

Sunday. He wants to spend more time with his family, and I applaud him for that. There were some people who mocked Congressman RYAN for that, and they are wrong. All parents should work to protect that time with their families.

Here is the problem. For millions of Americans, the concept of work-family life balance is nothing more than a fantasy. For far too many Americans, more time at work and less time with family is the only way to put food on the table and a roof over their heads. Still, these hard-working families are falling behind. An unpaid day off is out of the question.

Contrast that with the Senate. The Republican-controlled Senate doesn't work 5-day weeks. Yet millions of Americans can't get a day off when a loved one dies or a child is confined to a hospital bed. If you play baseball, the average salary is more than \$2 million a year. If your wife has a baby, you take off. But they make millions of dollars a year. Middle-class Americans don't make that.

While Speaker RYAN insists on a family-friendly work schedule for himself, he is blocking legislation that would give the bare minimum in paid leave for hard-working Americans. Before we worry about ourselves, we should worry about the millions of Americans who can't get a day off work to care for a sick child—can't get a half day off work. That would be real family values.

DRINKING WATER PROTECTIONS

Mr. REID. Mr. President, this week the Senate will vote on two pieces of legislation that will nullify drinking water protections for 117 million Americans.

The Obama administration's clean water rule will restore important safeguards to protect American water sources from pollution and contamination. This landmark rule from the Obama administration will finally resolve years of confusion and provide regulatory certainty for businesses, farmers, local governments, and communities without creating any new permitting requirements and maintaining all previous exemptions and exclusions.

The Republicans in Congress are intent on undermining these important protections. The Republican leader and his colleagues unfortunately are forcing the Senate to vote on legislation to roll back President Obama's clean water rule. This legislation will fail, of course, and Republicans know it will fail.

Last week, the junior Senator from Texas said this:

[N]ext week we will have a show vote on the waters of the United States. Leadership is very happy. We will have a show vote. We will get to vote, and it will fail.

Perhaps the junior Senator is right; this is another Republican charade. I hope not. If these bills were to pass,

President Obama will veto them. Yet Republicans are content to waste the Senate's time just so they can launch another attack on the environment. This is the first of a series of environmental attacks we expect this month from Republicans. They are also preparing to nullify the President's rules to address climate change. They have no solutions and no plan to keep our water clean or address climate change. They are wasting valuable Senate time on these show votes.

CONGRATULATING SENATOR GRASSLEY ON CASTING HIS 12,000TH VOTE

Mr. REID. Mr. President, every year in the Senate we are sent to this distinguished body for one reason: to represent the people of our State and the people of this country. Our constituents expect us to legislate. They expect us to be here on the Senate floor voting and representing their interests. In the Senate, there is no one better at upholding that responsibility than the senior Senator from Iowa.

Last Thursday, CHARLES GRASSLEY cast his 12,000th vote as a U.S. Senator. As remarkable as that is, as my friend the senior Senator from Kentucky said, it is even more impressive that he has cast almost 7,500 consecutive votes on the Senate floor. He hasn't missed a vote since July 14, 1993. He holds the second longest consecutive vote streak in Senate history, behind our colleague Senator William Proxmire of Wisconsin. That is a lot of votes.

Senator GRASSLEY's constancy and unwavering work ethic comes as no surprise to those of us who have known him and are acquainted with his background. CHUCK GRASSLEY is a farmer. He is proud of that. He got started in politics when he was elected to the Iowa House in 1959. He served for 15 years. In 1974, he ran for Congress and served three terms in the House of Representatives.

He was elected to the Senate in 1980. Thirty-six years, 12,000 votes—that is remarkable, as is 7,474 consecutive votes. So I say congratulations to my friend CHUCK GRASSLEY on those incredible milestones.

REMEMBERING FRED THOMPSON

Mr. REID. Mr. President, over the weekend, the people of Tennessee lost a member of their family. Senator Fred Thompson, whom my friend the Republican leader has talked about, died after a recurring battle with lymphoma.

Those of us who served with him remember that wonderful voice. His voice was so good that many people said he should be an actor. Well, he was. He was an actor. He had a beautiful voice that projected so very well, but he was good wherever he was—the floor of the Senate, movie studio, the town square of his home.

He was a statesman in every sense of the word. His dedication to responsible

public service fueled his commitment to bipartisanship and compromise. Fred Thompson was known for his courageous heart and straightforward approach to public service.

I will miss him a great deal. He was always very kind and thoughtful and friendly to me, and the Senate is a better place for having had him here.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

FEDERAL WATER QUALITY PROTECTION ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1140, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 153, S. 1140, a bill to require the Secretary of the Army and the Administrator of the Environmental Protection Agency to propose a regulation revising the definition of the term "waters of the United States," and for other purposes.

The PRESIDENT pro tempore. Under the previous order, the time until 12:30 p.m. will be equally divided between the two leaders or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO SENATOR CHARLES GRASSLEY'S 12,000TH VOTE

Mr. LEAHY. Mr. President, I have had the privilege of serving with several hundred Senators in this body over the years I have been here, and Senator GRASSLEY has been a very special friend during that time. He has represented the voices of Iowans for nearly three and a half decades. I think we have been friends for that three and a half decades.

When I think of Senator GRASSLEY—12,000 votes, hundreds of hearings, countless tweets, and probably four dozen sweater vests later—he is the same down to earth Iowa farmer who visits every one of the State's 99 counties every year. He is also the Iowa farmer who, when Vermont was hit with terrible flooding a few years back, was the first person to contact me to say, "Vermont stood with Iowa when we were hit with a natural disaster. Iowa now stands with Vermont."

He and I have worked together, and we have had a productive relationship that spans those decades. On the Judiciary Committee, we take our leadership responsibilities seriously. We have both made sure that, both as chairman and ranking members, that every Senator has a chance to be heard. We have found ways to come together on meaningful legislation. We enjoy each other's company. We are able to kid each

other, as I did on his recent birthday. But more importantly, we do what I was told to do when I first came to the Senate, and I am sure what Senator GRASSLEY was told when he did—we keep our word. We have always kept our word to each other.

It also helps that we both married above ourselves. His wonderful wife, Barbara, and my wife, Marcelle, are very close friends. They sometimes say that they belong to that special club that nobody wants to join, that of cancer survivors.

Senator GRASSLEY's willingness to listen and hard work was most recently on display in the Judiciary Committee, as we hammered out an important compromise on sentencing reform which brought the left and the right together—both parties together. I think every single Senator complimented his leadership.

And I must admit I was grateful for Senator GRASSLEY's comments last week when I, too, crossed a voting milestone. He said we have been good friends and hoped we could cast many more votes together. I share that hope and congratulate my friend on this achievement.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mrs. ERNST. Mr. President, I rise today to congratulate my friend, colleague, and Iowa's outstanding senior Senator on casting his 12,000th vote in the wee early hours of this last Friday morning. In fact, there are only 17 other Senators in history who have cast more votes than Senator CHUCK GRASSLEY. On top of that, he has the longest existing voting streak in Congress.

This farmer from Iowa serves as the chairman of the Senate Judiciary Committee and is one of the highest ranking members in the Senate. But that has not gone to his head—not for CHUCK GRASSLEY. Back home in Iowa, he travels all 99 counties every single year, and he has done this every year for 35 wonderful years. Today his travels across the State to all 99 counties have a name. It is called “the full Grassley.” It is something that now our elected officials and even the Presidential candidates who visit Iowa try to complete as well. Senator GRASSLEY has set a high bar, and I am very glad that he has.

Over the years I have learned quite a bit about my friend Senator CHUCK GRASSLEY. He is extremely thrifty. Because of that, he is always looking out for our taxpayer dollars. He fights tirelessly for accountability and transparency in Washington. I can always count on Senator GRASSLEY to stop by my office for doughnuts and coffee and to meet all of our wonderful Iowa constituents who happen to be visiting Washington, DC. He says he comes to visit the constituents. I actually think it is for the free doughnuts, but we are glad he stops by.

Senator GRASSLEY is the epitome of the Iowa way, and he has faithfully

upheld these values in the Senate. He is a workhorse and has dedicated his entire career to serving Iowans. Iowa has no greater friend than Senator CHUCK GRASSLEY.

Congratulations, Senator, on your 12,000th vote. Congratulations to Barbara, also. Get your Twitter ready because at noon we are going to celebrate.

I thank the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I thank all my colleagues, in particular my colleague from Iowa but also the people who are very senior leaders of this body: Senator MCCONNELL, Senator REID, and my friend on the Judiciary Committee, Senator LEAHY, whom I have served with for 35 years. I thank them for their kind words and for what they said about my service to the people of Iowa as an elected representative.

I have interacted with tens of thousands of Iowans as their Senator, so I have a feeling that I know each Iowan personally at this point. Of course, I don't. I know that is technically impossible, but one of the benefits of a State that is not especially big geographically is that I have enough planning that I can get to every county every year, as has been said several times by my colleagues.

Every year, Iowans in each county host me at a question-and-answer session at their factories, schools, or their service clubs. Most of these are my own town meetings that I set up. At each stop, I might get a dozen or so questions on any topic under the Sun, and that is as it should be in representative government because that is a two-way street. The electorate's job is to ask the questions and my job is to answer them. If people are satisfied that I have answered their questions or that at least I have tried to answer them, then I hope I have demonstrated how much their participation means to the process of representative government and to casting my votes in Washington because I bring the benefits of every comment, question, and criticism heard from Iowans to that vote.

With these 12,000 votes, I think of the many conversations and pieces of correspondence behind each vote. Whether I am meeting with Iowans in the Hart Building in Washington or at the University of Northern Iowa volleyball matches near my farm in New Hartford, the time that people take to visit with me is well spent for me, and I hope they consider it a time well spent for them.

People ask me if I have any hobbies. I cannot say that I do, at least not in the way people usually think of hobbies. Spending time with the people of Iowa is part of my work. I get paid to listen and make sure that is what I do. It is my pleasure to spend time with Iowans. When someone stops me at the Village Inn in Cedar Falls, where I go

for Sunday brunch after church, to talk about cyber security or sentencing reform, I am glad to do it.

What is important to the people of Iowa is my vocation. I am grateful for the opportunity to cast 12,000 votes. Thanks to the people of Iowa, thanks to my wife Barbara and the rest of my family who share my regard for what is important, representing the people of Iowa.

Mr. ALEXANDER. Mr. President, I thank the people of Iowa for sending us CHUCK GRASSLEY and want to say he does not just represent Iowa, he personifies it. I know of no Senator who better personifies his State than the Senator from Iowa.

Mr. President, I ask unanimous consent that I be recognized to say a few words about our departed colleague Fred Thompson and that following my remarks Senator CORKER be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING FRED THOMPSON

Mr. ALEXANDER. Mr. President, it is my sad duty, as was mentioned by our leaders this morning, to report that Fred Dalton Thompson, who served in this body from 1995 to 2003, representing our State of Tennessee, died in Nashville on Sunday. My wife, Honey, and I and the members of our family—every one of whom valued our friendship with Fred—as well as Members of the Senate, express to Fred's family—his wife Jeri, their children, Hayden and Sammy, and his sons by his earlier marriage to Sarah, Tony and Dan, and his brother Ken—our pride in Fred's life and our sympathy for his death.

Very few people can light up the room the way Fred Thompson did. The truth is, most public figures have always been a little jealous of Fred Thompson. His personality had a streak of magic that none of the rest of us have. That magic was on display when he was minority counsel to the Senate Watergate Committee in 1973, asking former White House aide Alexander Butterfield the famous question: “Mr. Butterfield, are you aware of the installation of any listening devices in the Oval Office of the President?” thereby publicly revealing the existence of tape-recorded conversations within the White House. National Public Radio later called that session and the discovery of the Watergate tapes “a turning point in the investigation.”

The Thompson magic was evident again in 1985, when Fred was asked to play himself in the movie “Marie.” In real life, Fred had been the attorney for Marie Ragghianti, the truth-telling chairman of the Tennessee Pardon and Parole Board during a scandal in our State when pardons were sold for cash.

After that, Fred was cast in a number of movie roles as CIA Director, the head of Dulles Airport, an admiral, the President of NASCAR, three Presidents of the United States, and District Attorney Arthur Branch in the television

series “Law and Order”. That same magic served him well when he ran for the United States Senate in 1994 for the last 2 years of Vice President Gore’s unexpired term. It was a good Republican year and Fred’s red pickup truck attracted attention, but he defeated a strong opponent by more than 20 percentage points, mostly because when he appeared on television, Tennesseans liked him, trusted him, and voted for him. Fred took on some big assignments during his time in the Senate, but sometimes he would become impatient with some of the foolishness around here. A Washington reporter once asked him if he missed making movies: “Yes,” he said, “Sometimes I miss the sincerity of Hollywood.”

People ask me sometimes: How could an actor accomplish so much? In addition to those things I have already mentioned, during the 1980s Fred was invited twice to be special counsel to Senate investigative committees. When he retired from the Senate, he took over Paul Harvey’s radio show. In 2008, he was a frontrunner for the Presidency of the United States. For the last several years, it has been hard to turn on the television without seeing Fred Thompson urging you to buy a reverse mortgage.

I believe there are three reasons his career was so extraordinary and so diverse. First, he was authentic, genuine, and bona fide. So far as I know, he never had an acting lesson. As he did in “Marie” and as he did in most of his movie roles, he played himself. There was no pretense in Fred Thompson on or off the stage. Second, he was purposeful. In 1992, when I was Education Secretary, I invited Fred to lunch in the White House lunchroom. For years I had urged him to be a candidate for public office. I hoped he might run in 1994. What struck me during our entire luncheon conversation was that not once did he raise any political concerns. His only question was: If I were to be elected, what do you suppose I could accomplish?

When he was elected, he was serious and principled. He was a strict Federalist, never a fan of Washington telling Americans what to do, even if he thought it was something Americans should be doing. He was not afraid to cast votes that were unpopular with his constituents if he was convinced he was right. The third reason for Fred Thompson’s success was he worked hard. Saying that will come as something of a surprise to many.

He was notoriously easygoing. He grew up in modest circumstances in Lawrenceburg, Tennessee. His father Fletch was a car salesman. He was a double major in philosophy and political science at the University of Memphis. He did well enough to earn scholarships to Tulane and Vanderbilt law schools. To pay for school he worked at a bicycle plant, a post office, and a motel.

