and NANCY PELOSI handed him the gavel—every year—from record high levels now to the lowest budget deficit in the Obama administration, and we have an opportunity today to do more.

I have heard my colleagues on the other side of the aisle, Mr. Speaker, talk about those things that we can do together, and I agree. I agree.

I have heard my colleagues on the other side talk about their priorities in terms of raising the debt limit and not seeing the government shut down. I halfway agree.

I don't want to see the government shut down either. We avoided a government shutdown 2 weeks ago and got a little thank you note from a young lady who was in the office.

She said: Dear Congressman, It was good to see you today. Thank you for not letting the American History museum close down while my family was in Washington.

There are real impacts to that. But the fact is the reason we are having the conversation is not because anybody wants to shut the government down. It is because folks want to borrow more money. Mortgaging our children's future to the tune of $18 trillion apparently is not mortgaging it enough. We are going to be back and make it $19 trillion or $19.5 trillion.

Mr. Speaker, we are not talking about a debt limit that is coming around today. We are talking about one that came around in the spring. The government has just been borrowing and borrowing and borrowing even beyond that debt limit, and they are borrowing because we are spending too much.

Mr. Speaker, look at the tax rolls right now. Do you realize, as we are standing here today, not only is America collecting more in constant dollars—not static dollars, but constant dollars adjusted for inflation—we are collecting more money than at any time in American history, any time.

Per capita in this country, Americans are paying more in taxes than they have ever paid in the history of the Republic, not in inflated 2015 dollars, but in constant dollars adjusted for inflation. The real impact on American families is greater today in taxes than ever before.

Mr. Speaker, the problem is not that we don't raise enough money. The problem is that we spend too much money. I can't count the number of good pieces of legislation that have gone to the Senate and failed not on their merits, but because a Democratic filibuster would not even allow the bill to be debated.

With this rule and with this underlying bill, we allow the people's voice to be heard, we allow the American majority's voice to be heard, and we have an opportunity to put a bill that will make a difference for American families on the President's desk for the very first time.

I encourage all of my colleagues' strong support of the rule. Upon passage of that rule, Mr. Speaker, I encourage their strong support for the underlying reconciliation measure. We have an opportunity today together to make a difference.

The material previously referred to by Ms. SLAUGHTER is as follows:

AN AMENDMENT TO H. RES. 483 OFFERED BY MS. SLAUGHTER OF NEW YORK

Strike all after the resolved clause and insert:

That immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3737) to responsibly pay our Nation's bills on time by temporarily extending the public debt limit, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 2. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 3737.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the Democratic minority to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308–311), describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

The Republican majority may say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. WOODALL. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

NATIONAL STRATEGIC AND CRITICAL MINERALS PRODUCTION ACT OF 2015

GENERAL LEAVE

Mr. LAMBORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 481 and rule XVIII, the Chair declares the House in the Committee of the Whole House on

the state of the Union for the consideration of the bill, H.R. 1937.

The Chair appoints the gentleman from Texas (Mr. MARCHANT) to preside over the Committee of the Whole.

□ 1323

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 consideration of the bill (H.R. 1937) to require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness, with Mr. MARCHANT in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources.

The gentleman from Colorado (Mr. LAMBORN) and the gentleman from California (Mr. LOWENTHAL) each will control 30 minutes.

The Chair recognizes the gentleman from Colorado.

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

I rise today in strong support of H.R. 1937, the National Strategic and Critical Minerals Production Act of 2015. This bill was introduced by my good friend and colleague, Representative MARK AMODEI of Nevada, and myself as the first cosponsor.

Not a day goes by when Americans don't use a product that is made from critical minerals. In fact, life as we know it in the 21st century would not be possible without these minerals.

There would be no computers, no BlackBerries, no iPhones. There would be no MRIs, CAT scans, or x-ray machines. There would be no wind turbines or solar panels. Mr. Chairman, the list is exhaustive of these things that depend on critical and strategic minerals that make our lives possible.

Rare earth elements, a special subset of strategic and critical minerals, are core components of these products in the 21st century. Yet, despite the tremendous need for rare earth elements, the United States has allowed itself to become almost entirely dependent on China and other foreign nations for these resources.

America has a plentiful supply of rare earth elements, but roadblocks to the development of these critical materials have resulted in China producing 97 percent of the world's supply. That is 97 percent.

Our current policies are handing China a monopoly on these elements, creating a dependence that has serious implications for American jobs, for our economy, and on our national security.

Burdensome red tape, duplicative reviews, frivolous lawsuits, and onerous regulations can hold up new mining projects here in the U.S. for more than 10 years. These unnecessary delays cost American jobs as we become more and more dependent on foreign countries, such as China, for these raw materials.

The lack of domestically produced strategic and critical minerals are prime examples of how the U.S. has regulated itself into a 100 percent dependency on at least 19 critical and unique minerals. It has also earned the United States the unique and unfortunate distinction of being ranked dead last when it comes to permitting mining projects.

The 2014 ranking of countries for mining investment out of 25 major mining countries found that the 7- to 10-year permitting delays are the most significant risk to mining projects in the U.S. We are dead last in that ranking. I can't speak for the other countries, but the reason the U.S. is so slow to issue new mining permits is very simple: government bureaucracy.

H.R. 1937, introduced by my colleague from Nevada, will help us end foreign dependence by streamlining government red tape that blocks America's strategic and critical mineral production. Instead of waiting for over a decade for mining permits to be approved, this bill sets a goal for the total review process for permitting at 30 months, 2½ years.

Now, this isn't a hard deadline, Mr. Chairman. It can be extended. But it is a goal to push the bureaucrats into action on these important infrastructure projects. It shouldn't take a decade to get a project built for minerals that we need in our everyday lives and for our national security. No company can reasonably forecast the price of minerals 10 years in advance.

Finally, above all, this is a Jobs bill. The positive economic impact of this bill will extend beyond just the mining industry. For every good-paying metal mining job created, an estimated 2.3 additional jobs are generated. For every nonmetal mining job created, another 1.6 jobs are created.

This legislation gives the opportunity for American manufacturers, small businesses, technology companies, and construction firms to use American resources to help make the products that are essential to our everyday lives.

As China continues to tighten global supplies of rare earth elements, we should respond with a U.S. mining renaissance that will bring mining and manufacturing jobs back.

The National Strategic and Critical Minerals Production Act, H.R. 1937, is important to our jobs and to our economy. We must act now to cut the Government red tape that is stopping American domestic production and furthering our dependence on foreign countries for our mineral needs.

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

□ 1330

Mr. LOWENTHAL. Mr. Chair, I yield myself such time as I may consume.

This bill takes us in the wrong direction. It not only fails to make any meaningful reforms to our antiquated system of mining in this country, but it proposes to make them worse. We have a mining system that was put together in the 1870s when the number one goal for President Grant at that time was to get people to settle in the West. I am here to tell you, Mr. Chair, the West has been settled.

As a resident of southern California, we have this 150-year-old bill that really makes things as easy as possible for miners. We still have a law that doesn't require any royalties to be paid on the extraction of hard rock minerals on public lands. Let's be clear. If you drill for oil or gas on public lands or mine coal or soda ash or potash or a number of other minerals, what do you do? You pay a royalty to the American taxpayer, but not if you mine copper or silver or platinum or gold or other valuables. You get to mine royalty free.

When the Mining Law of 1872 was enacted, there was no such thing as environmental safeguards. There was no concept of the multiple uses of public lands to ensure that mining could coexist with grazing, with recreation or conservation. There were no requirements for miners to clean up after themselves when they were done mining. Simply mine as long as it is profitable, and when you are done, just pick up and leave, and don't worry about it, except that the people who live anywhere near the half million abandoned mines in this country need to worry about it. Communities located near the tens of thousands of miles of polluted rivers with toxic acid mine waste, they need to worry about it, and, certainly, the United States Congress needs to worry about it.

But, instead of tackling this problem, what does this bill do? It declares that the biggest problem we have with mining in this country is that we are not doing it fast enough.

So this bill proposes to undermine one of our bedrock environmental laws—the National Environmental Policy Act—and it makes land managers who are reviewing mine plans prioritize mineral production over every other potential use of the land, which threatens hunting, fishing, grazing, and conservation.

Mr. Chair, it would be one thing if the data showed that a large number of mines were being delayed for no good reason; but, in fact, according to the data from the Bureau of Land Management, mines are getting approved much faster. We just heard that it takes a decade, but let's be clear what the data says.

Between 2005 and 2008, on average, 54 percent of the plans were approved in less than 3 years. In 2009 to 2014, 69 percent of the plans were approved in less than 3 years. So, in reality, rather than

taking a decade, we are seeing that the Obama administration is permitting mines at a much faster rate than the Bush administration.

Now, I have an amendment that would address one of the key problems in this bill. This bill has an incredibly broad definition of what is a strategic and critical mineral. I have yet to hear anyone tell me—and we asked in committee—what mineral now doesn't qualify as strategic and critical under this bill. Certainly, none of the witnesses we had at our Natural Resources Committee hearing could, and the majority hasn't suggested anything. Now we are talking about expediting the process for sand and gravel, crushed stones, gold, silver, diamonds. All of these are now going to be considered strategic and critical by the definition in this bill. All get an expedited process for permitting, and they have weaker environmental reviews.

