

Press Release

Oberstar Introduces Bill to Protect America's Waters

"Clean, safe water is a basic right for all Americans."

April 21, 2010

Rep. James L. Oberstar (Minn.), Chairman of the Committee on Transportation and Infrastructure, introduced legislation today to reaffirm the ability of the Clean Water Act to protect the nation's waters, including wetlands. H.R. 5088, "America's Commitment to Clean Water Act," will restore bedrock protections from water polluters who place families and communities nationwide at risk.

Rep. John Dingell (Mich.) and Rep. Vernon Ehlers (Mich.), who joined Oberstar at the press conference, are original cosponsors of the bill.

In 2001 and 2006, two decisions of the U.S. Supreme Court threw the nation's clean water programs into turmoil, creating confusion and uncertainty for communities, developers, and agricultural interests, and placed at risk the nation's ability to restore, protect, and maintain water quality and the water-related environment. The Supreme Court overruled 30 years of regulatory policy and limited the scope of the waters protected by the Clean Water Act.

On February 28, the New York Times reported that as a result of the two Supreme Court decisions, companies have spilled oil, carcinogens and dangerous bacteria into lakes, rivers and other waters without being prosecuted. According to the article, Environmental Protection Agency regulators working on those cases estimate that more than 1,500 major pollution investigations have been discontinued or shelved in the last four years.

Further, data from 2008, the most recent year available, show there were over 20,000 beach closings and advisories that year due to pollution, and studies in the Great Lakes show that as many as 10 percent of beachgoers report getting sick after swimming in beach waters open for swimming.

"Turmoil, confusion, and uncertainty are no way to run a program. That is why I developed legislation to restore the common understanding of the scope of the Clean Water Act based on decades-old interpretations of the U.S. Army Corps of Engineers and the Environmental Protection Agency," Oberstar said. "By restoring the common understanding and practice as existed in 2001 of the extent to which the nation's waters and wetlands are protected by the Clean Water Act, we can provide much-needed certainty to the regulated community, and avoid costly litigation over responsibility for protecting clean water."

Opponents of legislation to restore Clean Water Act protections characterize it as a mammoth expansion of Federal power. Oberstar says that the Supreme Court ignored the intent of Congress and 30 years of precedent by narrowing the Act, and his bill restores the Clean Water Act to its pre-2001 status.

"Opponents of the Clean Water Act argue that the Federal government should not require a permit for everything you do that might affect a wet area. I agree. The Clean Water Act never required such permits, and I do not offer legislation that would do so. Simply put, if it was not regulated before 2001, it will not be regulated with the enactment of my legislation," said Oberstar. "However, some people have opposed the Clean Water Act for decades, and it should not come as a surprise that these same groups are using recent Supreme Court decisions as justification to roll back protections under the Clean Water Act. On this, I strongly disagree."

In 1972, Congress voted overwhelmingly to overturn President Nixon's veto of the Clean Water Act and to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Over its 37-year history, the Clean Water Act has restored countless rivers, lakes, and streams, protected drinking water supplies, and preserved water quality and water-related habitat essential to waterfowl, wildlife, and fisheries.

"Clean, safe water is a basic right for all Americans. Yet, unless we act, the Clean Water Act cannot ensure that right," said Oberstar. "Since the Clean Water Act was enacted in 1972, Americans have overwhelmingly expressed their support for protecting our nation's waters and keeping them safe from polluters. H.R. 5088 will restore the nation's commitment to clean water and protect the health and safety of all Americans."

Two years ago, the T&I Committee conducted a thorough, day-long hearing that heard from two dozen witnesses on five panels who both supported and opposed prior legislation introduced by Oberstar. He invited suggestions from any and all interested parties.

"The bill that I introduce today is a new bill that responds to comments I heard from witnesses at our hearing and other stakeholders. It more clearly and specifically targets its one objective – addressing two Supreme Court decisions that I believe were wrongly decided," concluded Oberstar. "This bill includes multiple changes to emphasize that it will reaffirm and restore the original scope of the Clean Water Act, and not expand its geographic scope."

(An archived webcast of this morning's news conference regarding H.R. 5088, "America's Commitment to Clean Water Act" can be accessed from the home page of [this website](#).)