Before he was Watergate counsel, he was assistant U.S. attorney. The re-

mainder of his busy life was filled with law practice, stage, and radio shows, counsel to Senate investigating committees, more than 20 movies, television commercials, and 8 years as a Senator. I have attended a number of memorial services for prominent figures. As a result, I have added a rule to “Lamar Alexander’s Little Plaid Book.” It is this: “When invited to speak at a funeral, be sure to mention the deceased as often as yourself.”

I mentioned this rule last year when I spoke at Howard Baker’s funeral because there came a point in my remarks when I could not continue without mentioning my relationship with Senator Baker, and I therefore had to break my own rule. The same is true with Fred Thompson. We were friends for nearly 50 years.

In the late 1960s, both of us fresh out of law school were inspired by Senator Howard Baker to help build a two-party political system in Tennessee. Fred’s political debut was campaign manager for John Williams for Congress, against Ray Blanton in 1968. My first political foray was Howard Baker’s successful Senate campaign in 1966.

When Senator Baker ran for reelection in 1972, I recruited Fred to be the Senator’s Middle Tennessee campaign manager. In 1973, Senator Baker asked me to be minority counsel to the Watergate Committee. I suggested he ask Fred instead because as a former U.S. attorney Fred was much better equipped for the job. When I lost the Governor’s race in 1974, the Thompsons were one of two couples Honey and I invited to go to Florida to lick our wounds.

When I was sworn in as Governor in 1979, even without asking him, I announced that Fred Thompson would fly back to Nashville from Washington, DC, to review more than 60 pardons and paroles that had allegedly been issued because someone had paid cash for them. I wanted the celebrated Watergate personality to help restore confidence in Tennessee’s system of justice. In the spring of 2002, Fred telephoned to say he would not run for reelection. So I sought and won the Senate seat both he and Howard Baker had held. I have the same phone number today that both of them had when they were here.

During my general election campaign in 2002, an opponent said: “Why, Fred and Lamar are both in Howard Baker’s stable.” Fred replied: “Stable hell, we are in the same stall.”

Several times I got a dose of Fred Thompson’s magic during those humbling experiences when I asked him to campaign with me. Campaigning with Fred Thompson was a little like going to Dollywood with Dolly Parton. You can be sure no one is there to see you.

We have a tradition of scratching our names in the drawers of the desks that we occupy on the floor of the Senate. When I arrived in 2003, I searched high and low until I found what I wanted: a

desk occupied by two predecessors, my friend Fred Thompson and our mentor Howard Baker. During one of those late-night Senate budget sessions a few years ago, I scratched my name after theirs. I am proud it will remain there as long as this desk does: Baker, Thompson, ALEXANDER.

Tennesseans and our country have been fortunate that public service attracted Fred Dalton Thompson. We will miss his common sense, his conservative principles, and his big booming voice. We have lost one of our most able and attractive public servants, and my wife Honey and I have lost a dear friend.

The PRESIDING OFFICER. The Senator from Tennessee

Mr. CORKER. Mr. President, I rise to share my voice with LAMAR ALEXANDER’s at the loss of a great Tennessean and a great American. I appreciate so much Senator ALEXANDER’s chronologically going through much of the great Senator Thompson’s life and talking about the personal experiences. Elizabeth and I, too, want to share our condolences with Jeri, Hayden, and Sammy, along with Tony and Dan, his sons by his first marriage with Sarah, and his brother Ken.

I was able to talk to Tony last week as Fred was in hospice care. As you would expect, with Fred being the kind of person he was, never forgetting where he came from, they wanted to spend those last days together in quiet and didn’t want a lot of phone calls or a lot happening to make people aware of what was happening. Fred had reached his end. No doubt, again, Tennessee has lost a great son as has our Nation.

Fred was one of those people, as LAMAR just mentioned, who had extraordinary talent. To me, what was so unique about him having that extraordinary talent is he also had the gift of knowing when and how to use it, from his extraordinary ability as a lawyer, as has been chronicled, to his ability when faced with a case that became something of national notoriety, to himself becoming an actor and playing a role that in this case he was in real life, and then to serving in the Senate in the way that he did.

I, too, had the extraordinary privilege to also know Fred, as I have had in knowing someone like LAMAR ALEXANDER, who I think is one of the great public servants of our State, and Howard Baker, who has been a mentor to all of us and had such an impact on me, LAMAR, and Fred. Back in 1994, as I was telling some Tennesseans earlier today, I was also running for the Senate in a race that no one remembers because of the results. As LAMAR mentioned, everywhere you went, people wanted to see Fred.

Fred had this extraordinary ability to capture people’s imaginations. Fred was unabashedly proud of our Nation and never an apologist for what our Nation has done around the world to make the world a better place. I was

able to drive around and see hordes of people gather around Fred. People would pat Bill Frist, me, and the other folks running in the other primary on the head and say: Someday you, too, might be a Senator.

Fred was somewhat criticized that year because of the way he was going about the race. Again, it reminds me of how much talent he had and his ability to know how to use it. He told people: Look, the first time I run a television ad, this race will be over.

He did, and it was. As LAMAR mentioned, he went on to win by 20 points because of the way the people felt about him, not only around our State but around our country.

Fred was very impatient with serving in the Senate, and I had multiple conversations with him about that. Actually, serving here, one can understand with someone like Fred, who constantly wanted to make something happen, how that was a frustration. But I know for a fact from watching his early days—coming in, heading the homeland security committee, and doing the many things he did—that he affected our State and country in a very positive way, which is something all of us would hope to emulate.

We will miss him. He was a rare talent. He was one of those people who made you want to do better when you were around him.

I thank him for his tremendous service to our country, I thank him for the tremendous and deep friendships he created all around our State, and I thank him for causing all of us to constantly remember where we came from.

With that, I join Senator ALEXANDER in again expressing our deep condolences to his family and all who were around him, especially when the end came.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, first, I ask unanimous consent that Senator CARDIN manage our side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I am going to make a statement about S. 1140, which is before us.

Senator BARRASSO, may I make my statement, due to a hectic schedule? I won't go very long. Is that all right with you.

Thank you, my friend.

I thank Senator BARRASSO.

It is kind of commonplace here that it is another day and another attack on the environment. Today is no exception. Today it is an attack on the Clean Water Act. That is what I believe S. 1140 does.

The name of this bill is the Federal Water Quality Protection Act. I tell you, if we could sue for false advertising, we would have a great case because this bill doesn't protect anything. It allows for pollution of many bodies of water that provide drinking

water to 117 million Americans, 1 in 3 Americans. Their drinking water will be at risk if my friend's bill passes. That is why I feel so strongly about it.

We see it on this poster: 117 million Americans are served by public drinking water systems. That is 94 percent of public drinking water systems that rely on these headwater streams. It affects 1 in 3 Americans in 48 States.

We are talking about a bill that is called the Federal Water Quality Protection Act, but it is about pollution, not protection. In a way, when we name these bills the opposite of what they are—remember, this is called the Federal Water Quality Protection Act when in fact it is going to lead to contamination of waterways. It reminds me of the book "1984" in which the government is making sure people believe different things, and they have slogans like "war is peace," and you think about it, and finally you cannot tell the difference between war and peace.

Pollution is not protection, and this bill will lead to pollution because S. 1140 blocks the final clean water rule that clearly protects these waters while exempting ditches and storm water collection and treatment systems, artificial ponds, water-filled depressions, puddles, and recycled water facilities.

What you will hear from the other side is, oh, the Obama administration has written a rule that is protecting puddles. That is nonsense. The fact is, the clean water rule is going to bring certainty to the Clean Water Act, and it is going to protect the drinking water of 117 million Americans. Yet my Republican friends want to stop it. The exemptions that are in there would be gone, not only the exemption from ditches, storm water collection, artificial ponds, water-filled depressions, and recycled water facilities, but also the exemptions for agriculture and forestry. So we are going to have a situation where there is more chaos surrounding our water laws. It is going to lead to confusion for businesses and landowners, and it is going to take us back to square one to figure out a whole other rule. Following two Supreme Court decisions, we shouldn't pass legislation that would create even more uncertainty and invite years of new litigation.

The other thing you hear from the other side is, oh, this clean water rule the Obama administration wrote—they didn't listen to the public. Well, more than 1 million comments were received during a comment period that lasted over 200 days, and over 400 outreach meetings with stakeholders and State and local governments were conducted. So this bill—by sending us back to square one—ignores this robust outreach, and it will wind up wasting millions of taxpayer dollars, forcing EPA to go right back to square one. How many more comments do these friends of mine on the other side of the aisle want? My God, there were 400 outreach

meetings over 200 days and more than 1 million comments. It makes no sense to me.

Nothing is more important than protecting the lives of the American people, and when we weaken the Clean Water Act, that is what we do.

I will show a photograph. This was the Cuyahoga River in Cleveland, OH, decades ago. It caught on fire. It caught on fire because there was no regulation and there were all kinds of toxic substances on the waterway. Our lakes were dying. And this one—when the people saw it on fire, they said enough is enough. They demanded the Clean Water Act. We passed it—I wasn't here then; it was 1972—by an overwhelmingly bipartisan majority. We have made tremendous progress. Today our rivers, lakes, and streams are far cleaner than they were, and the Clean Water Act has been one of our most successful laws.

Let's look at the support for the Clean Water Act. This is unbelievable, when you see this. This is overwhelming public support for the clean water rule that my friends on the other side of the aisle, the Republicans, want to stop in its tracks.

Seventy-nine percent of voters think Congress should allow the clean water rule to move forward, and 80 percent of small business owners support protections for upstream headwaters in the EPA's new clean water rule. So somebody has to explain to me—and I am sure my friends will try to, and I look forward to hearing their reasoning—why they are going against 79 percent of the voters and 80 percent of small businesses. It makes no sense.

The bill takes us in the wrong direction. That is why over 80 scientists with expertise in the importance of streams and wetlands, as well as the Society for Freshwater Science, oppose this bill. I have received opposition letters from so many groups, I am going to read them to you. And think about these groups. These are objective groups. These are nonpartisan groups.

Under public health, there is the American Public Health Association, the Physicians for Social Responsibility, and the Trust for America's Health.

Under scientists and legal experts, there are 82 scientists, 44 law professors, and the American Fisheries Society.

Under business, there is the American Sustainable Business Council representing 200,000 businesses that oppose this bill, and there are 35 U.S. breweries. That is kind of interesting. The breweries count on clean water. They are very upset about the Barrasso bill. They oppose it.

Under sportsmen, there is the American Fly Fishing Trade Association. I thought my Republican friends support outdoor recreation. The Backcountry Hunters and Anglers, the Illinois Council of Trout Unlimited, the International Federation of Fly Fishers, the Izaak Walton League of America, the

Florida Wildlife Federation, the National Wildlife Federation, the Theodore Roosevelt Conservation Partnership, and Trout Unlimited oppose this bill.

Under environmental, there is the Alliance for the Great Lakes, American Canoe Association, American Rivers, and the BlueGreen Alliance.

Mr. President, I am not going to go on that much longer. I am just going to finish reading this list because when I speak—OK, you know I am a strong environmentalist. I am wearing my green today on purpose. These groups are very concerned about the Barrasso bill, as are 79 percent of voters.

Here are the other groups that weighed in: BlueStream Communications, California River Watch, and Central Ohio Watershed Council. They know because they have algae blooms coming to their lakes. Continuing, there is Clean Water Action, Clean Up the River Environment, Coastal Environmental Rights Foundation, Defenders of Wildlife, Earthjustice, Endangered Habitats League, Environment America, Evangelical Environmental Network. Do you want to know why the Evangelical Environmental Network is here? Because they believe that with this bill we are harming God's creation. That is why they are involved. Continuing, Greenpeace, Gulf Restoration Network, Kentucky Waterways Alliance, Lake Champlain International, League of Conservation Voters, Massachusetts River Alliance, National Parks Conservation Association, Natural Resources Defense Council, Nature Coast Conservation, New Jersey Audubon Society, Northwest Environmental Advocates, Ohio Environmental Council, Ohio River Foundation, Prairie Rivers Network, River Network, Roots & Shoots, University of Tampa, Sierra Club, Southern Environmental Law Center, Surfrider Foundation.

Under rural development, there is the Center for Rural Affairs.

There are reasons all these groups—scientists and biologists—have come together. They want to protect the waterways of the United States of America. This bill will take us back to square one. This bill goes against the most incredible group of opponents. This bill ignores the will of the people. So I am very hopeful that we will have enough votes to stop the special interests that want to keep dumping toxic material and dangerous material into our waterways.

I know Senator BARRASSO and Senator INHOFE would like time.

With that, I yield the floor.

Mr. President, I ask unanimous consent that when the first Republican speaker is done, it goes back to a Democrat, then back to a Republican, if that is OK with everybody.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I wish to do three things quickly. One is a re-

quest, one is an apology, and one is the truth. The privileges of the floor request will appear in another section of the RECORD.

Secondly, I have an apology. I am very fortunate I have had the same staff for 21 years in the Senate. They have never made a mistake. My staff never made a mistake until last Friday. Last Friday I was informed by my staff that we had two votes starting at 1 o'clock in the morning—two votes, and yet there were three. So I am the guy who came down, thinking I had already voted. So I apologize to the leader, I apologize to the staff who was working, and more than anything else, I apologize to the young people on the front row, our pages, who had to stay up another 15 minutes at 4 o'clock in the morning because of me. I apologize.

On the truth side, first, let me put in the RECORD—my good friend from California was talking about all of the groups. I have five times as many groups now on record, many of which are from the State of California. I have a long list. I wish to make those 44 groups from California a part of the RECORD. And then there are the 480 very thoughtful groups nationally that are opposed to this rule.

I ask unanimous consent to have printed in the RECORD the two lists of supporters.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CALIFORNIA ENTITIES SUPPORTING S. 1140

California Cattlemen's Association; California Chamber of Commerce; California Cotton Ginners Association; California Farm Bureau; Camarillo Chamber of Commerce; Central California Golf Course Superintendents Association; Chambers of Commerce Alliance of Ventura & Santa Barbara Counties; Corona Chamber of Commerce; County of San Joaquin, California; Elk Grove Chamber of Commerce; Fresno Chamber of Commerce; Fullerton Chamber of Commerce; Goleta Valley Chamber of Commerce.

