primary means of smuggling large amounts of narcotics into the United States.

In 1993, the then-District Director of the Customs Service may have prevented investigati- gators from conducting a surprise inspection of the "line release" program at the southwest bor- der, allegations aimed at determining whether unauthorized trucks, potentially carrying drugs, were allowed to cross the border without inspection.

The "line release" program, as described by the Inspector-General's office, meant that trucks carrying drugs, were allowed to cross the border without inspection. It has been reported that the organization of cartel leaders in Mexico, the drug kingpin Juan García Abrego has paid millions of dol- lars to U.S. and Mexican law enforcement of- ficers. It seems inevitable that a substantial portion of that money has gone to Customs officials, as they are responsible for intercepting drugs at the ports of entry along the Mexican border.

As a Customs supervisor told the Washing- ton Post, "Tons and tons of cocaine are crossing the border, and we're getting very little of it."

The current pattern of drug flow and drug enforce- ment into and within this country must be changed. To better understand how federal law enforcement approaches these problems and the efficacy of federal pro- grams to curb drug smuggling, I am officially asking the General Accounting Office to investigate drug enforcement by the Customs Service.

To target your resources, I ask that you focus initially on evaluating the Customs Service's drug enforcement operations at Otay Mesa. I would like to work with you to broaden this inquiry to the rest of the South- west border. Specifically, I would appreciate your assistance in the following questions regar- ding Otay mesa:

- Does the Commissioner of Customs provide clear direction to Customs personnel regarding Customs' drug enforcement mission?
- How do Customs' drug enforcement ef- forts, or how will they be, affected by their efforts to facilitate trade and passen- ger movement, including but not limited to: line release; re-engineering primary pas- senger processing; and expanded access by Mexican and U.S. citizens through the North American Free Trade Agreement (NAFTA)?
- How have the percentage rates of inspec- tions of trucks, cars, and ships by Customs changed over the last three years?
- What increases in border crossings by trucks, cars and ships does Customs expect over the next several years? Does Customs have a reasonable basis for the projections it has made? If Customs has not made such proj- ections, why haven't they, and was any con- sideration given to making them?
- Has Customs made adequate plans to meet any expected increases in such border cross- ings?
- What is the basis for Customs' allocation of personnel resources for carrying out their drug enforcement responsibilities? Is this basis reasonable? Have Customs' actual allo- cations of personnel matched their projec- tions?
- What are Customs' processes for training their personnel in their drug enforcement re- sponsibilities?
- Why are trucks on Customs' "watch list" passing through without inspection? Is it human error, corruption, systematic flaws, or something else, and in any case what is necessary to fix this? Do Customs personnel actually have a list of trucks that need to be inspected? If the answer is yes, what does it mean? What are Customs' legal enforce- ment laws that describe that they do?

Is the Los Angeles Times report that there were no cocaine seizures from trucks at three or four of the busiest ports of entry on the Southwest border in 1994 and 1995 accu- rate, and, if so, what account for this?

Is Customs following up and adequately using the intelligence which they gather? How vulnerable are Customs' communica- tion systems to penetration by drug smugglers?

What steps are Customs taking to address the problem of "spotters" (individuals who linger around ports of entry, radiating inspec- tion patterns to smugglers on the other side of the border)? How are these steps working? How are the Cargo search x-ray machines performing?

It is imperative that we get to the bottom of the problems at Customs, and I appreciate your assistance in this regard.

Sincerely,

Dianne Feinstein, U.S. Senator.

Mrs. Feinstein. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Sen- ator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair. As I understand it, we are in morning business.

The PRESIDING OFFICER. The Sen- ator is correct.

Mr. MURKOWSKI. I ask unanimous consent I be allowed to speak for up to 5 minutes.

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

Mr. MURKOWSKI. Thank you, Mr. Chairman. I am here to talk to you about the Interior Appropriations bill and the importance of that bill to the southwest border. I believe that the House approved it, and it's time for the Senate to do the same.

In 1998 we passed FLPMA, an acronym for Federal Lands Policy Management Act, it was my second year in the Senate when we passed that, but I was very active in the negotiations and passage of that bill. It was a comprehen- sive bill that determined how all Bureau of Land Management lands would be handled. In it we said that the Secretary of the Interior is charged with the responsibility of ensuring that Bureau lands, no unnecessary and undue degradation would occur.

Now, as my friend, the Governor of Florida, Lawton Chiles, who used to be our colleague, used to say on this floor, "The mother tongue is English." You cannot say it any better in English than to say the Secretary is hereby charged with the responsibility of making certain that there is no undue, unnecessary degradation of Federal lands.

We have about 450 million acres of Federal lands, and an awful lot of it is eligible to be mined for various hardrock minerals, notably gold, plati- num, silver, zinc, lead, you name it. So in 1980, the Secretary issued regula- tions to comply with FLPMA and in 1981 they were finalized and went into effect. Everybody applauded and said it was wonderful. Now we have regulations in place that will govern mining companies.

What brought these regulations about? It was the first time we had ever tried to regulate mining on Fed- eral lands. Why did we do it? Because at that very moment, there were 557,000 abandoned mines in this country. Who do you think had been left with the responsibility of cleaning up those 557,000 abandoned mines? You guessed it—"Uncle Sucker." The cleanup costs, according to the Mineral Policy Center,
for those 557,000 mine sites is calculated to be between $27.2 billion and $71.5 billion. Within the 557,000 abandoned mines, 59 of those are now Superfund sites. We don’t put things on the Superfund list just for fun. That is a big-time environmental disaster. In addition to the 59 Superfund sites, we have 12,000 miles of rivers that have been polluted by mining waste, and we have 2,000 national park sites in need of reclamation.

Now, think of that. We have 2,000 mine sites within the national parks that have to be reclaimed. And because it took the nation too long to wake up to the environmental damage that was being done by mining in this country, this damage had already occurred when we passed FLPMA in 1976 saying the Secretary will promulgate regulations to make sure that not only this comes to an end, but that it never happens again. So we gave the Secretary regulatory authority.

In 1981, those rules went into effect. Let me make one point, and I will make it more than once in this debate. The mining of gold in this country is done nowadays primarily with the use of cyanide. Cyanide is a lethal chemical.

Now, Madam President, in 1991, George Bush was President, a conservative Republican administration. Because this new technique of mining with cyanide had gone into effect and there were several mines which had caused cyanide to leak into the streams and rivers around it and into the underground water supply, the environmentalists were squealing like pigs under a gate.

So, in 1991, the Bush administration, through Secretary Lujan, came out with a study to develop new regulations for Western Governors. He maintained that he had already done that, but they disagreed with that. So we required consultation in the amendment. That is the path we adopted last year.

We also put a time schedule in there so that the Secretary could continue to work on the regulations, and he could promulgate the regulations after November 15. The deal was done. It will be done after the election. Nobody will be hurt politically. The only thing wrong with the other amendment that the bill comes out of the appropriations subcommittee, the deal was reneged upon.

What is the new requirement? The new provision states that the Secretary could not promulgate these regulations until the National Academy of Sciences has studied it for 27 months. Next year, it will be the National Institutes of Health. God knows, the next year it will probably be the National Organizing for everything. It is anything to keep these regulations from going into effect.

Make no mistake about what we are talking about. Everybody understands it. Under the provision that is in the bill this year, which I am proposing with this amendment to strike, guess what the timetable is. It will now take 27 months for the National Academy of Sciences to study it and to report it and the Secretary to consider it and do whatever he is going to do—27 more months, over 2 years, of continuing to sock the taxpayers of America with the foibles of the mining industry. I will come back to some of those foibles in just a moment and tell the American taxpayers what they are paying for right now.

Why 27 months? You know, if you are a U.S. Senator, and if you paid any attention at all—you don’t have to have a picture drawn for you—27 months takes us past the year 2000. So we go past the election in the year 2000, and all of my friends who are going to come in here and vote against my proposal today hopefully will elect a President of a different persuasion who will bring James Watt back as our Secretary of the Interior.

That is the politics of the issue. It is not pleasant to talk about things like that on the floor of the Senate. But there isn’t a single Senator here today who is going to vote who doesn’t understand precisely what it is about. Every Senator who votes against my amendment is going to know in spades that he is voting to continue to allow mining companies to mine on Federal lands with virtually no regulations to guide them, being able to put up an insufficient bond, and when they take bankruptcy and go south again, will leave the taxpayers of America to pick up the tab. I don’t know how I can put it any plainer than that.

Madam President, let me be just a little bit more dramatic, a little bit more graphic about why the anti-environmental rider in this bill should be taken out.

I want you to bear in mind, last year we postponed it until November 15. If my amendment is not adopted, that takes us down well past November. It takes us into about January 2001, and more and more environmental degradation, more rivers and streams polluted, more mining companies taking bankruptcy and heading south with an insufficient bond.

That is for what you are going to be voting. For all of those who are running for reelection this year, why don’t you go home and your opponent says, “Why did you vote against putting some regulations in to regulate the use of cyanide to keep it from going into our underground aquifers and our rivers and streams?” I don’t know why don’t you just continue that.” I would like to hear your answer.

But just to give the taxpayers of America some information, if not my colleagues who are not here today. In 1992, Galactic Resources, the owner of the Summitville Mine in Colorado, took bankruptcy. They left cyanide, acid, and metal run off going into the underground aquifers and the Alamosa River. Do you know what has happened since then? The taxpayers of this country are paying over $1 million a year to try to contain cyanide and acid run off from that mine, not Galactic Resources.

The Summitville mine took bankruptcy and went south. That was in 1992. The reason they were able to create an environmental disaster in the State of Colorado is because Colorado’s bonding regulations were insufficient. Federal regulations are similarly flawed. We have constantly postponed new regulations, and the regulations we were operating with were promulgated in 1981, and in 1981 we didn’t even know about cyanide poison being used in the mining process. Secretary Babbitt is trying his best to promulgate new rules and regulations to make sure there will be no more Summitville mines.

So when people come walking onto the Senate floor to vote on this amendment, remember, you get to go home and tell your constituents that they are picking up a million-dollar tab a year because we do not have regulations to control gold mining in this country.

We have a brand new one in Montana, Pegasus Gold Company, which has filed for bankruptcy recently closed the Zortman-Landusky mine on BLM and private land in Montana.
They have filed for bankruptcy. Cyanide spills all over the place. And who do you think is going to get to pick up the shortage on their bond? The taxpayers of America.

And here is one, to be totally fair about mining companies on Federal land, the Gilt Edge mine in South Dakota, another 1998 matter. They had cyanide leaks in the ground water, acid mine drainage, and they are in financial difficulty. And if they take bankruptcy, it is estimated that their bond will pay about 50 percent of the cost of cleaning up that mess.

The regulations that we are talking about trying to get promulgated to stop this outrage are not just to stop the use of cyanide. We are not trying to stop the use of cyanide. We are trying to make them use it in a way that we know the plastic cover on the ground is strong enough to not break and leak. But the second thing we are talking about is making them put up a sufficient case they have a spillage, in case they do go broke, the taxpayers will not be left with it.

The reason I use Gilt Edge is not because they are mining on Federal lands but because they are proposing to extend strip mining operations on the Forest land.

