

Janice K. Brewer  
Governor

ARIZONA STATE  LAND DEPARTMENT

Maria Baier  
State Land  
Commissioner

October 8, 2009

The Honorable Harry Mitchell  
United States House of Representatives  
1410 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Mitchell,

As the recently appointed Commissioner of the Arizona State Land Department, I am keenly focused on my fiduciary obligations to the beneficiaries of land held in trust by the Department. The State Land Department manages approximately 9.3 million acres of trust land representing 12.7% of land in the State. The largest beneficiaries of the Trust are the public schools. My first and primary obligation as Commissioner is to protect and preserve the value of trust land. To that end, I have significant concerns regarding S. 787, the Clean Water Restoration Act, introduced by Senator Feingold, and comparable legislation introduced last Congress by Representative Oberstar.

I am particularly concerned the bill could unwisely increase uncertainty and expand federal jurisdiction over land and water resources management. Unless revised and clarified, the bill could reach various ditches, dry washes, and small erosional features that are pervasive across Arizona State Trust land and most of the arid, desert Southwest. As a general matter, land that is "waters of the United States" has significantly less value in the marketplace than does land that is not "waters of the United States." For that reason, I am very concerned about Federal legislation that would expand the jurisdiction of the Clean Water Act over State Trust Land or create new burdens that impact State Trust Land. In particular, legislation should clarify that "waters of the U.S." does not include groundwater or small desert drainages and should maintain existing regulatory exclusions under the Clean Water Act.

All wetlands and waters have ecological and economic value, but they should not all be subject to Federal regulation under the Clean Water Act. Because of the uncertainties regarding the scope and impacts of the introduced bill, as well as amendments passed by the Senate Environment and Public Works Committee, I urge you to take a close look at the legislation and support revisions that increase regulatory certainty and predictability without increasing Federal jurisdiction.

Sincerely,



Maria Baier  
State Land Commissioner