Golf Course Superintendents Association of Southern California; Greater Bakersfield Chamber of Commerce; Greater Conejo Valley Chamber of Commerce; Greater Grass Valley Chamber of Commerce; Hi-Lo Desert Golf Course Superintendent Association; Inland Empire Golf Course Superintendents Association; Inland Empire Regional Chamber of Commerce; Long Beach Area Chamber of Commerce; Los Angeles Area Chamber of Commerce; Murrieta Chamber of Commerce; Oceanside Chamber of Commerce; Orange County Business Council; Oxnard Chamber of Commerce.

Rancho Cordova Chamber of Commerce; Redondo Beach Chamber of Commerce; Roseville Chamber of Commerce; Rural County Representatives of California; Sacramento Metropolitan Chamber of Commerce; San Diego Regional Chamber of Commerce; San Gabriel Valley Economic Partnership; San Joaquin Valley Quality Cotton Growers Association; Santa Clara Chamber of Commerce and Convention-Visitors Bureau; Santa Clarita Valley Chamber of Commerce; Santa Maria Valley Chamber of Commerce; South Bay Association of Chambers of Commerce; South Orange County Economic Coalition; Torrance Area Chamber of Commerce; Trinity Expanded Shale & Clay; Tuolumne County Chamber of Commerce; Western Ag-

ricultural Processors Association; Willows Chamber of Commerce.

SUPPORTERS OF THE FEDERAL WATER QUALITY PROTECTION ACT

U.S. Conference of Mayors; National Association of Counties; National League of Cities; National Association of Regional Councils; Patrick Morrisey, West Virginia Attorney General; Doug Peterson, Nebraska Attorney General; Tim Fox, Montana Attorney General; Wayne Stenehjem, North Dakota Attorney General; Scott Pruitt, Oklahoma Attorney General; Michael DeWine, Ohio Attorney General; Peter Michael, Wyoming Attorney General; Alan Wilson, South Carolina Attorney General; Luther Strange, Alabama Attorney General; Brad Schimel, Wisconsin Attorney General; Mark Brnovich, Arizona Attorney General; Terry Branstad, Iowa Governor; Leslie Rutledge, Arkansas Attorney General; Phil Bryant, Mississippi Governor; Agricultural Council of Arkansas; Agricultural Retailers Association; Agri-Mark, Inc.; Alabama Cattlemen's Association; Alabama Chapter of Golf Course Superintendents Association; Alaska; Alaska State Chamber of Commerce; Albany-Colonie Regional Chamber of Commerce; American Agri-Women.

American Exploration & Mining Association; American Farm Bureau Federation; American Forest & Paper Association; American Gas Association; American Horse Council; American Petroleum Institute; American Public Power Association; American Public Works Association; American Road & Transportation Builders Association; American Society of Golf Course Architects; American Soybean Association; American Sugar Alliance; AmericanHort; Ames Chamber of Commerce; Annapolis and Anne Arundel County Chamber of Commerce; Arctic Slope Regional Corporation; Area Development Partnership—Greater Hattiesburg; Arizona Cattle Feeders' Association; Arizona Cattle Growers' Association; Arizona Chamber of Commerce and Industry; Arizona Farm Bureau Federation; Arizona Mining Association; Arizona Rock Products Association; Arkansas Cattlemen's Association; Arkansas Pork Producers Association; Arkansas State Chamber of Commerce; Associated Builders & Contractors Associated Builders & Contractors Delaware Chapter.

Associated Builders & Contractors Empire State Chapter; Associated Builders & Contractors Florida East Coast Chapter; Associated Builders & Contractors Heart of America Chapter; Associated Builders & Contractors Illinois Chapter; Associated Builders & Contractors Mississippi Chapter; Associated Builders & Contractors New Orleans/Bayou Chapter; Associated Builders & Contractors Pelican Chapter; Associated Builders & Contractors Rocky Mountain Chapter; Associated Builders & Contractors Western Michigan Chapter; Associated Builders and Contractors; Associated Industries of Arkansas, Inc.; Association of American Railroads; Association of American Railroads; Association of Equipment Manufacturers (AEM); Association of Oil Pipe Lines; Association of Texas Soil and Water; Baltimore Washington Corridor Chamber; Billings Chamber of Commerce; Birmingham Business Alliance; Bismarck-Mandan Chamber of Commerce; Buckeye Valley Chamber of Commerce; Buffalo Niagara Partnership; Bullhead Area Chamber of Commerce; Business Council of Alabama; Cactus & Pine Golf Course Superintendents Association; California Cattlemen's Association; California Chamber of Commerce.

California Cotton Ginners Association; California Farm Bureau; Calusa Golf Course Superintendents Association; Camarillo Chamber of Commerce; Carson Valley Chamber of Commerce; Central California Golf

Course Superintendents Association; Central Delaware Chamber of Commerce; Central Florida Golf Course Superintendents Association; Central New York Golf Course Superintendents Association; Chamber of Reno, Sparks, and Northern Nevada; Chamber Southwest Louisiana; Chambers of Commerce Alliance of Ventura & Santa Barbara Counties; Chicago Southland Chamber of Commerce; Cincinnati USA Regional Chamber; City of Central Chamber of Commerce; Cleveland-Bolivar County Chamber of Commerce; Club Managers Association of America; Coeur d'Alene Chamber of Commerce; Colorado Association of Commerce & Industry; Colorado Cattlemen's Association; Colorado Competitive Council; Colorado Livestock Association; Colorado Nursery and Greenhouse Association; Colorado Pork Producers Council.

Columbia County Chamber of Commerce; Connecticut Association of Golf Superintendents; Conservation Districts; Corn Refiners Association; Corona Chamber of Commerce; County of San Joaquin, California; CropLife America; Crowley Chamber of Commerce; Dairy Producers of New Mexico; Dairy Producers of Utah; Dakota County Regional Chamber of Commerce; Darke County Chamber of Commerce; Dauphin Island Chamber of Commerce; Delaware State Chamber of Commerce; Delta Council; Denver Metro Chamber of Commerce; Development Association; Distribution Contractors Association; Dubuque Area Chamber of Commerce; Durango Chamber of Commerce; Earthmoving Contractors Association of Texas; Economic Progress (FEEP); Edison Electric Institute; Elk Grove Chamber of Commerce; Energy Piping Systems Division; Everglades Golf Course Superintendents Association; Exotic Wildlife Association.

Fall River Area Chamber of Commerce & Industry; Federal Forest Resources Coalition; Florida Cattlemen's Association; Florida Chamber of Commerce; Florida Golf Course Superintendents Association; Florida Sugar Cane League; Florida West Coast Golf Course Superintendents Association; Fort Collins Area Chamber of Commerce; Foundation for Environmental and; Fred Weber, Inc.; Fresno Chamber of Commerce; Fullerton Chamber of Commerce; Georgia Agribusiness Council; Georgia Cattlemen's Association; Georgia Chamber of Commerce; Georgia Cotton Commission; Georgia Golf Course Superintendents Association; Georgia Green Industry Association; Georgia Pork Producers Association; Glendale Chamber of Commerce; Goleta Valley Chamber of Commerce; Golf Course Builders Association of America; Golf Course Superintendents Association of America.

Golf Course Superintendents Association of Cape Cod; Golf Course Superintendents Association of New Jersey; Golf Course Superintendents Association of Southern California; Grand Junction Area Chamber of Commerce; Grand Rapids Area Chamber of Commerce; Grant County Chamber of Commerce & Tourism; Greater Bakersfield Chamber of Commerce; Greater Casa Grande Chamber of Commerce; Greater Cedar Valley Alliance & Chamber; Greater Conejo Valley Chamber of Commerce; Greater Elkhart Chamber of Commerce; Greater Fairbanks Chamber of Commerce; Greater Flagstaff Chamber of Commerce; Greater Grass Valley Chamber of Commerce; Greater Hall Chamber of Commerce; Greater Hernando County Chamber of Commerce; Greater Hyde County Chamber of Commerce; Greater Louisville Inc.; Greater North Dakota Chamber of Commerce; Greater Oak Brook Chamber of Commerce and Economic Development Partnership; Greater Oklahoma City Chamber.

Greater Omaha Chamber of Commerce; Greater Phoenix Chamber of Commerce;

Greater Raleigh Chamber of Commerce; Greater Rome Chamber of Commerce; Green Valley Sahuarita Chamber of Commerce & Visitor Center; GROWMARK, Inc. Gulf County Chamber of Commerce; Hastings Area Chamber of Commerce; Hawaii Cattlemen's Council; Heart of America Golf Course Superintendents Association; Hi-Lo Desert Golf Course Superintendent Association; Holmes County Development Commission; Horseshoe Bend Area Chamber of Commerce; Houma-Terrebonne Chamber of Commerce; Idaho Association of Commerce & Industry; Idaho Cattle Association; Idaho Dairymen's Association; Idaho Golf Course Superintendents Association; Illinois Association of Aggregate Producers; Illinois Beef Association; Illinois Chamber of Commerce; Illinois Pork Producers Association; Independent Cattlemen's Association of Texas; Indiana Beef Cattle Association.

Indiana Chamber of Commerce; Indiana Pork Producers Association; Indianapolis Chamber of Commerce; Industrial Minerals Association—North America; Inland Empire Golf Course Superintendents Association; Inland Empire Regional Chamber of Commerce; International Council of Shopping Centers; International Council of Shopping Centers (ICSC); International Liquid Terminals Association (ILTA); Interstate Natural Gas Association of America (INGAA); Iowa Association of Business and Industry; Iowa Cattlemen's Association; Iowa Cattlemen's Association; Iowa Chamber Alliance; Iowa Golf Course Superintendent Association; Iowa Pork Producers Association; Iowa Seed Association; Irrigation Association; JAX Chamber; Jeff Davis Chamber of Commerce; Juneau Chamber of Commerce; Kalispell Chamber of Commerce; Kansas Agribusiness Retailers Association; Kansas Agribusiness Retailers Association; Kansas Chamber of Commerce.

Kansas Farm Bureau; Kansas Grain and Feed Association; Kansas Livestock Association; Kansas Livestock Association; Kansas Pork Association; Kentucky Cattlemen's Association; Kentucky Chamber of Commerce; Kentucky Pork Producers Association; Lafourche Chamber of Commerce; Lake Havasu Area Chamber of Commerce; Leading Builders of America; Lima/Allen County Chamber of Commerce; Lincoln Chamber of Commerce; Litchfield Area Chamber of Commerce; Long Beach Area Chamber of Commerce; Los Angeles Area Chamber of Commerce; Louisiana Association of Business and Industry; Louisiana Cattlemen's Association; Louisiana/Mississippi; Louisiana/Mississippi Golf Course Superintendents Association; Maine Arborist Association; Maine Landscape & Nursery Association; Marana Chamber of Commerce; McLean County Chamber of Commerce.

Mesa Chamber of Commerce; Metro Atlanta Chamber of Commerce; Metro Denver Economic Development Corporation; Michigan Cattlemen's Association; Michigan Cattlemen's Association; Michigan Chamber of Commerce; Michigan Golf Course Superintendents Association; Michigan Pork Producers Association; Mid-Atlantic Association of Golf Course Superintendents; MIDJersey Chamber of Commerce; Milk Producers Council; Minden-South Webster Chamber of Commerce; Minnesota AgriGrowth Council; Minnesota AgriWomen; Minnesota Crop Production Retailers; Minnesota Golf Course Superintendents Association; Minnesota Pork Producers Association; Minnesota State Cattlemen's Association; Minnesota State Cattlemen's Association; Mississippi Cattlemen's Association; Missouri Agribusiness Association; Missouri Cattlemen's Association; Missouri Cattlemen's Association; Missouri Cattlemen's Association.

Missouri Corn Growers Association; Missouri Dairy Association; Missouri Pork Association; Missouri Soybean Association; Mobile Area Chamber of Commerce; Molokai Chamber of Commerce; Monroe County Chamber of Commerce; Montana Chamber of Commerce; Montana Stockgrowers Association; Morris County Chamber of Commerce; Moultrie-Colquitt County Chamber of Commerce; Mulzer Crushed Stone, Inc.; Municipal and Industrial Division; Murrieta Chamber of Commerce; NAIOP, the Commercial Real Estate; Naperville Chamber of Commerce; Natchitoches Area Chamber of Commerce; National All-Jersey; National Association of Home Builders; National Association of Manufacturers; National Association of REALTORS®; National Association of State Departments of Agriculture; National Association of Wheat Growers; National Black Chamber of Commerce; National Cattlemen's Beef Association.

National Chicken Council; National Club Association; National Corn Growers Association; National Cotton Council; National Council of Farmer Cooperatives; National Federation of Independent Business; National Golf Course Owners Association of America; National Industrial Sand Association; National Mining Association; National Multifamily Housing Council; National Oilseed Processors Association; National Pork Producers Council; National Rural Electric Cooperative Association; National Sorghum Producers; National Stone, Sand and Gravel Association (NSSGA); National Turkey Federation; National Water Resources Association; Nebraska Cattlemen; Nebraska Cattlemen Association; Nebraska Chamber of Commerce and Industry; Nebraska Golf Course Superintendents Association; Nebraska Pork Producers Association, Inc.; Nevada Cattlemen's Association; New Hampshire Business and Industry Association; New Jersey State Chamber of Commerce.

New Mexico Association of Commerce & Industry; New Mexico Cattle Growers Association; New York Beef Producers' Association; New York State Turfgrass Association; Norfolk Area Chamber of Commerce; North Carolina Aggregates Association; North Carolina Cattlemen's Association; North Carolina Cattlemen's Association; North Carolina Chamber; North Carolina Pork Council; North Country Chamber of Commerce; North Dakota Stockmen's Association; North Dakota Stockmen's Association; North Florida Golf Course Superintendents Association; North Western Illinois Course Superintendents Association; Northeast Dairy Farmers Cooperatives; Northeastern Golf Course Superintendents Association; Northern Colorado Legislative Alliance; Northern Kentucky Chamber of Commerce; Northern Ohio Golf Course Superintendents Association; Oceanside Chamber of Commerce; Ohio Aggregates & Industrial Minerals Association; Ohio AgriBusiness Association.