So, since 1976 we have been trying to stop mining companies from mining in an improper way, leaving the taxpayers with the cost of cleaning up. We have been trying a lot of other things without success. But if I were speaking on national television to 268 million people in America and all the adults were listening, how many votes do you think I would get? About 90 percent of the American people. But, unhappily, I am not speaking to 268 million Americans. Lord, how I wish I were; I feel supremely confident as to how the American people would feel about this.

So, Madam President, let me go back and name one other point and then I will allow some of my adversaries to have their say.

Let me describe for you how gold is mined today under modern methods. First of all, you have to dig up the earth. You dig up huge, cavernous amounts of soil that supposedly has gold in it. You bring the soil into the mine site, where huge plastic covers have been laid out on the ground, and you dump this soil on this plastic cover that covers the ground and presumably will hold any fluid or liquids that you put through this dirt. Huge pits. You ought to see them. They look like abandoned strip mining sites. But this modern method that I talked about is new, and new, and new, and is causing all the damage that we need regulations to control.

Then they use a drip process along the top of this big mound of dirt where this cyanide drips through, and it seeps down through this huge pile of dirt. The gold is attracted to this cyanide solution. Then it pours out on the side into a sort of a gutter, where the gold is strained out of it and the cyanide is recycled and once again put through this drip process. It is like a drip irrigation system.

Now, the first thing you have to do is understand how lethal cyanide is, and the second thing you have to understand is that the cyanide leaks and these cyanide spills occur that the plastic liners leak. Think about how ominous it is. How would you like to live in the vicinity where you knew your underground water supply had cyanide leaking into it?

Mr. President, I have nothing against the National Academy of Sciences, it is a fine organization. But we don't need another Academy study. The National Academy of Sciences has already examined the matter. In 1978, when we enacted SMCRE, governing the regulation of coal mining, a provision was included in the bill to require the National Academy of Sciences to study the regulatory requirements needed to address the environmental impact of hard rock mining. That study was completed in 1979. That same study found a need for a Federal regulatory framework.

In 1996, the Environmental Law Institute studied hard rock mining programs and said the current regulations were insufficient. That was in 1996. In 1992, the House Committee on Interior and Insular Affairs prepared a study that found significant gaps in environmental protection. Then the GAO reviewed. Then the GAO report has studied this issue to death and has found flaws in the administration of our mining laws.

The question then becomes, When you consider all the studies that have been done and the damage that has occurred while we have been doing studies, why in the name of all that is good and holy do we need another study? I repeat, do we need another study to postpone this until after the year 2000, when we, presumably, will take office who does not even believe in studies, let alone environmental regulation? This is all a ploy. Nobody in the Senate knows that. When they vote today, they are going to think, "Now, what kind of a 30-second spot can somebody make out of me voting to continue mining gold with cyanide when the regulations were written before cyanide was even used in gold mining?" And they think about it and they put it through this little political filter in their ear, and say, "Well, on the other side it says the National Academy of Sciences. Who can object to the National Academy of Sciences?" And the people in the Senate can probably try to convince their constituents that they are trying to protect them by having the National Academy of Sciences do a study when, in fact, the National Academy of Sciences could do what they have done in 2 months. But the list I just gave you shows this has been studied and studied and postponed and postponed, until now we have these environmental disasters on our hands that cost the taxpayers "gazillions." It is going to cost them a fortune. And don't anybody make any mistake in your judgment about how this is going to play out. As I said, we had hearings on this, and nobody understood exactly what we were agreeing to. And, incidentally, we said the Secretary had to consult with all the Western Governors. He has done that. Governor Miller, I think, is president of the Western Governors' Association; he has notified Members of Congress that they have been consulted with. Everything we agreed to last year has taken place, and we come back here today and industry says, "No, we have to have one more study." I have said most of what I want to say. I just ask, what is the objection, even of the Western Senators? What is their objection to the Interior Department, that they want to prohibit any update of the regulations? Nobody has cited a single objection to the drafts of the Secretary of Interior that were going to go into effect, that were going to be promulgated November 15 of this year. Do they object to mining companies having to file a plan before they start mining? Do they object to requiring mining companies to post a bond sufficient to take care of the devastation that they may cause? Do they object to a regulation that says they must reclaim the land when they finish mining it? What is the objection? Is it that they have to minimize the adverse impact on the environment, if at all economically and technically possible? It does not say they have to. It says they have to minimize adverse impacts if at all technically and economically possible. Who could object to that?

Madam President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

Mr. BUMPERS. Madam President, the amendment is up, isn't it?

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, let me clarify your question. The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 391. Strike line 19 on page 35 through line 6 on page 58.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, let me clarify your question. We proceed with the Interior appropriations process. I would like my colleagues to note that I stand in strong opposition to Senator BUMPERS' amendment to strike the National Academy of Science study. Why? We have here an organization of scientists that are objective. They have a reputation of making decisions based on sound science and not rhetoric. We
have a good deal of rhetoric here in this body.

The language that Senator Bumpers would propose to strike is as simple and straightforward as any legislative language can be. In spite of all words to the contrary, it does nothing more than direct the National Academy of Sciences to review existing State and Federal environmental regulations dealing with the hard rock mining industry to determine the adequacy of these laws or regulations to prevent unnecessary and undue degradation, and to better coordinate Federal and State regulatory programs to ensure environmental protection. It is short, it is sweet, and it is to the point.

The Senator from Arkansas has a long history in opposition to mining. It is interesting to note that the State of Arkansas has a relatively small amount of mining activity, most of which is either on private or patented land, with very little ownership of mineral resources by the United States, Nevada, California, Idaho, my State of Alaska. I do not have a constituency in the poultry industry. I could, perhaps, claim "fowl," relative to the constant objection from my friend from Arkansas who clearly has no constituency in the mining industry. But the point is, the mining industry in the United States has been able to survive in an international marketplace, unlike the poultry industry who takes its domestic market and domestic concerns. My point is that the economy of a good portion of the Western United States is dependent on the mining industry.

It needs fixing, but it is not broke. It is rather interesting to note that the reason we are here today, to a large degree, is that we have yet to pass a mining law reform package in the U.S. Senate. It is fair to ask why. Let me tell you why, Madam President. The Senator from Arkansas specifically asked the Senator from Alaska, who chairs the Energy and Natural Resources Committee, not to mark up the mining legislation because he was working diligently with me and others to try to put together a compromise that he could support.

But the point is, he asked and I put off Senator Craig's and my mining bill while he negotiated with industry on a comprehensive reform package. I hope that Senator Craig will report it. But we would not be here today or have to go through this debate if our reform bill had come to this floor for a vote, which I hope within the timeframe remaining it still might. It was an effort to provide a balanced package that contained a host of surface management protections along with royalty, but it was because he asked us to put off the mining law package that we are here today debating only a portion of the reforms envisioned in my mining bill.

Let me remind you, Madam President, the reform of mining law is complex. There are different minerals. It is not like the coal industry where you are dealing with one particular mine product. You are dealing with gold, you are dealing with silver, you are dealing with copper, all of which have different complexities in the mining and, more so, the refining process, different costs, and the realization that you may be mining rich gold in one mine and much lower grade gold in another, yet the costs are significant. When you try to have uniformity in application of mining law, it becomes very complex and often an impossible task.

What we are talking about in our mining bill, as the Senator from Arkansas knows, is a pattern similar to what is working in the State of Nevada. My colleagues from Nevada will be addressing that. But that is basically the application of a net royalty.

Madam President, hard as it is to believe that we agree on anything, I do agree with Senator Bumpers that it is an absolute shame that the Congress has been forced to intercede in what should be regulatory reform. The Senator from Arkansas to negotiate with industry on a mining law package that we are here today decent. For the Senator from Arkansas' efforts, it was an effort to provide a balanced approach. It was our hope through this coordinated effort the new regulations would not drop a monkey wrench into the existing State-Federal regulatory network. Anyone, Madam President, with the fundamental understanding of how the mining industry is regulated understands that the State governments play by far the largest role in oversight and enforcement of environmental regulations on the industry. What is wrong with that? The Senator from Arkansas seems to put little credence in the oversight capability of the States. What is wrong with the States, the most concerned group with the management of their resources, their concern in the oversight capability of the Secretary of Interior? Is it better to have a faceless bureaucrat in Washington, DC, dictating what goes on in Nevada, California, Idaho, dictating to the people of Idaho, the people of Alaska who live with the mining industry, who take pride in their State, who take pride in the reclamation process to meet their obligations.

The reason for this is simple. Over time, the States have been delegated Federal responsibilities for water quality, air quality, solid waste management, and mine reclamation. These laws are the 800-pound gorillas when it comes to mining.

Over time, these Federal programs have been fully integrated into State environmental protection laws. These interwoven laws form a complete and balanced net of environmental regulations that cover every aspect of mining activity. And if they don't cover some, they will, without so much as a thought given to the impact their rulemaking efforts would have upon existing Federal and State programs that the Department of Interior took upon itself to launch into a major rewrite effort.

What is their agenda? Is it to run the mining industry offshore? We have learned what happened in Mexico and Canada when the industry basically ceased to exist at its previous level because of restrictions. And, remember, unlike the poultry industry,
which is a domestic industry and with which my colleague from Arkansas is familiar, the mining industry has to operate internationally. It either competes on an international basis or it doesn't, it is much more complex.

Last week Governor Miller of Nevada, Senator REID put on an amendment to the Interior appropriations bill which would have made it mandatory that the Interior Department at least coordinate efforts with the States. The coordination was not taking place.

So I take issue with the general statement of my friend from Arkansas. We were prepared last year to make Interior Department coordination with the States mandatory. Senator BUMPERS, however, saw fit to intercede on behalf of the Interior Department with an amendment which the Governors had taken place was signed on Monday, when it was signed by the President, the coordination had occurred, and the Secretary has done that. But the States didn't agree. They didn't agree, Madam President.

While I have many doubts about this, I supported the approach. I was hopeful that the amendment would be received in good faith by the Interior Department and that they would make sure that the States interested were factored into their mining regulation effort. What followed was the most, I think, disrespectful, in-your-face response I have ever seen from the Department of Interior and any other agency of the Federal Government.

In the Interior appropriations bill, when it was signed by the President November 11, 1997, a letter certifying that coordination with the Governors had taken place was signed on Monday, Well, they didn't agree. The cavalier attitude of the Interior Department is the sole reason we are back here again this year. At this time, I urge my colleagues not to be taken in by the rhetoric. Fool me once, shame on you; fool me twice, why, shame on me.

It is obvious to me that we have seen examples that the Department of Interior is simply unwilling and incapable of following good government practice when it comes to regulating the industry. They have so completely lost their objectivity and become so biased against this industry that they appear completely incapable of making objective and fair decisions.

It is just not the mining industry. Grazing on public land falls into the same category; oil and gas exploration, same category; access to public lands; timbering, Forest Service lands, and, of course, mining on western public land.

Our amendment does not make a finding one way or the other regarding the ultimate needs for new regulations. It does direct an “unbiased” assessment of the need for new regulations be completed before—and that is the whole purpose of the National Academy of Sciences—before the Interior Department can finalize mining regulations.

With diminished budgets, increased need and the growing complexity of State, Federal and environmental protection laws, why on Earth would any responsible government manager propose a large scale effort without first establishing a solid and specific need?

Since it has become obvious that the Interior Department is either unwilling or incapable of accomplishing this assessment, then it is imperative that the Congress now step in and assume the responsibility. They leave us with no other choice. Once the National Academy of Sciences completes its assessment, the Interior Department will be free to pursue regulatory efforts. At that point, they will have the information they need to rewrite the regulations in a way that fixes problems, if there are any, but not create problems.

