

Clean Water Restoration Act: *All Cost, No Benefit*



The Clean Water Act provides the federal government broad authority to regulate “navigable waters,” a term which the Supreme Court has already recognized as meaning waters beyond where navigation actually occurs. However, Congress is considering legislation to change the Clean Water Act called the Clean Water Restoration Act (CWRA). The CWRA could undermine the federal-state partnerships created by the Clean Water Act, giving the federal government authority over all waters of the United States.

While well-intentioned, the CWRA could have many unintended consequences. It could delay and drive up the cost of improving the nation’s outdated infrastructure, including highways, bridges, airports, mass transit facilities, and even schools. Congress should be working to expand economic development and job creation – not adding unnecessary, burdensome federal regulations – particularly during this time of economic uncertainty and high unemployment.

Expanding Washington’s Reach Will Increase Consumer Costs. The bill could create a new set of broad federal authorities, increasing operating and overhead costs on landowners, small businesses, manufacturers, farmers and transportation and energy development projects. It also could create unnecessary federal roadblocks in local storm water management, delaying the development and maintenance of local infrastructure. As a result, crucial activities – such as producing food, building and maintaining roads, constructing homes, supplying energy, which all help create much-needed American jobs – will be drastically undercut.

Local Governments are Best Suited to Manage Local Resources. The CWRA will cut away at the state and local governments’ ability to be the primary manager of local land and water resources, making it more costly to grow crops, provide water to local communities and farmers, operate and maintain water storage and delivery facilities, produce energy, build and maintain public transportation systems, deliver affordable goods and services to consumers and carry out virtually any and every economic activity that occurs on land today. Forcing every family farmer and town supervisor from Washington State to South Carolina – and everywhere in between – to figure out whether they need to get sign off from the federal government to treat their crops or repair a road is not a commonsense policy.

More Layers of Bureaucratic Federal Red Tape Will Threaten Jobs, Business. The CWRA can not be 1) implemented effectively and efficiently, and 2) will contribute to the already lengthy back-log in the federal permitting process. The already-overwhelmed federal permit program could crumble under the weight of increased applications. Some estimate that it takes two to three years to obtain an individual permit. In fact, according to a [2005 report by the Environmental Protection Agency Inspector General](#), the current federal permit backlog is about 17,000. If Congress passes CWRA, this backlog – and the associated delays – could increase exponentially. And the businesses that rely on these permits – real estate, electricity transmission, transportation and agriculture – will be forced to wait even longer.

Congressmen from Across Party Lines Understand States – Not Washington – Can Best Regulate Water. When it comes to understanding that states – not Washington bureaucrats – are best suited to regulate and control water permitting and authority, key members of Congress are speaking out.

“I agree that ‘navigable’ should be left in there,” Rep. Brad Ellsworth (D-Ind.) said at a House Small Business Committee hearing on the issue in July, after small farm and business owners warned the bill would translate into fallowed farmland, canceled construction projects and a wealth of third-party lawsuits.” (Luntz, Taryn., Sept 18, 2009, Oberstar looks to Clean Water Act change to clear up enforcement issues, Environment & Energy Daily.)

- Congressman Brad Ellsworth (D-IN), a member of the House Small Business Committee

“Any expansion of the definition of ‘wetlands’, if not carefully crafted, could lead to costly litigation, more red tape and more uncertainty for future efforts to protect the environment. I am concerned that these proposals will vastly expand Federal powers over private property, upset the long-standing cooperative relationship that the Federal government and the states have had with regard to water management and water quality, and create even more confusion and uncertainty over application and interpretation of the [Clean Water] Act.” (Committee on Transportation and Infrastructure., July 17, 2007, Clean Water Bill May Lead to Massive Expansion of Federal Jurisdiction Say Committee GOP Leaders, press release.)

- Congressman John Mica (R-FL), House Financial Services Committee ranking member