then they would be in favor of those property rights lost because a wetland is filled inasmuch as they would be if they had land that had wetlands on it, would they not?

Mr. WYDEN. Not only is the gentleman correct, but let us remember there are many more homeowners situated in the fashion the gentleman has described than there are those who want to develop property. There are 65 million private homeowners in this country. They enjoy the benefit of environmental laws. Certainly not all of them obviously live next door to a wetland, but there are many, many more homeowners like the ones the gentleman's question addresses than there are those who want to develop property.

Mr. DURBIN. I would say to the gentleman I have heard many speeches around here about property rights. This is an eminently sensible and fair amendment, and I assume we will pass it by voice vote, and I support the gentleman's amendment.

Mr. WYDEN. I thank the gentleman.

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, while the intent of this amendment may not be completely clear, it appears to be totally unnecessary, duplicative, and indeed, the source of much litigation. If the intent of the amendment is to protect other property owners from being harmed by the issuance of a wetland permit provisions already contained in H.R. 961 more than adequately do that. I refer specifically to page 250, which is clear.

I would also point out that this amendment by my good friend from Oregon is essentially the same amendment he offered during the private property rights debate a few months ago, and at that time his amendment was overwhelmingly defeated, 165 to 260. Section 803(b) of our legislation expressly prohibits the payments of compensation if the activity requiring a wetlands permit would harm another property owner. It is very clear. The private property rights protection also prohibits the payment of compensation for any activity that would be considered a nuisance under the applicable State law or is inconsistent with the local zoning law.

□ 1615

These two provisions make it perfectly clear that no one has the right to take actions on their property that would damage somebody else's property.

Now, if my good friend in his amendment is attempting to assure that adjoining property owners are not to be flooded or directly harmed, his amendment is not needed. However, I suspect the case really, given my good friend's strong opposition to property rights legislation, is that he is trying to establish a bureaucratic out for compensation in every case, and I must oppose it.

The property rights provision in this bill, exactly like those contained in H.R. 961, requires that a direct link be established between the action requiring a permit and the harm to another's property. The absence of this link would allow neighbors who just do not want to see development on another piece of property to undermine the constitutional rights of the property owner. That is not right. It is not American, and we should not let it happen.

The other limitation to this amendment is that, if in the mind of some bureaucrat, some mythical reduction in property values might occur, hundreds, even thousands, of miles away, then they could escape the compensation requirements of this act. Again, this is not what this country is all about.

The amendment is sufficiently vague that it will almost certainly result in mountains of litigation. It is a lawyer's paradise. We need to protect property rights, not to provide more work for lawyers.

I urge the defeat of this amendment.

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

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

Mr. MINETA. I yield to the gentleman from Oregon, the author of the amendment.

Mr. WYDEN. I thank the gentleman for yielding.

I would just like to respond, if I might, to my friend from Pennsylvania.

First, let me tell my colleagues that this amendment is far narrower in terms of protecting the rights of homeowners than any similar issue ever discussed on the floor. We have stipulated, for example, that there must be damage to the adjoining homeowners of $10,000 or more.

Second, and I want the Members to understand exactly what the double standard is which no more favorably treats developers than it does homeowners, in the bill, the developer is compensated if their property value is merely diminished. The neighboring homeowner has to meet a higher standard which requires actual physical damage such as the flooding to their basement. So there clearly is a double standard here.

I share the view of the gentleman from Pennsylvania that a developer deserves a fair shake. Certainly there are takings in our country, and developers warrant fair treatment. Let us as we finally move toward the closing of this bill produce some balance and say the millions and millions of homeowners who live next door to these developments have some rights as well. They should not just have to go out and take their chances in some local court.

This bill says that the developer gets a fair shake at the Federal level. Let us make sure that the adjoining homeowner gets a fair shake at the Federal level as well.

Mr. MINETA. Mr. Chairman, I am pleased to support the amendment offered by our colleague from Oregon. While it certainly does not cure the ills of the takings provisions which are in the bill, it does make an important point.

Throughout the takings debate, the proponents of the legislation always frame the argument in the context of the individual property owner against the Government. They are never willing to acknowledge that often the rationale for regulation is the protection of the property rights of others. The amendment specifically acknowledges this.

The U.S. Treasury, and the taxpayer, should not be expected to compensate an individual who has been denied the opportunity to take an action which results in the diminution of the property right of another taxpayer. It would be the greatest of ironies to the taxpayer for an individual, through his or her taxes, to pay compensation to a neighboring property owner for an action which caused a diminution in the individuals own property.

Whether the bill's sponsors will agree or not, what we are really taking about in the whole takings debate is whether there is a public interest in the action taken—whether the various interests of property owners are correctly balanced one against the other. When one owner bears a disproportionate burden, a taking has occurred and the Constitution provides a right to compensation.

The bill has severely tilted an otherwise level playing field in the favor of the owner who seeks not to be regulated. The Wyden amendment is an attempt to assure that some sense of fairness to the taxpayer is preserved, and that the relative rights of property owners everywhere are recognized.

The amendment makes sense, it creates the proper balance of property rights, and it deserves our support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYDEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 270, not voting 6, as follows:

[Roll No. 335]

AYES—158

Abercrombie	Gilchrest	Pallone
Ackerman	Gonzalez	Pastor
Andrews	Green	Payne (NJ)
Baldacci	Gutierrez	Pelosi
Barrett (WI)	Hall (OH)	Pomeroy
Becerra	Hastings (FL)	Porter
Beilenson	Hinchey	Poshard
Bentsen	Hoyer	Rahall
Boehlert	Jackson-Lee	Rangel
Bonior	Jefferson	Reed
Borski	Johnson (CT)	Reynolds
Boucher	Johnson, E. B.	Richardson
Brown (CA)	Johnston	Rivers
Brown (FL)	Kaptur	Roukema
Brown (OH)	Kelly	Roybal-Allard
Bryant (TX)	Kennedy (MA)	Rush
Cardin	Kennedy (RI)	Sabo
Clay	Kennelly	Sanders
Clayton	Kildee	Sawyer
Clement	LaFalce	Saxton
Clyburn	Lantos	Schroeder
Coleman	Levin	Scott
Collins (MI)	Lewis (GA)	Serrano
Conyers	Lincoln	Shays
Costello	Lofgren	Skaggs
Coyne	Lowey	Slaughter
DeFazio	Luther	Stark
DeLauro	Manton	Stokes
Dellums	Markey	Studds
Deutsch	Martinez	Stupak
Dicks	Matsui	Thompson
Dingell	McCarthy	Thornton
Dixon	McDermott	Thurman
Doggett	McHale	Torres
Durbin	McKinney	Torricelli
Ehlers	Meehan	Towns
Engel	Meek	Tucker
Eshoo	Menendez	Velazquez
Evans	Meyers	Vento
Farr	Mfume	Visclosky
Fattah	Miller (CA)	Volkmer
Fazio	Mineta	Ward
Fields (LA)	Mink	Waters
Filner	Moakley	Watt (NC)
Flake	Mollohan	Waxman
Foglietta	Moran	Williams
Ford	Morella	Wise
Fox	Nadler	Woolsey
Frank (MA)	Neal	Wyden
Frost	Oberstar	Wynn
Furse	Obey	Yates
Gejdenson	Olver	Zimmer
Gibbons	Owens	

NOES—270

Allard	Funderburk	Myrick
Archer	Gallegly	Nethercutt
Armey	Ganske	Neumann
Bachus	Gekas	Ney
Baesler	Geren	Norwood
Baker (CA)	Gillmor	Nussle
Baker (LA)	Gilman	Ortiz
Ballenger	Goodlatte	Orton
Barcia	Goodling	Oxley
Barr	Gordon	Packard
Barrett (NE)	Goss	Parker
Bartlett	Graham	Paxon
Barton	Greenwood	Payne (VA)
Bass	Gunderson	Peterson (FL)
Bateman	Gutknecht	Peterson (MN)
Bereuter	Hall (TX)	Petri
Bevill	Hamilton	Pickett
Bilbray	Hancock	Pombo
Bilirakis	Hansen	Portman
Bishop	Harman	Pryce
Bliley	Hastert	Quillen
Blute	Hastings (WA)	Quinn
Boehner	Hayes	Radanovich
Bonilla	Hayworth	Ramstad
Bono	Hefley	Regula
Brewster	Hefner	Riggs
Browder	Heineman	Roberts
Brownback	Herger	Roemer
Bryant (TN)	Hilleary	Rogers
Bunn	Hilliard	Rohrabacher
Bunning	Hobson	Ros-Lehtinen
Burr	Hoekstra	Rose
Burton	Hoke	Roth
Buyer	Holden	Royce
Callahan	Horn	Salmon
Calvert	Hostettler	Sanford
Camp	Houghton	Scarborough
Canady	Hunter	Schaefer
Castle	Hutchinson	Schiff
Chabot	Hyde	Schumer
Chambliss	Inglis	Seastrand
Chapman	Istook	Sensenbrenner
Chenoweth	Jacobs	Shadegg
Christensen	Johnson (SD)	Shaw
Chrysler	Johnson, Sam	Shuster
Clinger	Jones	Sisisky
Coble	Kanjorski	Skeen
Coburn	Kasich	Skelton
Collins (GA)	Kim	Smith (MI)
Combest	King	Smith (NJ)
Condit	Kingston	Smith (TX)
Cooley	Klink	Smith (WA)
Cox	Klug	Solomon
Cramer	Knollenberg	Souder
Crane	Kolbe	Spence
Crapo	LaHood	Spratt
Cremeans	Largent	Stearns
Cubin	Latham	Stenholm
Cunningham	LaTourette	Stockman
Danner	Laughlin	Stump
Davis	Lazio	Talent
de la Garza	Leach	Tanner
Deal	Lewis (CA)	Tate
DeLay	Lewis (KY)	Tauzin
Diaz-Balart	Lightfoot	Taylor (MS)
Dickey	Linder	Taylor (NC)
Dooley	Livingston	Tejeda
Doolittle	LoBiondo	Thomas
Dornan	Longley	Thornberry
Doyle	Lucas	Tiahrt
Dreier	Manzullo	Torkildsen
Duncan	Martini	Traficant
Dunn	Mascara	Upton
Edwards	McCollum	Vucanovich
Ehrlich	McCrery	Waldholtz
Emerson	McDade	Walker
English	McHugh	Walsh
Ensign	McInnis	Wamp
Everett	McIntosh	Watts (OK)
Ewing	McKeon	Weldon (FL)
Fawell	McNulty	Weldon (PA)
Fields (TX)	Metcalf	Weller
Flanagan	Mica	White
Foley	Miller (FL)	Whitfield
Forbes	Minge	Wicker
Fowler	Molinari	Wilson
Franks (CT)	Montgomery	Wolf
Franks (NJ)	Moorhead	Young (AK)
Frelinghuysen	Murtha	Young (FL)
Frisa	Myers	Zeliff

NOT VOTING—6

Berman	Gephardt	Lipinski
Collins (IL)	Kleczka	Maloney

□ 1642

Messrs. FOLEY, SMITH of New Jersey, and GEKAS changed their vote from ''aye'' to ''no.''

Mr. POMEROY and Mr. MOLLOHAN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. MOLINARI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this point I would like to engage the chairman of the full Committee on Transportation and Infrastructure in a colloquy.

Mr. Chairman, on page 247 of H.R. 961, the Committee on Transportation and Infrastructure classified that type C wetlands include, and I quote, wetlands within industrial, commercial or residential complexes or other intensely developed areas that do not serve significant wetlands functions; is that correct?

Mr. SHUSTER. Mr. Chairman, will the gentlewoman yield?

Ms. MOLINARI. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Yes, the gentlewoman from New York is correct.

Ms. MOLINARI. Is it also correct that such wetlands are not classified as type C merely because they are located in developed or urban areas?

Mr. SHUSTER. The gentlewoman from New York [Ms. MOLINARI] is absolutely correct. In fact, the committee specifically recognizes in the report many valuable wetlands are located in or adjacent to urban centers or other developed sites. Any wetlands which serve significant wetlands functions as a result of such location would not automatically be classified as type C wetlands.