The citizens of this Nation are entitled to a Department of Interior that determines need before it acts, that doesn't waste money that it sorely needs in other places, a department that doesn't unnecessarily disrupt a system of State and Federal regulations laboriously constructed over decades to complement and enhance environmental protection at the lowest possible cost.

The time has come to draw a line in the sand with this administration. It is simply not in their purview to regulate an industry out of existence without first establishing a need for that regulation. It cannot simply dismiss input from the affected States, which they have done. These States are truly our partners, not our enemies.

I have communications from the Governors of Nevada, Arizona, Idaho, Utah, Wyoming, and New Mexico, asking Congress to protect their interests, asking us to support retention of the National Academy of Sciences' objective study. Like us, they simply want the Interior Department to demonstrate a need for regulation before they step up on the effort.

By voting to table Senator BUMPERS' amendment, which is certainly set in motion this study. It is my understanding it will be Senator BUMPERS' motion to strike.

Now, I am sure all of you will hear a great deal of verbiage about this issue, but when the dust settles and the smoke has blown away, you only have to ask yourself one question: Do we want to strike a large, potentially disruptive rulemaking effort before the need for the effort has been established?

There you have it—short, simple and to the point. I urge my colleagues to join me in a vote against Senator BUMPERS' amendment. In so doing, we will be sending a clear message to the administration that good government is still important government, and the government that is best is the government that is closest to the people. The States play a critical role in environmental protection. Their partnership and input is important. Let's have a fair, objective, qualified, scientific group, the National Academy of Sciences, make the call.

How much time remains on each side?

The PRESIDING OFFICER. The Senator from Alaska has 57 minutes; the Senator from Arkansas has 38 minutes.

Mr. MURKOWSKI. I yield up to 15 minutes to my friend from the State of Nevada.

Mr. REID. Madam President, this Senator from Nevada would like 20 minutes, and the junior Senator from Nevada would like 20 minutes.

Mr. MURKOWSKI. That is quite satisfactory.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, let's put this in proper perspective. Gold prices are at the lowest level in 19 years as of just last week. The mining industry has seen layoffs. Some of the companies have filed bankruptcy. This seems like a very opportune time to come in and attack the mining industry. It is an industry which creates the best blue-collar jobs in America. I repeat, the best blue-collar jobs in America come from mining.

Here is the Senator from Arkansas, again, as he does every year, attacking the mining industry. This year the attack is at a very opportune time. I repeat, the mining industry is going through some very difficult times.

In spite of paying the highest wages in blue-collar industry in America, the mining industry in America is the best in the world. The costs of production are extremely low. They are lower than Australia or any other country. We are competitive. But it has been very difficult.

Now, having said that, we also have to recognize that the gold industry is a very important industry for the United States. We are a net exporter of gold. It is one of the few things that we do that creates a favorable balance of trade in America.

With that as the setting for this amendment, let me say this amendment is attempting to strike from the bill language that is very, very reasonable. The Secretary of Interior is attempting to do by regulation what he can't do by legislation. What right does he have to overrule what the will of the Congress is? He has no right to do that. He has tried very hard. I am not making this up. He said in 1994 when his legislative efforts failed in vain.

We will explore the full range of regulatory authority we now possess.

Since that comment, with a vengeance, the Secretary has gotten busy on
the regulatory side while making no attempt to work with Congress to reform the mining law bill. If we had had support from the Secretary’s office in the past 2 months, we may be here today talking about mining law reform rather than hacking away at this Interior bill.

The Governors, at their meeting in Medora, ND, in June of 1997, pointed out in a resolution that the current State programs, as far as they are concerned, are working well, and attempts to duplicate them should be avoided.

What we have here is, again, something we like to talk about, but not do much about, and that is talk about States rights. States rights are very important to our framework of government. We have here a number of States which are saying we are willing to work within the Federal concept and all the laws that we pass in Washington that affect mining, but let us regulate from the State level. This amendment is designed to take that away.

The Secretary of Interior has proceeded undaunted with his rulemaking in spite of what the Governors feel. This led to language being included in last year’s Interior bill that prohibited the Secretary from expending funds to rewrite 309. As the chair of the full committee said a few minutes ago, showing absolute disrespect for Congress, the Secretary, 3 days after the President signed the Interior bill—stuck his language in the bill saying he had to confer with Governors—3 days after signing that bill, he sent a letter saying that they had conferred and complied with the requirement to consult with the Governors. Let’s be realistic—within 3 days? This was, as chairman of the full committee said, an in-your-face remark to Congress from the Secretary of Interior’s office saying, “We don’t have to consult with you.”

After numerous Governors, both individually and collectively, pleaded with the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the Department not to forge ahead on the regulatory side while making no attempt to work with the Secretaries of Interior, the Governors testified, “Where is the democracy in the process, he continued. Only after the
Regulations for Specific Chemicals in Commerce Which Present an Unreasonable Risk to Health or the Environment.

FEDERAL REGULATIONS
2. Bureau of Land Management (BLM) Surface Management Regulations, 43 CFR 3002, 3009: Establishes Requirements for Approval of Activities Including Exploration, Mining, Construction of Access Roads and Power Lines on Public Lands Under BLM Jurisdiction; and requires Environmental Assessment/Impact Statement to Address Existing Physical, Biological, Cultural, Economic Resources, Impacts on Proposed Activity on These Resources, and Mitigative Measures; requires Activities to be Conducted to Prevent Unnecessary Alteration of the Environment; and generally Requires Plans of Operation and Reclamation and Financial Assurance for Reclamation.
3. Forest Service (FS) Regulations, 36 CFR 228: Establishes Requirements for Approval of Activities Including Exploration, Mining, Construction of Access Roads and Power Lines Under FS Jurisdiction; and requires Environmental Assessment/Impact Statement to Address Existing Physical, Biological, Cultural, Economic Resources, Impacts on Proposed Activity on These Resources, and Mitigative Measures; requires Activities to be Conducted to Minimize Adverse Environmental Impacts Where Feasible; and generally Requires Plans of Operation and Reclamation and Financial Assurance for Reclamation.
4. Federal Air Quality Regulations, 40 CFR 50-54, 56, 58, 60, 66: Establishes Ambient Air Quality Standards and Monitoring Procedures; and sets Standards for Protection of Human Health and Safety, including Standards for Criteria and Toxic Pollutants; and sets Standards for Prevention of Air Quality Impacts and other Clean Air Act Requirements; and requires State Implementation Plans.
10. Endangered Species Act List, 50 CFR 17, 222, 226, 227: Lists of all Threatened and Endangered Species of Plants and Animals Subject to Protection Under the Act; establishes Special Rules for Protection of Special Listed Species; and lists Critical Habitat for Some Species.

STATE LAWS
2. Nevada Water Pollution Control Law, N.R.S. 445.131-445.354: Establishes Authority to Control Sources and Ground Water Pollution Including Point and Non-Point Sources and establishes Requirements for Setting of Surface Water Quality Standards; and establishes Authority for Regulation of Public Drinking Water Supplies.
3. Nevada Drinking Water Regulations, N.R.S. 459.400-459.500: Establishes Authority for Regulation of Hazardous Waste Management; and establishes Authority to be Delegated Federal Program Under RCRA.
CONGRESSIONAL RECORD—SENATE
September 15, 1998

Mr. REID. Mr. President, the State of Nevada is the most mountainous State in the Union, totally different from the State of Alaska. It says on the front, "BLM, Again in Cooperation with Nevada's State Agencies, Such as the Nevada Department of Wildlife and Nevada Division of Environmental Protection, require that mining operations using cyanide do so in an environmentally sound manner. All new ponds containing lethal concentrations of cyanide must be netted or detoxified to prevent wildlife deaths. Birds do not die as a result of cyanide.

All operations using cyanide are inspected at least quarterly by BLM reclamation/compliance specialists. Gold or silver ore leached with cyanide must be rinsed to reduce levels to safe standards upon abandonment. Leach facilities are engineered to prevent any ground or surface water contamination.

All exploration, mine and reclamation plans must be reviewed under the provisions of the National Environmental Policy Act. This brochure goes on to show the great things done with reclamation in mining. It shows the equipment that is doing this. It is amazing what they have done to reclaim the land to its former state.

There is a mine near my hometown of Searchlight, NV, that is desert. When they pull out the Joshua trees, yuccas, and all the others, they have a nursery for those. And when that land is reclaimed, they have all those plants that they have taken out of the land and they plant them back. These plants aren't a bunch of environmental bandits out there tearing up the land.

The Federal Government agrees. My friend from Arkansas should read what the Federal Government wants. I suggest that my friend, the Secretary of the Interior, read the publication put out by his own agency. I say that about the Secretary of the Interior. He hasn't been fair to mining. I respect the work that we have done as Secretary of the Interior in all areas except for mining, where he hasn't done a very good job. He is opposed to mining. He makes big shows when a land patent is issued and issues a big check saying it is not fair that we have to give this land to some miner. Remember these mining companies pay more than a million dollars every time a patent is issued. In short, the Secretary should read his own literature. The BLM and mining operations are continually looking for the best way to revegetate and protect mining lands. It shows pictures of it. It shows final reclamation at the Pinson Mine.

I ask unanimous consent that this brochure be printed in the RECORD.

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

BUREAU OF LAND MANAGEMENT, NEVADA STATE OFFICE, Reno, NV.

MINING RECLAMATION—YOU'D BE SURPRISED

You may not know that on public lands in Nevada: All mining and exploration projects must be reviewed under the provisions of the National Environmental Policy Act. Plans must be reviewed under the provisions of the National Environmental Policy Act.

In 1990, Governor Bob Miller of Nevada awarded three "Excellence in Mining Reclamation" awards to exploration and mining operations in Nevada. In 1990, Governor Bob Miller of Nevada awarded three "Excellence in Mining Reclamation" awards to exploration and mining operations in Nevada.

Mr. REID. This brochure indicates the future. BLM invites the public to help improve the aquatic habitat of Sonoma Creek. BLM invites the public to help identify and participate in these activities.

Cyanide is a toxic chemical which is used in most gold and silver mining operations. Cyanide is a toxic chemical which is used in most gold and silver mining operations. BL Miners using cyanide are inspected at least quarterly by BLM reclamation/compliance specialists. Gold or silver ore leached with cyanide must be rinsed to reduce levels to safe standards upon abandonment. Leach facilities are engineered to prevent any ground or surface water contamination.

Cyanide Reclamation—You'd Be Surprised

All new ponds containing lethal concentrations of cyanide must be netted or detoxified to prevent wildlife deaths. Birds do not die as a result of cyanide.

All operations using cyanide are inspected at least quarterly by BLM reclamation/compliance specialists. Gold or silver ore leached with cyanide must be rinsed to reduce levels to safe standards upon abandonment. Leach facilities are engineered to prevent any ground or surface water contamination.

The Sonoma Creek stream bank stability project near Winnemucca demonstrates how cooperation among the various users of public lands can enhance riparian areas in Nevada. Sonoma Creek stream bank stability project near Winnemucca demonstrates how cooperation among the various users of public lands can enhance riparian areas in Nevada.

