

EXTENSIONS OF REMARKS

FEDERAL FACILITIES CLEAN WATER COMPLIANCE ACT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. DEFAZIO. Mr. Speaker, today I'm reintroducing the Federal Facilities Clean Water Compliance Act (H.R. 2222). This legislation, which I first introduced in 1993, would subject Federal facilities to the same requirements under the Clean Water Act, as private facilities.

Five years ago, Congress overwhelmingly enacted the Federal Facilities Compliance Act. This act has become a major enforcement tool in cleaning up waste at military and civilian sites around the Nation. But few people realize it only applies to solid wastes. Liquid discharges into surface water at Federal facilities are completely exempt from enforcement actions under the law. Under this indefensible double standard, the Federal Government gets off scot-free for the same violations for which private companies and local government are slapped with fines of \$25,000 each day.

At the Hanford Nuclear Reservation in the Pacific Northwest, hundreds of billions of gallons of contaminated wastewater were discharged directly into the Columbia River. More than 400 billion gallons of liquid waste have been discharged into the soil, contaminating over 200 square miles of ground water with radioactive and chemical wastes. This contamination is slowing inching toward, and in some cases has already reached, the Columbia River.

In December 1991, following a 3-year, billion-dollar start-up effort, the Department of Energy's [DOE] "K" Reactor at the Savannah River Site in South Carolina discharged thousands of curies of contaminated cooling water into the Savannah River. As a result, a number of drinking water plants, food processors, and oyster beds on the river had to be shut down until the tritium concentrations diminished.

It was not the first time radioactive pollutants had been dumped into the river. DOE records indicate that more than 3.5 million curies of tritium had been released from the site since 1984.

In Texas, the DOE has admitted to discharging waste from its Pantex Plant into nearby Playa Lakes. In Ohio, the DOE has dumped over one-half million pounds of uranium into the air and water from its Fernald Plant, located 20 miles northwest of Cincinnati. Drinking wells south of the Fernald plant are contaminated with radioactivity at levels as much as 250 times higher than limits set by the Environmental Protection Agency [EPA].

One startling fact highlighted by all of these tragic spills is that radioactive discharges from Federal facilities are not regulated under the Clean Water Act [CWA]. Neither the EPA nor individual States can set or enforce discharge

limits for Federal facilities that dump nuclear waste into our streams and rivers.

Although the CWA defines a pollutant as "radioactive material" and requires DOE and other Federal agencies to comply with the CWA in the same manner and to the same extent as private individuals, the language doesn't have much backbone. A 1976 Supreme Court decision, *Train versus Colorado PIRG*, ruled that the CWA's definition of pollutant does not clearly indicate whether Congress intended the CWA to apply to radioactive materials regulated under the Atomic Energy Act—namely "source," "special nuclear," and "by-product" materials. These are the chief waste discharges found in tritium and released from DOE and Department of Defense facilities.

In addition, States are virtually helpless to do anything about the dumping, since States cannot assess civil penalties against the Federal Government under the doctrine of sovereign immunity.

Under the CWA, States may assess penalties against individuals up to \$25,000 per day per violation. However, another Supreme Court decision, *State of Ohio versus DOE*, ruled that the DOE and other Federal agencies are immune from civil penalties under the CWA and the Resource Conservation and Recovery Act [RCRA].

This infamous decision ultimately led Congress to pass the Federal Facilities Compliance Act for RCRA in 1992. The exemption for the CWA still remains.

And finally, the EPA cannot issue administrative orders or assess penalties against other agencies for violating the CWA. The EPA may currently assess penalties up to \$10,000 per day against individuals. But it can only issue administrative orders against Federal facilities on a consent basis. The EPA cannot assess unwanted penalties against a Federal agency. This essentially limits the EPA's primary enforcement mechanism to voluntary compliance agreements.

Congress needs to fill this regulatory void by providing independent oversight of Federal facilities that discharge radioactive waste into our waters. That authority already exists for toxics, suspended solids, and other nonradioactive pollutants under the CWA. Radioactive material should not be held to a lesser standard.

In addition, we should grant EPA the same regulatory powers it now enjoys under the Clean Air Act. Under this act, the EPA can regulate radioactive air pollutants discharged from Federal facilities. There is no distinction made between pollutants; a poison is still a poison. We should eliminate the paradox under the Clean Water Act.

The legislation I'm introducing today will eliminate the exemption under the CWA for radioactive discharges, empower States to assess civil penalties against Federal agencies, and authorize the EPA to issue unilateral administrative orders and assess penalties against other Federal agencies for violations of the CWA. My bill is supported by the Clean

Water Network, Natural Resources Defense Council, USPIRG, Physicians for Social Responsibility, the Military Production Network, Plutonium Challenge, and Heart of America Northwest. It has also been endorsed by the Oregon Department of Energy and the Oregon Department of Environmental Quality.

At a time when the emphasis on America's nuclear weapons complex is shifting from production to cleanup, it's essential that we close these dangerous loopholes. Independent oversight of Federal facility discharges can prevent future accidents from happening and provide a means of cleanup enforcement when they do occur. I urge my colleagues to cosponsor this legislation and join me in this effort.

TRIBUTE TO CLAIRE AND BEAVER JUTRAS

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. BASS. Mr. Speaker, I rise today to pay tribute to Claire and Roland, "Beaver" Jutras, of Peterborough, NH, who have recently been named as Parents of the Year by the National Parents Day Foundation. When Claire and Beaver Jutras are asked about their four daughters, Michelle, Christine, Natalie, and Veronica, they say that they have been blessed. It is now clear that these four girls have been blessed as well, with two loving, caring and dedicated parents.

Claire and Beaver are an inspiration to all parents for their selfless devotion to their daughters. The girls are active in countless activities and organizations. As any parent knows, that means Claire and Beaver have always had to find time to provide transportation and attend games and activities, as well as being active community leaders themselves. Beaver is the director of the Peterborough recreation department, a leader in his church, and an active, committed citizen of the town. He has been recognized as a Paul Harris Fellow, the VFW man of the Year in 1981, and Citizen of the Year in 1987. He was also a member of the ConVal District School Board and teaches at his church.

Claire Jutras is a special education aide at Peterborough Elementary School but worked part time while her daughters were in school so as to be able to devote her afternoons to them and their activities. She has also served as a Brownie leader, a teacher, and Eucharistic minister at their church, a preschool teacher, a recreation volunteer, and supervisor of the checklist for the town.

The Jutras are civic and spiritual leaders, athletes, scholars, and good neighbors. Families such as this one are the fabric of smalltown new Hampshire. It is an honor to be able to recognize them for their accomplishments.

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