

States' rights eroding Congress may give EPA green light to regulate all bodies of water

Guest column | Posted: Thursday, January 7, 2010 7:55 am | Loading...

If there has ever been an appropriate time in history to stand up for states' rights, now is that time. The federal government is significantly expanding its authority into several industries, and as Washington increases its authority, the rights of citizens and states continue to dwindle. Some in Washington are now considering dramatically expanding the power of the federal government so that it can regulate every body of water in the United States, a move that will saddle millions of property owners and businesses with new, burdensome permitting rules.

In 1972, the Clean Water Act gave the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers the authority to regulate “navigable” waters of the U.S., such as lakes, rivers and oceans. By passing this common sense law, Congress ensured that these bodies of water were protected environmentally and that they were safe to help promote interstate-commerce.

The Clean Water Act provides the federal government broad, but not unlimited, authority to regulate “navigable waters,” with state governments responsible for regulating all other waters. However, some in Congress are moving to strip states of that responsibility under the guise of “clarifying” jurisdiction questions raised by language within the Clean Water Act.

Their chosen vehicle for intruding into state regulation activities is the so-called Clean Water Restoration Act , a classic legislative Trojan horse that promises simple clarification, but will spring some nasty surprises.

Proponents of the CWRA say that this legislation won't give Washington the power to regulate ponds, erosion features and ditches, but if Congress passes legislation that defines all waters as federal waters, regulatory agencies will have no choice but to regulate everything they see – even extending to areas that don't always hold water.

Since agriculture is one our region's largest industries, we have reason to be concerned. Why? Well, if passed, the CWRA could require farmers and ranchers to obtain federal permits from Washington in order to carry out some of their daily land management activities. In fact, one Midwestern Farm Bureau estimates that the CWRA would impose federal regulations on an additional 55 million acres of farmland.

Not only is the CWRA a threat to the rights of state and local governments, as well as private property owners, but it also would infringe on this region's state rights to regulate the waters that we rely on every day.

Under the CWRA, something as simple as a farmer or rancher filling a ditch on private property could require a federal permit that could take years to get approved and cost thousands of dollars. Whether permitting for construction of a new school, shopping center, or road, for example, if there is any water – in any form, in any amount – then a federal permit would be required.

It just doesn't make sense to force the residents of this region to ask a Washington, D.C., bureaucrat for permission to access their own water, on their own land, for their own personal use.

The good news is that there is still time to stop this nonsense. Tell your friends and neighbors to write their members of Congress and let them know that states, not Washington bureaucrats, are best suited to regulate and control water permitting and authority.

[State Rep. Russell Bean, a Republican, writes from Augusta.](#)