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# AAW ACTION REQUEST

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**TO:** AMERICAN AGRI-WOMEN MEMBERS  
**FROM:** AAW  
**SUBJECT:** **REVISED: CLEAN WATER RESTORATION ACT H.R. 2421**  
**DATE:** 3/18/2008  
**CONTACT:** CHERYL DAY, AAW WATER RESOURCE MGT. CHAIR, cday@iadd.info

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## ACTION REQUEST

The American Agri-Women is asking all members to contact key House Transportation and Infrastructure Committee Members and all U.S. House of Representatives. Please contact your legislators and let them know how this fundamental change to the Federal Clean Water Act would personally effect your farming operation.

## CONTACT INFORMATION

H.R. 2421 is scheduled for committee vote on April 16<sup>th</sup>. Currently all U.S. Congressmen are on spring break. All contacts March 17-31<sup>st</sup> need to be made with the Representative's District Office. After March 31<sup>st</sup>, contacts need to be made with the Representative's Washington D.C. Office.

Please contact key Transportation and Infrastructure Committee Members who are not co-sponsors of this bill and ask them to vote NO on HR 2421 on April 16 in committee:

Rep. Harry Mitchell, AZ	Rep. Michael Michaud, ME	Rep. Charles Dent, PA
Rep. Don Young, AK	Rep. Candice Miller, MI	Rep. Jim Gerlach, PA
Rep. John Boozman, AR	Rep. Timothy Walz, MN	Rep. Tim Holden, PA
Rep. Gary Miller, CA	Rep. Sam Graves, MO	Rep. Bill Shuster, PA
Rep. Laura Richardson, CA	Rep. John Kuhl, Jr., NY	Rep. Henry Brown, SC
Rep. John Salazar, CO	Rep. Howard Coble, NC	Rep. John Duncan, TN
Rep. Mario Diaz-Balart, FL	Rep. Robin Hayes, NC	Rep. Nick Lampson, TX
Rep. Connie Mack, FL	Rep. Heath Shuler, NC	Rep. Ted Poe, TX
Rep. John Mica, FL	Rep. Robert Latta, OH	Rep. Thelma Drake, VA
Rep. Lynn Westmoreland, GA	Rep. Steven LaTourette, OH	Rep. Brian Baird, WA
Rep. Leonard Boswell, IA	Rep. Zachary Space, OH	Rep. Rick Larsen, WA
Rep. Jerry Costello, IL	Rep. Jean Schmidt, OH	Rep. David Reichert, WA
Rep. Timothy Johnson, IL	Rep. Mary Fallin, OK	Rep. Shelley Capito, WV
Rep. Richard Baker, LA	Rep. Jason Altmire, PA	Rep. Nick Rahall, WV
Rep. Charles Boustany, Jr., LA	Rep. Chris Carney, PA	Rep. Thomas Petri, WI

Please contact U.S. Representative and urge them to vote no on H.R. 2421

U.S. Representative Contact info:

<http://www.house.gov/> Use the drop down box "*Representatives' Website*" at the top of the page to locate your Representative District office contact information.

## AAW POSITION STATEMENT

Oppose H.R. 2421/ S. 1870

### BACKGROUND INFORMATION

US Representative James Oberstar (MN) and Senator Russell Feingold (WI) propose to amend the Clean Water Act of 1972, HR 2421/S. 1870, by changing the definition of “navigable waters” and further define it to mean “the waters of the United States”. This minor word change would drastically expand the federal Clean Water Act (CWA) jurisdiction to virtually all wet areas in the United States. This change would have great consequences to agriculture and would create a bureaucratic problem to administer. As a result, landowners would need a permit for routine farming practices (such as tiling a field regardless if it is adjacent to wetland or not).