But, even if this bill were limited to the definition for critical minerals that the rest of the world goes by—basically, that those minerals be important, they be unique, and, most importantly, we are defining them as strategic and critical minerals because they are subject to a supply risk—it is clear that this bill does not help.

We had one rare earth element mine start up in this country a few years ago. The rare earth elements are ones that are truly critical. Two months ago, that mine stopped operating because prices were too low. That is what has happened. That one mine was already permitted, already built, and already operating, and it had to be shut down because of economics.

I don't think changing the environmental laws in any way solves the problem of economics, but it certainly would help major international mining conglomerates—companies based in Canada or Australia. It is going to help them grease the skids when they want to open their next giant copper mine or gold mine or uranium mine right next to a national park or a sensitive watershed.

Mr. Chair, this bill is bad policy. The outcomes here won't be any different than the outcomes over the past two Congresses. This bill is dead on arrival in the Senate, and the administration has already expressed its strong opposition.

What should we be doing?

We should be here today, discussing how to fix our outdated and antiquated mining laws, how to make mining companies pay their fair share, how to clean up the half million abandoned mines that litter our landscape from coast to coast. We shouldn't be here talking about a bill that is only going to make things worse.

I urge my colleagues to oppose H.R. 1937.

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

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

I would point out to my friend and colleague from California that the National Research Council study has said: ''All minerals and mineral products could be or could become critical to some degree depending on their importance and availability.''

So you have to look at the total circumstances surrounding the current supply of a mineral and what that mineral is, and they all, literally, could fit that definition according to the National Research Council.

Mr. Chairman, I yield 3 minutes to the gentlewoman from the great State of Wyoming (Mrs. LUMMIS), my colleague, who is also the vice chairman of the full Committee on Natural Resources.

Mrs. LUMMIS. I want to thank Chairman LAMBORN and my good friend and fellow Western Caucus member, Nevada Representative AMODEI, for their work on this important legislation.

Mr. Chairman, let me start by addressing why strategic minerals matter and why we ought to have a piece of legislation like this.

My home State of Wyoming is the headquarters for our Nation's nuclear intercontinental ballistic missile force. These missiles ensure that those who would do us harm are deterred from using nuclear weapons. These weapons are on call 24 hours a day, 365 days a year, but they need regular maintenance and replacement components. Rare earth elements are an important part of these components—from batteries, to computer chips, to display screens and engines. These components—components vital to our technological edge—would require elements that can be difficult to procure.

Now, China controls nearly 80 percent of rare earth production. As we know, China has used this leverage to bully our allies, to limit exports at a time of a dispute, especially recently, with Japan over the control of islands in the South China Sea. The U.S. Navy plans to conduct operations in the area to remind China of the importance of respecting maritime boundaries and the freedom of navigation; but China is using its 80 percent share of rare earth minerals to leverage our allies. They can do it anytime they want because they have such massive control of this resource.

The bill that Mr. AMODEI is sponsoring, the National Strategic and Critical Minerals Production Act, would simplify the permitting process for domestic mines that will provide resources used in components that are vital to our national security. That is why we need to do it.

Here is an example of the existing problem.

In my home State of Wyoming, the Bear Lodge Critical Rare Earth Project has been going through the current process since 2011. It will be the only large-scale production facility in the U.S. for some rare earth elements designated as critical by the U.S. Department of Energy. They have to coordinate their permit application between the Forest Service, the Nuclear Regulatory Commission, the Army Corps of Engineers, and the Department of Energy.

Under Mr. AMODEI's legislation, one Federal agency would become the lead agency and set project timelines for permit applications and decisions. The total review process would not be authorized to exceed 30 months unless extended by all parties involved. These parties would include State and local governments and local stakeholders. This ensures that local voices will be heard.

Mr. Chairman, I cannot emphasize enough how important I think this legislation is. I am a cosponsor of the legislation. It passed the House in previous Congresses on a bipartisan basis. I urge my colleagues to vote ''yes'' on H.R. 1937. I thank Mr. AMODEI for his thoughtful consideration of this bill.

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

I would just like to point out that the proponent of the bill has said—I believe it was the National Research Council—that all minerals and products could be or could become critical to some degree. That is really what they said, but let's be clear what this bill says and what the National Research Council's definition is. That is, really, what we are talking about, and we are going to discuss that later on.

Just what is the definition?

In the bill that we see before us, in terms of strategic and critical minerals, the term ''strategic and critical'' means minerals that are necessary for national defense and national security requirements—there certainly are some of those—for the national energy infrastructure, including pipelines, refining capacity, electrical power generation, and transmission and renewable energy products, for supporting the domestic manufacturing of any mineral for agriculture, housing, telecommunications, health care, transportation and infrastructure, or for the Nation's economic security and balance of trade. For that reason, they are saying let's shorten the process, eviscerate NEPA—the National Environmental Policy Act—and let's expedite this process.

I ask you: What mineral is not included in this definition? They are including everything.

Let's see what, in actuality, the National Research Council said. They published the report in 2008. It was called: ''Minerals, Critical Minerals, and the U.S. Economy,'' and it defined what should be our definition of strategic and critical minerals.

It states: ''To be 'critical,' a mineral must be essential in use.'' We agree. They talk about strategic, and those proponents talk about essential minerals; but the National Research Council also says: ''To be considered 'critical and strategic,' it must be subject

to supply restriction.'' We do not see anything in this bill about supply restriction.

Therefore, what it is is a blank check for mining companies to mine anywhere, to have an expedited process so as not to protect communities; and I think that is a great mistake and takes us the wrong way and is exactly the opposite of what the National Research Council has called for.

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

Mr. LAMBORN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. GOSAR), who is also a member of the Natural Resources Committee.

Mr. GOSAR. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 1937, the National Strategic and Critical Minerals Production Act.

This commonsense legislation will streamline the permitting process and allow for better coordination amongst the relevant State and Federal agencies in order to foster economic growth, create jobs, and ensure a robust domestic supply of strategic and critical minerals.

People have been digging in Arizona for precious metals for centuries. In the 1850s, nearly one in every four people in Arizona was a miner. Without a doubt, mining fueled the growth that makes Arizona the State it is today. In fact, it is part of the five Cs that built Arizona with copper.

□ 1345

Today, the Arizona mining industry is alive. Minerals such as copper, coal, gold, uranium, lime, and potash are still mined throughout my district, but not at the levels they used to be.

These projects employ hundreds of my constituents with high-paying jobs, jobs that pay over $50,000 to $60,000 a year, plus benefits. In rural Arizona, these types of jobs are few and far between.

As I meet with companies that do business throughout my State, the message is clear: we could do better. The length, complexity, and uncertainty of the permitting process is stymieing development and discouraging investors from committing to U.S. mining.

The folks on the ground tell me that because of regulatory excessive overreach by the Federal Government and the cumbersome permitting process, that it can take as long as 10 years. It is becoming a bad business decision to even attempt to get a new U.S. mine off the ground, despite a bountiful supply of domestic resources. We must correct this problem and prevent more American jobs from leaving America.

Rare earth and other critical minerals have been discovered throughout rural Arizona, have been the main economic driver and provider of jobs for communities that otherwise probably wouldn't make it at all. The critical minerals produced in these areas are resources our country badly needs to meet the demand for production of everyday items like cell phones, computers, batteries, and cars.

Let's lessen our dependency on importing critical minerals from countries like China and restore some sanity to our permitting and regulatory process so we can get American miners back to work. Imagine our slogan, ''Made in the USA with materials mined in the USA.'' Now, that is what this bill is all about.

I applaud Mr. AMODEI for his leadership on this critical issue and urge my colleagues to vote ''yes'' on H.R. 1937.

Mr. LOWENTHAL. Mr. Chair, I yield 2 minutes to the gentleman from Georgia (Mr. JOHNSON).

Mr. JOHNSON of Georgia. Mr. Chair, today we are debating yet another Republican bill restricting access to the courts to only those with deep pockets. H.R. 1937 continues the alarming trend of Republican-sponsored legislation that proposes to limit the average American's access to the courts so businesses that line the pockets of these politicians with campaign contributions can continue to profit.

Misleadingly disguised as a bill stimulating the increased production of strategic minerals, this legislation is actually about shielding the mining industry's poor environmental practices from accountability to victims while simultaneously disenfranchising mining-impacted communities.

H.R. 1937 allows regulators to exempt mining projects from the Equal Access to Justice Act, EAJA. The EAJA allows average Americans access to legal representation to protect their communities. Without EAJA, impacted communities cannot afford lawyers, much less the litany of scientific and technical experts needed to mount a serious challenge to a multinational mining company. This exemption cripples the ability of those concerned with environmental protection to seek representation and redress in the courts.

For that reason, I urge my colleagues to vote ''no'' on this bill and preserve justice for all.

Mr. LAMBORN. Mr. Chair, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG), a senior member of the Natural Resources Committee.

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

Mr. YOUNG of Alaska. Mr. Chair, I am very proud of this bill, and I am a sponsor of this bill, and no one is lining my pockets. I resent that comment. I am thinking of the United States of America and how we are importing these 31 known minerals and the process that we have to go through to mine our own natural resources in our great Nation.