BLM, again in cooperation with Nevada's State agencies, such as the Nevada Department of Wildlife and Nevada Division of Environmental Protection, require that mining operations using cyanide be different than those in the State of Nevada. BLM, again in cooperation with Nevada's State agencies, such as the Nevada Department of Wildlife and Nevada Division of Environmental Protection, require that mining operations using cyanide be different than those in the State of Nevada.

Mr. President, the State of Nevada is totally different from the State of Alaska. The State of Nevada is the most mountainous State in the Union, except for Alaska. We have lots of mountains, over 11,000 feet high, to be exact. Alaska has a lot of water. We don't have a lot of water. Mining regulations in the State of Alaska should be different than those in the State of Nevada.

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Nevada. The State of Alaska should have some control in setting the standards for mining reclamation, mining bonding and other such things. The State of Nevada should have different standards because we live in a desert in Nevada and that is the point.

Each State is subject to different water quality conditions, air-related issues, issues that stem from local climate conditions, disposal criteria, and other issues that are distinct from State to State. That is something the Federal Environment must recognize, and the agency does. The BLM recognizes that because they have different standards in each State. That is why the present regulations are working pretty well.

Also, Mr. President, understand this. We have asked the National Academy of Sciences to study this. We don't tell them what result to reach. We will accept what they come up with. Why shouldn't those who want these regulations to be changed accept it also? We are not asking for some predisposed venue. We are not asking for some agency that is going to rule in a certain way. We have asked the finest science body in the world to look at these regulations and find out if they make sense.

Mr. President, I will offer a number of exhibits here. One is a Western Governors' Conference resolution that indicates there is no need for what the Secretary of the Interior is trying to do.

We have a series of letters from Governors from all over the United States talking about why the Secretary is wrong.

Mr. President, I ask unanimous consent they be printed in the RECORD.

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

WESTERN GOVERNORS' ASSOCIATION, Medora, ND, June 24, 1997.

POLICY RESOLUTION 97-006

Sponsors: Governors Miller, Leavitt, and Syngenta.

Subject: Regulation of mining.

A. BACKGROUND

1. Federal lands account for as much as 86 percent of the lands in certain western states. Most of these lands are "public lands," under the stewardship of the Bureau of Land Management (BLM).

2. The western states have legal jurisdiction over the public lands, and have a strong interest in seeing that the environment is protected on public and private lands within state boundaries. While the BLM manages public lands throughout the country, laws, policies and management decisions for public lands have the most direct impacts on the lives of the citizens of the western states where the greatest amount of public lands are located.

3. Mining operations on public lands are an important part of the economy of the West. They provide thousands of high-paying jobs in predominately rural areas of the West and they provide important revenues to states. The mining industry also continues to play an important role in the nation's economy and security.

4. Under the Federal Land Policy and Management Act (FLPMA), the BLM has authority to regulate mining and other activities on public lands to "prevent unnecessary or undue degradation of the lands." The BLM adopted rules in 1981—known as the 3809 rules—controlling impacts of mining activities on the public lands. The 3809 rules contain comprehensive reclamation standards, require operators to submit a plan of operations for approval including a reclamation plan, and require bonding and other such things. The BLM recognizes that because they have different standards in each State. That is why the present regulations are working pretty well.

5. The Secretary of Interior announced earlier this year his intention to revise the 3809 rules, and appointed a BLM Task Force to explore changes that should be made to the existing rules. The Secretary has directed the Task Force to examine changes to the 3809 rules, including the adoption of significant new environmental regulatory requirements in the form of performance standards.

6. The BLM 3809 regulations do not exist in a regulatory vacuum. There exists today a large body of federal, state, and local environmental laws and regulations that govern mining and the Clean Air Act. The existing 3809 rules are important part of the regulation of mining on the public lands.

7. Western states have comprehensive state mining regulatory programs, enforced in coordination with federal land management agencies. These state programs set criteria for permitting exploration, development and reclamation of mining operations, with provisions for financial assurance, protection of surface and ground water, designation of post-mining land use, and public notice and review.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors believe that responsible mining activity on the public lands is important and states have a vital interest in assuring that the environment is protected and that mining sites are reclaimed for productive post-mining uses.

2. Effective regulation of hardrock mining and reclamation operations should continue to utilize and build on existing state programs, state and federal laws and cooperative agreements between state and federal agencies. Because of the geographic and climatic diversity of the states and the location of many mines on a combination of public and adjacent private lands, the states are the most appropriate and sensible level of environmental regulation for mining which occurs on the public lands.

3. Revisions to 3809 regulations may not be necessary. More consideration should be given to compliance with existing regulations. States have filled and should continue to fill any deficiencies identified in the statutory and regulatory framework and its enforcement. Establishing burdensome or duplicative new BLM regulatory requirements for mining not in the best interest of states or the nation.

4. Any new BLM regulations must recognize the dramatic improvements since 1981 in state and federal environmental regulation of mining on public lands and must not duplicate or be inconsistent with those requirements.

5. The States have concurrent jurisdiction with the BLM over public lands and should therefore be included as partners in any effort to amend the 3809 regulations.

6. The bond requirements of the BLM, as published in the Federal Register dated February 28, 1997, should be revised as part of the effort to amend the 3809 regulations due to the interest nature of bonding with the entire regulatory and reclamation process.

7. The BLM time frame for regulatory review is too short to provide sufficient review and comment by stakeholders.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. Direct staff to work with the WGA Mine Waste Task Force to provide support to the ongoing effort by the Bureau of Land Management to revise the 3809 regulations, emphasizing the states' interest in avoiding duplication, needless regulatory burdens and in preserving primacy of state regulation in the environmental area.

2. The Task Force should provide assistance and support to the states on the status and efficacy of state regulatory programs, the status of memoranda of agreement with the BLM, and should make recommendations for how programs may be improved where applicable.

3. This resolution is to be transmitted to the President of the United States, the Vice President, the Director of the Office of Management and Budget, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, all appropriate committees of jurisdiction in the United States Senate and House of Representatives, and the western states' congressional delegation.

Hon. Frank Murkowski, Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, D.C.
DEAR SENATOR MURKOWSKI: In January 1996, Secretary Babbitt announced that it was the Department of Interior's (DOI) intent to rewrite the 3809 surface management regulations for hardrock mining. I have followed that process intensively and with great concern that such a rewrite of current regulations might produce duplicative, burdensome and costly new regulations that would place a hardship on states that currently regulate hardrock mining.

Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations. Further, that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regime to determine whether there are deficiencies that need to be addressed.

I strongly support the approach set forth by my colleague, Governor Miller, and it is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent cooperative working relationship with the federal land managers and together are currently doing a good job regulating the mining industry.

I will continue to work diligently and at every opportunity with all parties on this important issue to protect and enhance the natural resources in my state. I appreciate Congress' continuing interest in this matter.

Sincerely,
JANET HULL, Governor.

STATE OF UTAH, Salt Lake City, UT, July 8, 1998.
Hon. Orrin Hatch, U.S. Senate, Washington, D.C.
DEAR ORRIN: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hardrock mining.
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I support the approach set forth by my colleague, Governor Miller, and it is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent working relationship with the federal land managers and together are currently doing a good job regulating the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Sincerely,

MICHAEL O. LEAVITT,
Governor.

STATE OF WYOMING, OFFICE OF THE GOVERNOR, Cheyenne, WY, July 8, 1998.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

Dear Senator Gorton: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hardrock mining. I have followed that process intently and with great concern that such a rewrite of current regulations might produce redundant, burdensome, and costly new requirements that would place a heavy load on states that currently regulate hard rock mining. Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with the rewrite of the 3809 surface management regulations for hardrock mining. New Mexico's hard rock mining law is one of the best in the country, and has jurisdiction over mines on federal, state, and private lands. The draft regulations DOI has proposed are not more stringent than those of New Mexico, but they could create significant problems for our program and our mines by imposing conflicting requirements, and establishing an unnecessary process for oversight and program certification.

Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with the rewrite of the 3809 surface management regulations for hardrock mining. New Mexico has an excellent working relationship with the federal land managers, and together we are doing a good job regulating the mining industry. The evidence is before us daily. It appears most appropriate that Congress take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent working relationship with the federal land managers and together are currently doing a good job of regulation of the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Best regards,

JIM GERINGER,
Governor.


Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

Dear Senator Gorton: The Bureau of Land Management has proposed significant revisions to its 3809 surface management regulations for hardrock mining. I have followed the proposed changes closely and believe the proposed changes are redundant, burdensome and costly. These revisions, as currently drafted, would place a heavy load on our efforts to regulate hardrock mining. Governor Bob Miller of Nevada has suggested that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regimes to determine if there are problems that need to be addressed. I support Governor Miller's suggestion and urge you to support efforts to initiate and fund such a study.

Very truly yours,

PHILIP E. BATT,
Governor.

OFFICE OF THE GOVERNOR, 100 CAPITOL, Santa Fe, NM, July 2, 1998.

Hon. FRANK MURKOWSKI,
Chairman, Energy & Natural Resources Committee, Washington, DC.

Dear Senator Murkowski: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hardrock mining. I have followed the process of regulatory development, and am greatly concerned that this rewrite is an attempt by DOI to interfere with and override state regulatory programs that currently have jurisdiction over hardrock mining.

New Mexico's hardrock mining law is one of the best in the country, and has jurisdiction over mines on federal, state, and private lands. The draft regulations DOI has proposed are not more stringent than those of New Mexico, but they could create significant problems for our program and our mines by imposing conflicting requirements, and establishing an unnecessary process for oversight and program certification.

Statement of Hon. BOB MILLER, GOVERNOR OF NEW MEXICO.

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September 15, 1998

STATEMENT OF HON. BOB MILLER, GOVERNOR OF NEW MEXICO.

September 15, 1998

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I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Best regards,

JIM GERINGER,
Governor.

EXCERPT FROM A HEARING HELD BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT, TUESDAY, APRIL 28, 1998

STATEMENT OF HON. BOB MILLER, GOVERNOR OF NEW MEXICO.

GOVERNOR MILLER. Thank you very much, Mr. Chairman. In many respects, I can just say “ditto.” In any case, I do appreciate the opportunity to join Nevada's two Senators, Harry Reid and Dick Bryan, to testify today on this legislation.

This is not the first time I have spoken to this committee about the need to bring reform to the Nation's mining law, a law that was enacted 125 years ago, in 1872. For example, in 1993, I expressed my opposition to Senate bill 257, the Mineral Exploration and Development Act. Since then, there have been several attempts to resolve the debates regarding the reform of the 1872 mining law. While some measures are never easy, I appreciate this committee's persistence in trying to find common ground.

I opposed S. 257 for the same reason that I oppose S. 326 and S. 327 today. These bills threaten the survival of one of Nevada's mainstay industries, an industry which is critical to the economic health of many rural communities.

It is well known that Nevada was founded on mining. What may not be as well known is that Nevada continues to be a world leader in gold production and produces the most silver, magnesite, and barite in the Nation. Remarkably, Nevada has achieved these prodigious levels and is also the environmentally responsible mining region in the world. Yet, I do not advocate the status quo.

Congress and the States should continue to work with the industry and the environmental community to minimize mining's effects on the land and on other land users.

In my opinion here we are concerned about mining reform, the industry, and the environment. The questions of a fair patent law for the taxpayers, mining contribution to the Federal Treasury through a royalty and the environmental responsibility of mining operations are all legitimate concerns.

We must weigh these concerns with the knowledge that the mining industry is an important contributor to the Nation's economy, and to my State's economy in particular.