□ 1645

The CHAIRMAN. Are there further amendments to title VIII? If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—NAVIGATIONAL DREDGING

SEC. 901. REFERENCES TO ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

SEC. 902. OCEAN DUMPING PERMITS.

(a) ISSUANCE OF PERMITS.—Section 102 (33 U.S.C. 1412) is amended—

(1) in the section heading by striking ''ENVIRONMENTAL PROTECTION AGENCY''; and

(2) in subsection (a)—

(A) by striking ''Administrator'' each place it appears and inserting ''Secretary'';

(B) by striking paragraph (G) and redesignating paragraphs (A), (B), (C), (D), (E), (F), (H), and (I) as paragraphs (1) through (8), respectively;

(C) in paragraph (4), as so redesignated, by redesignating subparagraphs (i) through (iii) as subparagraphs (A) through (C), respectively; and

(D) by striking the first and second sentences following the indented paragraphs.

(b) CATEGORIES OF PERMITS.—Section 102(b) (33 U.S.C. 1412(b)) is amended by striking ''Administrator'' and inserting ''Secretary''.

(c) DESIGNATION OF SITES.—Section 102(c) (33 U.S.C. 1412(c)) is amended—

(1) by striking ''Administrator'' each place it appears and inserting ''Secretary''; and

(2) in paragraph (3) by striking ''Secretary'' each place it appears and inserting ''Administrator''.

(d) SPECIAL RULES.—Section 102(d) and 102(e) (33 U.S.C. 1412(d) and 1412(e)) are amended by striking ''Administrator'' each place it appears and inserting ''Secretary''.

SEC. 903. DREDGED MATERIAL PERMITS.

(a) DISPOSAL SITES.—Section 103 (33 U.S.C. 1413) is amended—

(1) in the section heading by striking ''CORPS OF ENGINEERS'' and inserting ''DREDGED MATERIAL''; and

(2) in subsection (b)—

(A) by striking ''by the Administrator'' each place it appears;

(B) by striking '', with the concurrence of the Administrator,''; and

(C) in paragraph (3) by striking ''Administrator'' and inserting ''Secretary''.

(b) CONSULTATION WITH THE ADMINISTRATOR.—Section 103(c) (33 U.S.C. 1413(c) is amended to read as follows:

''(c) CONSULTATION WITH THE ADMINISTRATOR.—Prior to issuing a permit to any person under this section the Secretary shall first consult with the Administrator.''.

(c) WAIVERS.—Section 103(d) (33 U.S.C. 1413(d)) is amended by striking ''request a waiver'' and all that follows through the period at the end and inserting ''grant a waiver.''.

SEC. 904. PERMIT CONDITIONS.

Section 104 (33 U.S.C. 1414) is amended—

(1) by striking ''Administrator or the Secretary, as the case may be,'' each place it appears and inserting ''Secretary'';

(2) in subsection (a) by inserting a comma before ''after consultation'';

(3) in subsection (h)—

(A) by striking ''Administrator of the Environmental Protection Agency'' and inserting ''Secretary''; and

(B) in the last sentence by striking ''Administrator determines'' and inserting ''Secretary determines''; and

(4) in subsection (i)—

(A) by striking ''Administrator'' each place it appears and inserting ''Secretary'';

(B) in paragraph (3) by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''; and

(C) in paragraph (4)(D) by striking ''of the Environmental Protection Agency''.

SEC. 905. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

Section 104A (33 U.S.C. 1414a) is amended by striking ''Administrator'' each place it appears and inserting ''Secretary''.

SEC. 906. REFERENCES TO ADMINISTRATOR.

With respect to any function transferred from the Administrator to the Secretary of the Army by an amendment made by this title and exercised after the effective date of such transfer, reference in any Federal law to the Administrator shall be considered to refer to the Secretary of the Army.

The CHAIRMAN. Are there any amendments to title IX?

AMENDMENT OFFERED BY MR. FRANKS OF NEW JERSEY

Mr. FRANKS of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANKS of New Jersey: Page 323, strike line 1 and all that follows through line 23 on page 326 and insert the following:

TITLE IX—NAVIGATIONAL DREDGING

SEC. 901. REFERENCES TO ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

SEC. 902. ENVIRONMENTAL PROTECTION AGENCY PERMITS.

Section 102(c) (33 U.S.C. 1412(c)) is amended—

(1) in the first sentence of paragraph (3) by striking ''the Administrator, in conjunction with the Secretary'' and inserting ''the Secretary, in conjunction with the Administrator,''; and

(2) in the second sentence of paragraph (3) by striking ''the Administrator and the Secretary'' and inserting ''the Secretary and the Administrator''.

SEC. 903. CORPS OF ENGINEERS PERMITS.

(a) DISPOSAL SITES.—Section 103(b) (33 U.S.C. 1413(b)) is amended—

(1) in the matter preceding paragraph (1) by striking '', with the concurrence of the Administrator,''; and

(2) in paragraph (3) by striking ''Administrator'' and inserting ''Secretary''.

(b) CONSULTATION WITH THE ADMINISTRATOR.—Section 103(c) (33 U.S.C. 1413(c)) is amended to read as follows:

''(c) CONSULTATION WITH THE ADMINISTRATOR.—Prior to issuing a permit to any person under this section, the Secretary shall first consult with the Administrator.''.

SEC. 904. PENALTIES.

Section 105 (33 U.S.C. 1415) is amended—

(1) in the first sentence by inserting ''or, with respect to violations of section 103, the Secretary'' before the period at the end;

(2) in the fourth, fifth, and sixth sentences by inserting ''or the Secretary, as the case may be,'' after ''Administrator'' each place it appears; and

(3) in subsection (g)(2)(C) by inserting ''or the Secretary, as the case may be,'' after ''the Administrator'' the first place it appears.

SEC. 905. ANNUAL REPORT.

Section 112 (33 U.S.C. 1421) is amended by striking ''with the concurrence of the Administrator''.

SEC. 906. REFERENCE TO COMMITTEE.

Section 104(i)(3) (33 U.S.C. 1414(i)(3)) is amended by striking ''Merchant Marine and Fisheries'' and inserting ''Transportation and Infrastructure''.

Conform the table of contents of the bill accordingly.

Mr. FRANKS of New Jersey. Mr. Chairman, over the course of the last 2½ years I have worked with a bipartisan group of Members to help resolve what has increasingly become a pressing environmental and economic concern, not only to my home Port of New York and New Jersey, but to commerce throughout this great Nation. In short, Mr. Chairman, the continuing silting up of our harbors and waterways threatens to strangle our ability to move American products at home and abroad.

Nearly 67 percent of American exports by dollar value reach their foreign destination by ships that are loaded at our Nation's network of ports. Fully 10 percent of this ocean-borne cargo by value leaves the Port of New York and New Jersey, the third busiest port in the Nation, and the largest container port on the east coast, handling over 38 million tons of cargo a year. In my region, 180,000 people depend on the continuing operation of this port for their employment, and the port contributes over $20 billion a year to the region's economy.

If the safe and timely dredging of my port and ports around the country is thwarted, people lose jobs and the potential grows for an environmental disaster to occur. In committee, I worked with the gentleman from Pennsylvania, Chairman SHUSTER, to craft language that would help streamline the dredging permit process in this country. Since that time, Mr. Chairman, I have worked to refine the text of that amendment contained in title IX to more clearly address the crisis at hand.

My amendment would grant the Army Corps additional jurisdiction over dredged material permits and leave the Environmental Protection Agency in charge of the disposal of solid waste, sewage sludge, incinerator residue, or other materials as in current law.

In addition, my amendment ensures that the EPA will establish and apply the baseline criteria for reviewing and evaluating ocean dumping permit applications for all materials. Moreover, the amendment now ensures that the opportunity for public comment to both the Army Corps and the EPA is retained.

I appreciate all of the assistance that I have received from Chairman SHUSTER and his staff as I have drafted this amendment, as well as the substantial input we have received from environmental, port, business, and labor interests. I urge my colleagues to support this amendment that will help both protect the environment and promote the economic viability of our Nation's ports.

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

Mr. FRANKS of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I want to compliment the gentleman for the leadership he has provided in this. I strongly support his amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I also rise in support of the Franks amendment. I have to say that, as I guess was clear from my previous amendment, I do believe that it is a mistake as the bill goes to reassign certain regulatory authority over ocean dumping of dredge materials from the EPA to the Army Corps of Engineers. I also believe that the problem that the gentleman from New Jersey, my colleague, is trying to address, is best addressed by the interagency working group that has been worked out between the corps and the EPA, which I think ultimately would streamline the dredging process, the permitting process, without the need for changing the underlying law of the Clean Water Act or the Ocean Dumping Act.

However, I have to commend the gentleman from New Jersey, my colleague, Mr. FRANKS, because this amendment does put the EPA back in charge of certain things and goes far toward, I believe, reasserting the EPA's authority over environmental concerns that relate to ocean dumping, as well as dredging.

As Mr. FRANKS mentioned, the amendment puts the EPA back in charge of ocean dumping permits for material other than dredge material. It puts the EPA back in charge of establishing criteria for reviewing and evaluating permit applications, and gives waiver authority back to the EPA for dredger permits. So clearly there is significant progress here in terms of trying to put back the EPA and having them cooperate with the corps in the whole process of dredging, as well as other forms of ocean dumping.

I would point out unfortunately though, that the amendment would still give disposal siting and monitoring authority to the corps and still requires that the least costly disposal alternative be selected. Overall, this is certainly an improving amendment that does address many of the concerns that I discussed before. I would urge support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. FRANKS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETRI: Page 326, after line 23, add the following:

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. COASTAL NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—Section 6217(a)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) by striking ''shall'' the first place it appears and inserting ''may''; and

(2) by striking ''the Secretary and''.

(b) PROGRAM SUBMISSION, APPROVAL, AND IMPLEMENTATION.—Section 6217(c) of such Act is amended—

(1) in paragraph (1)—

(A) by striking ''the Secretary and the Administrator shall jointly'' and inserting ''the Administrator shall''; and

(B) by striking ''The program'' and all that follows through the period at the end of the paragraph and inserting ''The program shall be approved if the Administrator determines that the program meets the requirements of this section.''; and

(2) in paragraph (3)—

(A) by striking ''If the Secretary'' and inserting ''If the Administrator'';

(B) by striking ''the Secretary shall withhold'' and inserting ''the Administrator shall direct the Secretary to withhold''; and

(C) by striking ''The Secretary shall make'' and inserting ''The Administrator shall direct the Secretary to make''.

(c) FINANICAL ASSISTANCE.—Section 6217(f) of such Act as amended—

(1) in paragraph (1)—

(A) by striking ''the Secretary, in consultation with the Administrator,'' and inserting ''the Administrator''; and

(B) by inserting ''and implementing'' after ''developing'';

(2) in paragraph (2) by inserting ''and implementing'' after ''developing''; and

(3) in paragraph (4)—

(A) by striking ''the Secretary'' each place it appears and inserting ''the Administrator'';

(B) by striking '', in consultation with the Administrator,''; and

(C) by inserting ''and implementing'' after ''preparing''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 6217(h)(2) of such Act is amended—

(1) in subparagraph (A) by striking '', other than for providing in the form of grants under subsection (f)''; and

(2) in subparagraph (B) by striking ''the Secretary'' and inserting ''the Administrator''.

Conform the table of contents of the bill accordingly.

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

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

There was no objection.

Mr. PETRI. Mr. Chairman, this amendment, which I am offering with Representative TAUZIN, makes certain additional revisions, as requested by the States, to the coastal nonpoint pollution program under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990.

First, this amendment keeps in law the coastal zone program, as we voted last week, but provides that it is up to each State to determine whether to participate in the program.

While the National Oceanic and Atmospheric Administration will still play a role, the amendment provides the EPA will be the lead agency in administering the program, and it makes Federal grants available for implementation of coastal zone programs in addition to simply development of the plans.

Mr. Chairman, last week, we went back and forth as to who and what groups were supporting what position.

Let me be clear—we have worked with the National Governors' Association and the State water pollution control officials in drafting these improvements to the program. The amendments to the 6217 program made by Chairman BOEHLERT's amendment last week were necessary and positive and we do not change any of that language, but further improvements can be made to the program.