It impedes our capability to be secure, regardless of what one might say. You just don't do this overnight. You have to have time to develop, especially the rare earths. The rest of the minerals we are importing using outside people, countries to import those products from, which we live with. We have people in this Congress and across this place who say we don't need it. We have to follow the example.

By the way, if a miner tries to develop a mine, you have to go through so many different permits; and then when you get done, guess what we have. The lawyers from the big, big environmental organizations like the Safari Club, Sierra Club, and Friends of the Earth, all 58 different groups, file suit by a legal body that impedes the progress for this Nation.

We cannot continue to import all which we need to have this living style we have today, yet that is what a lot of people on that side of the aisle insist upon.

This is a good bill. Mr. AMODEI thought about this bill. How do we retain our security? But more than that, how do we keep jobs within the United States? His comment is ''made in the United States by resources mined in the United States.'' That is what we should be looking at as this Congress instead of following, I call it, the blind piper: We don't need to drill our oil; we will buy it from abroad. We don't need to mine our minerals; we will buy it from abroad. And, by the way, we will ship our jobs overseas, and we will be further in debt $18 trillion.

We need our resources. That is what made this Nation great. Everything in this room, in these hallowed Halls, this body came from the earth. It was mined, it was cut, it was manufactured from the earth. Why should we buy it from abroad?

Let's be American. Let's mine for our resources. Let's cut our trees for our resources. Let's build our resources. As it says right up there: ''Let us use our resources God has given for the benefit of mankind.'' If we don't do that, we are abusing the job we have here.

Mr. LOWENTHAL. Mr. Chair, I yield myself such time as I may consume.

I would really like to discuss in a little bit more detail the idea that the permitting process is so onerous, that it takes so long to do it.

In 2012, 2013, and 2014, let's talk about the last 3 years of permitting of mines, of plans of operation, what really is the data? I will tell you that of all the plans of operation that were approved in 2012, 93 percent of them were done in 3 years or less; in 2013, 79 percent were done in 3 years or less; and in 2014, it was 68 percent. In summary, in the last 3 years, close to 80 percent of all plans of operation were permitted in less than 3 years. So we are not talking about an onerous time.

Also, let us remember that the same bill was twice introduced last year. It was twice introduced in the last session, and it was also introduced once in the 112th Congress. It never got taken up in the Senate.

This bill, if it ever did get through, let's see what the administration says. I read to you a Statement of Administration Policy:

''The Administration strongly opposes H.R. 1937, which would undermine existing environmental safeguards for, at a minimum, almost all types of hardrock mines on Federal lands. Specifically, H.R. 1937 would undermine sound Federal decision-making by eliminating the appropriate reviews under the National Environmental Policy Act if certain conditions are met, circumventing public involvement in mining proposals, and bypassing the formulation of alternatives to proposals, among other things. The Administration also opposes the legislation's severe restrictions on judicial review. Although the legislation purports to limit litigation, its extremely short statute of limitations and vague constraints on the scope of prospective relief that a court may issue are likely to have the opposite effect.

''The Administration strongly supports the development of rare earth elements and other critical minerals, but rejects the notion that their development is incompatible with existing safeguards regarding the uses of public lands, environmental protection, and public involvement in agency decision-making.''

If we are really concerned about updating this old law, let's work together and come up with a better definition of what is a critical and strategic mineral and let us not eviscerate the environmental protections and the public participation which we now afford people.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I include in the RECORD an exchange of letters between Chairman BISHOP and Chairman GOODLATTE of the Judiciary Committee on this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, 28 July 2015.

Hon. ROBERT GOODLATTE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: On July 9, 2015, the Committee on Natural Resources ordered favorably report H.R. 1937, National Strategic and Critical Minerals Production Act of 2015. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on the Judiciary.

I ask that you allow the Committee on the Judiciary to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support having the Committee on the Judiciary represented on the conference committee. Finally, I would be pleased to include this letter and your response in the bill report filed by the Committee on Natural Resources to memorialize our understanding, as well as in the Congressional Record when the bill is considered by the House. Thank you for your consideration of my request, and for your continued strong cooperation between our committees.

Sincerely,

ROB BISHOP,
Chairman,
Committee on Natural Resources.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 28, 2015.

Hon. ROB BISHOP,
Chairman, Committee on Natural Resources, Washington, DC.

DEAR CHAIRMAN BISHOP, I am writing with respect to H.R. 1937, the ''National Strategic and Critical Minerals Production Act of 2015,'' which the Committee on Natural Resources recently ordered reported favorably. As a result of your having consulted with us on provisions in H.R. 1937 that fall within the Rule X jurisdiction of the Committee on the Judiciary, I agree to discharge our Committee from further consideration of this bill so that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 1937 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and asks that you support any such request.

I would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during Floor consideration of H.R. 1937.

Sincerely,

BOB GOODLATTE,
Chairman.

Mr. LAMBORN. Mr. Chair, I yield 3 minutes to the gentleman from Utah (Mr. BISHOP), chairman of the Natural Resources Committee.

Mr. BISHOP of Utah. Mr. Chair, they once asked the famous spitball pitcher Gaylord Perry if he put a foreign substance on the ball, and he calmly answered: No. Vaseline is 100 percent American product.

We used to only have to import a handful of rare earth minerals in this country, like eight. Today, we are importing dozens of them because we have, with this administration, a policy of trying to stockpile these resources. Hopefully, when we get through them, we will be able to find some other country that can help us to resupply those resources, kind of like Blanche in ''A Streetcar Named Desire,'' where we are dependent on the kindness of strangers at all times.

Would it not be wiser for us simply to have a consistent policy where we actually have a workforce that is developing, on a regular basis, these rare earth minerals that we can have for our use so that we can have the jobs from them, it can help our economy, and it could give us the security we desperately need? We don't need to keep importing stuff into this country. I mean, we imported the Expos from Montreal to here in Washington. That should be sufficient. That is enough.

I read an article the other day about mining rare earth minerals in the Democratic Republic of the Congo where rare minerals, necessary for iPhones and the Samsung Galaxy phones, were being produced. Miners used their bare hands to filter out the minerals in order to earn a whopping $5 a day. If the miners use their hands to find the rare minerals, how do you think they handled environment protections and how do you think they reclaimed these projects?

What we need desperately is to use 21st century technology and pay our labor force 21st century wages to produce the strategic and critical minerals that are necessary for our way of life and not be dependent on other countries for these minerals and not take advantage of their miners. This is a no-brainer. Let's do the right thing. As Satchel Paige said: Just throw strikes. Home plate don't move.

We know what we are doing. Pass this bill. It is a good bill.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. The Chair notes a disturbance in the gallery in contravention of the law and rules of the House.

The Sergeant At Arms will remove those persons responsible for the disturbance and restore order to the gallery.

Mr. LOWENTHAL. Mr. Chair, I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BENISHEK), who is also a member of the Committee on Natural Resources.

Mr. BENISHEK. Mr. Chair, I rise today in strong support of H.R. 1937, the National Strategic and Critical Minerals Production Act.

Over the past several decades, our Nation has lagged far behind much of the world in the development and extraction of domestic mineral resources. Falling behind on this front has made our Nation dependent on foreign sources of many vital mineral resources that our economy and national defense need to continue functioning.

Falling behind has also led to the loss of good-paying jobs throughout the country. We have seen this in my district in northern Michigan in the mines that have shut down and the mines that have not been permitted. There is a mine in the western part of my district that has been over 10 years in the permitting process and is still not near open. These jobs are critically needed in my district.

The mines of the U.P. have served our country in times of need, providing many of the raw minerals that we have needed for national defense. If the resources that we have beneath our feet were needed today, these mines would have to go through a significant permitting process that would likely take almost 20 years.

While I support making sure that we behave in an environmentally responsible manner, it is ridiculous that overly burdensome Federal regulations are keeping us from being competitive in the world economy. This bill will cut through some of the bureaucratic red tape that is holding our economy back, leading to a nation that is less dependent on foreign resources for vital natural resources and creating jobs.

I urge all my colleagues to support the responsible development of our domestic natural resources and to vote in favor of this commonsense and long-overdue legislation.

□ 1400

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

Mr. LAMBORN. Mr. Chairman, I yield 5 minutes to the gentleman from the Silver State, Nevada (Mr. AMODEI), a former member of the Committee on Natural Resources and the author of this bill.

Mr. AMODEI. Mr. Chairman, God forbid we place dealing with bedrock American issues ahead of the culture of political cliche. It is always nice to be informed of what the status is in the Intermountain West by people from towns that end in the name ''Beach.''

I find it incredibly interesting that we have heard on several occasions that the administration's average for the supermajority of applications is 36 months or less and how we need to work together on things when the legislation on the floor right now calls for a 30-month timeframe, which is extendable, by the way, with the consent of both parties.

So instead of, Well, let's have an amendment to make it 36 months and put this on the suspension calendar, we are subjected to ''This is bad'' and ''It disenfranchises the public'' and all that.

