unchartered waters with this administration. They have not proposed a normal Cabinet. This is not even close to a normal Cabinet.

I have never seen a Cabinet this full of bankers and billionaires, folks with massive conflicts of interest and such little experience or expertise in the areas they will oversee. Many of the nominees have philosophies that cut against the very nature of the Department to which they were nominated.

Let me give you two examples this morning: Betsy DeVos, the nominee for the Department of Education, and Andrew Puzder, nominee for the Labor Department.

First, Betsy DeVos. When you judge her in three areas—conflicts of interest, basic competence, and ideology, views on education policy—it is clear that Betsy DeVos is unfit for the job of Education Secretary.

In all three areas, ideology, competence, and conflicts of interest, she rates among the lowest of any Cabinet nominee I have ever seen. At her hearing, she didn't seem to know basic facts about Federal education law that guarantee education to students with disabilities. She didn't seem to know the basic facts of a long simmering debate in education policy measuring growth proficiency. And in her ethics agreement, which was delivered to the committee after her first hearing, it was revealed that she would keep interests in several companies that benefit from millions of dollars in contracts from the Department of Education, which she would oversee.

There was a rush to push her through—one round of questions, 5 minutes each. Why? Why did someone generally as fair as the chairman of that committee do that? My guess, an educated guess: He knew how incompetent this nominee was, how poorly she fared under normal questions, and the idea was to rush her through.

Well, that is not what we should be doing on something as important as this. And if the nominee can't withstand a certain amount of scrutiny, they shouldn't be the nominee.

The glaring concerns have led two of my Republican colleagues, the Senators from Maine and Alaska, to pledge a vote against her confirmation, leaving her nomination deadlocked at 50 to 50. I believe both of them cited the fact that in their State, charter schools are not the big issue; it is public schools. How are we going to treat public schools? Particularly in rural areas, as I am sure my friend the Presiding Officer knows, there is not a choice of schools outside the major metropolitan areas, the major cities. If you don't have a good public school, you have nothing. So particularly people from the rural States should be worried, in my judgment, about our nominee's commitment to public education.

For the first time ever, we have the chance that the Vice President and a pending Cabinet nominee, the nominee for Attorney General, Senator SESSIONS, are casting the deciding votes on a controversial Cabinet position for Betsy DeVos. Mr. President, this has never happened before.

The White House will, in effect, get two deciding votes in the Senate on a nominee to the President's Cabinet: the Vice President and the nominee for Attorney General, our friend Senator SESSIONS.

It highlights the stunning depth of concern this nominee has engendered in Republicans and Democrats alike. It is clear now that Senators of both parties agree she is not qualified to be Secretary of Education. And I would hope that my colleagues on the other side of the aisle—this is such an important position; the nominee is so laddered on issue after issue after issue that we could get someone better. I don't think it will be that hard. It will be President Trump's nominee. It will not be us deciding, but it will be someone who has basic competence, fewer conflicts of interest, and, above all, a commitment to public education.

So I urge my Republican colleagues, friends, to stand up and reject Betsy DeVos, as the Cleveland Plain Dealer urged in an editorial this morning.

This is not a normal nominee, once again. In my view, when I dipped into her record and how she performed in her brief hearing, she has not earned and should not receive the Senate's approval.

Second, the nominee for the Department of Labor, Andrew Puzder. The hearing for his nomination has now been delayed four times because he still hasn't submitted key paperwork laying out his disclosures and detailing a plan for divesting, if necessary, to avoid conflicts of interest. But that might be the least of the Senate's concerns.

This is a nominee who is being sued by dozens of former employees due to workplace violations. This is a nominee who has repeatedly attacked the minimum wage, opposed the overtime rule, and advocated for more automation and fewer jobs. He talked about—I think in very positive terms—robots and how they may run the fast food industry. This is a nominee for Secretary of Labor who not only wants workers to earn less, he wants fewer workers.

For several of these Cabinet positions, it seems the President has searched for candidates whose philosophies are diametrically opposed to the very purposes of their Departments. For Education, pick someone with no experience in public schools and has spent her career advocating against them. For Labor, pick someone who has spent his career trying to keep the wages of his employees low and advocated against policies that benefit workers.

Again, I repeat: This is not your typical Cabinet. This is highly, highly unusual.

So when my Republican colleagues come to the floor every day to complain about delays and holdups, I would remind them that this is very serious. These Cabinet officials will have immense power in our government and wield enormous influence over the lives of average Americans: their wages and the education of their children, for instance.

To spend a few more days on the process is well worth it. And if they prove unfit for the austere and powerful roles they are about to take up, then it is our responsibility, as Senators who advise and consent, to reject their nomination.

UKRAINE

Mr. SCHUMER. One final point: I want to take a moment to mention Ukraine.

Yesterday Rex Tillerson was sworn in as Secretary of State. In addition to dealing with the fallout from the President's first engagements with Australia and Mexico, I want to call the Secretary's attention to the situation in Ukraine.

Since President Trump's call with Mr. Putin last weekend, there has been a significant increase in violence. I hope Secretary Tillerson will ensure that there is a strong statement from the Trump administration condemning these escalatory actions by the Russians.

I also hope my Republican counterparts will start doing what they did last year every time this happened: Come to the floor and demand that the Senate act on tough sanctions against Russia. As I have said before, Russia remains a strategic threat to our Nation, and countering them needs to remain a deeply bipartisan effort.

Mr. President, I yield the floor.

DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF THE INTERIOR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.J. Res. 38, which the clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 38) disapproving the rule submitted by the Department of the Interior known as the Stream Protection Rule.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 6 hours of debate, equally divided in the usual form.

The Democratic whip.

NOMINATION OF NEIL GORSUCH

Mr. DURBIN. Mr. President, I listened carefully this morning to the statement made by the Republican majority leader, and I was a little bit curious as to what he was trying to say because he talked about a judicial nominee who rated unanimously ''well qualified'' by the American Bar Association, who received kudos from Republicans and Democrats alike, including Members of the Senate, who went

through the Senate without a hitch, and then he couldn't understand why there would be more questions asked now for another appointment.

I was puzzled. I thought he was talking about Merrick Garland. We remember him, don't we? Merrick Garland was, of course, President Obama's nominee to fill the vacancy on the Supreme Court.

Senator MCCONNELL this morning said repeatedly: So what has changed since the first time Judge Gorsuch came before the Senate? Senator MCCONNELL, what has changed is you, what you did when Merrick Garland's name was sent up. For the first time ever in the history of the U.S. Senate, Senator MCCONNELL denied a hearing and a vote to a Presidential nominee to the Supreme Court. It never happened before, not once in history. And if you think, well, maybe the Democrats didn't have a chance to show the same steel will, the same political determination, in the last year of his Presidency, Ronald Reagan nominated Anthony Kennedy to fill a vacancy on the Supreme Court. He sent the nomination down to the Senate. I believe Senator Biden was the chairman of the Judiciary Committee at the time. There was a Democratic majority. In the last year of Reagan's Presidency, a so-called lameduck year by Senator MCCONNELL's description, the Democratic majority in the Senate gave President Reagan the respect of honoring his constitutional responsibility to fill the vacancy and sent Anthony Kennedy to serve on the Supreme Court. So Senator MCCONNELL has asked what has changed. He has changed. He has changed the Senate.

And here is the good news for him. We are not going to forswear our own demands that a Presidential nominee for the Supreme Court is deserving of a hearing and a vote. I said that over and over again when Merrick Garland was being stonewalled by Senator MCCONNELL and the Republicans in the Senate. I will say it again. I do believe the President's nominee has a right to a hearing and a vote. That nominee also has a responsibility to show us that he is not only qualified to serve on an important appellate court but to serve with a lifetime appointment to the highest Court in the land.

On Tuesday night, President Trump announced he would nominate the Tenth Circuit Court Judge Neil Gorsuch to the Supreme Court. It is important to put that nomination in context. This is not a run-of-the-mill nomination. It is an extraordinary time in America's history. President Trump's announcement was actually supposed to happen today. Why was it sped up? Why did they hurry it up? Well, because of the avalanche of criticism being heaped on the Trump administration for their Executive orders on refugees and immigration. They had to change the subject. After dozens of legal immigrants were detained at airports over the weekend solely because of their country of origin, including children, seniors, interpreters who helped our troops, Federal courts stepped in to block the President's Executive order.

We have done some research, and we are going to do some more. We think this is the first time in the history of the United States that a new President within the first 10 days had an Executive order stopped in the Federal courts. It shows how controversial that order was, that the Federal courts would step in with this brand new President and say: Stop. This has to be weighed as to whether it is legal or constitutional.

Then on Monday there was the unprecedented firing of an Attorney General who refused to defend President Trump's unlawful Executive order in court. President Trump moved up his Supreme Court announcement to try to change the headlines. In doing so, he made it even more clear how critical it is that we have an independent judicial system, not a rubberstamp for the President. It's especially vital at this moment in our history.

President Trump and his agenda are likely to come before the Supreme Court eventually. From his violations of the Constitution's emoluments clause to his unprecedented Executive actions, President Trump is likely to keep the High Court busy. We need Justices on the Supreme Court who are truly independent.

President Trump's announcement came 10 months and 15 days after a White House announcement about another Supreme Court nominee I mentioned earlier, Judge Merrick Garland, perhaps the most well-qualified, mainstream, independent nominee to come before the Senate. Merrick Garland is a son of Illinois, a good man, and an outstanding judge. Judge Gorsuch himself once described Judge Merrick Garland as ''among the finest lawyers of his generation.''

Merrick Garland was subjected to unprecedented obstruction by Senate Republicans and Senator MCCONNELL. Republican Senators simply ignored their constitutional responsibility to consider this nomination, for political reasons. It was worse than a filibuster.

Do you remember the time when Senator MCCONNELL and a number of others in the leadership said they would not even meet with the President's nominee—would not even give him the courtesy of a meeting? Merrick Garland was the first Supreme Court nominee in our Nation's history to be denied any consideration by the Senate—no hearing, no vote—nothing. It was shameful.

I took an oath of office to support and defend the Constitution—every Senator does—and to bear true faith and allegiance to it. I take it seriously. Even though my Republican colleagues chose to ignore their responsibilities when it came to filling that Supreme Court vacancy in an election year, I know we have a constitutional responsibility to give Judge Gorsuch a hearing and a vote. I will do my due diligence as a Senator and give his nomination fair consideration. That is what the advise and consent responsibility of article I, section 8 of the Constitution requires.

If my Republican colleagues complain about the process for Judge Gorsuch, just remember that no one ran a worse process on a Supreme Court nominee than my Republican colleagues themselves did for Merrick Garland. They really have no right to complain.

Now that President Trump has nominated Judge Gorsuch, Senators will embark on a thorough review of his record. He was confirmed to the Tenth Circuit in 2006, but the level of scrutiny is far higher for Supreme Court nominees and lifetime appointments to the High Court. He now has a lengthy judicial record which we will review carefully.

There are parts of his record that already raise questions and concerns. In recent years, we have watched the Supreme Court transform into a corporate Court, where all too often cases seem to break for the big corporations, regularly against the little guy. We need a Supreme Court that gives the American people a fair shot against corporate elites, corporate special interests. Judge Gorsuch's record as a judge and advocate raises concerns as to whether he would hasten that trend toward a corporate court.

I note that yesterday, Reuters published an article entitled ''As Private Lawyer, Trump High Court Pick Was Friend to Business.'' The article said that while Judge Gorsuch was in private practice, he ''often fought on behalf of business interests, including efforts to curb securities class action lawsuits, experience that could mould his thinking if he is confirmed as a [Supreme Court] justice.''

During his time on the bench, Judge Gorsuch appears to have a consistent pattern of favoring companies over workers in cases involving employment discrimination, worker safety, and other matters. That is why we need to carefully review his record.

Judge Gorsuch must also answer important questions about his views on issues of fundamental importance to American people, such as our right to privacy. Is there anything more important? Almost on a daily basis we are being asked if we are ready to give up a little more of our privacy. We know that corporate interests and business interests are collecting data on us. We can find it every time we log on to the Internet and there is this cascade of ads on the side of the page asking us if we want to buy something that we just happened to buy a couple months ago. We know as well that information is being catalogued carefully and being used by business interests to promote their products and to categorize us as Americans. We also believe—I think there are even some Republicans who

believe—that individuals have a right to privacy when it comes to the overreach of the Federal Government and when it comes to critical decisions so important to our personal lives. At that last heartbreaking moment when a family member has to decide about the medical care for someone who is nearing death, is that going to be subject to a court order or is that going to be a decision made privately by a family? At that moment when a family faces the pregnancy of a teenage girl in the household, is that a family decision or is that a decision where government has the last word? The Supreme Court decides this, and we need to ask Judge Gorsuch what he thinks and understand clearly what he says.

We also believe that when it comes to our security—not just our privacy but our security—the Supreme Court time and again will have the last word. When it comes to the issue of safety, health, and environmental protection, where will this new Supreme Court nominee be? Is he going to bend toward the corporate interests and look the other way as we face climate change, the pollution of streams, the contamination of our drinking water, and dangers to our public health? If he is going to rule consistently for the corporate interest no matter what, he certainly doesn't, as far as I am concerned, represent the values we need on the Supreme Court. He needs to answer questions as well on immigration, privacy, campaign finance, and voting rights.

Like Justice Scalia, Judge Gorsuch professes to be an originalist. Let me address that for a moment. I have been with the Judiciary Committee for quite a few years. Time and again, whether it is the nominee for Attorney General or nominees for the High Court, here is the cliche we are given: We are just going to apply the rule of law, whatever the law says. That is what we do. We are originalists. I call that the robotic view of justice; that if you just plug in the facts, a computer can tell you the answer because a computer compares it to the law. Yet we know better. We know judges make decisions based on a variety of concerns, and they weigh some facts more carefully and give some facts more strength than others. This rule of law by robotic justice is a fiction. We know that each nominee, whether from a Democrat or Republican, brings views to the Court that will decide how many cases will lean.

Judge Gorsuch has to answer the questions forthrightly. There is a cottage industry of teaching nominees to give thoughtful nonanswers to important questions. That will not cut it for me or many of my colleagues. The American people want honest, candid candidates for the bench.

We know Judge Gorsuch is the handpicked nominee by President Trump and has been lauded by rightwing organizations all over the United States. They hope he will be a dependable vote in their favor, but he has to demonstrate—to me and to many other Senators—that he will be prepared to disappoint the rightwing if the Constitution and law require it.

Since the confirmation of Justice Clarence Thomas in 1991, Supreme Court Justices have had to show they can pass the threshold of 60 votes to get confirmed. I expect nothing less from this nominee. Justice Elena Kagan, nominated by President Obama, received 63 votes; Justice Sonya Sotomayor, nominated by President Obama, received 68 votes; Justice Sam Alito had a cloture vote where he received 72 votes and subsequently received 58 votes for his actual confirmation; Justice Roberts, 78 votes; Justice Breyer, 87; Justice Ginsburg, 96.

Judge Gorsuch has a burden to bear. He has to demonstrate that he is a nominee who will uphold and defend the Constitution for the benefit of all of us, not just for the advantage of a privileged few.

I take my constitutional responsibility very seriously when it comes to the Supreme Court. As a member of the Judiciary Committee, I am reviewing the record and preparing questions to ask the nominee. It is going to take some time. It usually does, several months. But my Republican colleagues have kept this seat vacant since February of last year, so they don't have any basis for arguing and complaining that we just have to move on this really fast.

I am sorry we are not considering the nomination of Merrick Garland, an eminently qualified mainstream judge who deserved better treatment than he received from Senate Republicans and Senator MCCONNELL. No one deserved the treatment Merrick Garland received.

With my oath to support and defend the Constitution in mind, I will consider Judge Gorsuch's nomination pursuant to the Senate's role of advise and consent. I will strive to be thorough, fair, and focused on the important principles I have discussed today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Alaska.

Ms. MURKOWSKI. Thank you, Mr. President.

I come to the floor this morning to speak on the resolution of disapproval that is before us, but I want to make just a few comments following my colleague, the minority whip.

I am pleased to hear him say that he does look forward to the opportunity for a hearing on Judge Gorsuch and the opportunity for a vote. I think we recognize that we have in front of us an individual who has truly a stellar legal reputation, who has committed himself to the law in a remarkable way. When he was before this Senate for confirmation leading up to the Tenth Circuit, he enjoyed very strong support. I would like to think that on yet further review of this very strong individual, our colleagues will do the due diligence that is necessary as we perform our constitutional role of advise and consent.

There is so much that I will respond to at a later time when I go into more detail about my support for Judge Gorsuch and why I think he is exactly the type of individual we want to see named to the Supreme Court, but the comment has been made, not only by my colleague from Illinois but from others, that somehow or other Judge Gorsuch is for Big Business and not the little guy. It seems that the criticism is based on this viewpoint that courts should not defer to Federal agency interpretations of their own rules, and certainly Big Business is a frequent challenger of government overreach. But, as the Presiding Officer and I both know, so are ordinary Americans—people like John Sturgeon, an Alaskan who took on the Federal Government, took on the agencies, and took on the Park Service because he was told he could not use a hovercraft in an area where he had operated one for decades. John Sturgeon, with the help of a few friends, who did everything from garage sales to fund his litigation, and with just the generosity out of their own pockets, took all the way to the Supreme Court the question of whether or not the Park Service's regulation had exceeded their legal authority.