Nevada's mining renaissance has created approximately 13,000 jobs directly related to mining, with an additional 45,000 jobs indirectly related to the industry. These are high paying jobs that average close to $50,000 per year.

Rural communities, such as Austin, Carlin, Elko, and Winnemucca, are all dependent on mining-related jobs. Jobs are the lifeblood of these rural communities.

September 15, 1998

OFFICE OF THE GOVERNOR, 100 CAPITOL, Santa Fe, NM, July 2, 1998.

Hon. FRANK MURKOWSKI,
Chairman, Energy & Natural Resources Committee, Washington, DC.

Dear Senator Murkowski: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hardrock mining. I have followed the process of regulatory development, and am greatly concerned that the rewrite is an attempt by DOI to interfere with and override state regulatory programs that currently have jurisdiction over hard rock mining.

New Mexico's hardrock mining law is one of the best in the country, and has jurisdiction over mines on federal, state, and private lands. The draft regulations DOI has proposed are not more stringent than those of New Mexico, but they could create significant problems for our program and our mines by imposing conflicting requirements, and establishing an unnecessary process for oversight and program certification.

Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with the rewrite of the 3809 surface management regulations for hardrock mining. New Mexico has an excellent working relationship with the federal land managers, and together we are doing a good job regulating the mining industry. The evidence is before us daily. It appears most appropriate that Congress take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent working relationship with the federal land managers and together are currently doing a good job of regulation of the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Best regards,

JIM GERINGER,
Governor.
CONGRESSIONAL RECORD – SENATE S10345
September 15, 1998

DEAR SENATOR REID: We, the undersigned, thank you for your efforts and support to include states with hard rock mining on public lands in co-regulators, as is stated in the Senate of Land Management's current 3809 rulemaking process. We commend you for highlighting that states have legal jurisdiction, concurrent with the Secretary of the Interior, to decide, through public participation, to regulate activities on the public lands.

As you know, the state imposes strict controls on mining activities on both public and private lands within their borders. Our states work closely with federal land management agencies—often through cooperative agreements—to ensure that mining activities are comprehensively regulated to control environmental impacts. These federal agencies must be preserved and not disrupted by new federal regulations adopted without the appropriate justification or state input.

Representatives of the Bureau of Land Management and the Department of Interior did consult with western state mining regulatory staff prior to the formal scoping meeting developing the Environmental Impact Statement for the proposed rulemaking. However, it became clear during that meeting that BLM's rulemaking was undertaken without adequate identification of identified impacts to the ground but because there was direction to do so from the Department of Interior. It appears that direction essentially is framing the rulemaking rather than a conclusive study such as that called for in your amendment. Attached for your information is a
copy of state comments to the Department summarizing the issues raised at that meeting and a copy of a resolution western governors adopted on the subject in June. We want to bring to your attention the fact that the Unfunded Mandates Act of 1995 exempted from FACA consultations between state and federal agencies the regulations that involve their intergovernmental responsibilities and administration. We support that exemption. Your amendment’s creation of a unique advisory committee for the purpose of a joint study, however, does not appear to undermine the exemption created by the Act.

In closing, we support your amendment because it recognizes our concerns about the states’ role as co-regulator and it stresses the need to avoid regulatory duplication. We will make our staff available to the Department of the Interior as well as committees of Congress to ensure that we work together to protect the environment in a coordinated, cost-effective manner.

Thank you, again, for the interest you have shown in the states’ role in environmental management and regulation.

Sincerely,

BOB MILLER, Governor, State of Nevada.

PHIL BATT, Governor, State of Idaho.

GARY J. JOHNSON, Governor, State of New Mexico.

JANE DEE HULL, Governor, State of Arizona.

MIKE LEAVITT, Governor, State of Utah.

MARC RACICOT, Governor, State of Montana.

ED SCHAEFER, Governor, State of North Dakota.

JIM GERINGER, Governor, State of Wyoming.

Mr. REID. Mr. President, what we have to realize here is that this is an effort to be fair. The language in the bill calls for a study by the National Academy of Sciences. I repeat. We have not asked them to find in any certain way. Whatever they come up with is what we will go along with.

I think that we owe the American people an honest debate about the current regulations for hard rock mining and all the disasters that have gone on in the past. There are a number of Superfund sites. That is one reason Superfund was passed—because of environmental degradation that had taken place in the years gone by. Mining was part of that. It is not part of that anymore. I think that is good.

We owe the American people an honest debate about the current regulations of hard rock mining. We owe them the opportunity to know about mining, and for the first time the truth about the environmental practices employed by modern-day mining—not what went on 30 years, 40 years, 50 years, or 100 years ago. We owe the tens of thousands of governments that invest a living in mining—the occupation that relies on mining—to know that certainly their jobs will be there when they show up in the morning.

I say to everyone within the sound of my voice mining affects more than the people that go down in the Earth or into the open pits. It affects more than them because we have industries all over America that rely on mining. These huge trucks that haul the ore out of the open pit operations cost over $2 million. To replace the tires on one of those trucks costs over $25,000 each. Underground operations are very expensive. That equipment comes from other parts of the United States other than the western part of the United States.

This industry is important to the economic viability of this country. There is no one in this body, the Department of the Interior, or the mining industry that can predict the outcome of the review conducted by the National Academy of Sciences. I can almost assure you the results will be fair. That is all we are asking.

But let me say that I think we should approach this on a nonemotional basis. When the study is completed, we will go forward as indicated in the language that is in this bill with whatever they recommend.

Mr. President, it is important that this amendment fail. It is not good legislation. It is something we have debated time and time again—just in a different setting.

I ask my colleagues to join in doing what is right for an industry that is very important to the economic viability of this country.

Mr. MURKOWSKI. Mr. President, might I ask what time remains on either side? Senator BUMPERS is controlling the amendment.

Mr. الخارجية DEFICER. Each side has approximately 38% minutes remaining.

Mr. MURKOWSKI. I thank my colleague, the Senator from Nevada. I yield time to Senator BRYAN.

Mr. BRYAN. Mr. President, I thank the chairman.

Mr. President, I rise in opposition to the BUMPERS amendment.

This past summer, as I have each summer since being a Member of the Senate, I spent most of my time in what we in Nevada refer to as “cow county” in rural Nevada. Most of the time I spent in places that are not widely known outside of Nevada. I was in Wells, Wendover, Elko, Battle Mountain, Winnemucca, Lovelock, Ely—one of the smaller communities in our State, but communities that are very dependent upon mining as the principal base of their economy.

In the northeastern part of our State, as a result of the situation that relates to the international pricing of gold at or near record levels over the last 20 years, these communities are hurt. These are good-paying jobs of $46,000 or $47,000 a year with the full range of health benefits. They are premier jobs. These are good-paying jobs, hurting. Sales tax collections are down.

So this is a major concern about what is happening to the principal economic base in the northeastern part of our State, which is a mining industry.

I rise in opposition to the amendment offered by my friend and colleague from Arkansas that would prevent the National Academy of Sciences from studying Federal and State environmental regulations applicable to hard rock mining on Federal lands.

As many of my colleagues from the West are aware, the Interior Department is proposing a number of the regulations that govern hard rock mining on public lands known as 3809 regulations. The regulations were originally promulgated in 1980 and require miners to submit plans for operations for approval by the BLM. The existing regulations require mine operators to comply with all Federal and State environmental laws and regulations, require that lands disturbed by mining be reclaimed, and require that bonds be posted to assure that reclamation is complete.

The State of Nevada has one of the tallest—if not the tallest—State reclamation programs in America. Nevada mining companies are subject to a myriad of Federal and State environmental laws and regulations, including the Clean Water Act, the Clean Air Act, and the Endangered Species Act, among many others.

Mining companies must secure literally dozens of environmental permits prior to commencing mining activities, including a reclamation permit, which must be obtained before a mineral exploration project or mining operation can be conducted.

Companies must also file a surety or a bond with the State and the Federal land manager in an amount to ensure the reclamation of the entire site prior to receiving a reclamation permit.

I say parenthetically that both as Governor and Senator I have been to these mining locations for many, many years. Mining today is much different than mining was even a generation ago, and much, much different than it was a century ago.

Some of the well-advertised misdeeds of mines in the past have to be freely acknowledged as something that is a source of major concern in terms of its environmental impact. I think it is an embarrassment to the modern-day mine manager whose philosophy and approach is much different and who is sensitive to the concerns as to the environmental impact. That represents the Western part of the United States and operations that exist in my State with which I have firsthand familiarity.

A number of the Western Governors, including our own Governor of Nevada, Governor Bob Miller, have expressed genuine concern about the 3809 rule-making—that it will unnecessarily duplicate existing Federal and State regulatory programs. Governor Miller, in his testimony before the Senate Energy and Natural Resources Committee this year, stated that Congress call for an independent evaluation of the need to revive the 3809 regulations, and made the suggestion that...
the National Academy of Sciences would be an appropriate organization to conduct a sufficient study. I concur. The academy has a preeminent reputation for fairness and balance. This is not a committee that is associated with the mining industry, but controlled directly or indirectly by them.

I am pleased that the Appropriations Committee saw fit to follow the suggestion of Governor Miller, because I must express that I, too, have serious questions concerning the need for the Interior Department’s proposed regulations and revisions. The current 3809 regulations require compliance with all existing Federal and State environmental standards and requirements, including the Clean Water Act, the State water quality standards in particular.

The Interior Department proposes to add a new layer of requirements on top of existing laws for both surface and ground water which extends beyond the agency’s regulatory reach—far beyond management and protection of Federal lands. These proposed rules, if adopted, would result in inconsistent or duplicative water quality standards or technology requirements because BLM can no longer accept State CP, which would result in compliance and assistance with the 3809 regulations. I must say it is somewhat ironic that the duplication of existing Federal and State water quality programs resulting from this proposal will, in the minds of many, impose additional costs on the Bureau of Land Management without any corresponding environmental benefits.

The proposed regulations allow States to continue the common practice of joint administration of mine regulation—and this is significant—but impose unrealistic demands for Federal approval of State programs. The Interior regulations will effectively federalize reclamation laws in all of the Western States even on non-Federal land. But if States modify their laws and regulations to comply with the Federal model in order to enter into an agreement for joint administration, Interior has proposed this requirement without any showing that the existing State reclamation laws and programs are inadequate.

And finally, the proposed regulations include numerous additional procedural and substantive requirements that will encourage delay in mine permitting and litigation over permitting decisions. It is clear that the Secretary of Interior is attempting to rewrite the mining law through the regulatory process. I share the Secretary’s desire to update the mining law, and I would say for that record that Nevada’s mining industry is in the forefront of recognizing that the mining law of 1872 needs to be updated. But that is a job for Congress, not unelected bureaucrats. I am hopeful that the discussion that has occurred between my colleague, Senator Bumpers, and the mining industry will lead to an agreement on mining law. In the interim, however, I think it is important that we allow the National Academy of Sciences to assess the need for the Interior Department’s proposed regulations, and for that reason I urge my colleagues to defeat the Bumpers amendment.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska, Mr. Bumpers, is recognized.

Mr. MURKOWSKI. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Alaska controls 30 minutes 20 seconds.

Mr. MURKOWSKI. I thank the Chair. And remaining on the other side is—

The PRESIDING OFFICER. Thirty-eight minutes 35 seconds.

