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Congress Challenges Longstanding Clean Water Act

By Krystina Steffen, staff In Good Practice writer – July 21, 2011

Rein in the Environmental Protection Agency or turn back the clock 40 years? The House of Representatives passed H.R.2018, the Clean Water Cooperative Federalism Act of 2011, on July 13. [1] The bill lets states decide water quality actions and strips federal efforts in enforcing the Clean Water Act, including the authority of the Environmental Protection Agency EPA.

The Clean Water Act, formally known as The Federal Water Pollution Control Act and an important piece of environmental legislation that has guided the country since 1972, would essentially be dismantled on a national level. Each state would be left in charge of water quality actions and enforcement, which undoubtedly is raising a lot of eyebrows.

The House of Representatives pushed the bill as a way to increase jobs, without the so-called hassle of Washington politics, waiting for permits, and having to conduct countless studies to get local and regional economies kick-started. The aye's had it in the house where "...business-friendly Republicans and Democratic moderates who think federal laws embodied in the Clean Water Act of 1972 are too restrictive." [2]

It is important to take a look at who is for and against having individual states be the beacon of water quality and environmental progress. [3]

Specific Organizations Supporting H.R.2018

- National Mining Association
- The Association of Leaders in Equipment Distribution
- West Virginia Coal Association
- Associated General Contractors of America
- National Association of Home Builders
- National Corn Growers Association
- National Association of Manufacturers
- USA Rice Federation
- American Sugarbeet Growers Association
- Edison Electric Institute
- CropLife America
- United Egg Producers
- National Pork Producers Council
- American Rental Association
- Agricultural Retailers Association

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- Portland Cement Association
- National Milk Producers Federation
- American Farm Bureau Federation
- Associated Equipment Distributors
- National Precast Concrete Association
- Georgia Mining Association
- National Cattlemen's Beef Association
- American Concrete Pressure Pipe Association
- The Fertilizer Institute
- National Ready Mixed Concrete Association
- Public Lands Council
- Farm Equipment Manufacturers Association
- Association of Equipment Manufacturers
- National Stone, Sand & Gravel Association
- American Road & Transportation Builders Association
- U.S. Chamber of Commerce
- National Water Resources Association
- Faces of Coal
- Alabama Cattlemen's Association
- American Concrete Pavement Association
- Chemical Producers & Distributors Association
- Illinois Coal Association
- Industrial Minerals Association – North America
- Iowa Limestone Producers Association
- Kentucky Coal Association
- National Asphalt Pavement Association
- NUCA Representing Utility and Excavation Contractors
- Responsible Industry for a Sound Environment
- U.S. Cattlemen's Association

Specific Organizations Opposing H.R.2018

- National Wildlife Federation
- Sierra Club
- League of Conservation Voters
- American Rivers

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- Theodore Roosevelt Conservation Partnership
- Trout Unlimited
- Environment America
- Clean Water Action
- Izaak Walton League of America
- Southern Environmental Law Center
- Natural Resources Defense Council
- Clean Water Network
- Earth Justice
- Center for Justice

The House of Representative's votes show that the country's needs for safe drinking water, swimming and recreation, and the biological integrity of its water systems should be left in the hands of big agriculture, mining and coal companies, and major manufacturing corporations. All of this is eerily reminiscent of the seminal book "Toxic Sludge is Good for You", wherein large corporations and their public relations departments are shown to manipulate consumers and politics with money, "expensive neckties, and for-hire mouthpieces."

Representative Tim Bishop, the ranking member of the Water, Resources and Environment Subcommittee in the House said, "Giving states permission to go it alone flies in the face of science, common sense and decades of EPA experience coordinating the Clean Water Act." [4] Before 1972, states were responsible for clean and safe water and did not meet the public's needs for healthy water. In the days when states made these decisions, the news was filled with rivers catching on fire from toxic pollution, Lake Erie being declared a dead zone, and fish from the Hudson River categorized as unsafe to eat and destroying the local fishing economy. [5]

"This bill is a recipe for increased pollution, dirtier waters and more mountaintop removal mining," said Jon Devine, a water program attorney at the National Resources Defense Council (NRDC). [6]

Imagine should this legislation get passed in the Senate and proceed to the president. How would the current Exxon-Mobil Silver Tip pipeline Yellowstone River disaster get handled? [7] Or how about the heated power plant water and machines that are harming the marine ecosystem and currently being reviewed by the California State Water Board? [8] And let's not even talk about how the garbage gyres swirling around in the Pacific Ocean could affect every state along the whole West Coast. [9]

Rep. Bishop wanted H.R.2018 to have an amendment that would have prevented the Clean Water Act (CWA) rollbacks from altering how drinking water, floodwater, and recreational waterways were governed. But the bill's sponsors rejected his idea. [10]

The Clean Water Act has been one of the country's best defenses against the degradation of its water

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resources. No legislation is perfect, but it has provided an essential system of checks and balances so that every citizen can enjoy some protection against unsafe water no matter where they live. From its original supporters to current proponents of the longstanding Clean Water Act, the act is needed to: guide states and tribes in their water quality efforts; limit pollutants; improve sanitary conditions; sustain conservation efforts for fish and aquatic life and wildlife; and promote sensible recreation activities in and on the water. [11] The EPA oversees that states and important water quality standard organizations reflect the latest in science and technology, laws and regulations, and have downstream water users in mind. If states are allowed to make their own decisions, who is to say they will not turn their head at the border and send an environmental problem across the state line?

Skeptics of the Clean Water Cooperative Federalism Act of 2011 feel that, "...if a state approves a dredging permit or a mountaintop-removal project for a coal company, then [those proposing the CWA change] feel that should be the final word. No matter the science, conflicted local politics, or damage to other states next door." [12] What will happen is that a state legislature, governor, or dominating influence will alter the fate of a state's water resources. And depending on a state's economic livelihood, citizens, and governing attitude, the water quality will start to be affected in ways currently unknown.

"This is similar to what we see going on with the Clean Air Act," said Steve Fleischli, an NRDC senior attorney and water specialist. [13] "It undermines the EPA's effort to do its job by attacking the underlying basis for the Clean Water Act. By taking the federal out of the federal Clean Water Act, it sets us back 40 years. Experience tells us that didn't work out that well...and that we do need the Clean Water Act to level the playing field."

Otherwise it could be a field day for polluters, politicians, and special interests. And then attorneys who specialize in environmental law, personal injury, business litigation, toxic torts, and even workers' compensation will end up picking up the fractured pieces of the potential environmental fallout.

Many environmental watchers say that the Senate and administration will not allow the long-standing CWA to be changed or allow a new bill to modify the way water is governed and quality tested. As the senior legislative counsel at Earthjustice Joan Mulhern said, "This is not about the state versus the EPA. This is about clean water versus dirty water, plain and simple. This legislation turns back the clock to a time when the Cuyahoga River was on fire, where there were oil spills all across California beaches and the majority of our drinking water was unfit to drink." [14]

Sources

[1] http://www.opencongress.org/bill/112-h2018/actions_votes

[2] <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/07/12/ED6I1K9HBS.DTL>

[3] <http://www.opencongress.org/bill/112-h2018/money>

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- [4] <http://www.reuters.com/article/2011/06/29/idUS101062184020110629>
- [5] http://www.huffingtonpost.com/robert-f-kennedy-jr/an-assault-on-clean-water_b_891613.html
- [6] <http://www.reuters.com/article/2011/06/29/idUS101062184020110629>
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