I happen to believe very strongly that Judge Gorsuch is clearly on the right track here when he questions the deference that courts give to our government agencies. I think most Alaskans would probably agree with us on this point—that when we are talking about the scales of justice, they should not be tipped in favor of our Federal agencies.

Again, I am pleased to hear that the minority whip agrees that a filibuster is not appropriate, is not the way to proceed with this fine nominee. I look forward to learning more about Judge Gorsuch but also to be able to share more of my observations at a later point in time.

Mr. President, I wish to join my colleagues in support of H.J. Res. 38 to disapprove and nullify the Department of Interior's so-called stream protection rule. I wish to begin my comments by thanking Majority Leader MCCONNELL and Senator CAPITO of West Virginia for sponsoring the Senate version of this resolution. I also wish to note that I am proud to be listed with the Presiding Officer as a cosponsor on this bipartisan measure with 28 colleagues in support.

Now, by name alone, the stream protection rule may sound pretty innocent, pretty well intentioned, but as we have heard and as we will hear throughout this debate, the reality is really different. This regulation will have severe economic impacts. It will cost us jobs. It will cost us revenues as well as affordable energy all across our country.

By way of background, the rule revises longstanding regulations for coal

mining under the Surface Mining Control and Reclamation Act, something around here we simply call SMCRA. Now this rule was finalized in December of 2016, and it took effect 2 weeks ago, making more than 400 changes to existing regulations.

Now, 400 is just a number that shows the scope of the changes that the Obama administration has made, but it hardly does justice to the sweeping substance of the changes or the deliberately opaque process that the Obama administration followed to make them.

SMCRA is supposed to be an example of cooperative federalism, and many States have approved programs that allow them to regulate coal mining within their own borders. But beyond that, the law explicitly directs the Federal Government to work with States to engage with them whenever any changes are made. So it requires a high level of cooperation and collaboration.

Contrary to the collaborative mood intended by SMCRA, the Obama administration chose to draft the stream protection rule behind closed doors. It ignored the input and recommendations that were provided by States and other stakeholders. It subverted the law, basically, to meet its own policy objectives, which was to keep the coal in the ground. Ultimately, that is what they wanted to do, and it finalized a rule that will shut down coal mining in several regions in our country, including possibly in Alaska, if it is allowed to stand.

Now, the Obama administration claimed that this rule would cost only $81 million a year and that it did not qualify as what is considered ''economically significant'' as a rule, as a result of that. We will likely hear that number touted by some of the opponents of this resolution and probably some who will claim that we are exaggerating the impact. But I don't think we should forget how the Obama administration determined that the rule was insignificant in the first place.

In January of 2011, the Associated Press obtained documents showing that this rule was projected to eliminate 7,000 direct jobs across the country. So instead of going back and fixing the rule to avoid these potential job losses, what happened? The Department of Interior fired the independent contractor that had made the projection. So, effectively, we have a situation where the Department essentially cooks the books instead of fixing the rule. It then took steps to rebrand the rule, changing the name from the ''stream buffer zone rule'' to the ''stream protection rule'' making the rule sound rather innocuous.

So what the American people should know is that there is a real discrepancy between the economic impacts the Obama administration estimated and what other sources project will happen if the rule is left in place. The projection is that up to 30 percent of the direct jobs in coal mining will be lost, and domestic coal production will fall 29 to 65 percent, with anywhere from $15 billion to $29 billion in lost annual coal resource value and $3.3 billion to $6.5 billion in lost State and Federal revenue.

So with estimates like this, it is no wonder that this rule has drawn such strong bipartisan opposition from Alaska all the way to Appalachia. If you are doubting the statistics—if you are saying, well, I am hearing certain things on one side and others on another—you need to talk to people out there. We did that. Instead of just taking what the Obama administration said, we went out and we asked people.

Last March, I held a field hearing of the Energy and Natural Resources Committee, and we held the field hearing up in Fairbanks, AK. Among our witnesses was a woman by the name of Lorali Simon. The occupant of the Chair knows her well. She works for Usibelli Coal Mine, an initially family-owned and operated coal mine—which has been very successful—and provides coal and power to the residents of the Interior, and has been for a long time. Ms. Simon spoke about how coal resources contribute significantly to our State by providing jobs and a reliable energy source.

She explained that coal is the cheapest source of energy in Interior Alaska for everything from the local community to our military bases there and how usability has helped to create business for others like our Alaska railroad. She also highlighted the broader picture about how coal strengthens our national and energy security. So those are all good things, in my book.

But Lorali also testified about the stream protection rule. She said that, if the rule was finalized as it was proposed—which it has been—it will likely kill all coal development in Alaska. She also noted that Congress passed SMCRA, but during the Obama administration, she said: ''We were seeing unelected federal employees violate legislative intent, which will kill America's coal industry.''

Now, Lorali Simon is not alone in her criticisms or her opposition to this rule. Our Governor in Alaska, an Independent by the name of Governor Bill Walker, recently noted that it was one of the worst of many different actions the Obama administration took to limit resource development in our State of Alaska.

The attorneys general of 14 different States wrote:

> The rule would have a disastrous effect on coal miners, their families, workers in affected industries, and their communities. It would also impose very significant costs on American consumers of electricity, while undermining our Nation's energy supply.

That is pretty tough—not only a disastrous effect on the coal miners but the cost on American consumers of electricity, undermining our Nation's energy supply.

The Interstate Mining Compact Commission described this rule as a ''burdensome and unlawful rule that usurps states' authority as primary regulators of coal mining as intended by Congress under SMCRA'' while also seeking to impose ''an unwarranted top-down, one-size-fits-all approach that does not take into account important regional and ecological differences.''

Then, finally, the U.S. Chamber of Commerce noted that the rule ''exceeds the Department's authority, will cause significant economic harm and job losses, and interferes with long-standing and successful state efforts to protect water quality.''

It is very clear to me that this rule simply cannot stand. We have an opportunity here to make sure that is the case. So if you are concerned about families paying more for their heating and their electricity bills, you should support this resolution. If you are worried about job losses due to access restrictions and rising energy costs, you should support this resolution. And, if you care about States' rights, which so many of us do, or overregulation by the Federal Government, which we clearly do, you should support this resolution.

I have noted to a couple of people today that this is a pretty good day to be debating a disapproval resolution under the Congressional Review Act. It is Groundhog Day, and it is exactly what the last 8 years have felt like for anyone who has paid attention to the regulations that were just churned out by the Obama administration. The SPR rule is a perfect place to start as we sort through the major burdens that the last administration imposed through its relentless regulatory actions.

So, again, I wish to thank Leader MCCONNELL and Senator CAPITO for sponsoring and leading this legislation, and know that I intend to vote for it. I urge my colleagues to do the same.

With that, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FISCHER). Without objection, it is so ordered.

Ms. CANTWELL. Madam President, I see my colleague from Texas. Did he want to make remarks in leader time?

Madam President, I come to the floor to talk about the action today in the Senate, which is to try to overrun the clean water rule as it relates to the mining industry.

The bottom line is, polluters should pay for the pollution, and that is what the rule says, and that is what is trying to be overrun today after a very short debate in the Senate.

Some of my colleagues on the other side of the aisle would like to say it is about the coal industry and a war on coal. If they are so concerned about the coal industry, I would suggest to them

and coal workers that they take up the pension bill they promised to take up in the last Congress and have failed to take up.

Last December, thousands of coal miners came to Washington, DC, and asked the Senate to live up to their promise that was made and put their health on the line and make sure that they had a pension program. More than 20,000 retired coal miners are at risk of losing their health care if we do nothing by April, and they have a very small pension—averaging about $530 a month—that is also at risk.

I know some of my colleagues would like to believe this is somehow entirely related to a war on coal, but that narrative ignores the facts. In 2008, right before the financial crisis, the United Mine Workers' pension plan was 93 percent funded—in 2008, 93 percent funded. Its actuaries projected it was on track to reach full funding in several years.

So this notion that somehow the discussion behind the scenes by the Interior Department or the EPA caused an implosion in the mining industry and thereby they didn't have resources is not the case. What is the case is that the financial crisis hit, and Wall Street speculators blew up our economy, costing it $14 trillion—according to the Dallas Fed—and many in this body bailed them out. But we did nothing to bail out the miner pension program. Those pensions were thrown into crisis. By 2009, the United Mine Workers' plan had dropped from the 93-percent funded level down to the low seventies—a 20-percent drop in a single year. So despite the fact that the plan was well managed, the investment returns continued to be problematic. Wall Street—not the Department of the Interior or EPA—is the reason mine workers have so much challenge today.

If they care so much about the mining industry and the workers, then bring that legislation forward on the floor of the Senate today instead of trying to overturn a rule that says polluters should pay.

These safe drinking water issues and fishing issues are so important to an outdoor economy that employs a million-plus workers and is a vital part of practically every State's economy. The notion that somehow this is a jobs issue—if they want to protect jobs in the outdoor industry, then please allow people to fish in rivers where they don't have to worry about selenium. This is a big issue, whether talking about Montana, Colorado, Washington, or the State of Alaska.

I will say that the Alaskan issues of salmon and habitat far outweigh the 113 jobs the Alaska coal industry produces. Both can be seen as valuable jobs, but if we want to know about an economic impact to the State, it is dwarfed by the issue of making sure salmon have clean rivers and streams to migrate through.

This legislation today is about trying to protect those waters. I would again say that the effects of mountaintop removal have been called out by the press for a long time. I wish to quote from a Washington Post editorial:

For decades, coal companies have been removing mountain peaks to haul away coal lying just underneath. More recently, scientists and regulators have been developing a clearer understanding of the environmental consequences. They aren't pretty.

In the 1990s, coal miners began using large equipment to strip away mountaintops in states such as West Virginia. The technique made it economical for them to extract more coal from troublesome seams in the rock, which might be too small for traditional mining or lodged in unstable formations. Environmentalists were appalled, but the practice spread and now accounts for more than 40 percent of West Virginia coal production.

Burning coal has a host of drawbacks: It produces both planet-warming carbon dioxide and deadly conventional air pollutants. Removing layers of mountaintop in the extraction process aggravates the damage. The displaced earth must go somewhere, typically into adjoining valleys, affecting streams that run through them. The dust that's blown into the air on mountaintop removal sites, meanwhile, is suspected to be unhealthy for mine workers and nearby communities.

Scientists have recently produced evidence backing up both concerns. Over the summer, a U.S. Geological Survey study compared streams near mountaintop removal operations to streams farther away. In what should be ''a global hotspot for fish biodiversity,'' according to Nathan Hitt, one of the authors, the researchers found decimated fish populations, with untold consequences for downstream river systems. The scientists noted changes in stream chemistry: Salts from the disturbed earth appear to have dissolved in the water, which may well have disturbed the food chain.

Last week, the Charleston Gazette reported on a new study finding that dust from mountaintop removal mining appears to contribute to greater risk of lung cancer. West Virginia University researchers took dust samples from several towns near the mountaintop removal sites and tested them on lung cells, which changed for the worse. The findings fit into a larger, hazardous picture: People living near these sites experience higher rates of cancer and birth defects.

Again, all this is from the Washington Post editorial.

With these sorts of problems in mind, the Environmental Protection Agency is taking a more skeptical look at mountaintop removal mining permits. The Clean Water Act gives the government wide authority over industrial operations that change rivers and streams.

The EPA has already used its efforts, in some cases where there was concern, to revoke a permit and has instructed its branches and offices to be more careful.

The coal industry and its allies—

And we have heard some of them here—

are howling. Skeptics of mountaintop removal, one industry pamphlet insisted, ''promote an anti-coal, anti-business agenda that uses environmental issues as a mere pawn to redistribute wealth, grab power, and put forth liberal, social ideology. The GOP-controlled House passed a bill that would strip the EPA of some of its permitting power. But just this month—

Because that was a couple years ago—

the Obama administration once again prevailed in court, beating back another industry challenge.

This editorial ends by saying:

The emerging scientific evidence should cut through the rhetoric. The EPA is right to move more firmly to protect health and the environment.

We are right to defend this rule and law and say that polluters should pay.

Madam President, I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. CORNYN. Madam President, yesterday the Senate took up legislation to block the stream buffer rule, which is a job-killing regulation from the Obama administration—something the Obama administration will be long remembered for—a regulatory overreach that strangled the growth of our economy and the jobs that come along with it. This is a prime example of a misnomer, though. It is not really about protecting streams, as it claims, but about killing the coal industry and energy production in our country.

One of the things that have caused our economy to grow historically has been access to low-cost energy, but unfortunately this regulation has made that not possible in coal country, taking many jobs along with it and I think in part, at least, responsible for the vote President Trump got in many parts of the country that felt left behind by the economy and because of job-killing regulations like the stream buffer rule.

NOMINATION OF NEIL GORSUCH

Madam President, yesterday I had the chance to meet with Judge Gorsuch personally, the man President Trump nominated to serve on the U.S. Supreme Court.

It is plain to me now why President Trump selected him to be the nominee for the seat vacated by the death of Justice Scalia. Judge Gorsuch's experience, intellect, and background make him uniquely qualified and qualify him as a mainstream nominee. That seems to be the nomenclature that has been embraced by our colleagues across the aisle. They said they hope President Trump nominates a mainstream nominee. Well, he did. But I fully expect our colleagues across the aisle to try to paint him as some sort of extremist, which they can't do based upon his distinguished record on the Tenth Circuit Court of Appeals for the last 10 years as a Federal judge or his previous life. They are going to have to make things up in order to cause people to believe this nominee is not a mainstream nominee.

I look forward to working with my colleagues on the Judiciary Committee to do our job of advice and consent and to see the nomination come to the floor, where I hope he will be confirmed. I trust he will be confirmed one way or the other.

Unfortunately, Senate Democrats—particularly their leader, the Senator from New York—have already announced that they will fight tooth and

nail against any nominee put forward by President Trump. Predictably, the minority leader has made clear that he will try to filibuster the President's choice. It has been ironic to watch him come here and extol the virtues of the 60-vote cloture requirement for confirming a Supreme Court Justice when he and the rest of his colleagues invoked the so-called nuclear option to change the Senate rules by breaking those rules and reducing the cloture requirement for lower Federal court judges and Cabinet members to 51.

We see what happened as a result of that action. Now they find themselves on the receiving end of that 51-vote requirement caused by the nuclear option. So much for immediate gratification and not so much for taking the long view in terms of how the Senate ought to operate.

This sort of resistance mentality that has grown up among our colleagues on the other side of the aisle ignores the fact that we had an election on November 8. The American people made their choice, and it is plain that our Democratic colleagues are simply not happy about the choice they made and are going to undermine and resist this President no matter what, particularly when it comes to staffing his Cabinet with the people he has chosen to serve the Nation as part of his administration.

The American people also indicated they wanted us to move forward, away from the bickering, away from the gridlock, away from this mentality that we were here to serve someone else other than the American people. They want results, not politics as usual. I think that is the lesson we all should have learned from this last election. The sad reality is that it is increasingly clear to me that my Democratic colleagues didn't learn the right lesson last November and are trying to bring the Chamber to a standstill.

Thanks to the nuclear option that then-Majority Leader Senator Reid championed and which all of our Democratic friends voted for, they are not going to be able to stop President Trump's nominees to the Cabinet because all it requires is 51 votes. Yes, they can slow it down, but they can't stop it. My question is, What purpose is to be served from keeping the President fully staffed with the Cabinet that he has chosen, knowing that you are ultimately going to lose the fight?

Unfortunately, this is not about the Senate alone. This is about the American people. For 2 days in a row, Senate Democrats on the Finance Committee, which has been one of the most bipartisan committees in the U.S. Senate—our Democratic colleagues, each and every one of them, boycotted the meetings to consider President Trump's nominees.

I sit on the Finance Committee. As I said, it has historically been a bipartisan committee, but our Democratic colleagues chose to relinquish their responsibility and ignore their duties to their constituents. Unfortunately, this type of behavior has become par for the course throughout the first days of President Trump's administration. We have seen other examples of slow-walking nominations, invoking every procedural rule that there is to deny unanimous consent—the sort of normal courtesies that go along with working in the Senate on technical or procedural matters.

We have seen countless examples of their slowing down the nomination process intentionally, even for highly qualified candidates.

On the Judiciary Committee, on which I also sit, there is another example with respect to the nomination for Attorney General of Senator JEFF SESSIONS, a well-respected colleague in this Chamber. I am glad we were finally able to move his nomination out of the committee yesterday. But the truth is that even though many Democrats on the committee had worked side by side with Senator SESSIONS and had cosponsored legislation with him, they themselves said what a good man he was. They voted against him after slowing down this obvious choice to lead the Justice Department.