Ohio Cattlemen's Association; Ohio Cattlemen's Association; Ohio Chamber of Commerce; Oklahoma Cattlemen's Association; Oklahoma Farm Bureau; Oklahoma Pork Council; Olive Branch Chamber of Commerce; Opelika Chamber of Commerce; Orange County Business Council; Oregon Cattlemen's Association; Oregon Dairy Farmer's Association; Orlando Regional Chamber of Commerce; Ottawa Area Chamber of Commerce; Oxnard Chamber of Commerce; Palm Beach Golf Course Superintendents Association; Peaks & Prairies Golf Course Superintendents Association; Pennsylvania Cattlemen's Association; Pike County Chamber of Commerce; Plastic Pipe Institute; Pocatello-Chubbuck Chamber of

Commerce Illinois; Portland Cement Association; Power and Communications Contractors Association; Public Lands Council; Quad Cities Chamber of Commerce.

Rancho Cordova Chamber of Commerce; Redondo Beach Chamber of Commerce; Rehoboth Beach-Dewey Beach Chamber of Commerce Florida; Responsible Industry for a Sound Environment (RISE); Richland Chamber of Commerce; Ridge Golf Course Superintendents Association; Riverside & Landowners Protection Coalition; Roanoke Valley Chamber of Commerce; Rochester Area Chamber of Commerce; Rochester Business Alliance; Rocky Mountain Golf Course Superintendents Association; Rogers-Lowell Area Chamber of Commerce; Roseville Chamber of Commerce; Sacramento Metropolitan Chamber of Commerce; San Diego Regional Chamber of Commerce; San Gabriel Valley Economic Partnership; San Joaquin Valley Quality Cotton Growers Association; Santa Clara Chamber of Commerce and Convention-Visitors Bureau; Santa Clarita Valley Chamber of Commerce; Santa Maria Valley Chamber of Commerce; Savannah Area Chamber of Commerce; Scottsdale Area Chamber of Commerce.

Select Milk Producers, Inc.; Shoals Chamber of Commerce; Silver City Grant County Chamber of Commerce; South Baldwin Chamber of Commerce; South Bay Association of Chambers of Commerce; South Carolina Cattlemen's Association; South Dakota Cattlemen's Association; South Dakota Pork Producers Council; South East Dairy Farmers Association; South Florida Golf Course Superintendents Association; South Orange County Economic Coalition; South Texans' Property Rights Association; South Texas Cotton & Grain Association; Southeastern Lumber Manufacturers Association; Southern Cotton Growers, Inc.; Southern Crop Production Association; Southwest Council of Agribusiness; Southwest Indiana Chamber; Sports Turf Managers Association; Springer Chamber of Commerce; Springfield Area Chamber of Commerce; St. Albans Cooperative Creamery Inc.; St. Johns County Chamber of Commerce.

St. Joseph Chamber of Commerce; St. Joseph County Chamber of Commerce; Sugar Cane Growers Cooperative of Florida; Suncoast Golf Course Superintendents Association; Tempe Chamber of Commerce; Tennessee Cattlemen's Association; Texas & Southwestern Cattle Raisers Association; Texas Cattle Feeders Association; Texas Cattle Feeders Association; Texas Forestry Association; Texas Pork Producers Association; Texas Pork Producers Association; Texas Poultry Federation; Texas Seed Trade Association; Texas Sheep & Goat Raisers Association; Texas Wheat Producers Association; Texas Wildlife Association; Texas Wine and Grape Growers; The Associated General Contractors of America; The Business Council of New York State; The Fertilizer Institute; The Independent Petroleum Association of America (IPAA); Thompson Contractors, Inc.; Torrance Area Chamber of Commerce.

Treasure Coast Golf Course Superintendents Association; Treated Wood Council; Trinity Expanded Shale & Clay; Tucson Metro Chamber; Tuolumne County Chamber of Commerce; Tuscola Stone Co.; U.S. Cattlemen's Association; U.S. Chamber of Commerce; U.S. Poultry & Egg Association; United Egg Producers; USA Rice Federation; Utah Cattlemen's Association; Virginia Agribusiness Council; Virginia Cattlemen's Association; Virginia Pork Council, Inc.; Virginia Poultry Federation; Virginia State Dairywomen's Association; Vocational Agriculture Teachers Association; Wabash County Chamber of Commerce; Washington Cattle Feeders Association; Washington Cattlemen's Asso-

ciation; Washington State Dairy Federation; Weldon Materials; West Virginia Cattlemen's Association; Western Agricultural Processors Association; Western DuPage Chamber of Commerce; Western Peanut Growers Association.

Western United Dairymen; White Pine Chamber of Commerce; Wickenburg Chamber of Commerce; Willoughby Western Lake County Chamber of Commerce; Willows Chamber of Commerce; Wilmington Chamber of Commerce; Wisconsin Cattlemen's Association; Wisconsin Pork Association; Wyoming Ag-Business Association; Wyoming Crop Improvement Association; Wyoming Stock Growers Association; Wyoming Wheat Growers Association; Yuma County Chamber of Commerce.

Mr. INHOFE. Now, the waters of the United States rule is not just another example of regulatory overreach. I chair the Committee on Environment and Public Works. We have jurisdiction over the EPA, yet they do not want to even come in and testify when requested, and that is something I don't think has ever happened before.

This rule we are talking about now is illegal. It is not supported by the science, it is not supported by the technical experience of the Corps of Engineers, and it is a political power grab. Thirty-one States—here is the chart—filed lawsuits against the WOTUS rule. If we don't act to send this rule back, States, local governments, farmers, and landowners could face years of abuse by the EPA until the courts inevitably strike the rule down.

Believe me, it is inevitable that the rule will be overturned. I think we know that. That is not just my opinion. This is the conclusion of the two courts that have looked at this rule so far.

On August 27, Judge Erickson of the District of North Dakota issued an injunction that prevented the WOTUS rule from going into effect in 13 States. Oklahoma, my State, was not one of the 13 States. According to Judge Erickson—and this is her court—"the rule allows EPA regulation of waters that do not bear any effect on the 'chemical, physical and biological integrity of any navigable-in-fact water.'"

As a result, Judge Erickson concluded this rule is "likely arbitrary and capricious." That means it violates the law. That is what the judge said.

Now, on October 9, the Sixth Circuit Court of Appeals reached the same conclusion and issued a nationwide stay on the WOTUS rule.

My committee has conducted a lot of oversight. I believe we have had six hearings so far. We have memoranda from the Army Corps of Engineers that document the fact that EPA is claiming the authority to assert Federal control wherever they want no matter what the science says or what the technical or legal experts of the Corps say. So what we have is a rule that is not developed based on science or technical expertise. Instead, it is based on a political goal to call everything a water of the United States.

If we look at the chart that is set up right now, it is imperative we have to

act right away. This is what we have right now around the country.

Let me make this comment. I am very much concerned about this. The ones who want this the most are the farmers and the ranchers, and a lot of other people too, but my State of Oklahoma is a farm State, and I can remember not too long a guy named Tom Buchanan. He was the chairman of the Oklahoma Farm Bureau. He said that, historically, it has not been this way. But as it is right now, the major problem farmers and ranchers have in my State of Oklahoma is not anything that is found in the farm bill, it is the overregulation of the EPA. Of all of the regulations of the EPA that are overregulating and putting farmers out of business, the one that is the worst is the waters of the United States rule.

Let me share this with you, Mr. President. Five years ago, the liberals—those who want all the power in Washington—made an effort to take the word innavigable out. Historically, this has always been in the jurisdiction of the States, except for navigable waters. I understand that, and everyone else does too. So Senator Feingold from the Senate and Congressman Oberstar from the House got together and introduced a bill to take the word navigable out and give all the power to the Federal Government. Not only did we defeat their legislation, but they were both defeated in the next election.

So this is a huge issue. It is one of regulation. It is one we need to go ahead with, since the courts have decided what is going to happen eventually. We need to go ahead and pass this legislation or we are going to be working in a direction that is contrary to our court system.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Mr. President, let me make it clear what this legislation would do. It is true it would stop the final rule on the waters of the United States that has been issued, but it would also change the underlying criteria in the Clean Water Act. So it not only blocks the rule from going forward, it weakens the Clean Water Act. So let me talk a little about both.

The final rule on the waters of the United States that has been issued restores clarity to the enforcement of the Clean Water Act. It restores it to what was commonly understood before a series of Supreme Court cases that really raised questions as to which water bodies, in fact, can be regulated under the Clean Water Act. The worst possible outcome is the lack of clarity because you don't know. You don't know what the rules are.

The final rule that has been proposed, and that now is final, would restore that clarity to what was generally understood to be waters of the United States. To say it in laymen's terms, it is waters that lead to, in effect, the water qualities of our streams and our waters and our lakes in America. It affects public health. It affects

public health directly by the health of our waters of the United States, as well as providing the source for safe drinking waters.

So what is at risk? If this final rule is blocked and does not become law, over half of our Nation's stream miles are at risk of not being regulated under the Clean Water Act. Twenty million acres of wetlands are at risk of not being adequately regulated under the Clean Water Act. The drinking source for water for one out of three Americans would be at risk.

So this legislation would not only block the implementation of the final rule, it would also weaken the Clean Water Act. It would drastically narrow the historic scope of the Clean Water Act, arbitrarily putting in nonscientific standards for how the rules would be developed.

Mr. President, since the enactment of the Clean Water Act, every Congress has tried to strengthen the Clean Water Act, not weaken it. The Clean Water Act was a piece of bipartisan legislation passed in 1972. As Senator BOXER pointed out, it was in response to rivers literally catching fire and dead zones being found in our lakes.

In the Chesapeake Bay we had the first marine dead zone that we were trying to respond to. In San Francisco Bay we had PCBs at unacceptably high levels. That is why we passed the Clean Water Act. The legacy of every Congress should be to strengthen the Clean Water Act, to make sure we do have clean waters in the United States. If this legislation were to become law, the legacy of this Congress would be to weaken the Clean Water Act. I don't think we want to do that.

As I pointed out, this legislation not only rescinds the final clean water rule, but it really changes the goal of the Clean Water Act. Currently, the goal is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." That is science based. Instead, it would be changed to protect traditional navigable waters from pollution, which is a far different standard than dealing with the health issues of the waters of the United States.

The arbiter of this would be the Department of Agriculture on the hydrological science. They are not qualified to do that. It is not their field. As I will point out in detail, the regulatory structure for agriculture is not changed under this final Clean Water Act. And the bill would ignore hydrological science by requiring a continuous flow of water to be regulated, ignoring the fact that there are seasonal variations where you can have water flows that dry up for a period of time but which are still critically important to the supply of clean water in the United States. It ignores the nexus test, which has been referred to in Supreme Court cases, using adjacent water—next to navigable waters—without any definition of what "next to" means. It puts public health at risk.

For all of those reasons, we don't want to jeopardize and move backwards on the Clean Water Act of 1972. We want to add to that. This piece of legislation would, in fact, move us in the wrong direction.

I just want to, for one moment, talk about the Chesapeake Bay. The people of Maryland and the people of our region know how important it is for our economy—the watermen who make their living off it and the recreational use of the bay. Millions of people every year depend upon the bay for their recreation. It is a way of life for our State and for our region. It is a national treasure—the largest estuary in our hemisphere. And it depends upon receiving clean water supplies that come in from other States, not just Maryland. You can't regulate the clean water of the Chesapeake Bay without having a national commitment to it because it knows no State boundary. That is why we need a strong Clean Water Act.

I have heard my colleagues talk about agricultural farmers being against this. Well, farmers will not be harmed by the EPA's final clean water rule. In fact, it actually is good for farmers because it provides certainty and clarity. In developing the rule, the EPA and the Army Corps of Engineers listened carefully to input from the agricultural community, the U.S. Department of Agriculture, and the State departments of agriculture. As Senator BOXER pointed out, there were over 400 meetings with stakeholders across the country.

The act requires a permit if a protected water is going to be polluted or destroyed. However, agricultural activities such as planting, harvesting, and moving stock across streams have long been excluded from permitting, and that won't change under the rule. In other words, farmers and ranchers won't need a permit for normal agricultural activities to happen in or around those waters.

The rule does preserve agricultural exemptions from permitting, including normal farming, silviculture and ranching practices. Those activities include plowing, seeding, cultivating minor drainage, and harvesting for production of food, fiber, and forest products. Soil and water conservation practices in dry land are preserved. As to agricultural storm water discharges, there are no changes. Return flows from irrigated agriculture, construction, and maintenance of farm and stock ponds or irrigation ditches on dry land are not regulated under this bill. Maintenance of drainage ditches is not regulated. Construction or maintenance of farm, forest, and temporary mining roads are not regulated. It ensures that fields flooded for rice are exempt and can be used for water storage and bird habitat.

The rule also does preserve and expand commonsense exclusions from jurisdiction, including—this is excluded—prior converted croplands,

waste treatment systems, artificially irrigated areas that are otherwise dry land, artificial lakes or ponds constructed in dry land, water-filled depressions created as a result of construction activities, and the list goes on and on.

The rule does not—does not—protect any types of waters that have not historically been covered under the Clean Water Act. It does not add any new requirements for agriculture. It does not interfere with or change private property rights. It does not change policy on irrigation or water transfers. It does not address land use. It does not cover erosional features, such as gullies, rills, and nonwetland swells.

In other words, we have maintained the historic exemptions for agriculture from the Clean Water Act. They are not expanded under this rule.

So let me just cite a couple of quotes from people who are directly impacted by what is being done under the clean water rule and, of course, would be affected by the legislation before us.

As to the small business community, I quote from David Levine, who is the CEO of the American Sustainable Business Council:

The Clean Water Rule will give the business community more confidence that streams and rivers will be protected. This is good for the economy and vital for businesses that rely on clean water for their success. . . . Business owners want a consistent regulatory system based on sound science. That's what this rule provides.