Let's talk about what this is really about. There is an old saying in the law: When you have got the facts, you argue the facts. When you have got the law, you argue the law. When you don't have either, you just argue.

Here we are. Because everybody in the room knows, depending on what side of the issue you are on, the big tool in this thing is, if we can outwait them, the capital will go elsewhere. Guess what. The folks that believe in that are winning.

When we talk about those bedrock American issues, things like jobs, things like public participation—you know, 30 months, that is longer than we get to hang out here after the people of our district give us their voting card. That is longer—used to be—than somebody would take to try to talk you into voting for them for Governor or President.

Nobody can accuse this legislation, at 2½ years, extendable by stipulation, of forcing the public to sit on their hands. Jobs, participation of the public, balance of trade, that is not important.

I mean, why should we be concerned about balance of trade and exporting the minerals that this country is wealthy with? You want to talk about abandoned mines? In my State, those folks happen to be doing a great job. If you want to talk about the culture of the 1870s, yeah, but it has come a long way.

God forbid, when we talk about paying your fair share, in my State, the industry pays north of $80,000 a year. Those people pay Federal income taxes. They buy goods and services that are federally taxed: gasoline, tires, all that stuff. But, no, let's send those jobs overseas where none of that happens. None of that happens. That is smart policy. I simply disagree.

God forbid we talk about commercial supplies, national security, strategic supplies. Other speakers have talked about that. This is not some dream job for the minerals extraction industry.

Oh, by the way, let's not look at the folks down in the Palmetto State right now who are experiencing phenomenal floods that might need materials to kind of rebuild their State.

God forbid we talk about sand and gravel for those folks in the Golden State after the Loma Prieta earthquake and they needed to rebuild things called freeways lickety-split.

This is not about supplying sand for your kid's sandbox. This is not about gravel for your driveway in your subdivision. This is about having flexibility to address issues that are mineral related. Because you know what, nobody has called this place, regardless of who is running it, nimble.

When one of these issues comes up, God forbid you give them: That is right, folks. Hang on to your hats. Thirty months to try to get the permission from the Federal Government to extract minerals on that.

With all due respect, what this is all about is: Do you continue to let folks who are opposed to things try to starve them out and wait and wait and wait until the capital goes elsewhere or do you take the folks and the administration's word: Nice job. Takes you 36 months? You want us to change it to 33 months and put it on the suspension calendar? I will do it. But short of that, me thinks thou doth protest too much.

I solicit your earnest support, and I am looking forward to the Senate work on it this time because we are nimble compared to those folks on the north end of the building.

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

Mr. LAMBORN. Mr. Chairman, I am prepared to close.

I reserve the balance of my time.

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

In closing, we have heard in this discussion that we should have a sweeping definition, every mineral should be under the definition of a critical mineral, and that we should not be beholden to foreign sources if we don't do that. Well, I agree in many ways. We should not be.

This bill doesn't really deal with that issue because, if the authors were really concerned about restrictions to the supply, they would make the definition of ''critical'' and ''strategic minerals'' much narrower. We would not give up our environmental protections. We would not give up our public participation. We would not give up our legal protections when, in fact, there is no danger to the Nation's supply of this mineral.

The problems are really that we are now broadly including everything under this definition, and the bill that is in the Senate under—I think it is Senator MURKOWSKI—has a much more limited definition of what is a strategic and critical mineral.

I urge the authors here, the proponents, to really amend this bill so that we can all work together on this to really restrict the two very specific occasions of when we would enable a change in the protections that we already have under NEPA. Right now, everything is included. This eviscerates all of our protections. I urge a ''no'' vote.

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

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

In closing, much has been debated here on the floor about what is strategic and what is not strategic. Let me suggest two ways that you could define strategic minerals.

You could define it by making a definition so narrow that, in effect, the legislation picks winners and losers or you could write law that says that certain conditions that require certain elements will be the driver of what is strategic and critical. That means the marketplace will decide what is strategic and critical.

I think that is a much better approach when I talk about this because I recall hearing that, in the late 1890s, the U.S. Patent Office issued a statement—I think I have this correct here—saying that we ought to close down the U.S. Patent Office because everything that can be invented has been invented.

That was in the 1890s. That was before airplanes. That was before cars were commercially available. That was before most telecommunications. This means all the minerals that go into these things weren't even thought of at that time.

What we do in this bill is just very straightforward. We say that the strategic and critical minerals will meet any of the following four criteria—and, by the way, you can find these on page 5, section 3, under ''Definitions'':

A, for national defense and national security. That is so evident, it hardly needs to be debated.

B, for the Nation's energy infrastructure, including pipelines and refining. That is because of the importance of energy. That certainly should not be debated because we have to have a good energy source if we are going to have a growing economy.

Also, C, to support domestic manufacturing. That includes, obviously, agriculture and housing as well. In other words, to support our economy. Doesn't that make good sense to have a source of strategic and critical minerals for that?

Finally, D, for the Nation's economic security and balance of trade. That

makes such good sense because we are seriously out of balance now with China.

This approach is more of a long-term solution because 25 years from now there will be a mineral that somebody will find that will be used for new technology. But if we have defined it so narrowly, as the other side would suggest, that we don't know what that technology is, we have, in fact, been picking winners and losers, and that is the wrong approach.

The right approach is what is embodied in this bill to say that these four conditions will be the ones that define strategic and critical minerals.

Finally, let me close on this: Some people make fun of sand and gravel as being strategic. I guarantee you that, after a major earthquake in northern or southern California, when the freeways collapse, I can tell you that cement and sand and gravel will absolutely fit that definition.

In this bill, strategic and critical minerals are not defined, as some have suggested, as all minerals all the time. Instead, H.R. 1937 allows any mineral to be deemed strategic and critical at a given time when the appropriate situation warrants it. This is vital to protecting our economy, our jobs, and our way of life.

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

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule, and shall be considered as read.

The text of the bill is as follows:

H.R. 1937

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Strategic and Critical Minerals Production Act of 2015''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The industrialization of developing nations has driven demand for nonfuel minerals necessary for telecommunications, military technologies, healthcare technologies, and conventional and renewable energy technologies.

(2) The availability of minerals and mineral materials are essential for economic growth, national security, technological innovation, and the manufacturing and agricultural supply chain.

(3) The exploration, production, processing, use, and recycling of minerals contribute significantly to the economic well-being, security and general welfare of the Nation.

(4) The United States has vast mineral resources, but is becoming increasingly dependent upon foreign sources of these mineral materials, as demonstrated by the following:

(A) Twenty-five years ago the United States was dependent on foreign sources for 45 nonfuel mineral materials, 8 of which the United States imported 100 percent of the Nation's requirements, and for another 19 commodities the United States imported more than 50 percent of the Nation's needs.

(B) By 2014 the United States import dependence for nonfuel mineral materials increased from 45 to 65 commodities, 19 of which the United States imported for 100 percent of the Nation's requirements, and an additional 24 of which the United States imported for more than 50 percent of the Nation's needs.

(C) The United States share of worldwide mineral exploration dollars was 7 percent in 2014, down from 19 percent in the early 1990s.

(D) In the 2014 Ranking of Countries for Mining Investment (out of 25 major mining countries), found that 7- to 10-year permitting delays are the most significant risk to mining projects in the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) STRATEGIC AND CRITICAL MINERALS.—The term ''strategic and critical minerals'' means minerals that are necessary—

(A) for national defense and national security requirements;

(B) for the Nation's energy infrastructure, including pipelines, refining capacity, electrical power generation and transmission, and renewable energy production;

(C) to support domestic manufacturing, agriculture, housing, telecommunications, healthcare, and transportation infrastructure; or

(D) for the Nation's economic security and balance of trade.

(2) AGENCY.—The term ''agency'' means any agency, department, or other unit of Federal, State, local, or tribal government, or Alaska Native Corporation.

(3) MINERAL EXPLORATION OR MINE PERMIT.—The term ''mineral exploration or mine permit'' includes—

(A) Bureau of Land Management and Forest Service authorizations for pre-mining activities that require environmental analyses pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) plans of operation issued by the Bureau of Land Management and the Forest Service pursuant to 43 CFR 3809 and 36 CFR 228A or the authorities listed in 43 CFR 3503.13, respectively, as amended from time to time.

TITLE I—DEVELOPMENT OF DOMESTIC SOURCES OF STRATEGIC AND CRITICAL MINERALS

SEC. 101. IMPROVING DEVELOPMENT OF STRATEGIC AND CRITICAL MINERALS.

Domestic mines that will provide strategic and critical minerals shall be considered an ''infrastructure project'' as described in Presidential order ''Improving Performance of Federal Permitting and Review of Infrastructure Projects'' dated March 22, 2012.

SEC. 102. RESPONSIBILITIES OF THE LEAD AGENCY.

(a) IN GENERAL.—The lead agency with responsibility for issuing a mineral exploration or mine permit shall appoint a project lead within the lead agency who shall coordinate and consult with cooperating agencies and any other agency involved in the permitting process, project proponents and contractors to ensure that agencies minimize delays, set and adhere to timelines and schedules for completion of the permitting process, set clear permitting goals and track progress against those goals.