Mr. MURKOWSKI. I thank the Chair. I will accommodate the Senator from Arkansas if he desires to speak at this time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. My good friend and colleague from Alaska, Senator Murkowski, mentioned the fact that I come from a State where poultry is a big business, which, indeed, it is. And they have been taking a lot of hits lately. Tyson Foods, which is by far the biggest poultry company in the United States, has been fined by the State of Maryland $2 million for three years’ operations. The Secretary of Agriculture announced last week that we need a totally new set of regulations dealing with animal waste, including poultry. They are subject to all kinds of regulations. I have been here for 24 years now, and I defy any Senator to tell me one time I ever objected to a regulation that dealt with the environment where the poultry industry was involved. I wonder if the Senator from Alaska would tell us how he would feel if I came in here knowing that the poultry industry was creating an environmental disaster and said, well, I want 27 more months to study it—if last year I came here with a proposal saying you can’t do anything to the poultry industry until every Governor in the country or every Governor whose State has poultry signs off on it, or the Secretary of Agriculture, told us he would not do it if we came in here knowing that the poultry industry was creating an environmental disaster and said, well, I want 27 more months to study it—

I don’t know how people would react to that. I expect rather severely. But I will tell you one of the differences. Very few States have hard rock mining on Federal lands.

Incidentally, I might just at this point say, Mr. President, there was an editorial the other day in the New York Times entitled “Time for Mining Law Reform.” I ask unanimous consent to have that printed in the RECORD. There being no objection, the editorial is ordered to be printed in the RECORD.

TIME FOR MINING LAW REFORM

With very little fanfare, the White House recently released a three-paragraph statement announcing the formal transfer of the New World Mine site to the United States Forest Service. Thus ended, officially and happily, a four-year struggle to prevent a Canadian mining company from building an environmentally treacherous gold mine near the border of Yellowstone National Park. But the forces that protected the Montana-Clin-nton Administration, have one more task ahead of them. That is to overhaul the 1872 Mining Law, the antiquated Federal statute that made it so easy and inexpensive to acquire the mine site in the first place.

Signed by Ulysses S. Grant to encourage Western development, the law gives mining companies virtually free access to Federal land and allows them to take title to that land for a few dollars an acre—a process known as patenting. The law does not provide for “suitability” review to determine whether the mining operation could cause unacceptable environmental damage. It also allows companies that mine hard-rock minerals like gold and platinum to escape any royalties similar to those paid by companies that extract oil and coal from Federal lands. Finally, the law does not require companies to clean up abandoned mines on Federal land.

The proposed environmental safeguards could be stronger. There is, for example, no suitability provision that would allow the Government to insulate certain lands from any mining at all. This is a serious flaw, but years of legislative futility have persuaded Mr. Bumpers that to insist on such safeguards would doom even the modest reforms he has proposed. He also believes that ending the patenting system—which effectively allows mining companies to take title to public lands—would make a big difference because it would expose the companies to Federal environmental regulations they can now safely ignore.

Mr. Bumpers concedes that those regulations need to be made stronger, a task that Bruce Babbitt, the Secretary of the Interior, has pledged to undertake. The ever-resourceful Western senators have always managed to block reform. Nevertheless, Senator Bumpers, long a champion of reform, plans to use his final months in office before he retires to push for something meaningful on the books. The Arkansas Democrat has offered the following test that would end the patenting system, impose a royalty on the minerals the mining companies extract and use that money to begin cleaning up old mine sites.

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after another. In 1993 they said, "Well, we are working on a mining bill," and in 1994 the same people who said we are working on a mining bill and we should not deal with these regulations did everything they could to stall until 2 weeks before we ran it by the Western Senators to make sure there was no mining bill.

And then last year they said, "We want all the Governors to have a say in this. Don't put a regulation into effect that prohibits the leakage of cyanide from a gold mining site unless all the Governors have signed off on it." They backed off that and they said, "Well, they have to be consulted." We said, "Fine, they ought to be consulted." So they were consulted. And the president of the Western Governors' Association told the Senate Energy Committee that "We have been consulted." So what do they do then? They come back and say, "Well, now we want the National Academy of Sciences to study the regulations—anything under God's sun to keep from dealing with an unmitigated disaster.

Why are the people of America indifferent? They don't even know about it. There is no hard rock mining in my State of Arkansas, and I want a mining reform for recreation, but if I were running for reelection I wouldn't get any votes in my State out of this issue. As Gilda Radner used to say—"if its not one thing, its another." And the Senator from Alaska alluded to the past, and indeed, has been working with the National Mining Association trying to craft something to reform the 1872 law that Ulysses Grant passed and has been such an unmitigated disaster for this Nation. Think about a law still on the books that Ulysses Grant signed to encourage people to go West: Is that a legitimate reason for allowing this 126-year-old bill to stay on the books—encourage people to go West? That is what we are dealing with.

And the Senator from Alaska said he and Senator Craig had a bill, and I asked them not to bring it up. That is true. I did that because I thought we were going to make a deal. The Chairman of the National Mining Association—who is a very fine, honorable man, in my opinion, a man of immense integrity—and I worked extremely well together. We were honest with each other, and our staffs developed a draft proposal. Unfortunately, that was before we ran it by the Western Senators. Two Western Senators said we can't do this. And the Senator from Alaska said the reason they didn't bring up the bill he and Senator Craig crafted was because he thought we had a deal. I thought we had a deal, too.

The bill they wanted to bring up, the bill they crafted and they said it was too late to bring up, let me tell you what it would do. It says, first, that environmental regulations promulgated by the Secretary of Interior cannot be stronger than the State where a mine is located. Think of that. There is no point in even having a Federal regulation. Each State would be a king with regard to mining on Federal land. Every State would determine what the environmental regulations would be, because the Federal regulations promulgated by the Secretary of Interior could be no stronger than the State regulations. In a particular State where a mine was located.

How foolish can you get? And, when it came to the royalty, they would grandfather every mining company holding a valid claim. There are 300,000 claims. Every grandfather everybody who has a valid claim, you would not collect enough royalties in the next 30 years to buy a ham sandwich. There is nobody to pay it. After all, people have been buying Federal lands for $2.50 an acre for the last 130 years. You cannot charge them a royalty because they own the land. We sold it to them for the princely sum of $2.50. So when you take all of them and everybody else who turns up with a valid claim, there is nobody left to pay a royalty.

Mr. President, let me make a philosophical point. I am an unabashed, card-carrying, hardened environmentalist. In 1970, when I ran for Governor in my State the first time, the biggest deal was becoming an issue in this Nation, albeit a fairly low key one. But it made a lot of sense to me, based on what I had read, and so I began to talk about the environment. I began to talk about Arkansas' magnificent rivers and streams and how they were being polluted. I began to think.

In 1966, I went fishing on the Buffalo River, the most beautiful river in America. It was so magnificent. I had no idea that my own State had such a treasure. Two nights we camped out on a sandbar. We ate and we drank and we created a lot of garbage, and the tour guide took all the garbage that we created and put it in a plastic bag, waded out as far as he could into the river, and tossed it. And nobody thought a thing in the world about it. Finally, after a little bit of that, somebody began to raise the question about the Buffalo River being polluted.

To shorten the story, we made it a national scenic river. It is a pristine, clean river. People come from all over the world just to camp out on the banks of the Buffalo or to fish the Buffalo. It was not even popular with the local people when we made the Buffalo River a national scenic river. And today there is not anybody up there who would go back to the old ways. So, yes, you are being addressed by a card-carrying environmentalist.

Do you know the other reason? I have three children and six grandchildren. We talk about how much we love them, how they are our most precious possession, how our whole life is calculated to make life more pleasant for them, and then we come in here to vote for trash like this.

We only have one planet. God, in his infinite wisdom and in the heavens, gave us one planet to sustain us forever. Not next week, not next year—forever. We say, "Well, God certainly didn't mean to stop putting cyanide poison into our underground aquifers and our streams and rivers, because there are jobs involved in this. God certainly didn't mean that how specious the arguments are that I have been listening to this morning. So you only get one chance to preserve the planet.

You can buy these arguments about, well, what is wrong with the National Academy of Sciences studying the rules for mining? Nothing, except they have already studied it. Everybody studied it. There are GAO reports galore. If the National Academy of Sciences is so important to us, why was it not mentioned last year, and the year before and the year before that? It is a nicely crafted idea, because at the fundraisers, if anybody raises the question, you can say, "What is the problem? The National Academy of Sciences—it is a very prestigious organization—studying the rules on how we are going to mine?"

It would not take 27 months. Mr. President, 27 months is carefully calculated to take us past the Presidential election of the year 2000. Mr. President, I ask unanimous consent the Senator from Wisconsin, Mr. Feingold, and the Senator from Louisiana, Ms. Landrieu, be added as co-sponsors.

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

Mr. BUMPERS. Mr. President, Bill Clinton, my friend, in my home State of Arkansas, has been taking a lot of trashing lately, a lot of it richly deserved. I am not here to defend the President. But I will tell you one thing. You can say a lot of things about him but you cannot say he is not an environmental President. I will tell you what I think he will do. I think he will follow the advice of Dale Bumpers and the New York Times and veto this bill if this amendment is defeated. I can tell you I don't care what I don't, I don't care how disturbed he is about all of this, I don't care how disturbed the American people are. I promise you there is one thing about him that he will not yield on and that is the environment; and for the very same reason nobody in the U.S. Senate ought to yield on it.

I know it is painful. I know companies are put upon because of the environmental regulation. But what about what has happened to the environment over the past 300 years of history in this country, it is time we implement strong measures.

Did you know that the rules right now say that you cannot even regulate a mine of 5 acres or less, you can go out and create all the damage you want to on 5 acres? That is a pretty good spread for some mines. In the State of Nevada, there are 2,000 mines of 5 acres or less. Here is a letter from the BLM office in Reno, NV, to an assemblywoman in Nevada, about these 5-acre mine sites. The BLM says:
Since enactment of BLM’s surface management regulations in 1981 [that’s the one we are still trying to live with, put in effect in 1981, since the regulations in 1981] the BLM in Nevada has processed nearly 10,000 notices. Currently, there are approximately 2,400 active notice-level operations in Nevada. There have been many environmental and operational problems associated with the smaller operations in Nevada.

We aren’t talking about 1872. We are talking about May 1, 1997. Let me repeat that.

There have been many environmental and operational problems associated with the smaller operations in Nevada.

In summary, there are 90 exploration or mining sites of five acres or less in Nevada where a reclamation bond would have either probably prevented a new modern-day problem from developing or would have been used to reclaim an environmental problem.

You can defend that if you want to if you are from Nevada. That is your privilege. Do you know something else? The Federal regs of 1981 are just like the Nevada law. We exempt all mines of 5 acres or less. Thousands and thousands of them are exempt under Federal regulations. And you think that doesn’t create environmental havoc?

Mr. President, I am not terribly optimistic about my chances of succeeding today. Last year, hapilly, we were able to work out an arrangement where we said we will consult with the Western Governors. Nobody mentioned the National Academy of Sciences last year. I have been in the Senate 24 years and ever since I have been on this issue, nobody has ever mentioned the National Academy of Sciences. But somebody cleverly came up with the idea and said, “At your fundraisers, you can always defend yourself; you can say, ‘The National Academy of Sciences did a study on that.’” I sure hope they come up with a good set of regulations. I yield the floor, Mr. President.