Ben Rainbolt, executive director of the Rocky Mountain Farmers Union:

Water is critical to the livelihood of family farms and ranches. The rule employs a commonsense rationale for both clarifying what bodies of water and activities should fall under the Clean Water Act, as well as maintaining the existing exemptions for agriculture. This rule will result in cleaner, safer water for agriculture, rural communities, and all who count on healthy streams and rivers.

Andrew Lemley, government affairs representative, New Belgium Brewing:

Our brewery and our communities depend on clean water. Beer is, after all, over 90 percent water and if something happens to our source water the negative affect on our business is almost unthinkable. . . . We all rely on responsible regulations that limit pollution and protect water at its source. Over the past 23 years we've learned that when smart regulations and clean water exists for all, business thrives.

I particularly like that one because we have all seen the ads on television about clean water. It affects small businesses. It affects all of our businesses.

I will conclude with those who depend upon recreation, who strongly support the clean water rule and oppose the legislation that is before us.

I will quote from Andy Kurkulis, owner of Chicago Fly Fishing Outfitters and DuPage Fly Fishing Company:

Anyone who has ever swam in our beautiful Great Lakes, or fished or boated on our abundant rivers and waters has benefited immeasurably. Now is the time to raise our voices in support of clean water—our economy, and future generations of hunters and anglers, depend on it.

I think the verdict is clear. The rule which has been proposed will add to the protections the public deserves for public health and their drinking water. It is a sensible regulation. It is clearly under the authority of the Clean Water Act.

I urge my colleagues to reject this legislation and certainly the cloture motion so that we don't reject the rule and weaken the Clean Water Act.

I yield the floor.

The PRESIDING OFFICER (Mr. FLAKE). The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I appreciate the opportunity today to move this legislation. It is bipartisan, and it protects our environment and helps small businesses all across the country.

S. 1140, the Federal Water Quality Protection Act, is legislation I introduced, along with a number of Democratic Senators—Senators DONNELLY, HEITKAMP, and MANCHIN—and many other Senators.

The Senator from California previously spoke. I would point out that the California Chamber of Commerce supports my legislation and the California Farm Bureau supports my legislation because this legislation will protect our Nation's navigable waters and the streams and wetlands that help our navigable waters stay clean. This bill is a testament to the hard work both sides of the aisle have done in achieving an agreement on an environmental protection bill.

Our rivers, our lakes, our wetlands, and all other waterways are among America's most treasured resources. In my home State of Wyoming, we have some of the most beautiful rivers in the world—the Snake River, the Wind River, and dozens of others. People from around the world come to Wyoming to visit because we have an environmental landscape that is second to none. Anyone who has come to my State and experienced Yellowstone National Park, Grand Teton, and the Big Horn Mountains comes away with a sense that Wyoming is a pristine and beautiful place. It is what Wyoming sells, and it is what makes Wyoming so unique.

The people of Wyoming are devoted to keeping our waterways safe. We want to preserve the water for our children and grandchildren. We understand there is a right way and a wrong way to do it.

It is possible to have reasonable regulations to help preserve our waterways while respecting the difference between State waters and Federal waters. This is the environmental legacy that my constituents want, and it is a legacy they have earned for their decades of sound management. It is the people of Wyoming who have kept Wyoming's waterways pristine and beautiful.

The EPA has now released new rules. The new rule is called the waters of the United States rule, WOTUS. This rule doesn't work for the people of Wyoming. It most likely doesn't work for any of your constituents, either—cer-

tainly not for those who have to put a shovel in the ground to make a living.

The courts have begun to weigh in with their concerns about this WOTUS rule, and they have actually given Congress and stakeholders a necessary pause. That is why we are here today.

In August of this year, Judge Erickson of the District of North Dakota issued an injunction that blocked the waters of the United States rule in 13 States. He did it because the rule-making record was, in the judge's words, "inexplicable, arbitrary, and devoid of a reasoned process." With regard to the rationale behind the EPA's threshold for what is and is not Federal water, he stated: "On the record before the court, it appears that the standard is the right standard only because the Agencies say it is."

The U.S. Sixth Circuit Court of Appeals then put a nationwide stay on the rule on October 9 of this year. In granting the stay, the court said, "The sheer breadth of the ripple effects caused by the Rule's definitional changes counsel strongly in favor of maintaining the status quo for the time being." So keep it as it is for the time being. The court added that "a stay temporarily silences the whirlwind of confusion that springs from uncertainty about the requirements of the new Rule and whether they will survive legal testing."

So what the courts have basically done is said: Let Congress have time to act.

We don't have to sit on the sidelines and watch this rule slowly crumble under legal scrutiny. Contrary to some activist groups' rhetoric, we are not facing an immediate environmental water pollution crisis. In fact, in granting the stay, the Sixth Court stated that "neither is there any indication that the integrity of the nation's water will suffer imminent injury if the new scheme is not immediately implemented and enforced." They even called it a "scheme."

We now have the opportunity to do better, and to do better, we must act now. That is why we must take this opportunity to pass the legislation before us that will have EPA do a new rule under a specific set of principles outlined by Congress. These are principles that protect navigable waters and adjacent wetlands, as well as farmers, ranchers, and other landowners.

I know some Senators gave the administration the benefit of the doubt with this rule despite concerns they heard from their constituents, and those Senators waited for the final result before making a judgment to see if those concerns would be addressed. I am here to say that whatever concessions the EPA says they made to address some of these serious problems raised by their proposed rule, the EPA added new provisions in the final rule that greatly expand their authority. This is disappointing because I believe the great majority of Senators voiced concerns in the process, and those concerns fell on deaf ears. The EPA has

produced a final rule worse than the one originally proposed.

Here is an example. Instead of clarifying the difference between a stream and an erosion on the land, the rule defines "tributaries" to include anyplace where EPA thinks—where EPA thinks—it sees an "ordinary high-water mark." What looks like, not what is; what looks like, what they think is this ordinary high-water mark. Even worse, EPA proposes to make those decisions from sitting at their desks using aerial photographs, laser-generated images, claiming that a visit to the location is not necessary.

Under the rule, the Environmental Protection Agency also has the power to regulate something as "waters of the United States" if it falls within a 100-year floodplain or if it is within 4,000 feet of a navigable water or a tributary and the EPA claims there is a "significant nexus." What is a significant nexus? Under this rule, a "significant nexus" can mean a water feature that provides "life cycle dependent aquatic habitat" for a species. So if you are drawing 4,000-foot circles around anything the EPA defines or identifies as a tributary—remember, 4,000 feet, so we are talking over 13 football fields long, and everywhere there is a potential aquatic habitat. So essentially almost the entire United States, according to this, would be underwater. Actually, 100 percent of the State of Virginia is under this jurisdiction and 99.7 percent of the State of Missouri falls within this area—underwater, if you will, according to the EPA guidelines.

I would like to take a moment to talk about puddles because one of the previous speakers on the other side of the aisle talked about puddles. People know what they think about when they think about a puddle—like when it rains. The final rule does exempt puddles defined as "very small, shallow, and highly transitory pools of water that forms on pavement or uplands during or immediately after a rainstorm or similar precipitation event." I guess that would mean like when the snow melts. The rule specifically does take control over other pools of water created by rain, like those we have all around Wyoming—prairie potholes, vernal pools—even if the land where these pools of water form is far away from any navigable water or even a tributary. Under this new regulation, nearly all of these pools of water created by rain will now be considered "waters of the United States," giving the Environmental Protection Agency the power to regulate what you do on that land. These provisions are sweeping and will create uncertainty in communities all across the country.

There is plenty that I have already outlined in the waters of the United States rule that is bad for agriculture, with the many methods it provides for federalizing previously State-controlled water. The States have made these decisions in the past. Now we are

adding another level of government bureaucracy.

This rule is bad for agriculture, for those people who produce our food. Farmers, ranchers, and others are used to working with their States to protect their land and water under their own stewardship.

We heard from the Senator from California about groups opposing this, but 480 different groups support this bill, and they are major national groups: the American Farm Bureau, the Agricultural Retailers Association, the American Soybean Association, the American Sugar Alliance, the Milk Producers Council, the National Association of Wheat Growers, the National Cattlemen's Beef Association, the National Chicken Council, the National Corn Growers Association, the National Council of Farmer Cooperatives, the National Pork Producers Council, the National Turkey Federation, the U.S. Poultry and Egg Association, the United Egg Producers, the USA Rice Federation. I could go on and on. These are the food producers of America. They support the legislation in front of the Senate today.

The point is, not one State, not a single State in this country is out there that doesn't have a strong agriculture presence. We all do. So I urge all Senators to make sure, as they prepare to vote on this motion to proceed, that they check with their folks at home.

I would also note that many industries outside of agriculture are concerned with the rule as well. These include manufacturers, homebuilders, small businesses—you name it. They are all very concerned with this rule, and they want Congress to act now.

Action could mean Congress can pass a Congressional Review Act resolution, which will be considered possibly later in the process, but that would eliminate the WOTUS rule and prevent a substantially similar rule from being proposed. That would allow for a new rule as long as it was not substantially similar to the existing rule. We need to vote on this resolution.

I believe S. 1140 is a better route, the one we have here today. This is a bipartisan compromise. This is the bill that has a number of Senators from the Democratic side of the aisle cosponsoring the legislation. Most importantly, this piece of legislation on the floor today allows for Congress to establish the principles—Congress to establish the principles—of what the new EPA would look like.

I know a number of Democrats have ideas to improve the legislation that is on the floor today specific for their own States. If my colleagues vote to proceed to the motion to proceed at 2:30 this afternoon, we will have an open amendment process that would allow Members to improve S. 1140 in a bipartisan way. We are willing to work with anyone who wants to improve this rule in a bipartisan way. But let's not sit on the sidelines anymore.

Rather than support an EPA final rule that actually makes it worse and

was worse than the proposed rule—a rule that will likely not survive legal scrutiny based on what we saw from the courts, a rule that doesn't represent the interests of our farmers, ranchers, families, small businesses, and communities—let's move forward with the bipartisan Federal Water Quality Protection Act to ensure the public that we hear and we understand their concerns.

At the same time, let's give EPA and the Army Corps the certainty they need to confidently move forward with a new rule—a rule that truly reflects the needs of the constituents we represent. Let's protect our Nation's waters for the long term.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, the famous Republican Senator from Rhode Island John Chafee, who was one of the authors of the Clean Water Act, would be sorry to see what has become of his party today and what is being done to the Clean Water Act that so many Republicans worked so hard on for over so many years. The pretense is that some evil bureaucratic force at the EPA has leapt out to take over American farmers and ranchers. That is not what has happened.

The Supreme Court made decisions about what the Clean Water Act says, defining the navigable waters of the United States, and the EPA had to follow the Supreme Court's guidance, which they did. I believe they have been faithful to that Supreme Court guidance. They went through more than 1,000 peer-reviewed scientific publications. They did 400 public meetings. They had over 1 million comments on the proposed rule. Guess what. The vast majority of those comments were in support of the rule.

What we have here is not some DC bureaucratic evil presence against ranchers and farmers across the country. What we have here is a fight between upstream and downstream.

As Senator BARRASSO very plainly said a moment ago, the big players in this are the big special interests in agriculture, the big pork producers with their ginormous manure lagoons, and the big commercial AG conglomerates. If you want to be with them fine, but let's not pretend this is about protecting little ranchers and farmers.

This is about upstream versus downstream. I come from Rhode Island. I am from a downstream State. I have to say that if I were in big agriculture and I saw this rule, instead of coming in here and whining and complaining and yanking people's chains in order to get changes made, I would grab this rule and run like a bank robber because this bill does so much for upstream agriculture at the expense of downstream fishermen, downstream aquaculture, and the downstream health of our rivers and bays. All agricultural exemptions and exclusions from Clean Water Act requirements that have existed for

nearly 40 years have been retained. We have learned a little bit since then about what goes on.

One place I recently went to was Ohio. I spent the weekend in Ohio doing one of my climate tours of the difficult States of the Union. In Ohio, I went to Port Clinton on Lake Erie. I was taken by the folks from Stone Laboratory and from some of the leading charter captains in this area off to the Bass Islands just offshore. They told me about the algal bloom that took place in the Toledo area. Technically, this was not an algal bloom. Technically, it was cyanotic bacteria; it was a bacterial bloom. It was so thick that the fishing captains described how their boats slowed down in the muck. It was like running a powerboat through pudding.

Toledo had to stop providing freshwater to its citizens and spent millions of dollars having to import freshwater and provide bottled water. Lake Erie is 2 percent of the water of all the Great Lakes with 50 percent of the fish. Two percent of the water and 50 percent of the fish in the Great Lakes are in Lake Erie. It has a robust fishing economy for walleyes and perch. The folks who go out and make this their livelihood don't think it is very funny because this whole watershed feeds down into Lake Erie.

Because of climate change, phosphorous has driven rain bursts. The rains have powered up in this area. So the phosphorous is washing off the farmers' fields and is coming down, and that is what is creating the cyanotic bacterial bloom in Lake Erie.

This upstream stuff makes a big difference to people who are downstream. Wyoming doesn't have a lot of downstream. Wyoming is a landlocked State, so I appreciate why the Senator is so enthusiastic about this. But for those of us who are downstream, this is a rule that, frankly, is too weak. The fact that we have to stand here and fight it from getting even weaker—from putting our rivers and our bays at even more risk—is very unfortunate. It is not just phosphorous. Phosphorous is what happens to drive the bacteria growth in Lake Erie. It is insecticides, it is nitrogen, and they are doing immense damage in our waterways.

I will conclude where I began. If you are Big Agriculture and this is your special interest bill, you ought to run for it. Don't waste your time on this. Grab this existing Clean Water Act bill, and go for it like a bank robber with his money because you got away with being able to continue to do immense damage to downstream resources without any regulation at all. To now be here complaining—it is really amazing to those of us who are representing downstream States, downstream interests, downstream fisheries, downstream bays, and all the catchment areas such as Lake Erie that get clobbered as a result of pollutants that flow into our waters.

I yield the floor.

Ms. MIKULSKI. Mr. President, I wish to join my colleagues in support of the clean water rule issued by the Environmental Protection Agency and the Army Corps of Engineers and in opposition to efforts to derail this critical rule.

Clean water is the lifeblood of our society and the basic foundation of good public health. Our rivers, streams, and wetlands connect communities near and far through a common resource. For decades, the Clean Water Act has protected our waters from pollution so that Americans can rely on safe drinking water, can enjoy outdoor recreation, and can live in an environment that supports wildlife and a healthy ecosystem.

