

Notes from the Outhouse Wall

Written by Jerry Sonnenberg

There's an old saying out here in the west: "whiskey is for drinkin', water is for fightin." It seems that some in Washington don't understand this.

A bill, introduced in the United States Senate, coined the Clean Water Restoration Act, would be the largest expansion of Federal jurisdiction over water since the Clean Water Act was passed in 1972. Yes, you heard me correctly: the largest expansion of Federal jurisdiction over water since 1972.

The bill, S.787, would remove the term 'navigable' from the Clean Water Act, unhinging the Act from the Commerce Clause of U.S. Constitution. In 1972, Congress understood the need to limit Federal jurisdiction over water and to share responsibility of protecting and improving water quality with the States. S.787, sponsored by Senator Feingold, a Democrat from Wisconsin, would essentially eliminate the States' ability to set water quality standards on intrastate and isolated waters that are not essential to interstate commerce.

I don't know about you, but I cringe when I hear any mention of expanding the role of the Federal government. And as important as our scarce water resources are here in Colorado, granting the Federal government such jurisdiction over water would be as big a mistake as the Federal government taking over our banks and our auto industry.

Language in the legislation even goes so far as regulating waters "to the fullest extent that these waters, or activities affecting these waters, are subject to the legislative power of Congress under the Constitution." Under the bill, regardless of whether an activity is occurring in a water, the fact that the activity may impact a water would allow the activity to be regulated under the CWA. This change alone would impact numerous industries, including agriculture, construction and transportation infrastructure development, and place extreme burden on local and county governments.

While on its face the legislation seems only a minor change, removing the term "navigable" from the Clean Water Act would grant federal jurisdiction over all waters including wetlands, intermittent streams, mudflats, sloughs, prairie potholes, wet meadows, stock ponds, groundwater, ditches, pipes, streets, gutters, wet farmland drain tiles, treatment ponds, lagoons and other places water may flow or stand, regardless of size or proximity to traditionally "navigable" waters.

I encourage all of you to consider the consequences of making such drastic changes to the Clean Water Act. Contact your members of our Congressional delegation and tell them to oppose S.787 or any other legislation that would grant such broad authority to the Federal government in regulating water.

Jerry Sonnenberg is a State Representative from Sterling representing House District 65. He is a farmer and rancher and serves on the House Committee on Agriculture, Livestock and Natural Resource Appropriations Committee as well as the Capitol Development Committee.