

**Myths about the Clean Water Restoration Act (CWRA)/
America's Commitment to Clean Water Act (ACCWA)
Debunked**



MYTH	FACT
<p>The CWRA/ACCWA bill does not expand the definition of waters of the United States; the bill simply reaffirms the intention of the Clean Water Act.</p>	<p>The Clean Water Act provides the federal government broad, but not unlimited, authority to regulate “navigable waters,” a term which the Supreme Court has already recognized as meaning waters beyond where navigation actually occurs. However, legislation being considered by Congress, the CWRA/ACCWA, could change the Clean Water Act by <i>expanding</i> federal power to include all waters, as federal waters. This could damage the successful state-federal partnerships that the Clean Water Act has created to keep our waters safe and clean.</p> <p>Since the ordinary meaning of the word “all” is “every,” “as much as possible,” or “every member or individual component,” courts could direct the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers to follow the plain language of the statute – extending the federal government’s reach to all waters of the United States or virtually all wet areas throughout the country.</p> <p>By removing the flexibility of states, cities and counties for efficient planning, CWRA/ACCWA could force local and state governments to answer to Washington for land and water-use decisions, which are generally best made on a local level because local officials have the best understanding of what the region needs.</p> <p>According to the following state legislators:</p> <ul style="list-style-type: none"> • <i>“Nebraska state Sen. Vickie McDonald said the bill, if passed, would devastate her state’s economy... McDonald and other state senators also mentioned the drought the West has suffered, saying further water restrictions would be a death knell for business in the region.”¹</i> • <i>“Washington state Sen. Jerome Delvin said he objects to potential federal government interference in a water plan state legislators completed last</i>

¹ Boyle, Katherine., Dec 6, 2007, *Businesses, gov't officials speak out against bill to amend Clean Water Act*, Environment & Energy Daily.

	<p><i>year.” To [possibly] have the federal government come in again with a new set of regulations is pretty disturbing.”¹</i></p>
<p>CWRA/ACCWA will end the regulatory mess caused by Supreme Court rulings and reduce the Army Corps of Engineers workload, lessening the confusion, delays, and litigation.</p>	<p>Expanding federal permitting requirements for the Clean Water Act to all waters of the United States could lead to <i>greater</i> confusion and uncertainty in the Act’s implementation.</p> <p><u>Given the limited resources of the EPA and the Army Corps of Engineers, under the current Clean Water Act, expanding jurisdiction to all waters could hamper the Agencies from prioritizing what’s most important, increase litigation, and lead to greater permit delays.</u></p> <p>There is concern that the CWRA/ACCWA could:</p> <p><u>Delay or Stop Projects Nationwide.</u> The federal permitting process could increase operating costs for local governments, family farmers and small businesses and delay essential improvements to our nation’s infrastructure. Strong, safe and reliable infrastructure – including highways, bridges, mass transit, airports, flood control, navigation, schools, and drinking and waste water facilities – is crucial for our economy to recover and grow.</p> <p><u>Add to the Backlog of Pending Clean Water Act Permit Requests.</u> Despite calling for an expansion in jurisdiction over all U.S. waters, the CWRA/ACCWA does not allocate additional resources to address the added workload. <u>According to a 2005 report by the Environmental Protection Agency Inspector General</u>, the current federal permit backlog is about 17,000. If Congress passes CWRA/ACCWA, this backlog – and the associated delays – could increase exponentially.</p>
<p>CWRA/ACCWA would in no way expand federal jurisdiction or interfere with state and local government and private property rights.</p>	<p>The CWRA/ACCWA will create a new set of broad federal authorities and could erase the distinction between federal waters, state waters and waters on private lands.</p> <p><u>Expanding the reach of the federal government will damage the strong partnership that</u></p>

	<p><u>currently exists between federal, state and local entities, where all levels of government have worked together for nearly 40 years to protect millions of miles of rivers, streams, lakes, wetlands, ponds, and estuaries.</u></p> <p>By <u>removing the flexibility of states, cities and counties</u> for efficient planning and permitting, all permittees will be forced to apply to the federal government for land and water-use decisions that are best made locally.</p> <p>According to the following state legislators:</p> <ul style="list-style-type: none"> • <i>“State Rep. Susan Lynn of Tennessee (District 57-Mt. Juliet) said she’s already “well aware of what the federal regulations do and how they affect commerce in Tennessee...this bill will negatively affect agriculture, economic development, commerce and recreation in Tennessee.”²</i> • <i>“The citizens of our state have come together. We’ve worked cooperatively and productively on how to manage Wyoming’s water,” said state Rep. Dan Zwonitzer of Wyoming (District 43-Cheyenne). “We believe it would destroy the delicate fabric we’ve put in place if the federal government were to come in and trample (on us)”³</i>
<p>CWRA/ACCWA would not be a detriment to economic growth or job creation.</p>	<p>The CWRA/ACCWA could give the federal government an unprecedented amount of authority and take away the power of states, counties and local communities to regulate and make the best local decisions.</p> <p>CWRA/ACCWA could create a new set of broad, far-reaching federal authorities, <u>increasing operating and overhead costs on small landowners, manufacturers, farmers and transportation and energy development projects.</u></p> <p><u>Congressmen in Washington, D.C. Understand the Impacts.</u></p> <p><i>Congressman Brad Ellsworth (D-IN), a member of the House Small Business Committee</i></p> <ul style="list-style-type: none"> • <i>“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 could translate</i>

² Western Business Roundtable., *State Leaders Join Ag, Business Leaders to Stop 'Federal Water Grab Bill*, press release.

	<p><i>into fallowed farmland, canceled construction projects and a wealth of third-party lawsuits.”¹</i></p> <p>Congressman John Mica (R-FL), House Financial Services Committee ranking member</p> <ul style="list-style-type: none"> • <i>“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.”⁴</i>
<p>The U.S. has already lost nearly 50 percent of the nation’s wetlands and continues to lose about 60,000 acres of wetlands per year. CWRA/ACCWA will help counter this loss.</p>	<p>While selective data is used to support this statement that dates back to colonial times, in reality, the nation is <i>actually gaining wetlands</i> through mitigation required as a condition of permit issuance.</p> <p>In fact, from the 1950s through the 1970s, an average of 458,000 acres of wetlands was lost each year. However, from 1998 to 2004, overall wetland areas <i>increased</i> at a rate of 32,000 acres per year, thanks in large part to the successful implementation of the Clean Water Act, and the strong federal-state partnership it has fostered.⁵</p> <p>However, this partnership could be threatened if CWRA/ACCWA were to become law.</p>

⁴ 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.

⁵ U.S. EPA, May 2007, *Draft 2007 Report on the Environment: Science*