However, for the last 15 years uncertainty has muddied the Clean Water Act. The lack of clarity for which bodies of water are federally regulated has led the Army Corps of Engineers to a backlog of 18,000 requests from landowners seeking help in complying with the Clean Water Act. The new clean water rule resolves this uncertainty for our local governments, our businesses, and our farmers by clarifying which waters should be protected so that all Americans can rely on clean water. The rule restores historic coverage of the Clean Water Act for streams and wetlands that provide drinking water for one-third of Americans.

As one who has experienced the many benefits of the Chesapeake Bay my whole life, I know just how important it is to preserve and protect the world around us for future generations. The clean water rule would restore protections for more than half of Maryland's streams and many of its wetlands. Clean water means healthy families, healthy marine life to support Maryland watermen, and a healthy environment. The clean water rule is crucial to the health of the Chesapeake Bay and to countless other bodies of water in the United States. Let's stand up for our Nation's clean water and reject these attempts to derail the clean water rule.

Mr. REED. Mr. President, today I join many of my colleagues in opposing S. 1140 and S.J. Res. 22.

These measures would block or nullify the clean water rule, which seeks to safeguard our water and restore protections to drinking water sources for one in three Americans, according to the EPA, under the authority of the Clean Water Act.

The clean water rule helps to clarify ambiguities stemming from the 2001 and 2006 Supreme Court decisions that made the scope of the Clean Water Act uncertain.

This lack of protection has taken its toll, especially for wetlands and intermittent and headwater streams, slowing permitting decisions for responsible development, and reducing protections for drinking water supplies and critical habitat.

According to the National Parks Conservation Association, over 117 mil-

lion Americans, including many visitors to national parks, get their drinking water from surface waters.

This includes many Rhode Islanders who get their drinking water from sources that rely on small streams that are protected by the clean water rule.

If Congress blocks the clean water rule, Rhode Island's streams and millions of acres of wetlands nationwide will again be at risk from pollution and degradation or destruction from development, oil and gas production, and other industrial activities.

Blocking this rule would potentially imperil drinking water sources, as well as the small businesses and communities that rely on clean water.

Thousands of acres of wetlands that provide flood protection, recharge groundwater supplies, filter pollution, and provide essential wildlife habitat are safeguarded under the clean water rule, including many of Rhode Island's streams, wetlands, waterways, and the bay.

Additionally, the clean water rule seeks to protect small streams and wetlands that support fish, wildlife, and recreational areas.

We depend on clean water to drink, and our economy depends on clean water from manufacturing to farming to tourism to recreation to energy production and more to function and flourish.

We must make clean water a priority throughout the nation.

I urge my colleagues to support the clean water rule and vote "no" on both S. 1140 and S.J. Res. 22.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I rise today in support of bipartisan legislation to fix intrusive regulation that will hurt job growth and that threatens to place a large share of our Nation's farmers, ranchers, and small businesses in the regulatory grip of the EPA. This burdensome regulation is the EPA and Army Corps' final rule on the waters of the United States. The bill to fix it is called the Federal Water Quality Protection Act. That is the bill we are seeking to proceed to today so that we can debate it, amend it, and pass it to deal with this onerous regulation.

The burdensome regulation we are talking about, of course, is the EPA and Army Corps' final rule on waters of the United States. The Federal Water Quality Protection Act is legislation to address it. It was authored by my good friend from Wyoming Senator BARRASSO, and I cosponsored this legislation, along with many others on our side of the aisle. This is also a bipartisan bill with our colleagues from across the aisle as well. This is bipartisan legislation. It has had bipartisan input, and I encourage Members on both sides of the aisle to proceed to this legislation. Let's have this very important debate on behalf of our farmers, ranchers, and so many other job creators across this country. As I say, let's offer amendments and have

our votes, but we need to deal with this very important legislation for the benefit of the American people.

This waters of the United States final rule greatly expands the scope of the Clean Water Act regulation over America's streams and wetlands. It is a real power grab by the EPA, and it exceeds the statutory authority of the EPA. The Supreme Court has found that Federal jurisdiction under the Clean Water Act extends the "navigable waters." I don't think anyone is arguing about the EPA's ability to regulate navigable bodies of water like the Missouri River, in my State, but the Supreme Court has also made clear that not all bodies of water are under the EPA's jurisdiction. Yet, under the administration's final rule, all water located within 4,000 feet of any other water, or within the 100-year flood plain, is considered a water of the United States as long as the EPA or the Army Corps of Engineers decides it has a "significant nexus" to that navigable water in the opinion of either the Corps or the EPA.

These agencies define significant nexus so that almost any body of water qualifies. For instance, if an area can hold rainwater or has water that can seep into ground water, which is almost any water anywhere, then there is significant nexus, according to the EPA or the Army Corps of Engineers, not to mention the fact that areas like the Prairie Pothole region in my State of North Dakota are specifically targeted as waters of the United States. The result is that the vast majority of the Nation's water features are located within 4,000 feet of a covered body of water.

If this expansive rule sounds out of bounds to you, you are not alone. In fact, the waters of the United States rule is such an overreach by the EPA and the Corps that 31 States are suing to overturn it, including my State of North Dakota, which has led a lawsuit brought by 13 of those 31 States.

When granting a preliminary injunction against this rule, the North Dakota Federal District Court stated that "the rule allows EPA regulation of waters that do not bear any effect on the 'chemical, physical and biological integrity' of any navigable-in-fact water." It went further to state that "the rule asserts jurisdiction over waters that are remote and intermittent waters. No evidence actually points to how these intermittent and remote wetlands have any nexus to navigable-in-fact water."

Meanwhile, the Sixth Circuit Court in Cincinnati, OH, issued a nationwide stay of the rule, citing that the EPA and the Corps did not identify "specific scientific support substantiating the reasonableness of the bright-line standards they ultimately chose."

This waters of the United States rule is clearly flawed from a legal perspective, but I think it is even more important to take a look at how this rule, if allowed to be implemented, will affect

hard-working Americans with excessive regulation.

For those of you who haven't had the opportunity to visit with a farmer from my State of North Dakota, know that dealing with excess water is a common issue, a daily issue, to say the least. Those farmers can tell you that if there is water in a ditch or a field one week, it doesn't mean there will be water there the next week. It certainly doesn't make that water worthy of being treated the same as a river.

A field with a low spot that has standing water during a rainy week and happens to be located near a ditch does not warrant Clean Water Act regulation from a legal or, more importantly, from a simple commonsense standpoint.

The Corps and EPA have responded to these concerns by saying they are exempting dozens of conservation practices, but these exemptions cover farmers and ranchers only for changes made before 1977 or for changes that don't disturb any water or land now considered to be a water of the United States. In other words, if you need a new Clean Water Act permit, you are not going to qualify for the EPA's exemption under this rule. Moreover, the exemption does not cover all Clean Water Act permits.

Because of this rule, the farmer with the low spot in the field next to a ditch, described above, may now be sued under the Clean Water Act's Section 402 National Pollutant Discharge Elimination System. This farmer now faces the risk of litigation costs for the United States of everyday weed control and fertilizer applicants, among other essential farming activities.

Farmers and ranchers are far from the only job creators who will suffer under this rule. In fact, the Small Business Administration Office of Advocacy has expressed concern about the impact it will have on other small businesses as well.

I am so concerned about this rule that I have led the effort on our Appropriations Committee to stop the rule in its tracks. We were successful in including language in the committee-passed Interior-EPA Appropriations bill to do just that. The Federal Water Quality Protection Act, however, offers a long-term solution by vacating the waters of the United States rule and sending the EPA and the Corps back to the drawing board to develop a new rule with instructions to consult with States, local governments, and small businesses.

America's farmers, ranchers, and entrepreneurs go to work every day to build a stronger nation. Thanks to these hard-working men and women, we live in a country where there is affordable food at the grocery store and where a dynamic private sector offers Americans the opportunity to achieve a brighter future. The Federal Government should be doing all it can to empower those who grow our food and create jobs. Yet, instead, regulators are

stifling growth with burdensome regulations that generate cost and uncertainty. The final rule on the waters of the United States produced by the EPA and the Corps to regulate virtually every body of water—pretty much water anywhere in the United States—is not the way to go. Let's stop this regulation. Please join me in voting to proceed to the Federal Water Quality Protection Act.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BARRASSO). The Senator from Arizona.

Mr. FLAKE. Mr. President, I come before the Senate to talk about the waters of the United States rule and the legislation pending before us, S. 1140. I hope we can proceed to the bill. This is an important issue. Obviously, the definition of the waters of the United States sets the rules of the game of who is covered under the Clean Water Act. As has been stated, several Supreme Court decisions over the past decade and a half have created a lot of uncertainty for landowners and those who work the land who aren't sure whether they will be regulated. Regulated entities need a rule that is consistent and that has some predictability. That is not what we are getting with this rule.

The rule issued on June 29 defines jurisdiction very broadly, as we heard, especially when it comes to streams that don't flow year round, intermittent, ephemeral streams, of which Arizona has many. Several scientists who have been involved in the rulemaking process have told my staff that there is a disagreement between what the science says and what this rule says. Science says that some streams are strongly connected and others are not. There is a so-called spectrum of connectivity, but this rule assumes they are all strongly connected.

Let me show a picture of a stream. This is Dan Bell, a rancher in southern Arizona, near the border of Santa Cruz County, standing on a streambed or a dry wash or arroyo that will likely be covered under this rule. Like Dan, I grew up on a ranch in northern Arizona. My whole life I have ridden through a 7-mile draw, a 9-mile wash. The topography of the land was named for some of these dry washes, but they only had water after a good rain which lasted a few minutes and that was it. Those will likely, under the definition of this new rule, be defined as waters of the United States.

If you can imagine what ranchers and other agricultural users are feeling right now, thinking that the Federal Government, in regulating what goes on with these streambeds or these dry washes, is going to step in on other State regulations that already exist.

On August 27, a Federal district court judge blocked the implementation in 13 States, including Arizona, saying that "it appears likely that the EPA has violated its congressional grant of authority in its promulgation of the rule at issue." As we know, on

October 9 the Sixth Circuit Court of Appeals stayed the rule nationwide. There is not consensus, obviously, on what this rule does or does not do.

In internal memos, the Army Corps of Engineers assistant chief counsel of environmental and regulatory programs highlighted a number of "serious areas of concern" with the rule, including the "assertion of jurisdiction over every stream bed," which would have "the effect of asserting Clean Water Act jurisdiction over many thousands of miles of dry washes and arroyos in the desert southwest."

When you hear people stand and say that it will not affect dry washes, that is not what the rule says. We need clarification. We need to pass this legislation. We need to actually invoke cloture so we can debate it and ultimately pass it. This is a bipartisan measure that will address this issue and will ultimately provide a new rule that has the consistency and uniformity that those who work the land really need. Arizona will benefit from it, and the entire country will benefit from it.

With that, I yield back.

The PRESIDING OFFICER (Mr. FLAKE). The Senator from South Dakota.

Mr. THUNE. Mr. President, Americans have had a tough time during the Obama administration with a sluggish economic recovery that is barely worthy of the name, stagnant wages for middle-class families, a health care law that ripped away millions of Americans' preferred health care plans, and burdensome regulations that have made it more challenging for businesses, large and small, to grow and create jobs.

One Agency has done more than its fair share to make things difficult for Americans, and that is the Obama EPA. During the course of the Obama administration, this Agency has implemented one damaging rule after another—from a massive national backdoor energy tax that threatens hundreds of thousands of jobs to unrealistic new ozone standards that have the potential to devastate State economies. Reputed rebukes from various Federal courts have done little to check the EPA's enthusiasm for crippling, job-destroying regulations.

This week, the Senate is taking up legislation introduced by my colleague from Wyoming Senator BARRASSO to address one of the EPA's biggest overreaches—the so-called waters of the United States regulation. The EPA has long had authority under the Clean Water Act to regulate "navigable waters," such as rivers, lakes, and major waterways. The inclusion of the term "navigable" in the Clean Water Act was deliberate. It was deliberate. The reason it was put there is because Congress intended to put limits—real limits—on the Federal Government's authority to regulate water and to leave the regulation of smaller bodies of water to the States. Defining the waters to be regulated as navigable

waters ensured that the Federal Government's authority would be limited to bodies of water of substantial size and would not infringe on minor bodies of water on private land, but over the last few years it became clear the EPA was eager to expand its reach.

The waters of the United States regulation, which the EPA finalized this year, expands the EPA's regulatory authority to waters such as small wetlands, creeks, stock ponds, and ditches—bodies of water that certainly don't fit the definition of "navigable." It specifically targets the prairie pothole region, which covers five States, including nearly all of eastern South Dakota.

If we look at this chart, this is something that is a very normal landscape in South Dakota. It is a field that one would see in South Dakota, and of course when it gets some rain, some of the low-lying areas get a little water in them, but this is basically a puddle. If we look at what the regulation would do to the way in which farmers and ranchers manage and are able to use their lands for production agriculture, it has some profound impacts.

We are not talking about lakes and rivers. We are talking about small, isolated ponds that ranchers use to water their cattle or prairie potholes that are dry for most of the year but do collect some water after heavy rains and snows along the lines of what we see in this photo. Under this regulation, even dry creekbeds could be subject to the EPA's regulatory authority. That is how far-reaching this regulation is.

Let me talk about that authority for just a minute. When we talk about a body of water coming under the EPA's regulatory authority, we are not talking about having to follow a couple of basic rules and regulations. Waters that come under the EPA's jurisdiction under the Clean Water Act are subject to a complex array of expensive and burdensome regulatory requirements, including permitting and reporting requirements, enforcement, mitigation, and citizen suits. Fines for failing to comply with any of these requirements and regulations, such as the one that is now being filed by the EPA, can accumulate at the rate of \$37,500 per day.

Under the EPA's new waters of the United States rule, creeks and ditches would be subject to this complex array of regulations. The irrigation ditches in a farmer's cornfield, for example—ditches where the water level rarely exceeds a couple of inches—would be subject to extensive regulatory requirements, including costly permits and time-consuming reports. Needless to say, these kinds of requirements will hit farmers and ranchers hard. Agriculture is a time-sensitive business, and these types of requirements would strain a farmer's ability to fertilize, plant, and irrigate their crops when the seasons and weather conditions dictate.