This amendment gives flexibility to the Governors in determining how to address coastal pollution. But the amendment also keeps in place the 6217 program so that States which want to continue to move forward with programs—those States which have found it to be successful for their State—may continue to pursue the 6217 program.

This amendment would allow a State to opt out of the program if it wishes. But I would point out that the State will still have to address nonpoint source pollution through the Clean Water Act section 319 nonpoint source program. Again, States that want to continue under the coastal zone program are fully able to do so. Let me note that, in essence, participation in section 6217 already is voluntary. If a State has a management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, then it must submit a nonpoint program under section 6217.

But it is up to a coastal State to determine whether to participate in the basic coastal zone management program in the first place. A State currently can simply withdraw from the entire program if it wishes and section 6217 does not apply. My own State of Wisconsin is currently considering doing just that.

This amendment streamlines the program so that States will deal with only one agency. That agency will be the EPA—which is, after all, the Federal agency with the expertise in nonpoint source pollution. However, NOAA will continue to be involved in the program.

As we have heard repeatedly, a constant source of frustration for those trying to implement programs is when various Federal agencies administer a single program, and we correct that here.

As we heard last week, some States are about ready to submit their programs and so this amendment makes Federal funds eligible for the next phase—that of implementation. Currently, Federal grants may be used only for development of programs.

The revisions made to the program through the Boehlert amendment last week are very necessary and do improve the program. These are further improvements to section 6217, as requested by the States.

I urge the House to adopt this amendment to provide needed flexibility to ensure that States can develop effective coastal nonpoint programs.

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

Mr. PETRI. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding. I join him in offering this amendment.

I want to point out to the House again, this amendment does not repeal or even undercut the Boehlert amendment nor the CZM program. It simply does what the gentleman from New York [Mr. BOEHLERT] said he wanted to do, give the States a choice to either use that program or in fact work with section 319 of the clean water bill.

It, second, harmonizes those two sections by allowing the coordination of management under the EPA, and it does a very good thing I think the gentleman from New York [Mr. BOEHLERT] would like. It allows the funds for the program that can only be used right now to plan the CZM nonpoint source pollution program, to be used to implement that plan. So it really extends and further implements the plans if the States want to in fact go forward with them.

In short, it allows for State option to either use a CZM program or to in fact use section 319 and to operate their program accordingly.

I want the House to know the first thing I received when we began talking about this amendment was a notice from Mr. KANJORSKI, head of our program in Louisiana, saying this is exactly what the State of Louisiana would like. I suspect that more States would prefer doing exactly this, giving the States the flexibility to use one or the other programs, to harmonize them under one agency and to use the funds not only to plan, but to actually implement those plans.

Mr. Chairman, I commend the gentleman for the amendment and join him in offering it, and urge its adoption by the House.

Mr. PETRI. Reclaiming my time, I would point out that our Governor, Tommy Thompson, has felt this is of extreme importance to the State of Wisconsin, too, and they want the flexibility, not whether or not to have a program, but to administer it with the EPA.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I find myself in the very difficult position of having to oppose the amendment offered by the gentleman from Wisconsin [Mr. PETRI]. As we suggested over the last several days, modifications to the amendment could have been made to shore up some of the problem areas, but were not. As a matter of fact, when the debate of this issue started a few minutes ago, we were still off the floor trying to understand how we could arrive at those agreements. Unfortunately, we were unable to do so.

Mr. Chairman, I am afraid I must say that this amendment, while it is true it does not touch the language of the Boehlert amendment, does do violence to the CZMA Program, in that it essentially takes away the motivation that is currently in the current law to provide for those aspects that encourage people to be in the program.

As a matter of fact, I have before me a memorandum from the Coastal States Organization which I would like to quote directly from, because the Coastal States Organization very much opposes the Tauzin-Petri amendment. They say that they have reviewed this amendment and determined that it is not consistent with either the policy of the National Governors' Association or with the Coastal States Organization.

In regards to the revised version of Tauzin-Petri they say the following: The revised version has the same problems as the original version in that the amendment would allow States to operate out of CZMA section 6217, contrary to what we have heard from some of the proponents of Tauzin-Petri amendment. Allowing States to operate out of the program does not serve the purpose of additional flexibility to the States. Rather, it will put increased pressure on the States by those

who would have the States opt out, namely, causers of pollution, polluters, to opt out of CZARA 6217 in favor of the 319 program which holds little prospect of improving water.

□ 1700

This is the statement brought to us today, May 16, by Kerry Kehoe of the Coastal States Organization. In the interest of the integrity of CZMA as it relates to nonpoint source pollution, this is simply a revote, this is nothing more than a revote of the amendment that we voted last week.

In addition, the proposed amendment deletes the enforceable policy requirements from CZARA. As you are aware, NOAA and the EPA have recently agreed to longstanding policies which this apparently also deletes.

Mr. Chairman, it is with reluctance but with a sense of determination that this revote on the amendment that was offered last week, which has the same effect, and that is to gut the CZMA nonpoint pollution program, must be defeated.

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

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

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for his leadership on this issue. I want him to know and my colleagues to know that we are still working at a fever pitch to preserve the basic integrity of the program and yet have some basis for accommodation.

So the debate will continue and I am with my colleague 100 percent, but the negotiations are ongoing. I think we are about this close, because I could not agree more with the distinguished chairman, that we have to preserve the basic integrity of the program.

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

Mr. SAXTON. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I am informed by staff that the amendment that we have introduced does not delete the enforceability provisions. I just wanted to correct the record so far as that is concerned and also assure both my colleagues that should this amendment be adopted, we would be eager to continue working with the gentleman as the bill moved forward through conference and so on to work out any problems. We are not trying to do anything to hurt the Coastal Zone Program. What we are tying to do is give States the opportunity to deal with one Federal agency, if that makes sense.

Mr. SAXTON. We can certainly agree on that point, Mr. Chairman. We can certainly agree. I think there are three items that are contentious. We can certainly agree on two, the one the gentleman just mentioned, whether this is a program and whether this is a program that is administered through the EPA or NOAA, but the ability of States who have internal political pressure to opt out of the program or to fail to opt into the program is something that is very contentious and something that we have not and cannot agree to.

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

Mr. Chairman, let me correct perhaps a statement that I am sure was not made on purpose. We are not revoting the Boehlert amendment. The Boehlert amendment was an amendment designed in fact to place the coastal zone management nonpoint source pollution back in the bill. It had been repealed by the original bill. This amendment does not take it back out. In fact, it says, any State that wants to can, in fact, implement that coastal zone nonpoint source pollution program, just as they would without this amendment.

The only thing this amendment does is say to States, which want to use a section 319, with the enforceability provision still in the bill, they have to do the nonpoint source program but they do it under section 319 instead of under this new reinvented wheel program. It gives the States the flexibility.

It does exactly what the gentleman from New York [Mr. BOEHLERT], I think, said he wanted to do, and that is give the States the real chance to run their program the way we intended.

If, in fact, if, in fact, the purpose of the Boehlert amendment was to represent the will of the States, as it was presented on the floor of the House, then this is a perfecting amendment. This makes it very clear that the States make the choice. The States have the option.

I want to point out to you that the existing coastal zone management program was indeed a voluntary program. It involved land use decisions which had been traditionally and correctly reserved for the States. It was not a program where the Federal Government came in and dictated the coastal zone boundaries, nor was it a program where the Federal Government dictated land use decisions within that coastal zone boundary.

The amendment we offer preserves that voluntary State-managed program under CZM. It gives a certain amount of assurance that there will be coordination in the program, because it says that now one agency, the EPA, rather than two agencies, NOAA on the one hand, EPA on the other hand, are managing two very similar programs that might collide with one another.

Lastly, it aids in the success of nonpoint source pollution control in that it allows the moneys that are available to be used in implementing the program not just planning. I think most Americans are rather fed up with the notion that so much Federal money gets spent on studies and planning and so little actually is used to accomplish the good that a program is designed to accomplish.

To that end, this amendment makes sure that money can be used to actually carry out the program, not just to plan it.

So for those very good three reasons: First, the States ought to have the flexibility to coordinate the programs as the States feel work best in their own State, particularly when you consider that CZM has always been a State-run voluntary program; second, that coordination under a single Federal agency makes sense, why have two different agencies running two programs at a parallel that might in fact and generally do collide running, run into conflicts with one another; and third, why not provide, as we do in this amendment, that moneys available under the program can in fact be used to implement it, not just to plan and keep planning and keep planning ad infinitum and wasting Federal and local resources in planning processes when we could be using it to actually begin controlling nonpoint source pollution in the coastal zone.

I urge the Members of the House, again, to consider, we are not repealing the Boehlert amendment, not at all. We are saying that Boehlert amendment stands. The CZM Program stands. If your State wants to implement it as the Fed wants you to do, you can go right ahead. It simply says that a State like Louisiana, which wants to coordinate its 319 programs with the CZM nonsource program, can do so and further that it can use the money to implement the program and it will be coordinated by only one Federal agency, not a pair of agencies which are often in conflict. That makes sense.

If this session of Congress is about rationalizing programs, ending duplication, creating flexibility for those on the local level who implement the programs, this amendment, the Petri-Tauzin amendment is exactly the way to make the Boehlert amendment work well.

I will say it again, either you really meant what you said when you said that you were trying to represent the will of the States in this point of view or you did not. if you really meant to represent the will of the States, this amendment perfects that. It gives the States the flexibility, the option to make the decisions that best suit the CZM Program in a given State, a program that has always been voluntary, always been State-run, always been defined by State law and regulated, and managed by State managers.

If you believe that, if that is the purpose of the original Boehlert amendment, this amendment strengthens it, makes it clearer that States do have that option. If your State wants to run it the way it is currently run, you have full authority to do so under this amendment. If your State is one like mine that wants to coordinate it under section 319, this amendment gives you that power.

I urge the Members to adopt this amendment.

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

Mr. Chairman, I rise in strong support of this amendment. I commend the gentleman from Wisconsin and the gentleman from Louisiana for this effort. This corrects what I think is a serious defect in the bill created by the earlier Boehlert amendment which takes away the kind of flexibility that the States need to have in dealing with nonpoint-source pollution problems.

The State of Virginia that I represent is a very diverse State. It has very diverse types of geography in different parts of the State. And it is the State itself and the State agencies and the elected officials in the State of Virginia that best understand the competing needs of different parts of the State.

The State of Virginia borders a great deal of the Chesapeake Bay, and we very much value and treasure the Chesapeake Bay, but we also understand the needs of those in other parts of the State. And it is far more appropriate for the State to be able to take the lead in deciding this and not have to work with two competing different Government agencies, Federal Government agencies dictating to the State of Virginia how to handle a wide variety of land use issues that take place all across the State.

I commend the gentleman from Louisiana and the gentleman from Wisconsin. I strongly urge this as a very good amendment which will correct a problem that exists in the bill.

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

Mr. GOODLATTE. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for his statement. I want to point out that when I was a young State legislator, many years ago, that I managed a CZM bill through the Louisiana Legislature. I remember all the promises that were made then, that the State would always run its program, define its boundaries, decide land use practices. In fact it was always going to be a State-run program.

This amendment perfects the Boehlert amendment to make sure that process is kept, that each State runs its program in the way that makes sense, that it is coordinated properly, and that moneys can be used to carry out the intent of the Boehlert amendment.

I commend the gentleman for his support and urge other Members to do the same thing.

Mr. GOODLATTE. Reclaiming my time, I thank the gentleman and I concur in his statement. I think that it is definitely the case and so often overlooked here that nobody has a greater incentive to make sure that the waters and lands of the State of Virginia, the State of Louisiana, the State of Wisconsin, and every other State than those people who live in the States. This is clearly an issue of States rights and States' opportunity to have the flexibility to handle this problem themselves.

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

Mr. Chairman, I have heard an interesting interpretation of this supposedly de minimis amendment. There are a couple of things I find disturbing. Obviously on lines 8 and 9 we strike the word shall and replace it with may, and on page 4 we go to elimination of requirement of enforceable mechanisms.

So in fact this does become——

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

Mr. DEFAZIO. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I think the gentleman is reading a previous amendment.