(b) DETERMINATION UNDER NEPA.—

(1) IN GENERAL.—To the extent that the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies to the issuance of any mineral exploration or mine permit, the requirements of such Act shall be deemed to have been procedurally and substantively satisfied if the lead agency determines that any State and/or Federal agency acting pursuant to State or Federal (or both) statutory or procedural authorities, has addressed or will address the following factors:

(A) The environmental impact of the action to be conducted under the permit.

(B) Possible adverse environmental effects of actions under the permit.

(C) Possible alternatives to issuance of the permit.

(D) The relationship between local long- and short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(E) Any irreversible and irretrievable commitment of resources that would be involved in the proposed action.

(F) That public participation will occur during the decisionmaking process for authorizing actions under the permit.

(2) WRITTEN REQUIREMENT.—In reaching a determination under paragraph (1), the lead agency shall, by no later than 90 days after receipt of an application for the permit, in a written record of decision—

(A) explain the rationale used in reaching its determination;

(B) state the facts in the record that are the basis for the determination; and

(C) show that the facts in the record could allow a reasonable person to reach the same determination as the lead agency did.

(c) COORDINATION ON PERMITTING PROCESS.—The lead agency with responsibility for issuing a mineral exploration or mine permit shall enhance government coordination for the permitting process by avoiding duplicative reviews, minimizing paperwork, and engaging other agencies and stakeholders early in the process. For purposes of this subsection, the lead agency shall consider the following practices:

(1) Deferring to and relying upon baseline data, analyses and reviews performed by State agencies with jurisdiction over the proposed project.

(2) Conducting any consultations or reviews concurrently rather than sequentially to the extent practicable and when such concurrent review will expedite rather than delay a decision.

(d) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency with responsibility for issuing a mineral exploration or mine permit, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State and local governments, and other appropriate entities to accomplish the early coordination activities described in subsection (c).

(e) SCHEDULE FOR PERMITTING PROCESS.—For any project for which the lead agency cannot make the determination described in 102(b), at the request of a project proponent the lead agency, cooperating agencies, and any other agencies involved with the mineral exploration or mine permitting process shall enter into an agreement with the project proponent that sets time limits for each part of the permitting process, including for the following:

(1) The decision on whether to prepare a document required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) A determination of the scope of any document required under the National Environmental Policy Act of 1969.

(3) The scope of and schedule for the baseline studies required to prepare a document required under the National Environmental Policy Act of 1969.

(4) Preparation of any draft document required under the National Environmental Policy Act of 1969.

(5) Preparation of a final document required under the National Environmental Policy Act of 1969.

(6) Consultations required under applicable laws.

(7) Submission and review of any comments required under applicable law.

(8) Publication of any public notices required under applicable law.

(9) A final or any interim decisions.

(f) TIME LIMIT FOR PERMITTING PROCESS.—In no case should the total review process described in subsection (d) exceed 30 months unless extended by the signatories of the agreement.

(g) LIMITATION ON ADDRESSING PUBLIC COMMENTS.—The lead agency is not required to address agency or public comments that were not submitted during any public comment periods or consultation periods provided during the permitting process or as otherwise required by law.

(h) FINANCIAL ASSURANCE.—The lead agency will determine the amount of financial assurance for reclamation of a mineral exploration or mining site, which must cover the estimated cost if the lead agency were to contract with a third party to reclaim the operations according to the reclamation plan, including construction and maintenance costs for any treatment facilities necessary to meet Federal, State or tribal environmental standards.

(i) APPLICATION TO EXISTING PERMIT APPLICATIONS.—This section shall apply with respect to a mineral exploration or mine permit for which an application was submitted before the date of the enactment of this Act if the applicant for the permit submits a written request to the lead agency for the permit. The lead agency shall begin implementing this section with respect to such application within 30 days after receiving such written request.

(j) STRATEGIC AND CRITICAL MINERALS WITHIN NATIONAL FORESTS.—With respect to strategic and critical minerals within a federally administered unit of the National Forest System, the lead agency shall—

(1) exempt all areas of identified mineral resources in Land Use Designations, other than Non-Development Land Use Designations, in existence as of the date of the enactment of this Act from the procedures detailed at and all rules promulgated under part 294 of title 36, Code of Federal Regulations;

(2) apply such exemption to all additional routes and areas that the lead agency finds necessary to facilitate the construction, operation, maintenance, and restoration of the areas of identified mineral resources described in paragraph (1); and

(3) continue to apply such exemptions after approval of the Minerals Plan of Operations for the unit of the National Forest System.

SEC. 103. CONSERVATION OF THE RESOURCE.

In evaluating and issuing any mineral exploration or mine permit, the priority of the lead agency shall be to maximize the development of the mineral resource, while mitigating environmental impacts, so that more of the mineral resource can be brought to the marketplace.

SEC. 104. FEDERAL REGISTER PROCESS FOR MINERAL EXPLORATION AND MINING PROJECTS.

(a) PREPARATION OF FEDERAL NOTICES FOR MINERAL EXPLORATION AND MINE DEVELOPMENT PROJECTS.—The preparation of Federal Register notices required by law associated with the issuance of a mineral exploration or mine permit shall be delegated to the organization level within the agency responsible for issuing the mineral exploration or mine permit. All Federal Register notices regarding official document availability, announcements of meetings, or notices of intent to undertake an action shall be originated and transmitted to the Federal Register from the office where documents are held, meetings are held, or the activity is initiated.

(b) DEPARTMENTAL REVIEW OF FEDERAL REGISTER NOTICES FOR MINERAL EXPLORATION AND MINING PROJECTS.—Absent any extraordinary circumstance or except as otherwise required by any Act of Congress, each Federal Register notice described in subsection (a) shall undergo any required reviews within the Department of the Interior or the Department of Agriculture and be published in its final form in the Federal Register no later than 30 days after its initial preparation.

TITLE II—JUDICIAL REVIEW OF AGENCY ACTIONS RELATING TO EXPLORATION AND MINE PERMITS

SEC. 201. DEFINITIONS FOR TITLE.

In this title the term ''covered civil action'' means a civil action against the Federal Government containing a claim under section 702 of title 5, United States Code, regarding agency action affecting a mineral exploration or mine permit.

SEC. 202. TIMELY FILINGS.

A covered civil action is barred unless filed no later than the end of the 60-day period beginning on the date of the final Federal agency action to which it relates.

SEC. 203. RIGHT TO INTERVENE.

The holder of any mineral exploration or mine permit may intervene as of right in any covered civil action by a person affecting rights or obligations of the permit holder under the permit.

SEC. 204. EXPEDITION IN HEARING AND DETERMINING THE ACTION.

The court shall endeavor to hear and determine any covered civil action as expeditiously as possible.

SEC. 205. LIMITATION ON PROSPECTIVE RELIEF.

In a covered civil action, the court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of a legal requirement, and is the least intrusive means necessary to correct that violation.

SEC. 206. LIMITATION ON ATTORNEYS' FEES.

Sections 504 of title 5, United States Code, and 2412 of title 28, United States Code (together commonly called the Equal Access to Justice Act) do not apply to a covered civil action, nor shall any party in such a covered civil action receive payment from the Federal Government for their attorneys' fees, expenses, and other court costs.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. SECRETARIAL ORDER NOT AFFECTED.

Nothing in this Act shall be construed as to affect any aspect of Secretarial Order 3324, issued by the Secretary of the Interior on December 3, 2012, with respect to potash and oil and gas operators.

The CHAIR. No amendment to this bill is in order except for those printed in House Report 114–301. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. LOWENTHAL

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 114–301.

Mr. LOWENTHAL. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, strike lines 1 through 15 and insert the following:

(1) STRATEGIC AND CRITICAL MINERALS.—The term ''strategic and critical minerals''—

(A) except as provided in subparagraph (B), means—

(i) minerals and mineral groups identified as critical by the National Research Council in the report titled ''Minerals, Critical Minerals, and the U.S Economy'' and dated 2008; and

(ii) additional minerals identified by the Secretary of the Interior based on the National Research Council criteria in such report; and

(B) does not include sand, gravel, or clay.

Page 5, line 25, after ''ties'' insert ''for strategic and critical minerals''.

Page 6, line 3, after ''operation'' insert ''for strategic and critical mineral mines''.

The CHAIR. Pursuant to House Resolution 481, the gentleman from California (Mr. LOWENTHAL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. LOWENTHAL. Mr. Chair, I yield myself such time as I may consume.

Mr. Chairman, my amendment would fix a critical problem with this bill, namely, that the name of the bill doesn't match the substance of the bill.

When you read the title, you would think this bill has something to do with critical and strategic minerals, but, in fact, as currently written, the bill would define practically every mined substance—and that is every mined substance in the United States—as being strategic and critical. Sand, gravel, gold, copper, clay, all of these, are strategic and critical under this bill, and I think that is going too far.

In fact, I am still waiting for someone to explain to me what mineral wouldn't fall under the definition of this bill. Certainly none of the witnesses at our June Committee on Natural Resources could name one.

The National Research Council published a 2008 report called ''Minerals, Critical Minerals, and the U.S. Economy,'' and it states: To be critical, a mineral must be both essential in use and subject to supply restriction.