Eliminating ‘navigable’ from the statute and replacing it with previously proposed definitions will significantly expand the reach of the CWA by premising its jurisdiction on “the legislative power of Congress under the Constitution.” In reality, such a premise would serve only to significantly broaden the jurisdiction of the CWA in a fashion even more ambiguous than current regulations. If proposals such as this were to become law, the only way to answer whether “water” is subject to CWA’s jurisdiction would be thorough costly and time consuming litigation.

Inevitably, such litigation would involve not just the scope of the CWA but the scope of Congress’ Constitutional authority; because that is the only limit such proposals clearly acknowledge (but do not define).

### REFERENCE INFORMATION

H.R. 2421: Currently, the bill is in the House Subcommittee on Water Resources and Environment. Sponsor: James Oberstar (D-MN) Co-Sponsors: 169.

Click on this Link to track this legislation and view bill sponsors: <http://thomas.loc.gov/cgi-bin/query/z?c110:H.R.2421>

House Water Resources and Environment Subcommittee Link:  
<http://transportation.house.gov/water/index.shtml>

S.1870: Currently, the bill is the U.S. Senate Committee on Environment and Public Works. Sponsor: Senator Feingold 20 Co-Sponsors:

Click on this Link to track this legislation and view bill sponsors: <http://thomas.loc.gov/cgi-bin/query/z?c110:S.1870>

Senate Environment and Public Works Committee link: <http://epw.senate.gov/public/>

### TIPS FOR LEGISLATIVE CONTACTS

1. Do your Homework: Read the summary sheets to learn more.
2. Know your Opponent: Learn what the supporters of the bills are saying:  
Clean Water Action [www.cleanwateraction.org](http://www.cleanwateraction.org);  
Sierra Club <http://www.sierraclub.org/legislativetracker/109S912.asp>
3. Utilize the fact sheets and background information to write your legislator. Affiliate legislative teams should compose a sample letter for members to use. It is always recommended to use your own words and style.
4. Call your U.S. Congressman office. Do not be surprised if you are referred to a staff person or to leave your comments in a message form. Please remember legislators are very busy. They rely heavily on

key staff personal to do the research. Sometimes an appointment or conversation with a staff person can be just as effective. Always thank your legislator and/or staff for his or her time.

5. Form Letters and Faxes are quickly discarded. Use your own words. State in the first sentence the action you want your legislator to take (I urge you to vote NO on HR 2421..). Clearly stated that your opposition to HR2421 is not about Clean Water but about regulatory actions. Explain how the legislation would negatively affect your farming operation (the increase requirements for a permit with EPA or USACE or a tight control on fertilizer and pesticide use.
6. Keep your message short and to the point.
7. **Always thank the legislator and staff person for her or his time and attention including written comments.**
8. Write a letter to the editor of your local paper. Remember to stress you support Clean Water.
9. Organize a petition campaign.
10. Team up with other associations and take advantage of any political event to speak with a legislator.
11. Talk to your friends, neighbors, and other members of your community and spread the word!

Do not assume that your legislator (s) has been contacted. More contacts the better. Please make the personal contact or join forces when applicable with other agriculture leaders.