Mr. DEFAZIO. Is there another version?

Mr. SHUSTER. Yes.

Mr. DEFAZIO. So you are working on another version as we speak?

Mr. SHUSTER. No. The Petri amendment before us is another version from the earlier version which the gentleman is referring to.

Mr. DEFAZIO. There is some confusion on this side of the aisle then regarding exactly what it is we are voting on at the moment. I heard the issue of States——

Mr. SHUSTER. The amendment was submitted at the desk. We could ask the desk to provide it to the gentleman.

Mr. DEFAZIO. Mr. Chairman, what we have been hearing here is, we still, I still see a line 7 and 8, shall and may. So that part has not changed. This was just handed to me. And then I guess perhaps you took out the enforcement part. So enforcement is still in, but it is now, we are going to enforce something that you may do or you may choose.

The problem I have here is water pollution does not really follow State boundaries. I heard a lot of talk about States rights here. But water pollution does not rather strictly adhere to States' boundaries.

And many of the bodies of water we are talking about in this bill deregulating happen to affect more than one State. In my region, we border California and Washington. We have upstate concerns, upstream concerns with Idaho, Montana, another country even, dealing with the Columbia River. So I have a concern when we begin to move major mechanisms we have to deal with precious coastal estuaries, fragile estuaries, extraordinarily valuable resources in terms of shellfish where we have had shellfish beds close, spawning grounds for our endangered salmon. And we are going to go to something that says, you may, you may, if you so choose, comply.

Well, certainly, I do not believe my neighboring State of Washington or California is going to do anything to our detriment, but on the other hand I would be a lot more comfortable if we were applying a uniform Federal standard in this bill and not weakening that standard.

□ 1715

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

Mr. DEFAZIO. I yield to the gentleman from Wisconsin.

Mr. PETRI. I thank the gentleman for yielding.

Mr. Chairman, I am informed by the staff that the national estuary program formed for the specific purpose of protection across State lines is not affected by this. We have the national estuary program, we have the nonpoint source program, and then we have an additional coastal thing. We are just saying we do not really need three programs to accomplish what the gentleman is trying to do.

Mr. Chairman, what the gentleman is saying is absolutely right, we do need to have comprehensive watershed based approaches that follow the real world, rather than political jurisdiction of lines, and we have it, and it is not affected by this amendment. It is the national estuary program.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for his clarification. It certainly sounds better than the way it was described by some of the earlier speakers in terms of this portion of the bill.

However, I guess I will go back to a problem I have had throughout the bill, which is in a number of critical cases we have seen the bill essentially written, rewritten, and amendments sort of mutating as we go along in this process, and no capability of really explaining them.

Some might remember my debate over the section 401, hydropower licensing, last Thursday night, where the authors of the substitute amendment could not explain it. They could not explain the laws they were referencing, and what principles would still apply.

Mr. Chairman, our water resources are too precious, just too precious, to have either outside influences, polluters, or to have others writing on the back of the napkin and rewriting these laws. This should be a more deliberate process.

Certainly, in this case, I thank the gentleman for his clarification. It seems that they have substantially amended the original version and improved it, but I think that this is not the first instance during the consideration of this bill where we have had this problem. I think it should be instructive to the chairman and others that this is not the best way for such an important piece of legislation to be rushed through the House. I do not see a rush. The Clean Water Act has been working substantially across the country, working well. It is one of the few success stories that we can all point to in terms of Federal enforcement. We should modify it carefully and deliberately, where there has been excess,

but where it has been a success, we should build and improve upon it. Our water resources are too precious, our progress has been so hard won, that we should not go backward.

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

Mr. Chairman, again, the way I understand the amendment now, in its latest version, basically it is saying that this coastal nonpoint source pollution program on the part of the State would be enforceable, but is still voluntary. That is really the crux of the matter, is that the program would be voluntary, whereas the Boehlert amendment, again, when the Boehlert amendment was passed, it essentially kept the existing mandatory nature of the program.

I was listening to the gentleman from Louisiana and what he said about flexibility. States have always had flexibility with regard to implementing the program, because they can devise ways in which the program is effective or not. Different States may devise different ways of dealing with land use or agricultural runoff or some of the other things that might impact on coastal nonpoint source pollution.

The bottom line is that the current law requires that there be a nationwide program, and that States have to put a program in place. If the Petri-Tauzin amendment passes, those States could voluntarily decide not to have a coastal nonpoint source program. That is the problem. Nonpoint source pollution of the Nation's unique and precious coastal waters is real and serious. It is causing significant economic harm.

Mr. Chairman, commercial recreational fisheries are being shut down due to runoff pollution, beaches are being closed, habitat is being degraded. Coastal States report that about a third of their estuarine waters are impaired and a third are threatened. Nonpoint source problems are responsible for half of all instances of coastal water-quality degradation. The bottom line is that coastal nonpoint source pollution must be abated now. By passing the Boehlert amendment last week, the House fully indicated it does not want to weaken coastal programs controlling nonpoint source pollution, but the Petri-Tauzin amendment would do just that.

Mr. Chairman, I think it is very important, even though I know we are not amending, we are not just totally repealing the Boehlert amendment, but what we are doing is making the program voluntary, and even if States, if States want to do it and they want to enforce it, that is fine, but I am afraid that many States will simply not have a program, and that is why we should oppose this amendment.

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

Mr. LAUGHLIN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I heard the last speaker discuss this as a voluntary program. As I understand the Petri-Tauzin amendment, it tells the State they have a choice. It does not make it mandatory. It says to States ''You have got to do it under one act or another act. You cannot just say 'I don't want to do it.'''

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

Mr. LAUGHLIN. I am delighted to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, it is my understanding that we have worked out a compromise now. It is my understanding that the gentleman from Wisconsin [Mr. PETRI] is going to ask unanimous consent to withdraw his amendment and to offer the compromise that has been worked out. If my friend would yield the balance of his time, we might be able to finish this bill tonight.

Mr. LAUGHLIN. Mr. Chairman, if it is considered good judgment to stop talking and accept the agreement, I will use good judgment.

Mr. PETRI. Mr. Chairman, I ask unanimous consent to withdraw the pending amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr PETRI: Page 362, after line 23, add the following:

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. COASTAL NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—Section 6217(a)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) by striking ''shall'' the first place it appears and inserting ''may''; and

(2) by striking ''the Secretary and''.

(3) After the first sentence, insert the following sentence: ''Notwithstanding the preceding sentence, if the Administrator determines, in consultation with the State, such program is needed to supplement the program under section 319 of the Clean Water Act as it relates to the Coastal Zone, the State shall prepare and submit such program.''

(b) PROGRAM SUBMISSION, APPROVAL, AND IMPLEMENTATION.—Section 6217(c) of such Act is amended—

(1) in paragraph (1)—

(A) by striking ''the Secretary and the Administrator shall jointly'' and inserting ''the Administrator shall''; and

(B) by striking ''The program'' and all that follows through the period at the end of the paragraph and inserting ''The program shall be approved if the Administrator determines that the program meets the requirements of this section''; and

(2) in paragraph (3)—

(A) by striking ''If the Secretary'' and inserting ''If the Administrator'';

(B) by striking ''the Secretary shall withhold'' and inserting ''the Administrator shall direct the Secretary to withhold''; and

(C) by striking ''The Secretary shall make'' and inserting ''The Administrator shall direct the Secretary to make''.

(c) FINANCIAL ASSISTANCE.—Section 6217(f) of such Act is amended—

(1) in paragraph (1)—

(A) by striking ''the Secretary, in consultation with the Administrator,'' and inserting ''the Administrator''; and

(B) by inserting ''and implementing'' after ''developing'';

(2) in paragraph (2) by inserting ''and implementing'' after ''developing''; and

(3) in paragraph (4)—

(A) by striking ''the Secretary'' each place it appears and inserting ''the Administrator'';

(B) by striking '', in consultation with the Administrator,''; and

(C) by inserting ''and implementing'' after ''preparing''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 6217(h)(2) of such Act is amended—

(1) in subparagraph (A) by striking '', other than for providing in the form of grants under subsection (f)''; and

(2) in subparagraph (B) by striking ''the Secretary'' and inserting ''the Administrator''.

Conform the table of contents of the bill accordingly.

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

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

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MINETA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MINETA. Mr. Chairman, do we have a copy of the amendment? We are not aware of what the gentleman is referring to.

The CHAIRMAN. The Clerk is preparing copies.

The gentleman from Wisconsin [Mr. PETRI] is recognized for 5 minutes in support of his amendment.

Mr. PETRI. Mr. Chairman, I would just attempt to summarize the language that has been worked out.

Mr. Chairman, we will have to, I think, continue working on this problem in conference. Frankly, like any compromise, it is not fully acceptable to me, and I will have to check with my State administrators and others, but in the spirit of comity and to try to move this process forward and get this bill acted on tonight, we have, I think, reached an agreement which provides that after discussions and consultation between the EPA and the various States, the administrator of EPA would determine whether a State's plan, as far as coastal nonpoint source runoff, was adequate or not, and if it was adequate, then they would move forward.

It would not be at the discretion or election of the Governor or of the State, it would be at the discretion or election of the EPA, so there would be national standards there, but we would gain the opportunity of being able to actually spend money on cleaning up the environment instead of on planning, as is required in the law now, and we think that is important. We are trying to clean up the environment, not

write plans. Plans are tools, not the objective.

Second, we would have the opportunity of dealing with the EPA, potentially, rather than with a multiplicity of Federal agencies, and that is important in terms of simplicity.

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

Mr. PETRI. I yield to the gentleman from New Jersey.

Mr. SAXTON. First of all, Mr. Chairman, let me thank all parties for their cooperation over the last 3 or 4 days. The gentleman from New York [Mr. BOEHLERT] and I have worked together with the gentleman's very cooperative staff to arrive at an agreement, which, as the gentleman from Wisconsin [Mr. PETRI] points out correctly, is not perfect.

However, we believe it does move in the right direction and solve some of our problems, particularly relative to the ability to opt out of the program. It does provide that the EPA Administrator has the power to review and to, subsequent to the review, require a CZMA program that would have to do with nonpoint coastal pollution.

The State would then be required to adopt programs that would bring their CZMA nonpoint coastal pollution program to quality water standards, and while this is not perfect, certainly it is something that we believe at this late stage in negotiations we can live with.

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

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

Mr. BOEHLERT. Mr. Chairman, I want to echo what my colleague from New Jersey says. The important thing is this protects the basic integrity of the coastal zone program, critically important to 30 States, the Great Lakes States, and the Gulf of Mexico States.

These are tough issues, but we have worked together and we have come out with, I think, a reasonable compromise. Let me add, Mr. Chairman, while we are about this, all of us are up here and we are highly visible, but the professional staff, and they are that, very professional, whether they are proponents or opponents of any one section or the bill in its entirety, have worked very hard for a long period of time. I think we all owe them a debt of gratitude.

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

Mr. PETRI. I yield to the gentleman from Louisiana.

Mr. TAUZIN. As I understand, Mr. Chairman, the compromise goes to literally ensure that when the States have made their selection, and actually put together their plans, that EPA has some say as to whether or not that plan is adequate, and actually addresses the problem.

I think that is a workable compromise, but I, like the gentleman, reserve the right to continue to work with the gentleman through the conference to make sure that we have this thing tied down properly, where the balance is respective between the States and the Federal Government.

Mr. PETRI. Reclaiming my time, I would urge all of my colleagues to support the amendment as it is before the House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. PORTMAN. Mr. Chairman, I rise today to address the Clean Water Act legislation. After careful examination of the committee bill, H.R. 961, and the Boehlert substitute, I have decided to support H.R. 961 on final passage. Though I do not agree with every provision, I believe it is an improvement on current law and addresses many of the specific problems that my constituents have identified in the Clear Water Act. it makes the Clean Water Act more flexible and less prescriptive and addresses a number of regulatory issues of concern to me.