Farmers can't afford to wait for a Federal permit before carrying out

basic land and resource management decisions. I have received numerous letters from South Dakota farmers and ranchers, as well as local governments, expressing their concern with the EPA's new rule. One constituent writes:

We live in Deuel County, South Dakota, where we raise cattle and plant wheat, alfalfa, corn, and soybeans. . . . Our land consists of rolling hills and many shallow low spots. . . . According to the new rules, our entire farm would be under the jurisdiction of the EPA. . . .

That same constituent goes on to say:

Mandatory laws by the EPA are just wrong and are often written and enforced by someone who has never lived or worked on a farm and doesn't understand how the forces of nature cannot be dictated. The weather is often extreme, and we must work with it. . . . Under this rule, it will be more difficult to farm and ranch, or make changes to the land even if those changes would benefit the environment.

That is from a constituent from my State of South Dakota.

Another constituent, also from my home State, said:

[O]ur business is going to be put into acute peril if the EPA is not stopped. . . . By removing the word "navigable" from the Clean Water Act, they will be in control of EVERY drop of water in the United States, which is disastrous for those of us engaged in farming and ranching.

This is from the Pennington County Board of Commissioners in South Dakota. Pennington County is the second largest county and home to our second largest city, Rapid City. They wrote:

In addition to tourism, agriculture is a critical piece of our local economy. . . . This proposal would cause significant hardships to local farmers and ranchers by taking away local control of the land uses. The costs to the local agricultural community would be enormous. This would lead to food and cattle prices increasing significantly.

The board also warned:

If stormwater costs significantly increased due to this proposed rule, not only will it impact our ability to focus our available resources on real, priority water quality issues, but it may also require funds to be diverted from other government services that we are required to provide such as law enforcement, fire protection services, etc.

I have received letter after letter like these from farmers, ranchers, business owners, and local governments across my State, and they are not alone. Concern is high across all of the United States. That is why 31 States have filed lawsuits against the EPA's regulations, as have a number of industry groups. The courts have already granted them some temporary relief. Last month, the Sixth Circuit Court of Appeals expanded an earlier injunction and blocked implementation of the EPA's rule in all 50 States, but a final decision of the courts could be years away.

To protect Americans affected by this rule from years of litigation and uncertainty, this week the Senate is taking up the Federal Water Quality Protection Act, introduced by Senator BARRASSO, which would require the

EPA to return to the drawing board and write a new waters of the United States rule in consultation with States, local governments, agricultural producers, and small businesses. It seems only fitting that you actually ought to consult with the people who are impacted by this. If that had happened, maybe there wouldn't be 31 States that have already filed lawsuits against the Federal Government, and maybe we wouldn't have all of these local governments, agricultural producers, small businesses, homeowners, and developers that are mortified about the impact this will have on them.

In my time in Washington, I have never seen an issue that has so galvanized opposition all across the country. Sometimes there might be an issue that might affect a specific area or industry sector in our economy, such as agriculture. We talk a lot about those issues in my State because this is our No. 1 industry, but there is rarely an issue which generates opposition from so many sectors of our economy. That is how far-reaching this regulation is. Arguably, this is the largest Federal land grab in our Nation's history.

What the legislation also does is explicitly prohibits the EPA from counting things like ditches, isolated ponds, and storm water as navigable waters that it can regulate under the Clean Water Act. It takes away these things we are talking about—the stock ponds, ditches, and frankly the puddles—from areas that the EPA can assert its jurisdiction in and regulate.

Everybody agrees on the importance of clean water. Farmers in my State depend on it, and the legislation we are considering today will ensure that the EPA retains the authority to make sure our lakes and rivers are clean and pollutant-free. Members of both parties should be able to agree that allowing the EPA to regulate what frequently amounts to seasonal puddles is taking things a step too far. The cost of this rule will be steep, and its burdens will be significant, impacting those who have an inherent interest in properly managing their water to protect their livelihoods and health.

Back in March, a bipartisan group of 59 Senators voted to limit the EPA's waters of the United States power grab, and 3 Democratic Senators are cosponsors of the legislation before us today. It is my hope that more will join us to protect farmers, ranchers, small businesses, and homeowners from the consequences of the EPA's dangerous new rule.

Americans have suffered enough under the Obama EPA. It is time to start reining in this out-of-control bureaucracy. I hope we will have a big bipartisan vote today in support of the legislation before the Senate.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Indiana.

Mr. DONNELLY. Mr. President, whether you are a farmer or a small

business owner, a Republican, a Democrat or someone who works at the EPA, we all want clean water. If we are going to ensure that our clean water protections are effective, we need to work together and we need to use the feedback from the people who work with the land every single day. Unfortunately, the EPA's waters of the United States rule was written without sufficient collaboration with some of the people who care about this rule the most—our farmers, our small business owners, our cities and States. As a result, the U.S. Court of Appeals for the Sixth Circuit has blocked the implementation of the waters of the United States rule, known as WOTUS, nationwide.

This ruling was in line with the concerns we have raised all along. When you write a rule without significant input from all of those impacted, including our farmers, ranchers, small business owners, and local governments, legal challenges are inevitable. Instead of further lengthy and costly court battles, Congress should act to clarify the coverage of the Clean Water Act or the courts will do that job instead of us. It is time to roll up our sleeves and provide to our ag producers, conservationists, and county and local governments the regulatory certainty they need to continue efforts to improve water quality.

That is why I was proud to help author and introduce the Federal Water Quality Protection Act with a bipartisan group of Senators, including Senator JOHN BARRASSO, a Republican from Wyoming, Senator HEIDI HEITKAMP, a Democrat from North Dakota, and Senate Majority Leader MITCH MCCONNELL, a Republican from Kentucky.

Most Hoosiers believe we can get more accomplished when we work together, and I have worked across the aisle on what I believe is a very responsible solution. I hope today we will continue this debate. It will be difficult, but we have the ability to get this right. If Congress fails to act, our ag community will be faced with continued confusion and uncertainty, and we will not have strengthened our efforts to protect the waters of this country.

The WOTUS rule is a perfect example of the disconnect between Washington and the Hoosier ag community, farmers and ranchers around our country, small businesses, and our families. No one wants cleaner water or healthier land more than the families who live on those farms and who work on our farms every single day right next to those waters—the same waters their children play and swim in and with which they work every day. That is why countless Hoosier farmers are frustrated that Washington bureaucrats are calling the shots rather than working together with our ag community and our families to develop sensible environmental protection. This can be done if it is done the right way.

In Indiana we are already leading in many agricultural conservation and environmental protection efforts. We have more farmers than ever before doing things such as planting cover crops and using no-till farming techniques that keep soil in the fields and keep the inputs in the fields. We are leading the Nation in cover crop efforts. It is voluntary, and it is part of a program to make sure our waters—our rivers and streams—are cleaner. This is being done by people, not by bureaucrats.

Let's have some faith and confidence in the people of this country and in the wisdom of our ag community in Indiana and in every other State. If we work with our friends and our neighbors, we can do even more to improve water quality.

Listen to farmers such as Mike Shuter and Mark Legan. Mike is an Indiana Corn Growers Association member from Frankton, IN, who won the National Corn Growers Association Good Steward Award this year for sustainable corn farming practices. Mike said:

I want clean drinking water for my wife, kids, and grandkids. We work hard to reduce the amount of pesticides, insecticides, and fertilizer on our farm. The EPA is going too far by attempting to unilaterally claim jurisdiction over my farmland.

Mark Legan is a farmer who received the American Soybean Association's Conservation Legacy Award in 2013. Here is what he had to say:

Farmers have been good stewards of the land for generations. We have found ways to produce more while using less pesticides and fertilizers. Waters of the U.S. gives the EPA one-sided jurisdiction over our ditches and fields, makes it more difficult to grow crops, and makes it harder to feed the world.

After hearing these frustrations from Hoosier ag producers and from local and county governments about this rule, and because I am the hired help not only for Indiana but for our country, we wrote the Federal Water Quality Protection Act. The intention is to strike a reasonable, bipartisan compromise—what a unique concept. It is the concept that our country has been built on. The legislation is simple: Focus on common science principles to shape a final rule and to require straightforward procedures that the EPA skipped the first time. These are steps the EPA should have done in the first place, such as reviewing economic and small business impacts.

The bill is not designed to destroy or delay the rule. In fact, our bill asks the EPA to complete its rule by December 31 of next year. There is no long hide-the-ball game being played here. We want to have this done by the end of next year.

The legislation includes explicit protections for waters that almost everyone agrees should be covered. If a body of water impacts the quality of the Wabash or Kankakee Rivers, the Great Lakes or anything similar, our bill protects those waters. It protects commonsense exemptions for isolated

ponds and agricultural or roadside ditches—most of which the EPA has indicated they never intended to cover.

We require consultation with stakeholders such as States and the ag community, including soil and water conservation districts. Giving the EPA principles, procedure, and a clear deadline this bipartisan effort is meant to be constructive.

I urge my colleagues, Republican and Democrat, to allow us to consider the bipartisan Federal Water Quality Protection Act. It is our obligation to debate this important issue. I am confident a bipartisan majority of my Senate colleagues will support this commonsense bipartisan bill.

This much I promise: I will continue to push Congress to pass a permanent solution. We will never stop advocating on behalf of Indiana's farmers and families, ranchers and small businesses, and those of the entire country.

I yield back my time.

THE PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, first of all I want to thank my colleague, who has been working so hard on this. It affects Indiana, West Virginia, and every State in the Union. I hope people realize what is going on. This isn't a partisan issue. This is definitely a bipartisan issue, and it affects everybody in our State.

I want to thank Senator MARKEY for allowing me to speak for a few minutes. I have a funeral in Arlington to attend for one of our dear soldiers.

I have spoken on the Senate floor many times before about the burdens the EPA has continued to impose on hard-working families and hard-working people in West Virginia. Today, however, I am not speaking about the mining jobs I have spoken about so much. I am speaking about everyday West Virginians. If you have any property whatsoever, if you have a small business or a large business, if you come from any walk of life, if you are in agriculture or are a small farmer or are in large agriculture, this affects you. This allows the overreach of the government, as we have talked about so many times.

If you are a government agency, if you are a city, a small town, if you are a county, any decisions you make will be affected or could be affected. If imposed, the agency's waters of the United States rule, known as WOTUS, would have a harmful impact all over this great country. Again, the WOTUS rule will not just impact certain industries; it impacts everybody. The EPA wrote these rules without consulting some of the people who care about clean water the most—everyday West Virginians and Americans all across this great country. The WOTUS rule would impose heavy financial penalties on all of us, including our small business owners, farmers, manufacturers, and property owners.

If you have ever seen the terrain of West Virginia, we are the most mountainous State east of the Mississippi.

There is very little flat land whatsoever. So anything can be affected and everybody will be affected. Whether you build a home, have a small business or are a little city or community, you are going to be affected. If they can show on an aerial map that there used to be a river or stream of any kind, that comes under their jurisdiction. If anyone thinks differently—that it is not going to happen—this is exactly what is going to happen. That is why all of these small towns and the counties in rural America are totally opposed to this.

There is nobody I know of who doesn't want clean drinking water. With that, we are not saying that the Federal Government shouldn't have oversight on all of our waters that are for drinking, are navigable and/or recreational. In fact, I live on the water, so I know what it is to have the clean waters in our streams and rivers. This is not what we are talking about.

As my good friend from Indiana and my good friend from North Dakota are going to be talking about, this affects everybody. It affects every puddle, ditch, and every runoff—you name it; it affects it—and that means it affects all of our lives. They are going to say: Don't worry. We are not going to do all that. We are going to exempt it.

We have heard that one before—until it is something they don't like, until basically it gives them a chance to shut down something. I have farmers who are concerned about basically the crops they grow, the wildlife, the poultry and the livestock they have to care for. All of this could be affected. We fought this before.

The Supreme Court instruction is to clarify the Clean Water Act jurisdiction over bodies of water in use. This proposal goes too far. In fact, the Supreme Court has already ruled that not all bodies of water fall under the Clean Water Act regulations. So why are they expanding it? If they have already ruled on it, why are they expanding these rules? Why do they believe they can grab this?

They claim they were not required to consult with local governments under the federalism Executive order, arguing the rule did not impact them. The EPA claims that even though it did not comply with the Executive order, it still reached out to local governments. That is not true. That is not true in West Virginia. I can tell you that.

The EPA claims it addressed the concerns of local governments by providing exemptions for public safety ditches and storm water control systems. That is not true either. So that being said, I can only tell you what my citizens, my communities, business owners, and local governments are being affected by and why they are concerned.

The bottom line is it is completely unreasonable that our country's ditches, puddles, and otherwise unnavigable waters be subjected to the same regulations of our greatest lakes and rivers. On that we all agree.

The WOTUS rule exempts ditches only if the local government can prove that no part of the entire length of a ditch is located in an area where there used to be a stream. The WOTUS rule exempts storm water management systems only if they were built on dry land. The WOTUS rule says EPA can rely on historical maps and historical aerial photographs to determine where the streams used to be—not where they are now.

These provisions of the WOTUS rules should strike terror in the heart of every mayor, county commissioner, and manager of a city that was founded before the last century. This is how asinine this is. It is unbelievable that with a sweep of the pen, the EPA is trying to take us back to the days of Lewis and Clark. According to a memo written in April, not even the Corps of Engineers knows how it will determine which ditches are exempt and which are former streams. This is our own government.

Morgantown, WV, was founded in 1785. Wheeling, WV, was established in 1795. To go back in time to determine where streams used to be would be near impossible. I don't want West Virginia cities to have to worry about the status of their municipal infrastructure.

There is no question that with the additional permitting and regulatory requirements, the implementation of this rule will place a significant burden on West Virginia's economy, which is already hurting very badly. That includes businesses, manufacturing, housing, and energy production. Many in my home State are already struggling to make ends meet. We are one of the highest unemployment States, have been hit harder than any other State. We are fighting like the dickens. We will continue to fight and persevere.