President Trump talks about draining the swamp in Washington, DC. The biggest swamp in Washington, DC, has been a Justice Department headed by Eric Holder and, sadly, by his successor Loretta Lynch. They have refused to enforce the rule of law and instead turned that into a political outpost for the Obama administration. Attorney General JEFF SESSIONS is going to change that. He is going to enforce the law, and he will respect the law no matter who wins and who loses because his duty is to the Constitution and laws of the United States and to enforce those laws as Attorney General and, yes, to defend those laws.

Some of our Senate colleagues were shocked when Deputy Attorney General Sally Yates—although the Office of Legal Counsel said that the Executive order issued by the President was legal and proper in its form—wrote a letter saying she was instructing the line lawyers in the Justice Department not to defend it in court. President Trump fired her, and he should have. That is political grandstanding by somebody who should know better, considering her distinguished career at the Department of Justice for the last 30 years.

I don't know who gave her the bad advice, but I am glad that President Trump decided to fire someone who basically defied their duties to the Department of Justice and to the U.S. Government and preferred to take the side of politics and misinformation.

We know that the Senate is continuing with other nominations as well. I see this morning that the Environment and Public Works Committee finally voted out the nomination of the attorney general of Oklahoma, Scott Pruitt, for Director of the Environmental Protection Agency. Unfortunately, our Democratic colleagues' bad habits on the Finance Committee have spilled over to the Environment and Public Works Committee, and they chose to boycott that hearing as well. Notwithstanding that boycott, the majority of the committee did vote out the nomination, and we will take that up soon.

This lack of cooperation is unprecedented. It really is unprecedented. At this point in 2009, President Obama had 11 of his Cabinet members confirmed by the Senate—11. Today we have only five confirmed, and many of those who have been confirmed were slow-walked by our Democratic colleagues for one lame excuse or another. This is not because President Trump's nominees aren't qualified; it is because our colleagues on the other side of the aisle are determined to undermine this new President and his administration, no matter what cost is paid by the country.

After the election, President Obama, to his credit, talked about the importance of a peaceful transition of power from one administration to the next. Some of our colleagues who are now obstructing this President's Cabinet members have also paid lipservice to a peaceful transition of power. What we are seeing is a hostile transition of power—mindless obstruction, foot dragging, and delay for delay's sake.

Let me remind them once again that the American people voted on November 8 and chose a President who has the authority to nominate the people he sees fit to serve on his Cabinet. We can't afford to let this administration operate with one hand tied behind its back for the foreseeable future. We need to do our job and provide the President and the country with the experts and advisers that the administration needs to keep our country safe and to keep government functioning for the people.

I hope soon—I am not optimistic, but I hope that soon our Senate Democrats will start working with us and not against us and, more importantly, against the interests of the American people who sent them here.

TRIBUTE TO LINDA BAZACO

Madam President, I want to spend a few minutes recognizing an extraordinary public servant on my staff who served in a unique capacity that many may not know exists.

One of the most important things we get to do as Members of Congress is to act as the intermediary or intercessor between our constituents and a Federal Government that sometimes is not responsive, particularly in dealing with Federal agencies. For instance, when somebody isn't receiving their proper check from the Social Security Administration or is having trouble getting an appointment at a Veterans Administration clinic or is in need of assistance with foreign adoptions, where do they turn? They turn to people like Linda Bazaco, who heads my casework program in Dallas, TX, and is going to be retiring soon.

I am proud to say that we do our very best to make sure that the 28 million people I have the privilege of representing get the very best help possible to help navigate the very real and very personal issues that involve the Federal bureaucracy. That way, my office—specifically my constituent services or what we call my casework team—can help ensure that no Texan who reaches out to us slips between the cracks.

In some circles, apparently, we have a reputation for bragging in Texas, but I have to say my staff are some of the absolutely best in the field when it comes to getting responses for Texans from Federal agencies. I like to say that if it can be done, it will be done. In that way, we play an important role in holding the bureaucracy accountable and reminding the Federal Government who their customer really is. It is the taxpayers to whom they ought to be responsive. They shouldn't need to call their Senator or their Congressman or Congresswoman in order to get responses from the Federal Government, but, in fact, sometimes they do, and sometimes—well, it is our privilege to help.

As I indicated, the person who has led this effort in my office for the last many years is Linda Bazaco, someone whom I came to know after she worked for my predecessor, Senator Phil Gramm. Linda fervently believes in the concept of government accountability and has developed a way to get the answers that Texans need and deserve.

As I indicated, she started under my predecessor, Senator Phil Gramm, about 27 years ago. Today, Linda's system has become the gold standard for other elected officials to get results on behalf of their constituents and, in doing so, has impacted constituents' lives in profound ways: benefits, checks, expedited passports, medical care, or even the most basic—simply a return phone call from an agency. All the while, Linda has done this with enthusiasm and with an eye toward quality and getting results for the people of Texas.

Linda, along with the team she has built, has pushed the government to be more accountable and responsive to the tens of thousands of Texans who have reached out to my office and, in most cases, will never know she was their secret weapon.

Soon Linda will be taking on another challenge. After serving the 28 million people of Texas for nearly 27 years now, she will take up an even more important role; that is, a full-time grandmother extraordinaire. I couldn't be prouder of having someone of her caliber as a leader on my team, and I wish her and her husband Val and her three children and her five beautiful grandchildren the absolute best in the next chapter of their lives.

On behalf of all the generations of Texans you have helped over the decades, the staff members you have led along the way, and at least two U.S. Senators, Linda, thank you for your service.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. I know we are going back and forth. I wish to inquire if my colleague seeks to speak.

Go ahead because we are expecting someone on our side.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ROUNDS. Madam President, I ask to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF NEIL GORSUCH

Mr. ROUNDS. Madam President, I rise today to discuss President Trump's Supreme Court nominee, Judge Neil M. Gorsuch.

As you know, the vacancy exists because last year Supreme Court Justice Antonin Scalia died suddenly at the age of 79, leaving an unexpected vacancy on our Nation's highest Court.

As I said at the time of his passing, replacing Justice Scalia, one of the Court's strongest defenders of our Constitution, would be extremely difficult. For nearly three decades, with his brilliant legal mind and animated character, Justice Scalia fiercely fought against judicial activism and legislating from the bench. To say our next Justice has big shoes to fill would be an incredible understatement. That is why the decision was made early on by Leader MCCONNELL and others to give the American people a voice in this process, by waiting to confirm the next Justice until the 45th President was in office and able to nominate someone him or herself. We held that belief, even when it looked like our party would not win the Presidency.

As we have been reminded before, elections have consequences. The American people chose to elect President Trump, who throughout his campaign said that he would nominate someone in the mold of the late Justice Scalia. With his pick of Judge Gorsuch, President Trump made an excellent choice in fulfilling that promise. We believe Judge Gorsuch espouses the same approach to constitutional interpretation as Justice Scalia and has a strong understanding of federalism upon which our country is built.

Because the current makeup of the Court is evenly split between conservative- and liberal-leaning Justices, this ninth spot is as important as it has ever been. The next Justice has the potential to hold incredible influence over the ideological direction of the Court for a generation to come. The Supreme Court is the final authority for interpreting Federal laws and the Constitution. It is one of the most important responsibilities found within our federalism.

Since our very first Supreme Court—Justice James Wilson took the oath of office in October of 1789—there have been just 112 Justices to serve on the Court. These lifetime appointments are established under article III in the Constitution and are the ultimate authority over all of the Federal courts and State court cases involving Federal law.

Since it was established, the decisions the Supreme Court has made have guided and altered the course of our Nation. The decisions it makes often have long-lasting ramifications, that in one vote can dramatically alter the course of our country. Based on what I know of Judge Gorsuch, I believe he has the aptitude for this lifetime appointment. He is greatly respected on both sides of the aisle. In fact, he was previously confirmed to the U.S. Court of Appeals for the Tenth Circuit unanimously, and not a single Republican or Democratic Member of the Senate dissented. As such, we expect the Senate will continue its tradition of approving highly competent, qualified individuals to the Supreme Court in an up-or-down vote, following a thorough vetting process.

I thank President Trump for nominating to the Supreme Court a judge who has lived up to the Scalia gold standard. I also thank the American people who voted in November in support of our efforts to retain Scalia's legacy on the Court when his replacement is confirmed.

Perhaps most importantly, I thank Judge Gorsuch for his lifelong commitment to defending our Constitution and applying the law as it was written. If confirmed, I am confident he will be an outstanding member of the U.S. Supreme Court.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I would like to continue the debate on the measure before the Senate, which is to basically overturn a provision that would require coal polluters to make sure they clean up the damage they do to the clean water streams of our Nation.

We are here today because the agency who is in charge of setting these rules has finalized a rule. They did so after more than 5 years of discussion. They set it because there was so much scientific information about the great degradation to our streams caused by mining, when rocks are blown up and selenium is introduced into the stream. I have pictures I showed last night of deformed fish, pictures of river streams that are polluted. I have pictures of obvious degradation of the environment around them.

The real issue is, the rule is now in place, and my colleagues want to exempt the coal industry from such regulation. Why would you want to exempt anybody from cleaning up their mess? Polluters should pay. I know my colleagues are starting to chorus on some refrain about the economy, which makes no sense. Natural gas has driven a very competitive market to consuming more natural gas than coal,

and Wall Street blew up the pension program of the miners, and now it is in jeopardy. If you want to help miners, then come address their health and safety and their pension program. If you want to make natural gas more expensive, maybe you could make coal competitive again, but I don't think that is what we really want in America.

My colleagues somehow ignore the fact that the people of the United States of America are going to demand clean water one way or another. You can protect the coal industry here with special interests and the amount of lobbying they do, or you can step up this process and have a regulation that works for the United States of America so the outdoor industry, sportsmen and fishermen—who have many more jobs—can continue to thrive. Why do I say that? Because my colleague from Texas brought up the EPA nominee, Mr. Pruitt, who is coming to us from Oklahoma. I found, with great pleasure, the same arguments that the other side of the aisle is trying to make, they tried to make in Oklahoma. ''Oh, my gosh. It is environmental regulation that is stopping us from producing a greater, more robust farming economy. We need to do something to stop those untoward regulations.''

What did they do? They had a big initiative for the ballot that basically said: Let's make it really hard for anybody to regulate in regard to farming, unless they show it is somehow in the greater State interest. Even in redstate Oklahoma, they got it. They knew it was a fast run on the Clean Water Act, and they defeated that basically 60 to 40.

If we want to have a debate by debate, State by State, a discussion about clean water because people here will not defend the right for people to have clean streams, then we will have that debate. My colleagues sometimes try to say: Well, this is what attorneys general are concerned about. Some of them don't like the rule. You have ample opportunity to change the rule. You could come here and propose legislation. You could ask your colleagues now to do something and move forward on an alternative, but that is not what is happening. This egregious approach is not only getting rid of a rule that currently protects us, for safe streams, but because it is a Congressional Review Act overriding that rule, it will prohibit us from taking up, in the same fashion, an approach to make sure this is regulated in the future. That is right. Turning down the rule this way will stop an agency from doing the job it is supposed to do. Why not just leave it to the States? That is like saying: I am going to leave clean air, clean water, or nuclear waste cleanup to whatever a State decides. That is not what Federal law is about.

Here is an editorial from Kentucky where a ''proposed $660,000 settlement of the Clean Water Act violations between the State's environmental agencies, and two of its largest companies, underwent a 30-day review.'' What was that about? That was about the State of Kentucky failing to implement the old law. This was in 2010. The State of Kentucky's Attorney General—they were such laggards at this—people sued the companies in the State because the State wasn't doing its job. Eventually, they uncovered, as the article says, ''massive failures by the industry to file accurate water discharge monitoring reports. They filed an intent to sue, which triggered the investigation by the State's energy and environmental cabinet.'' The notion that States are on the job and doing their job in Kentucky—they weren't.

A State case was provoked by other people who were monitoring for clean water. It is our prerogative to set a standard for miners to clean up their mess. That is what we are talking about. Now the other side of the aisle wants to overturn that, saying that polluters don't have to pay.

How did we get to this situation? As mentioned, the past administration worked hard at coming up with a stream protection rule. Why did they come up with a new stream protection rule? Because it had been 33 years since we had a stream protection rule. The old rule did not prohibit mining through streams. Guess what? Neither does the new rule. The new rule says you are not prohibited from mining through a stream, but by gosh you ought to be required to mitigate the mess you create in the water system by mining through that stream.

We are talking about mitigation requirements, and we are talking about measurements. Why do we need that? Because since 1983, when the previous rule was put in place—we now know that things like selenium cause very bad things to happen in water, with rocks and the discharge. We know selenium can cause the deformation of fish and that eating those fish can make you sick. That is why we want to have a rule to understand the impacts and to mitigate for them. I think about this particular picture, and the deformation in the fish tail and in the fish lip—the front end of the fish—are extreme examples of what selenium is doing in our water supply. Why would you not want—as someone blowing up a mountaintop and creating this kind of stream damage, why would you not want them to mitigate that? Why would you want to protect them? Because you think you are protecting some coal industry jobs that basically have fallen off because natural gas has become a cheaper product? Your economic strategy is a race to the bottom. You think if you have the lowest environmental standards in the United States of America, that is somehow going to generate jobs? I think it is just the opposite. I have so many people in Washington State who say: I can't attract employees unless we have a clean environment here because people want to live in a clean environment, they want to fish, they want to hunt, they want to recreate, and they want an opportunity to do so. As a company, I can attract the best and the brightest because they know they are going to live in that kind of environment.

The notion that this kind of ''let us make sure the coal industry doesn't have to play by the rules, they get an exemption from clean water'' is some sort of economic strategy for the future of coal country, it is absolutely not.

Saying that AGs are going to do the job, we have many examples of where they haven't. There are also examples from Ohio and Pennsylvania, where the degradation is so bad it is nearly impossible to clean up.

Let us talk a little bit about the comparison of jobs from outdoor industry and the coal industry. It is not to demean the jobs of the coal industry and the individuals who have worked their whole lives in that sector or to say that one job is better than the other. There are over 6 million jobs directly in the outdoor industry. They generate $80 billion in tax revenue, but if you come to Montana and there is a mine on top of a stream and people don't want to go there to fish and recreate anymore, then you have caused damage. What are we talking about by State? Let's look at it. Montana, there are 64,000 jobs related to outdoor recreation. Why? Because Montana is beautiful. It has so many streams. I mentioned last night that wonderful movie called ''A River Runs Through It.'' It doesn't say, ''A River Runs Through It and a Mountaintop Mine Sits on Top of It.'' That is not what that movie was about. It was about the beauty of the great outdoors. There are 122,000 recreation jobs in Utah. There are 125,000 in Colorado, 50,000 in Wyoming. There are 28,000 in North Dakota. Are people down here defending those jobs? I am defending them because a clean stream is a great source of recreation for people. I don't want to fish or hike in a stream with selenium that could poison me or poison other people. What is wrong with polluters paying? I say nothing.

The economic cost of this legislation is very minimal. The industry would be responsible for less than .01 percent of the economic cost; that is, the pollution that would be required to clean up from this type of effort would be minimal to the industry. So what are they complaining about? What are they complaining about? They don't want to measure selenium in the water. They don't want to be responsible for mitigating it.

The economic challenges that the industry faces from natural gas have nothing to do with this issue. This issue is about whether polluters should pay and whether we as a body are going to not only overturn this rule that is about clean water and safety for our communities by having streams protected. It is also about whether we are

going to preclude another administrative approach to fixing this issue.

The Congressional Review Act is a very large cannon blowing a hole in the clean water requirements for the coal industry. Once you turn this down, you cannot easily reinstate something new. So our colleagues on the other side of the aisle, if they truly wanted to do something about this, could come to the floor today and say: I propose something different. President Trump, if he wanted to propose something different that both guaranteed clean water and moved us forward, he could propose something. Instead, they simply want to repeal this.

So this chart shows just what I have been referring to; that coal basically now in 2016 is getting beat by natural gas. It is getting beat by natural gas because it has become a cheaper source. We are not going to get into the details of how that happened, but we are going to say here today that the notion that you want to let them off the hook from meeting environmental rules and regulations as a way to be competitive is a dangerous, dangerous precedent for the United States to be setting.

We will not win, and our economy will not win from that situation. What we have to do instead is make sure that we are taking care of our environment and being competitive in all sorts of industry issues. For example, this story was about, in West Virginia, how mountaintop mining caused a fish species to disappear. ''We are seeing significant reductions of the species of abundant fish downstream from mining operations.''

To me, that would be an anathema in the Pacific Northwest. Fishing is everything. If somehow we were involved in a mining process that was killing fish, that would be the worst thing that could happen to our economy. There is no reason for us not to set rules and regulations to make sure the mining industry cleans up their mess.

I hope our colleagues will understand how detrimental this rule is. Do not give the mining companies an exemption from cleaning up messes in their streams. Let's say that we are going to do the public interest and not special interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Madam President, today we are going to be voting on the first of what will be many resolutions of disapproval under the Congressional Review Act to roll back the avalanche of Federal regulations that the Obama administration placed on the U.S. economy and, most importantly, the working men and women of this great country.

Nowhere have these regulations been more of a burden than on the energy industry of America, which employs millions, millions of Americans—Democrats, Republicans, good, hard-working Americans, and thousands of hard-working Alaskans, my constituents. So I am particularly pleased that the first of these actions—and we are going to be using the Congressional Review Act a lot because the economy and families in America need relief—in the Senate is to nullify the so-called stream buffer rule of the Department of Interior.

My colleague and friend, the senior Senator from Alaska, Ms. MURKOWSKI, was down on the floor a little bit about ago. She described just how sweeping this rule was in scope and how despite the Federal law called SMACRA, which requires cooperative Federalism, working closely with the States, the Obama administration did not give the States any input—certainly not my State.

But what I wanted to talk about on this rule in particular and why it is so important to have not just Republicans but Democrats—and I am going to encourage my colleagues on the other side of the aisle to please support this resolution of disapproval—why it so important we vote for this resolution of disapproval today is because of the coal miners in America—the coal miners in America, who have been under incredible strain and their families.

The vote we take today is going to offer them the first signs of relief in years. Now, there were projections by the Department of Interior's own contractors—as my colleague, Senator MURKOWSKI, mentioned a little bit ago—that thousands of coal miners would lose their jobs because of this rule—thousands.

A study showed that estimates would be one-third of coal miners, coal-mining jobs in the country were at risk because of this rule. That is a big deal. That is a big deal. One-third. Studies are showing that by the Department of Interior's own contractor. But not to worry, the Obama administration issued the rule anyway. Again, as my colleague Senator MURKOWSKI mentioned, there were concerns—very legitimate concerns in my State—that this rule could literally kill every coal-mining job in Alaska, at the Usibelli coal mine in interior Alaska.

So what was the so-called stream buffer rule really about? What was it? Well, I think we all know. It was the last salvo in the Obama administration's arsenal in the war on coal miners, a war that has left thousands of hard-working Americans out of work, injured, in despair in its wake. That is what happened. Just look at what happened. Look at our own Federal Government going to war against hard-working Americans. That is what happened for 8 years—disgraceful in my view.

Now it is time to fight back. Now it is time to fight back. Now it is time for this body to show coal miners in America that we are actually on their side and not against them and not trying to ruin them and their families. I want to recount a recent colloquy by a bunch of my colleagues from the other side of the aisle from last December—right before recess.

Many of my colleagues—all of whom I respect highly—on the other side of the aisle, my Democratic colleagues, came down to the floor. They were saying how coal miners of America were under siege, how they needed help. They were talking about my good friend and colleague Senator MANCHIN's bill with regard to protecting coal miner pensions, which, by the way, I am a cosponsor of.

So I agree about protecting our coal miners, but I watched a lot of those remarks. My colleagues were down on the floor for several hours, but what I found very ironic was that I looked at a lot of these Senators and asked: Where were you during this 8-year war against coal miners? What were you doing? I hate to say it, but a lot of them were allies in the Obama administration's assault on hard-working families and coal miners.

I am not saying that about my good friend from West Virginia, JOE MANCHIN, but there were a lot who were. Heck, some were even leading the charge, but, nevertheless, several were down here on the floor right before the holidays lamenting about what has happened to the coal miners in America. So to my colleagues who were down here shedding tears for America's coal miners in December, I want to offer a challenge to you. Here is your chance. Here is your chance. This is a rule that our own Federal Government has said will put thousands of coal miners out of work. If you really care about the coal miners of America, whether in West Virginia or Alaska, come down on the Senate floor this afternoon when we have this vote and vote for this resolution of disapproval, if you want to help the coal miners, if you want to turn this around so there is no war against them, led by the Federal Government. Its own studies said: Yep. Sorry. You and your families are going to be out of work. If you really care like you were saying in December, then come down to the floor today and vote for this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I think my colleague from Massachusetts is here on the floor to speak. I will let him have some time.

I would say to my colleague from Alaska, the real bait-and-switch is the side of this aisle that allows the Finance Committee to pretend like it is going to do something on the pension program and votes a month before the election, and then after the election, fails to act on such an important issue. I hope people are not advocating pollution as an economic strategy because it will not work.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. Madam President, I thank the Senator from Washington State for her tremendous leadership on all of these environmental issues, which are now on the table in our

country for the first time in a generation.

TRIBUTE TO BILL BONNAVILLIAN

Before I turn to the resolution the Senate is debating, I want to take a minute to recognize the contributions of Bill Bonnavillian to advancing America's science and technology policy. Last month, Bill stepped down as the head of the Washington office of the Massachusetts Institute of Technology after 11 years.

Bill's leadership of the office continued MIT's historic role of providing a vision for advancing science policy and ensuring that knowledge generated at MIT was relevant and available for policymakers in Washington, DC. His leadership will be missed at the MIT Washington office, but I am glad to know he will be staying engaged with the MIT community. I hope he will continue to provide guidance to this body since now, more than ever, we need science to inform the decisions we are making on the Senate floor.

Today, Madam President, congressional Republicans are beginning the process of going one by one to overturn commonsense rules that have long been opposed by the oil and gas, coal, and other industries in the United States of America. The majority is trying to undo these rules by deploying a rarely used procedural tool known as the Congressional Review Act.

In fact, the majority is talking about using the Congressional Review Act, or CRA, so often that it could actually get hard to keep track of which industry is benefitting from week to week to week from the Republicans' use of the CRA. I brought down a helpful tool so the viewers at home can keep track of which industries are benefitting each week from Republicans using the CRA to roll back protections for public health, for clean air, for clean water, for clean soil, for the health of the families in our country.

So let's consult our wheel to see who is the big winner of the GOP giveaway this week.

Up first are the mining and the coal industries. They are the first big winners of the GOP Congressional Review Act wheel of giveaways. That is right. First up for repeal by the Republican Congress are public health protections against the toxic practice of mountaintop removal coal mining.

These protections were put in place by the Obama administration because a Bush-era rule was thrown out by the courts. These commonsense rules to monitor and ultimately restore streams impacted by coal mining are despised by the coal industry. Those that created the problem despise any rules that would require remedying the problem, as it affected public health—no surprise.

Mountaintop removal mining is one of the most environmentally destructive practices on Earth. Mountains are turned into barren plateaus. Streams in the bottoms of nearby valleys are filled with debris and buried. Heavy metals destroy water quality for nearby residents and ruin ecosystems.

The rule that the Republicans are attempting to repeal today protects the public health and drinking water of millions of American citizens in Appalachia and elsewhere across our country.

The rule requires that lead, arsenic, selenium, and other toxic pollutants are monitored. It requires that streams that are damaged or destroyed must be restored.

Now, the majority likes to say that there is a war on coal, but the only war that coal is losing is in the free market to natural gas, to wind, to solar. These are the sources of electricity that the utilities of our country, that the citizens of our country have been moving to over the last 10 to 15 years. There is a war going on in the marketplace.

Adam Smith is spinning in his grave as he listens to the Republicans trying to protect an industry from market forces. Adam Smith is actually spinning so fast in his grave that he could qualify as a new energy source for our country. That is how shocked he would be about this attempt to undermine the public health and safety in our country on behalf of an industry that is losing a battle in the marketplace.

It is the free market that ultimately is causing these changes, and the coal industry is saying: Please protect us from having to protect the public health and safety—clean air, clean water. Please protect us from having to protect families affected by our industries.

A few years ago, we generated roughly 50 percent of our electricity from coal. Now it is down to 30 percent of all electricity generated in our country from coal—50 percent to 30 percent of all electricity in a handful of years.

Coal has been replaced in the free market by natural gas, which has grown from a little over 20 percent of U.S. electricity generation a decade ago to 35 percent today. That is coal's big problem—natural gas, another fossil fuel, but one that emits one-half of the greenhouse gas pollutants as does coal.

Coal has also been replaced by clean energy, by wind, especially, which has grown by 5 to 6 percent of our generation, and by solar, which is now 1 percent of our generation.

In other words, if you go back to 2005 and you look at our country, natural gas was a relatively small percentage of electrical generation, and so were wind and solar. As we debate this issue here today, wind and solar are now up to 7 percent of all electricity generated in our country, up from 1 percent just a little bit more than 10 years ago. It is growing so fast as a preference for American industry, American utilities, and American homes, that it poses a marketplace threat.

So what we need to do now, finally, is to have the big debate out here as to what are the implications for public health and safety and what do we have to do in order to maintain the high standards that we have created for the protection of families over the last generation.

Last year, electricity generation from natural gas surpassed that from coal for the first time since 1949, when data collection began. Why? To quote the Department of Energy:

> The recent decline in the generation share of coal, and the rise in the share of natural gas, was a market-driven response to lower natural gas prices that have made natural gas generation more economically attractive.
>
> Between 2000 and 2008, coal was significantly less expensive than natural gas. However, beginning in 2009, large amounts of natural gas produced from shale formations changed the balance.

While the cost of coal has risen by 10 percent since 2008, the cost of natural gas has fallen by more than 60 percent. For a power producer considering new generation capacity, the lifetime cost of electricity from a new coal-fired powerplant is 67 percent higher than from a new natural gas powerplant and 17 percent than from a newly constructed wind farm, according to the National Academy of Sciences.

The reason no one is building coal-fired powerplants is very clear: It is the free market. Coal cannot compete in the free market. In 2016, we added more than 14,000 new megawatts of solar. We are going to add 7 to 8,000 new megawatts of wind. We are going to add nearly 9,000 new megawatts of natural gas, and we added virtually no new megawatts of coal-fired generation in our country. We are projected to add no new coal generation this year as well. It will be more natural gas, more wind, and more solar.

The marketplace is rejecting coal as a source of electricity. The marketplace is doing that. This isn't a conspiracy. It is competition in the free market.

Lest my colleagues think that this is just happening in the United States, it is not. More than half of all electrical generating capacity added in the world last year was renewable.

Let me say that again. More than half of all new electrical generating capacity added in the world last year was from renewable energy—wind and solar—across the planet.

China recently announced that it intends to invest $360 billion on renewable energy by 2020. They intend to create 13 million Chinese jobs in renewable energy in that time.

This isn't a conspiracy. It is competition, and the competition for those clean energy jobs is global.

When we started carrying iPhones, it wasn't a war on black rotary dial phones; it was a technological revolution. When we started using Macs and PCs, it wasn't a war on typewriters; it was a technological revolution. The horseless carriage wasn't a war on horses; it was a technological revolution that moved us to automobiles.

The move away from coal and oil toward clean energy and natural gas isn't

a war; it is a revolution—an American-made free market revolution.

We now have more than 400,000 Americans employed in the solar and wind industries. By 2020, there are projected to be 600,000 Americans working in these clean energy industries. It is not a war. It is a revolution.

Now, next there is going to be another industry to win in the CRA, the Congressional Review Act giveaway game. That is right. The next winner will be the oil and gas industries.

Republicans intend to move to overturn a bipartisan requirement under the Dodd-Frank bill that publicly traded oil, gas, and mining companies disclose to their investors when they make payments to foreign countries, but that requirement is vigorously opposed by ExxonMobil, the American Petroleum Institute, and the oil and gas industry.

Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act was a bipartisan provision authored by Senators CARDIN and LUGAR. It requires oil, gas, and mining companies to disclose payments to foreign governments, and that is now in jeopardy.

The Dodd-Frank disclosure rule goes to the core of the Securities and Exchange Commission's mission of investor protection. Secret payments can easily be expropriated by corrupt governments. They can also be a signal that a company is involved in risky business overseas—risks that investors need to know about when making investments.

By eliminating this disclosure requirement, using the Congressional Review Act, we are potentially allowing for oil companies to make secret, undisclosed payments to foreign governments. Those could include payments intended to gain an advantage over other companies or even bribes to foreign officials.

Eliminating this disclosure requirement could allow for oil companies to make secret payments to foreign nations that could have serious implications for these nations and for investors.

I urge my fellow Senators to reject these resolutions and keep in place the commonsense protections for public health, clean water, and financial disclosure.

Earlier today, the Republicans on the Environment and Public Works Committee reported out the nomination of Oklahoma Attorney General Pruitt.

Democrats on the committee have grave concerns about his ability to uphold the EPA's mission to ''protect human health and the environment.''

So what we are talking about here is the totality of a picture. The use of the CRA to—one by one by one—go after these environmental protections that have been put in place to increase the health of Americans, to reduce their exposure to arsenic, to lead, and to other dangerous chemicals. This first one that we are debating goes right to the heart of that issue. What the coal industry is doing is using the justification of their need to be competitive with the natural gas, wind, and solar industries, a battle they are losing in the financial marketplace, as a justification for undermining the public health of our country so they can be more competitive.

In other words, the price to be paid to make the coal industry more competitive with other industries to which they are losing market share in the electrical generation market is that the public health has to be compromised and we have to turn a blind eye to the impact on the children and the families in our country who are being exposed to these dangerous chemicals.

That is the price we have to pay as a nation? It is unacceptably high.

So Adam Smith looks on, and Adam Smith judges us here today.

This marketplace defeat of coal by natural gas, wind, and solar is one that is being used to hurt children and hurt families in our country. I do not think it is an acceptable position for our Nation to take. I urge a rejection of that motion.

I yield back to the leader of this effort on the Senate floor, the great Senator from Washington.

The PRESIDING OFFICER (Mr. SASSE). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I appreciate the opportunity to get wedged in here. There are a number of very interesting things happening today. One is the CRA that I am very much concerned about. I know that my good friend from Massachusetts did not misrepresent something intentionally; however, this is a little bit more complicated than people think it is.

I spoke earlier this week on our need to roll back a lot of these regulations that were handed down during the Obama administration. They are all a part of that War on Fossil Fuels, and as you hear, that war is still going on with some of those individuals. However, President Obama is gone, and now we have to look at some of these overregulations.

For a number of years, I chaired the Environment and Public Works Committee. During that period of time, that particular committee had the jurisdiction over the EPA, which is where most of the bad regulations came from. When I say ''bad regulations,'' I am talking about the overregulations that make it very difficult for our companies to compete with foreign companies that don't have these types of regulations.

Let me share something that is not very well understood, and that is what a CRA really is. There are a lot of people of the liberal persuasion who would like very much to have everything they could regulated in Washington, DC. For example, one of the fights we had was the WOTUS fight. If you ask any of the farmers and ranchers in America—not just in my State of Oklahoma but Nebraska and many other States—what is the most serious problem they have, they would say it is the overregulation of the EPA. If you ask them, of all the regulations, which ones are the most difficult for the farmers out there trying to scratch a living, they will say it is the regulations on water.

Historically, the jurisdiction of water is a State jurisdiction. Now, a liberal always wants that jurisdiction to be with the Federal Government in Washington. That is their nature. I don't criticize them for that. They believe that. But if you ask the farmers in my State of Oklahoma, they will say they don't want that to happen. Historically, water has always been the State's jurisdiction, with the exception of navigable water. We understand that navigable water should have a Federal jurisdiction. In fact, I would have to say there was a real effort 6 years ago by a Senator who at that time was representing the State of Wisconsin and a House Member who was representing a district in Minnesota. Those two individuals introduced legislation to take the word ''navigable'' out of water regulations so the Federal Government would have jurisdiction over all of the water in the States as opposed to the State having that jurisdiction. Not only did we defeat the legislation, but both of those Members were defeated in the polls when they came up for reelection on that issue. The people are clearly on our side.

Where does a CRA come in? A CRA is something that has been used to shed light on what we are doing here. I am talking about with respect to our elected representatives. If there are regulations that are punitive to the businesses back home, when the Senator goes back to his or her State, they can say: Well, that wasn't I, that was an unelected bureaucrat who did that. I am opposed to it. They have a shield so people don't really know where they stand. A CRA takes away that shield because the CRA challenges a regulation, and it has to be voted on, forcing Members of the Senate and the House to be responsible for how they are really voting. It is a way of shedding light.

We have a lot of CRAs coming. One is going to be a CRA that I sponsored having to do with a regulation in the Dodd-Frank bill, in section 1504. As I mentioned, most of the overregulations come from the EPA, but this particular regulation didn't come from the EPA. It came from the Dodd-Frank banking legislation having to do with financial services. It is in a section that had nothing to do with financial services. Section 1504 requires all information to be made public that would come from a bid. In the United States of America, our oil and gas companies are in the private sector, but in China it is run by the government. If we are competing for an oil and gas issue that might be in Tanzania and we are competing with China, China would be competing as a government, and we would be doing it

in the private sector. Section 1504 requires the private sector to disclose all elements of their bid when they are competing for a contract with China. The reason for this initially was to preclude a country's leaders from attempting to steal money that was given to them for a certain oil project. With this disclosure, they would not be able to do it. Well, you don't have to have all the components of the bid. All you have to have is the top line, how much money was actually sent to, in this case, the country of Tanzania.

The courts came along in 2014 and said this regulation was wrong. There are a couple of problems. One problem is that there is no reason in the world that you should have a mandate to disclose all the details of a bid because that is giving away information to the competition, giving the other side an advantage. The other problem is the expense of it. We are talking about $600 million a year that would be borne by the private sector in America that China would not have to pay. So it only punishes those within the United States.

After the courts threw this out, the SEC should have reworked the rule. They were instructed to rework the rule so every detail of the bidding did not have to be disclosed, just the total amount. That solved the problem that was perceived to be out there because then it would be known that so much money, for instance, maybe a check for $50 million, would go out, and we wouldn't have to break down the details of it. The main thing is, we need to know, in good government—and that was the intention in the first place—how much money was going to a foreign government.

Some have argued that the CRA is motivated by companies who want to get around transparency. That is clearly not the case. The courts have said it is not the case. Oil and gas companies in particular are longstanding supporters of greater transparency initiatives such as the Extractive Industries Transparency Initiative, the EITI, that is a multilateral, multistakeholder global initiative composed of energy companies, civil society organizations, and host governments. The EITI rules would apply equally to all companies that would be operating in a country. That would level the playing field.

We have also heard from those on the left saying that voting to repeal the rule would be a vote in favor of corruption. Yet, importantly, the United States already has in place the Foreign Corrupt Practices Act, which prohibits the paying of bribes to foreign officials to assist in obtaining or trying to retain business. The Federal Government is able to bring civil enforcement actions against companies that violate this rule, and section 1504 of the Dodd-Frank Act did not change that. That was in place before and is still in place now. If we pass the CRA and eliminate section 1504 of the Dodd-Frank Act, it is not going to change things.

There are others in the humanitarian community who have expressed concern to me that the CRA will undermine efforts to fight corruption in other governments around the world. Let me assure you that I support your goal.

The courts were emphatic when they said this regulation should be repealed. In fact, it was taken down by the court way back in 2013. Well, it has come back up again. What we want to do is merely comply with what the courts told us to do in 2013, and that is to use the CRA to knock out this section 1504 and go back and rewrite it to take out merely the requirement for a breakdown of all the individual elements of a contract. That is something we intend to do.

I see my good friend from West Virginia, who I think would understand just as well as anyone that when I go back to my State of Oklahoma, they say to me: You have a President—this was back when President Obama was President—who has a War on Fossil Fuels. Fossil fuels are coal, oil, gas, and I would include nuclear. Coming from my State of Oklahoma, they ask: Explain how, if 89 percent of the power that is generated in America comes from fossil fuels and nuclear and they are successful in doing away with it, how do we run this machine called America? The answer is, we can't. We have to have it.

I think we all understand what we want to do is have this rule changed so we are not put at a competitive disadvantage so we are able to go ahead and compete with countries that have a government-run system. To be able to do that, we need to rewrite this particular act. Again, the courts have already agreed to that and that is what we are attempting to do.

For those concerned about the timing and speed of the CRA, I have good news. The actual rule is not set to go into effect until 2018 anyway. The more swiftly we can enact the CRA, the more time it will give us and the SEC to rework it. This is something that is perfectly acceptable.

Some of my critics say we can't come back with a rule that is substantially the same. This will not be substantially the same. Actually, this is what the court recommended in 2013.

In closing, I want to ask this question: If we put forth a rule that makes it harder for U.S. companies overseas, who will fill the void? The U.S. companies have the best environmental standards, the best labor practices, and the least corruption of many of the other countries. However, if this vacuum is there, the business will go to companies from China, India, and Mexico that don't care about pollution and don't care about labor standards. That is not what we want to have happen. What we need to do is foster a strong competitive environment, with reduced corruption overseas, for the benefit of those living under these governments.

So I invite my colleagues to join me in this effort to do away with this regulation through the CRA and to repeal section 1504 of Dodd-Frank and rewrite it so it accomplishes the goal of stopping corruption and at the same time is not going to put us at a competitive disadvantage.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I rise also to speak about the rule. I want everyone to know that the State of West Virginia has been a heavy-lifting State. We are a construction State. We mined the coal that made the steel that built the guns and factories that enabled our Nation to defend us and gave us the great country we have.

We have done everything. There is no one in West Virginia, Oklahoma, or any extraction State who wants dirty water or dirty air. Pitting people against each other is just wrong. The way this comes down is that this is a duplicative rule, this stream protection rule that was put in place.

My colleagues know that last year the Department of Interior Office of Surface Mining and Reclamation Enforcement basically decided to send the final stream protection rule to the White House without fulfilling their obligations or even a request by myself to contact and work with the local authorities and to work with the States that are involved. They did nothing. They would not reach out to us whatsoever. This was one of many of President Obama's administration's regulations that absolutely crippled West Virginia families and businesses with no plan to replace or create new jobs or help these communities.

Not only is this rule very alarming in its scope and potential impacts, the rulemaking was executed in a very flawed way. The rules by the Department of Interior and Office of Surface Mining and Reclamation must be based on comprehensive data that is available to stakeholders, particularly when those rules threaten to eliminate thousands of jobs. All we have asked was to come to the DEP, the West Virginia Department of Environmental Protection, and tell us what is not working, tell us what you want us to do differently, work with us and help us strengthen where there is a flaw.

Not once did we ever get that type of courtesy. States critical to the implementation of this rule were left out of the process in any meaningful way. The Office of Surface Mining failed to work with States throughout this process, despite the clear congressional intent. Furthermore, agencies should not be assuming duplicative rules that overlap regulations under other environmental laws such as the Clean Water Act.

This rule is excessive and duplicative. It has over 400 changes to the Surface Mining Control and Reclamation Act—which is what we refer to as SMCRA—that duplicate existing practices and protections that the EPA and the Army Corps already oversaw.

So, basically, we already have two agencies that have to do with any type of permitting that goes through the EPA, in conjunction and in alliance with the Army Corps. This overstepped and took all the powers away from them completely. Why would we want to duplicate? If we have an agency that is not doing its job, either change the personnel or get rid of the agency; don't just create another duplicative role and another agency to oversee it.

During my time in the Senate, I have been committed to policies that protect our coal-mining communities and economies, and that is why I introduced this resolution of disapproval to undo this harmful, duplicative regulation.

I am a firm believer in the balance between the economy and the environment. I believe that everything we do in life should have a balance, and we should try to find that balance. But when you are trying to basically use overreach, duplicative rules—a nuisance—which do nothing but create havoc and make it almost impossible to go forward, you can't hire enough lawyers and enough accountants to get through the paperwork the government can put on you.

But never once, from any of us—from West Virginia or any other State that does the heavy lifting—none of us think that we should discard the Clean Water Act or the Clean Air Act. Those are things that we will cherish and we will protect, and those came about by Republicans and Democrats working together—Republican administrations. We are all for that; we are just not for beating us over the head with a hammer when we can work to fix things if we think there is an error.

The consequences of this regulation will have far-reaching impacts on the future of coal mining and therefore all other things we can count on. I think, as the Senator from Oklahoma just said, in West Virginia, we have what we call ''all of the above'' energy. We want all of the above to be used, and use it in the cleanest fashion, and design and develop new technologies that we can use and depend on. We depend on coal, we depend on natural gas, and we depend on nuclear power for the majority of our energy.

The other thing I have said is that I believe we should be developing renewables also, and we are doing that. Wind, solar, biomass—we do everything. But if you believe that is going to run the country in the energy you use every day and take for granted, then tell me what 4 hours of the day you want your electricity to run. What 4 hours of the day do you want your refrigerator to stay cold? What 4 hours of the day do you want to heat your home? Tell me what 4 hours of the day you take for granted that anything and everything you want works 24 hours a day, because you will not have baseload. Those are the facts. If you don't like it, then let's continue to work to make it better, but don't just put your head in the sand and say: I am going to have whatever I have. This will work fine. And I have no fossil. I don't need fossil.

I am sorry, the world doesn't work that way. This country doesn't work that way. The grid system—your light switch—doesn't work that way.

So today once again I am standing on behalf of West Virginians and commonsense people all over this country, and we have a lot of them in West Virginia. I ask my colleagues to hear their voices and vote in support of this resolution that gets rid of these overreaching, duplicative rules that do nothing but create havoc on the economy and the well-being of the citizens of our great country.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, I think all of us understand the gravity of moving forward on a CRA. It is not a usual procedure; it is limited in terms of filibuster rules, and it is extraordinary. In this case, unfortunately, it is necessary. Had the previous administration actually listened and worked constructively with Senator MANCHIN and me and my utilities and the coal industry in North Dakota, we would not be standing here now.

This was a rule that had a specific intent of addressing mining practices in Appalachia. Yet the former administration made the rule applicable to the entire country.

I don't know that any of those folks drafting the rule had ever been to North Dakota to see just how different our mining practices and geology are compared to Appalachia, so I invited former Assistant Secretary Schneider out last year to take a look for herself. When she came out, she heard directly from North Dakota utilities, regulators, and coal companies, and she saw how our operations differ and how my State is a national leader in reclamation. Based on the final rule, it is apparent that the rule was already made before her visit, and the input of the folks back home in my State, quite honestly, was not taken seriously.

North Dakota coal stakeholders estimate that the rule could cost coal producers in North Dakota alone approximately $50 million annually in additional compliance costs and take more than 600 million tons of otherwise mineable, affordable coal off the table.

I will tell you, when you look at the landscape of North Dakota and you are sitting there and you are explaining this and you are showing how one rule would require equipment to be moved, draglines to be moved, and how all of that makes absolutely no sense in terms of the resource and, in fact, in terms of the difficulty of actually doing reclamation that needs to be done in that situation; when you are standing out there and you actually look at it, the only conclusion you can come to when you see the net result of this rule is that it was intended to shut down coal mining. That is the only conclusion I could come up with. It wasn't about clean air and clean water; it wasn't about protecting this resource; it was about shutting down the coal mines.

So this impacts not only the ability of our utilities to access this affordable and abundant resource, it hits thriving rural communities throughout North Central North Dakota, communities like Hazen, Washburn, and Beulah that rely on coal for good-paying jobs, for funding our schools, for fire protection, for law enforcement and other community resources that allow our rural communities and healthy middle class to thrive in the State of North Dakota.

One-size-fits-all rules do not make any sense. And when you look at the application of this rule and once-size-fits-all, it clearly makes no sense. The beautiful mountains, forests, and streams that dominate the West Virginia landscape, as just described by my great friend Senator MANCHIN, are nothing like the rolling prairies, the buttes, and the prairie potholes of North Dakota. How anyone can look at these two States and think that a rule which is promulgated which will be universally applied can logically be applied to those two different landscapes—the logic of that completely escapes me.

A rule that requires enhancements to the land, including trees and permanent fencing to keep livestock away from streams—well, in North Dakota, we are pragmatists. Not only do we return the land to the same or better condition, we usually convert that land from farm or ranchland to this beautiful landscape we see here.

I want everyone to understand what reclamation looks like. I want you all to understand that this used to be a strip mine. This used to be a big hole in the ground producing coal. And over generations, and restoring this to the topography—the biggest challenge we have in North Dakota is convincing the original landowner, who would love it to be straight so it is easier to farm, that we have to put it back the way it was.

My colleagues can look at this landscape, and they cannot tell me that the company that did this and the State that set the standards and the commitment that was made to reclamation was not honored; that it is not working in North Dakota and that we need a one-size-fits-all stream regulation to fix a problem that doesn't exist—a problem that is going to cost us $50 million and hundreds of jobs in my State. This is exactly why the people of this country get frustrated, and the people of this country do not understand why Washington, DC, thinks they know it all.

As a matter of fact, our reclamation programs are highly regarded, and we are, in fact, recognized for doing the best reclamation in the country. I would point to the 2016 Abandoned Mine Land Reclamation Small Project

Award that went to our mine reclamation project in Bowman, ND.

Our coal industry and our utilities are always willing to work with the Federal Government on regulations that focus on actual results, on improving environmental safety and standards. They are willing to do that again. They have never had an issue with updating this regulation. All that was asked was that the former administration listen to them, actually believe their eyes when they see the work we are doing and understand the impact of that rule.

It was done in haste, it was done hurriedly, and it was done so they could check a mark and say: See, we really are leaving it in the ground.

If you want to be leave-it-in-the-ground, then have the courage to come here and say that this country, in the next 20 years, will not extract one fossil fuel from the ground.

I have great respect for Senator MARKEY. He was just here talking about how we have made progress because of the conversion from coal mining to natural gas. It is a little disingenuous, I would say, because the whole while, we are talking about how this conversion would not have been made possible if it weren't for industry practices of utilizing fracking to extract natural gas.

This is a structured movement using bogus regulations to promote a national policy without having the courage to just advance that national policy forward, which is to leave it in the ground.

We heard from Senator MANCHIN. I want everyone who says: We are going to pursue a leave-it-in-the-ground national policy—I want them all to think about what that does to women and children who live on fixed incomes. I want you to think about what that means for reliable, redundant, and affordable power generation in our country. We are going to let the market decide.

We have moved toward wind energy, which, ironically, the big movement of wind energy was facilitated by a compromise we reached over a year ago that dealt with allowing for the export of crude oil out of this country—the lower 48—in exchange for more permanency and for production tax credits and investment tax credits. We can, in fact, achieve a public policy result if we work together and if we don't have hidden agendas like ''leave it in the ground.''

This rule was wrong, it was structured wrong, and it attacks an industry that does this. I will tell my colleagues, I have been out there. I have worked in this industry and I have been a regulator of this industry. This is not unique. This is what reclamation looks like in North Dakota. And to suggest that we have not been good stewards, to suggest that somehow we are contaminating this beautiful resource by what we are doing, is wrong on so many levels. It is costly to our consumers. It costs us jobs, and it is wrong on so many levels.

With that, I would say, please—this is a process that should only be used very rarely but I think is being used appropriately in this situation with the stream rule. So I stand with my friend JOE MANCHIN in helping sponsor this CRA. We will continue to fight for our industry, fight for our good-paying jobs, and fight for commonsense regulation that actually achieves the purpose of protecting this beautiful resource we have in North Dakota.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, I am deeply concerned about efforts underway to use the Congressional Review Act to eliminate protections that have saved lives and cleaned up our environment. I certainly respect the views of my friend and colleague from North Dakota, but there are other perspectives to consider. And while today it is a stream buffer rule, tomorrow it will be some other rule intended to protect the health of our communities and our citizens.

The Congressional Review Act is a rarely used tool that can erase rules that have taken years and much public input to develop. Passing a CRA resolution, as we are being asked to do in this instance, also prevents us from implementing similar protections in the future. The reason is that by passing this kind of resolution, it prevents us from implementing any kind of other rule that is similar in nature.

Regardless of whether you voted for Donald Trump or Hillary Clinton, nobody wants to live in a dirty environment where we don't have clean water, clean rivers, clean streams, or clean air. Once again, we are being told to choose between a clean environment and creating jobs.

In Hawaii, we have one of the lowest unemployment rates in the country and some of the most robust protections for our environment. Today's debate over the stream buffer rule and future debates under the Congressional Review Act are not about States' rights. Today's debate is not about regulation for the sake of regulation. It is not about a war on coal; it is about preventing fossil fuel companies from creating unhealthy communities by polluting the water we drink and the air we breathe.

The Department of the Interior has been working on this rule for 7 years—7 years. It replaces an outdated regulation that was written during the Reagan administration in 1983.

Science has come a long way in 34 years. In that time, we have learned a lot about the detrimental impacts of coal mining on clean water and public health. Clean water is essential, and politically expedient decisions we make now will have lasting impacts for years to come, as families in Flint, MI, know all too well.

The stream buffer rule that we are being asked to undo requires coal companies to monitor water for contaminants. Communities have a right to know what is in their drinking water. They have a right to know that their water is clean. They have a right to know what kind of contaminants are in their water. I don't think this is an unreasonable expectation. Why are we making this debate a fight between supporting jobs for coal miners and clean water?

Divide and conquer is a time-tested tactic that ends up hurting vulnerable populations and communities. Let's not fall prey to such divisive tactics. This is why I am perplexed as to why we are voting to undo the progress we have made. I will be voting against the CRA and any other CRAs that harm our environment and public health and force us to make a false choice.

Again, while I respect the views of my colleagues who have a different perspective on what we are being asked to do today, I urge my colleagues to join me in defeating this resolution.

Mr. President, I yield the floor.

Mr. CARDIN. Mr. President, I wish to oppose the resolution of disapproval on the stream protection rule. Each Congress has an opportunity to promote having cleaner air and cleaner water. Our job description shouldn't include hollowing out the protections for clean air and clean water which previous Congresses have provided.

Clean air and clean water are vital not just to human health and the environment, but to our economy as well. The number of premature deaths due to poor water quality affects our economy. The number of school or work days missed due to health problems affects our economy. The ability of industries to have access to clean water affects our economy.

Like many of my colleagues, I am proud to represent part of Appalachia, in the western part of Maryland. I have enjoyed skiing, hiking, and simply enjoying one of the most beautiful places in our country. Recreational activities along the Appalachian Mountains depend upon clean air and clean water. And recreation is a huge part of expanding economic opportunities in Appalachia.

Over the years, I have met with many people directly affected by the mining practice known as mountaintop removal, and I have worked very hard to address their concerns in a bipartisan manner. For instance, in the 111th Congress, I introduced S. 696, the Appalachia Restoration Act, with the senior Senator from Tennessee, Mr. ALEXANDER, to help protect streams and rivers.

The stream protection rule updates 33-year-old regulations to implement the Surface Mining Control and Reclamation Act. The update establishes clear requirements for responsible surface coal mining that will protect 6,000

miles of streams and 52,000 acres of forests over the next two decades, preserving community health and economic opportunities, while meeting the Nation's energy needs.

The stream protection rule includes reasonable and straightforward reforms to revise three-decades-old coal mining regulations to avoid or minimize harmful impacts on surface water, groundwater, fish, wildlife, and other natural resources. There are a number of very positive, reasonable, and economically feasible changes in the proposed stream protection rule that make it an improvement over the existing regulations.

The rule incorporates the best available science, technology, and modern mining practices to safeguard communities from the long-term effects of pollution and environmental degradation that endanger public health and undermine future economic opportunities for affected communities.

The final Rule gives regulators more tools to measure whether a mine is designed to prevent damage to streams outside the permit area.

The rule would require companies to avoid mining practices that permanently pollute streams, destroy drinking water sources, increase flood risk, and threaten forests.

It would also require companies to restore streams and return mined areas to the uses they were capable of supporting prior to mining activities and replant these areas with native trees and vegetation, unless that would conflict with the implemented land use.

To help mining companies meet these objectives, the rule requires testing and monitoring the condition of streams that might be affected by mining before, during, and after their operations to provide baseline data that ensures operators can detect and correct problems and restore mined areas to their previous condition.

Using the Congressional Review Act, CRA, to attack a rule that protects people and communities from harmful impacts of irresponsible coal mining operations, such as buried streams, floods, and subsidence, will benefit coal companies that cut corners at the expense of the people who live in Appalachia. And if the resolution is passed, agencies will be prohibited from promulgating any other ''similar'' rule, unless Congress passes enabling legislation.

Opponents of the rule call it a ''job killer.'' That is myth. The regulatory impact analysis, RIA, for the rule estimates that, overall, employment will increase by an average of 156 full-time jobs. According to the RIA, the rule will create more than twice as many jobs as it will eliminate by requiring operators to perform more duties for reclamation, including stream monitoring. Likewise, the impact on an average household's monthly electricity bill is slight: just 20 cents per month.

Coal miners and their families need jobs, and they need clean water. The two aren't mutually exclusive. What they don't need is this attempt to gut a reasonable rule designed to protect them from an environmental disaster, which is much more likely to occur if the Senate passes this resolution of disapproval.

Mr. SANDERS. Mr. President, I oppose the Republicans' current efforts to gut environmental protections that put industry profits before public health. In repealing the EPA stream protection rule, Republicans are again choosing to put the health and well-being of average Americans in jeopardy in favor of the interests of the Big Coal industry.

This bill seeks to unravel clean drinking water protections implemented by the Obama administration. The last time I checked, no one voted to pollute the environment in the last election. The majority of Americans do not agree that we should be dismantling protections that ensure clean air and clean water.

The stream protection rule shields communities from toxic pollution from coal mining, updating regulations that are more than 30 years old. These protections bolster those in the Clean Water Act and establish a long-overdue monitoring requirement for water pollutants—including lead, arsenic, and selenium—known to cause birth defects and other severe human health impacts. The rule was updated to better protect public health and the environment from the adverse effects of surface and underground coal mining.

This rule would protect or restore about 6,000 miles of streams and 52,000 acres of forest over two decades. It would prevent water pollution by authorizing approval of mountaintop removal mining operations only when natural waterways will not be destroyed, requiring protection or restoration of streams and related resources, such as threatened or endangered species. It gives communities in coal country much needed information about toxic water pollution caused by nearby mining operations. Long-term, the rule would ensure that premining land use capabilities are restored and guarantee treatment of unanticipated water pollution discharges.

Mountaintop mining destroys communities. Let's be clear. This rule helps protect communities from the pollution caused by mountaintop removal coal mining. In Appalachia, mountaintop removal coal mining has been responsible for the destruction of 2,000 miles of streams and 2.5 million acres of the region's ancient forests. States have issued advisories that people should not eat the fish in mined areas because of chemical contamination. In dozens of peer-reviewed studies, mountaintop removal mining has been linked to cancer, birth defects, and other serious health problems among residents living near these sites. According to Kentuckians for the Commonwealth, the public health costs of pollution from coal operations in Appalachia are $75 billion every year.

According to a 2011 study in the Journal of Community Health, in counties where mountaintop removal occurs, cancer rates are almost twice than those nearby where there is none. As many as 60,000 additional cases of cancer are linked to the practice within those 1.2 million Americans who live in these areas.

In addition, a 2011 study in the scientific peer-reviewed journal Environmental Research found that, even after accounting for socioeconomic risks, birth defects were significantly higher in mountaintop mining areas compared to non-mining areas.

Likewise, a 2011 study in the Journal of Rural Health found that areas in Appalachia with mountaintop removal have significantly higher death rates from heart disease than other areas with similar socioeconomic conditions. Researchers in the same Rural Health study estimated that more than 700 additional deaths occur annually.

Yet the rule is dogged by many myths and falsehoods spurred by the fossil fuels lobby. Almost a quarter of a billion dollars have been spent by opponents of the rule—the coal mining industry, electric utilities, National Association of Manufacturers, railroads, and the U.S. Chamber of Commerce—on political lobbying and campaign donations. They—and Republicans—claim that implementing this rule will kill coal production—not true. Coal production is impacted by many factors, including low natural gas prices. The CEO of the coal company Murray Energy even said, ''I've asked President-elect Trump to temper his comments about . . . bringing coal back. It will not happen.''

In comparison, this rule could actually create jobs. Many of the jobs created by the rule will be construction-type jobs easily conducted by former coal miners.

Another myth is that the rule is a huge economic burden on industry—not true. The economic impacts of implementing this rule are small relative to the size of the coal industry. Industry compliance costs are estimated to average only 0.3 percent or less of the coal industry's $31.2 billion 2015 estimated annual revenues. Conversely, the costs of repealing the rule are borne by Appalachian families and small businesses. Families in these communities will be the ones to endure significant health impacts. Businesses like restaurants, farms, and the outdoor recreation industry rely on clean water and are jeopardized by coal contamination in their community's streams.

I urge my colleagues to vote no on this effort to kill the important protections provided by the stream protection rule. We must reject efforts to put the interests of the Big Coal industry above the health and well-being of the American people.

Mr. VAN HOLLEN. Mr. President, with the resolution on the floor today, our Republican colleagues are beginning their effort to roll back critical

health, safety, and environmental safeguards that the Obama administration put in place.

The tool that they are using, the Congressional Review Act, is a particularly blunt instrument. The Congressional Review Act allows the majority to rush a resolution of disapproval through the Senate with limited debate and only a limited opportunity for Americans to see what Congress is doing.

But a resolution of disapproval under the Congressional Review Act does not just send a rule back to the drawing board. Instead, the resolution repeals the rule and prohibits the Agency from ever proposing anything like it again. An analysis in the Washington Law Review reported that it is ''conceivable that any subsequent attempt to regulate in any way whatsoever in the same broad topical area would be barred.''

The rule before us today, the stream protection rule, deals with how waste from surface mining, also called ''mountaintop mining,'' is handled. The rule prevents this waste from being dumped near streams. The waste from these mining operations includes toxic pollutants like lead and arsenic. And these pollutants can cause serious health problems in surrounding communities. A 2008 study in the Journal of the North American Benthological Society found that 98 percent of streams downstream from mountaintop mining operations were damaged. This rule limits pollution near streams, requires monitoring of water quality, and creates standards to restore streams after a mining operation ends.

The Reagan administration first put forward stream protections in 1983, exercising authority under the Surface Mining Control and Reclamation Act of 1977. Today more than 30 years later, we better understand the effects of surface mining, and it makes sense to update our standards to protect public health. The Bush administration revisited the issue in 2008, but a Federal court vacated the Bush administration rule because they failed to fully consider effects on wildlife.

Under the Obama administration, in 2009, the Office of Surface Mining Reclamation and Enforcement, or OSMRE, began considering options to bring these stream protections up to date with the current scientific understanding. In the course of developing the updated rule, OSMRE shared information and solicited comment from State regulatory authorities and incorporated their feedback. The Office of Management and Budget's Office of Information and Regulatory Affairs continued the stakeholder engagement process. The Obama administration considered the issue deliberately, for 7 years, before publishing the final rule in December.

OSMRE acted appropriately with the Stream Protection Rule. But the question before us today is not whether the rule is perfect. Today we are considering whether the Agency should be permitted to update the old 1983 rule at all. I believe that it was right for the government to update this outdated regulation and use the best available science to protect drinking water and safeguard public health. Therefore, I urge my colleagues to join me to vote against this resolution to disapprove the rule.

Ms. HIRONO. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold her suggestion?

Ms. HIRONO. Yes, I will.

The PRESIDING OFFICER. The Senator from Nebraska.

NOMINATION OF NEIL GORSUCH

Mrs. FISCHER. Mr. President, I rise to address the nomination of Judge Neil Gorsuch to serve on the Supreme Court of the United States.

I will address Mr. Gorsuch's qualifications and his extensive legal experience in a moment, but first, I invite my Senate colleagues to consider: What do we seek in a nominee to our Nation's highest court?

Maybe it is easier to say what we don't want. We do not want a lawmaker. Washington has plenty of those, 100 Senators and 435 Members of Congress. We do not want a crusader for a cause. Most of all, we do not want a trailblazer.

What we want is a follower of the Constitution. We want a Supreme Court Justice who will follow the laws, as written, and uphold the rule of law. This demands discipline; it requires the rarest of virtues: humility. There is no room for hubris on the Supreme Court.

We do not want a Justice who believes he knows better than our Founders. That is not his job. A Supreme Court Justice should neutrally apply the laws as written by Congress and as understood by the Framers of our Constitution. They must not impose their personal preferences upon the law or upon the American people. I want to say again that we want someone who will follow the law and uphold the rule of law.

We also seek a keen legal mind. A nominee must possess the sharpest intellect and only the most rigorous academic qualifications. This person may be one of nine human beings who will resolve questions affecting the freedoms and the rights of millions. Therefore, in addition to ironclad commitment to the rule of law and brilliant intellect, this person must be a known quantity. There must be a reliable record for us to carefully assess.

In exercising our constitutional power of advice and consent, we don't make guesses here in the U.S. Senate. We hold hearings; we ask probing questions. This is how we will determine if Mr. Gorsuch is the legal disciple, brilliant mind, and known quantity the American people need and the person the American people deserve. The evidence so far suggests that he is.

As a judge on the U.S. Court of Appeals for the Tenth Circuit, Mr. Gorsuch has served 10 years in extraordinary fashion. He was confirmed by a voice vote here in the U.S. Senate. His opinions reflect a history of upholding the rule of law. His conduct on the bench demonstrates an exemplary judicial temperament. He is enormously well qualified. His educational background is impressive: an undergraduate degree from Columbia, a law degree from Harvard, and a Ph.D. from Oxford University. Judge Gorsuch clerked for the Supreme Court. Further, he is well within the mainstream.

Among his many impressive academic distinctions, he is a Truman Scholar. This sizeable financial award is given by the Harry S. Truman Scholarship Foundation to young people pursuing a career in public service. I note that my colleague from Delaware, Senator COONS, is a Truman Scholar. Former Secretary of State Madeleine Albright serves as president of the Truman Foundation. Senator MCCASKILL of Missouri is a board member. All are highly respected Democrats. It should be telling that the organization, now headed by Secretary Albright and Senator MCCASKILL, helped Mr. Gorsuch fund his graduate studies.

Jeffrey Rosen of the nonpartisan National Constitution Center had this to say about the judge: ''He sometimes reaches results that favor liberals when he thinks the history or the text of the Constitution or the law require it, especially in areas like criminal law or the rights of religious minorities.''

Norm Eisen, Special Counsel for Ethics and Government Reform in the White House for President Barack Obama, attended law school with Mr. Gorsuch. He called him, simply, ''a great guy.''

There is much more that can and will be said about the nominee in the days to come. Much of it will contribute to a vigorous confirmation process. Sadly, I suspect much of it will not. Many, including some in this Chamber, have said they will oppose any nominee, no matter how qualified.

Americans deserve better than this bitter feud in the U.S. Senate. The Presidential campaign is over. As the Washington Post recently editorialized, ''A Supreme Court nomination isn't a forum to refight a presidential election.'' The newspaper's editors urged against ''a scorched-earth'' response.

Senate Republicans gave President Bill Clinton an up-or-down vote on his first two Supreme Court nominees. Senate Republicans gave President Obama an up-or-down vote on his two first Supreme Court nominees. This is a chance for my colleagues in the U.S. Senate to show how high-minded they can be. They can permit a similar up-or-down vote on this President's first Supreme Court nominee.

I invite them to engage with me in a respectful, civil dialogue as we carry out our duty of advice and consent. We need a vigorous confirmation process, and I will work for that vigorous, open, respectful, and transparent process. I

hope all of my colleagues on both sides of the aisle will join me in that.

Mr. President, I yield back the remaining proponent debate time.

The PRESIDING OFFICER. The proponent's time is yielded back.

The Senator from Delaware.

NOMINATION NEIL GORSUCH

Mr. CARPER. Mr. President, I would just remind my colleagues that a lot of folks in my State and people I talk to around the country believe it is outrageous that the last President nominated a candidate for the Supreme Court for almost a year—a full 10 months—before stepping down before his term ended, and that nominee never got a hearing.

We had a National Prayer Breakfast this morning, as our Presiding Officer knows. One of the occurring themes of the speakers at the Prayer Breakfast was the Golden Rule, the obligation to treat other people the way we want to be treated. I think that should apply to this nominee from this President. I also believe it should have applied to the last nominee from the last President. I think the way Merrick Garland was treated was outrageous, and he was roundly praised by Democrats and Republican, Members of this body, alike. The fact that he never got a vote I think is appalling. It runs against everything I was taught to believe.

Perhaps the Presiding Officer's parents raised him the same way. My parents raised us to believe that two wrongs don't make a right. Two wrongs don't make a right. Folks on our side believe—although deeply troubled by the way the last nominee for the last administration was treated—this nominee deserves a hearing. My hope is that he gets one and there is time set aside to prepare for that hearing. My hope is that he will take the time to come and meet with us, particularly those of us who have concerns about his nomination.

I think he should be subject to the same 60-vote margin the last several Supreme Court nominees were subjected to and passed; I think in one case it was 62 votes, and in another case, 63 votes.

I just want to let my friends on the other side—and they are my friends—know that we and, frankly, a lot of people in this country are still troubled, looking back. We are going to look forward with the Golden Rule in mind. My hope is that our colleagues will do the same in the future.

Mr. President, I rise on a subject that some of my colleagues have talked about here today. It is one that we have been discussing for almost the last 24 hours. It is a Congressional Review Act resolution to disapprove the stream protection rule.

People may wonder, What does this mean? There once was a Senator from Nevada named Harry Reid. He once wrote a law that said: If Congress doesn't like a particular rule that has been approved and has gone through the process—drafting, all the approval processes—published in the Federal Register, and something like 60 days on the legislative calendar have run, then that rule is official; it is in full effect. However, if a Member of this body or the House wants to use the Congressional Review Act authored by Senator Harry Reid, they can repeal a rule for which the 60-day legislative clock has not run since that rule or regulation was published in the Federal Register.

In this case, 60 legislative days have not passed since the stream protection rule was promulgated, printed in the Federal Register, and one or more of our colleagues has said: Let's use the CRA—Congressional Review Act—to see if we can block or repeal it.

I spoke on this yesterday, and I am happy to have a chance to talk a little bit about it again today.

A prevailing argument in favor of this resolution to kill the rule is the significant negative economic implications of managing mining operations and site reclamation in such a way that life and economy continue along with and after extraction ends.

Let's take a few minutes to reflect on the other side of the coin. I can assure you that hunters, fishermen, birdwatchers, and recreation enthusiasts of all ages, sorts, and varieties in my home State of Delaware—and I am sure in every State in our Nation—value an environment that supports the places they treasure and the species they seek. That is not the legacy of mining.

Because of historically weak reclamation and restoration requirements, Appalachia now has more than a million acres of economically unproductive grasslands that cannot support farming, ranching, or the hardwood forest products sectors. That is one of the reasons for and one of the many strengths of this rule: to focus on postmining economic uses of land, which could include ranching, forestry, tourism, birdwatching, hunting, fishing, and the list goes on.

In America today, there are 47 million men, women, and children who hunt and fish. We all represent them. According to a 2014 report from the National Wildlife Federation, these activities deliver an astonishing $200 billion to the country's economy, and they support one and a half million jobs.

I wish to also point out that mining impacts on headwaters are particularly important, as they represent the very foundation of our water system that supports all these activities and generates all of these benefits. Just to illustrate this point, Appalachia—a region in which I grew up—is the world's leading hotspot of aquatic biodiversity. I was born in Beckley, WV, and we lived there for 6 years or so after I was born and I came back a whole lot over the years to hunt and fish with my grandfather, but I had no idea there was this kind of biodiversity in that region.

There are more species of freshwater fish in one river system in Tennessee than in all of Europe. Think about that—more species of freshwater fish in one river system in Tennessee than all of Europe. Yet surface coal mining has destroyed more than 2,000 miles of streams in this region alone. Cutting the heart out of our ecosystems is no way to do business.

The question is, Would mining companies respect and consider these values and benefits as part of their operations and reclamation efforts without surface mining and clean water laws and the effective protections provided by the stream protection rule? I would say probably not. It is no surprise, then, that conservation and fishermen's organizations, such as Trout Unlimited, the American Fly Fishing Trade Association, the Izaak Walton League of America, and Theodore Roosevelt Conservation Partnership, so strongly support this rule and robust implementation of the Clean Water Act. In fact, 82 percent—over 8 out of 10—of America's hunters and anglers feel that we can protect water quality and also have a strong economy and good jobs at the same time. It is a false choice to say we can't have both at the same time.

The stream protection rule would protect and restore an estimated 6,000 miles of streams and 52,000 acres of forest over two decades—areas important for hunting, fishing, and outdoor recreation.

All these activities would provide local citizens and communities with economic opportunity to replace or build upon what often are one-industry regions. They, in turn, support local economies and create accessible work opportunities for residents, many of whom would otherwise struggle to make ends meet, care for their health, and support their families. In the end, this is a much more valuable and sustainable future for everybody concerned.

These truths hold in their unique ways in mining States across our country, whether they involve ensuring salmon runs in Alaska or ranching in Wyoming.

I will close by repeating a point I made previously in support of this stream protection rule. This past year, the Office of Surface Mining Reclamation and Enforcement and the Fish and Wildlife Service completed consultation under the Endangered Species Act, resulting in what is known as the 2016 Biological Opinion. This new Biological Opinion smooths the way for more efficient Endangered Species Act compliance and provides some important protections to industry and State regulators regarding possible impacts of mining operations on protected species.

I think it is important to note that if we kill this rule—and I hope we will not—that protection for industry and State regulators will go away, and those players will have to resort to a more cumbersome case-by-case review under the Endangered Species Act for all activities that might affect protected species. That would be a shame.

That would be a shame, especially for a struggling industry.

For this and for so many other reasons, this is a job-creating, economy-expanding rule. Why wouldn't we support it? Once again, I urge a ''no'' vote on this resolution.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, yesterday I had the chance to come to the floor and talk about the changes I have seen in the streams and rivers in my home State of Oregon as we worked to clean them up, restore them for wildlife, restore them for swimming, restore them for boating, and restore them for drinking water, and how terrific it was to see this occur.

We are now considering a parallel provision—a provision designed really to protect the streams near intense mining zones. I had a chance yesterday to go through the details of the regulation and how it made, for example, the coal slurry ponds more secure so they wouldn't rupture. As I pointed out, one ruptured and killed over 100 people and injured more than 1,000 people, not to mention the damage it did to the ecosystem for an extended length downstream. I talked about the toxic chemicals that are leaching out of improperly developed piles, as they are called. Today I want to share a few more of the stories of folks who live in the area and how important it is for them.

Sam Needham, who lives near Appalachia, VA, talks about the changes he has seen in rivers near his home since he moved there in 1978. Sam said that when they first moved there, ''Callahan Creek that runs near our house . . . was full of different kinds of fish. Now I don't see any fish in the water. I wish it could be like it was in the 70's and 80's, but with all the runoff from sediment ponds and mines, I don't think it will ever be like that again.'' Sam supports the stream protection rule. He said: ''I would like to see regulations to protect our waters and maybe one day be able to fish in Callahan Creek again.'' He is not asking for a tremendous amount.

Chad Cordell of Charleston, WV, said that he has ''been concerned about the impacts of mountaintop removal since learning the beautiful valleys and streams of my home state were being buried under hundreds of feet of rubble.'' He said he wants ''strong, science-based protections for the creeks, streams, and rivers that are the lifeblood of our state,'' and he noted that ''attacking the Stream Protection Rule isn't the way to build strong, healthy, resilient communities or a strong, stable economy.''

John Kinney of Birmingham, AL, said:

> I have lived most of my life in Jefferson County, Alabama, enjoying the outdoors, particularly canoeing and fishing on the Black Warrior and Cahaba River.
>
> While it seems that many folks in regulatory agencies don't consider Alabama to be part of Appalachia, and don't understand the extent of coal mining in our state, I have seen the devastating impact of coal mining in our state . . . first hand.

He goes on:

> I have seen lakes turned gray downstream of mines. I have seen streams turned bright orange downstream of coal preparation plants. I have seen sloughs that once formed deep channels (perfect spots for largemouth bass) filled in with sediment.

John wants to see Federal protections ''that help protect water quality for all uses downstream of coal mines and associated industries'' and wants to see the stream protection rule stay where it is.

Here is a final story. It is from Chuck Nelson, a fourth-generation coal miner from West Virginia who dug coal underground for 30 years. He became an advocate for environmental rules like the stream protection rule after a coal processing plant was built near his home. Thick, black coal dust was always coating his home inside and out. His wife developed very bad asthma problems, and his kids couldn't use the swimming pool because of a thick black skin always on the top of the water. He decided to make his voice heard, and he came to DC from West Virginia 25 times to talk to lawmakers and regulators. He was a regular citizen. He saw a problem impacting his wife, and he wanted us to work to fix it. He finally succeeded when the stream protection rule was finalized in December.

It amounts to this: The way that one conducts mountaintop coal mining has a huge impact, just as it does with other industries. Having basic rules about how that work is done ensures sustainability of the nearby streams. This was done with a tremendous amount of involvement of stakeholders, tremendous number of meetings, 6 years of coordination, trying to find a way that doesn't paralyze coal mining but does protect the streams. That is the balance which was being searched for, discovered, and implemented with this rule, and we should leave it in place. We shouldn't destroy these years of work to protect our beautiful streams with just a few hours of debate, with no public notice or awareness of what is going on. If we want to review this thoughtfully and seriously, let's have it done in committee, where the public can participate and Senators can take a deliberate stand and not destroy this work to protect these thousands of miles of streams in a blink of an eye.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, there is a provision in the law which allows the Congress to review regulations within 60 days after they are written and decide up or down. That is what we are doing here.

This is about the stream rule that has a direct impact on mining operations, particularly coal mining operations. This has been a battle that has been going on for decades—decades—trying to establish a fair environmental standard for those in mining operations. Efforts have been made, some with limited success. Courts have thrown out earlier versions. So the Obama administration decided they would tackle this. They spent 6 years rewriting 380 pages of rules. Over 150,000 public comments were solicited and received.

This is a pretty controversial matter, as you can tell. I have been amused by the critics of this rule who said: Well, Obama just did that as he was going out the door. No. They worked on it for years. There were, as I said, over 100,000 public comments. It is not easy. It is tricky and it is challenging, but they produced it. Now today the Republicans in the Senate and the House want us to wipe it away.

What difference would it make? If you don't live next to a coal mine, do you think, well, what difference does it make in my life?

I listened to JEFF MERKLEY, my friend from Oregon, talk about the streams and the rivers. Maybe I don't fish, and I don't care. I don't go out camping, either, and I haven't been hiking. Whether the fish are alive or dead or the streams are polluted or not, who cares? I guess some people feel that way. I don't, even though I don't use our natural resources as much as some. But there is a bigger issue here. This is not just about whether there will be fish alive in the stream or the lake.

Let me tell you what that issue is. The issue is the safety of our drinking water. Do you know what is going on when these mining operations dump all this debris into the streams? It rains. Water is flowing. The stream water goes downstream. Now follow the water from the dumping of the mining operations to the chemicals included in that dumping—arsenic, for example. As it goes downstream, it doesn't just kill the fish. In my State, 1 out of 10 people in Illinois depend on those internal river and stream sources for their drinking water. If you don't have honest, realistic, and safe standards when it comes to drinking water, you have decided to up the risk of the people who are drinking the water that comes out of the tap.

I think that is a problem. Have you had a conversation with your family at any point about what is going on? Why do we have so much cancer in this area? Why do we have so many problems in this area? Could it be the drinking water? We have asked that question ourselves in our own area of Central Illinois, and many other families have asked the same.

If we take the approach which we are being asked to today and wipe away the safety standards for the water that is ultimately flowing into the taps where we drink it, shame on us. Shame on us. Is it too much to ask the mining operations not to dump their trash into the streams? Is it too much to ask

them to restore vegetation after they have chopped off the top of a mountain in West Virginia? In Illinois, I can tell you the strip mining, which went on for years and decades left a lot of areas of beautiful farmland in Illinois forever blighted.

Whatever happened to the coal companies that stripped off that land, took the coal, and left the mess behind? Long gone. You couldn't find them if you wanted to.

What Senator CANTWELL has said, and we ought to remember, we believe polluters should pay. We believe that the ultimate responsibility, when it comes to keeping our environment clean, our drinking water safe, is on the polluter. The Republicans disagree.

They say: Well, it is just Obama's War on Coal.

All right. If you want to bring it down to that level, then it is Trump's War on Clean Drinking Water. That is what this vote is all about. That is what it is all about. Shame on us if we decide to eliminate this protection for families and run the very real risk that the pollution in those streams could cause public health issues, as well as the death of wildlife and fish downstream. That is why I think this vote is so important.

This is a first. You heard what Republicans have said is the reason American business is not growing—overregulation. You get this picture of some mettlesome, busybody bureaucrat dreaming up some other way to make life more difficult for people who own businesses. I will tell you there is some of that, and I am not going to defend it, but there is also a conscientious effort by people who are scientists to try to make sure that those of us who are not scientists live in a world that is safe, safe for the air we breathe, safe for the water we drink. If we start sweeping that away, rejecting the science that proves overwhelmingly that we are going through global warming and climate change, rejecting the science that says the runoff in these streams and rivers could ultimately hurt not only wildlife but ultimately hurt the American people and the water they drink, shame on us.

Well, we will get rid of regulations, coal mining operations will make more money, and maybe they will continue on—I am sure they will in some respect—but will we be better off as a nation?

This is day 14 of the Trump Presidency. It seems like a lot longer to some of us. Republicans in the Senate and the House have decided to strike a blow for eliminating science-based regulation to protect the public health. It is a shame, but it is going to happen. They have the votes on the Senate floor. They are in control and now the American families are going to ask us: Were you there? Were you standing up for us when the safety of our drinking water was at stake?

I will be voting no on this effort to repeal this legislation.

The PRESIDING OFFICER (Mr. CASSIDY). The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank my colleague from Illinois for being on the floor to speak. He is right. We are going to keep score. There are going to be attempts by the Trump administration and the other side of the aisle to level the score against clean water; that is to say, polluters don't have to pay. So if we pass this override of existing clean water rules—yes, this will be the start. Trump 1, clean water 0.

Unfortunately, it is probably not going to the end because what is happening now is, Republicans control everything in Congress. They want to use their ability to have very little debate and to then override rules that are on the books to protect streams in the United States of America.

I so appreciate my colleagues coming to the floor to explain this issue, as this is critical. It is critical because the impacts of mining destroy headwaters. Between 1992 and 2000, coal mines were authorized to destroy about 1,200 miles of headwater streams, and this resulted in the loss of 4 percent of our upper headwater streams in areas of Appalachia in a single decade.

The surface mining impact on water from fractured rocks above coal seams react chemically with the air and water and produce higher concentrations of minerals, irons and trace metals, and those headwaters in West Virginia typically measure with electricity conductivity on an order of magnitude of those downstream. What that is saying is, these chemicals react in the water to create problems. Understanding what has been going on with that level of conductivity is one of the big advances in science in the last 10 years. That is why we want to update the rule because we now know what goes on when selenium is in the water. The conductivity is highly correlated with the loss and the absence of various species that are very pollution sensitive.

This level of stream degradation comes from the various fractured rock. When sulfate is present, you get acid mine drainage. That acid mine drainage then mobilizes metals toxic to fish—such as iron and aluminum and zinc—and that is where we start to have problems. A 2008 study found that 93 percent of streams downstream of surface mining operations in Appalachia were impaired, and our colleagues don't want to make sure that the mining companies monitor that and do stream restoration?

Another study found that adverse impacts of Appalachian mines extended on an average of 6 miles downstream; that is, this acid mine drainage is flowing 6 miles downstream. Why not have the mines measure this at the top of the stream, understanding what the selenium impact is, and doing something to minimize the impact on our streams that we are going to have to live with forever.

What is wrong with selenium? It causes very serious reproductive problems, physical deformities, and at high concentration it is toxic to humans. Basically, it is the similar effect to arsenic poisoning.

These coal mines are transforming our landscape, lowering our ridges, and raising our valley floors. One study in 2013, in Central Appalachia, found that mining lowered these ridgetops by an average of 112 feet. What we are trying to say is, you are impacting wildlife downstream; that the deforestation of these sites allows the flow of these rivers to increase flooding. The effects are worsened because the compacted soil on these sites also causes a problem. It is not much better than just plain old asphalt; that is, it means that plants and forests cannot grow back, it means that it impairs these various species, and it causes problems.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Pittsburgh Post-Gazette.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Post-Gazette, Jan. 31, 2017]

A PLUME OF POLLUTION DISCOLORS PART OF MONONGAHELA RIVER

(By Don Hopey)

An iron-orange acid water discharge from a long-abandoned coal mine discolored the Monongahela River for a four-mile stretch along the Allegheny County-Washington County border over the weekend, raising public concern but causing no problems for public water suppliers downriver.

The discharge from the Boston Gas Mine, its volume boosted by recent rains, enters the river in the small Sunfish Run tributary at Sunnyside, in Forward, 34 river miles from Pittsburgh's Point. Beginning Saturday evening and continuing through Sunday, it was visible flowing downriver in a 75-foot wide plume that hugged the east bank until blending into the river near New Eagle.

''It was orange, and it had to be an enormous amount of water to color the Mon,'' said Janet Roslund, a resident of Monongahela, where she viewed the plume. ''Something about that is just not right.''

Neil Shader, a spokesman for the Pennsylvania Department of Environmental Protection, said the plume likely contained iron, aluminum and manganese, and the department is continuing to take water samples. ''At this time there is no concern for drinking water, and water systems have systems in place to remove the contaminants,'' he said.

The Ohio River Valley Water Sanitation commission notified all downriver water suppliers on the Allegheny and Ohio rivers, but the closest, Pennsylvania American Water, with intakes 10 miles down the Mon in Elrama and 18 miles downriver at Becks Run, reported no water quality problems.

''We've been monitoring the intakes for the past 40 hours and have found no impacts to the water supply,'' Gary Lobaugh, a water company spokesman said Monday. ''We've increased our sampling of source water to every hour but seen nothing impacting our water quality.''

According to Joe Donovan, a geologist at West Virginia University who studies abandoned mine discharges in the Mon Valley, the abandoned Boston Gas mine is a large

mining complex that has approximately eight outcrop discharges along the river between Donora and Monongahela. The one on Sunfish Run that created the orange plume in the river is the largest, he said.

''Nothing new here,'' he said. ''(The) flow may be up this time of year, especially right after a precip event.''

Ms. CANTWELL. The discharge from the long-abandoned Boston Gas Mine in Pennsylvania turned a 4-mile stretch of the Monongahela River orange. The Pennsylvania Department of Environmental Protection said the plume likely contained iron, aluminum, and manganese. A geologist at West Virginia University who studies abandoned mine discharges said the abandoned mine is a large mining complex that has approximately eight outcrop discharges and created this large plume.

Mr. President, I ask unanimous consent to have printed in the RECORD an AP story dated January 28, 2017.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Associated Press, Jan. 28, 2017]

UNDERGROUND FIRES, TOXINS IN UNFUNDED CLEANUP OF OLD MINES

(By Michael Virtanen)

PRESTON COUNTY, W.VA. (AP).—An underground coal mine fire burns beneath a sprawling hillside in West Virginia, the pale, acrid smoke rising from gashes in the scarred, muddy earth only a stone's throw from some houses.

The fire, which may have started with arson, lightning or a forest fire, smoldered for several years before bursting into flames last July in rural Preston County. The growing blaze moved the mine to the top of a list of thousands of problem decades-old coal sites in West Virginia awaiting cleanup and vying for limited federal funds.

State officials say $4.5 billion worth of work remains at more than 3,300 sites abandoned by coal companies before 1977, when Congress passed a law establishing a national fund for old cleanups. That program was part of an effort to heal the state from the ravages of an industry that once dominated its economy but has fallen on hard times.

''West Virginia is right at the top for needs,'' said Chuck Williams, head of Alabama's efforts and past president of the National Association of Abandoned Mine Lands Programs. He said Pennsylvania, Kentucky and West Virginia—all states with a mining history that extends back two centuries—account for the lion's share of unfinished work among the 28 states and Indian tribes in the program.