The Clean Water Act is widely regarded as one of the Nation's most successful environmental laws in terms of cleaning up dirty water. I am pleased at the level of cleanup in Ohio generally and in my district specifically. One beneficiary has been the Little Miami River, Ohio's first State and national scenic river, which runs through my district. Although the Little Miami is considered to be an exceptional warmwater habitat, it has one of the highest volumes of treated sewage pumped into it. The water quality has improved over the last decade in part because fewer pollutants are being discharged from these treatment plants along the river. And this is in part due to the Clean Water Act. However, problems with the act itself persist.

H.R. 961 works to address some of the problems that the Ohio EPA recently identified regarding the cleanliness of the Little Miami River. One of the major threats to the Little Miami includes increased stormwater runoff. In 1987, Congress charged the EPA with implementing a specific permit program for stormwater discharges from industrial sources and municipalities. The permit program has resulted in the creation of one of the most burdensome unfunded Federal mandates in history. It has been brought to my attention time and time again by local governments. I have been told, for example, that a permit application alone can cost over $600,000 to prepare. Compliance costs could be in the billions by requiring stormwater to meet fishable and swimmable quality standards without taking into account the sudden, short-term nature of storms. The EPA's own estimate of costs to municipalities to comply with the current stormwater permitting requirements of the Clean Water Act is between $3.4 and $5.3 billion annually.

It is evident that these wet-weather flows are not amenable to traditional end-of-pipe, command and control regulatory approaches. Attempts to impose these controls on wet-weather flows have led to regulations that require results that are only achievable at an enormous cost. Accordingly, the current law has been unable to effectively address the problems with this type of pollution.

H.R. 961 would essentially convert the current stormwater permit program into a nonpoint source management-type program. Nonpoint source discharges include stormwater and runoff from farm fields, streets, and other areas. The new bill requires States to develop stormwater management programs within 4 years and to meet the goal of attainment of water quality standards for stormwater within 15 years of program approval. To meet that goal, States have the flexibility to target receiving waters and sources of stormwater discharges. State controls begin with pollution prevention plans and may proceed to general and site-specific permits as determined to be necessary by the State.

By returning this program to the States, Ohio can adopt a program that will best eliminate stormwater pollution. Currently, a one-size-fits-all approach exists, which in many cases does not provide the best solutions for communities along the Little Miami River and every other river in Ohio. Flexibility is necessary to achieve the greatest environmental benefits from scarce resources. I believe that States working with local communities are simply better equipped to address these problems.

Regarding the larger problem of nonpoint source pollution, the bill adds to and improves upon current law. Nonpoint source pollution is believed to account for more than half of all remaining pollution nationwide. Although Congress attempted to address nonpoint source pollution in 1987, there is more that Congress can and should do. For example, H.R. 961 provides grants for preparing reports and management programs in addition to grants for implementing programs—under current law. These are new Federal grants to address specific problems. The share of a project which may be funded by grants is also increased from 60 to 75 percent. Finally, it requires States to resubmit management programs every 5 years. Should a State fail to submit a program, the EPA is directed to prepare and implement one for the State.

I do want to note that I am disappointed that the House adopted an amendment to strike a provision in the bill that would have authorized $500 million annually for a new State revolving loan fund program to reduce nonpoint source pollution. I opposed this amendment when it was considered by the House. I believe these funds would have helped to reduce some of the problems that we are currently facing with nonpoint source pollution.

In addition, H.R. 961 works to eliminate many of the unfunded mandates that exist in current law. These provisions are in the spirit of H.R. 5, the unfunded mandates bill I sponsored that are overwhelmingly approved by the House and Senate earlier this year and signed into law by the President.

During the debate in the House earlier this year on unfunded Federal mandates (H.R. 5), the Clean Water Act was mentioned again and again as imposing particularly burdensome mandates on State and local governments. Because H.R. 5 did not address retroactively the impact of mandates that are currently in effect and does not apply to reauthorizations

until next year, Congress did not have the opportunity to strike any mandates in the Clean Water Act. H.R. 961 gives us that opportunity.

Among other things, H.R. 961 gets at the mandate problem by authorizing increased funding for several important clean water programs. For example, grants for State revolving funds would be authorized at $2.5 billion annually for the next 5 years, compared with the current appropriation of $1.2 billion. This is a significant clean water financial burden that is lifted from the shoulders of States.

H.R. 961 also includes two provisions that I supported in the Contract With America—cost-benefit analysis and takings. H.R. 961 inserts greater consideration of cost into the Clean Water Act. Current law does not expressly include analysis of cost effectiveness of water quality standards. In the past decade, the cost to our citizens of complying with environmental regulations has risen dramatically. It is estimated that each household spends $1,500 per year on environmental protection. Approximately one-third of these costs are attributable to the Clean Water Act. Although many regulations perform a valuable function, the cost of some regulations simply outweighs the benefits. With resources of this magnitude being obligated to protect our Nation's water quality, it is extremely important that policymakers have information that is based on sound scientific analyses of potential risks to public health and the environment. In addition, the costs of proposed Clean Water Act regulations must be weighed against their benefits before they are promulgated. Through cost-benefit and risk analysis, H.R. 961 helps to eliminate problematic regulations and focus our limited resources on the most-pressing environmental problems.

I also support the concept of takings which is part of H.R. 961. The current wetlands program has resulted in serious infringements on private property rights. It is estimated that 75 percent of wetlands in the United States are located on private property. H.R. 961 requires the Government to compensate individuals for an amount equivalent to the diminution in value if a Federal agency diminishes the fair market value of property by 20 percent or more. Twenty percent may be too low, but the concept is sound. If the diminution is more than 50 percent, the Federal Government is required to buy the affected portion of the property.

I have only touched on some of the highlights of H.R. 961. Although H.R. 961 is not a perfect bill, I believe it will lead to improved water policy in the United States in a responsible and efficient and more flexible manner, and will help maintain the high quality of our Nation's water as we move into the next century.

Ms. ESHOO. I rise in strong opposition to H.R. 961, the so-called Clean Amendments of 1995.

When Republicans talked about a rising tide lifting all boats, they did not say how polluted the tide water would be. Yet enactment of this legislation would repeal or weaken key sections of one of the most successful environmental laws on the books.

I have fought hard in the past to strengthen the Clean Water Act to further protect our coasts and fragile estuaries. This bill does nothing to strengthen current law—indeed, it is harmful in a number of ways. It deregulates 50 percent of existing wetlands, repeals the coastal zone nonpoint pollution program, removes secondary treatment requirements in certain ocean waters, eliminates storm water permit requirements, and exempts point-source dischargers.

In a recent editorial, the San Francisco Chronicle called it the Polluters Revenge Act of 1995, claiming it was written by the very interests the law was intended to regulate. If the people of this country were at the table when it was drafted, we would have a completely different bill. The American people want to be able to drink and swim in clean water and H.R. 961 does nothing to achieve these goals.

In sum, the bill reverses more than 20 years of progress in fighting water pollution. I urge my colleagues to oppose what should be called the Dirty Water Amendments of 1995.

Mr. LEVIN. Mr. Chairman, I rise in opposition to H.R. 961. This bill does not deserve the title its authors have given it. Unfortunately, H.R. 961 is no Clean Water Act.

It is a cornucopia of special interest loopholes, waivers, and exemptions that weaken the Clean Water Act at a time when we should be strengthening it.

We should be building on the two decades of progress we have made cleaning up our Nation's lakes, rivers, and streams. Instead of making the Clean Water Act work better for the American people, H.R. 961 makes it easier for polluters to pollute.

The Clean Water Act is not a perfect law. Any statute of this scope and complexity will never be immune from shortcomings. As we had the experience of implementing the Clean Water Act, certain problems have come to the surface. Even if action on these problems is overdue, this cannot be an excuse for steps that threaten to undermine our Nation's commitment to clean water.

Where there are problems, we should correct them. For example, most of us agree that existing wetlands regulation are needlessly burdensome and in need of reform. But H.R. 961 is not about reform. Instead of fixing the wetlands provisions, H.R. 961 redefines most wetlands out of existence.

I am particularly concerned about the effect this bill would have on the Great Lakes. My State of Michigan has the toughest pollution standards in the region. For 6 years, the States in our region have been working on a bipartisan basis with the Environmental Protection Agency on the Great Lakes Initiative [GLI].

The GLI is a program established in 1990 to ensure that all States within the Great Lakes basin have uniform water quality standards. The Great Lakes Initiative is a carefully balanced compromise that has been subjected to extensive scientific scrutiny and rigorous cost-benefit analysis. It incorporates significant State flexibility. Wide consultation with effected industries and the public led to significant revisions and lower costs.

H.R. 961 undermines the fundamental purpose of the Great Lakes Initiative by giving States more discretion to ignore the Federal requirement for strong, uniform standards. Without uniform rules, Great Lakes States, like Michigan, with strong environmental standards will continue to lose jobs to neighbors with looser standards. We should not water down this critical program.

The Clean Water Act has the strong support of the American people. Today we are debating an extreme bill that would turn back the clock on two decades of environmental progress. H.R. 961 deserves to be defeated.

Mr. MARKEY. Mr. Chairman, I rise in strong opposition to H.R. 961, the so-called Clean Water Act of 1995. The bill's proponents would have us believe that it simply reauthorizes the original Clean Water Act, with, perhaps, a bit of fine-tuning. I hope that the American people can see clearly that this bill goes far beyond fine-tuning, would bring to a screeching halt further improvements in our water quality, and would allow for backsliding on the important progress we have already made toward cleaner water.

The original Clean Water Act, enacted in 1972 to clean up our Nation's badly polluted rivers, lakes, and harbors, is one of the most successful environmental laws on the books today. But all that is about to change. With H.R. 961, the new Republican majority in Congress would gut the current law, rolling back water quality standards, allowing industries to pollute more, not less, and leaving taxpayers to foot the bill to clean up the mess.

While the bill purports to respond to some mysterious mandate from the people for regulatory reform, recent polls have shown that 76 percent of Americans think clean water laws need to be strengthened, not weakened. It is clear that H.R. 961 responds to industry interests, not the people's mandate.

H.R. 961 will result in backsliding on water quality, by letting industries seek waivers allowing them to dump toxics and other wastes to municipal wastewater treatment plants not allowed under current law. To preserve the same level of water quality, these toxics would have to be removed at the treatment facility, at the taxpayer's expense. In addition, H.R. 961 lets States downgrade the designated use of a body of water, so that a lake or river could be subject to a lower standard of water quality than it is today. Finally, the bill will allow industrial polluters to undertake vaguely defined pollution prevention activities instead of complying with the water quality standards in current law.

H.R. 961 devastates our wetlands protection program. Under this bill, which includes a new and highly unscientific method of defining and classifying wetlands, two-thirds of our Nation's wetlands would be defined right out of existence. And many of the remaining wetlands will receive less protection than under current law. Finally, the Government will have to pay landowners to preserve wetlands on their property, even when protection of the wetland increases the overall value of the property. Again, the taxpayer pays. Wetlands are important because they filter and purify water, act as sponges during storms to reduce flood damage, and provide valuable ecosystems for many plant and animal species. We already have lost more than half our Nation's wetlands; we must provide adequate protection for the wetlands that remain.

H.R. 961 fails to make progress in the one area where progress is needed most. Polluted run-off from farms, industrial facilities, and city streets—called non-point source pollution—is the most important source of water pollution remaining today. H.R. 961 tells States to develop programs to make reasonable further progress toward bringing the non-point source pollution problem under control but does not require such programs to be enforced. In addition, the bill allows for delays, possibly of as

long as nearly two decades, in the implementation of the voluntary initiatives. This provision could have a devastating impact on our multibillion dollar fishing and tourism industries. In New England, our fishermen already are suffering due to declining stocks, and are currently seeking disaster relief. H.R. 961 will only exacerbate the difficulties faced by our fishermen.

We must not allow the Clean Water Act to be gutted. It is an extremely important and successful statute that has been largely responsible for cleaning up many of our Nation's waters. In Boston, we once had the notoriety of having the filthiest harbor in America. Thanks to the Clean Water Act, and an enormous commitment on the part of Massachusetts residents, the Boston Harbor is cleaner now than it has been in decades. Surely we cannot go back to the dirty water days after all that we have contributed to get to where we are now.