They go on to point out some specific examples of minerals that are essential, but not critical, such as copper, iron ore, and construction aggregates, such as sand and gravel, except that this bill would completely ignore the National Research Council and many other organizations that know what criticality means and define all of these—copper, iron ore, sand, gravel, and more—as strategic and critical minerals.

There is no doubt that these minerals are essential, but they are widely produced in the United States, and there is no danger of a break in the supply chain. Let me state that again. There is no danger of a break in the supply chain.

Let's talk about the sand and gravel that was just mentioned before. There are roughly 6500 sand and gravel quarries in the United States. We are not

going to run out of gravel by not permitting one more gravel mine.

Gravel is important, but no one from the National Research Council or the Department of Energy or any organization that knows the real definition of critical minerals would consider sand and gravel to fall in that category, period, end of discussion.

My amendment would ensure that the scientifically vetted definition determined by the NRC is what the Secretary of the Interior uses to assess the criticality of minerals to be mined under this bill. It would ensure that the bill actually addresses the intent that is suggested by its own title: critical minerals.

□ 1415

It puts no time limits on the identification of these minerals. So, as conditions change over time, the Secretary would be able to add or remove items from the list of critical minerals, as necessary.

Republicans in the Senate understand this. Senator MURKOWSKI, the chair of the Energy and Natural Resources Committee, which oversees mining, has introduced a bill that requires a methodology for determining which minerals would qualify as critical.

That methodology is to be based on an assessment of—I quote in her bill—''whether the materials are subject to potential supply restrictions and also important in use.''

I may not agree with everything that is in Senator MURKOWSKI's bill, but I believe that she at least understands the definition of a critical mineral and is making a serious attempt to expand the production of minerals that are actually critically important and strategic.

But without my amendment, this bill is just a guise for mining interests to loosen public review, judicial review, and environmental protections for all hardrock mining.

I urge my colleagues to support my amendment.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I rise in opposition to this amendment.

The CHAIR. The gentleman from Colorado is recognized for 5 minutes.

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

In response, I just have to say one word: earthquake.

During the 2008 Great Southern California ShakeOut, which studied and analyzed the potential effects of a major earthquake, the USGS discovered that there would be a shortfall of building materials, namely, sand and gravel, if there was a major earthquake, God forbid, causing significant damage in the L.A. basin and the surrounding areas.

This amendment, if we accept it, would preclude that sand and gravel would be defined as critical, hindering expedited development of these resources.

Furthermore, by explicitly excluding sand, gravel or clay, this amendment is at fundamental odds with the National Research Council study—I have quoted it earlier—which stated: ''All minerals and mineral products could be or could become critical to some degree, depending on their importance and availability.''

The California Geological Survey recently released information forecasting a continuing shortage in California of permitted aggregate resources so as to meet only one-third of demand over the next 50 years in the State of California.

So we have a shortage coming, whether people like it or not, and that is without a major earthquake. Once again, God forbid.

The bill, as currently structured, does allow the market and the Nation's needs to define a mineral as critical, thereby allowing the flexibility necessary for carrying out the provisions of the act.

However, this amendment would hinder the efficiency and fluidity this bill seeks to inject into the permitting process for critical and strategic minerals by imposing an extra bureaucratic determination to be made by the Secretary of the Interior. It also picks winners and losers in the mining industry.

So for those reasons, Mr. Chairman, I urge opposition to this amendment.

I yield back the balance of my time.

Mr. LOWENTHAL. Mr. Chairman, I would just like to say, in conclusion, that we are talking about a definition of critical and strategic minerals that comes from the NRC, or the National Resource Council, that really talks about things that are essential.

But it also says that, to be declared critical, it must have a danger of disruption in the supply chain. We must have a limit to where we can access other materials.

As it was just pointed out, what happens if there is an earthquake in Southern California? God help us. Let's hope that there is not going to be an earthquake in Southern California. And there is a limitation on the supply.

I would like to urge us to say that the Secretary has the ability to change what is on that list or not under my amendment.

I urge support of my amendment.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from California (Mr. LOWENTHAL).

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

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

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 2 OFFERED BY MRS. DINGELL

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 114–301.

Mrs. DINGELL. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Beginning at page 7, strike line 5 and all that follows through page 8, line 18, and insert the following:

(b) TREATMENT OF PERMITS UNDER NEPA.—Issuance of a mineral exploration or mine permit shall be treated as a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

Beginning at page 9, strike line 19 and all that follows through page 12, line 21.

The CHAIR. Pursuant to House Resolution 481, the gentlewoman from Michigan (Mrs. DINGELL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Michigan.

Mrs. DINGELL. Mr. Chairman, I yield myself as much time as I may consume.

There are several troubling positions in this legislation, many of which my other colleagues have already addressed this afternoon. But I am particularly concerned with how H.R. 1937 treats the National Environmental Policy Act, or NEPA, as it has become known.

If this bill were to become law, public comment would be severely limited and, in some instances, a proper environmental review may not be conducted at all.

The underlying bill employs a functional equivalence standard, which would permit the lead agency to circumvent a NEPA review if other agencies have performed reviews that are determined to be equivalent. There are several problems with this approach.

First, it is not clear that the six factors listed in the bill compromise all that a NEPA document would explore. So if functional equivalence was applied, the public may not have the complete story about the environmental impacts of a specific project.

Second, case law demonstrates that functional equivalence has historically not been extended to other agencies beyond the EPA because they are simply not equipped to do that kind of work.

That is why the committee heard testimony earlier this year that this provision ignores Congress' choices in NEPA, as well as the judiciary's struggle with functional equivalence.

My amendment strikes the functional equivalence provisions and replaces it with the language that makes it clear that all mine explorations or mine permits are major Federal actions and would require an environmental impact statement under NEPA.

It is well known that hardrock mining can have adverse health impacts, and these projects deserve a formal environmental review.

NEPA has a simple premise: Look before you leap. This landmark law gives the public an opportunity to review and comment on actions proposed by

the government, adding to the evaluation process unique perspectives that highly specialized, mission-driven agencies might otherwise ignore.

We should be preserving and protecting this important tool for public participation rather than undermining it.

I urge my colleagues to support the Dingell amendment.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I rise in opposition to this amendment.

The CHAIR. The gentleman from Colorado is recognized for 5 minutes.

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

I would urge rejection of this amendment because it would make the permitting process for critical and strategic minerals even worse than it currently is. It is already 7 to 10 or more years. It is dead last in the 25 major mineral-producing countries in the world, according to that recent study we cited earlier.

This amendment would strike several key sections of the bill, including the NEPA provisions, the expedited schedule provision, the time limit provision, and the applicability of this law to existing permit application provision.

First, this amendment seeks to remove the NEPA provisions. Our provision does not sidestep or avoid the NEPA process in any way; rather, it codifies a judicial determination for NEPA known as the functional equivalence doctrine.

This doctrine provides that, when an agency action, whether State or Federal, has addressed the substantive requirements of NEPA, such action may be substituted as sufficient rather than having to prepare an entirely new and duplicative environmental study.

This amendment rejects the functional equivalence doctrine and mandates that the issuance of every mineral exploration or mine permit constitutes a ''major Federal action,'' thereby requiring the development of costly and time-consuming environmental impact statements, regardless of a proposed project's size.

Furthermore, this amendment strikes the provisions of the bill that requires the authorizing agency to develop a schedule for the permit process, and it removes the 30-month time constraints that would be put on said authorizing agency.

In other words, it restores the current 7- to 10-year permit process that plagues the mining industry and the production of jobs and the growth of our economy.

Let me mention one thing about automobile manufacturing in particular. An automobile contains rare earths for magnets, copper, aluminum, platinum, and many other critical minerals and elements.

According to Rare Earth Technology Alliance, the average hybrid car contains 61 pounds of rare earth metals. So it is important that we pass this bill.

This amendment unfortunately guts the bill. I would urge opposition to it.

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

Mrs. DINGELL. Mr. Chairman, I want to quickly respond to some of the points made by my friends on the other side of the aisle.

I do recognize the importance of those metals in auto production. It is important to me. But this bill isn't going to impact them.

To be frank, I think this bill is a solution in search of a problem. NEPA is often a scapegoat for permitting delays, but this does not hold up when you closely examine the facts.

In fact, since 2008, the approval time for hardrock mines has decreased. Last year the average time it took to approve a plan of operations for a hardrock mine was 17 months—17 months—not 10 years.

I want jobs as much as my colleagues do on the other side of the aisle, but I want to protect people. Project complexity, local opposition, and the lack of funding are almost always the culprits for a project being delayed, but everybody wants to blame NEPA unfairly.

Hardrock mines could pose significant threats to public health, water, and the environment. We must ensure that every mining application is properly reviewed under NEPA, as my amendment proposes.

I urge my colleagues to support this amendment.

I yield back the balance of my time.

Mr. LAMBORN. Mr. Chairman, I just want to remind us all that America has a plentiful supply of rare earth elements, but there are roadblocks to developing them, such that China produces 97 percent of the world's supply and there are at least 19 unique minerals that the U.S. has zero supply of.

So if we continue the current regime of 7 to 10 years to permit a mine project—and that is what will happen if we don't pass this bill—then we are going to be dependent on other countries and automobile and all kinds of manufacturing will be affected.