Mr. MURkowski. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Alaska has 30 minutes remaining, and the Senator from Arkansas has 19 minutes 30 seconds remaining.

Mr. MURkowski. Mr. President, I yield such time as my friend and colleague from the State of Idaho might need, reserving at least 5 minutes for myself.

Mr. MURkowski. Mr. President, I thank my colleague from Alaska, the chairman of the Energy and Natural Resources Committee, first of all, for the leadership role he has taken over the last good number of years to try to bring reform to the 1872 mining laws.

For some reason, the Senator from Arkansas would like to portray that mining is a rogue industry in our Nation that goes unregulated and has problems with environmental regulations, and he cited today 5-acre mine sites. They are not outside the environment, they are simply outside a plan of operation. My guess is, one could find piles of chicken manure in that State that violate environmental laws that are less than 5 acres that are not controlled. Does that sound silly and facetious on my part? Yes, it does, and I apologize to the Senator for saying it, but I want him to understand that when he makes a statement like “5 acres, rogue, out of control,” it is not true. It is not true in my State that has very tight environmental laws, and it is not true in my State.

What the Senator from Arkansas would like to have you believe in his compassionate statements about mining is that somehow these impact his State. His State is not a mining State per se. Mine is. The Senator from Alaska has a mining State. The Senators from Nevada have a mining State. Those States have had mining for over 100 years, and some of that mining this world of mining of, or I should say, were not proud of.

In the sixties and the seventies and the eighties and the nineties, those States began to take control of their own environment, in part, urged by the Senator from Arkansas, no question about it; in part, a product of the National Environmental Policy Act; in part a product of the Clean Air Act; in part a product of the Clean Water Act. All of those came together to shape plans of operation and new mining strategies for this country. I will tell you what it did in my State. It cleaned up a lot of messes, messes by the definition of today’s environmental standards and, yes, by the definition of mining and environmental standards of 70 or 80 years ago.

Why is the Senator standing up here this morning painting the world as if it were black, most importantly, painting the world of mining as if it were a disaster? The Senator from Arkansas knows it just “ain’t” so, but this is one of his causes celebres which you and I have heard on this floor—and I serve of his causes celebres which you and I have heard on this floor—and I serve on the committee—for a long, long while.

What is the essence of this administration’s attempt to rewrite the 3809 regulations? My guess is that Secretary Babbitt and Solicitor Leshy are creating a solution for a problem that doesn’t exist, or more importantly, creating a solution that plays to their political base and hoping there is a problem out there to which they can attach it. I have a feeling that down under all of that is just about the whole of the problem that we are attempting to debate on the floor today.

There is no question that this Senator, the Senator from Alaska and a good many other Senators want responsibility for the land to shrink from those laws. They are trying to improve them and better them. Why is the Secretary of Interior and his Solicitor and the Senator from Arkansas looking for a solution to fit a problem that doesn’t exist? I am not sure. I already suggested it does identify with their political base, but I am not so sure it identifies with the real world, especially if a former Governor, who talks about how his State has done so well, believes that States ought to have powers and rights in these areas. He and I have worked very closely together, over the last years to reform the 1872 mining law and to attempt to empower those States in cooperation with the Federal Government to assure that that relationship and those kind of dynamics continue. On that I don’t disagree with the Senator from Arkansas, but I disagree with the Federal Government and its heavy hand ignoring the States’ Governments until we shove them into beginning a dialog with them on the reform of these rules.

Most of the Western Governors, however, who have problems, who are working well with respect to mining operations within their boundaries, yet, the Senator from Arkansas and others love to drag out 20-year-old pictures and 20-year-old stories as if they had just happened yesterday and say, “Oh, look at these pictures and read this story; isn’t it terrible what the world of mining is doing to the clear and pristine lakes and rivers of our country?”

Let me tell you the mining story, the pictures and the story today about those clear and pristine rivers. They are not clear and pristine. Mining tailings were dumped into them, and the rivers in my State, in one instance, ran murky the year round. But today the Coeur d’Alene River, flowing down through the major mining district of my State, runs clean. Fish propagate in it. Kids swim in it.

That wasn’t true 20 years ago. It was a combination of Federal and State effort that produced that. But most importantly, it was the ethics of the citizens and the government of the State that said, “No, we are the States; we have to do it right, and that is what Western Governors are saying today to this administration and to the Senator from Arkansas and to a lot of others who like to use this as their political base.

Look at the politics of it, sure, but look at the reality of what we are doing. All of these States have very tight laws and regulations today. You heard it from the Senators from Nevada and Arizona who talk about the stories in the Nation today, employing tens of thousands of people and bringing hundreds of millions of dollars into our economy. They are doing it right. They are doing it under all of those environmental laws that were passed on this floor in the sixties and the seventies and the eighties, and they are not backing away from them or trying to shrink from those laws. They are trying to improve them and better them. Why is the Secretary of the Interior and his Solicitor and the Senator from Arkansas looking for a solution to fit a problem that doesn’t exist? I am not sure. I already suggested it does identify with their political base, but I am not so sure it identifies with the real world, especially if a former Governor, who talks about how his State has done so well, believes that States ought to have powers and rights in these areas.

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Most of the Western Governors, however, who have problems, who are working well with respect to mining operations within their boundaries,
want the BLM to do a couple of things with any modification in regulation; and yet most Governors say they have not been worked with well, they have not been listened to, and if you do not do major things, that it will not happen.

Again, the heavy arm of the Federal Government will come down against States. Once again, we violate or at least we ignore the Constitution of our country, all in the name of a current political cause that does not seem to exist much more today because we addressed it a long time ago. That is the essence of the amendment to the Interior appropriations bill by the Senator from Arkansas.

What did we do this year? Because of the difference between the Department of Interior and the Governors—the Western States Governors primarily—we have said, "Let's get the National Academy of Sciences, an impartial group, to step in between and examine this and come to a partial body for that purpose." They are impartial. Both sides, I think, would respect their integrity. And let us see how much of a problem there is out there. Let us scope the magnitude of it before we bring down the heavy arm of the Federal Government and put hundreds of thousands of people out of work or risk putting thousands of people out of work and destroying some significant economies in many of our Western States.

That is really the essence of what we do here today. It isn't that the Energy and Natural Resources Committee has not been diligent. The Senator from Arkansas has been diligent. We just cannot agree. We have fundamental disagreements. I want mining. I want it alive and well and creating jobs in my State—minerals and metals for the economy. And I am not so sure that that is what he wants. Or at least he wants it in a way that largely causes the heavy arm of the Federal Government to come in and put the difference between the two political bases aside right there to make those investments—under the same environmental standards that they would make in this country except they avoid the burdensome multiyear regulatory process of a Government that really does not care about the economies of investment and jobs because the cause they lift themselves to is a cause higher.

That is the issue of this amendment. When you have a dispute between two concerned parties, you do not do that; the Senator from Arkansas and I and others just fundamentally disagree—what is wrong with bringing an impartial body in between us to examine the problem that by my estimation does not exist and by the estimation of the Senator from Arkansas does exist?

What is wrong with bringing an impartial body to the fore for that purpose? That is exactly what the Interior Appropriations Subcommittee thought about when they passed the bill, and I was with the chairman of the full authorizing committee, the Senator from Alaska. That is what we are doing. And that is why the Senator from Arkansas is trying to stop it, because it might bring about a solution that works. And it would deny this administration the right to slash and burn and destroy a mining industry that they did not like out there on the public lands to begin with.

Secretary Babbitt has not been bashful. Every time he has to comply with the law, he gets on a soap box and degrades it and says that he is being forced to do certain things. Well, it is being forced to do certain things by the law. Why should you shun it? But then again, I, as chairman of a subcommittee, the Senator of a full committee, and the Senator from Arkansas have invited Secretary Babbitt to the table for the last 6 years to work out these problems. And their answer is, "No. It's to our advantage to have the politics of it, not the solution to it."

That is the essence of the debate here on the floor. It really is, in my opinion, that clear and that simple. You cannot talk about modern mining today and use 20-year-old examples, because most of those were created 20 years before they became a problem. Yet, that is the basis of the argument. That is the strength of any argument that they attempt to make.

So I hope that my colleagues will stand with us today in opposing the Bumpers amendment—that we should table that amendment—because while it can be partisan at times, this is not a partisan issue. The Senators from Nevada are Democrats, and I am a Republican, and we are from neighboring States.

Mining has been for 100 years a major part of our economy and yet today remains an important part of our economy. My State is touted as being one of the most beautiful, mountainous, high-desert States in the Nation, with clear flowing streams, pristine mountain meadows. And 100 years of a mining legacy remains, and it did it right. Then while they were doing it right, they learned to do it better. And there is no question that the environmental laws we passed here in the 1960s and the 1970s and the 1980s helped them do it better.

But just a few years ago our reclamation laws, our mining laws as a State, were the example for the rest of the Western States to follow, and many of them did. Many of my miners have re-created that process. The Senators from Idaho and Nevada gave them a deed for $2.50 an acre, and they own it. And these regulations do not apply to people who own their own land. The States regulate that.

The President's Task Force on Mining. I also say that we have given away 3.2 million acres of land in the past 126 years. Well, we did not give it away; we charged $2.50 an acre for it. Lands the size of the State of Connecticut we have given to the mining industry in the past 126 years to mine on. Do you know what else? They own it. We gave them a deed for $2.50 an acre, and they own it. And these regulations do not apply to people who own their own land. The States regulate that.

The President's Task Force on Mining. I believe that the Senator from Idaho indicated something about my political position, my political base. No. 1, there is no political base on mining in my State. There is a political base for being on the side of keeping the environment as clean as possible. That is the only base that the mining industry has to comply with—clean air, clean water, reclamation—tell us which one of those you want to repeal.
In the 1970's when a number of environmental laws were passed, go back and look at the speeches that were given, and given again today, about what a terrible disaster this would be if we passed this bill and made people comply with them. The San Francisco crazy regulations. It is just another case where the old Federal Government is trying to tell us how to run our lives. Do you know the reason the Coeur d'Alene River is now a clean, pristine river? The Clean Water Act. I applaud the people of Idaho who I assume didn't want that river to be polluted any further. I can tell you, it may or may not have happened if it hadn't been for the Federal Government's intervention. I don't know where that beautiful river in my State, the Buffalo, would be right now if we hadn't made it a wild and scenic river and stopped the disastrous pollution of the river.

In the 1970's 65 percent of the streams, rivers and lakes in this country were either fishable or swimable. And because of the terrible old Federal Government and all their regulations imposing on the business community of this country, today it is reversed. Forty percent of the streams, rivers and lakes of this country are fishable and swimable. How I wish I could live long enough to see that figure at 100 percent.

It is expensive. It is expensive to undo a mess. As I said on the Senate floor last week in a different context but it bears repeating here, as the English philosopher said, there is nothing more utterly impossible than undoing what has already been done. Do you think Bill Clinton wouldn't like to undo some of his past? Do you think people in my State wouldn't like to undo some of the surface mining, the strip mining, that we allowed to take place? They just dug out the earth, piled it up in big layers, took the coal, and left it.

It is not even half over. When you consider the fact that mines of 5 acres and less aren't even regulated, when you think of all the 3.2 million acres of lands we have given to the mining industry, these lands are not included.