The new financial and regulatory burdens will set people up for failure in an already unstable economic climate which in large part is caused by harmful regulations the EPA and the administration have established. We all want to drink clean water and breathe clean air, but we can achieve this without regulating hard-working Americans out of business.

This rule represents broad overreach that has the force of law without congressional approval. I would say you cannot regulate what has not been legislated. Why are we here? Why are we elected to represent the people when we cannot even do it, when we have to fight our own government to do the job we have been charged with doing?

I urge my colleagues to support this motion to proceed to S. 1140.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. Mr. President, Boston's sports teams have had their share of great moments. After a win, you can hear the crowd celebrating by singing a song by the Standells that goes like this:

Yeah, down by the river,
Down by the banks of the river Charles.
Well I love that dirty water,
Oh, Boston, you're my home.

While dirty water signals a win for a Boston team when that is sung, the real victory has been beating the pollution in the Charles River and Boston Harbor since the passage of the Clean Water Act. That victory is thanks to the implementation of that law, which protects sources of our drinking water from pollution and restores dirty waters back to health.

We need to keep the Clean Water Act's winning streak alive. Unfortunately, the bill the Senate may consider today could end the record of wins for the Clean Water Act. Its history of success has made the Clean Water Act one of the greatest American success stories. Before the Clean Water Act, there was no Federal authority to limit dumping, set national water quality standards, or enforce pollution rules. City and household waste flowed untreated into rivers and harmful chemicals were poured into wetlands and streams from factories and powerplants. Back then, we were all on the honor system. Water supplies were managed by a patchwork of State laws and an appeal to the common good. The result: mass pollution on a historic scale, oozing rivers so toxic that they could ignite into flames, fish dead by the thousands. America's riversides became a theater of public hazards and chemical death.

In short, before the Clean Water Act and the Federal involvement that was necessary, America's waterways were its sewers. Then, in 1969, a public firestorm was touched off by a Time magazine photo of the Cuyahoga River on fire in Ohio. With full-throated support from the public, Congress mobilized and produced the Clean Water Act, one of the most important pieces of environmental law in the history of the United States. The ultimate goal of the Clean Water Act—making waterways safe for the public and wildlife—was so popular that in 1972 a bipartisan Congress overrode a veto by Richard Nixon.

The successes and the benefits yielded by the pursuit of the goal of clean waterways would prove tremendous in the years ahead.

The Clean Water Act guards the Nation's natural sources of drinking water by guiding how we use them. It protects the wetlands, the streams, and other surface waters that ultimately provide us with drinking water.

The Clean Water Act has slowed the loss of wetlands, known as the "kidneys of the landscape" because of their ability to remove pollution from the water. They do this for free, making wetlands the most fiscally responsible water system in the world. The only alternative to this free service is to put our waters on dialysis by constructing filtration plants for billions of dollars in long-term maintenance and building costs. Our wetlands support the \$6.6

trillion coastal economy of the United States, which comprises about half of the Nation's entire gross domestic production and includes our nearly \$7 billion annual fishery industry and \$2.3 billion recreational industry.

The Clean Water Act has doubled the number of swimmable and fishable rivers in the United States. It has saved billions of tons of fertile soil from being washed off of our farms. It has fostered State and Federal collaboration, giving States a key role in managing poisonous runoffs from cities and farms. It established a permitting system to control what gets dumped into America's waterways. It developed fair and objective technology-based pollution control standards to help industries plan their compliance investments in advance. It sets science-based water quality standards and requires well-thought-out plans to meet them. Its environmental monitoring requirements prevent rehabilitated waterways from backsliding into unusable condition. It provides \$2 billion annually in critical funding to States for water quality and infrastructure improvements. Among its most important contributions, it empowers citizens to enforce its provisions and actively guard the health of their families.

For all of its benefits and successes, however, the Clean Water Act has still not reached its goal. One-third of our rivers still have too much pollution. When these drain into coastal waters, they add to the problems being caused by ocean acidification and warming. The pollution can cause dead zones off of our coasts and in the Great Lakes, putting drinking water supplies at risk and threatening sea life. While the act has slowed their loss, wetlands continue to disappear, and gone with them are millions of wetland-dependent creatures, such as ducks and turtles and most of the species of fish we find on our plates.

Clearly, clean water must be preserved for the health of the public, the environment, and the economy. That is why the Environmental Protection Agency and the Army Corps have spent so much time developing the recently finalized clean water rule. The clean water rule clears up confusion caused by two U.S. Supreme Court rulings on the reach of Federal water pollution laws and restores protections that were eliminated for thousands of wetlands by President George W. Bush in his administration.

Specifically, the rule revises the definition of "waters of the United States," a term that identifies which waters and wetlands are protected under the Clean Water Act. The rule was written in response to requests for increased predictability and consistency of Clean Water Act permitting programs made by stakeholders such as the National Association of Home Builders and the National Stone, Sand & Gravel Association.

The clean water rule restores clear protections to 60 percent of the Na-

tion's streams and millions of acres of wetlands that were stripped away under the previous Republican administration. The EPA estimates that returning the clean water protections will provide roughly half a billion dollars in annual public benefits, including reducing flooding damage, filtering pollution, supporting over 6 million jobs in the over half-a-trillion-dollar outdoor recreation industry.

The rule protects public health by closing pollution loopholes that threaten drinking water supplies to one-third of Americans. In Massachusetts, the drinking water of nearly 3 in 4 people will now be protected.

The rule enjoys broad support from local governments, small businesses, scientists, and the general public, who submitted over 800,000 favorable public comments. Eighty percent of Americans support the clean water rule, and when asked if Congress should allow it to go forward, they responded with a resounding yes.

Despite public support for clean water and this commonsense rule, the Republicans want to bring a bill to the floor that would undermine the national goals and policy written by the Clean Water Act. If enacted, this water-polluting bill would undermine the legal framework that protects our water. It would once again leave one-third of the Nation's drinking water vulnerable to dangerous contamination. It would set up a fight over technical details that would prevent us from protecting the public health by preventing the dumping of toxic chemicals into natural public drinking water sources.

The critics falsely claim that the clean water rule overreaches because it enables broader Federal jurisdiction than is consistent with law and science.

So, ladies and gentlemen, I support the work the EPA and the Army Corps have done in putting together the clean water rule. It will continue the string of victories our Nation has enjoyed under the Clean Water Act. I urge my colleagues to oppose any legislative efforts to overturn the clean water rule. We need to keep the Clean Water Act working for all of America.

I want to make sure that the only place in Massachusetts people are talking about dirty water is after one of our great Boston sports teams have chalked up another victory. That is the only time we should be singing about dirty water because otherwise the health and well-being not just of people in Massachusetts but all across our country will be harmed.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, listening to this, you would think that people who want some commonsense regulation don't believe in clean water. You would think that if we do this, somehow the Charles River or the Cuyahoga River, having been navigable the

whole while here under the Clean Water Act jurisdiction, would suddenly not be navigable. That is not the case. That is not the case. I think it is really important that we ratchet down the emotion and we start looking at the facts.

Let's start with where we are right now with this idea of what are, in fact, jurisdictional waters under the Clean Water Act. This has been a debate for 40 years. It has been in and out of the courts for 40 years. In 1985 the Court made a ruling. In 2001 the Court made a ruling. In 2006 the Court decided a case called *Rapanos*. What *Rapanos* said is—four Justices said EPA is right, four Justices said EPA is wrong, and one Justice said EPA may be right. As a result, we have created a system that has caused great uncertainty in America today as it relates to how we use land. Acting on that uncertainty, EPA promulgated a rule. That rule is inconsistent, in my opinion, with the direction they were given by the Court. That rule has created an incredible amount of uncertainty.

To suggest that all the major ag groups, all the groups that are out there, including the Association of Counties, including many of the Governors, are all wrong and they all love dirty water is absolutely insulting as we kind of move forward on this discussion.

I am going to show you why North Dakota is concerned about this regulation. This is an aerial picture of my State. You may not think there is a lot of water in North Dakota. This is a picture of my State and Devils Lake in the Devils Lake area. You might say: Oh she picked a picture that looks like this.

I ask and invite any of you to come to North Dakota and I will fly you anywhere in North Dakota. This is what North Dakota looks like. You see all this water here and you see all this water here and you see this. Do you see that? That is a pothole, what we call a prairie pothole. It used to be and seasonally is full of water. Sometimes it is farm, sometimes it is not. Is this waters of the United States? It is not connected to any navigable stream. It is not adjacent to any kind of navigable water, moving water. None of this is connected with any kind of cross-land connection.

I will tell you under the rule that we have and under the interpretations of the Corps of Engineers—which we always forget when we are talking about this—the Corps of Engineers and EPA, what they would say is: We don't know. We would have to send biologists to take a look at this. We would have to spend hundreds of thousands of dollars, of taxpayer dollars, to determine whether in fact there is substantial nexus.

We asked for a simple rule. First, just as a point of view, when the statute says navigable water, that water ought to be moving someplace other than into the ground. All water in the

world is interconnected. We know that. That is a matter of hydrology. That is a matter of science. Scientists would say there is no such thing as a discrete separation.

But you know what. Legally there is. It did not say every drop of water is controlled by the Environmental Protection Agency under the Clean Water Act, it said navigable water, and we have been in this fight for a lot of years, including 2006.

Mr. President, I know we are in excess of the time. I ask unanimous consent for just a little more time to conclude my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. HEITKAMP. I want to make this point because it really is a question. The Senators who have come to the floor and talked about this rule talk about: Look, we are making progress. What they haven't told you is that rule has absolutely no legal effect anywhere in this country today. Do you know why? Because the courts of the United States have stayed it. It is not in effect while we litigate yet another case.

So when we looked at this problem and we looked at trying to give certainty to farmers who own this land—by the way, this land is not owned by the people of this country. This land is owned by farmers who need certainty, who need to know. So we looked at this and we said: It is time for Congress to do what Congress ought to do, which is to legislate, which is to actually make a decision—to not just get on either side of a regulatory agency and yell about whether they are right or wrong but actually engage in a dialogue.

That is why Senator DONNELLY, Senator BARRASSO, Senator INHOFE, and I sat down and said: Look, this will continue in perpetuity. We will spend millions of dollars litigating this and never get an answer because chances are we are back to 441, and that is not an answer.

So we put together a piece of legislation looking at how can we as legislators, as Congress provide some parameters on what this means. People who will vote no on a motion to proceed will tell you we want EPA to decide. I am telling you that people in this country expect Congress to decide. They expect Congress to make this decision, to step up, and resolve this controversy because 40 years and millions and millions of dollars spent in litigation is not a path forward.

As we look at this legislation simply on a motion to proceed on one of the most controversial issues in America today—which is waters of the United States—not voting to debate this issue, not voting to proceed on this issue is the wrong path forward.

I urge my colleagues to open the debate and let's talk about this map—not the Charles River and not the Cuyahoga River because I will concede that they are navigable water. I want to know in what world is this navigable water of the United States, what world

should EPA have jurisdiction over this pond, and in what world—when you are the farmer who owns it—do you think you have any certainty as we move forward?

We are trying to give certainty to the American taxpayer. We are trying to give certainty to people who build roads and bridges. We are trying to actually have a debate on an important issue of our time.

I urge my colleagues to vote yes on the motion to proceed so we can have an open debate—it could be fun—as we talk about this issue.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I ask unanimous consent to speak for up to 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Mr. President we will have a chance at 2:15 p.m., I believe, for 15 minutes to close the debate, and at 2:30 p.m. we are going to have a vote on a cloture motion. I urge my colleagues to vote against the cloture motion.

I agree with my friend Senator HEITKAMP that we need certainty. We have been debating this issue for a long time since the court cases. If this bill were to become law, you are not going to have certainty. It is going to be litigated. Whatever is done, it is going to be litigated. We know that. We have seen the litigious nature of what has happened over the course of the issues.

Yes, I want Congress to speak on this. Congress has spoken on this. Congress has said very clearly that we want the test of the Clean Water Act to be to restore and maintain the chemical, physical, and biological integrity of our Nation's waters.

I don't want Congress to say: No, we don't want that. We now want a pragmatic test that could very well jeopardize the Clean Water Act. The bottom line is each Congress should want to strengthen the Clean Water Act, not weaken it. This bill would weaken the Clean Water Act and prevent a rule that has been debated for a long time from becoming law.

I urge my colleagues to reject the motion for cloture, and we will have a little bit more to say about this at 2:15 p.m.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the mandatory quorum call under rule XXII be waived with respect to the cloture vote on the motion to proceed to S. 1140.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BARRASSO. Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

FEDERAL WATER QUALITY PROTECTION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the time until 2:30 p.m. will be equally divided in the usual form.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today as the Senate considers an issue that is critically—critically—important to agriculture and to rural America.

It is my hope the Senate will advance landmark legislation that I, along with a bipartisan group of colleagues, have introduced in response to the U.S. Environmental Protection Agency's final rule that redefines waters of the United States—commonly referred to in farm country as WOTUS, among other acronyms—under the Clean Water Act. I am proud to be an original cosponsor of S. 1140 and represent agriculture and rural America's charge in pushing back against EPA's egregious Federal overregulation.

EPA's final WOTUS rule would adversely impact a vast cross-section of industries, including agriculture. As I have said before, I fear the sheer number of regulations imposed by this administration is causing the public to lose faith in our government. Too often I hear from my constituents that they feel "ruled" and not "governed." S. 1140 is in response to exactly that sentiment.

As chairman of the Committee on Agriculture, Nutrition, and Forestry, I have heard directly from farmers, ranchers, State agency officials, and various industries in Kansas and all throughout our country that ultimately would be subject to these new burdensome and costly Federal requirements. The message is unanimous and clear. This is the wrong approach and the wrong rule for agriculture, rural America, and our small communities.

According to the Kansas Department of Agriculture, EPA's final rule would expand the number of water bodies in Kansas classified as "waters of the United States," subject to all—subject to all—Clean Water Act programs and requirements by 460 percent, totaling 170,000 stream miles. This is just incredible. The expanded scope will further exacerbate the burden of duplicative pesticide permitting requirements and the other overregulation by this administration. This simply is not going to work and makes zero sense, especially in places such as arid western Kansas. Furthermore, the final rule undercuts a State's sovereign ability as