The 2014 ranking of countries for mining investment, out of the 25 major mining companies, found that the delays that we have in this country are the worst in the world; yet, we have such tremendous resources if we were only to use them.

So I think this bill is a good faith and reasonable effort to strike the balance between proper environmental protection by keeping functional equivalence and, yet, producing the minerals that will give us the jobs we need.

Mr. Chairman, I urge rejection of this amendment.

I yield back the balance of my time.

□ 1430

The CHAIR. The question is on the amendment offered by the gentlewoman from Michigan (Mrs. DINGELL).

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

Mrs. DINGELL. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Michigan will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. CARTWRIGHT

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 114–301.

Mr. CARTWRIGHT. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Beginning at page 14, line 1, strike title II.

The CHAIR. Pursuant to House Resolution 481, the gentleman from Pennsylvania (Mr. CARTWRIGHT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. CARTWRIGHT. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, just off the floor of the House of Representatives, steps outside the door, we have a magnificent statue of one of our Founding Fathers, Thomas Jefferson.

Thomas Jefferson said: ''I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution.''

The amendment I offer today, Mr. Chair, ensures that an important right of the American people is preserved: the right to hold the government accountable for their actions, the right of ordinary Americans to go into court and hold the government accountable.

The right to challenge the government in court should not be limited to large groups that are well funded and have the financial ability to pay for a lawyer, and that is exactly what this bill would do. This right should be extended to every American citizen, every small business, every nonprofit organization regardless of the size and scope of their wallets.

Now, as a lifetime courtroom lawyer, I know the importance of being able to access the court system. For many years, I fought to make sure that ordinary Americans could have their day in court and hold wrongdoers accountable.

Access to the courts is a key right envisioned by not only Thomas Jefferson, but all of the Founding Fathers, and is protected by the Equal Access to Justice Act, the EAJA, which allows eligible individuals to recover fees and expenses from the government if they win their day in court. As a Congressman and former trial attorney, I cannot and will not stand by silently and watch this bill chip away at this American right without standing up and speaking out.

By exempting exploration and mining permits from the Equal Access to Justice Act, this bill prevents valid

claims from reaching the courts by prohibiting the government from reimbursing legal expenses to parties that win in court. This overturns 30 years of legal precedent aimed at opening the court's doors to the public.

What I can't understand is why any of my colleagues across the aisle would want to limit review of the government's actions, given the fairly consistent message we hear that government has gotten too big and continues to come up with unnecessary rules and rulings.

EAJA allows average citizens to challenge this kind of thing in court, challenge the very kind of supposed overreach that the majority always likes to talk about.

We have heard time and time again from the majority that blocking access to the courts is necessary to halt frivolous and unnecessary litigation, as if judges are incapable or lack the intellectual rigor to be able to figure it out for themselves; but it is this bill that is frivolous and unnecessary, and the Congressional Budget Office proves it.

The Congressional Budget Office, the CBO, estimates that this bill, H.R. 1937, would reduce direct spending by less than $50,000 a year. We are throwing up a barrier to access the courts for a paltry $50,000 a year.

But the larger point is this is money that is awarded to successful claimants against the government. Why would you want to punish the successful claimants in the name of cutting down on frivolous litigation? Frivolous litigation, by definition, is claims that are so bad, they couldn't possibly win in court and never do.

The only reason I can see for the EAJA exemption in this bill is that it further solidifies industry's free pass to mine on U.S. public lands. First, this bill limits public and agency consideration by waiving the National Environmental Policy Act, NEPA, and setting unrealistic time limits. Then title II puts the nail in the coffin by eliminating the public's last opportunity to review a mine's permit by challenging it in open court.

My amendment today would strike all of title II, including the EAJA exemption, in order to maintain this vital, time-honored American public right to challenge the government's decisions in court.

I urge the adoption of this amendment.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I rise in opposition to this amendment.

The CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. LAMBORN. Mr. Chairman, this amendment strikes title II of the bill, which addresses the judicial review of agency actions relating to exploration and mine permits. This title is designed to address one of the primary contributors to the long permitting timelines and delays we have been talking about this afternoon: relentless litigation brought by environmental organizations.

Regulatory agencies routinely try to craft a lawsuit-proof NEPA document. However, that is impossible. They are going to get sued no matter what. So title II seeks to provide some certainty in the litigation process. Rather than prohibit or block litigation, it does several reasonable things:

It expedites the judicial process by requiring timely filings no later than 60 days after a final agency action. It just keeps the ball rolling. That is entirely reasonable.

It requires the court to proceed expeditiously on reaching a determination in the case. That also is entirely reasonable.

Furthermore, title II provides the project proponent a guaranteed right to intervene. If a company has invested millions or even billions of dollars in a project, they deserve an opportunity to go to court on something that could adversely impact their investment. That, too, is entirely reasonable.

Also, title II limits certain prospective attorneys' fees under the Equal Access to Justice Act. This provision affects all parties to the lawsuit, including permitholders, and has as its purpose dissuading frivolous suits that would harm the Nation's ability to provide these vital resources. That, too, is entirely reasonable.

So for those reasons, I would say, let's reject this amendment. Let's keep title II in the bill. It is essential to have a predictable and reasonable permitting timeline so that we can explore and develop these resources to make our economy stronger. I urge a ''no'' vote on this amendment.

I reserve the balance of my time.

Mr. CARTWRIGHT. Mr. Chair, I acknowledge my colleague from Colorado. However, his silence on the point I was making is deafening.

The point I made is that cutting out EAJA from this act means that you are attacking successful claims. If your point is to attack frivolous lawsuits, you don't cut out reimbursing legal fees and costs for successful claims. What are we really up to by doing that?

I yield back the balance of my time.

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

The CHAIR. The gentleman from Colorado has 3 minutes remaining.

Mr. LAMBORN. I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chair, just in answer to the gentleman's question, I would point out that what happens right now is that the EAJA is actually gamed. People can put in 15 or 20 frivolous claims, but if they have a finding on one substantial thing—and always, those lawsuits have a multitude of claims, but then one thing will be tucked in that is simply procedural that the agency forgot the deadline, it didn't have a meeting—and if the judge finds on one, then all are paid for. So they are allowed to bring frivolous actions with one substantiating claim, and it is those frivolous things that tie up and hold up development.

No one objects to the fact that sometimes the agencies are wrong. People do object to the fact that frivolous lawsuits come under the cover of one thing that is just almost inane in the whole discussion.

Mr. CARTWRIGHT. Will the gentleman yield?

Mr. LAMBORN. Mr. Chairman, I yield 15 seconds to the gentleman from Pennsylvania.

Mr. CARTWRIGHT. I have a simple question.

Name one Federal judge who has granted all of the attorneys' fees where there are 15 frivolous claims and one successful one.

I have never heard of such a thing.

Mr. LAMBORN. I yield to the gentleman from New Mexico.

Mr. PEARCE. I would be happy to respond. I will provide the documentation to the gentleman afterwards. I don't have it right here. But we see these things in New Mexico.

Mr. LAMBORN. Reclaiming my time, I will just conclude, Mr. Chairman, by saying that this amendment is not a good amendment for the bill because it guts title II.

We need some predictability in the litigation process as well as in the government bureaucratic process. This allows parties to go to court. It prevents the abuse of EAJA.

It is not the legitimate use of that law that we are after; it is the abuse of that particular law. That is why it is addressed in this bill.

I would urge a ''no'' vote.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. CARTWRIGHT).

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

Mr. CARTWRIGHT. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. PEARCE

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 114–301.

Mr. PEARCE. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike title III (page 15, beginning at line 15) and insert the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. SECRETARIAL ORDER NOT AFFECTED.

This Act shall not apply to any mineral described in Secretarial Order 3324, issued by the Secretary of the Interior on December 3, 2012, in any area to which the Order applies.

The CHAIR. Pursuant to House Resolution 481, the gentleman from New Mexico (Mr. PEARCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Chair, in the Permian Basin, which the Second District

of New Mexico falls just in the corner of that, two or three counties have tremendous assets. It is home to some of the most prolific and purest forms of potash, which is used for fertilizer, and then it also has significant oil and gas.

When I was elected to Congress in 2002, one of the first things that next year that we began to discover is that the oil and gas and potash industries have had an approximately 50-year running battle against each other. We began to try to sort through the differing opinions, working with the agency, the Interior Department, and over the next 10 approximate years, worked out an agreement with the Secretary of the Interior and the two different industries on how to both get along in the same area. That was a significant undertaking. It was a significant finding by the Interior Department and, again, took almost 10 years of very delicate negotiations. So my amendment to this bill, H.R. 1937, is simply to clarify that nothing in the bill overturns that agreement that has been reached.

Again, this agreement came under the Obama administration but dated back through the Bush administration, so it has been pretty well looked at by both sides, both parties, and has been functioning very well.

It is my desire to simply get the clarifying language that nothing in the bill is going to change that Secretarial order, and, likewise, the amendment does nothing to change the language in the bill. It is just clarifying that this is what we are going to do.