Many of us can still remember the days when open pipes led into our streams and lakes, spewing forth all kinds of toxics and pollutants. In most communities, those days are gone because of the Clean Water Act. But the job is not done. Unfortunately, over 40 percent of our Nation's waters are still not fishable or swimmable. We must continue working to enforce tough clean water standards to protect the health and safety of every American. As the tragic 1993 Cryptosporidium outbreak in Milwaukee plainly demonstrated, our water is not yet too clean, we do not have too many wetlands, and our fish are not too safe to eat.

I strongly urge my colleagues to vote ''no'' on H.R. 961 and say ''yes'' to clean water.

Mr. SHUSTER. Mr. Chairman, as we continue to debate H.R. 961, there is a need to clarify some of the bill's provisions.

One of the provisions, included in my en bloc amendments, modifies the goals contained in section 101 of the Clean Water Act. It clarifies that the act should not unnecessarily restrict outdoor recreational activity and other socially beneficial activities. A related provision in title VIII of the bill addresses outdoor recreational activities.

The amendments I am submitting to H.R. 961 included in the chairman's amendments will clarify, among other things, that the Clean Water Act is intended by Congress to benefit society and not unreasonably restrict outdoor recreational activity.

It has come to my attention that several lawsuits have recently been brought claiming that certain recreational activities conducted around water require permitting under the Clean Water Act. These lawsuits have become an invitation to judicially expand the Clean Water Act beyond what Congress originally enacted. These lawsuits may be a sham effort to shut down rightful outdoor recreation, specifically hunting and the shooting sports. The Clean Water Act was not designed to require NPDES permits under section 402 or wetlands dredge and fill permits under section 404 as a condition of enjoying our traditional outdoor recreational activities. My amendment makes clear that the act was not intended to be abused in the manner employed in certain lawsuits.

Another regulatory provision relates to waste treatment systems for concentrated animal feeding operations [CAFO's]. Section 401 clarifies that an existing CAFO that uses a natural topographic impoundment or structure on the effective date of this act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may, for purposes of this act, continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.

Some of H.R. 961's funding provisions need additional clarification, as well. The bill does not specify any set-asides or allocations off the top for section 106 moneys. Our intent however, is that one-half of 1 percent or $500,000—whichever is greater—should be allocated to the Association of State and Interstate Water Pollution Control Administrators for assistance in administering programs for the prevention, reduction, and elimination of pollution and to serve as the State liaison forum with the U.S. Environmental Protection Agency on policy development.

Administration of the funding provided in section 102(d) also needs clarification. Section 102(d) of H.R. 961 authorizes the Administrator of the EPA to make grants to the States for planning, design, and construction of publicly owned treatment works in rural communities of 3,000 people or less which are severely economically disadvantage. The committee report states the committee's intention to work closely with the Administrator to develop appropriate criteria regarding severely economically disadvantaged. I wish to clarify that the committee considers eligible communities as those having a per capita income of no more than 80 percent of the national average and an unemployment rate of 1 percent or more above the national average.

Mr. Chairman, I insert the following communication for the RECORD:

MAY 16, 1995.

Hon. BUD SHUSTER,
Chairman.
Hon. NORM MINETA,
Ranking Minority Member, Committee on Transportation and Infrastructure, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR GENTLEMEN: We write this letter in response to the debate on H.R. 961 that took place last Thursday evening, May 9, 1995, in which Representative Laughlin offered a substitute amendment to that offered by Representative Emerson regarding section 401 of the Clean Water Act.

It is indeed unfortunate that we were not given the opportunity to review the amendment prior to its introduction, as we believe that our input may have proved valuable in the ensuing discussion.

We wish to state now for the record that we believe states should have the authority to determine the quality of the waters within the state. As we have consistently maintained, we do not believe any amendments to section 401 are warranted; and we cannot support the amendment to section 401 that was adopted last Thursday evening.

The adopted amendment would have the following adverse repercussions;

The amendment takes from states the authority to determine the water quality of state waters, and improperly gives such authority to the Federal Energy Regulatory Commission (FERC) for hydroelectric projects located within the state.

The amendment reverses PUD No. 1 of Jefferson County v. State of Washington Department of Ecology, otherwise known as the Tacoma case, in which the Supreme Court affirmed that section 401 authorizes states to impose conditions in water quality certifications to ensure that discharges from federally licensed activities comply with state law.

The amendment causes inequities between state licensed activities which must comply with state law, and hydroelectric projects which FERC may exempt from state law.

The amendment will likely spawn significant litigation regarding its implementation and how agencies are to interpret presumptions of validity.

In sum, we believe that section 401 strikes the appropriate balance between state and federal authority over state water quality, and that no amendment to section 401 is necessary. We thank you for the opportunity to share our views with you.

Sincerely,
Governor Mike Lowry, Chair, Committee on Natural Resources, National Governors' Association.
Governor Michael O. Leavitt, Chair, Western Governors' Association.
Tom Udall, Attorney General of New Mexico.
Governor Terry E. Branstad, Vice Chair, Committee on Natural Resources, National Governors' Association.
Governor E. Benjamin Nelson, Vice Chair, Western Governors' Association.
Christine O. Gregoire, Attorney General of Washington.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to H.R. 961, the Clean Water Amendments of 1995. I believe this title is a misnomer as this bill will dramatically undermine the progress we have made over the past 20 years in cleaning up the Nation's waters, improving public health, and furthering economic development. I urge my colleagues to vote against this measure to send a strong signal that the House will not turn back the clock on environmental protection.

The Clean Water Act, signed into law in 1972, is arguably our most successful environmental protection statute. When it was passed more than two decades ago, the majority of our waters were off-limits to swimming and fishing, toxic pollutants and sewage were discharged almost at will, and in extreme cases, certain bodies of water were so fouled that they actually caught fire. Many communities nationwide were not served by sewage treatment plants and many that were had antiquated systems which failed to protect public health. Companies were able to discharge toxic pollutants, including some which cause cancer, directly into our rivers, lakes, and streams. Finally, wetlands were being filled in and drained at a rate of approximately 450,000 acres per year with subsequent adverse impacts on fish, wildlife, and bird populations, water quality, and flood control.

Over the past 23 years we have made tremendous progress in addressing these and other water quality issues. Nearly twice as many people are served by modern sewage treatment plants today than in 1972. Annually 900 million tons of sewage are not discharged into our lakes, streams, and rivers. Under the State Revolving Fund program and a previous grant program, the Federal Government has invested $66 billion in sewage treatment plant construction and upgrades. Investment in sewage treatment has made fundamental improvements in public health for millions of American citizens. More than 1 billion pounds of toxic pollutants are removed yearly from waters discharged by companies and other entities which utilize them.

Twice as many bodies of water meet their designated uses today than prior to the passage of the act. These water quality improvements have expanded recreational opportunities, opened multimillion-dollar shellfish beds to harvest, and brought tourists back to communities along our coasts. Finally, the Clean Water Act has helped to cut wetland losses almost in half. Currently, the lower 48 States have about 10 percent of the wetlands that existed in the late 1700's. While wetlands have a ''bad rap'' in this body, which I believe is completely unfounded and used for political expediency, they provide vital habitat to a myriad of fish, wildlife, and bird species, improve water quality by filtering out organic and nonorganic contaminants, and serve valuable flood control functions without the need for costly levees, dikes, and dams.

While we have made tremendous progress over the past two decades, problems remain. More than one-third of our waters do not meet their designated uses. Thousands of miles of rivers and acres of lakes are off-limits to swimming and fishing. Sewage treatment facilities in many communities remain inadequate and often discharge raw sewage directing into our waterways during storms. Pathogens in sewage poses a serious threat to public health. Ineffective sewage treatment also results in excessive nutrients being added to our waters which cause algae blooms, deplete oxygen content, and adversely affect shell- and fin-fish and marine habitat. Nonpoint source pollution accounts for at least half of our remaining water pollution problems. Wetlands continue to disappear at rate of 250,000 acres per year. As a result, certain migratory bird populations and species of fish have suffered and flooding has been exacerbated. In fact, some believe that the devastating flooding in the Midwest in 1993 could have been mitigated if wetlands had not been filled or drained to grow crops or for sites for housing developments. The bottom line is that we have a long way to go and should not be passing legislation which will turn the clock back to the 1960's.

I have numerous concerns with H.R. 961 and will touch on the most significant ones. I am especially concerned about the effects this bill will have on water quality in coastal communities. My district borders Long Island Sound, which is a vital economic and environmental resource for my State of Connecticut. Connecticut has invested tens of millions of dollars in cleaning up the sound in an effort to improve public health, fisheries, tourism, and quality of life for our residents. The Environmental Protection Agency [EPA], New York and Connecticut have spent the past 10 years and $11 million conducting a comprehensive study of the problems facing the sound. Last fall, the agency and the States approved a comprehensive conservation and management plan [CCMP] which sets forth a schedule to implement specific measures for remediating water quality problems and restoring the sound to health status. H.R. 961 threatens to completely undermine these efforts and investments.

It would repeal section 6217 of the Omnibus Budget Reconciliation Act of 1990 which requires coastal States to develop enforceable programs to control nonpoint discharges which impair coastal waters. Nonpoint source contamination is the greatest threat to our coastal waters and is partially responsible for thousands of beach closures each year and contaminated shelfish and finfish populations. Beach closures and shell- and fin-fish bans cost local economies millions of dollars each year when tourists can't go to the beach and fish products can't be harvested and sold. Connecticut is the second leading producer of oysters in the United States with annual sales between $40 and $50 million and tourism pumps nearly $4 billion into my State's economy. Repealing section 6217 does not make good environmental or economic sense for my State or any other coastal State.

The assistant commissioner of Connecticut's Department of Environmental Protection [DEP] has written me to express his strong opposition to the committee's action. While he admits section 6217 is not perfect, he firmly believes that repeal is completely counterproductive. The committee's action is even more egregious when one considers that the Coastal States Organization submitted a proposal to reform section 6217 to the committee. The CSO proposal represented a compromise developed by the States, but was cast aside by the committee. Without a program which approximates section 6217, Connecticut's efforts to reduce nonpoint contamination of Long Island Sound will be seriously undermined.

Unfortunately, the outlook for the sound gets bleaker when one considers the provisions of section 309 relating to secondary treatment. According to the EPA, secondary treatment, which removes oxygen-depleting nutrients as well as toxic contaminants from wastewater, has played a substantial role in improving water quality across the Nation over the last 20 years. Secondary treatment is especially important for communities along Long Island Sound because it is plagued by severe hypoxia during the summer months. Hypoxia is a state of low dissolved oxygen in the water which adversely affects fish populations and marine habitat. The best way to eliminate hypoxia is to reduce the input of excess nutrients, such as nitrogen and phosphorous. Secondary treatment is one of the most effective methods of reducing nutrient loading.

Connecticut has 84 treatment plants, all of which employ secondary treatment. In fact, 25 plants, or about 25 percent of the total, employ advanced treatment to reduce nitrogen loading more dramatically. Under section 309 of H.R. 961, coastal or other communities with fewer than 20,000 residents would be exempt from secondary treatment requirements if a treatment works will provide an adequate level of protection to receiving waters. The bill does not define ''adequate level'' and I am very concerned that this exemption will seriously undermine our efforts to improve water quality in the sound.

In Connecticut, 52 plants could be allowed to discontinue secondary treatment under this section. This would bring little, if any, savings to the ratepayers because these plants currently utilize secondary treatment technology. At the same time, it will exacerbate hypoxia which will adversely affect the fishing, aquaculture, and tourism industries. These effects will cost my State millions of dollars in the short term and many millions more over the long run because Long Island Sound cleanup will become more costly. This provision is bad for the environment, the economy, and taxpayers in my State.

I am also concerned about the effects of loosening pretreatment standards for the discharge of toxic pollutants to publicly owned treatment works [POTW]. The Clean Water Act establishes uniform national requirements that certain highly toxic pollutants, which cannot be effectively treated by POTW's or which adversely affect the operation of such works, must be treated by those entities discharging them to reduce their negative impacts prior to releasing wastewaters containing these contaminants to the POTW. This requirement guarantees that every community will receive a similar level of protection from toxic pollutants.

