

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 incredulous. 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

the primary regulator of water resources, which administers and carries out Clean Water Act programs.

Even more troubling, in recent months it has become apparent through the release of internal government documents between the EPA and the U.S. Army Corps of Engineers that there are serious concerns and questions with regard to the legality of the EPA's role and actions during the famous or infamous public comment period to garner support for the final rule. The tactics employed by the EPA throughout this rulemaking process completely undermines the integrity of the interagency review process and the public's trust.

The EPA claims they have listened to farmers and ranchers about the concerns they have raised. EPA not only stacked the deck against farmers and ranchers, but EPA deliberately ignored them. This bill requires the EPA and the Army Corps of Engineers to withdraw the final rule and craft a new rule in meaningful consultation with stakeholders, State partners, and regulated entities, which are ready and waiting to work with EPA—if we can.

All of us want to protect clean water. No one here—especially agriculture—wants to threaten such a valuable and integral natural resource that sustains our livelihood. It is our water. It is time the administration listened and developed a rule that is effective for farmers, ranchers, and rural America.

This WOTUS regulation is the No. 1 concern I hear about in farm country—that the Committee on Agriculture, Nutrition, and Forestry hears about—and over 90 agriculture groups—90—have signed a letter in support of this legislation. Additionally, the ongoing litigation, which involves 31 States challenging the final rule, only adds further confusion about the implementation and applicability of the final rule across the rest of the country.

It is time for Congress to intervene. I thank my colleagues who have joined me in this effort, especially the Senator from Wyoming, and I urge all of my colleagues to support S. 1140 and vote yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I yield 3 minutes to a real champion of clean water in the United States, Senator BOXER.

Mrs. BOXER. Mr. President, I thank very much my colleague and subcommittee ranking member, Senator BEN CARDIN, for taking the lead today on this opposition we are expressing to a very radical bill that will essentially, in my view, in many ways repeal the heart of the Clean Water Act.

The Clean Water Act came about because the Cuyahoga River in Ohio went up in flames because there was so much pollution and there were so many toxins in the water there, and people recognized—this was in the 1970s—that we were endangering our families and the

health of our families. So the Clean Water Act was written, and it basically said that if a river or a stream or a body of water found its way into a source of drinking water or a recreational body of water, the people who were dumping this stuff into this natural environment had to get a permit and had to show us that it was safe. It is as simple as that.

That is why we have overwhelming support. I had a chart, and now I don't have it, reflecting 79 percent in support across this Nation for moving ahead with the clean water rule. Then comes the Barrasso bill, which has a beautiful name—protecting the waters of the United States—and it reminds me of the book “1984”: War is peace, love is hate, and the rest. Big government is telling you what to think.

Really, this is not a bill that protects our water. It is not. It is a bill that essentially protects polluters and endangers 117 million people who want to drink clean water. This is a right in our country. You don't want to be frightened when your child swims in a stream or drinks water that might make him or her sick.

So what we do with this bill, what Senator BARRASSO, my friend—and he is my really good friend—does here is essentially to take the Clean Water Act and stands it on its head. He says we are not going to worry about all of these bodies of water that feed into the Nation's drinking water supply for 117 million people, and we are going to say you are free to dump into that water everything you want.

In closing, I have often said that when I go home, people come right up to me and say: BARBARA, you need to do this; and, BARBARA, you have to fight for that. Never, in all my years in elected life—40 years since I started, which is hard to believe—has anyone come up to me and said: The water is too pure. The water is too clean. My drinking water is perfect, don't make it safer. My air is pristine; don't pass any more laws. It is the opposite.

So what this would do today is take us back, back, back—back to the days when rivers caught on fire, back to the days when you worried a lot about drinking water. And as a person who wrote the law on protecting the quality of drinking water for children, this is a step backward. It is all about the farm bureau. And I get it, but I don't think they really understand the rule that is coming out, where millions of people actually commented on the rule, where they had hundreds of meetings. This is an EPA that wants to work with the people.

So I hope we will reject this and that we can move on and let this clean water rule work its way through the courts and become the law of the land.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, with this vote on the motion to proceed to S. 1140, the Federal Water Quality Pro-

tection Act, the Senate really has a unique opportunity today to pass a strong bipartisan bill—a bill that will direct the EPA to write a reasonable rule to protect our navigable waterways.

As I mentioned before, I introduced this legislation with my Democratic colleagues Senators DONNELLY, HEITKAMP, and MANCHIN, as well as many of my Republican colleagues. I appreciate all my colleagues who spoke out in favor of this legislation.

Let me just conclude this discussion with these thoughts. Our beautiful rivers and lakes deserve protection, and this bill does nothing to block legitimate efforts to safeguard the waters of the United States. By striking the right balance, we will restore Washington's attention to the country's traditional waterways, protecting these cherished natural resources. At the same time, we will give certainty to farmers, ranchers, and small business owners that they can use their property reasonably without fear of constant Washington intervention.