It is extremely important for New Mexico, but also for the Nation, because the potash provides the fertilizer for food sources across the Nation; but also, the oil and gas industry is providing much of the oil and gas that is coming into America's supply right now and driving down the price. The discoveries in that particular region will produce more oil and gas in one county than has been produced in the entire State for its entire history. So it is not as if these questions are insignificant.

Again, my amendment is very straightforward. It just seeks to clarify that nothing is going to affect that Secretarial order.

□ 1445

Mr. LAMBORN. Will the gentleman yield?

Mr. PEARCE. I yield to the gentleman from Colorado.

Mr. LAMBORN. We support the amendment and commend the author for offering it.

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

Mr. CARTWRIGHT. Mr. Chairman, I ask unanimous consent to claim the time that is allotted to the opposition to this amendment, although I do not intend to oppose it.

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

There was no objection.

The CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. CARTWRIGHT. Mr. Chairman, I think it is interesting that this amendment is coming up, as it has in the past, because it simply proves the point we have been trying to make.

The larger point is that this bill is simply too broad. It covers every possible mineral you could mine, including potash. I think the gentleman from New Mexico would agree that potash is not a strategic and critical mineral. It does not need the environmental review waivers that this bill would provide.

What many of my colleagues and I are saying is that potash is no different from many other minerals. The concern for southeastern New Mexico is that potash development and oil and gas drilling should be able to occur without conflict. This bill would threaten that.

Well, we want to make sure that mineral development doesn't conflict with other things as well throughout the country, like hunting, fishing, camping, grazing, recreating, conserving, and other legitimate uses. Unfortunately, this bill threatens that, and we are likely not going to grant exemptions for these purposes like we are for the oil and gas industry.

I would certainly like it if sportsmen were protected from hastily adopted and permitted sand and gravel quarries the same way you want your oil and gas drillers to be protected from hastily permitted potash mines.

Interestingly, potash is a mineral where we import over 80 percent of our supply. We are entirely self-sufficient in sand and gravel. So, by that standard, you could say that potash is more critical and strategic than sand and gravel. But the majority will allow this amendment to be adopted because it benefits oil and gas producers.

Mr. Chairman, meanwhile, the Lowenthal amendment, which takes sand and gravel out of this bill for the benefit of everyone else in this country, is likely to get voted down. I think that is unfortunate.

Mr. Chairman, I urge my colleagues to reject this amendment.

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

Mr. PEARCE. Mr. Chairman, again, this is an amendment that does not change the underlying language of the bill. It simply seeks to clarify to all parties that no change was intended and no change will occur to the existing order from the Secretary.

Mr. Chairman, I would urge everyone to support the amendment and the underlying bill.

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

The CHAIR. The question is on the amendment offered by the gentleman from New Mexico (Mr. PEARCE).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. HASTINGS

The CHAIR. It is now in order to consider amendment No. 5 printed in House Report 114–301.

Mr. HASTINGS. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add at the end the following:

TITLE ____—MISCELLANEOUS PROVISIONS

SEC. _01. LIMITATION ON APPLICATION.

This Act shall not apply with respect to a proposed strategic and critical minerals mining project unless the project proponent demonstrates that the combined capacity of existing mining operations in the United States producing the same mineral product that will be produced by the project, whether currently in operation or not, but not including mining operations for which a reclamation plan is being implemented or has been fully implemented, is less than 80 percent of the demand for that mineral product in the United States.

SEC. _02. PUBLICATION OF NOTICE REGARDING TRANSPORTATION AND SALE OUTSIDE THE UNITED STATES.

If any intermediate or final mineral product produced by a strategic and critical minerals mining project is to be transported or sold outside the United States, and the project proponent cannot demonstrate that the annual production of such product in the United States exceeds 80 percent of the demand for that product in the United States, the project proponent shall publish at least once prior notice of their intent to make such transport or sale in national newspapers or trade publications, by electronic means, or both, and on any Internet site that is maintained by the project proponent.

The CHAIR. Pursuant to House Resolution 481, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. HASTINGS. Mr. Chairman, when I saw H.R. 1937 as submitted, I agreed with the minority on the Energy and Mineral Resources Subcommittee that it was in need of a significant amendment, in particular, in the definition of ''strategic and critical minerals.''

The amendment submitted by Congressman LOWENTHAL is also a good basis and would correct the bill. However, as this has been rejected in the past, I took a less stringent approach that I believe would be a basis that would at least eliminate the most egregious aspects of the definition.

This bill addresses a real problem, which is that long permitting delays for mining projects in the United States, especially in remote or environmentally sensitive areas, can reach 7 to 10 years in some cases.

This represents a significant project risk for potential investors, which makes them historically more likely to develop projects outside of the United States when there are opportunities to produce the same mineral products.

Increasing international government scrutiny on environmental issues for mining projects outside of the United States along with civil instability in many mineral resource-rich countries

has prompted project proponents to look to the United States as a safer alternative, given that projects can be developed in a reasonable timeframe.

That said, Mr. Chairman, the majority's claims of mining permit delays for all kinds of mining projects that prompted this bill are unfounded. Last year the average time it took to approve a plan of operations for a hardrock mine was 17 months, and since 2008, the approval time has actually decreased. As of last year, the Obama administration had approved 69 percent of hardrock mines within 3 years.

Rather than addressing the problem directly with the responsible agencies, as President Obama did in his Presidential order ''Improving Performance of Federal Permitting and Review of Infrastructure Projects'' dated March 22, 2012, this bill is an end run around the permitting process, the authority of the permitting agencies, and the courts.

H.R. 1937 includes a very broad definition of ''strategic and critical minerals'' that does not take into account whether these minerals are actually in short supply in the United States. Under the definition as written, cement, and wallboard, as well as gold and diamonds would qualify. It makes one wonder if there is a strategic and critical shortage of jewelry in the United States.

The authors of this bill say that they do not wish to identify which mineral products are ''strategic and critical'' since this may change over time with changes in national priorities. Therefore, this amendment adds a simple test. This amendment requires proposed ''strategic and critical minerals'' projects to demonstrate that domestic capacity to produce strategic and critical minerals is less than 80 percent of domestic requirements. This would eliminate mineral products such as sand and gravel, which the authors claim the bill was never meant to encompass.

The amendment also requires that unless or until the domestic capacity for a ''strategic and critical mineral'' product exceeds 80 percent of domestic requirements, the public will be notified of the intent to transport or sell any final or intermediate strategic and critical mineral products outside of the United States.

Mr. Chairman, I urge my colleagues to vote in favor of my amendment.

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

Mr. LAMBORN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. LAMBORN. Mr. Chairman, I am having a little trouble understanding where this amendment is headed and what it is really trying to do. If I understand correctly, it proposes to limit export of strategic and critical minerals if the supply of those minerals is greater than 80 percent of domestic demand. As I am trying to figure that out, one thing that jumps out at me is why is 80 percent a significant milestone? It seems sort of plucked out of thin air. It seems arbitrary.

How would you measure and find that 80 percent of something that is used in many ways around the country, I am not sure how that would be done, by advertising in national newspapers or something? I am just a little unsure.

Also, the amendment appears to be internally inconsistent. On one hand, the amendment seeks to prevent the use of the bill's provisions if the supply is greater than 80 percent of domestic demands. On the other hand, the amendment says that the project proponent cannot show that production exceeds 80 percent of domestic demand, the project proponent must advertise that fact in a national newspaper, trade publications, or Web site.

I am just a little confused as to what this amendment is really trying to get at. But it does seem to be, in the final analysis, a continuation of the overregulation that has produced this problem in the first place. We have so many regulatory obstacles to producing minerals that it does take 7 to 10 years.

Now, if you take a certain slice out of that process, it may sound like a smaller period of time. But when you add in litigation and everything else that accompanies the process, it is literally 7 to 10 years, especially for hardrock mine projects that produce rare earth minerals and things like that.

There might be a few exceptions for clay or other items that are of less concern, but for hardrock mining, there is no way to avoid the 7 to 10 years, unfortunately, in our country today. This would be another example of the kind of regulation that just gums up the whole process.

So, Mr. Chairman, I would urge the rejection of this amendment.

I urge a ''no'' vote.

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

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

The CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

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

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

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

Mr. LAMBORN. 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. SIMPSON) having assumed the chair, Mr. MARCHANT, Chair 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. 1937) to require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 3:30 p.m. today.

Accordingly (at 2 o'clock and 57 minutes p.m.), the House stood in recess.

□ 1532

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MARCHANT) at 3 o'clock and 32 minutes p.m.

NATIONAL STRATEGIC AND CRITICAL MINERALS PRODUCTION ACT OF 2015

The SPEAKER pro tempore. Pursuant to House Resolution 481 and rule XVIII, 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. 1937.

Will the gentleman from Illinois (Mr. BOST) kindly take the chair.

□ 1533

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. 1937) to require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness, with Mr. BOST (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 5 printed in House Report 114–301 offered by the gentleman from Florida (Mr. HASTINGS) had been postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 114–301 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. LOWENTHAL of California.

Amendment No. 2 by Mrs. DINGELL of Michigan.

Amendment No. 3 by Mr. CARTWRIGHT of Pennsylvania.

Amendment No. 5 by Mr. HASTINGS of Florida.