Under H.R. 961, uniform requirements would be replaced by a system which would allow individual treatment works to reduce pretreatment standards if those standards drive up administrative costs. This would create a hodge-podge of standards within States and watersheds and undermine rational water pollution control policy. Furthermore, this provision shifts the costs of controlling toxic pollutants from entities producing those pollutants to the ratepayers at the POTW. It is very likely that these toxics will ultimately adversely affect the operations of the POTW and the ratepayers will be left with the bill.

While nonpoint source pollution is responsible for at least one-half of our remaining water pollution problems, H.R. 961 fails to tackle this important issue. The provisions of section 319 effectively postpone the date of compliance with nonpoint source controls for 15 years. Moreover, compliance may never have to be achieved because the section provides yearly extensions of compliance deadlines for every year that Congress fails to appropriate every dollar authorized by this section. While I believe that Congress should do its level best to provide funding to States to assist with compliance, it is unreasonable to provide extensions if Congress falls $1 short of the authorized level. I believe this provision is even more unreasonable when one considers that Congress has done a relatively good job in providing States with substantial funding to improve water quality. This provision renders compliance deadlines meaningless.

The risk assessment and cost-benefit analysis portions of this bill are tilted toward polluters and will undermine public health. Federal agencies will be required to conduct lengthy and unproven risk assessment reviews of virtually every regulatory action which could cost more than $25 million. These reviews will add substantial layers of bureaucracy and delay timely action to address health concerns. In addition, the cost-benefit portion of the bill is weighted toward assessing the economic and social costs of complying with a requirement but makes no mention of assessing the benefits to society from environmental protection. Moreover, the bill does not provide an exemption from these onerous requirements to allow the EPA to respond quickly to an imminent threat to public health or the environment. These provisions are merely an attempt to gut environmental protection through backdoor maneuvers.

Finally, the wetlands portion of the bill will open much of our remaining wetlands to uncontrolled filling, draining, and development. If these provisions are enacted, many species of fish and wildlife will be pushed toward extinction, water quality will suffer, and flooding will worsen. As a result, the American people will be forced to pay more for clean water, flood insurance premiums will increase, and our quality of life will suffer.

In spite of all the talk by my Republican colleagues about the need to use ''good science'' when developing environmental regulations, this portion of the bill has no connection to good science whatsoever. The bill proposes to designate wetlands as class A, B, or C with class A receiving the highest degree of protection, class B less protection, and class C could be developed at will. The criteria to be used to classify wetlands is arbitrary as well. For example, the Secretary of the Army can only designate a portion of land as class A wetlands if it consists of 10 or more contiguous acres of land and there is unlikely to be any other overriding public use for that land. Wetlands should receive protection based on the ecological value and not because protection is convenient because someone doesn't believe the land can be developed under any circumstances. Moreover, the bill stipulates that no more than 20 percent of the wetlands classified by the Secretary may be classified as class A. This is a baseless cutoff designed to subjugate ecological considerations to the desire of developers to have unrestricted access to as much land as possible.

In addition, the protections for class A and B wetlands can be weakened considerably under the bill if they are not economically practicable or if the wetlands are located in a State with substantial conserved wetlands. The exemption based on a State having wetlands conserved by the Federal Government completely disregards the fact that wetlands serve important local functions which are completely separate from the benefits provided by wetlands clear across the State. Once again, short-term economic considerations are given precedence while the long-term interests of the majority of Americans are pushed aside.

Finally, development can take place in class C wetlands without a permit. The skewed classification requirements of this bill work to winnow as many acres of wetlands toward class C designation as possible. This bill falsely assumes that small wetlands or those that are in highly developed areas serve no significant function. This couldn't be further from the truth. In fact, small wetlands in developed areas provide critical habitat for birds, ducks, and wildlife, help to recharge the groundwater, and act to purify runoff from surrounding areas. These wetlands should receive a high degree of protection rather than be opened up to unchecked development. Moreover, 18 different activities, including building logging roads, clearing rights-of-way, and just about any infrastructure project whatsoever in a State with substantial conserved wetlands, are specifically exempt from any restrictions governing activities in wetlands.

Mr. Chairman, H.R. 961 should be defeated for the reasons I have enumerated here and many others. Most significantly, this is a bad bill for the people of my State who would see years of hard work and tens of millions of dollars literally go down the drain. The Connecticut River would once again be fouled by sewage and our efforts to restore Long Island Sound would be dealt a tremendous blow. The costs of cleaning up pollution would be transferred from polluters to the American public. Public health will be compromised, recreation opportunities lost, and the economic growth will be stymied in countless communities nationwide. I urge my colleagues to vote against H.R. 961.

Mr. SANDERS. Mr. Chairman, this bill will reverse the significant progress we have made under the Clean Water Act. For the first time in 25 years, our water is expected to become dirtier instead of cleaner. We may well be returning to a time when our rivers catch fire, we cannot swim and fish in our lakes, and human health is jeopardized by toxic chemicals in our water.

It is no secret that the House Republican leadership worked hand in hand with the chemical companies and other special interests to draft a bill littered with loopholes for polluters and developers. The bill includes a myriad of exemptions and waivers for industry which will significantly increase water pollution. It also removes approximately 50 percent of wetlands—which provide a natural water filtering system—from Federal protection. It is deeply disturbing that the attack on the environment that was so prevalent in the Contract With America has now reached into environmental successes like the Clean Water Act.

I am pleased that this bill reauthorizes funds for the State revolving loan fund that helps towns, like rural towns in my State of Vermont, upgrade their sewage treatment facilities. It also authorizes funds to help these same towns clean up agricultural pesticide runoff. Unfortunately, in today's environment of cutbacks I am seriously concerned that these needed funds will not become a reality. I strongly urge the appropriators to fully fund these programs so that small rural towns can meet their environmental responsibilities.

I am deeply disappointed that the House rejected an amendment which included these important authorizations and linked them with meaningful relief from unnecessarily burdensome regulations. Instead the House is considering a bill that gives industry free rein to pollute our waterways and developers the right to develop our ecologically important wetlands.

Mr. BUYER. Mr. Chairman, I rise to support the bipartisan committee-passed version of H.R. 961.

One message that the American public has made clear—one message that this Congress has seen fit to heed in passing several pieces of legislation this year—has been the fact that this Nation has entered an era in which new approaches and local flexibility are needed to provide lasting solutions to our Nation's greatest problems.

Mr. Chairman, this bill continues the great traditions of the leaders of the Republican Party who made the protection of the environment and natural resources a top priority—Presidents such as Teddy Roosevelt and Richard Nixon. This bill not only reaffirms the importance of the 1972 Clean Water Act and preserves its successes, it significantly updates that historic legislation to meet the water quality needs and circumstances of this Nation in 1995 and beyond.

As many members have explained throughout this debate, our State and local communities are now well-equipped, and in most cases, better equipped, to devise and implement solutions to the expensive point source and nonpoint source pollution problems within their communities. H.R. 961, as it stands now, gives the State and local governments the flexibility and authority they need to implement those solutions. Solutions, mind you, that will improve our communities' water quality both more quickly and at less cost.

Let me share a couple of examples of particular problems in my district which will greatly benefit from passage of the committee-passed H.R. 961. In a rural town in my district, Francesville, IN, a major wastewater treatment facility construction project which will greatly improve the quality of water for tens of thousands of people along the watershed, was delayed. This delay lasted more than 2 years due to a concern that the plant would interfere with less than 1 acre of a man-made pit which environmental officials had determined to be a wetland.

Another example in my backyard illustrates how small communities throughout Indiana are struggling to meet complex Federal requirements which are financially prohibitive. H.R. 961 seeks to loosen these types of regulatory constraints on small communities which have the effect of actually hindering their ability to improve their water quality. My hometown of Buffalo, IN, which has a population of 250 is undertaking a sewer system construction which will improve the water quality on the Tippecanoe River and Lakes Shafer and Freeman. Unfortunately, they've been bitten by these same regulatory restrictions that hinder their ability to use new and innovative technology like constructed wetlands treatment facilities. The impact could not only be the delays they now face in construction, but local sewer bills could soar from a projected $35 per month to reach $90 per month.

As if that isn't clear enough, I have another example of the impact of current law and enforcement on municipalities and small communities. Approximately 5,000 people reside in Rensselaer, IN. They have a $3.5 million sewer treatment facility serving their community. The city of Rensselaer was informed by regulators that they are not in compliance and must conduct combined sewer overflow [CSO] monitoring. They learned that it was estimated to cost each person in the town $1,000 per year. This translates into nearly $5 million in costs to implement this CSO Program, nearly twice the amount it costs to build the entire sewer treatment facility, all just to monitor and not treat the water.

My final story shows the inability of the Federal Government, without clear definitions and political accountability, to provide simple, effective, and cost-efficient solutions to the situations families, farmers, businesses, and communities face. A Cass County farmer in my district had less than one-quarter of an acre of ground in the middle of a farm field determined as a wetland. Despite the fact that he could potentially have profited only $20 annually from farming the area, Federal regulators slapped him with over $300,000 in fines and lost benefits. Yet, as if it isn't enough, under the current law, he could have sold this land to any number of retailers, such as Wal-Mart, who could have paved this wetland and made it part of a parking lot without any penalties or fines whatsoever.

Mr. Chairman, I would like to reiterate that these are not isolated instances. We must continue and follow up on the bipartisan message which was sent to not only State and local governments, but also the Federal regulators. We must encourage flexible, commonsense rationality to our regulatory policies.

For instance, title VIII of H.R. 961 establishes a new Federal wetlands policy by replacing the current section 404 of CWA with comprehensive new language to regulate the discharge of dredge and fill materials into U.S. waters and wetlands, as well as the drainage,

channelization, and excavation of wetlands. For the first time in legislation, this bill establishes a procedure for both classifying and delineating wetlands, directing the Secretary of the Army to issue classification regulations and delineation rules within 1 year of enactment. It outlines application procedures for persons seeking to undertake activities in wetlands, as well as property owners who seek a determination of whether a wetland exists on their property, and provides for judicial review. Thus, H.R. 961 provides for greater certainty and expedited procedures to applicants. This provision is comparable to legislation I cosponsored last year to address wetlands issues.

This bill modifies the list of exempt activities in order to clarify the intent of Congress where agency and court decisions have resulted in broader regulations than intended. H.R. 961 includes the following to those activities already exempted by the act: First, maintenance and emergency reconstruction of facilities for flood control, water supply, reservoirs, utility lines, and transportation structures; second, farming activities such as constructing stock ponds, irrigation canals, and drainage ditches; third, activities to enhance aviation safety, such as clearing vegetation that obscures a control tower's view of the runway approach; and fourth, activities that are consistent with a State-approved land management plan approved by the Army Secretary, as well as a few other limited activities.

It is also extremely important to note that H.R. 961 is consistent with the provisions bipartisanly passed by this Congress under H.R. 925. In doing so, this bill requires that property owners who have their property value diminished by 20 percent or more as a result of a Federal agency wetlands management action must be compensated by the Government for that amount.

H.R. 961 provides not only flexibility with the reiteration of regulatory reforms and just compensation, but it also authorizes billions of additional dollars for State and local governments to prioritize solutions and utilize advanced technologies. I support the commonsense bipartisan solution H.R. 961 provides.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WALKER) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 961) to amend the Federal Water Pollution Control Act, pursuant to House Resolution 140, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BONIOR. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BONIOR moves to recommit the bill to the Committee on Transportation and Infrastructure with instructions to report it back to the House promptly with the following changes:

With standards for the discharge of industrial pollution into water no move lax than those which exist today;

With water pollution prevention and control protections no less than those which exist today for public water supplies which are used for drinking;

With a report on this bill by the Congressional Budget Office which complies with section 101 of Public Law 104–4, the ''Unfunded Mandates Reform Act of 1995'', as such section would otherwise be in effect on January 1, 1996.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes in support of his motion to recommit.

Mr. BONIOR. Mr. Speaker, the American people want us to make this Government work better.

But they do not want us to turn back 20 years of progress on clean water.

They do not want us to turn back 20 years of progress on safe drinking water.

But that is exactly what this bill before us today does. There is a reason why the Baltimore Sun calls this bill ''the Polluters Protection Act.''