## RESPONSES FOR FAQs BY MEDIA AND SUPPORTERS

- *M/S: I have heard the American Agri Women is opposed to Clean Water.*
  - American Agri Women members are not opposed to clean water. As caretakers of the land, agriculture producers utilize various best management practices to conserve our natural resources. Voluntary Incentive Programs have made great stride in water quality. Our opposition to H.R. 2421 is not about clean water but about the expanding the jurisdiction of the federal Clean Water Act to all intrastate waters including groundwater, ditches, culverts, pipes, erosional features, farm and stock ponds, and prior converted cropland.
- *M/S: Why is the agriculture community opposed to H.R. 2421 if agriculture is exempt?*
  - It is important to recognize that not all agriculture practices are listed exemption in the current statues. Most practices, for instance ponds or man-made ditches used for agriculture drainage, are listed as exemption through regulatory agencies' rulemaking. Therefore, H.R. 2421 would grant regulatory agencies unrestricted authority to regulate all activities that affect waters, regardless of whether the activity is occurring in the water.
  - H.R. 2421 broadly expands geographically what defines "Water of the U.S.". Any activity that cause a pollutant discharge from a point source could be subjected to an U.S. Army Corps of Engineers (USACE) 404 permits. For example: Spreading fertilizer or spraying pesticide could be viewed as such activity.
- *M/S: Supporters of H.R. 2421 will claim the legislation contains a "saving clause" that allegedly addresses some agricultural concerns*
  - *The clause does not exempt any waters or areas from broad jurisdiction.*
  - *Fails to include important regulatory exemptions for prior converted cropland and waste treatment systems*
  - *Limits the agencies' abilities to adopt future regulatory exemptions*
  - *Paraphrases the existing statutory exemptions, raising questions regarding Congressional intent with respect to the full scope of the existing statutory exemptions including omitting Section 502 (14) which exempts agricultural stormwater discharges.*
- *M/S: If H.R. 2421 is not passed then the State's waters may be subjected to more pollutants.*
  - \_\_\_\_\_ (insert your state) has strict water laws and clearly regulates point source pollutants.
  - The characteristics of water vary from state to state and in fact can vary for one end of a state to another. Therefore, it is important specific regulations are made on the local or state level.
  - The state of \_\_\_\_\_ is more capable to protect the state's water quality.

## CONCERNS

- Grant EPA and the U.S. Army Corps of Engineers virtually unlimited regulatory control over all “intrastate waters” – essentially wet areas within a state including groundwater, ditches, pipes, streets, gutters, and desert features.
- Grant EPA and the Corps unrestricted authority to regulate all activities (private and public) that affect waters, regardless of whether the activity is occurring in water or may impact water at all.
- Eliminates the existing regulatory limitations authorized by both Democratic and Republican administrations allowing common sense uses, such as prior converted cropland and waste treatment systems.
- Fail to clarify any limits on federal authority.  
EPA and the Corps of Engineers will exercise unlimited regulatory authority over all intrastate waters, including, for example, waters now considered entirely under state jurisdiction.
- Enormous resources will be needed to expand and defend the federal regulatory program, exacerbating an existing CWA funding gap and leading to longer permitting delays.
- Increased delays in securing permits will impede a host of economic activities commercial -- and residential real estate development, agriculture, electric transmission, transportation, mining will all be affected. Based upon agriculture organizations’ accounts of members’ experiences, it takes on average between 2-3 years to obtain an individual permit. The current backlog for individual permits is estimated between 15,000 and 30,000.
- An expanded federal water program would impose an unfunded mandate on States by increasing the number of waters subject to water quality standards, the setting of Total Maximum Daily Loads (TMDLs), and expanding the permitting workload under various aspects of the state-administered programs.
- Expanded federal jurisdiction would pre-empt state and local governments from making local land and water use decisions and alter balance of federal and state authority established when the Clean Water Act was first enacted and reaffirmed during subsequent reauthorizations.
- Litigation will increase as the government and stakeholders struggle to clarify the uncertain scope of constitutional authority.

## REFERENCE WEBSITES:

**American Property Coalition:** <http://www.americanpropertycoalition.org>

**American Farm Bureau:** <http://www.fb.org/index.php?fuseaction=legislative.cleanwateract>

**National Corn Growers:** <http://capwiz.com/ngca/issues/bills/> (link to sponsors and co-sponsors contact information)

**Croplife America Written Testimony:** [http://www.croplifeamerica.org/design\\_06/viewer.asp?pageid=212](http://www.croplifeamerica.org/design_06/viewer.asp?pageid=212)

## FEEDBACK

Any feedback that you received from a personal contact will assist us in this action. Thank You!

## QUESTIONS

If anyone has question about this Action Request please contact Cheryl Day 217-763-6300 or [cday@iadd.info](mailto:cday@iadd.info)