So what do we have? The Senator from Idaho said Senator Bumpers is up there talking about what happened years ago. In 1992, in Colorado, Summit County's taxpayers cost the tax-payers $30,000 a day; 6 years ago that disaster occurred. What did they do? They polluted 17 miles of a river. It is now a Superfund site.

Zortman-Landusky, 1998, in Montana—going broke. Taxpayers will get to pick up the tab while we do another study by the National Academy of Sciences. Then you can go home and say, "Yes, I’m for the environment." I think the National Academy of Sciences clearly has shown the disasters pile up. In 1998, in South Dakota, they are not quite broke yet, they are in financial difficulties. They had a $6 million bond, and the cleanup figure is now estimated at $30 million. Who picks up the difference? You know who picks up the difference. There are 557,000 hardrock mine sites that are abandoned. Today, 59 of them are on the Superfund list. The cost to the American taxpayers $30,000 a day; 6 years ago that disaster occurred. What did they do? They polluted 17 miles of a river. It is now a Superfund site.

Consider the fact that mines of 5 acres and less aren't even regulated; when you look at the statistics of how many abandoned mine sites there are right now, when you look at the fact that we know what this is—this is nothing more than a dilatory tactic. There is not one Senator who doesn't know precisely what this is about. It is a simple delaying tactic.

Mr. President, I yield the floor and the remainder of my time—Mr. President, I will not yield back the remainder of my time. I think Senator Landrieu may wish to speak, so I will reserve the remainder of my time for her.

Mr. MURKOWSKI. Mr. President, I ask the Chair to indicate how much time remains on both sides.

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes. The Senator from Arkansas has 5 minutes 30 seconds.

Mr. MURKOWSKI. I thank the Chair.

Mr. HATCH. Mr. President, I rise this morning to express strong opposition to the Bumpers amendment, and I urge my colleagues to oppose it as well. This amendment is a step backwards, Mr. President. It is a step back toward more centralized government; it is a step back toward more heavy handed regulations; and it is a step back toward making environmental policy with emotion and politics instead of science and common sense.

Mr. President, this argument really comes down to whether or not we want environmental regulations to be determined on the state level by those who have the greatest stake in a healthy environment and a strong economy, or do we want to keep all the power inside the Washington beltway and in the hands of federal politicians and bureaucrats.

This amendment would strike section 117 of the fiscal year 1999 Interior Appropriations. What is so disturbing about this section that it must be struck, Mr. President? Section 117 is simply an attempt to replace the emotionally and politically charged controversy surrounding the revised 3809 regulations with good science. Section 117 is simply an attempt to replace the emotionally and politically charged controversy surrounding the revised 3809 regulations with good science. Section 117 is simply an attempt to replace the emotionally and politically charged controversy surrounding the revised 3809 regulations with good science.
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proposing hardrock mining on our public lands before the Secretary of Interior moves forward with the new regulations. I find it baffling, Mr. President, that a member of Congress would be opposed to introducing an impartial and nonpartisan element to this heated debate, such as a study by the National Academy of Sciences.

Mr. President, this is not merely a philosophical debate. This debate is about jobs in rural America. We have learned by unhappy experience that regulations spewed forth from Washington, D.C., with no regard for those who are most affected by the regulations, often lead to a loss of competitiveness and jobs in rural areas. I wish all of my colleagues could visit the many rural areas of my state of Utah. They would find that opportunity has been whittled away from rural Americans who live among public lands. And why have these citizens lost their ability to grow and prosper, Mr. President? Has it been because of a lack of effort or creativity? Of course not—rural areas in Utah are struggling because government bureaucrats have systematically closed off opportunities to graze on public lands, to harvest timber on public lands, and to mine on public lands. I challenge anyone to tell me that this trend has not led to a major loss of rural jobs, Mr. President.

Mr. President, the rural people of my state know that the source of their problems and inaction is the centralized government regulation. I would like to read a letter from a young constituent of mine, T.J. Seely. He sums up, better than I could, what we are discussing. I am amazed at what it is really trying to do. To bring in a non-biased entity to deal with the Secretary simply do not exist. They would probably have to go to the National Academy of Sciences to provide a non-biased review. I am amazed at what it is really trying to do. Would we ever have to move through the normal legislative process.

We find ourselves in a situation where the Western Governors, which have individual state programs that are working with respect to mining in those states, wish to have greater input into the draft regulations. These Governors, regardless of party affiliation, have stated very clearly that the problems with the current regulations is spotty—advances in mining technologies and current regulations which have not been updated for 15 years. Yet when we had this discussion last year, we agreed that since the regulatory authority of western states would be called into question, it was important that we allow for significant input from those impacted states. I am dismayed that the BLM draft regulations ignored most of the input received last year. The result has been a proposal that was so top-heavy with prescriptive regulation it would never pass muster if it were to move through the normal legislative process.

I ask anybody who has visited the interior of Alaska to recognize the techniques used with the gold dredges where they basically built the dredge in place, and then dug around itself and deposited the tailings, the pond was not any bigger than the dredge, it simply moved, and yes, the tailings were evident at the time, but now the trees have grown back into the tailings piles. That is what is happening in these areas where appropriate reclamation takes place, and the technology today is much more advanced than previously. So there is significant advancement in the process.

The system of reclamation is working, and the States take pride in their obligation to address reclamation associated with mining activity. You can't create wealth, you can't create jobs, and you can't create prosperity with out some kind of a mining industry. This is no exception. But with the technology we have, we are addressing it and doing a better job.

The problem with the proposal of my friend from Arkansas is that he simply wants to have the Department of the Interior come in and dictate terms and conditions—a nameless, faceless bureaucracy, accountable not to the people within the States, not to the people who work in the mining industry, not to any kind of a mining interest, but to an indifferent Department of the Interior coming down with regulations that would basically strangle the mining industry as we know it today and force it overseas.

We have had a discussion about the poultry industry. I am sorry that my friend from Arkansas stepped out briefly, but I have done a little investigation in the last few minutes relative to the poultry industry in Arkansas, and I think Mr. Johnson is on point. Clearly, the Senator from Arkansas is on record opposing any State regulation of mining that is evident today. But he doesn't oppose State regulation of his
Let me remind my colleagues that the mining bill before us would have pleased, I think, reasonable voices on both sides of the issue. It seeks reform, which brings a fair return to the Treasury. It protects the environment and preserves our ability to produce strategic minerals in an international marketplace. I think the bill, when it eventually reaches the floor of this body, will receive support and pass. The legislation protects the small miners, it maintains traditional location and discovery practice. It is an effort to do the job right. Bad decisions are going to harm a $5 billion U.S. industry whose products are the muscle and sinew of our Nation’s industrial output.

The future of some 120,000 American miners and their families and their communities is at stake here. So is the well-being of thousands of other Americans whose income is linked to manufacturing goods and services which support this critical industry. In summary, Mr. President, I am going to be offering a motion to table Senator Bumpers amendment to strike at 2:15 when the Senate reconvenes.

I want my colleagues to know that the time which my intentions are relative to the disposition of the Bumpers amendment.

Finally, let me, for the record, indicate the position of the Western Governors’ Association, which wrote in a letter:

States already have effective environmental and reclamation programs in place and operating. These programs ensure that national criteria where they exist in current law are met and allow the States site-specific flexibility for the remaining issue.

We have letters from the Governors of Arizona, New Mexico, Idaho, Wyoming and Utah—written letters in support of a joint National Academy of Sciences conduct a review of the existing State and Federal regulations governing mining to determine their deficiencies.

One other point, Mr. President. I think it is noteworthy, to my colleagues who have perhaps been following some of our Nation’s environmental leaders, the comment that was made in December 1997 by former Secretary of the Interior, Governor Cecil Andrus. When the 309 regulations were promulgated back in 1980, Governor Andrus was Secretary of the Interior. So this gentleman knows of what he speaks.

In December, Governor Andrus stated:

For over 20 years, I submit, the 309 regulations have stood the test of time. These are the regulations that we are talking about today, the Secretary of the Interior proposes to change.

Further, I quote:

Those regulations revolutionized mining on the public lands. Bruce Babbitt, who should know better, is trying to fix things that are really working. If you change some mining reform laws through the back door.

Mr. President, that is just what this issue is about. I don’t know what is good for the goose or the chicken, but I do know what is good for the mining industry in the United States today; that is, to defeat and prevail on the motion to table the Bumpers amendment to strike.

Mr. President, I ask that the remainder of my time be indicated.

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. BUMPERS. Mr. President, here is what the new regulations contain:

Regulations to minimize adverse environmental impacts, if economically and technically feasible—that is a pretty big loophole; that is what these new regulations provide—reclaim the land at no cost, give the mining companies the right to do it. That is the mining bill before us.

Mr. President, let me ask my opponents on this issue, to which of those do you object? To what do you object?

Mr. President, these arguments about the poor gold miners processing gold—I have heard those same arguments year after year, and sometimes when gold was more than $400 an ounce. If gold is cheap, that is the argument. If gold is high, then it is jobs. If neither apply, then it is that bad old Federal Government trying to regulate our lives—anything under God’s Sun to keep from doing anything to make the mining companies of this country do it right.

This is the simplest amendment in the world. Everybody knows what it is. For 17 years, since 1981, we have been living with regulations for the most part which were hopelessly out of date. In the meantime, we have been allowing cyanide to go into the rivers and streams and the underground aquifers of this country, and they don’t want to do anything about it. They don’t want a regulation or a rule that makes people responsible for that.

I think I have said everything I can possibly say about this issue. It will simply say I may lose this afternoon, and probably will. And when 27 months have gone by, unless somebody takes it on again next year, maybe we will get James Watt back as Secretary of the Interior and we will not have to worry about things like this anymore. This is very carefully crafted to say to Bruce Babbitt what you can do—what you can do—what you can’t do anything until the year 2001. At that time, my opponents on this divinely hope that there will be a Republican President and there will be a Secretary of the Interior who will do their bidding. That may happen. And in the meantime, unmitigated, unfathomable economic disasters will continue to occur.

If this is an issue for the Senate to do something about, all you have to do is vote yes. If you do not want to do anything about it, vote no.

Mr. President, I yield the floor, and I yield the remainder of my time.
Mr. MURKOWSKI. Mr. President, let me thank my friend from Arkansas for his input and his consistent effort to bring this issue before this Congress, and certainly the U.S. Senate.

I must differ with him on his interpretation of what happened. I think every Member of the Western States, and those States that have mining, recognize that there are certainly ills. But there is also an obligation and a pride to correct them, and those corrections are underway. But the suggestion that the Department of the Interior should have the broad authority to come in with sweeping new regulations that would in many cases have an adverse effect on the industry's ability to be internationally competitive is the threat proposed by the Department of the Interior. As a consequence, I would again expect to offer a motion to strike the amendment, and a tabling motion.

I yield the remainder of my time. I thank my good friend for the spirited debate. We will keep him informed of the progress and the eventual resolve of this issue, if we don't get it done today.

Mr. BUMPERS. Mr. President, parliamentary inquiry. Is there 10 minutes equally divided beginning at 2:15 on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15. Thereupon, the Senate, at 12:29 p.m. recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 399

Mr. BUMPERS. Mr. President, under the previous order, there is now 10 minutes equally divided with respect to the Bumpers amendment.

Mr. BUMPERS. I yield the remainder of my time.

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

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

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

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

Mr. BUMPERS. Mr. President, I suggest the time of the quorum call be rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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