Because it stops 20 years of progress dead in its tracks.

How do you think the American people would feel if they knew that this bill allowed raw sewage to be dumped just 1 mile off our shores?

How do you think they'd feel if they knew that this bill weakens the safeguards we've put in place to make sure our drinking water is safe?

How do you think they'd feel if they knew—as USA Today pointed out just yesterday—that this bill ''dramatically eases requirements on industrial waste, urban runoff, and sewage treatment * * * and permits more waivers for pouring pollution into lakes and rivers.''

Mr. Speaker, have we all forgotten Milwaukee?

Have we all forgotten the 100 people who died in 1993—and the 400,000 people who got sick—when a deadly toxin called cryptosperidium infiltrated Milwaukee's drinking water?

Do we want to go back to the days of Love Canal—and poisoned fish, when Lake Erie was dead—and the Cuyahoga River was so polluted it actually caught on fire?

I'm certain the American people don't want to go back. And they can't seem to understand why we'd pass a bill that makes it easier to pollute the water we all need to survive.

Why? Because a few corporations oppose the safeguards we have now?

Because a few special interests oppose the tough anti-pollution protections on the books now?

Is that any reason to put safe drinking water at risk?

Let me ask this: Does anybody really believe these people are looking out for the public interest and public safety first?

This bill is the ultimate example of putting the fox in charge of the hen house. Not only does it let the polluters off the hook—it actually let them write the bill.

I have here a memo, a copy of a memo that the committee itself sent out to lobbyists and special interests. A memo inviting them to help write the bill.

It says, and I quote, ''we encourage you to work together to identify outstanding issues and to formulate your proposals for addressing them.'' The following groups have agreed to take the lead for this front work.

Do you think these people had the public interest in mind?

Mr. Speaker, I think we can do a lot better. And that's what this motion to recommit is all about.

This motion insists on three things:

First, that we keep environmental standards strong and don't allow rollbacks for industrial polluters;

Second, that we keep drinking water safe;

And third, that in improving the Clean Water Act, we don't pass along any costs to the States that we don't pay for first.

In other words, we're simply asking that the Clean Water Act be allowed to live up to its name—and build on the progress we've made the past 20 years.

Today, over 60 percent of our waterways are clean—and drinking water is safe.

But we've still got a lot of work left to do—and we can't afford to turn the clock back now.

We can never forget—that in the end—even though we have many differences as Americans;

We all drink the same water;

We all swim in the same lakes;

We all depend on the same water to cook with, to clean with, and to bathe in.

And we all have an interest in seeing our water remain safe and clean.

But I would remind all of you here today: we may not win this vote on the motion to recommit—and we may not win the vote on final passage.

But this is a defining issue for our Nation.

And I am confident that we will have more than enough votes today to sustain a Presidential veto.

In the end, this vote comes down to one simple question: Whose side are you on? Are you on the side of the special interests—or are you on the side of the American people?

Are you on the side of clean water for ourselves and for the future—or do you want to roll the clock back? That's the question.

I urge my colleagues: vote ''yes'' on the motion to recommit. Vote ''no'' on final passage.

□ 1730

Mr. SHUSTER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, what we have heard on this motion to recommit is simply nothing more than the same old delaying tactics. This motion if it were adopted would gut the bill. What we have heard here now is nothing more than the same old scare tactics. In fact, I was somewhat astonished to hear our friend in the well refer to the Milwaukee tragedy as an example of something that presumably the bureaucrats could have prevented or could prevent in the future if we were somehow to adopt the big-government bill that they would prefer.

As we all know, the tragedy in Milwaukee occurred because of wildlife in the stream, because of deer polluting the water, and so I can see apparently if we follow through my good friend's suggestion to its logical conclusion that we will have bureaucrats from EPA out there in Wisconsin with lassos lassoing the deer to keep them out of the stream. It obviously simply does not wash. This whole idea that they somehow through more government and more command control from the top on down can somehow correct these problems does not wash. Indeed, we have before us an historic environmental bill, a sound environmental bill, a balanced environmental bill.

I would point out to my friends that as we have worked through over 30 hours of debate on this historic legislation, we have defended the committee position with overwhelming votes. We have reformed the wetlands and we have defeated the weakening amendments by 50, 60, 70, 80 votes. We have reformed stormwater. We have defeated the weakening amendments by 60, 70, 80 votes. We have provided a workable nonpoint source program. And, yes, we have provided flexibility to the States and to the localities. We have created a situation where a city like San Diego will not have to spend $3 billion needlessly which is what the EPA was attempting to force the city of San Diego to do even though the California EPA and an eminent group of scientists said that it was unnecessary for San Diego.

Mr. Speaker, these are the kinds of reforms and improvements which have been made in this historic legislation. Yes, we have also provided substantial funding. Not as much as many of us would like to see, but substantial funding so we can continue with this very successful program.

As we move along to conference, we certainly continue to have an open mind. If there are other suggestions and as we sit down with Members of the other body for further improvements to this legislation, we certainly will be able to address those issues and we will do our very best to do so.

I know some Members have concerns about the formula. You have my commitment to work in conference to fix the formula.

Mr. Speaker, I would urge my colleagues, they can proudly and proenvironmentally vote ''yes'' on final passage, vote ''no'' on this motion to recommit. Vote ''yes'' on final passage to pass this historic clean water legislation.

The SPEAKER pro tempore (Mr. WALKER). The question is on the motion to recommit.

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

Mr. BONIOR. 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.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 169, nays 256, not voting 9, as follows:

[Roll No. 336]

YEAS—169

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gonzalez
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Smith (MI)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—256

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Berman
Collins (IL)
Gephardt
Goodling
Hilliard
Hunter
Kleczka
Lipinski
Peterson (MN)

☐ 1756

Messrs. HOLDEN, TAYLOR of Mississippi, and CONYERS changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. CAMP). The question is on the passage of the bill.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 185, not voting 9, as follows:

[Roll No. 337]

YEAS—240

Allard	Doyle	LaHood
Archer	Dreier	Largent
Armey	Duncan	Latham
Bachus	Dunn	LaTourette
Baker (CA)	Edwards	Laughlin
Baker (LA)	Emerson	Leach
Ballenger	English	Lewis (CA)
Barcia	Ensign	Lewis (KY)
Barr	Everett	Lightfoot
Barrett (NE)	Ewing	Linder
Bartlett	Fawell	Livingston
Barton	Fields (TX)	Longley
Bass	Flanagan	Lucas
Bateman	Foley	Manzullo
Bereuter	Fowler	Mascara
Bevill	Frank (MA)	McCollum
Bilbray	Franks (CT)	McCrery
Bilirakis	Franks (NJ)	McDade
Bishop	Frisa	McHugh
Bliley	Funderburk	McInnis
Blute	Gallegly	McIntosh
Boehner	Ganske	McKeon
Bonilla	Gekas	Metcalf
Bono	Geren	Mica
Browder	Gillmor	Miller (FL)
Brownback	Goodlatte	Molinari
Bryant (TN)	Gordon	Mollohan
Bunn	Graham	Montgomery
Bunning	Gutknecht	Moorhead
Burr	Hall (TX)	Myers
Burton	Hamilton	Myrick
Buyer	Hancock	Nethercutt
Callahan	Hansen	Neumann
Calvert	Hastert	Ney
Camp	Hastings (WA)	Norwood
Canady	Hayes	Nussle
Chabot	Hayworth	Ortiz
Chambliss	Hefley	Orton
Chapman	Hefner	Oxley
Chenoweth	Heineman	Packard
Christensen	Herger	Parker
Chrysler	Hilleary	Paxon
Clement	Hilliard	Peterson (MN)
Clinger	Hobson	Pickett
Coble	Hoekstra	Pombo
Coburn	Hoke	Portman
Collins (GA)	Holden	Poshard
Combest	Horn	Pryce
Condit	Hostettler	Quillen
Cooley	Houghton	Quinn
Costello	Hunter	Radanovich
Cox	Hutchinson	Regula
Cramer	Hyde	Riggs
Crane	Inglis	Roberts
Crapo	Istook	Rogers
Cremeans	Johnson (SD)	Rohrabacher
Cubin	Johnson, Sam	Rose
Cunningham	Jones	Roth
Danner	Kasich	Royce
de la Garza	Kelly	Salmon
Deal	Kim	Scarborough
DeLay	King	Schaefer
Dickey	Kingston	Schiff
Dooley	Klink	Seastrand
Doolittle	Knollenberg	Shadegg
Dornan	Kolbe	Shaw
Shuster	Talent	Waldholtz
Sisisky	Tanner	Walker
Skeen	Tate	Walsh
Skelton	Tauzin	Wamp
Smith (MI)	Taylor (NC)	Watts (OK)
Smith (TX)	Tejeda	Weldon (FL)
Smith (WA)	Thomas	Weller
Solomon	Thornberry	White
Souder	Tiahrt	Whitfield
Spence	Torkildsen	Wicker
Stearns	Traficant	Wilson
Stenholm	Upton	Young (AK)
Stockman	Volkmer	Young (FL)
Stump	Vucanovich	Zeliff

NAYS—185

Abercrombie	Greenwood	Pastor
Ackerman	Gunderson	Payne (NJ)
Andrews	Gutierrez	Payne (VA)
Baesler	Hall (OH)	Pelosi
Baldacci	Harman	Peterson (FL)
Barrett (WI)	Hastings (FL)	Petri
Becerra	Hinchey	Pomeroy
Beilenson	Hoyer	Porter
Bentsen	Jackson-Lee	Rahall
Boehlert	Jacobs	Ramstad
Bonior	Jefferson	Rangel
Borski	Johnson (CT)	Reed
Boucher	Johnson, E. B.	Reynolds
Brown (CA)	Johnston	Richardson
Brown (FL)	Kanjorski	Rivers
Brown (OH)	Kaptur	Roemer
Bryant (TX)	Kennedy (MA)	Ros-Lehtinen
Cardin	Kennedy (RI)	Roukema
Castle	Kennelly	Roybal-Allard
Clay	Kildee	Rush
Clayton	Klug	Sabo
Clyburn	LaFalce	Sanders
Coleman	Lantos	Sanford
Collins (MI)	Lazio	Sawyer
Conyers	Levin	Saxton
Coyne	Lewis (GA)	Schroeder
Davis	Lincoln	Schumer
DeFazio	LoBiondo	Scott
DeLauro	Lofgren	Sensenbrenner
Dellums	Lowey	Serrano
Deutsch	Luther	Shays
Diaz-Balart	Maloney	Skaggs
Dicks	Manton	Slaughter
Dingell	Markey	Smith (NJ)
Dixon	Martinez	Spratt
Doggett	Martini	Stark
Durbin	Matsui	Stokes
Ehlers	McCarthy	Studds
Ehrlich	McDermott	Stupak
Engel	McHale	Taylor (MS)
Eshoo	McKinney	Thompson
Evans	McNulty	Thornton
Farr	Meehan	Thurman
Fattah	Meek	Torres
Fazio	Menendez	Torricelli
Fields (LA)	Meyers	Towns
Filner	Mfume	Tucker
Flake	Miller (CA)	Velazquez
Foglietta	Mineta	Vento
Forbes	Minge	Visclosky
Ford	Mink	Ward
Fox	Moakley	Watt (NC)
Frelinghuysen	Moran	Waxman
Frost	Morella	Weldon (PA)
Furse	Murtha	Williams
Gejdenson	Nadler	Wise
Gibbons	Neal	Wolf
Gilchrest	Oberstar	Wyden
Gilman	Obey	Wynn
Gonzalez	Olver	Yates
Goss	Owens	Zimmer
Green	Pallone	

NOT VOTING—9

Berman	Gephardt	Lipinski
Brewster	Goodling	Waters
Collins (IL)	Kleczka	Woolsey

☐ 1814

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to insert extraneous material in the RECORD, on H.R. 961, the bill just passed.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 961, CLEAN WATER AMENDMENTS OF 1995

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 961, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 961.

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

There was no objection.

☐ 1815

CONFERENCE REPORT ON H.R. 1158, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE AND RESCISSIONS, FISCAL YEAR 1995

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–124)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1158) ''making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes,'' having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, namely: