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MARKUP OF H.R. 3548,

NORTH AMERICAN ENERGY ACCESS ACT

TUESDAY, FEBRUARY 7, 2012

House of Representatives,

Committee on Energy and Commerce,

Washington, D.C.

The committee met, pursuant to call, at 9:08 a.m., in Room 2123, Rayburn House Office Building, Hon. Fred Upton [chairman of the committee] presiding.

Present: Representatives Upton, Barton, Stearns, Whitfield, Shimkus, Pitts, Bono Mack, Walden, Terry, Rogers, Myrick, Sullivan, Murphy, Burgess, Blackburn, Bilbray, Bass, Gingrey, Scalise, Latta, McMorris Rodgers, Harper, Lance, Cassidy, Guthrie, Olson, McKinley, Gardner, Pompeo, Kinzinger, Griffith, Waxman, Dingell, Markey, Towns, Pallone, Rush, Eshoo, Engel, Green, DeGette, Capps, Doyle, Schakowsky, Gonzalez, Inslee, Ross, Matheson, Butterfield, Barrow, Matsui,

Christensen, and Castor.

Staff Present: Gary Andres, Staff Director; Michael Beckerman, Deputy Staff Director; Mike Bloomquist, Deputy General Counsel; Maryam Brown, Chief Counsel, Energy and Power; Allison Busbee, Legislative Clerk; Patrick Courier, Counsel, Enegy and Power; Paul Edattel, Professional Staff Member,Health; Garrett Golding, Professional Staff Member, Energy; Cory Hicks, Policy Coordinator, Energy and Power; Peter Kielty, Senior Legislative Analyst; Ben Lieberman, Counsel, Energy and Power; Jeff Duran, Minority Senior Counsel; Phil Barnett, Minority Staff Director; Jen Berenholz, Minority Chief Clerk; Greg Dotson, Minority Energy and Envionment Staff Director; Caitlin Haberman, Minority Policy Analyst; Angela Kordyak, Minority DOE Detailee; Elizabeth Letter, Minority Assistant Press Secretary; Karen Lightfoot, Minority Communications Director and Senior Policy Advisor; Billy McGrane, Minority Assistant Clerk; Roger Sherman, Minority Chief Counsel; and Alexandra Teitz, Minority Senior Counsel, Environment and Energy.

The Chairman. The committee will come to order. At the conclusion of opening statements yesterday, the chair called up H.R. 3548, the North American Energy Access Act.

[The bill H.R. 3548 follows:]

******** INSERT 1-1 ********

The Chairman. I would note that because of the conference committee on the payroll tax extension, I want to thank members for getting here to start this morning. We are intending to stop temporarily at 10 o'clock and resume.

It is my understanding, it is our understanding that the conference is going to meet from 10 until noon, so we will then come back at noon here and work until it is done, though we expect votes are going to occur, I believe, about 1:30. So we will maneuver around that.

Anyway, the chair would recognize Mr. Terry for the purposes of offering an amendment in the nature of a substitute.

Mr. Terry. Mr. Chairman, I appreciate you bringing up the amendment in the nature of a substitute. I introduced 3548 in December--

The Chairman. If the gentleman would suspend, do you call up the amendment?

Mr. Terry. I call up the amendment in the nature of a substitute.

The Chairman. The Clerk will report the amendment.

The Clerk. Amendment in the nature of a substitute to H.R. 3548 offered by Mr. Terry of Nebraska.

The Chairman. Without objection, the reading of the amendment is dispensed with.

[The amendment of Mr. Terry follows:]

******** INSERT 1-2 ****

The Chairman. The gentleman is recognized for 5 minutes in support of his amendment and the amendment will be circulated.

Mr. Terry. Thank you, Mr. Chairman.

I introduced 3548 in December of last year, and through the committee's vetting, good ideas, our hearings, suggestions have percolated that I want to incorporate in this bill, in my bill. The changes are relatively simple, but I want to walk my colleagues through them.

The first three changes are in section 3. Specifically, the amendment in the nature of a substitute clarifies that FERC must issue the permit without additional conditions. FERC often issues its permits with conditions, and I want to clarify that FERC cannot attach additional conditions to the pipeline. In other words, only the conditions in the FEIS would apply, of which there are multiple conditions already in those. Those will stay.

Also it requires FERC to enter into a memorandum of understanding with the State of Nebraska within 30 days of enactment. The State of Nebraska was unable to testify 2 weeks ago due to State Department objections, but within the testimony that the Nebraska DEQ submitted was a concern that the State Department had not entered into a MOU with them, even though the MOU was sitting on the State Department's desk ready to sign. This amendment would ensure that FERC cannot be similarly dilatory in executing a MOU with my home State. This gives my home State a path forward on this issue instead of being in limbo as they are now.

The third of the three amendments to section 3 would clarify that the holder of any permit issued under the act may begin construction of portions of the pipeline while the proposed Nebraska route modification is being determined.

The last change in this amendment comes in section 4. I am clarifying that the only Federal law I intend to supersede with this legislation is the requirement that a Presidential permit must be obtained for the pipeline. This change was brought up in the rule XI hearing with the first panel. All the other Federal and State laws continue to apply.

By taking the issue out of the President's hands and entrusting the issue with an expert pipeline agency, I hope we can depoliticize this issue and get the pipeline and the jobs and the energy that comes with this pipeline.

With that, Mr. Chairman, I will yield back.

The Chairman. The gentleman yields back.

The chair would recognize the gentleman from California for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman. I oppose this amendment. This bill is an unprecedented regulatory earmark. The legislation singles out one project for special treatment. In some ways, Mr. Terry's substitute amendment improves the pending legislation, but in other ways it makes it worse.

As introduced, the bill called on the Federal Energy Regulatory Commission to approve TransCanada's permit in 30 days. Representative

Terry has presented this as simply putting the project in the hands of an expert agency. When he introduced the legislation, he said that "going forward with FERC is simply moving the authority to an agency that understands pipelines."

But this legislation is not about letting experts do their jobs. FERC testified before us that it was impossible to allow for public comment and build a record that will yield a defensible decision in 30 days. Now this substitute goes even further. It is FERC's duty and practice to impose conditions on permits when circumstances warrant; for instance, to serve a public interest purpose. Apparently there is concern that the experts at FERC could find it necessary to add a condition to the Keystone XL permit. So this substitute makes it absolutely clear that FERC may not do this, no matter how compelling the reason may be.

This amendment says we are going to tell the experts at FERC to issue the permit, but first we are going to put them in a straitjacket. FERC won't have the time to identify any problems and, if they do, the law won't allow FERC to address them.

Under the Keystone XL project, the American people will bear the risks and big oil will reap the rewards. With this pipeline, we get more carbon pollution, more dangerous oil spills, land seizures by a foreign company, and higher oil prices in the Midwest. Big oil gets the ability to extract more profits in the Midwest, a conduit for exporting tar sands products to China, and the green light to exploit the tar sands at maximum speed, regardless of the consequences.

President Obama listened to differing views of American citizens and made a responsible decision. He said he would not approve the pipeline through the ecologically fragile sand hills area in Nebraska, but the State Department would consider an alternative route. Nebraska is taking the time to find an alternative route and the President is making sure that he has all the information he needs to make the right decision.

If Mr. Terry really wants to let the experts at FERC do their job, he may wish to take this legislation back to the drawing board. As currently drafted, this bill simply turns FERC into a "yes man" for this project. The tar sands pipeline is a bad idea, and so is this bill.

I yield back my time.

The Chairman. The gentleman yields back. Do other members wish to speak on the amendment in the nature of a substitute?

Seeing none, are there any bipartisan amendments to this substitute?

Seeing none, are there any amendments to this substitute that members are wishing to offer?

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

The Chairman. The Clerk will read the title of the amendment.

The Clerk. Amendment offered by Mr. Rush of Illinois to the amendment in the nature of a substitute.

The Chairman. The amendment will be considered as read and the gentleman from Illinois is recognized for 5 minutes in support of his

amendment.

[The amendment of Mr. Rush follows:]

******** INSERT 1-3 ****

Mr. Rush. Mr. Chairman, last week during the subcommittee hearing on H.R. 3548, this subcommittee heard compelling testimony from a Nebraska rancher by the name of Randy Thompson who urged this committee not to hastily approve the Keystone XL pipeline without allowing the agencies of jurisdiction to conduct their due diligence and oversight responsibilities.

Among Mr. Thompson's many concerns was the hostile and belligerent manner in which TransCanada approached many Nebraskans, claiming eminent domain in its quest to take away the property and land of ordinary American citizens in order to push forward on plans to construct a yet-to-be-approved pipeline.

In Mr. Thompson's testimony before the subcommittee, he noted, and I quote, "Many Nebraskans view TransCanada as an overly aggressive company who sought to bully and intimidate its way across our State, and having witnessed TransCanada's actions during the application process, has made us wary and weary of what they could and have tried to do if empowered by a premature permit."

In telling how TransCanada has approached Nebraskans over the issue of eminent domain, Mr. Thompson went on to say, again quoting him, "In the heartlands, many of us feel that approval of this project would strip us of our individual property rights. We feel this way because we will be forced to give up a portion of our hard-earned property for the personal gain and benefit of corporate entities."

Mr. Chairman, even if we cannot come together and agree on the necessity of hastily approving the Keystone XL pipeline without the

appropriate time frame and Federal oversight, surely, Mr. Chairman, at the very least, each of us as representatives of the American people elected to watch out for the public's best interests, ought to agree that it is morally wrong and incomprehensible that we will allow a foreign company to push American citizens off their land for the sole purpose of allowing a pipeline that will ultimately be used to export oil overseas.

My amendment simply reads, "A permit shall not be issued or deemed to have been issued under this subsection absent a commission that prohibits the permit recipient from initiating or threatening to initiate proceedings to invoke the power of eminent domain for the process of taking ownership, rights of way, easements or other access or use of private property in the United States for the purposes of constructing or operating the Keystone XL pipeline, against the will of the properties' owners."

Mr. Chairman, in 2005 when the court decided Kelo v. the City of New London, which upheld the use of eminent domain, the House moved quickly to condemn that decision in a bipartisan manner with 220 Republicans voting with me in favor of a House Resolution expressing our disapproval of the court's decision. I hope that today we can again find our way across party lines and do what is right and in the best interests of ordinary American citizens.

I urge all of my colleagues to support my amendment.

With that, I yield back the balance of my time.

The Chairman. The gentleman yields back. Other members --

Mr. Terry. Mr. Chairman.

The Chairman. The gentleman from Nebraska, Mr. Terry, is recognized for 5 minutes.

Mr. Terry. To speak against the amendment. Before I get to the merits of Mr. Rush's amendment here, I wanted to state that there is a phrase used, "push them off their land." This is a right-of-way where they will take -- not take, but use 50 feet, bury it, and the landowners then continue to ranch on top of it or grow their crops on top of it. So it is not pushing anyone off their land. I just want to set that straight, because I think that shows an image here that is just not accurate to begin with.

Now, they are a private company and they negotiate. And at least in the State of Nebraska, I have met with ranch owners who had no problems negotiating an agreement for the right-of-way. In fact, now with the movement of those lands, one of them is even concerned that they are losing their right-of-way money that they were going to get.

Nonetheless, though, if there is an issue with being able to negotiate, that is always handled by State law. So if there is a landowner in Montana, Montana law handles that. If there is an issue in South Dakota, South Dakota law handles that. And the same for Nebraska.

So, in essence what this does, what this amendment does, is eviscerates the States' rights to handle utility issues in their own States, whether it is this project or forever. But that is what this does, is just say we are not going to trust Nebraska or South Dakota

or Montana on this to do what their State laws says is to be done here. I just think for States rights advocates, this is a bad amendment.

So I will yield back.

The Chairman. The gentleman yields back. Other members? Mr. Waxman is recognized.

Mr. Waxman. Mr. Chairman, I support this amendment by our colleague Mr. Rush. It is a simple amendment. It says that Congress will give TransCanada this extraordinary legislative earmark to rubber-stamp their permit application, but only on one condition, and that is that they commit to stop bullying American landowners and seizing their property through eminent domain.

My colleagues may not be aware of the fact that TransCanada has been using threats of eminent domain to force American landowners along the pipeline route to give up their property rights. TransCanada has even taken landowners to court to seize their property rights through eminent domain, even before receiving a permit to build the pipeline. Last Friday, as Mr. Rush pointed out, Randy Thompson, a Nebraskan rancher, testified that in the heartland, many of us feel that approval of this project would strip us of our individual property rights.

TransCanada is a foreign corporation. They have been trying to strong-arm American citizens who own property along this proposed path of the pipeline. They are telling property owners, here is some money for the rights to go underneath your land, but if you don't accept this amount within a certain short period of time, we are going to initiate proceedings to condemn your land and take what we need through eminent

domain.

This is an imperious approach. It sounds unbelievable, but it is true. I don't know whether the State of Nebraska gave them this authority or not. I think that it would be interesting if the State of Nebraska gave them authority for condemnation of land at the same time they are trying to figure out what the route is going to be in the State of Nebraska.

I have a copy of a letter that TransCanada sent to Mr. Thompson on July 21, 2010, informing him that the proposed path of their pipeline will cross his property. In it TransCanada offers him this money for an easement through his land and tells him if he doesn't accept, within a month, "We will be forced to invoke the power of eminent domain and initiate condemnation proceedings against this property."

Well, absent Mr. Rush's amendment, this bill will empower a foreign company to bully our citizens into giving up their property rights. Most Americans simply don't have the money or time to defend themselves in court against an oil company with billions of dollars in assets. Ranchers and farmers like Randy Thompson will be forced to live with the tar sands oil pipeline running through their property. That may jeopardize their safety, their health, their livelihoods with a single leak, and it is not unexpected that there might be leaks, because the existing pipeline that they already have has already had many leaks in a very short period of time.

This amendment should receive bipartisan support. In the past, Republican members have voiced great concern about the use of eminent

domain to seize private property rights. As we saw in the debate on the Private Property Rights Protection Act of 2005, Speaker Boehner stated then that allowing someone's property to be taken "represents a complete departure from the very core value upon which America was founded, your natural human right to your property." I hope our Republican colleagues' support for private property rights holds, even when it is an oil company rather than a democratically elected local government that seeks to use eminent domain.

I think this bill is an insult to American citizens who oppose the Keystone tar sands pipeline and expect their views to matter. But it will be still worse if this bill, by granting the permit without condition, unleashes TransCanada to bully and threaten American landowners into giving up their properties.

I urge my colleagues to support the Rush amendment and yield back the balance of my time.

Mr. Walden. Mr. Chairman.

The Chairman. The gentleman from Oregon.

Mr. Walden. I have a couple of questions for the counsel when it comes to this issue of eminent domain. I am curious how the provisions being used by this company that happens to be based in Canada are different than a utility based in the United States when it comes to eminent domain.

Ms. Brown. Could you repeat that? How they are different from --

Mr. Walden. Does Keystone have any special rights or

privileged --

Ms. Brown. No, it would be in accordance with the State's law for those types of utility. Nothing special.

Mr. Walden. And would their use of eminent domain have some special power that some city or county would not have because they are foreign?

Ms. Brown. No.

Mr. Walden. Is there anything because they have foreign ownership that gives them any privilege or right that is above that of a domestically based company?

Ms. Brown. No.

Mr. Walden. When other pipelines are constructed in the United States, did those companies use eminent domain?

Ms. Brown. Depending on the law of the State, it would depend on the law of the State. Some States have that tool. Other States don't. It is a State-by-State decision.

Mr. Walden. It is a State-by-State decision. And would in this case, would TransCanada have to abide by State law when it comes to eminent domain?

Ms. Brown. Yes.

Mr. Walden. So they would have to live by whatever the State law is relative to eminent domain?

Ms. Brown. That is correct.

Mr. Walden. And when these pipelines are laid, in this case my understanding is it will be fairly deep in the ground; is that correct?

Ms. Brown. I think for stretches of it. I am not sure if all of it is underground.

Mr. Walden. That which is underground, oftentimes you can still conduct your agricultural activity above it?

Ms. Brown. Absolutely. Yes.

Mr. Walden. Tell me how the pipeline safety law would intersect in that area?

Ms. Brown. The Federal pipeline safety laws continue to apply, and for this particular pipeline --

Mr. Walden. Can you get a little closer to that mic?

Ms. Brown. Sure. The pipeline safety laws, as administered by FMSA, continue to apply. For this particular pipeline, as contemplated under the final environmental impact statement, there are 57 special conditions that heighten the standards for this pipeline as opposed to most oil pipelines in the country.

Mr. Walden. And so I was just hearing about the potential for these leaks and all. Does the Pipeline Safety Act not have pretty strict requirements in terms of the safety of a pipeline?

Ms. Brown. Yes. The pipeline safety laws would continue to apply.

Mr. Walden. So the pipeline safety law in the United States would apply to TransCanada's Keystone XL pipeline?

Ms. Brown. Yes, it would apply, and it would apply at a heightened standard with the additional 57 conditions.

Mr. Walden. Can you speak to what some of those additional 57

additional conditions would be? I haven't made it all the way through the FEIS here.

Ms. Brown. A lot of them relate to special leak-detection techniques to make sure if there is an incident, that it is known sooner. So most of them focus on leak-detection type issues.

Mr. Walden. And are there additional levels of inspection required on this particular pipeline that aren't on other pipelines?

Ms. Brown. So within the idea of ensuring adequate leak protection, it is increased inspection requirements than you would have for other oil pipelines that are sited in this country.

Mr. Walden. And when it comes to -- I keep hearing this issue of tar sands, which I think is really at the crux of the opposition here, is that this is an attempt to stop production of this -- this is my commentary, I won't ask the counsel this -- but to stop or hinder the development of oil from tar sands in Canada. I really think that is it as it relates to global warming issues that some people are pretty passionate about.

But when it comes to the pipeline itself, are there differences in how that tar sand oil would flow from a Canadian-based field versus anywhere in the domestic United States?

Ms. Brown. Well, in other places in the United States, they use truck and rail also. But most oil -- large transmission of oil is through pipeline. But there is also truck and rail.

Mr. Walden. But the fact that it is tar sand oil, would that change how that pipeline operates? Is that really an issue when it

comes to the pipeline safety law?

Ms. Brown. Well, I think embedded in some of the 57 conditions was consideration of the nature of the crude oil from the oil sands, but nothing particularly distinguishable.

Mr. Walden. Thank you.

Mr. Waxman. Will the gentleman yield for 10 seconds so I can ask a question?

Mr. Walden. I have 8, 7. Sure.

Mr. Waxman. Did the State of Nebraska agree to eminent domain for this pipeline?

Ms. Brown. I think that there is eminent domain authority within the State of Nebraska for a pipeline.

Mr. Walden. My time has expired, Mr. Chairman.

Mr. Waxman. But this company is telling landowners they can go into eminent domain. Do you know whether the State of Nebraska has given them that authority to make that claim?

Ms. Brown. I think that it is a process --

Mr. Waxman. No, no. Do you know whether the State of Nebraska --

Mr. Terry. May I answer the question instead of our counsel?

Mr. Waxman. This is a legal question, so if she doesn't have the answer, then I will be happy to yield to you.

Mr. Walden. Mr. Chairman, my time has expired. I seek unanimous consent to let Mr. Terry respond, since he is an attorney from Nebraska.

Mr. Waxman. I object.

The Chairman. The gentleman's time has expired. Are there other members who wish to speak? The gentleman from Texas, Mr. Gonzalez.

Mr. Gonzalez. Let me ask counsel a question. Doesn't the concept of eminent domain contemplate a taking, an appropriation?

Ms. Brown. Yes.

Mr. Gonzalez. That is the whole basis of eminent domain. There is a governmental purpose or interest that prompts the private property rights of a citizen.

Ms. Brown. There is a balance with just compensation, but that is a component of it.

Mr. Gonzalez. We can get into compensation forever on that, but it is still a taking. So if you have a pipeline deep in the ground, it is still considered a taking, right, of a private property owner's land? I just want to make sure that we know what we are dealing with.

Secondly, doesn't the power of eminent domain belong to a governmental entity, but it can be assigned to the private sector. Is that what Mr. Waxman's question goes to, and that is, has Nebraska clothed TransCanada or whatever particular entity with the authority that the sovereign would have?

Ms. Brown. The State's authority for eminent domain would be given to it by the constituents of that State, and then it would be the States to then delegate it or give it as appropriate, that authority that it has.

Mr. Gonzalez. But who would be making the determination on

whether to appropriate someone's property, whether it is beneath the ground or above the ground? It still would be a private enterprise, would it not?

Ms. Brown. I actually think that, and I am not well versed on the specifics of Nebraska law, but I think it goes through a process; that if there was a particular area or right-of-way that the pipeline operator was looking to exercise authorities related to eminent domain, that there is a process involved with that. It is not just --

Mr. Gonzalez. Do you know if that process has been completed in Nebraska in order for TransCanada to be making those representations to Mr. Thompson, the property owner? And I will yield to my colleague Mr. Terry, because he may know the answer to this.

Mr. Terry. It is in State statute. The process is already spelled out in State statute. So whoever follows the State statute --

Mr. Gonzalez. Reclaiming my time, I know that it is spelled out, just like in Texas. Has it been exercised and has it been granted?

Mr. Terry. Well, it doesn't need to be granted because it already exists in State law. Whether they have used that or not, I haven't heard of an instance in Nebraska where they have gone to court or used it. They have been able to negotiate.

Mr. Gonzalez. Reclaiming my time, let me ask you, Mr. Terry, does that mean at this point in time TransCanada has the opportunity to go through the process, has not gone through the process, but is making a representation to Mr. Thompson, the property owner, that they will in essence appropriate his property even though it is below ground

level?

Mr. Terry. You know, I am not going to put myself in the minds of TransCanada. All I know is there is a State process spelled out in statute in which they could. Now, Mr. Thompson's property going is now irrelevant in this process because there has been an agreement with the State of Nebraska to move that pipeline, so that route through his family's property is going to be rerouted. This is why this statute is important and the memorandum of understanding so they can actually pick a new site and start negotiating with those landowners.

Mr. Gonzalez. Reclaiming my time, look, I support the pipeline. I just want it done properly. I don't want to circumvent what we have in the existing regulatory scheme, with the proper agencies with the expertise, and I surely don't want to circumvent what we have always established as policy in this country when it comes from anything that crosses our borders from another country, whether it be Mexico or Canada. That is all I am asking. I think when we are dealing with these legal concepts we have to be very, very honest about what we are doing and who we are empowering, and making sure that it is orderly and fair and just to the property owner. We are having reports right now of some heavy-handedness. I don't know if that is true or not. But let's set the stage for these negotiations as the pipeline goes forward.

I am happy to yield to any of my Democratic colleagues. I still have 30 seconds.

Mr. Rush. If the gentleman will yield, I think this goes to the

heart of the matter. In Mr. Terry's answers to the questions from the gentleman from Texas, Mr. Gonzalez, he indicated that Mr. Thompson's property is not even under consideration anymore. Well, the fact is that there is not a route that exists, all right? And so here we are giving approval to allow Keystone XL pipeline to be constructed without Nebraska doing its basic due diligence and giving us a route. So this question will be revisited immediately after Nebraska decides the route that it wants this pipeline to travel. So that is the essence of our problem here.

The Chairman. The gentleman's time has expired. The gentleman from Texas, Mr. Barton.

Mr. Barton. Mr. Chairman, I just want to give Congressman Terry the opportunity to respond if he wishes.

Mr. Terry. I am sorry, I was being briefed on something.

Mr. Barton. I just want to give you the opportunity to respond to the prior question.

Mr. Terry. Sure. And thanks to due diligence of the great staff here, the specific statute in Nebraska is 57-101, and it does state specifically petroleum pipelines. It is stated in the statute. So there is a specific process that is spelled out, as I mentioned, through State statute. And those things are important.

Two points I want to make to Mr. Rush's points. One is the reason why there is this kind of catch-all is that if you have one landowner that, you know, is aligning them with the NRDC, and then you have one landowner that can stop a 1,700 mile pipeline -- and I think that is

really what the basis of this amendment is -- but also what it does is it usurps Nebraska law. It makes Nebraska law that has been vetted, has been adopted by its State legislature, that the people are behind in saying we are going to make this law irrelevant or nonapplicable here. That is what this really does here.

So the other part of this is they are duly compensated. There is due process of law in this process. They have to be compensated at market prices. So all of the rights are done here.

I just want to come back and say that what you are doing is saying that we are going to block State law, we are going to nullify State law. And I just don't see why we want to go here and block State laws in the way that they have chosen to deal with these companies.

So I will yield back to my friend. Thank you.

Mr. Barton. I would like to yield to the subcommittee chairman, Mr. Whitfield of Kentucky.

Mr. Whitfield. Thank you, Mr. Barton.

Eminent domain is always a contentious issue. The way these questions are being asked on the other side, it leaves the impression that TransCanada is getting some special privileges. Is there anything in the Terry legislation that would give TransCanada some special privilege relating to eminent domain that any other pipeline in the country or any company willing to build another pipeline would not receive? Is there any special privileges condition given to TransCanada under this legislation?

Ms. Brown. No, not related to eminent domain.

Mr. Whitfield. It is being treated just like any other pipeline company that wants to do this; is that correct?

Ms. Brown. That is correct, as it relates to eminent domain.

Mr. Barton. I want to yield to the gentleman from Georgia, Dr. Gingrey.

Dr. Gingrey. I thank the gentleman for yielding. Being a non-attorney member, I need to ask some legal questions.

It does seem to me that the amendment of the gentleman from Chicago, Mr. Rush, would essentially, if it were successful, change Nebraska law regarding eminent domain. I would ask counsel her opinion on that.

Ms. Brown. That is correct. Currently under Federal law there is no eminent domain for oil pipelines. What this would do is, as it applied to the State of Nebraska or to any State, it would change their law. It would change their law if they had eminent domain authority.

Dr. Gingrey. Right. Let me ask one other question, because this has been brought up a number of times in regard to eminent domain and this issue of taking and eminent domain for public purposes. The usual way of thinking of that is to build a school or a transportation corridor for the greater public use. Kelo v. New London was an expansion of that and I certainly was opposed to that Supreme Court 5-4 decision.

But in this situation -- and this is my question of counsel -- this taking under eminent domain, and I think Mr. Terry just addressed it briefly, fair market value, that is anybody's determination, TransCanada offers what they consider fair market value for the taking

under the power of eminent domain granted to them by the State of Nebraska. If the property owner is not satisfied with that fair market value, my question to counsel is, they do have recourse in the Superior Court system of the State of Nebraska and, of course, their appellate court system all the way to the Supreme Court in regard to the true market value, if they are opposed to the taking of their property by eminent domain. Is that not true, counsel?

Ms. Brown. That is correct.

Dr. Gingrey. Thank you. I yield back to the gentleman.

Mr. Rush. Will the gentleman yield?

Mr. Barton. I am happy to yield to Mr. Rush my last 13 seconds.

Mr. Rush. This whole amendment, isn't this the essence of what you might call special privileges? Isn't this a special privilege, for one corporation to do whatever it wants to do? Isn't it a special privilege to direct the administration to within 30 days make a decision, and if they don't make a decision, then this matter would automatically be approved? Isn't that the essence and the essential qualities of a special privilege?

The whole thing here, I might add, is about the special privilege of one company, Keystone, TransCanada, the special privilege of TransCanada. If this is not about a sole corporation's special privilege, in spite of the fears of American citizens, then I don't know what a special privilege is. I yield back.

The Chairman. The gentleman's time has expired. The chair would recognize the gentleman from Massachusetts, Mr. Markey, for 5

minutes.

Mr. Markey. Thank you, Mr. Chairman, very much.

It is only to kind of point out that back in 2005, the Supreme Court brought down a case called Kelo v. City of New London, and in that case the Supreme Court upheld a local government's use of eminent domain to transfer a land from one private owner to the other to further economic development.

Now, the majority's response was quick and furious. They publicly condemned the decision and they brought a resolution to the floor expressing the grave disapproval of the House of Representatives regarding the Supreme Court case, and every Republican on this committee who was in Congress then supported that resolution. So it is interesting to see that while the Republicans believed that this was a critically important issue in 2005, that today they seem happy to allow a foreign corporation to exercise eminent domain. So I just want to make it very clear that it is being noted on our side how this has changed, the circumstances have changed.

I yield back the balance of my time.

The Chairman. The gentleman yields back.

Mr. Shimkus. Mr. Chairman?

The Chairman. The gentleman from Illinois, Mr. Shimkus.

Mr. Shimkus. I am glad to see my friend from Massachusetts concerned about private property rights. That is a good thing to do.

If the staff would put up the slide on the screen, let's put this all in perspective. It is going to come up. Come on, staff, don't

let me down.

Okay. Those are the pipelines in the United States currently. Canada to the United States, you have a pipeline from Edmonton to Puget Sound, Edmonton to Guernsey, Edmonton to Detroit, Montreal to Chicago, Regina to Guernsey, Calgary to Barstow, Fort Nelson to Melford, Goldboro to Westbrook, Medicine Hat to Tuscola -- Tuscola is in my district, just to point that out -- Medicine Hat to Billings, Quebec to New Jersey, Toronto to Boston, Toronto to New York, Winnipeg to Omaha, Winnipeg to Detroit, and Edmonton to Windsor.

Now, we have two pipelines that are flowing from the United States to Canada, Portland, to Montreal. That is a long distance. Portland, another one from Portland to Montreal. Prudhoe Bay to Edmonton. From Mexico to the United States, Reynosa to El Paso.

Folks, this isn't stuff we haven't done before. There is a system by which we approve pipelines, and especially the ones -- so my point is this is not new, and we do it for the public interest and the public good, to make sure that we have a free flow of oil and refined products. Environmentally safe. Could you imagine it if all that product was moving by truck or by train?

This is such a ridiculous debate that I am just furious that we don't understand how much product flows by pipeline today and the environmental benefits of that, but here we are demagoguing one pipeline to make us more energy secure. And I think my friend from Texas, Mr. Green, would like some time.

Mr. Green. If the gentleman would yield.

Mr. Shimkus. I would.

Mr. Green. Taking advantage of your map, I want to show members why I am concerned about the legislation. But this amendment is a bad amendment to a bad bill. If you look in the central part of the United States where Texas is at, so many of the pipelines are there. We have existing law already on a national basis. We have FERC that regulates natural gas pipelines but they don't regulate oil pipelines. But with this legislation we are changing it for oil pipelines, but with this amendment we are eliminating eminent domain for all those pipelines my colleague from Illinois has talked about that have already come across the border.

So I don't like the bill because I don't think we ought to remake Federal law for a pipeline. I support the pipeline and hopefully it will be built, but I don't want to mess up things along the way. And if this bill passes with this amendment, it will be doubly worse, because eminent domain has been part of our being since railroads were cutting across Nebraska and private entities have that right for eminent domain. There are regulations on it. If the landowner doesn't like it, you go to the courthouse and you can oppose it and you end up getting more money from it.

But there is a way to do it, and this bill and this amendment would make it much worse for the rest of the country. So I thank my colleague for yielding.

Mr. Shimkus. Reclaiming my time, I yield to the gentleman from California.

Mr. Bilbray. I appreciate that. One of the things that I think we have to remember, too, we are setting a precedent here. This is a precedent that is not only going to apply to oil lines, but we will set the precedent that this is what we are going to do with easements of transmission.

And as my colleague from Massachusetts, who has been brave in standing up for wind generation, even in a State with opposition, the greatest barrier for renewables to get to cities is the creation of transmission lines down the line. You start setting a precedent that you are going to now not only not expedite the process, you are going to slow down the process of being able to make a linkage between where the energy can be created and where it can be consumed, your wind generation in the central wind belt, and I am sorry we don't have a map to show where the greatest potential for wind generation is and where the demand is, you follow this precedence and go down the line, there are people who will not be able to invest in wind generation because they will know this government will not back up the ability to transmit that clean energy over to where it needs to be done.

So be careful where you go with this. You may be aiming at the poor Canadians because you don't think they care about the environment, but what happens with our strategies here in the United States when we set the precedent that the use of eminent domain will not be allowed for natural gas transmission or for clean energy? And remember, clean energy has a transmission problem usually two or three times longer than traditional energy. This is going to be a big issue we should

be working together with, not setting this kind of precedent.

Mr. Shimkus. And just reclaiming my time, for crude oil, natural gas and product, refined product after it goes from the refineries. So I just want to put that on the record. I yield back.

The Chairman. The gentleman's time has expired.

The gentlelady from California is recognized for 5 minutes.

Ms. Eshoo. Thank you, Mr. Chairman. In looking at the amendment in the nature of a substitute, on the second page towards the end it says, "While a route modification is under consideration in Nebraska, the permit applicant may begin pipeline construction in all States other than Nebraska." Now, given this, how does it come to be that the company is issuing letters of eminent domain to people if there is not even a route in Nebraska?

Ms. Brown. Is that a question to counsel?

Ms. Eshoo. Yes.

Ms. Brown. I think that the provision is looking at areas outside of Nebraska, where much of the route is already secured by the pipeline company.

Ms. Eshoo. But let's go back to maybe the heart of my question. Which comes first? Letters of eminent domain or a route for the pipeline so that people know where it is going to go and that they can then move along accordingly?

Ms. Brown. The route is defined both in TransCanada's application and the final environmental impact statement. So the route, except for a segment of the Nebraska route, is defined. So this

provision just relates --

Ms. Eshoo. But it isn't all defined though, correct?

Ms. Brown. A small segment, or a segment within Nebraska is not defined, but the rest of the pipeline is.

Ms. Eshoo. Whether it is small, large or all of it -- you are saying it is small -- there are still letters of eminent domain being issued to landowners according to the testimony that was given. I wasn't here for the testimony, but I did listen to the -- I think I need to get a life -- I listened to the hearing on TV. I was captivated by the witnesses and what they had to say.

Mr. Terry. Will the gentlelady yield?

Ms. Eshoo. I would be glad to.

Mr. Terry. Thank you, Anna. The landowner that testified was for the old route in Nebraska. And the counsel is correct; with your application you have already worked with the agencies, you know where the route is. Then they go and negotiate. But our Governor asked TransCanada to move it off the Sand Hills. So that letter and the testimony is on the old route. That is what is causing the confusion here.

There is no new route because the permit has been denied and nobody knows if they are supposed to move forward and determine a new route. That is why we have written in here the specifics about entering into a memorandum of understanding and carving out specifically Nebraska from this so that they can proceed to determine a route, at which point then the pipeline company will sit down and negotiate and then use

Nebraska law, if necessary.

Ms. Eshoo. Well, reclaiming my time, I appreciate that. When does Nebraska come up with its route?

Mr. Terry. Well, when the President denied the permit for this pipeline, according to the Governor's office, they were within a week to 10 days of announcing a new site and beginning the environmental. They have not announced the site because they don't know if they are moving forward on this or not. So it could be anytime, but they need to know which agency they work with. Under the past application, the State Department said they were going to work with the State of Nebraska, and then when Nebraska sent them a memorandum of understanding, they refused to recognize it.

Ms. Eshoo. All right. Thank you.

The Chairman. The gentlelady's time has expired. I believe all time is expiring for the debate on this amendment. Therefore the vote will occur on the amendment.

All those in favor will say aye.

All those opposed will say no.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

Mr. Waxman and I have been conferring and we have come to an agreement that we will continue in our absence as we both go to the conference on the tax extender bill. However, we have also concurred that we will not have recorded votes before we come back, which would be somewhere between -- somewhere probably in the neighborhood of

about 12:15, if in fact we finish at noon.

So at this point, I will recognize the gentleman from Massachusetts to call up his amendment, Mr. Markey.

Mr. Markey. I think I have an amendment at the desk.

The Chairman. The Clerk will report the title.

The Clerk. Amendment to H.R. 3548 offered by Mr. Markey of Massachusetts.

[The amendment of Mr. Markey follows:]

******** INSERT 1-4 ********

The Chairman. The gentleman from Massachusetts is recognized for 5 minutes in support of his amendment, and the staff will circulate the amendment.

Mr. Markey. Thank you, Mr. Chairman, very much.

The Keystone Pipeline would carry some of the world's dirtiest oil right through the middle of our country. Whether it is the carbon pollution that spews into the skies, or the oil spills that could foul our drinking water, there is no dispute that the environmental consequences attached to TransCanada's pipeline will be grave.

But we have been told repeatedly that it is worth it. We have been told that the pipeline will lower gas prices, even though the TransCanada project would arise because it can charge more for Keystone oil in the Gulf than it does in the Midwest. We have been told that the pipeline will create tens of thousands of new jobs, even though it turns out that the number of jobs has been grossly inflated, and only about 5,000 or 6,000 temporary construction jobs will be created.

In a particularly egregious play on American patriotism and American fears, we have also been told that the oil coming from this pipeline would enable us to reduce our dependence on oil imported from unfriendly Middle Eastern or Latin American nations. Last month, Canadian Prime Minister Stephen Harper even said, "When you look at the Iranians threatening to block the Straits of Hormuz, I think that this just illustrates how critical it is that supply for the United States be North American. "

Well, this appears to be a complete fiction, because under this

bill, there are no guarantees that even a drop of the tar sands oil and fuels will stay in this country. This is because many of the refineries where the Keystone crude will be sent plan to re-export the refined fuels.

For example, Valero states in an investor presentation that it plans to refine the Canadian crude at the same facility it is building in Port Arthur because doing so leverages its "export logistics" and says that growing global diesel demand is an export opportunity for U.S. refineries.

Motiva, a joint refining venture between Shell and the Saudi Arabian oil company, is another one of TransCanada's Port Arthur, Texas, customers. The rest of TransCanada's customers include a French company, two Canadian companies and a multinational venture based in the Netherlands.

And it is not just a regular money-making export opportunity that many of these companies are seeking. Port Arthur, Texas, is a foreign trade zone. So when these refineries re-export the diesel and other fuels they are making using Keystone oil, they won't even have to pay United States taxes. Hear that again. They will not have to pay United States taxes.

Lest anyone think that TransCanada isn't in the re-export business, in December when I asked the president of TransCanada whether he would agree to ensure that the oil and refined fuels stay here in this country instead of re-exporting them, he said no, sitting right at that table.

So that is the plan in this Republican bill: Sneak the pipeline into the country, refine the oil, and then sneak the diesel fuel right back out of the country.

Yesterday, the gentleman from Nebraska said that tar sands oil could replace 1.5 million or 2 million barrels of oil per day that we currently import from the Persian Gulf. Even if the Keystone XL pipeline was going to transport more than 630,000 barrels of tar sands oil each day the DOE estimates that it will transport, the idea that all of the Keystone oil will stay in this country under this bill is just a fantasy.

Make no mistake, this bill is not about energy security, it is not about jobs, it is about oil company profits, plain and simple. This bill just turns the United States into a middleman in a multinational oil deal between Canada, South America, Europe and China.

The Republican slogan last year was "drill here, drill now, pay less." Now we are letting Canada drill there, ship here and re-export there, all so that we in the United States will have to pay more both in terms of money at the gas pump and costs to the environment.

My amendment ensures that if this pipeline is legislated, the oil and any fuels made using it will stay here to benefit Americans who will pay less here. My amendment allows the President to waive this requirement only if it can be shown that an export of the oil or fuels won't increase our dependence on oil or fuels that we buy from hostile nations.

Mr. Barton. [Presiding.] Gentleman's time has expired. Who

seeks recognition? The gentleman from Illinois.

Mr. Shimkus. Thank you, Mr. Chairman. I like my map better than my friend Mr. Markey's map just because it shows all of the pipelines that we have currently in this country.

I also would like to say, I have said this numerous times in this committee, that the Keystone pipeline ends right outside my district, and my refinery, the ConocoPhillips refinery, did a $2 billion expansion during the lowest economic times. Why? So they could ship it down south? So they could put it on ships? No. To refine it. There is a better return on investment for refining a product and selling a product than just moving the bulk commodity product as it is.

But let's just take my friend's debate for what it was. So what if the crude oil goes on the world market? So what? Don't we understand supply and demand? Don't we understand commodity products? The more supply of a commodity product on the market, the lower price if demand stays the same. It is very simple.

My friend's map had -- why would we ship crude oil down to the Gulf Coast to then ship it to China? Where is Harper today? Harper is in China. Why? Because he is trying to cut the deal to move the pipeline west versus south. Wouldn't that be a better plan for the Chinese? And we know of the great environmental record of the Chinese, and we know the great record of moving crude oil across the seas.

I would still say a pipeline is the most secure, the safest, environmentally sound, and it is proven by the hundreds of thousands

of miles of product that we ship by pipeline every day, whether it is crude oil, whether it is natural gas, whether it is refined product. I challenge you, go visit a refinery. Look at the tanker trucks that are rolling in there. You know, there are none, because it is all coming in by pipeline and it is all going out by pipeline.

Now, again, the benefits. I would just also encourage people to look at the Bloomberg article from today, February 6th. America is gaining energy independence, which is what we always talk about in this committee all the time. Wouldn't it be great to get to energy independence? And part of this whole article, it talks up, mentions stepped-up oil output and restrained consumption will lessen demand for imports, cutting the Nation's trade deficit and buttressing the dollar. Isn't that a good thing? I would say that is a good thing. And that is from Sieminski, currently chief energy economist at Deutsche Bank AG in Washington.

Another point raised in this article is that the Keystone XL pipeline is going to help us bring our crude oil products from the Bakken fields in North Dakota.

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Mr. Shimkus. Instead of trucking it, we can exploit the Bakken field in North Dakota using the Keystone XL pipeline. North Dakota, the center of the so-called tight oil transformation is now the fourth largest oil-producing state behind Texas, Alaska and California. California is a big oil-producing state. While U.S. consumers would still be susceptible to surges in global oil prices, we would end up sending some of that cash to North Dakota rather than to Saudi Arabia says Richard Schmalensee. And I think that is what this issue is all about.

So don't be confused about the debate of the world oil commodity product. If you accept my friend's premise, more supply for commodity products; demand stays the same; the price is lower. That is true for crude oil. That is true for corn. That is true for beans. That is true for pork. That is true for any commodity product. You increase the supply; demand stays the same; prices go down. So even if you accept his premise, oil going on the world market is a good thing; more oil going on the world market is a good thing. I would argue that the better thing would be for our refineries to take the crude oil and then refine it into the various products -- jet fuel, diesel fuel, gasoline, asphalt, all those things that they break the barrel of crude oil down into -- and that is better for our country at lower prices to ship to us. So please reject my colleague's amendment.

And I yield back my time.

The Chairman. The gentleman's time is expired.

The gentlelady from California is recognized for 5 minutes.

Ms. Eshoo. Thank you, Mr. Chairman.

And I want to yield my time to Mr. Markey.

The Chairman. I wish you would have told me that before I yielded.

Mr. Markey. I thank the gentlelady very much.

So here is the problem. The gentleman from Illinois is saying that we should just get over it. That this oil pipeline is going to come down from Alberta, go right through the middle of our country and just going then to go out into the rest of the world. And that would be great; that would be great because the price of oil will go down globally. And we should be very happy for that, and somehow or another American consumers will be benefitted, even though the export strategy will be to send that oil to China or to send it to Argentina or to send it to Europe. And somehow or another, our consumers will be benefitted by that, because that is the law of supply and demand.

The problem is, and we are kind of late in the game on this to kind of reach this point of realization, is that we play under OPEC's law of supply and demand. And their law is, and here is what they say to us, we supply the oil, OPEC, you pay what we demand. Any time the price goes down too low, we just go meet in Vienna; we have another new meeting. We just lower the price -- we lower the total supply of oil, and you guys just pump it up, and the price will just go higher

and higher. So the story is now across the country, they are saying that by Memorial Day, the price of gasoline could be $4, $5 in some parts of the country. So here is a great opportunity for us. The prime minister of China is -- the prime minister of Canada rather is saying, on the one hand, that this will be great that our oil would be North American oil here in the United States. But on the other hand, when we ask TransCanada, will you agree that the oil stays in the United States, they go, oh, no, oh, no, no, no, no, no. And then you read all the other things that they are saying, and it is pretty clear that we are just going to be kind of a conduit, you know, coming right through the middle of North America to just pump that oil out into the rest of the world.

Now, what is the problem with that? Well, the problem is that we don't control the price of oil with such a small amount of oil. Let's just say it is a million or 2 million barrels of oil a day going out into the global market. But for the United States, it would be a lot of additional oil just for our market.

Now, why is that important? Well, here is a big fact for you. Last year, for the first time in 62 years, the United States was a net exporter of oil products. Do you understand that? In 2011, we were a net exporter of oil products. Do you want to hear something? Do you want to hear a second issue?

The Chairman. Will the gentleman yield?

Mr. Markey. Just let me finish. Our number one export last year was oil products. So I think that is infuriating, ordinary people who

are looking at $4 and $5 a gallon gasoline, that this policy of exporting oil and increasing the amount with this bill that is passing today will absolutely infuriate the American driver. And in fact, America has now exported 100 million barrels of oil over the last 7 months. And this bill would just make us a conduit to make it possible to export even more oil as the price of gasoline, of home heating oil, is skyrocketing inside of our country.

So whatever you do, let's just play it straight about the Strait of Hormuz; let's just make it clear that without my amendment that says the oil stays here, that this pipeline won't do a single thing to break our dependence upon imported oil from the Middle East, because you are not giving us this guarantee, and Canada won't give us this guarantee.

So Prime Minister Harper, here is the strategy, they will fly to China to talk to China about, would you like our oil? Or they will come to the United States and say, can you build a pipeline through the United States so we can send the oil to China and to South America? It is going to China. It is going to South America. It is going to Europe under any circumstances, unless you pass my amendment to keep it here. That is the Canadian plan, don't you understand, that is their plan. And if I came from Louisiana or Texas, I would go along with opposition to my amendment. By the way, if you come to Louisiana or Texas vote against the Markey amendment, I am telling you this right now. Vote against the Markey amendment. I give you this warning: Texas, Oklahoma, Louisiana, vote no. But if you come from any other part of the United States, I don't know what you are thinking. This

oil is not going to the United States, it is going to other countries in the world.

The Chairman. The gentleman's time is expired.

Before I recognize Mr. Scalise, I am going to take the chair's prerogative and ask my friend from Massachusetts a question. We all know you were an entrepreneur as a young man and you were selling ice cream at Redsox Fenway Park. Isn't that correct?

Mr. Markey. This is true.

The Chairman. Did you only sell ice cream to people that said, I will eat it right in front of you right now or did you let them do whatever they wanted to with the ice cream?

Mr. Markey. No, I actually because --

The Chairman. Did you have a "eat in my presence" requirement to buy your ice cream?

Mr. Markey. I had an eat in the United States rule, okay. No. You had to eat it within Redsox nation.

Mr. Bilbray. Did he sell it to Yankee fans? That is what I want to know. Did he sell it to yank fans, Mr. Chairman?

The Chairman. I just wanted to know if he had some -- that is true, if he had restrictions on who he sold the ice cream to?

Mr. Markey. Let me say this. There was no world ice cream cartel. I was afraid of Mr. Softy. I was afraid of some of the other competitors. But they were right there. They were American, and I knew that I had to keep my prices low if I was going to unload my chocolate ice cream.

The Chairman. I am going to recognize one of the folks that you pointed out, Mr. Scalise.

Mr. Scalise. I thank my colleague from Texas for yielding. I hope my colleague from New England is not blaming the entire oil industry just because the Super Bowl was played at Lucas Oil Stadium on Sunday.

You know, I think there is a confusion being presented here between oil and refined oil. And I think that gets to the heart of the flaw of this amendment. Because if you read this amendment by my colleague from Massachusetts, you could really call this the "ship more jobs to China" amendment, because under this amendment, no American company would be able to manufacture products -- and right now, there are over 6,000 products that are manufactured using oil byproducts -- none of those products would be able to be exported to any foreign country. So you literally, and we have got a chart here of some of the 6,000 products that are manufactured using oil.

In this list, you have got tires, car tires, bicycle tires, motorcycle helmets, dash boards for cars, mops, roofing equipment, water pipes. You can't manufacture water pipes; clothes, no clothes would be able to be manufactured in America because of this amendment. Heart valves, they actually use petroleum byproducts to make heart valves; no heart valves under this amendment would be able to be manufactured in America. Toothbrushes, football helmets, even crayons, life jackets, parachutes; if you got a parachute, I guess when you open it up, it will have to say "made in China" now under Mr. Markey's

amendment, antihistamines. There are a lot of products that are made that help save lives. Just basic aspirin, aspirin uses petroleum; it is one of the byproducts in manufacturing aspirin. No aspirin under this amendment would be allowed to be manufactured in America. Purses, deodorant, pantyhose, tool boxes. You can't go to work with your tool box anymore if it is made in America under this amendment because it contains a byproduct of petroleum that might have been refined and manufactured in America. You could buy that product if it was made in India under Mr. Markey's amendment but not if it was made in America and then that company happens to ship any of those products they make to other countries.

And by the way, the manufacturer of those products creates American jobs. Made in America would no longer be allowed under the Markey amendment because you wouldn't be able to make it in America if you shipped it to any other country as well. You can only sell it in America, but exports would no longer be allowed under this amendment. Think about that. You just shut all the ports down in the United States because you couldn't export products anymore. So shoes, footballs, lipstick, eyeglasses, bandages, no longer can be made in America if they are exported to another country.

Now, of course, under Mr. Markey's amendment, it does have this exception. The President may provide for waivers. So let's see what kind of dictatorial power that would give to the President of the United States. Let's see how he has handled waivers in the past. We had a hearing in this committee on the scandal of the ObamaCare waivers; 1,400

different organizations went to the White House secretly behind closed doors. They got a waiver from parts of ObamaCare from the President.

Now, I have been going throughout my district. Every small business I talk to, I ask anybody in the room who has ever had a waiver from ObamaCare. I have yet to have one person in my district that got a waiver from the President. Who did get the waivers? SEIU, AARP, AFL/CIO. All the groups that came up here and said they need ObamaCare, they went secretly to the White House and they got a waiver. They were able to get their waiver from the President. They begged, pleaded, they probably had to commit to support ObamaCare to get a waiver from ObamaCare. What an irony that is. All the regular folks out there have to live by ObamaCare, but certain select friends, crony capitalism is what we call it, they got their waiver.

Look at Solyndra. Another great example of people using political favors in the White House to get special deals. We have seen how that turns out. It doesn't end well for the American taxpayer.

Look at Boeing. The White House basically told Boeing, unless they use union workers, they can't build a plant in South Carolina. That is how the President uses waivers. So under this amendment, if you make products in America and you happen to do good and find markets elsewhere where you can also sell them and create more jobs in America, you can't do that under this amendment unless you cut that special secret deal with the President. This is the height of croney capitalism and the height of what is wrong with our economy right now. And yet under this amendment, you would not be able to export any of

the products that are made on that list if you make them in America. If you make them in another country, that is great, those jobs would stay over in those other countries. But no longer would you be able to have made in America stamped on products anymore. We have got to reject this amendment.

And I yield back the balance of my time.

The Chairman. The gentleman's time is expired.

Does anybody on the minority side wish to speak on their own, or do we have to listen to Markey one more time?

The gentleman from Texas is recognized for 5 minutes.

Mr. Green. Mr. Chairman, I heard my colleague from Massachusetts give those who are from Texas or Louisiana by -- to oppose it. Let me start out by saying we produce steel in our country. We may import the iron ore from Minnesota, or we may get it from Canada. Are we going to now see an amendment that we can't export steel?

I have this battle sometimes in my own caucus that chemicals and refined products are manufacturing. And our goal in our country is to have manufacturing capability here, and so we can export to the world. We have those downstream jobs. And granted Louisiana and Texas has much of them. But I don't mind sharing those. If somebody else wants a refinery, I will help you all build it. But why would we say you can't export a product that is produced in our country?

Now, sure, we want all the gasoline we want; we want all the natural gas we can get. But we also realize that our natural gas now is we have a glut, and we have to begin to export it or use it for other

things, whether it be used for transportation fuel, more utility companies hopefully will go to natural gas because it is cheapest available I guess in almost my lifetime. But this amendment, like I don't agree with the bill itself, but this is a bad amendment because it takes away manufacturing capability to export.

On our side of the aisle, Steny Hoyer has made the lead on Make it in America. Manufacturing, refined products and chemicals are manufacturing. In fact, up until the high prices of natural gas in the middle of the last decade, chemicals was one of our biggest export items. And those are jobs that are not only in my district but all over the country. Actually, Pennsylvania has chemical jobs, New Jersey. We just don't share the wealth of our refinery jobs as much. But refining is manufacturing.

My fear years ago was that we had countries, including Venezuela in the 1990s, who wanted to build refineries to export to our country. Just think if we would have agreed to that in the 1990s. A bunch of us together as members of Congress opposed it. President Chavez doesn't want to send us crude oil. What if we were waiting on sending the military overseas because we depended on our jet fuel from Venezuela? Why would we not want those production capabilities in this country, produce all you can in our country and yet send it overseas? And those of you who may know from Texas, we have some great ice cream. We all brag about Blue Bell. We eat all we can, and we export the rest. And that is what we can do with refined products. So this is definitely a bad amendment. I don't think they are going to send that crude oil

to the Gulf Coast to export it.

Mr. Sullivan. Will the gentleman yield?

Mr. Green. Only to my colleague from Oklahoma.

Mr. Sullivan. Thank you, Congressman Green.

Mr. Green. We speak the same language.

Mr. Sullivan. I understand.

What do you think would happen to our refining industry here if it didn't have an export market? Because when you refine a barrel of oil, as we all know, as you are talking about, there is a lot of byproducts. Some can't even be used here in the United States because of our punitive environmental regulations. What would happen to them in a tough environment anyway if they did not have this export market?

Mr. Green. Well, I appreciate that. Reclaiming my time. We have a number of refineries I represent that export diesel to countries in the world who we produce lower sulfur diesel, and we send that overseas, and it is a great export market. But a good example, and you know the byproduct of a refinery is petroleum coke. I have mountains of petroleum coke in our district. It is shipped overseas. Now, if this amendment were part of the law, would we have to burn that petroleum coke? It burns very dirty. In fact, I was hoping we could develop a way we could use that in our own country instead of exporting it, but so far, we can't. That is a byproduct. And if you come to my area, you will see mountains of petroleum coke that are getting ready to be exported to other countries because they can burn it, whereas we can't, so I agree with you.

Mr. Sullivan. Congressman Green, what would happen to those refineries in your district that couldn't export at all, that couldn't export those products?

Mr. Green. Well, we have a great market, but we also need to realize, why would we not export? Do you know our balance of trade has always been a problem in the last 20 or 30 years? Why would we not export a high-end item like a refined product? Just like instead of buying keyboards from China, I would rather have those keyboards made here and let's send them to China. So why would we take out refined products from being an export market? It just makes no sense at all.

Mr. Sullivan. Amen, brother.

Mr. Green. I yield back -- well, I will be glad to yield to somebody.

The Chairman. The gentleman's time has expired.

Mr. Green. Thank you.

The Chairman. The gentleman from Pennsylvania is recognized.

Dr. Murphy.

Mr. Murphy. Thank you, Mr. Chairman.

I find it fascinating around here that oftentimes campaigns and the politics are criticizing people who are somehow sending jobs to China and OPEC, and then we are buying goods from them.

Now, if you wait long enough everything seems to reverse itself, and now we seem to be criticizing those who make things in the U.S. and want to sell to other countries. Let me name some of the things that we make in the U.S. which we export: civilian aircraft;

semiconductors; passenger cars; medical, dental and pharmaceutical preparations; vehicle parts; industrial machinery; yes, fuel oil; organic chemicals; telecommunications equipment; the list goes on and on.

And as my friend from Texas was just pointing out, there is a great concern for our trade deficit. Now, a trade deficit means we sell you something, you sell us something, whoever sells the least loses, and they end up with a deficit. Let's look at some numbers here with China: In 2011, last year, we had a $272 billion trade deficit; in 2010, a $273 billion trade deficit; in 2009, a $226 billion trade deficit; in 2008. $268 billion.

How about at the Europe Union? In 2011, it was $89 billion; 2010, $79 billion; and 2009, $61 billion trade deficit. How about OPEC? In 2011, $118 billion trade deficit; In 2010, $95 billion; 2009, $62 billion; in 2008, when we were we were buying a lot of oil from them, $178 billion trade deficit.

Now, this is pretty amazing to me that we have an opportunity to make something and sell things to them rather than us sending more money to them is an opportunity for us to grow jobs. Now, I would be particularly concerned that Massachusetts is touting that its number three export market is China. Maybe what you might want to do to test out this amendment is to start off by preventing Massachusetts from exporting to China and the EU to see how that State fares when it has to import more than export.

Now, what we do here in this country is we make things, and we

sell products to other countries, and that helps our jobs. When we refine oil in coastal areas and we sell diesel fuel to other countries, that is exporting things and bringing back money so we can have jobs. When we make steel, when we make so many other products, we sell it. We get the money. We have our jobs here.

Now, I am really tired also of in addition to buying products from other countries of also sending them our blood and treasury to protect their oil fields. I am particularly frustrated because when I go down to Bethesda Hospital, and I am over there in the Navy treating our wounded warriors, and I have got to see these kids with their arms and legs and faces blown off, because we are protecting OPEC oil fields.

We have an opportunity to have oil from North Dakota and Montana and so many other States in this country and having our own energy independence, and we are setting up this fallacious argument about we shouldn't be able to export. We shouldn't be allowed to lower the overall cost of oil. We should continue to have OPEC with a strangle hold around us for oil and manufacturing while we send our kids over there to die to protect their fields?

Please, Mr. Chairman, let's have some sanity in this chamber and in this House and in this committee and understand that all these costs and all these numbers pale in comparison to what we see from sending thousands of soldiers over there to protect Mideast oil. We have an opportunity here to have tens of thousands of jobs with our oil, with North American oil, with North American workers, with North American laborers and operating engineers and welders and steam fitters. What

about them? What about American jobs? I have had it up to here with protecting OPEC. I have had it up to here with continuing to argue about jobs going off to China. We have an opportunity to do something today, and instead, we are saying, we can't make things here. We can't manufacture things here. We can't drill for things here. We can't mine for things here and send them to other countries. It is about time, it is about time that we pause and understood that what makes America great is our ability to make things, our strength of our military, the ingenuity, creativity and inventiveness of Americans. And if we somehow draw this line around our borders and say, we are not going to sell anything to the world anymore, we will suffocate ourselves from breathing our own air. We will continue this trade deficit which is destroying our economy. So I urge my colleagues if for no other reason than saving lives of Americans who had to go overseas and protect oil fields from OPEC, for no other reason than that, vote no on this amendment and keep America strong.

I yield back.

The Chairman. The gentleman's time is expired. I generally recognize in an order of seniority, unless your accent is similar to mine, and then -- so the gentleman from Pennsylvania, Mr. Doyle, is recognized.

Mr. Doyle. Are you trying to say my accent is similar to yours?

The Chairman. I am saying it is seniority, and it is your turn.

Mr. Doyle. Well, thank you, Mr. Chairman.

Listen, I am glad my colleagues, my good friend Mr. Scalise and

Mr. Murphy got all that off their chest.

I don't know how ObamaCare got into the discussion, but Mr. Scalise, I think you feel a lot better now that you got all that out there. Look, I don't support the Markey amendment, but I understand why he is offering it. And one of the most unfortunate parts of this entire debate the whole time we have been having it is the hyperbole that we have been hearing from some that this Keystone pipeline is going to give us domestic security that all of a sudden, we are going to have a source of oil, and we will no longer need to buy from outside sources because we have got all this oil coming from Canada that we are going to be able to use.

Well, we know that is not true. I support exporting, and I understand the whole process. We have been telling the American people that somehow this Keystone pipeline is going to lower the gasoline prices. Well, everybody knows that is fantasy. This oil is priced on a world market.

We told people that this is going to be hundreds of thousands of jobs for Americans. Well, we know that is not true. There is going to be jobs for Americans and there is going to be construction jobs, but the numbers, you know, this huge number.

And then lastly, we tell them that 75 percent of the steel in this project is coming from North America. Well, I have got news for you, that is far from true, too.

So I think what Mr. Markey has done here, although the end result I think is a bad thing and why I won't support his amendment, is to

try to point out that what we need in this entire debate is a little bit of truth in advertising.

You know, it is enough to be for this pipeline if it can be built in an environmentally sound way, and I favor building it once we cross those Ts and dot those Is. I am not for any 30-day fast track or the attempt at what my friend Mr. Terry is trying to do. But I think ultimately this pipeline will be approved once it goes through all the processes that it needs to go through to ensure that people's safety and environmental concerns are met, and I support that.

And I think there is going to be some good construction jobs by people in organized labor. I think that is a good thing. For those reasons alone, I think it makes sense. But let's not kid ourselves. That oil is going down to the Gulf, it is going to get refined in these tax-free zones, and a lot of it is going to leave the country and go other places. That is the way it works. There is nothing wrong with that, there is nothing illegal with that. But that is just reality, so let's not make Americans think that somehow we are now energy independent because of the Keystone pipeline.

When gasoline prices go up, let's not delude Americans that if the Keystone pipeline would have been fast-tracked their gasoline prices wouldn't go up. The two have nothing to do with one another. And let's be sure also that if we are saying that something has 75 percent of North American steel in that, that we are able to certify that that is actually so. So there is a lot of good reasons to be for this pipeline once it is approved and go through the process the right

way. And I will oppose the Markey amendment because I believe that it is more an illustration of let's have a little bit of truth in this debate than what it would actually do, I think would be detrimental.

But I just think we ought to give the American people true expectations here and not sell this Keystone pipeline as some cure all, end all to all the problems we have in the United States because that is just not true. And I would yield the remaining amount of my time to any one of my Democratic colleagues that might want to take advantage of a minute and 30 seconds.

Does anybody want a minute and 30 seconds?

Mr. Markey.

Mr. Markey. No, that is okay. Thank you.

The Chairman. The gentleman yields back his time? It is acceptable under the rules to yield back.

Mr. Doyle. And I will if nobody on my side wants the time. Thank you.

The Chairman. The gentleman yields back.

The gentleman from Nebraska, Mr. Terry.

Mr. Terry. Thank you, Mr. Chairman.

There are some truisms, as my friend from Pittsburgh just mentioned. One is that Tom Brady can't throw and catch the bleeping ball, too; and that in 2011, we imported 11.8 million barrels per day of oil or refined gasoline. It is also true that this pipeline, when built, when started would supplant seven -- or produce 700 million barrels per day up to over a million barrels per day.

The Chairman. 700,000 barrels per day.

Mr. Terry. What did I say?

The Chairman. 700 million.

Mr. Terry. Well, that would be a good start; 700,000. So what the reality here is, is that the refineries along the path, whether it is Kansas, Illinois, Oklahoma, Texas, Louisiana, have contracts to purchase this. Each one of those refineries can refine X amount of barrels per day. So if they are getting it from a reliable source in Canada and not from Saudi Arabia or Venezuela, then that adds to our national energy security because it is a reliable source. We don't have to worry about the number of tankers coming from Venezuela today or the mood of Hugo Chavez and whether or not he is going to allow that oil to come to the United States versus China. So there is no doubt here that there is a level of energy security here.

There is also no doubt that as this oil comes through the pipeline to the variety of refineries, that they will, as in every barrel that is provided to a refinery, only a portion of that barrel can be made into fuel that we use daily in our vehicles. The other parts of that, like diesel, excess diesel, is exported to Europe. We have already heard from several of my colleagues that there is other byproducts as well. So this is -- the Markey amendment, I would submit, is one of those type of killer amendments that if this would become law, it basically means that you can't use this oil from Canada, which is really the basis of the environmental argument here, is to just not use heavy crude or any fossil fuel, and that is what this amendment is really

about. So I would encourage us to put this in perspective, as Mr. Doyle has said. It will create jobs. It will provide energy, a level of energy security for us, so let's go for that.

I yield to Mr. Whitfield.

Mr. Whitfield. Thank you very much for yielding.

I just want to make a couple of comments. We all should remember our experience on the Alaskan North Slope. The Alaskan North Slope oil originally had an export ban, and the ban was controversial and was ultimately lifted by President Clinton in 1996. And a GAO study after the export ban was lifted found that domestic production actually increased because that export ban inhibited exploration. So I think that an export ban would really be doing the exact opposite of what we hoped it would do.

And then I would also refer once again to the memo from Carmine Difiglio, who is the deputy assistant secretary for policy analysis at the United States Department of Energy, in responding to the study by Philip Verleger and Philip Verleger's study is where everyone started talking about, oh, all this oil is going to be exported. Well, in his memo, Mr. Difiglio basically shoots holes in Mr. Verleger's article. And he specifically says that from their analysis, and "their" being the Department of Energy, they concluded that very little, if any, of this oil coming into the U.S. would be exported, that there really was no real basis for that.

But even if oil is exported, I for one think it might be beneficial to the U.S. because of our huge trade deficit. And you know, let's

let the free market work. So I just wanted to point out those two things. And I appreciate the gentleman yielding time to me.

The Chairman. Does the gentleman yield back?

Mr. Terry. I yield back.

The Chairman. The gentlelady from Illinois, Ms. Schakowsky, is recognized for 5 minutes.

Ms. Schakowsky. You know, I want to agree with Mr. Doyle, who says let's be honest about this legislation. H.R. 3548 is called the North American Energy Access Act, and at this point in the debate, it seems to me it ought to be called the North American Energy Export Act. That suddenly we have changed the conversation from how important it is to have energy security and energy independence and now how great it is to export. So, at the very least, we have to have an honest conversation about what this is about. I also wanted to comment on the gentleman from Pennsylvania, who talked about national security and this picture of our young men and women dying over the protection of oil.

Well, last Friday, the Subcommittee on Energy and Power heard testimony on this bill from retired Brigadier General Anderson. As a senior logistics officer under General Petraeus in Iraq, General Anderson was responsible for getting the fuel supplies to the troops. And he stated, and I quote, "I strongly oppose the Keystone XL pipeline because it will degrade our national security. The critical element is simply this: The pipeline makes our great Nation addicted to oil, a dependence that makes us both strategically and operationally

vulnerable." So we have to be honest about our national security and about whether we are really about energy access or about exporting.

And I would like to yield the balance of my time to Mr. Markey.

Mr. Markey. I thank the gentlelady.

And you know, I hear the great concern about any restrictions on any exports of oil from the United States, and that is the free market they say. So I am looking forward to next week when each of you can support the bill from Don Young that is coming out onto the House floor, which will open up the Arctic Refuge to drilling, but it also contains in it the Young amendment that bans export of that oil out of the United States. So I am looking forward to all of you voting on that next week and see how many of you vote against that amendment.

The Chairman. Will the gentleman yield?

Mr. Markey. No, let me just finish. So you have agreed to an export ban of that oil, but you are opposing this one. And I am looking forward to each of you next week trying to resolve these basically conflicting export free market principles on the same day. Now, let me just move forward then to the next issue, which is of what the bill does. It says, no refined products can be exported. So just so you know what refined products are, refined products are diesel, jet fuel, gasoline, residual fuel oil, butane, kerosene; that is the definition of refined product. That cannot be exported; that has to stay here in the United States.

What is not a refined product? Pantyhose, toothbrushes, footballs, antihistamines, steel, which is produced using oil which

is produced here in the United States. That can be exported; those are not refined products. Why do I make the amendment? I make the amendment because I want a low price for the oil for toothbrushes, for steel, for pantyhose, for anyone that makes that product here in the United States. Why do I make the amendment? Because I don't want that oil sent overseas that will give other countries an ability to have this oil.

You know, the gas industry simultaneously right now has seven licenses to export natural gas from our country. Do you want to hear another big number? The price of natural gas in the United States right now is half the price of Europe. That helps every manufacturer in our country. The price of natural gas in America right now is four times lower than Asia. That helps all of American industry, all of American consumers with much lower prices in the manufacture of steel of pantyhose, of everything else, and it is a big competitive advantage.

What does the natural gas and oil industry want? They want to build terminals all around our country to create a world price for natural gas. That hurts us. We are the Saudi Arabia of natural gas. What is this all about? It is part of the same story. How do we export the oil that comes down from Canada through the United States into Port Arthur, Texas, and sends it around the world, the world price of oil. Great for Texas, great for Louisiana, great for Oklahoma. Bad for every other State that has a manufacturing base that uses the oil to create products which we want to export around the world as they use oil to make it here in the United States. No problem with exporting

that. That is what the debate is all about; do we keep this precious natural resource here?

The Chairman. The gentleman's time is expired.

I am going to recognize myself. But before I do that, I just want to read your amendment because you mischaracterized it I think. It says the Federal Energy Regulatory Commission shall require every permit issued under this act to include provisions that ensure that any crude oil and bituminum transported by the Keystone XL pipeline, and all refined products will be entered into domestic commerce for final disposition. So as I read your amendment, it pertains not only to refined products but also to crude oil and bituminum. Just, you might want to check that.

And I am going to recognize myself for 5 minutes in opposition to the Markey amendment. First of all, I think we need to realize that there are two components to this. There is the crude oil component, and there is the refined product component. On the crude oil side, it would make no sense at all for the originators of the oil, i.e., the Canadians, to ship it down to the Gulf Coast to export to crude oil. If you are going to export crude -- if you are not going to use the oil in Canada, you are going to use -- you are going to export it the most efficient way, and that would not be to send it 1,500 miles through the United States to the Gulf Coast. As a matter of fact, the United States is importing about 9 million barrels of oil per day, crude oil, and we export very little crude oil, less than 50,000 barrels a day at the most recent numbers that I have seen.

So you don't have to have a prohibition against exporting crude oil when you have a country that is importing 9 million barrels a day, number one. And number two, the country, the host country, if they want to export it and not use it in their own country, i.e., Canada, they will export it as crude somewhere else that gives them the highest market. They are sending it to the United States because they are getting the highest market price right now.

On the refined products, as Mr. Green has pointed out and Mr. Shimkus and others, it is a good thing, not a bad thing, that we actually have a refinery in the petro chemical industry that is competitive enough in world markets that we can actually export some of our refined products. They are value-added products. They are creating and maintaining jobs in the United States; 74 percent of all the crude that comes into this country is used in this country. That is the latest E -- IEA statistic. But more and more, we are shipping some of our refined products overseas because we have the competitive industry to do so. We are primarily shipping them to the European market.

Our refineries are more competitive. We have invested over $300 billion in the last 15 or 20 years. And we are able to refine low-sulphur diesel, as Mr. Green pointed out, some of the distillate fuels, and we actually can be competitive in the European market. That is a good thing, not a bad thing.

The gentlelady from the Virgin Islands was talking to me recently that a big refinery in her region is shutting down. I think it is a 500,000 barrel per day refinery. I believe it is a little bit older

refinery; they are not as competitive. And as demand for some of these refined products has declined in the United States, which is their primary market, apparently they are not competitive enough to ship into the European market. So it is going to cost her territory quite a few very good jobs.

So if Mr. Markey wants to offer an amendment to change the Young amendment on the floor next week, I will support it and vote for it. I think maybe he is only putting that on there to try to get some Democratic votes.

Mr. Markey. Will the gentleman yield?

The Chairman. Briefly.

Mr. Markey. I would think that the entire Republican majority on this committee would make the amendment against the Young amendment to export the oil. That is your position. You don't want any restrictions.

The Chairman. If you will go to the Rules Committee and ask for an amendment to strike that portion of the Young amendment of the Young bill, I will support you on that, because I happen to agree with you, that you shouldn't have restrictions on any product.

Mr. Markey. No, I agree. That part of the Young bill I agree with. I don't agree with the drilling in the Arctic, but I do agree if we are drilling in the Arctic Refuge, it should stay here, the same way that if we are going to let a pipeline come through the United States, we should keep it here.

The Chairman. Reclaiming my time. As has been pointed out, we

have a competitive refinery industry in the United States because we have invested billions of dollars, and there is slightly excess capacity. U.S. refineries are operating right now between 85 and 90 percent of their boilerplate capacity. So I think it makes some sense if they are competitive, and we can export and keep the manufacturing, i.e. refinery jobs, in the United States, that we should do so. We don't put a restriction on Boston Scientific exporting medical instruments from Boston, we don't put a restriction on movies that are made in Hollywood from being exported overseas. So if we have an industry that is actually competitive, I don't see a reason to put a restriction on exporting refined products.

Mr. Markey. Will the gentleman yield?

The Chairman. In my last one second, sure.

Mr. Markey. The big difference is that oil is the reason we are over in the Strait of Hormuz. Oil is the reason we are over. That is the big difference between that and toothbrushes and every other --

The Chairman. We are actually --

Mr. Markey. We know is the number one security risk to our country.

The Chairman. We are actually importing less crude oil than we were.

With that, my time is expired.

Who seeks recognize on the minority side?

The gentleman from Texas, Mr. Gonzalez.

Mr. Gonzalez. Thank you very much, Mr. Chairman.

I think Mr. Markey understands that his amendment is not going to pass. But as Mr. Doyle said, it is instructive and gets us into a real debate. And maybe it is economic heresy that supply is not going to determine price. And that is the reality.

I have already indicated I am going to increase the domestic production. I have indicated I am for the Keystone, so that we still have the producers in North America, as opposed to the Middle East. I understand that concept, and it is an important one.

But I have members on the other side depicting the oil industry much like it was depicted in the movie "Giant" with Elizabeth Taylor and Rock Hudson and James Dean. It has changed. It is totally different. What I am hearing over there, and I am just assuming this because I have never been in the oil and gas business, but if TransCanada is producing the oil, are we saying that they are going to put it in this pipeline, and then they are going to find some end user, wherever it is going to be stored or whatever? My understanding is that they will have contracts early on obligating a certain portion of that oil to whoever is the highest bidder based on global market prices.

I said this last week at the hearing, but unless something has changed drastically from last May, May 15th Dallas Morning News, a story by Kevin Hall and Robert Rankin, quote, some 70 percent of contracts for future oil delivery are now bought by financial speculators, largely big investment banks and hedge funds who never take control of the oil, they just flip the contract for a quick profit. Only about 30 percent of oil contracts are bought by a purchaser that

actually intends to use the oil, such as an airline. That is according to Commodity Futures Trading Commission, which regulates trade in those contracts. Michael McMasters, a professional Wall Street investor, testified before Congress repeatedly that speculators are pushing prices well beyond what supply and demand warrant. That is the modern marketplace in America today.

Now I will say that it will supply us with oil produced in North America, and that, obviously, will provide some sort of national security. To my good friend Ed Markey, I disagree, I think it will. But it will not supply us with a more reasonably priced gallon of gasoline at the pump. It is not going to happen.

And this is my last year in Congress, but I would imagine all of you that will be returning will be in this room when gasoline is $4 to $5 a gallon, trying to explain why the Keystone pipeline, which eventually was permitted and built, is not producing an affordable gallon of gas for the American consumer, which is draining our economy and will continue to drain our economy with high fuel prices.

I am going to share Mr. Markey's I think basic tenet in what he is trying to show: It is not truly a question of dependency on foreign oil that is the central question. It is a dependency on oil itself. Way beyond the foreseeable future, I acknowledge that I think for the next 20 years, fossil fuel is an absolutely essential mix as a transportation fuel and otherwise. But what it is doing and what it is taking away is a concerted effort that has been led by individuals as Mr. Waxman and Mr. Markey to find alternative fuel sources.

But you don't join Mr. Markey in that endeavor either. When we say efficiency, CAFE standards, you are not ever going to be with Mr. Markey on that. Efficiency conservation, you are not going to be with Mr. Markey on that. Alternatives and renewables, you are not going to be with Mr. Markey on that.

Mr. Bilbray. Will the gentleman yield?

Mr. Gonzalez. And this is my concern. That what we are doing is we are regressing; we are going backwards, rather than forward. And I know that you can say other countries may not follow our lead, but that is not what should determine what we do in this country when we have the ability to be leaders.

So I think -- of course, I won't vote for this amendment, but I appreciate my colleague from Massachusetts making a really important point that I think you will be able to refer to in future testimony and hearings in this exact room years from now when you are trying to explain what didn't happen that you promised here today.

And I yield back.

The Chairman. The gentleman yields back.

I am going to recognize Mr. Bilbray. But before that, I want the counsel's opinion, does the Markey amendment as currently written apply to crude oil and refined products, or just refined products?

Ms. Brown. Both.

The Chairman. Both. Okay. The gentleman from California.

Mr. Markey. Excuse me. Could you elaborate a little bit on that please?

Ms. Brown. The Markey amendment says that it applies to, that the condition applies to any crude oil and bituminum transported by Keystone XL and all refined products whose origin was via importation of crude oil or bituminum by Keystone XL. So that is both, crude oil and the refined products.

Mr. Markey. If I may question counsel as well. So that means that the steel industry that purchases the oil, the United States steel industry produces this oil -- purchases this oil, the toothbrush industry purchases this oil, the football industry, that they purchase it, but that the product that they make with it, steel or whatever, that can be exported under the Markey amendment, is that not correct?

Ms. Brown. Well, I am not sure that that is clear either, because the clause that follows it says, will be entered into domestic commerce for final disposition. Because "final disposition" is not defined the product and where that line ends with the products, what happens with it, it is not clear. So, for instance, a refined product that then those chemicals were used to make a product, that then it would prohibit selling that product overseas without more clarity on what final disposition is.

Mr. Markey. Well, so when the toothbrush factory purchases the oil to make the toothbrushes, is there anything in this amendment that then in any way restricts the export of those toothbrushes?

Ms. Brown. I think that the amendment is unclear because to the extent those chemicals, or whatever the product is that is used to make that toothbrush, and let's presume that the toothbrush is made here,

the final disposition, if you wanted to sell that toothbrush then overseas, without better clarity on final disposition, presumably this would prohibit selling that toothbrush to somewhere outside of the country.

The Chairman. Well, you don't make a toothbrush from crude oil. You make plastic.

Ms. Brown. Plastic.

The Chairman. And you use plastic.

So the Markey amendment would prohibit the plastic from being exported, but it wouldn't prohibit plastic being made into a toothbrush and the toothbrush being exported, because that is not a refined product under his definition, I think.

Ms. Brown. See, I think that the separate issue that I am raising that there might not be clarity is what final disposition is. That you are right. That the toothbrush is made from plastic, and the question would then be, when is that final disposition? Is final disposition at the making of the toothbrush, or is final disposition at the selling of the toothbrush overseas? What is final disposition?

The Chairman. I am just using common sense in what we call a refined petroleum product. We don't normally call the finished product.

Mr. Markey. If I could just ask the counsel. Because my intention here is that the oil can be used by the plastic industry in the United States in order to create the plastic that is then used by the toothbrush industry. And at that point, it is then free to be

exported across the rest of the world.

The Chairman. I am sure that the --

Mr. Markey. So that is the intent of the amendment. And as far as I am concerned, that is what the amendment in fact does accomplish.

The Chairman. The gentleman may want to withdraw his amendment, because that is not the way it reads.

And while he is thinking about that, we are going to go to Mr. Bilbray for some more debate.

Mr. Bilbray. Thank you, Mr. Chairman.

Mr. Chairman, let me sort of respond to my dear friend from Texas' comment about support for green fuels on this side. I would ask him to take a look at my bill that has been co-sponsored by a Democrat that addresses a true green fuel, and that is giving equal tax and lender benefits to a true green fuel, algae fuel, that is now being given to a fuel that some claim are green but some of us question. In fact, our slogan in California now is algae is green, and the fact is, you have been talking about corn is yellow.

And so I challenge you to take a look at the fact that this Congress continues to subsidize one form of so-called green technology and specifically excludes the most promising threshold we have out there that everybody who supposedly claims to be green claims they are for, but won't take the time to correct it. And we will go back and talk about that later.

But let me just say, Mr. Chairman, it is interesting that I was looking that the Obama administration offered $34 billion to the auto

industry in this country in grants and loan guarantees and a lot of other. We are not talking about giving permits, we are talking about getting money. And when the administration gave money to the auto industry, I did not see any condition of those loans that required that the autos only be sold in the United States. Even though the strategy was sold, that we were going to make America accessible to new fuel-efficient automobiles. But with that package, the Obama administration did not place the condition on the auto industry for $34 billion that this amendment is proposing to place on this pipeline.

Now, look, we are talking about regulations here. The whole issue that we should on both sides of the aisle recognize that we talk about energy independence. We talk about job creation. Well, let me tell you something, guys, as someone who spent 16 years working -- or 15 years working as a regulator, government regulation is one of the major barriers to the creation of jobs and energy independence in this country. And if we are not brave enough to admit that we have overregulated and strangled the ability to create jobs and create energy in this country, we will never serve our constituents.

Now, let me bring up this issue of export. I was one of those regulators that not only mandated the use of low-sulphur fuel; in California, we require ultra-low-sulphur fuel. That fuel has been outlawed in many non-attainment areas around this country under direct mandate out of the EPA and the Clean Air Act. Now, if the gentleman from Massachusetts wants to place this amendment on this bill, is he also willing to exempt all fuel mandate and -- eliminate all fuel

mandates and clean fuel mandates that may be affected by this amendment?

Because let me tell you something, a lot of this exported fuel is higher sulphur fuel that cannot be used in many places in this country. So you can't play this game and not go back and take a look at what is driving the machinery. And so much of this action that you don't like to see is being driven by the regulations mandated by this Congress and by the Federal Government, and then we are upset about the results, but we don't want to go back and correct it.

And I will just -- I just want to point out the biggest problem, Mr. Chairman, of things like Mr. Waxman's so-called renewable fuel mandate, is not that we try new things or that we make mistakes, but 25 years later or 20 years later, we are not brave enough to admit we made a mistake and go correct it. And we just keep throwing money at the regulation rather than correct it. And I yield to the gentleman from -- Mr. Gingrey.

RPTS COCHRAN

DCMN ROSEN

[11:08 a.m.]

Dr. Gingrey. I thank the gentleman for yielding. He kind of stole my thunder in regard to the automobile industry. Chrysler and General Motors got a $25 billion, $35 billion bailout. Certainly, as Mr. Bilbray pointed out, no restriction in regard to selling those automobiles in the non-domestic market. I don't think you would of heard the success story that they are purporting today if that had been the case.

But let me go back to this issue of refined products. I think we owe Mr. Markey a debt of gratitude. I would say all the women of the world probably are very pleased to know now that pantyhose is a refined product. They may be a little disappointed in China and Taiwan and South Korea to know that they can't go shop and get pantyhose made in America. And this business about the toothbrush, I guess it is okay. We can sell a toothbrush on a stick, but not a toothbrush on a plastic handle.

Mr. Markey's amendment is not a good amendment. I know he has been looking at it, thinking about it, and I hope he will decide to withdraw it because it really doesn't make a lot of sense.

Mr. Barton. [Presiding.] Does Mr. Dingell seek recognition? He is the only member on the minority side that hasn't spoken on this amendment.

Mr. Dingell. I have a splendid amendment to be offered later, but I don't seek recognition at this time.

Mr. Barton. The gentleman from Louisiana, Dr. Cassidy, is recognized.

Dr. Cassidy. I agree with Mr. Doyle. It is kind of time to have a little truth shed. I will say I am kind of struck to the hostility to the blue collar jobs that this amendment expresses, and I keep on wondering why are they so hostile to these jobs, even kind of broaching into jingoism. I haven't heard "foreign" so much as today.

But that said, let's inject some truth. First, there is a decline in oil exports from Mexico and Venezuela and this oil will replace that.

Secondly, the question is whether or not this is going to be shipped overseas.

I would like to submit for the record a report from the Department of Energy, but let me cut to the chase on this particular part of it. The Department of Energy says it concludes that exports of Canadian oil sands from Port Arthur are unlikely. Okay. So this is a Department of Energy statement. Again, let's inject some truth.

But then Mr. Markey says heck, if it is unlikely, let's just go ahead and outlaw it anyway. No harm, no foul. Well, there is an article today in the National Journal in which it quotes Jim Bacchus, head of WTO, former Democrat from Florida Congressman, who says all forms of protectionism are politically appealing, particularly in an election year.

He then adds, but there is recent action by the United States against China for a similar export restriction similar to this, of China not allowing commodities. And we have said that China has broken free trade laws with their system of export taxes and quotas. He goes on to say that we would be at risk of offending the same law that we are kind of going after China on if we attempted to do something as well.

Also Michael Levy, an energy expert at the Council on Foreign Relations, is quoted in the same article. "If this was somehow effective at trapping product in the United States that otherwise would be exported, the ultimate impact on gasoline prices could very well be bad rather than good. It would drive up prices." That is the reason why someone from Massachusetts should oppose this, not just someone

from Louisiana.

[The information follows:]

******** COMMITTEE INSERT ********

Dr. Cassidy. Then there is the issue of whether or not sending it to Port Arthur free trade zone allows it to evade paying U.S. trade taxes. Well, with respect to U.S. taxes, the fact that Port Arthur is a free trade zone, this is from a different source, has no bearing on U.S. revenue from Canadian oil sands, imports or exports. These imports, just like the Mexican ones, are not subject to duties under NAFTA. We looked it up. I think Mr. Markey, you voted in favor of NAFTA.

So, actually the tax treatment of this product is not related to the free trade zone, it is related to the NAFTA treaty. And maybe we want to revisit that, but, again, I am not sure why suddenly that becomes something we object to.

Lastly, I said, what is the true agenda? Why are they hating these blue collar jobs? Why are these guys and gals who will be able to work, have benefits, have good wages, not being supported by my friends on the other side of the aisle?

So the last thing I will read is from The New York Times. The New York Times. I mean, you know, obviously The New York Times. We all know what that means. So this is an article from the poison politics of Keystone XL.

As it turns out, the environmental movement doesn't just want to shut down Keystone, its real goal, as I discovered recently, talking to the executive director of the Sierra Club is much bigger. It is part of a broader effort to stop the expansion of tar sands. It is based on choking off the ability to find markets for tar sands oils.

The writer in The New York Times goes on to say this is a ludicrous goal. If it were to succeed, it would be deeply damaging to the national interests of both Canada and the U.S. It has no chance of succeeding. Energy is the single most important industry in China. Three-quarters of the Canadians agree with Harper's diversification strategy. China's thirst for oil is hardly going to be deterred by the Sierra Club. There is at least one country in North America which understands where its national interests lie. Too bad it is not the United States of America. Vote for our national interests and for the interests of our workers.

Lastly, in the interest of truth, I ask both sides of the aisle to support this project.

I yield back.

Mr. Shimkus. Would the gentleman yield the last 40 seconds?

Dr. Cassidy. I yield to you.

Mr. Shimkus. Thank you. Just to remind people. When you speculate on commodity products, there is winners and losers. So we always talk about those who win. We never talk about those who lose their shirt in this speculation on commodity products.

Canada is not in OPEC, which I think would be gratifying for us to have access to that oil. Keystone is not an oil company. It is a pipeline company. It does have oil companies that are partners in that aspect, but the people who are mining the oil sands are Marathon, Shell, BP, and China has a big interest. We sell a lot of coal in this country overseas to China, and I would hate this to be a preclude to

stopping that.

I yield back.

Mr. Barton. The gentleman's time has expired. The gentleman from Texas, Mr. Olson, is recognized for 5 minutes.

Mr. Olson. I thank the Chair.

This comes as no surprise that I speak in opposition to the Markey amendment. And being from Texas though, I want to thank my colleague from Massachusetts for his advice about voting against this amendment. I can assure you, I was going to do that.

It is real simple. When a domestic industry makes a product that the world demands and pays American workers to manufacture, this is a positive development. When an industry here in the United States manufactures a product in excess of what U.S. consumers demand, and is able to export that product overseas, this is a positive development as well. An industry that is this successful is able to hire more American workers and help decrease our trade deficit.

We see this situation in many sectors of our economy. Heavy machine manufacturers like Caterpillar, aerospace companies like Boeing, and, yes, many Massachusetts lobstermen ship their catches abroad as well. It is obviously incorrect to assume that Boeing will produce the same amount of aircraft or lobstermen will set the same amount of traps if a significant portion of their demand is curtailed by law.

The same applies to refined petroleum products. America refiners currently produce in excess of what the U.S. economy needs.

Refiners will only supply what is demanded. If the Markey amendment became law, refiners would be forced to reduce operations and lay off workers.

I want to address another issue as a Member of Congress who has flown actually in the Middle East. Even if some of our refined products are exported, Keystone crude will still displace OPEC crude that U.S. refiners currently import, refine, and, yes, in some cases export.

It is important to have a reliable, reliable source of crude. The spikes what we are seeing right now in the oil market aren't because of any supply issues. They are because of uncertainty in one part of the world, the Strait of Hormuz. We had the Arab Spring. We have had countries fall, governments fall in Egypt, Libya, Tunisia. We have got Iran threatening to shut down the Strait of Hormuz.

Again, I am probably the only Member of Congress who has actually flown on a mission through the Strait of Hormuz. It is very narrow, about 30 miles wide at its narrowest point. Back in Texas, that is the distance from Houston to Galveston. It is a zip down the freeway. And the way they have got these little islands in there, the commercial traffic, all the tanker lanes are very close to Iran. They are pushed to the northern part of the Strait. It is very shallow, 200 feet. Thirty percent of the transported crude flows through the Strait of Hormuz. If they are to shut down for any amount of time, maybe two months, prices are going to spike dramatically. So it is a national security issue.

But you don't have to take my word for it. The Department of State

agrees. Because we had a very similar issue about 3 years ago. A pipeline called the Alberta Clipper, which came from the same spot in Canada and came over to Lake Superior on the Great Lakes. And this is the record of decision and the national interest determination by the State Department for the Alberta Clipper pipeline. I will read one portion to you. It applies today.

The Department of State has determined, through review the Alberta Clipper project application, that the Alberta Clipper project would serve the national interests in a time of considerable political tension and -- excuse me, in a time of considerable political tension in other major producing regions and countries by providing additional access to a proximate, stable secure supply of crude oil with minimum transportation requirements from a reliable ally and trading partner of the United States with which we have free trade agreements and further augments the security of this oil supply.

If that rang true three years ago, it rings true more so today.

Again, one other thing we need to talk to. The tar sands oil that the other side has demonized, they also need to realize this oil is going to be developed. It is already developed in Canada and sent here. Tar refineries, which are the most technologically advanced refineries in the entire world, the ones who are the best in terms of the environmental impact of producing this oil, or it is sent to China. That is a real simple choice for me. I mean, if my choice for my kids' future, if I am going to bet on Canada or OPEC, I am betting on Canada.

I urge my colleagues to vote against the Markey amendment. I

thank the chair and yield back my time.

Mr. Barton. The gentleman yields back. The gentlelady from California seeks time on her own accord I believe. The gentlelady is recognized for 5 minutes.

Ms. Eshoo. I do. Thank you, Mr. Chairman.

This has been a very interesting debate, not only on this amendment, but on others that have been offered, and I have listened with a great deal of attention to what members have said on both sides of the issue regarding the underlying legislation. Let me just outline the things that really trouble me about this.

First of all, I think that this is a terrible way to legislate, and let me tell you why. No presidential permit is required for the pipeline. There is a requirement that FERC is to issue a permit for the construction of the pipeline within 30 days of receiving an application. So no one is interested in what the responsibilities of an agency are for review on behalf of the American people, including my constituents.

So this is on a high speed rail for being approved. Just do it by decree. Why even bother going to an agency? You are telling an agency to turn an answer in, it is a pre-determined answer, and that is it. You waive all other applicable requirements under NEPA. If FERC doesn't act on the permit application within 30 days, the permit is deemed to have been approved. I have never heard of such a thing. This is my 20th year in Congress. I have never heard of such a thing.

No route in Nebraska, but there are people that are being

challenged, let's put it that way, by the oil company in question.

What bothers me the most is the sense that the American people have that we are not looking after them; that every other interest, special interest, whatever it is, whether it comes to money in campaigns, whether it comes to oil companies, whatever it is, that that all comes before their interests.

Are there some interests that are going to benefit from this? No question about it. No question about it. Do I think the jobs are inflated? I do. There are still some jobs that are going to be created in this.

But what is so deeply troubling to me is how rough-shod this is. That no matter what the facts are, they don't matter. They just don't matter. And I believe that this decision, if it is finally approved, it is going to come home to haunt us. It is going to come home to haunt the Congress because of the way it was done, and that the interests of the American people were not really taken seriously.

I appreciate what people are saying on both sides about markets and how they work, and I think very good points have been made. And there may be some things in Mr. Markey's amendment that need some tightening up. But I think what is at the base of his amendment is, you better put the American people first in this. And, you know, under the guise of oil, we are saying that we are putting their interests first, except no one can step in and do anything according to the underlying legislation because you have already predetermined that they simply have to stamp the paper "approved."

That is not the way we are supposed to operate in Congress. And we are not supposed to operate that way because we are supposed to be here more than anything else for the common good and the interests of the public. And if there is anything that I hear from my constituents, it is that they feel as if a lot of other things come first with the Congress, but not them and the good of the country, and they are worried sick about it, and I think that is really what is at play here today.

So I appreciate the debate. I think members have come up with very good things on both sides of the aisle. But this is where I come down. I am going to support the Markey amendment. I am going to support it. It bothers me not how many votes it gets, because I think at the heart of it is what I just stated.

Thank you, Mr. Chairman. I yield back.

Mr. Barton. Is there any other member who has not spoken seek recognition for purposes of debate of the Markey amendment? Seeing no member seeking recognition, the time for debate on the Markey amendment --

Mr. Markey. Mr. Chairman?

Mr. Barton. Time for debate has elapsed. We will recognize Mr. Markey to ask questions of counsel before we call for the vote, which prior to the agreement between Mr. Upton and Mr. Waxman will be postponed until approximately 12:30.

Mr. Markey has some questions for counsel.

Mr. Markey. Thank you. It is just two questions. The first question to counsel is looking at the amendment, when an American

plastics company buys oil, bitumen or refined petroleum products, has the oil, bitumen or refined petroleum products entered into domestic commerce?

Ms. Brown. Well, the end of that clause though in the amendment is--

Mr. Markey. Has it entered into American commerce when an American plastics company buys refined petroleum products?

Ms. Brown. Yes.

Mr. Markey. Has it entered into American commerce?

Mr. Brown. Yes.

Mr. Markey. It has. Okay. Second question: Once that oil, bitumen or refined petroleum product is turned into a plastic, will it ever be turned back into oil, or has it been finally disposed of? Is it no longer oil, in other words? Has there been a final disposition of it?

Ms. Brown. I think that is the part that is unclear, looking at, for instance -- it can be. I think it is unclear what "final disposition" is.

Mr. Markey. If it is put into plastic, if it is put into steel, is that finally disposed of?

Ms. Brown. No, that plastic or steel could be recycled, for instance, or it could be transferred to be used for another product.

Mr. Markey. But could it be turned into oil again?

Ms. Brown. Well, no, but whether or not that is disposition --

Mr. Markey. That is the final disposition as oil, yes.

Ms. Brown. Well, I think that is what is unclear, is whether or not --

Mr. Markey. It could be recycled again into steel or into plastics, but it cannot be recycled again into oil, is that not correct? Its final disposition as oil has already been reached, is that not correct?

Ms. Brown. Taking it to its most extreme, if it is landfilled, then over long periods of time it will become oil again. I mean, that is where things become unclear.

Mr. Markey. Then it can be exported because it is in the landfill, is that not correct?

Ms. Brown. No, I was talking about the hundreds of years long-term.

Mr. Markey. You are saying over a 50,000- or 60,000-year period it can then be turned back into oil. Is that what you are saying, over millions of years, like a dinosaur? Is that how you are reading --

Mr. Barton. We are going to dispose of the Yucca Mountain.

Mr. Markey. Is it theoretically possible like a dinosaur for it to be turned back into oil, so therefore it is not its final disposition?

Ms. Brown. Well, in reading the language, it didn't seem that final disposition was whether or not it could be turned back into oil. It says final disposition, and then it is when it is disposed. So that seems like the end of its life or the end of its use.

Mr. Markey. No, it is where the oil, bitumen or refined product has been finally disposed of. It is finally disposed of when the

plastics company purchases it and turns it into plastic. Otherwise counsel is giving us a totally absurd interpretation where it could potentially go to a landfill, and over 1 million years, be turned into oil again. That is an absurd interpretation by counsel and she is absolutely stretching this --

Ms. Brown. Actually, that I disagree with. I don't think that the language is clear. I can appreciate the interpretation that you have, but I think the language as far as what final disposition means is unclear.

Mr. Markey. Final disposition is when a plastics company purchases it.

Mr. Barton. The chair is going to postpone the vote on the Markey amendment until the full committee chairman and ranking member are back from their other committee hearing. Does any member seek recognition? First of all, for what reason does the gentleman from Illinois seek recognition?

Mr. Shimkus. I ask unanimous consent just to make a statement on pronunciation.

Mr. Barton. Briefly.

Mr. Shimkus. It is okay to use the word "bitumen." The product is called bitumen. So we don't have to float around what is this product. It is bitumen.

I yield back.

Mr. Barton. You have got to be careful of how you say it.

Mr. Markey. If I may, Mr. Chairman, in the interest of comity,

when you said Massachusetts instead of Massachusetts, there was no pronunciation correction emanating from our side, anymore than I corrected my drill sergeant when he said Massachusetts.

Mr. Barton. I have the benefit of the Texas exception, which is however we say it, that is the way it is, as far as we are concerned.

Mr. Markey. And we say Nevada, not Nevada, and Oregon, not Oregon. So we have regional differences.

Mr. Shimkus. But the FCC will not penalize us for saying bitumen.

Mr. Barton. Let's get control of the committee. The gentleman from Michigan has an amendment at the desk. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. Dingell. Mr. Chairman, I think it would be wonderful to be read, because I would like for my colleagues to hear the admirable content of this amendment.

Mr. Barton. The staff does need to hand out the Dingell amendment. The Clerk will report the amendment.

[The amendment of Mr. Dingell follows:]

******** INSERT 3-1 ********

The Clerk. Substitute amendment offered by Mr. Dingell of Michigan to the amendment in the nature of a substitute.

Mr. Dingell. You haven't finished the reading.

Mr. Barton. Without objection, it is considered as read.

Mr. Dingle. I am enjoying the reading. I would kind of like to have it read.

Mr. Barton. Okay, clerk will read the amendment.

The Clerk. In lieu of the matter proposed to be inserted, insert the following: Section 1, Keystone XL pipeline project authorization and permits. The procedures established under Executive Order 13337, as issued by President George W. Bush on April 30, 2004, shall be carried out with respect to authorization of and permits for the Keystone XL pipeline project.

Mr. Dingell. Thank you.

Mr. Shimkus. [Presiding.] The gentleman is recognized for 5 minutes.

Mr. Dingell. Thank you, Mr. Chairman.

You will note, my dear friends and colleagues, that this amendment is going to utilize the procedures set forth by President George W. Bush on April 30, 2004, with regard to the permitting of the pipeline. The amendment would require that approval and permitting processes follow clearly understood processes established by President George W. Bush.

My friends in the majority who have been pushing so hard on this issue are concerned about the amount of time that has been taken to

approve the permit to build this pipeline. In the executive order in question, President Bush established a timely process in which an issue like this could be considered. Agencies can be consulted regarding the permit application and are required to submit their views within 90 days, the environmental review can be completed and experts who know about this subject and projects like this can and will be consulted, and it will be dealt with by agencies with greater expertise than by the State Department on matters of the permitting that will go forward.

Instead of allowing this process to play out, Congress has chosen to rush the administration, even though there are serious problems with the route of the pipeline, and well-established and well-understood mechanisms for issuing permits of this kind are unfortunately disregarded in the legislation before us.

The legislation before us is going to be a splendid source of litigation, lawsuits, ill will and political troubles by reason of the fact that a whole different mechanism is substituted over the well-established practices which take place under the regular permitting process. This is a 1,700 mile pipeline that is going to cross rivers, aquifers, it is going to go across public lands, parks, farmlands, through municipalities, and it is going to create an absolutely magnificent opportunity for litigation and ill-will.

So what we are essentially doing is codifying in an expedited fashion a process that will give more weight than an executive order, even though what we are using as the foundation for this is the executive order which was issued by President George W. Bush. It was his

intention at that time to follow forward and to see to it that this process moves speedily.

I happen to be a friend of the pipeline. I want to see this pipeline built. I want to see it start moving oil down to the refineries in the Gulf States. I would observe to my colleagues, and this is something which should be kept in mind, that pipeline is going to be built going west or it is going to be built going south. I want to see it built going south, because if it is built going south, it goes through the United States and it uses U.S. steel and U.S. labor.

It will also see to it that the refining is done in the United States and not in China, because the United States will get the business, but, more importantly, it will also do so in a careful and responsible fashion which we will not see done if it is done in China. And we need the oil. The oil is going to come, and it is going to be produced in one way or another, and we might as well see to it that the benefits are derived by the United States.

Having said this, we are simply codifying the process, expediting the matter, and avoiding a prodigious wealth of litigation which will occur, and which I can assure you will be handled very well by the environmentalists in their opposition to the pipeline and the production of the oil.

Having said that, we might as well see to it that we use an understood process that will give acceptance to that process and that we do so in a way which confers the benefit on the United States, jobs in the United States and other things, but which does it in a way that

can be understood by our people by reason of the fact that we are using settled processes that have been used since the dates of the Alaskan pipeline in the 1970s and since the dates when the National Environmental Policy Act was enacted into law.

If you want to solve the problem that is before us and if you want to come forward with something, which, in fact, really does work to abate the problems that we are concerned with here today, then I would urge my colleagues to support this amendment and to see to it that it goes forward, because in so doing we will be choosing the fastest way, most free of the excessive litigation which is going to be triggered by the bill as it is written before us now.

I urge my colleagues to help us move this pipeline forward and to do so in a responsible and understood fashion, in a way which will enable us to get the business of the Nation done so we can perhaps get down to some other things we have to do around this place.

With that, I yield back 14 seconds.

Mr. Shimkus. The gentleman yields back his time. The chair now recognizes the gentleman from Nebraska.

Mr. Terry. Thank you, Mr. Chairman. I rise in opposition to this amendment.

Mr. Shimkus. The gentleman is recognized for 5 minutes in opposition.

Mr. Terry. I appreciate where the gentleman from Michigan is coming from on the basis of this amendment, but the reality is this is an extraordinary situation, because we have a President that chose

to deny this permit, putting us in this position. The presidential permit, as done by executive order with the reassertion in here -- look, I agree, the whole purpose of this bill is to move forward on the pipeline, despite the President's effort to kill it. It is the President who said -- or let me back up, it is the State Department who said they have enough information to make a decision. The volumes of binders sitting by Mr. Pitts is the environmental study, the final environmental study. So saying that there isn't one is just outright wrong.

The State Department said they had enough information here, that they were working diligently, and would make a decision before December 31st. It is the President, then, after the NRGC, the Sierra Club that Mr. Cassidy pointed out during his statement on the last amendment, said that this was going to be the line, this pipeline was going to be the line in the sand that the environmental community drew for the President. The President replied to that by saying I am going to delay this until after the election.

It is the President that made this a political football, when he said he was going to put his election year politics ahead of what the best interests of this Nation and this pipeline were. So that is what put us in this predicament, and we are not going to go back to the politics that is being played within the White House right now.

So this is the best mechanism, the means forward. It says in this bill that we are going to take all of the work product that the State Department said was sufficient, we carve out that 30-mile or maybe

40-mile, maybe 50-mile jog in the State of Nebraska, and let that proceed, but start on what has already been done.

So, let's get on with it. Let's put the politics aside. The President left us no choice but to work around the presidential decisionmaking here, because we already know that he is not going to make the decision until after the election. And, by the way, this pipeline has contracts to the refineries that have to be met, and the only way to accomplish that would be to start construction as soon as possible.

So I respectfully request to put into the record a unanimous consent to put in the U.S. Department of State's memorandum permit for the Alberta Clipper pipeline that says when the State Department followed regular procedure and the presidential permit was authorized, not caught up in politics, because this was 2009, not 2012, the State Department said the approval of the permit sends a positive economic signal in a difficult economic period about the future reliability and availability of a portion of United States energy imports, and in the immediate term the shovel-ready project will provide construction jobs for workers in the United States. Let's do that for the Keystone Pipeline as well.

Mr. Shimkus. Without objection, it will be submitted for the record. The gentleman yields back his time.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Shimkus. The chair now recognizes the gentlewoman from California for 5 minutes.

Ms. Eshoo. Thank you, Mr. Chairman. I support Mr. Dingell's amendment because I think it is a sensible one. Our colleagues across the aisle keep saying that TransCanada isn't getting any special consideration, but that is really what this bill is about. This is a bill that is just chock full of exceptions. It applies to only one pipeline.

Rather than pass a regulatory earmark for Keystone, Mr. Dingell's amendment codifies the executive order currently governing pipeline border crossings. So if this amendment were to be adopted, then all pipelines would have to play by the same rules. There wouldn't be one set of rules for Keystone XL and one set of rules for everyone else.

So I support it. Again, I think it is sensible. I think it is a much better way to go. I would be happy to yield to Mr. Dingell.

Mr. Dingell. If the gentlewoman would yield to me, I would be very appreciative.

You know, the only thing that the State Department is really concerned with and with which they have expertise is in letting the permit go across the U.S.-Canadian border. That is the only area they have expertise in. There are going to have to be all manner of environmental decisions made by all manner of other questions, crossing rivers, crossing streams, going past National Forests, public lands, Federal, State and local, dealing with the concerns of people in cities, the question of safety and hazard and pollution of the water and air

and all manner of other things, the question of jobs and the impact it will have upon persons of limited means and things of that kind. The consequences of entrusting that kind of situation to an agency so lacking in expertise is a very serious one and we will regret it.

The other point I am trying to make, and apparently I can't seem to get through to my colleagues, is that you are substituting here in this legislation something which is a totally new and poorly understood process. Essentially what is going to happen here is the Governor of Nebraska is going to make decisions which are going to become the decisions for every Governor, for every State and for every Federal, State and local agency that would be involved in the permitting of this kind of device.

I think that is unwise in the extreme and it is going to infuriate the environmentalists who are going to be on this like a duck on a June bug, and the end result of which will be you will see litigation going on perhaps for generations because of this question because the legislation before us does not abate the opportunity of citizens to litigate.

If you really want this pipeline and if you really want this pipeline expedited, you will follow the leadership of President George W. Bush, who went out to do this in a rather thoughtful way, minimizing the outrage that would be felt by the environmentalists and removing most of the opportunity for the environmentalists to have either credibility in their litigation or the opportunity to actually litigate these questions.

And this is just plain common sense. Is it going to take a little more? Yes, in terms of time. But that is not bad, and much of that work has already been done so that it doesn't have to be replicated a second time or a third time. Having said this, is it going to infuriate the environmentalists? Yes, but less so than the other. And credibility for ordinary citizens is going to be enhanced and protected, and it will be able to be defended by persons like my good friend from Nebraska who can say well, we have done this in a way which is thoughtful and which considers the concerns of everybody who would ordinarily be involved in the decision-making process.

I am not going to tell you that anybody is going to be satisfied with the result of this or any other amendment that we are going to be offering today or the legislation that is before us. I can only tell you that if we are going to do this, let's try and do it in the most sensible way, avoiding the difficulties which would be created by setting up a curious new process which is going to infuriate the environmentalists and cause all matter of litigation.

And let me remind you that when these matters get into court, they stay there for a long time. And let me remind everybody on this committee that the environmentalists have established a splendid system of environmental law in which they have law firms that are just salivating about the prospects and the possibilities of taking this kind of thing in the form of the legislation before this committee to court so that they can have great fun and in the process you are creating, believe it or not, a splendid full employment practices act

for the lawyers.

I urge you to accept the amendment. It will save time, money, and it will get the pipeline built more speedily.

I thank the gentlewoman for yielding.

Mr. Shimkus. The gentlelady yields back her time. Who seeks recognition?

The gentleman from Kentucky is recognized for 5 minutes.

Mr. Whitfield. Thank you very much. We all certainly have great respect for the gentleman from Michigan, and his amendment would basically put this project back to where it was. And in our honest view, the President himself, Mr. Obama, politicized this issue when he originally indicated that he was going to postpone any decision until after the election. And that is okay, because, you know, politics is politics, and we play our politics, you play your politics, the President plays his politics.

But the reason that we feel that this is imperative is because those of us on this side genuinely believe that it is in the national interest that this pipeline be built, and if we return to the executive order that was used by President Bush, I am convinced that the pipeline will never be built.

I also do not have any illusions that if this pipeline is built, under whatever circumstance it is built, that there will not be plenty of lawsuits. In fact, the other day I was talking to some people at EPA, and they have indicated they have like 700 lawsuits over at EPA pending right now under the Clean Air Act and Clean Water Act alone.

But when the President made his decision and he said I have not had enough time to review this, it left the impression with the American people that the route changed, therefore there really had not been enough time to look at this. Well, there have been 40 months to review this pipeline. Eleven agencies have looked at it in the Federal Government. There have been seven committee meetings. There have been two bills that passed the House of Representatives, and one was even signed into law by the President.

Secretary of State Clinton herself indicated at her speech at the Commonwealth club in San Francisco in October of 2010 when asked a question, are you going to approve the Keystone Pipeline, she said I am inclined to do so, based on the information that we have.

So really, the only thing that has changed here is the 60-mile route in Nebraska. Everything else is the same. This is over a 1,700-mile pipeline. So the only thing that has changed is the route in Nebraska.

So all of the agencies have looked at it. The State Department even issued their final environmental impact statement in August of 2011, and in that environmental impact statement, they indicated that between the option of building the pipeline and not building the pipeline, the preferred decision was to build the pipeline. And one reason for that was that if it was not built and this oil comes out of Canada by rail or by truck, the emissions would be much greater than they are using the pipeline.

So it seems reasonable to adopt the Terry legislation, because

basically what it says is, yes, FERC is going to make the decision within a certain period of time. The State of Nebraska has the opportunity to look at this route and make their environmental decisions based on that route. The NEPA that has already been adopted would stay in place and the pipeline could go on and we could start building the pipeline in areas outside of the State of Nebraska while Nebraska is going through its process to finalize.

So I think this pipeline has been adequately studied. Everyone that has looked at it indicates that the protections are there and the only issue is like 60 miles within a 1,700-mile pipeline.

So, with all the respect we have for the gentleman from Michigan, I believe the adoption of his amendment would really defeat our purpose and would probably lead to this pipeline never being built.

With that, I would respectfully oppose his amendment.

Mr. Terry. Would you yield me your last 30 seconds?

Mr. Whitfield. I would be happy to yield.

Mr. Terry. Thank you, Mr. Whitfield. The two feet of documents over here is the environmental study that was done on the entire route from Canada down to the refineries. Mr. Pitts is holding part of that up.

Now, it is important to note that because all the work has been done, what was not clear to the President at the beginning of this process is that the environmental community would come out and draw the line in the sand and say you need to kill this project. And they even said, one of the gentleman in the environmental community, said

this is the way to get your mojo back, to the President, your environmental mojo back. So what is different about the past is that this has become the war of the environmentalist now.

Mr. Shimkus. The gentleman's time has expired. Who seeks recognition?

The gentleman from Oklahoma an is recognized for 5 minutes.

Mr. Sullivan. Thank you, Mr. Chairman. I am listening to everything. I am opposed to this amendment. I respectfully oppose this amendment. The definition of insanity is doing the same thing over and over again expecting different results, and we are not getting any results from the State Department.

The President has had ample time to make a decision on this. He could do it through executive order. We know he has used that in the past. He hasn't done it. He has delayed and delayed and delayed and used excuse after excuse after excuse to not grant this project. The President has really failed in this case.

And I think that the biggest thing is not only is it the right thing to do, but it creates jobs in America, and right now, the only jobs that this President has really created in America are IRS agents and census takers. These are private sector jobs, 20,000 or more, that can be immediately employed by the construction of this pipeline. Why is that not a good idea right now? Unemployment is over 8 percent. Fifteen million people out of work. Unemployment is actually higher than that right now. And we have an opportunity here in America to have a project that could revolutionize our country by 20,000 jobs,

and when fully implemented this pipeline would directly and indirectly create over 100,000 private sector jobs in America.

And this isn't a stimulus bill. This bill requires zero money from the taxpayer. Zero. It is what we should be doing, it is a shame it is not happening, and that is why I oppose this amendment.

I would also like to reserve some of my time for Congressman Terry.

Mr. Terry. I don't need it anymore. Thank you.

Mr. Shimkus. Would the gentleman yield the remaining time?

Mr. Sullivan. I yield.

Mr. Shimkus. I will just end by this. I wish my friend Mr. Terry would use the microphone where the binders are, because they are about three feet high, two feet.

Mr. Terry. A little over two feet.

Mr. Shimkus. Two feet, double-stacked. That would show a good picture. Because it has gone through all the studies. They are complying with NEPA. I mean, we are talking about 60 miles out of 1,700 miles of pipe process that will be resolved within the state of Nebraska.

So I just want to end by the CRS report in talking about who does have the authority, who really does have the authority to confirm or reject this pipeline. The CRS did a report, and I quote on page 6, a source of congressional authority to regulate foreign commerce.

Article I, Section 8 of the Constitution authorizes Congress to quote-unquote, regulate commerce with foreign nations. Whereas an independent presidential authority in matters affecting foreign

commerce derives from the President's more general foreign affairs authority, Congress' power over foreign commerce is plainly enumerated by the Constitution, suggesting that its authority in this field is preeminent.

That is us.

In a review of the origins of the Constitution's foreign commerce clause, the foreign special counsel of the Department of Justice Office of Legal Counsel emphasized the placement of the foreign commerce power with Congress stating that the power to regulate foreign commerce at the national level was to be vested in Congress. The debate at the Philadelphia Convention over whether a bare majority or a super majority of each House was required to enact foreign commerce regulations demonstrates that the Framers intended such regulation to be made by a legislative body, rather than an executive or a judicial one.

With that, I am pleased with this movement by my colleague from Nebraska. I think we are on firm legal ground. We will revisit this again.

With that, I yield back my time to the gentleman from Oklahoma, who then yields it back to me. Is there anyone else seeking recognition?

Seeing no one, the question is on the Dingell amendment. Per the agreement with Chairman Upton and Ranking Member Waxman, votes will be postponed on the Dingell amendment until 12:30 when the conference committee returns.

Mr. Dingell. Mr. Chairman, I appreciate that courtesy, and pending that I would request a record vote.

Mr. Shimkus. The gentleman requests a recorded vote. As per the agreement with Chairman Upton and Ranking Member Waxman, that will be rolled into the series of three votes once we start again at 12:30.

With that, this markup is recessed.

[Recess.]

RPTS MERCHANT

DCMN NORMAN

[12:40 p.m.]

The Chairman. Sorry we are a little bit late coming back. The conference on the tax cut extension is still going on. It is expected to finish in about 5 or 6 minutes, and I know that Mr. Waxman will be coming back shortly after that. We have two rolled votes which we will continue to keep pending as rolled. Three? There are three? No, two. The Russia amendment was defeated.

And so what I would like to do, I am still told that we are expecting votes about 1:30, 1:40, so what I would like to do, I know the gentlelady from California has an amendment and the gentleman from Pennsylvania has an amendment. So though this will have to wait until Mr. Waxman comes back, maybe we can roll all the votes together. But, if not, we will start with the gentlelady from California's amendment for debate and see where we go from there. The gentlelady asked that her amendment be offered. We will ask unanimous consent that it be considered as read. And the staff will distribute the amendment. And the gentlelady is recognized for 5 minutes in support of her amendment.

[The amendment of Ms. Eshoo follows:]

******** INSERT 4-1 ********

Ms. Eshoo. Thank you. Thank you, Mr. Chairman. We were worried about the 2-hour rule earlier today, but we are well beyond that. So thank you for recognizing, Mr. Chairman.

And I want to raise a subject that we worked on, and I want to thank you for it, the pipeline safety bill last year. Pipeline safety is not anything that should -- a subject that should be taken lightly. I don't think anyone here does. I know that I don't. You are all aware, and remember the pictures and newspapers across the country and in the news in September of 2010 when there was a natural gas explosion in San Bruno, California, which is just north of where I live, where eight people were killed, dozens were injured and 38 homes were destroyed.

We know that the Federal Government has been regulating pipelines since 1968, but we are still seeing explosions in the country similar to San Bruno, California. So I think it is dangerous to move forward with a tar sands oil pipeline proposal, which we have little to no experience regulating, before we have the proper safety knowledge and procedures in place.

Now, on June 16th of last year the administrator of PHMSA Cynthia Quarterman testified that the agency specifically -- and she heads up the agency that is specifically designed for researching and administering pipeline safety -- had not done a study analyzing the risks associated with transporting diluted bituminum.

Last year in the bipartisan pipeline safety bill that was signed into law, as I said, I worked with Chairman Upton to include language

which requires PHMSA to complete a comprehensive review of hazardous liquid pipeline regulation to determine whether the regulations are sufficient to ensure the safety of pipelines used for the transportation of diluted bituminum.

So what my amendment today requires is that FERC review the results of a PHMSA study before issuing a permit. That is really what the heart of the amendment is for the Keystone XL pipeline. Under the amendment, construction of the pipeline could begin, but not until we know the standards that are in place for the safe transportation of diluted bituminum. I think the study is important for the safety of the American people, which I raised earlier. And I think the approach makes sense because it is far less costly to build pipelines correctly than it is to try to fix or replace a line that is already built.

And I think another very important consideration is the following. And that is that the recent oil spills that have occurred, particularly the spills from TransCanada's Keystone pipeline, which have leaked 21,000 gallons of crude in North Dakota, are a warning to all of us that we need to get this right. So for these reasons, Mr. Chairman, I offer my amendment and ask my colleagues to support it. And I yield back.

The Chairman. You yielded back?

Ms. Eshoo. I did.

The Chairman. Are there other members wishing to speak on the amendment?

If not, let me yield myself 5 minutes. The gentlelady is correct;

I supported her amendment. We did a study as part of the pipeline's safety bill. As you know, that study is not supposed to be done until mid-2013, July of 2013. So I would note that oil sand crude has been transported in pipelines for decades. And though I supported her amendment for a study, and anxious to see what that study is, and made a promise to the gentlelady that if I was still chair at that point that we would take that study up under review to see if we needed to address legislation down the road at that point.

I do think that this amendment would delay the permitting of this pipeline, knowing that in fact we have used pipelines to transport this oil sand for some time, and therefore would urge that it be defeated.

Ms. Eshoo. Mr. Chairman, would you yield?

The Chairman. Let me yield to Mr. Shimkus and then yourself.

Mr. Shimkus. Thank you, Mr. Chairman, and I will be real brief also. When I visited the oil sands where they mined and then they boiled that oil off the sand and then they put it in a pipeline, there is a 250-mile pipeline from Fort Murray down to Edmonton that has been doing this, as the chairman says, for decades. And no one is going to say the Canadians aren't concerned about environmental stewardship of the land or that they are unconcerned about spillage of the pipeline, so I am less concerned.

I think the Keystone pipeline spills were at pumping stations, and those issues have been resolved and rectified and remediated. And we don't live in a perfect world, so if there is contamination, it gets remediated, then you move forward.

I yield back. I am going to yield back to the chairman. Chairman Upton, I yield back to you.

The Chairman. I yield now to the gentlelady from California.

Ms. Eshoo. I just wanted to comment on your comments, Mr. Chairman. That was the -- the period of time that you mentioned is a maximum allowed for a study. That is not the earliest date. So it kind of undermines what you said. I know you don't support the amendment, but it seems to me that we are again on a -- as I mentioned earlier today, I think we are on a really slippery slope. We passed laws, we worked together, we put things on the books for the benefit of the American people. And then what do we do? We come along today and we leapfrog over the work that we have done. But it can be done in a shorter period of time. That is the maximum. And I appreciate your yielding.

The Chairman. I appreciate the clarification and will reiterate my pledge that if in fact they come back sooner, next month, whatever, if they have some serious issue that they would like to raise with us, I look forward to working with the gentlelady to address it. I yield back my time.

Is there further discussion on this amendment? Mr. Waxman.

Mr. Waxman. Thank you, Mr. Chairman. As I understand the amendment that is before us, is to ask that there be a study about the safety of transporting tar sands, sludge, or bituminum that is commonly diluted so they can be forced through this particular pipeline. The government agency involved had never done this study. I think it is

reasonable to request it and to understand if we are going to undertake additional risks. And I don't think we are talking about a huge delay in time, so I strongly support the amendment.

I would be happy to yield to the gentlelady if she wants more time.

Ms. Eshoo. I appreciate it. And I think that in the haste to somehow jam this thing through that we are really overlooking some very serious things. For those that are totally committed to the pipeline being built, I think you undermine your case by leapfrogging over very important things. And I mean that sincerely. I mean, at the end of the day, people hold their own views on these things. But I think that this is really an undermining process. And I just, I don't have a good feeling about it. I think it is going to come back to haunt us. So thank you, Mr. Chairman.

Mr. Waxman. Thank you. I am going to take back my time and just point out that the study is going to be done. It is prudent and it seems to me wise policy. In fact, we owe it to every farmer, rancher, citizen, along the proposed path of this pipeline to make sure that adequate safety standards are in place. This review -- if we don't support this, it is consistent with the whole bill that is before us. Don't get the facts, let's just make the decision, let's make sure that the XL pipeline can go, we don't want to know what the route is going to be, we don't want to know whether it is safe or not, we are just going to move forward, and then when the study is done we can find out afterwards that there are safety problems that we didn't know about and we didn't care enough to hold off at least to get that information.

So I strongly support the Eshoo amendment.

The Chairman. Yield back.

Mr. Waxman. Yield back.

The Chairman. Before I yield to the gentleman from Kentucky, let me just say that in consultation with Mr. Waxman we have decided if a recorded vote is asked for this, we will roll it with the other two that are previously ordered, go to Mr. Doyle's amendment, and at that point I understand there is no further amendments and we would have all the votes in sequence.

So with that, I will yield to the gentleman 5 minutes, from Kentucky, Mr. Whitfield.

Mr. Whitfield. It is my understanding that the section 16 study is simply to review the adequacy of existing regulations. And those regulations apply to any pipeline that is out there. And it would seem to me that if this study comes out and determines that the regulations are not adequate, that Congress would then take action to make sure that the inadequacy is met, and it would not only be applicable to Keystone but any other pipeline.

So the fact that we maybe not support this amendment would not mean that, as Mr. Upton said, when the study comes out, if it shows that we need to do additional things, that we certainly can do it.

And I would like to yield the balance of my time to Mr. Gingrey.

Dr. Gingrey. Well, I appreciate the gentleman from Kentucky for yielding. Yes, it seems to me that this amendment that would require the study that is not going to be due for 18 months, if it was going

to make any sense it would require that you stop, cease and desist any transportation of oil in the existing Keystone pipeline. And my understanding is some 700,000 barrels a day are transported through that line right now.

It is the same product, is it not? If someone can explain to me that it is a different product, please do. But if it is the exact same product and we are transporting it through the Keystone pipeline, this Keystone XL just allows for more, maybe 60 percent more, transportation of the very same product through the very same type pipeline that runs just a little bit different route, goes to more refinery sites in the United States, helps us to increase domestic production which we talk about over and over and over again.

So you know, if this amendment were approved and if you took it to its conclusion, that you would just literally shut down the transportation of the crude tar sand oil through the existing Keystone pipeline.

And with that, I would yield to Mr. Terry for his expertise, the gentleman from Nebraska.

Mr. Terry. Thank you, Mr. Whitfield, for yielding your time for the record. This is really, I believe, a red herring issue used as an excuse to try and kill this pipeline. That is the way the environmentalists have presented it, the NRDC.

Let me state two reasons why I really think this is a red herring issue. Number one, it has already been stated, but it is very true. In fact, we discussed that at that PHMSA hearing about how long that

heavy crude with bituminum has been transported through pipelines. It has been decades. So the agency recognized that, stated that, was asked then if you have done a study -- I mean, you have done a study on something that has been going on for 20, 30, 40 years, maybe even longer. Well, if she wanted one, that is fine, let's go ahead with one. But they already know the safety and soundness of heavy crude through pipeline using bituminum.

So number two, this is interesting that we keep talking about this leapfrogging like we are jumping over the environmental study. In fact, I can't jump that high. The 2 feet of environmental impact for this route that PHMSA signed off on that they had their input in, because of their experience with heavy crude and bituminum, made some recommendations. And here not just from PHMSA, but from others, were 57 additional requests, recommendations, that are a part of the final environmental impacts.

So the work has been done, there is no jumping over. All we are saying is this is the exact stuff that -- environmental study, all the extra conditions that were put on them, the 11 jurisdictions that signed off as the final, and we are going to allow FERC to use the same materials that the President had available and then used the bogus Nebraska argument to kill the pipeline. There is no jumping over. We are letting them use the recommendation.

So I will yield back the rest of my time.

The Chairman. The time is expired. Are there other members wishing to speak? The gentlelady from Colorado.

Ms. DeGette. Thank you very much, Mr. Chairman. I have been listening with interest to the debate today because I have a crazy view of things like this. I think that we should try to get energy projects built, but we shouldn't make shortcuts on making sure they are done in a safe way. I know that is a crazy view but that is my view, that we really need to make sure that we cross all the T's and dot all our I's so that we don't have collateral environmental damage when we do this.

And that is why I support Ms. Eshoo's amendment, because I don't think that we should really proceed with this pipeline when the Pipeline and Hazardous Material Safety Administration hasn't reviewed its regulations to make sure that they are sufficient for pipelines transporting tar sands oil. I mean, the bill directs FERC to approve the Keystone XL pipeline. TransCanada and the supporters have repeatedly assured the public and the Congress that we shouldn't worry about the pipeline carrying tar sand sludge to the middle of America and the Ogallala Aquifer because it will be ultra safe and ultra state-of-the-art.

The problem is we have heard these kinds of assurances before. In 2008 TransCanada received approval to construct and operate the first Keystone pipeline which also transports tar sands oil. This pipeline began operation in June of 2010, and we were told this would be state-of-the-art, using the very latest safety technologies, and oil spills were expected to occur only once every 7 years. But what happened was during the first year and a half of operation, the first

Keystone pipeline had 14 spills totaling over 23,000 gallons of oil. The largest one of those was when about 20,000 gallons of oil erupted from the pipeline in North Dakota and it was a 60-foot geyser of oil. Amazingly, the spill was not detected by TransCanada but it was reported by a local farmer.

And so in response to this spill and others on June 3, 2011, the Pipeline Safety Agency issued a corrective action order temporarily shutting down the original Keystone pipeline. The agency based its finding on -- based its action on a finding that the continued operation of the pipeline without corrective action would be hazardous to life, property, and the environment.

And since restarting operations, the Keystone pipeline has now experienced another spill of 420 gallons in Severns, Kansas. Now, we had a whistleblower, who worked as a safety inspector during the construction of the original Keystone pipeline, come forward with information that alleged serious deficiencies relating to the construction of the Keystone pipeline, including weak foreign steel, Mr. Doyle, and also it cracked when the workers tried to wield it, inadequate foundations for pump stations and other improper construction practices. He says that safety tests were, quote, fudged.

So my concern is we really need an active regulator to review standards to make sure they are adequate for these pipelines, and we need to make sure that we are not cutting corners when and if we do this. I would rather try to prevent environmental damage before it

happens by constructing this right than to have to go back in and remediate the damage and to shut down the pipeline on a temporary basis. So I think this amendment is very sensible and I hope everybody votes for it.

I will yield the rest of my time to Ms. Eshoo.

Ms. Eshoo. I thank the gentlewoman from Colorado for her comments and for yielding the balance of her time to me. This is going to be the very first time that this large of a pipeline is to be built, I think right, coming down the middle of our country transporting diluted bituminum. It seems to me that the pipes that this stuff is going to travel through should be reviewed by the agency that is responsible for the safety of what travels through the pipes.

Now, it was said earlier that we are not leapfrogging over things. Do you know what? Yes, you are. Look at the base bill. No Presidential permit is required for Keystone. You tell FERC that they have to issue a permit for the construction within 30 days of receiving the application. You tell them what you want the outcome to be. You waive other applicable requirements under NEPA. If FERC doesn't act on the permit then within 30 days of receipt, the permit is deemed to be approved. What kind of legislation is this? If that is not leapfrogging, then I don't know what jumping is.

Now, there are members on this side of the aisle that are with you on supporting the pipeline, but they too have reservations about how this is being done. And the warning of the chairman emeritus that the route that you are taking with all of this leapfrogging is going

to end up in a mountain of litigation. So I think that this is sensible. This isn't meant to stop it. I am not going to stop it, because you all are hellbent to get this thing done no matter what. I am just saying slow down a little and know whether these pipes are safe enough to carry something that can be highly detrimental. And I thank the gentlewoman for yielding.

The Chairman. The gentlelady's time is expired. The gentleman from Oregon.

Mr. Walden. Thank you, Mr. Chairman. All I know is I am just glad that not every pipeline sought to be constructed in America requires the approval of Congress or finds its way here, and none of it would get done. I think it is interesting that the TransAlaska pipeline was actually approved by Congress on an expedited schedule, not too dissimilar from this, and this is why in part it was built in a fairly rapid time.

I was just going through some of the documents, as I sat here listening to my colleagues, in terms of the conditions for Keystone XL and Keystone pipeline. And these are the 57 items that were highlighted by our counsel earlier. And I think it is important, because we all want to make sure this pipeline is built to the highest standards and that there are requirements that they do that and that they monitor that.

And so when you start reading through this, and maybe everybody could, it talks about steel, plate coiler, skelp quality control and assurance, fracture control, pipe seam quality control requirements,

monitoring for seam fatigue from transportation, puncture resistance. For example, steel pipe must be puncture resistant to an excavator weighing up to 65 tons with a general purpose tooth size of 3.54 inches by .137 inches. There is a pipe coating, field coating, coatings for trench installation, bends quality. Keystone must obtain and retain certification records of factory induction bends and factory well bends. All bends, flanges, and fittings must have carbon equivalency equal to or below certain standards; pipeline design factor, temperature control, overpressure protection control, construction plans and schedule. And then they get into depth of cover.

We had this discussion because of the issue involving the farmer. Keystone shall construct the pipeline with soil, cover at a minimum depth of 48 inches in all areas except in consolidated rock. The minimum depth in consolidated rock areas is 36 inches. Keystone shall maintain a depth of 48 inches in cultivated areas and 42 inches in all other areas. In cultivated areas where conditions prevent the maintenance of 48 inches of cover, Keystone must employ additional protective measures to alert the public and excavators to the presence of the pipeline.

And then they go on into the additional coverage. Pressure tests and a schedule for that. And then the scan rate and a whole schedule there.

I am only at number 25. Alarm management. We heard about leaks. There are alarm priority determinations, authorities and responsibilities. The numbers of alarms are specified, alarm

management policies and procedures; leak detection systems are clearly addressed here and specified very thoroughly; and collaboration and maintenance of those sorts of detection systems; main line and check valve control specifications; cathode protection; corrosion surveys; initial close interval surveys; coating condition; pipeline markers; patrolling, patrol the right-of-way at the intervals not exceeding 3 weeks, but at least 26 times each calendar year to inspect for excavation activities, ground movement, unstable soil, washouts, leakage, or other activities or conditions affecting the safety operations of the pipeline, on and on and on.

And so I think this is above and beyond what I believe is required in the pipeline safety law. And that is part of the final environmental impact statement which here takes up 6, 7, 8, 9, probably 10 of these giant binders of the work of our Federal agencies that said there is no environmental impact.

So the basic environmental impact or final environmental impact work has been done, other than on this additional route through Nebraska. Once that is chosen, that can be done then. And so I think it is time to get on with it.

This is about jobs in America, this is about billions in new tax receipts to our local communities, 20,000, 100,000, you pick the number. The estimates are across the board in terms of real jobs for real Americans. We are talking a lot of blue collar workers, a lot of trade jobs for pipefitters and electricians and others that we need in this country.

Canada is our best trading partner, bar none. The Premier in Canada, Harper, is in China today. China is a huge investor in oil development in Canada. They are on the verge of making a decision to just go a different route and just take this across, over to the Pacific, and right on out to China. I mean, this is going to come out of Canada. They are going to produce this oil, they are going to make money on it. The question, is do we get any of those jobs, do we get this to flow into our part of the world, or does it just get exported into China?

The Chairman. The gentleman's time is expired. I would like to finish this debate so we can get to the next amendment. Mr. Engel is recognized for 5 minutes.

Mr. Engel. Thank you. Thank you, Mr. Chairman. You know, I am one of the people that Ms. Eshoo described. I tend to be sympathetic to the pipeline because I do believe that we have tough choices to make. They are not easy, they are not black and white, and they are all shades of gray. And I think basically we can benefit from the pipeline. But I want it done right. I don't want a kangaroo court. I don't want something that is preordained. I want it done right.

Now, the majority, I have been in the House for awhile now and the majority can do whatever it wants; it is majority rule. I have always felt, even when we were in the majority, that it kind of makes sense to try to broaden the tent to get more people involved with legislation. You can pass whatever you want on a narrow, essentially party line vote. But to me it doesn't make any sense to try to ram this through. Yes, it is true that maybe some of the amendments are

looked at in an attempt to slow things down. Everybody has their own -- each person here has his or her priorities. That is certainly not true with me.

I think what Ms. Eshoo was saying makes sense. I am troubled by the legislation because, look, State has it, Mr. Dingell, an amendment we are going to vote on talks about President Bush's executive order, restoring its executive order. I mean, I think it is fine in Sate. I think you know it is good the way it is.

What troubles me about moving it to FERC, and I am not terribly annoyed at it moving to FERC, I think you can make a case for it. But what really, truly bothers me is the mandate in this bill that FERC has 30 days to approve it and if it doesn't approve it, it becomes law anyway. Well, what kind of a review is that? I mean that is absurd. Either you want a real review of this or you don't. And if you don't, then what is the whole point in bringing it to FERC anyway, telling them they can review it, but if they don't do it within 30 days it is too bad, it happens anyway? That doesn't make any sense to me.

The problem with Nebraska that still hasn't been -- piece hasn't been put together. I would feel a lot better if that piece were in place. And I would be happy to ultimately vote for something like this. But it seems to me that what we are doing here is we are just ramming it through.

The gentlewoman from California I think raises a lot of important issues. Now, some may agree, some may not agree. But I think that certainly we want to have a real review. The whole point in government

doing this is -- I know some people on the other side don't like government, but for me I want government to protect the environmental standards, I want to make sure that the mechanisms that were set up for public protection are there. I just don't think ramming this thing through is the right thing to do, just the way I don't think that preventing this is the right thing to do.

Let's do the pipeline. I am for it, I really am for it, because I will tell you why. I think that we have to say "yes" to something. We can't keep saying "no" to this, "no" to that, "no" to every bit of energy. To me -- and nothing is 100 percent, you have to weigh it -- I think on balance the pipeline is probably a good thing. But not the way we are doing it now, not the way we are doing it in this bill, not the way that we are disregarding any modicum of review to protect the environment, to protect the American people's health and safety. So this is really the wrong way to go, and I am troubled.

I do support the gentlewoman's amendment. And I yield back the balance of my time.

The Chairman. The gentleman yields back. Are there other members wishing to speak? Seeing none, the vote will occur on the amendment.

Those in favor of the amendment will say aye.

Those opposed will say no.

The noes appear to have it, the noes appear to have it, the noes have it. The amendment is not agreed to.

The gentleman from Pennsylvania.

Ms. Eshoo. A recorded vote.

The Chairman. Oh, a recorded vote is asked for. We will have a recorded vote as part of the two on notice already. The gentleman from Pennsylvania has an amendment at the desk.

Mr. Doyle. Thank you, Mr. Chairman. I have an amendment at the desk.

The Chairman. The clerk will say the title of the amendment.

The Clerk. Amendment offered by Mr. Doyle of Pennsylvania to the amendment in the nature of a substitute.

The Chairman. And the amendment will be considered as read.

[The amendment of Mr. Doyle follows:]

******** INSERT 4-2 ********

The Chairman. The staff will circulate the text of the amendment. And the gentleman is recognized for 5 minutes.

Mr. Doyle. Thank you, Mr. Chairman. Mr. Chairman, despite all the controversy surrounding this pipeline, I think this is a good opportunity for us to examine some of the claims that the applicant for Keystone XL pipeline has made.

Now, let me just say at the very beginning, I support building this pipeline in a way that protects the environment and creates American jobs. And when I first started reading about 800,000 tons of steel to be used in the Keystone XL pipeline, like a lot of other people from my neck of the woods, I was pretty excited about the prospects for U.S. manufacturers, especially steel manufacturers, having U.S. Steel headquartered in my district and being part of the steel caucus. So I have to admit I was a little confused when I called up my friends at U.S. Steel, one of the largest U.S. steel manufacturers, and asked them how much of that 800,000 tons of steel in the Keystone pipeline were they getting? And they told me that they were getting zero, that U.S. Steel didn't have a single order from Keystone pipeline. I was puzzled. I had talked to my friends at the Steel Workers Union to find out why they weren't a lot more supportive of this project, because of all the steel involved. And I found out that we are not going to see many Steel Workers Union people on this job either. Now, that confused me. And I thought, well, that must be a mistake because TransCanada has been touting that 75 percent of the steel in this project is going to be sourced from North America,

either Canada or the United States.

So I tried to reach out to TransCanada and ask them some clarifying information. I know yesterday here at opening statements, my good friend Tim Murphy -- we sit on the Steel Caucus together -- was touting the wonderful effects of jobs being created in our country in the steel industry, and I share that concern with Tim. We have worked very hard to help U.S. steel manufacturers.

So I reached out to the permit applicant, TransCanada and several other sources, to try to get some clarifying information on where this 75 percent of the steel used in the Keystone pipeline, you know, domestically sourced from North America, would be. Unfortunately, the best answer I could get seems to be that there is a single pipe manufacturer in Little Rock, Arkansas, that is providing most of the steel for this pipeline. Now, the trouble with that is the manufacturer doesn't actually use U.S. or North American steel to make their pipe. In fact, the Little Rock plant very clearly told me that they make their pipe out of foreign steel. In fact, they have already imported 148 Maus of ready-made pipe from India. So that is sitting on their lot right now.

And then the rest of the steel for which they will make pipe -- it is sitting there in slabs in Little Rock -- comes from foreign sources, not the United States, not Canada. They take those slabs and they heat them up and they are going to bend them and they are going to make pipe out of them. So they are going to do the finishing there, but the actual manufactured steel, I don't believe there to be one ounce of U.S. or

Canadian steel in this entire pipeline.

So I am simply asking for a little bit of truth in advertising here. It has been my frustration through this whole debate that we hear a lot of claims about this pipeline, and I just want to be honest with the American people. So my amendment just says this: that if TransCanada has told us that they have made every effort to source as much steel from North American mills as they can, I am simply asking them to certify that claim. Through my little amateur investigation, I don't believe there is a lick of U.S. or Canada steel in this pipeline, but I would love to be proved wrong. And so if the folks can certify at TransCanada that 75 percent of this steel is sourced in the United States or Canada, then I think it is full steam ahead, and I think there are many other members of this committee would like to know the same thing as well.

Finally, let me say, do we have companies in the United States that make pipe? Well, I know of at least four U.S. pipe mills that make the 36-inch diameter pipe used in the Keystone pipeline. One is in Baton Rouge, Louisiana. One is in Panama City, Florida. One in Birmingham, Alabama. And one in Mobile, Alabama. And guess what? They all use U.S. steel in the pipe that they make.

I am just curious why none of these companies had a shot at some of this steel in the Keystone pipeline. And my amendment very simply says, let's certify this 75 percent claim or stop making claims that you can't back up with facts. And with that, I yield back my time.

The Chairman. The gentleman yields back. Are there members on

this side wishing to speak? The gentleman from Louisiana, Mr. Scalise.

Mr. Scalise. Thank you, Mr. Chairman. And I do think it is important to note that when we are talking about the jobs that would be created by Keystone, the 20,000 American jobs that we are fighting for in the legislation by Mr. Terry, if you look at this amendment, you know -- and I am not sure if the gentleman was aware that all the pipe was already purchased -- but under that amendment they wouldn't be able to go forward with Keystone because they already bought the steel. And in fact, as we were told, half of the steel for the project was sourced from a U.S.-based mill in Little Rock, Arkansas. In fact, we have already heard from our colleagues in Arkansas that said they are laying off people right now in Arkansas because the President refuses to permit Keystone.

We are losing jobs right now in America at that Arkansas mill that manufactures that steel because the Federal Government won't approve the Keystone pipeline. You know, and I think it gets to the heart of this issue, what we are talking about here is whether or not to go forward with the project. And I know, you know, there is going to be every attempt to try to throw up a roadblock here and a roadblock here to stop Keystone from happening. And each time our friends on the other side are going to say, look, they want the pipeline, but you have got to put this condition in, and they want the pipeline but they have got to put this condition in.

I know we tried to build a steel mill in south Louisiana that is finally moving forward. And in fact the biggest impediment to the

building of that steel mill in America was Federal regulations. It is the Nucor mill. A lot has been written about it. And for years they wanted to build it in America. And as cap and trade was coming through, they started looking at Brazil. They said, look, we want to build it in America, but these crazy regulations are blocking us from creating American jobs. And ultimately they finally went forward after a couple of years of lost jobs.

And then we hear, well, there are not enough studies. And of course we have seen the studies have been done, environmental studies have been done. This project was on the books of the Secretary of State going back to 2008. The State Department had this request for Keystone going back to 2008. And they have been studying it. In fact, Hillary Clinton back in 2010 said we ought to move forward with it. In 2011 last year the State Department issued a statement saying they don't see any problems with Keystone.

You know, we fought and won World War I in less time than the Federal Government has been studying Keystone. Now, we can keep studying it and people can say, oh, I am for the Keystone pipeline but I just want to study it some more. And in the meantime, China is saying they want it. Canada wants to send it to America. Canada wants to send the jobs to America. But America right now, through these radical policies, is saying, no, America doesn't want the jobs, they will go to China.

So it has come to our lap. You know, Congress could sit back and do nothing about it. But we have taken the initiative and said we want

to create jobs, we want to fight for those American jobs. And unfortunately, the only way to do that is through an act of Congress, because the President has made it clear he is not going to do it. He kicked this issue off until after the election, after the radical environmentalists went and threatened their support for his reelection. So he made it about politics, you know. And then everybody is coming, oh, they want the Keystone pipeline, they want it; they just don't want it. And so amendments come up that, you know, whether well-intentioned or not, will kill the deal.

You know, we can keep pushing this off or pushing it off. Fortunately, the author of the amendment -- the author of the bill, the chairman of the committee, all of us that have cosponsored it, have said these jobs are worth fighting for. These are 20,000 American jobs that are either going to happen or not happen, depending on if we pass legislation. If we don't pass the legislation, there are no jobs. And I know the President's narrative is, you know, he wants to campaign against a do-nothing Congress. He wants to do anything to keep the focus away from his policies. And so if Congress actually does something, Congress passes a jobs bill, this Keystone bill, and it will create 20,000 jobs. You know, it is unfortunate that the President just would rather the narrative that Congress is doing nothing. And I guess some in Congress can block this. They will find excuses and, you know, wait for more studies. And we can study it and study it. In the meantime, China is going to get the oil and China is going to get the jobs.

And so we have come to a point where we got to say do we either want it or not, you want it, if you are going to say I want it but I want the President to decide, well, the President has made that decision. The President has said he doesn't want it, at least before the election, which means we won't get it, because after the election it is going to China.

So the President has decided what he wants. The question that we have got to answer is, are we willing to fight for those American jobs anyway, even if the President doesn't want them? And he has made it clear and the States are clear. The Canadian Prime Minister, who is a friend of ours, expressed how offended he was when the President rejected Keystone.

And so we know the steel has already been purchased. It is a fact. And we know that as much of it as they could get from America they did, the rest they got from Canada. Some of it they got from Arkansas. Now Arkansas is laying people off. So are we going to fight for these jobs and pass the bill, or is there just going to be games play to try to delay this, run the clock out, and let China get the jobs?

I yield back the balance of my time.

The Chairman. The gentleman's time is expired. The gentlelady from Illinois is recognized for 5 minutes.

Ms. Schakowsky. Thank you, Mr. Chairman. I yield my time to Mr. Doyle.

Mr. Doyle. Thank you very much. I want to make a couple points based on what Mr. Scalise has said. Let's understand something. The

steel is not being manufactured in Little Rock, Arkansas. There is no steel being manufactured there. They are taking steel that has already been manufactured in a foreign country, heating it up and bending it and welding the seams. That is what is going on in Little Rock, Arkansas.

There are approximately 200 to 300 jobs at that plant. That plant was opened up, by the way, 2 years ago, in 2009, when the company that was successful in getting the contract got the contract, they wanted to source a plant here in the United States to take their product and bend the pipe, and that is how long that company -- it is run by a fine gentleman from Pittsburgh whose parents live in my district, and I know a little bit about what is going on down there.

Look, you can say everything you want to say. For me it is simple. I know that you are not going to vote for this amendment. What bothers me about this whole debate is how somebody is telling the American people things that just aren't true. And I am not -- you know, we get our information from the people we ask to get our information from. And it took me a long time to get a straight answer from the permit applicant. Well, I actually never did get a straight answer on just exactly where this 75 percent is.

And I think one or two things should happen. They should either stop saying this, stop telling the American people, or creating this illusion that there is all this U.S. manufacturing going on in steel, when not a single ounce of that steel is made in this country. They have every right to use foreign steel. I just want to say that. This

is a private project and they can buy their steel anywhere they want to buy it. That is their right, and I am not being critical to that. I am sure the company providing the steel is a fine company, okay. But don't sit here and blow smoke up our you know what by telling us that 75 percent of this product is being sourced in the United States or North America when that is simply not the case.

Mr. Shimkus. Would the gentleman yield?

Mr. Doyle. Yes, I would.

Mr. Shimkus. He knows I am sympathetic. I have steel mills in my district. U.S. Steel is located there. We should get him the answer. Our staff note says that 50 percent of Keystone XL steel originated from the United States and the second largest source was from Canada. So if that is not true, we should get you an answer, and I would ask to do that.

Mr. Doyle. Thank you. And let me reclaim my time and say that I believe that you will find out that the steel in Canada has been imported from Russia and that steel that is in this country has been imported from India.

Mr. Shimkus. If the gentleman would yield.

Mr. Doyle. And if I am wrong, prove me wrong.

Mr. Shimkus. If the gentleman would yield.

Mr. Doyle. I would be happy -- I mean, it is important to know if we are going to have this debate.

Mr. Shimkus. Will the gentleman yield?

Mr. Doyle. And if I could just continue. I will yield to the

gentleman.

Mr. Shimkus. But devotion to the steel workers, which they are not as friendly with me, even though I work on it. I mean, remember that the plumbers and pipefitters support this, the AFL-CIO supports this, International Brothers of Teamsters supports this.

Mr. Doyle. Reclaiming my time. I support this.

Mr. Shimkus. Okay, I got it.

Mr. Doyle. I just don't like being bs'ed. Okay?

Mr. Shimkus. I hear you. Thank you.

Mr. Doyle. Does anyone else on my side want time?

Ms. Eshoo. Thank you for pointing out the b.s. in plain English. This is bad marketing, it is poor marketing. And so how do the American people win under this? Here is another chink in the armor of the leapfrog bill.

Mr. Doyle. I yield back.

The Chairman. Yielded back the time. Are there other members wishing for time?

I would note that a series of votes has now started on the House floor. We have got six votes in essence here, so we are going to have to come back after the votes. So let's finish the debate. And immediately following the sequence of the votes, I will leave the House floor when the clock hits zero, and walk slowly back and we will start the votes at that point once we have a quorum here.

Mr. Terry, 5 minutes.

Mr. Terry. Thank you, Mr. Chairman. And Mr. Doyle, I want to

work with you to make sure that as we go forward that we are encouraging TransCanada, or their contractees who actually develop the pipe, to be purchasing as much American steel as possible. I share in your goal there.

The problem about the amendment as it is immediately before us is that most of the pipe has already been purchased, so adopting this basically says you go and sell that for scrap and come back and start over again. And I don't think that is very practical. But there will be offshoots and such.

But on the issue of whether or not it is the U.S. steel, you know, we have had several hearings over this since really last spring, and the U.S.-made steel portion of it didn't come up at all until the very last hearing, and I was unaware that TransCanada was making any assertions like that. I mean, we have their excuse that, you know, they contract these companies and all these companies that fabricate the steel then, or 74 percent of them are North American. So I think we are kind of splitting hairs here. But let's work on getting more of the steel, what little left is necessary to complete this as well as the offshoots, and see if we can't get them to make sure that is U.S.-made steel.

And I would yield to the gentleman from Louisiana, Dr. Cassidy, and then to Dr. Murphy.

Dr. Cassidy. Very shortly. I also agree, Mr. Doyle, that if we are being misled, we should know that. But I did speak to the pipe company in Baton Rouge to which you referenced. And they say that if

the 36-inch pipe which is stockpiled in Arkansas is not used on this project, they will lose their markets. That, if you will, there will be such an oversupply that will go elsewhere, and they will lay people off.

So there is a supply chain aspect of this which we cannot ignore.

Mr. Doyle. Will you yield for 1 second?

Mr. Terry. Reclaiming my time. And I yield to the -- I need to yield to the other doctor from Pennsylvania.

Dr. Murphy. Thank you, Mr. Terry. And Mr. Doyle, my friend from Pennsylvania, my neighbor, I also know as chairman of the Steel Caucus. I am as committed as you are to making sure we do all we do to emphasize American manufacturing. I also want to review this issue with you, and I pledge I will stand at your side and review this.

As you also pointed out, however, a private company has the right to purchase things, whatever it is. And if there are any Federal dollars in this, and I know that I supported the issue in the past, Buy America when it is American dollars, whether it is for military equipment or other things, and we stand shoulder to shoulder on that.

But I want to continue to work with you on this and get to the bottom of this as well. I yield back to Mr. Terry.

Mr. Doyle. Will the gentleman yield?

Mr. Terry. I recognize the gentleman from Pittsburgh, Mr. Doyle.

Mr. Doyle. I agree with everything my friend from Louisiana said. We know the pipe is sitting on the property and they want to use it in the pipeline. I understand that. And they have every right

to. It is a private company and they can buy it everywhere they want.

But that pipe comes from India. Now, we specifically asked the permit applicant if there was any of the steel sourced from India. They told us no. I mean, I am just saying, hey, let us just all be straight with one another here. They have every right to use that pipe. I know they don't want to let it sit there and rust, okay. But I am just saying at some point let's stop making claims about this project that aren't true.

I am going to support the project when it is done the right way. And you know, I wish there were U.S. steel on the project, but let's not make people think this is like the greatest thing since apple pie and ice cream, when the fact of the matter is --

Mr. Terry. I am going to reclaim my time for the last minute 15, and let me just reassert there is no leapfrogging here; that we are only here today because the President denied the permit under his authority. He killed the project, just like the Sierra Club and NRDC asked him to do. When they sent their notice to Congress pursuant to the law on this, they said that it wasn't on the merits. It wasn't on the merits; they just needed more time because Nebraska's little 50-mile loop, or whatever it is going to be. The reality is they had the time and the President ignored that. We heard the testimony from the State Department said that we demanded they had the decision by February 21st, and because Nebraska, because Nebraska, because Nebraska, we had to kill it. Bull. They had all the time they needed on Nebraska.

So the reality is everything that they said isn't -- that they needed is sitting right here and will be part of what FERC bases their decision off of as well. So the information is there. They have already said that it is not based on environmental issues, the denial or anything else. The reality was because they don't want to make a decision before the election.

The Chairman. The gentleman's time is expired. The gentleman from California, Mr. Waxman.

Mr. Waxman. Thank you, Mr. Chairman. I just want to correct the record. Republicans are using this as a political ping-pong for themselves, saying the President is against it, the President is stopping it, the President is costing us jobs. That is just not true. It is all politics. The President said he wanted more information. He didn't say he was against the pipeline, he said he wanted more information. Republicans wanted to force him to decide the issue, so they held up a bill for people's unemployment insurance and for middle-class tax cuts until they got a provision in there saying he had to decide it within 60 days. They assumed he would have to decide it in favor, but the President said, no, I don't have to decide it in favor; I am entitled to get the information, and after I get the information, to make the decision.

Now that the President said he wouldn't decide it on their timetable, the Republicans are saying let's pass this bill as an earmark, extraordinary earmark, that Congress would adopt approval of this pipeline, or they will turn it over to the Federal Energy

Regulatory Commission and give them 30 days, but if they can't decide in 30 days, it is approved.

The Congress is trying to approve this program to go with this pipeline even if there are unanswered questions. And as I understand the comments by some of the members here on this amendment that is before us, they haven't gotten a straight answer from TransCanada as to whether they are going to use American steel or not. Well, they are not getting a straight answer or they are being misrepresented. Why do you think they are not misrepresenting other things?

But you don't want to give the Government of the United States or the people involved in permitting these pipelines, to make sure they have got the accurate facts, to know the truth before they sign off on it. Instead, the Republicans say, don't bother us with the information, don't get the facts, just approve it; we want this approved, and we are going to blame the President if it is not approved.

I just think that the American people ought to see this as strictly political theater, and unfortunate when Americans want jobs and the Republicans have not cooperated in getting us jobs. This is their jobs bill. This is the only proposal the Republicans have for more jobs.

Oh, they have two others. Let the people who are the upper, upper income keep more of their money. I talked to a fellow who told me, if I got another tax cut I am still not going to hire more people unless there is demand.

And the other way that they want to create jobs is to throw out regulations to protect the public health and safety in the environment.

Oh, throw those out. That is the wish list of all these industries that don't want to spend any money. But even the industries that are going to be required to meet these obligations are not asking for what the Republicans are advancing. They want to make people think the reason we don't have jobs is because there are regulations; that the rich aren't rich enough, and that this pipeline will provide jobs.

Well, I think the American people can see through that. That is not a formula for creating jobs. A formula for creating jobs is to put money in people's hands, get jobs for them, real jobs, not these pipeline jobs that seem to fit the Republican agenda.

Dr. Cassidy. Will the gentleman yield?

Mr. Waxman. I would be happy to.

Dr. Cassidy. Well, the President's own Commission said the one place to look for job development was building pipelines. That was the President's Commission.

Mr. Waxman. The President appointed a Commission. I assume you are talking about the Deficit Reduction Commission?

Dr. Cassidy. The one which recently spoke of the --

Mr. Waxman. Well, the President convened people to give him ideas on jobs as he convened the Commission to give him ideas on how to reduce the deficit. That doesn't mean that he has to agree with every position that is --

Dr. Cassidy. Again, it is not just Republicans, but it is also the President's people, advisors, who say the pipelines are the way to create jobs.

Mr. Waxman. Well, pipelines may be a way to create jobs. But having pipelines that take tar sands oil and have to spend enormous energy to refine that oil just so it can go through a pipeline is a lot different than other kinds of pipelines. This is a unique pipeline.

That is why I thought it was important for the Eshoo amendment to be passed, because we want to know are we endangering communities through a pipeline taking this particular kind of oil?

Dr. Cassidy. Will the gentleman yield?

Mr. Waxman. Not yet. And where there is a study that is supposed to determine whether that is safe or not. So I think that the Eshoo amendment should be adopted. And members ought to understand if you are getting misrepresentations on American steel being used or not, you may be getting other misrepresentations as well. My time is expired.

The Chairman. The time is expired. I would like to suggest that time for debate on this amendment has expired. Seeing no one, we will reconvene at 2:45 with a roll call vote.

RPTS COCHRAN

DCMN ROSEN

[2:55 p.m.]

The Chairman. Okay. When we concluded before the votes finished, or started, concluded, we had agreed that all time on debate has now finished and we are prepared to vote on the rolled votes on the amendments that were offered to the bill. So the order of amendments in the sequence was the amendment offered by Mr. Markey, then Mr. Dingell, Ms. Eshoo and Mr. Doyle.

So I will ask at this point the Clerk to call the roll on the Markey amendment, and would ask her particularly on this first amendment to go reasonably slow to allow all members to be able to vote; not too terribly slow, but reasonably slow. With that, the vote will occur on the Markey amendment.

The Clerk. Mr. Barton.

[No response.]

The Clerk. Mr. Stearns?

[No response.]

The Clerk. Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mrs. Bono Mack?

Mrs. Bono Mack. No.

The Clerk. Mrs. Bono Mack, no.

Mr. Walden?

Mr. Walden. No.

The Clerk. Mr. Walden, no.

Mr. Terry?

Mr. Terry. No.

The Clerk. Mr. Terry, no.

Mr. Rogers?

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Sullivan?

Mr. Sullivan. No.

The Clerk. Mr. Sullivan, no.

Mr. Murphy?

[No response.]

The Clerk. Mr. Burgess?

Dr. Burgess. No.

The Clerk. Mr. Burgess, no.

Mrs. Blackburn?

[No response.]

The Clerk. Mr. Bilbray?

Mr. Bilbray. No.

The Clerk. Mr. Bilbray, no.

Mr. Bass?

Mr. Bass. No.

The Clerk. Mr. Bass, no.

Dr. Gingrey?

[No response.]

The Clerk. Mr. Scalise?

Mr. Scalise. No.

The Clerk. Mr. Scalise, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris-Rodgers?

Mrs. McMorris-Rodgers. No.

The Clerk. Mrs. McMorris-Rodgers, no.

Mr. Harper?

Mr. Harper. No.

The Clerk. Mr. Harper, no?

Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Olson?

Mr. Olson. No.

The Clerk. Mr. Olson, no.

Mr. McKinley?

Mr. McKinley. No.

The Clerk. Mr. McKinley, no.

Mr. Gardner?

Mr. Gardner. No.

The Clerk. Mr. Gardner, no.

Mr. Pompeo?

Mr. Pompeo. No.

The Clerk. Mr. Pompeo, no.

Mr. Kinzinger?

Mr. Kinzinger. No.

The Clerk. Mr. Kinzinger, no.

Mr. Griffith?

Mr. Griffith. No.

The Clerk. Mr. Griffith, no.

Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Dingell?

Mr. Dingell. No.

The Clerk. Mr. Dingell, no.

Mr. Markey?

Mr. Markey. Votes aye.

The Clerk. Mr. Markey, aye.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

Mr. Rush?

Mr. Rush. Aye.

The Clerk. Mr. Rush, aye.

Ms. Eshoo?

Ms. Eshoo. Aye.

The Clerk. Ms. Eshoo, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green, no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette, no.

Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Mr. Doyle?

Mr. Doyle. No.

The Clerk. Mr. Doyle, no.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzales?

Mr. Gonzales. No.

The Clerk. Mr. Gonzales, no.

Mr. Inslee?

Mr. Inslee. No.

The Clerk. Mr. Inslee, no.

Ms. Baldwin?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Matheson?

Mr. Matheson. No.

The Clerk. Mr. Matheson, no.

Mr. Butterfield?

Mr. Butterfield. Aye.

The Clerk. Mr. Butterfield, aye.

Mr. Barrow?

Mr. Barrow. Aye.

The Clerk. Mr. Barrow, aye.

Ms. Matsui?

Ms. Matsui. Aye.

The Clerk. Ms. Matsui, aye.

Mrs. Christensen?

Dr. Christensen. Aye.

The Clerk. Mrs. Christensen, aye.

Ms. Castor.

Ms. Castor. Aye.

The Clerk. Ms. Castor, aye.

Chairman Upton?

The Chairman. Votes no.

The Clerk. Chairman Upton, no.

The Chairman. Dr. Gingrey?

Dr. Gingrey. No.

The Clerk. Mr. Gingrey, no.

The Chairman. Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

The Chairman. Are there other members wishing to vote?

Seeing none, the clerk will report the tally.

The Clerk. Mr. Chairman, on that vote there were 14 ayes, 36 nays.

The Chairman. I ask that Mr. Stearns be recorded.

Mr. Stearns. No.

The Clerk. Mr. Stearns votes no.

The Chairman. Are there any other members?

The Clerk now will report.

The Clerk. Mr. Chairman, on that vote there were 14 ayes, 37 nays.

The Chairman. Fourteen ayes, 37 nays. The amendment is not agreed to.

The next vote will be on the Dingell amendment. The clerk will call the roll.

The Clerk. Mr. Barton?

[No response.]

The Clerk. Mr. Stearns?

Mr. Stearns. No.

The Clerk. Mr. Stearns, no.

Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mrs. Bono Mack?

Mrs. Bono Mack. No.

The Clerk. Mrs. Bono Mack, no.

Mr. Walden?

Mr. Walden. No.

The Clerk. Mr. Walden, no.

Mr. Terry?

Mr. Terry. No.

The Clerk. Mr. Terry, no.

Mr. Rogers?

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Sullivan?

Mr. Sullivan. No.

The Clerk. Mr. Sullivan, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mr. Burgess?

Dr. Burgess. No.

The Clerk. Mr. Burgess, no.

Mrs. Blackburn?

[No response.]

The Clerk. Mr. Bilbray?

Mr. Bilbray. No.

The Clerk. Mr. Bilbray, no.

Mr. Bass?

Mr. Bass. No.

The Clerk. Mr. Bass, no.

Mr. Gingrey?

Dr. Gingrey. No.

The Clerk. Mr. Gingrey, no.

Mr. Scalise?

Mr. Scalise. No.

The Clerk. Mr. Scalise, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris-Rodgers?

Mrs. McMorris-Rodgers. No.

The Clerk. Mrs. McMorris-Rodgers, no.

Mr. Harper?

Mr. Harper. No.

The Clerk. Mr. Harper, no.

Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Olson?

Mr. Olson. No.

The Clerk. Mr. Olson, no.

Mr. McKinley?

Mr. McKinley. No.

The Clerk. Mr. McKinley, no.

Mr. Gardner?

[No response.]

The Clerk. Mr. Pompeo?

Mr. Pompeo. No.

The Clerk. Mr. Pompeo, no.

Mr. Kinzinger?

Mr. Kinzinger. No.

The Clerk. Mr. Kinzinger, no.

Mr. Griffith?

Mr. Griffith. No.

The Clerk. Mr. Griffith, no.

Mr. Waxman?

[No response.]

The Clerk. Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Markey?

[No response.]

The Clerk. Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

Mr. Pallone?

[No response.]

The Clerk. Mr. Rush?

Mr. Rush. Aye.

The Clerk. Mr. Rush, aye.

Ms. Eshoo?

Ms. Eshoo. Aye.

The Clerk. Ms. Eshoo, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mr. Green?

Mr. Green. Aye.

The Clerk. Mr. Green, aye.

Ms. DeGette?

Ms. DeGette. Aye.

The Clerk. Ms. DeGette, aye.

Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Mr. Doyle?

Mr. Doyle. Yes.

The Clerk. Mr. Doyle, aye.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzales?

Mr. Gonzales. Aye.

The Clerk. Mr. Gonzales, aye.

Mr. Inslee?

Mr. Inslee. Aye.

The Clerk. Mr. Inslee, aye.

Ms. Baldwin?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Matheson?

Mr. Matheson. No.

The Clerk. Mr. Matheson, no.

Mr. Butterfield?

Mr. Butterfield. Aye.

The Clerk. Mr. Butterfield, aye.

Mr. Barrow?

Mr. Barrow. No.

The Clerk. Mr. Barrow, no.

Ms. Matsui?

Ms. Matsui. Aye.

The Clerk. Ms. Matsui, aye.

Mrs. Christensen?

Dr. Christensen. Aye.

The Clerk. Mrs. Christensen, aye.

Ms. Castor?

Ms. Castor. Aye.

The Clerk. Ms. Castor, aye.

Chairman Upton?

The Chairman. Votes no.

The Clerk. Chairman Upton, no.

Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

The Chairman. Mrs. Blackburn?

Mrs. Blackburn. No.

The Clerk. Mrs. Blackburn, no.

The Chairman. Mr. Gardner?

Mr. Gardner. No.

The Clerk. Mr. Gardner, no.

The Chairman. Mr. Markey?

Mr. Markey. Aye.

The Clerk. Mr. Markey, aye.

The Chairman. Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

The Chairman. Other members wishing to cast a vote?

Seeing none, the Clerk will report the tally.

Mr. Waxman. One more.

The Chairman. Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman votes aye.

Mr. Chairman, on that vote there were 19 ayes, 34 nays.

The Chairman. Nineteen ayes, 34 nays?

The Clerk. Correct.

The Chairman. The amendment is not agreed to. I would yield to Mr. Barton for five seconds.

Mr. Barton. Mr. Chairman, I would just like the record to indicate at the roll call vote for Mr. Markey, that had I been here,

I would have voted no. I had a constituent in my office and I didn't make it. If I had been here, I would like the record to indicate I would have voted no, please.

The Chairman. The vote will stay the same, but we will note that for the record.

The Dingell amendment is not agreed to. The next vote is the Eshoo amendment. Those in favor will say aye, those opposed will say no. The Clerk will call the roll.

The Clerk. Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

Mr. Stearns?

Mr. Stearns. No.

The Clerk. Mr. Stearns, no.

Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mrs. Bono Mack?

Mrs. Bono Mack. No.

The Clerk. Mrs. Bono Mack, no.

Mr. Walden?

Mr. Walden. No.

The Clerk. Mr. Walden, no.

Mr. Terry?

Mr. Terry. No.

The Clerk. Mr. Terry, no.

Mr. Rogers?

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Sullivan?

Mr. Sullivan. No.

The Clerk. Mr. Sullivan, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mr. Burgess?

Dr. Burgess. No.

The Clerk. Mr. Burgess, no.

Mrs. Blackburn?

Mrs. Blackburn. No.

The Clerk. Mrs. Blackburn, no.

Mr. Bilbray?

Mr. Bilbray. No.

The Clerk. Mr. Bilbray, no.

Mr. Bass?

Mr. Bass. No.

The Clerk. Mr. Bass, no.

Mr. Gingrey?

Dr. Gingrey. No.

The Clerk. Mr. Gingrey, no.

Mr. Scalise?

Mr. Scalise. No.

The Clerk. Mr. Scalise, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris-Rodgers?

Mrs. McMorris-Rodgers. No.

The Clerk. Mrs. McMorris-Rodgers, no.

Mr. Harper?

Mr. Harper. No.

The Clerk. Mr. Harper, no.

Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Olson?

Mr. Olson. No.

The Clerk. Mr. Olson, no.

Mr. McKinley?

Mr. McKinley. No.

The Clerk. Mr. McKinley, no.

Mr. Gardner?

Mr. Gardner. No.

The Clerk. Mr. Gardner, no.

Mr. Pompeo?

Mr. Pompeo. No.

The Clerk. Mr. Pompeo, no.

Mr. Kinzinger?

Mr. Kinzinger. No.

The Clerk. Mr. Kinzinger, no.

Mr. Griffith?

Mr. Griffith. No.

The Clerk. Mr. Griffith, no.

Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Markey?

Mr. Markey. Aye.

The Clerk. Mr. Markey, aye.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

Mr. Rush?

Mr. Rush. Aye.

The Clerk. Mr. Rush, aye.

Ms. Eshoo?

Ms. Eshoo. Aye.

The Clerk. Ms. Eshoo, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mr. Green?

Mr. Green. Aye.

The Clerk. Mr. Green, aye.

Ms. DeGette?

Ms. DeGette. Aye.

The Clerk. Ms. DeGette, aye.

Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Mr. Doyle?

Mr. Doyle. Yes.

The Clerk. Mr. Doyle, aye.

Ms. Schakowsky?

Ms. Matsui. Aye?

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzales?

Mr. Gonzales. Aye?

The Clerk. Mr. Gonzales, aye.

Mr. Inslee?

Mr. Inslee. Aye.

The Clerk. Mr. Inslee, aye.

Ms. Baldwin?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Matheson?

Mr. Matheson. No.

The Clerk. Mr. Matheson, no.

Mr. Butterfield?

Mr. Butterfield. Aye.

The Clerk. Mr. Butterfield, aye.

Mr. Barrow?

Mr. Barrow. No.

The Clerk. Mr. Barrow, no.

Ms. Matsui?

Ms. Matsui. Aye.

The Clerk. Ms. Matsui, aye.

Mrs. Christensen?

Dr. Christensen. Aye.

The Clerk. Mrs. Christensen, aye.

Ms. Castor?

Ms. Castor. Aye.

The Clerk. Ms. Castor, aye.

Chairman Upton?

The Chairman. Votes no.

The Clerk. Chairman Upton, no.

The Chairman. Other members wishing to cast a vote?

Seeing none, the Clerk will report the tally.

The Clerk. Mr. Chairman, on that vote the there were 19 ayes, 34 nays.

The Chairman. Nineteen ayes, 34 nays, the amendment is not agreed to.

The next vote will occur on the Doyle amendment. Those in favor

will say aye, those opposed no. The Clerk will call the roll.

The Clerk. Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

Mr. Stearns?

Mr. Stearns. No.

The Clerk. Mr. Stearns, no.

Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mrs. Bono Mack?

Mrs. Bono Mack. No.

The Clerk. Mrs. Bono Mack, no.

Mr. Walden?

Mr. Walden. No.

The Clerk. Mr. Walden, no.

Mr. Terry?

Mr. Terry. No.

The Clerk. Mr. Rogers.

Mr. Rogers. No?

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Sullivan?

Mr. Sullivan. No.

The Clerk. Mr. Sullivan, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mr. Burgess?

Dr. Burgess. No.

The Clerk. Mr. Burgess, no.

Mrs. Blackburn?

Mrs. Blackburn. No.

The Clerk. Mrs. Blackburn, no.

Mr. Bilbray?

Mr. Bilbray. No.

The Clerk. Mr. Bilbray, no.

Mr. Bass?

Mr. Bass. No.

The Clerk. Mr. Bass, no.

Mr. Gingrey?

Dr. Gingrey. No.

The Clerk. Mr. Gingrey, no.

Mr. Scalise?

Mr. Scalise. No.

The Clerk. Mr. Scalise, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris-Rodgers?

Mrs. McMorris-Rodgers. No.

The Clerk. Mrs. McMorris-Rodgers, no.

Mr. Harper?

Mr. Harper. No.

The Clerk. Mr. Harper, no.

Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Olson?

Mr. Olson. No.

The Clerk. Mr. Olson, no.

Mr. McKinley?

Mr. McKinley. No.

The Clerk. Mr. McKinley, no.

Mr. Gardner?

Mr. Gardner. No.

The Clerk. Mr. Gardner, no.

Mr. Pompeo?

Mr. Pompeo. No.

The Clerk. Mr. Pompeo, no.

Mr. Kinzinger?

Mr. Kinzinger. No.

The Clerk. Mr. Kinzinger, no.

Mr. Griffith?

Mr. Griffith. No.

The Clerk. Mr. Griffith, no.

Mr. Waxman?

[No response.]

The Clerk. Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Markey?

Mr. Markey. Aye.

The Clerk. Mr. Markey, aye.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

Mr. Rush?

Mr. Rush. Aye.

The Clerk. Mr. Rush, aye.

Ms. Eshoo?

Ms. Eshoo. Aye.

The Clerk. Ms. Eshoo, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mr. Green?

Mr. Green. Aye.

The Clerk. Mr. Green, aye.

Ms. DeGette?

Ms. DeGette. Aye.

The Clerk. Ms. DeGette, aye.

Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Mr. Doyle?

Mr. Doyle. Aye.

The Clerk. Mr. Doyle, aye.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzales?

Mr. Gonzales. Aye.

The Clerk. Mr. Gonzales, aye.

Mr. Inslee?

Mr. Inslee. Aye.

The Clerk. Mr. Inslee, aye.

Ms. Baldwin?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Matheson?

Mr. Matheson. No.

The Clerk. Mr. Matheson, no.

Mr. Butterfield?

Mr. Butterfield. Aye.

The Clerk. Mr. Butterfield, aye.

Mr. Barrow?

Mr. Barrow. Aye.

The Clerk. Mr. Barrow, aye.

Ms. Matsui?

Ms. Matsui. Aye.

The Clerk. Ms. Matsui, aye.

Mrs. Christensen?

Dr. Christensen. Aye.

The Clerk. Mrs. Christensen, aye.

Ms. Castor?

Ms. Castor. Aye.

The Clerk. Ms. Castor, aye.

Chairman Upton?

The Chairman. Votes no.

The Clerk. Chairman Upton votes no.

The Chairman. Are there other members wishing to cast a vote?

Seeing none, the Clerk will report the tally.

The Clerk. Mr. Chairman, on that vote, there were 19 ayes, 33 nays.

The Chairman. Nineteen ayes, 33 nays. The amendment is not agreed to.

The question now is on the amendment in the nature of a substitute. All those in favor will say aye; all those opposed say no.

In the opinion of the Chair, the ayes have it. The ayes have it.

Now the question occurs on favorably reporting the bill as amended to the House. All those in favor will say aye; those opposed say no. The ayes appear to have it.

Mr. Waxman. A roll call vote.

The Chairman. This will be the last vote of the day. The Clerk will call the roll.

The Clerk. Mr. Barton?

Mr. Barton. Aye.

The Clerk. Mr. Barton, aye.

Mr. Stearns?

Mr. Stearns. Aye.

The Clerk. Mr. Stearns, aye.

Mr. Whitfield?

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield, aye.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus, aye.

Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts, aye.

Mrs. Bono Mack?

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden?

Mr. Walden. Aye.

The Clerk. Mr. Walden, aye.

Mr. Terry?

Mr. Terry. Yes.

The Clerk. Mr. Terry, aye.

Mr. Rogers?

Mr. Rogers. Aye.

The Clerk. Mr. Rogers, aye.

Mrs. Myrick?

Mrs. Myrick. Aye.

The Clerk. Mrs. Myrick, aye.

Mr. Sullivan?

Mr. Sullivan. Aye.

The Clerk. Mr. Sullivan, aye.

Mr. Murphy?

Mr. Murphy. Aye.

The Clerk. Mr. Murphy, aye.

Mr. Burgess?

Dr. Burgess. Aye.

The Clerk. Mr. Burgess, aye.

Mrs. Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn, aye.

Mr. Bilbray?

Mr. Bilbray. Aye.

The Clerk. Mr. Bilbray, aye.

Mr. Bass?

Mr. Bass. No.

The Clerk. Mr. Bass, no.

Mr. Gingrey?

Dr. Gingrey. Aye.

The Clerk. Mr. Gingrey, aye.

Mr. Scalise?

Mr. Scalise. Aye.

The Clerk. Mr. Scalise, aye.

Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta, aye.

Mrs. McMorris-Rodgers?

Mrs. McMorris-Rodgers. Aye.

The Clerk. Mrs. McMorris-Rodgers, aye.

Mr. Harper?

Mr. Harper. Aye.

The Clerk. Mr. Harper, aye.

Mr. Lance?

Mr. Lance. Aye.

The Clerk. Mr. Lance, aye.

Mr. Cassidy?

Dr. Cassidy. Aye.

The Clerk. Mr. Cassidy, aye.

Mr. Guthrie?

Mr. Guthrie. Aye.

The Clerk. Mr. Guthrie, aye.

Mr. Olson?

Mr. Olson. Aye.

The Clerk. Mr. Olson, aye.

Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley, aye.

Mr. Gardner?

Mr. Gardner. Aye.

The Clerk. Mr. Gardner, aye.

Mr. Pompeo?

Mr. Pompeo. Aye.

The Clerk. Mr. Pompeo, aye.

Mr. Kinzinger?

Mr. Kinzinger. Aye.

The Clerk. Mr. Kinzinger, aye.

Mr. Griffith?

Mr. Griffith. Aye.

The Clerk. Mr. Griffith, aye.

Mr. Waxman?

Mr. Waxman. No.

The Clerk. Mr. Waxman, no.

Mr. Dingell?

Mr. Dingell. No.

The Clerk. Mr. Dingell, no.

Mr. Markey?

Mr. Markey. No.

The Clerk. Mr. Markey, no.

Mr. Towns?

Mr. Towns. No.

The Clerk. Mr. Towns, no.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone, no.

Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush, no.

Ms. Eshoo?

Ms. Eshoo. No.

The Clerk. Ms. Eshoo, no.

Mr. Engel?

Mr. Engel. No.

The Clerk. Mr. Engel, no.

Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green, no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette, no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps, no.

Mr. Doyle?

Mr. Doyle. No.

The Clerk. Mr. Doyle, no.

Ms. Schakowsky?

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky, no.

Mr. Gonzales?

Mr. Gonzales. No.

The Clerk. Mr. Gonzales, aye.

Mr. Inslee?

Mr. Inslee. No.

The Clerk. Mr. Inslee, no.

Ms. Baldwin?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. Aye.

The Clerk. Mr. Ross, aye.

Mr. Matheson?

Mr. Matheson. Aye.

The Clerk. Mr. Matheson, aye.

Mr. Butterfield?

Mr. Butterfield. No.

The Clerk. Mr. Butterfield, no.

Mr. Barrow?

Mr. Barrow. Aye.

The Clerk. Mr. Barrow, aye.

Ms. Matsui?

Ms. Matsui. No.

The Clerk. Mrs. Christensen?

Dr. Christensen. No.

The Clerk. Mrs. Christensen, no.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor, no.

Chairman Upton?

The Chairman. Votes aye.

The Clerk. Chairman Upton, aye.

The Chairman. Are there other members wishing to cast a vote?

Seeing none, the Clerk will report the tally.

The Clerk. Mr. Chairman, on that vote there were 33 ayes, 20 nays.

The Chairman. Thirty-three ayes, 20 nays. The ayes have it and the bill is favorably reported.

Without objection, staff is authorized to make technical and conforming changes to the bill approved by the committee today. So ordered.

The Chair thanks all members and staff. The committee stands adjourned.

Mr. Dingell. Mr. Chairman, before we adjourn, parliamentary inquiry. Will the minority have the necessary time to file such minority views as would be necessary?

The Chairman. Absolutely.

Mr. Dingell. Can I ask what that time would be, please?

The Chairman. That would be at least 3 days.

Mr. Dingell. How long?

The Chairman. Three days. The committee stands adjourned.

[Whereupon, at 3:18 p.m., the committee was adjourned.]