Despite being one of the most affected, federal officials have only one-third of West Virginia's proposed cleanup costs on their $7 billion national list of high-priority work. The sites include old mines that leak acidic water into streams and kill wildlife and dangerous holes that attract children. Tunnels and caverns beneath homes also need to be shored up and new water lines are needed where wells are polluted.

''Our program exists to abate health and safety hazards,'' said Rob Rice, chief of the West Virginia Office of Abandoned Mine Lands and Reclamation, which is handling the mine fire. ''We have so much need. It's frustrating for us.''

Environmental improvements are a secondary but major benefit, he said.

''This whole area has been extensively mined,'' said Jonathan Knight, riding recently through the exurbs east of Morgantown. A planner for the state office, he said housing developments have been built above old mines that many homeowners don't even know about.

The state will get $23.3 million from the federal reclamation fund this year, which is replenished by fees on mining companies. The mines pay 12 cents per ton of underground coal mined and 28 cents per ton from surface mining, but the funding has dropped the past three years with a downturn in coal production.

It will cost about $1 billion just to extinguish all of West Virginia's 43 fires in abandoned mines, according to the state office. They could have been caused by forest fires, arson, lightning strikes or even old underground explosions that never went completely out.

About $5 million will be spent to extinguish the Preston County fire, smoldering a stone's throw from houses in a mostly rural area near the hamlet of Newburg. In October, the office spent $209,400 to cut trees and plug holes feeding the fire with oxygen.

The state office, with about 50 staff, is paid from the federal Abandoned Mine Reclamation Fund along with the contractors it hires. Together they close mine portals, extinguish fires, support collapsing hillsides and sinking houses, and treat acidic water leaking out along with dissolved metals. The need for drainage work won't end for centuries. The grants also fund water lines to replace polluted wells.

''There's more water within mine pools in West Virginia than there is in the lakes of West Virginia,'' Rice said. ''More than 2,500 miles of streams are severely degraded because of mine drainage in West Virginia.''

The state program has brought several back to life with new treatment systems.

The federal program is scheduled by law to expire in 2021, leaving behind about $2.5 billion in a trust fund expected to pay for any ongoing work needed by 25 states and three Indian tribes to address problems from pre-1977 abandoned coal mines. West Virginia has set aside about $55 million of its grant money received already for continuing water treatment funded by the interest.

The federal program has collected more than $10.5 billion in fees from coal production and distributed more than $8 billion in grants to states and tribes, according to the federal Office of Surface Mining Reclamation and Enforcement. It will provide nearly $181 million in fiscal 2017.

''We continue to discover threats from left-behind mine pits, dangerous highwalls, acid mine drainage that pollutes our water supplies, and hazardous mine openings,'' federal director Joe Pizarchik said earlier this year. An Obama administration appointee, he resigned effective last week.

Pollution and lurking underground dangers from mining since 1977 fall into a different category because the federal government made them the responsibility of the companies. They were required to post bonds before opening mines, with the state taking over if they default.

Ms. CANTWELL. The article talked about Preston, WV, and a fire in an abandoned coal mine that smoldered for several years. This mine is one of ''thousands of problem decades-old coal sites in West Virginia awaiting cleanup.''

These abandoned sites include old mines that leak acidic water into streams and killing wildlife. Tunnels and caverns beneath homes threaten water sources where wells are polluted.

All of these are examples of the kind of damage that is being done by these mines.

Mr. President, I ask unanimous consent to have printed in the RECORD another article from the Columbus Dispatch.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Columbus Dispatch, July 20, 2014]

IN WEST VIRGINIA, MOUNTAINTOP MINING IS CAUSING FISH SPECIES TO DISAPPEAR

WASHINGTON.—In West Virginia's Appalachian Mountains, fish are vanishing. The number of species has fallen, the populations of those that remain are down, and some fish look a little skinny.

A new government study traces the decline in abundance to mountaintop removal, the controversial coal-mining practice of clear-cutting trees from mountains before blowing off their tops with explosives.

When the resulting rain of shattered rock hits the rivers and streams that snake along the base of the mountains, minerals released from within the stone change the water's chemistry, the study said, lowering its quality and causing tiny prey such as insects, worms and invertebrates to die.

''We're seeing significant reductions in the number of fish species and total abundance of fish downstream from mining operations,'' said Nathaniel Hitt, a research fish biologist for the U.S. Geological Survey's office in Kearneysville, W.Va., and one of the study's two authors.

Hitt and his co-author, Doug Chambers, a biologist and water-quality specialist in the Charleston, W.Va., office of the USGS, took a 1999 study of the Guyandotte River basin's fish populations by Penn State researchers to compare them over time.

For two years starting in 2010, they sampled the populations in waters downstream from an active mountaintop coal-mining operation. In one of the sample areas, the Mud River watershed, which contains the largest tributary of the Guyandotte River, at least ''100 point-source pollution-discharge permits associated with surface mining have been issued,'' the study said.

North America's central Appalachian Mountains, where the basin lies, are considered a global hot spot of freshwater-fish biodiversity, but few researchers have investigated the impact of mountain strip mining on stream fish, and the effects ''are poorly understood,'' the study said.

Hitt and Chambers found that the number of species was cut in half and the abundance of fish fell by a third. The silverjaw minnow, rosyface shiner, silver shiner, bluntnose minnow, spotted bass and largemouth bass, plus at least two other species detected before their study, were no longer there.

Another fish species—the small and worm-like least brook lamprey, never before detected—had moved in.

In areas of the river basin where there was no mountaintop mining, fish flourished. In addition to species that had been in those waters previously, seven new ones were found, including the spotfin shiner, the spottail shiner and the golden redhorse.

''I think if we only focus on the fact that it's fish . . . some people will say, 'So what?'??'' Chambers said. But fish and the invertebrates they eat are canaries in a coal mine for researchers, ''indicators of the water quality,'' he said.

The USGS looks ''at the nation's water resources . . . their significance to the nation, and tries to understand processes that are degrading water quality. Tainted water may not be suitable for additional uses.''

Research such as the USGS' study of mountaintop mining, published online this month by the Society for Freshwater

Science, is viewed with suspicion in coal country, where mining operations provide thousands of jobs.

''The people opposed to the coal industry are trying to pile on with more studies,'' said Bill Raney, president of the West Virginia Coal Association. ''It sounds like this is one of those studies that sets out to show there's harm done. It sounds like perhaps more of the same.''

Raney said he has not seen the USGS study and cannot strongly criticize its methods or conclusions, but people ''don't just wake up in the morning and decide they are going to do mountaintop mining,'' he said. ''It takes three to four years to get a permit. Every aspect of the operation is analyzed.''

Mountaintop removal as a way of extracting coal has been in practice since the 1960s, but its use has expanded in the past two decades, and it now takes place in the Appalachian regions of Ohio, Kentucky and Virginia in addition to West Virginia.

The coal that the process produces provides power to hundreds of thousands of homes, industry advocates say, and creates about 14,000 jobs that pay middle-income salaries in regions where work is hard to find.

''The average mining wage is more than $66,000 per year . . . 57 percent higher than the average for industrial jobs,'' according to the National Mining Association. ''Mountaintop mining accounts for approximately 45 percent of the entire state's coal production in West Virginia.''

Raney's association disputes allegations that mining destroys streams and mountains, saying that state permits and government regulations require the land to be restored after use.

But the Sierra Club Eastern Missouri Group called the practice ''quite possibly the worst environmental assault yet'' because of the amount of landscape it removes and the effects on people and animals.

Homeowners in one West Virginia community, Lindytown, were bought out by a company before the town essentially disappeared after mountaintop removal. Homes and a grave site were left behind. Cascading debris has buried streams, affecting a diversity of wildlife, a major concern raised by the U.S. Environmental Protection Agency.

Often, companies are granted exemptions that ease requirements to restore land. Conservationists call the practice a plunder, and protesters, including Quakers in Appalachia and demonstrators at the White House, have called on the government to end it and banks to stop funding it.

''Mountaintop-removal mining is one of the fastest-changing land-use forms in the region,'' Hitt said. ''One of the main questions for our research lab is how biological communities respond to land-use changes.''

In the case of the fish, they seemingly do not respond well, Chambers said. ''To sum up, 10 fish species were apparently extirpated from the mined sites,'' meaning they were wiped out, he said.

Fish with a more diverse diet appeared to fare well, but those that relied primarily on invertebrates, such as small aquatic insects, tended to fare poorly.

''It's telling us that the water quality is changing,'' Chambers said. Water in that area is not used for drinking, he said, but ''if you look at it from a regulatory perspective, you have to determine if the water is fishable, swimmable, drinkable—all of these are benchmarks.''

Ms. CANTWELL. The article states: ''The report found that the number of species was cut in half and the abundance of fish fell by a third, downstream from these mining operations.''

I wish to talk about a mine now owned by Murray Energy that in 2009 spewed pollution in Pennsylvania, killing 43,000 fish and 15,000 mussels. Seven years later, the fish and mussels are still missing and not returning. They have paid a fine, but we are still living with the damage.

As my colleagues can see, this issue is about overriding a rule that helps protect our streams and rivers and makes sure that the wildlife there has safe drinking water and to make sure that we enjoy these natural areas. As I have pointed out through this debate, there are many jobs in the outdoor industry, and that is why sportsmen such as Trout Unlimited and the wildlife federations that are coalitions of hunters and fishermen all support this rule and don't want it overturned.

I know that the coal industry has spent $160 million over the last dozen-plus years trying to defeat regulation of its industry. Actually, the 0.1 percent they would have to pay was a lot lower than what they were spending on their lobbying issues. Instead, they should help us all get to the bottom.

But why have we done this by trying to fight today? That is because the science has told us that since 1983, we have a lot more information about the toxic level in the streams because of these products. We simply want a rule that reflects that the mining industry must measure and mitigate that impact. What is wrong with allowing science to lead the way?

I know our colleagues like to say that States should be left to do this, but you do have to have a Federal standard. You do have to have a Federal standard that they adhered to. It would be as if today I said: Let's override what we have done in this Nation in setting a miles per gallon for automobiles and just leave it up to the States instead.

Well, we are saying we should have fuel efficiency but let's just leave it up to the States about how many miles per gallon we really should have in automobiles.

If we did that, how many regulations do you think we would have? Do you think we would have the same fuel efficiency we have today?

What is happening is these coal companies are going into States, going into their areas, and lobbying lawmakers there against regulation, and in a couple of cases I have discussed today they were successful in getting Kentucky to fall asleep at the switch so the citizens brought the lawsuits to clean up the mines. They were successful because they finally caught the attention of people who should have been doing their job.

This rule, as it has been put in place, does give States flexibility. Its key definition says States get discretion to establish an objective criteria for measuring standards and restoring the streams. It basically says the final rule has several options to demonstrate compliance on the area of fish-and-wildlife. States can use their judgment about the types, scope, and location of enhancements. It says on groundwater, States can choose their sampling, protocol, subsequent analysis, and baseline. On rain measurements, States can choose whether to require mines to prepare a hydrologic model about the mine, and States can choose to allow mining companies to change their drainage patterns as they look at rebuilding ephemeral streams.

There is a lot of flexibility for the States. A lot of them haven't been doing as good a job as we would like, but you have to have a Federal standard. Your Federal standard is decades old. Science is telling us we have a problem. Please, please, do not pass this override of an important clean water law. Instead, if we want to fix it, let's sit down and do that legislatively. Let's not allow the polluters to get away with having their way on so many streams across America.

Mr. President, my comments here reflect my understanding as ranking member of the Senate committee of jurisdiction over the Surface Mining Control and Reclamation Act, SMCRA.

I am strongly opposed to disapproving the Office of Surface Mining Reclamation and Enforcement's stream protection rule because I both support the substance of the rule and I believe the Congressional Review Act is an inappropriate and extreme legislative tool.

While my opposition to H.J. Res. 38 and its Senate companion, S.J. Res. 10, is clear, in the event that either resolution is enacted, I would look forward to a timely reissuance of a new rule. Notwithstanding the delay resulting from enactment of either disapproval resolution, the authority SMCRA grants to OSMRE through the Secretary of the Interior will persist—so will the clear obligations in the statute.

The provision in the Congressional Review Act that prohibits reissuance of a future rule ''in substantially the same form'' as the rule being disapproved, unless specifically authorized by another future law, does not diminish my confidence. Under the ample authority granted to the Secretary of the Interior under SMCRA, a large variety of forms of implementing its obligations under SMCRA remain available to the Agency.

The resolution represents a major setback for many communities affected by coal mining that had participated in an extensive 8-year rulemaking process. But it does not limit OSMRE's ability or obligation to implement SMCRA's statutory requirements fully, including but not limited to regulations that define material damage to the hydrologic balance outside the permit area; give effect to the SMCRA's prohibitions against material damage to the hydrologic balance outside the permit area; prohibit harmful mining activity within a certain perimeter, including the stream buffer zone as under the 1983 regulations; require permitting decisions to be based on full and complete information; ensure protections

for fish and wildlife; and guarantee that adequate financial assurances are put into place to provide for full and complete reclamation.

I expect any Secretary of the Interior to follow the law and fully implement the ongoing obligations under SMCRA.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back.

The joint resolution was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

Mr. BURR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—54

Alexander	Flake	Moran
Barrasso	Gardner	Murkowski
Blunt	Graham	Paul
Boozman	Grassley	Perdue
Burr	Hatch	Portman
Capito	Heitkamp	Risch
Cassidy	Heller	Roberts
Cochran	Hoeven	Rounds
Corker	Inhofe	Rubio
Cornyn	Isakson	Sasse
Cotton	Johnson	Scott
Crapo	Kennedy	Shelby
Cruz	Lankford	Sullivan
Daines	Lee	Thune
Donnelly	Manchin	Tillis
Enzi	McCain	Toomey
Ernst	McCaskill	Wicker
Fischer	McConnell	Young

NAYS—45

Baldwin	Franken	Nelson
Bennet	Gillibrand	Peters
Blumenthal	Harris	Reed
Booker	Hassan	Sanders
Brown	Heinrich	Schatz
Cantwell	Hirono	Schumer
Cardin	Kaine	Shaheen
Carper	King	Stabenow
Casey	Klobuchar	Tester
Collins	Leahy	Udall
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden

NOT VOTING—1

Sessions

The joint resolution (H.J. Res. 38) was passed.

The PRESIDING OFFICER. The majority leader.

MOTION TO PROCEED TO EXECUTIVE SESSION

Mr. MCCONNELL. Mr. President, I move that the Senate proceed to executive session to consider Calendar No. 14, JEFF SESSIONS to be Attorney General.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. CARPER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—53

Alexander	Fischer	Murkowski
Barrasso	Flake	Paul
Blunt	Gardner	Perdue
Boozman	Graham	Portman
Burr	Grassley	Risch
Capito	Hatch	Roberts
Cassidy	Heller	Rounds
Cochran	Hoeven	Rubio
Collins	Inhofe	Sasse
Corker	Isakson	Scott
Cornyn	Johnson	Shelby
Cotton	Kennedy	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Tillis
Daines	Manchin	Toomey
Donnelly	McCain	Wicker
Enzi	McConnell	Young
Ernst	Moran	

NAYS—45

Baldwin	Harris	Nelson
Bennet	Hassan	Peters
Blumenthal	Heinrich	Reed
Booker	Heitkamp	Sanders
Brown	Hirono	Schatz
Cantwell	Kaine	Schumer
Cardin	King	Shaheen
Casey	Klobuchar	Stabenow
Coons	Leahy	Tester
Cortez Masto	Markey	Udall
Duckworth	McCaskill	Van Hollen
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Murphy	Whitehouse
Gillibrand	Murray	Wyden

NOT VOTING—2

Carper Sessions

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of JEFF SESSIONS, of Alabama, to be Attorney General.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of JEFF SESSIONS, of Alabama, to be Attorney General.

Mitch McConnell, Johnny Isakson, Jeff Flake, Steve Daines, James Lankford, Dan Sullivan, Thom Tillis, Rob Portman, John Hoeven, Roger F. Wicker, John Thune, Deb Fischer, James M. Inhofe, Tim Scott, Lindsey Graham, Jerry Moran, Pat Roberts.

MOTION TO PROCEED TO LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) and the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 45 Ex.]

YEAS—51

Alexander	Fischer	Murkowski
Barrasso	Flake	Paul
Blunt	Gardner	Perdue
Boozman	Grassley	Portman
Burr	Hatch	Risch
Capito	Heller	Roberts
Cassidy	Hoeven	Rounds
Cochran	Inhofe	Rubio
Collins	Isakson	Sasse
Corker	Johnson	Scott
Cornyn	Kennedy	Shelby
Cotton	King	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Tillis
Daines	McCain	Toomey
Enzi	McConnell	Wicker
Ernst	Moran	Young

NAYS—47

Baldwin	Carper	Feinstein
Bennet	Casey	Franken
Blumenthal	Coons	Gillibrand
Booker	Cortez Masto	Harris
Brown	Donnelly	Hassan
Cantwell	Duckworth	Heinrich
Cardin	Durbin	Heitkamp