The existing rule on waters of the United States is the poster child of EPA overreach. The courts have already begun to weigh in with their concerns and have stayed the rule nationally. There is a great legal uncertainty about whether this waters of the United States rule will survive these legal challenges. These challenges could take years. Meanwhile, a long-term viable solution to protecting our waterways will not be in place.

Now, many of my colleagues, both Democratic and Republican—and particularly those from rural States—have talked about their concern with this rule, so I urge them to join with us today by showing their constituents they are ready to do something about it. I urge them to vote for this motion to proceed to S. 1140 and to work with me through an open amendment process to create an even better bill—a better bipartisan bill and a bill that gives the EPA the certainty they need to craft a rule to protect our Nation's waterways for the long term.

I urge a “yes” vote on the motion to proceed to S. 1140.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, this legislation does two things. First, it stops the final rule on the waters of the United States, and second, it weakens the underlying Clean Water Act, something I would hope none of us would want to do. I urge my colleagues to reject the motion to proceed.

Let me tell you what is at risk here. What is at risk is about one-half of our Nation's stream miles from being protected under the Clean Water Act. Their water supply would not be protected. What is at stake here? Twenty million acres of wetlands could go unprotected because of being denied protection under the Clean Water Act. What is at risk here? The water supply

for 117 million Americans—1 out of every 3 Americans. The source of their water could very well come from unregulated supplies being exempt from the Clean Water Act. I don't think we want to do that.

I agree with my colleagues that we want to have certainty. That is why we want the rule to move forward. But it does more than that—the underlying bill. It also changes the standard that would be judged in deciding what is to be regulated waters. The current law says it is to “restore and maintain the chemical, physical, and biological integrity of the Nation's waters.”

In other words, it is science-based. If we need to regulate in order to protect our water supply, we can regulate. That is what we are trying to achieve—regulating waters that end up in our streams, waters that end up in our water supply. If, on the other hand, we take what is being done under this legislation to protect traditional navigable waters from pollution, we are exempting so many of the waters that are critically important. I mentioned a little earlier that it has to have a continuous flow. Well, there are seasonal variations of what enters into our water supply in this country. That would be exempt.

I want to dispel two things. First, this bill would remove certainty, not give certainty. The Supreme Court cases caused us to lose our traditional definitions of what was covered under the Clean Water Act. We need that. It returns certainty, which I think is in everyone's interest. The last point is—and I have said it many times, and the Department has confirmed this—this final rule on waters of the United States does not change the regulatory structure for permitting for agriculture. There are no additional requirements. They are exempt. The exemptions that exist today will continue to be exempt. The agency responded to the concerns of the agricultural community as they should.

The bottom line is that clean water and agriculture go together, and we all need to work together in that regard. So I urge my colleagues to allow this rule to go forward. I urge my colleagues not to have a legacy of weakening our protections for clean water in America, and that is what this bill would do.

I yield the floor.

CLOUTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOUTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the 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.

Mitch McConnell, Dean Heller, Jeff Flake, Steve Daines, Johnny Isakson, Mike Rounds, Ben Sasse, Roy Blunt, Daniel Coats, John Cornyn, John Boozman, Richard Burr, Cory Gardner, Shelley Moore Capito, Richard C. Shelby, David Perdue, John Barrasso.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to 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, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted “yea.”

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—57

Alexander	Ernst	Moran
Ayotte	Fischer	Murkowski
Barrasso	Flake	Paul
Blunt	Gardner	Perdue
Boozman	Graham	Portman
Burr	Grassley	Risch
Capito	Heitkamp	Roberts
Cassidy	Heller	Rounds
Coats	Hoover	Rubio
Cochran	Inhofe	Sasse
Collins	Isakson	Scott
Corker	Johnson	Sessions
Cornyn	Kirk	Shelby
Cotton	Lankford	Sullivan
Crapo	Lee	Thune
Cruz	Manchin	Tillis
Daines	McCain	Toomey
Donnelly	McCaskill	Vitter
Enzi	McConnell	Wicker

NAYS—41

Baldwin	Heinrich	Reed
Bennet	Hirono	Reid
Blumenthal	Kaine	Sanders
Booker	King	Schatz
Boxer	Klobuchar	Schumer
Cantwell	Leahy	Shaheen
Cardin	Markley	Stabenow
Carper	Menendez	Tester
Casey	Merkley	Udall
Coons	Mikulski	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Franken	Nelson	Wyden
Gillibrand	Peters	

NOT VOTING—2

Brown Hatch

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. McCONNELL. Mr. President, I withdraw the motion to proceed to S. 1140.

The PRESIDING OFFICER. The motion is withdrawn.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2016—MOTION TO PROCEED

Mr. McCONNELL. Mr. President, I move to proceed to Calendar No. 118, H.R. 2685.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

Motion to proceed to Calendar No. 118, H.R. 2685, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2016, and for other purposes.

CLOUTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOUTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to H.R. 2685, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, James M. Inhofe, John Hoeven, John Thune, Lamar Alexander, Richard Burr, Jerry Moran, John Cornyn, James E. Risch, Mike Crapo, Steve Daines, Jeff Flake, Cory Gardner, John Boozman, Thad Cochran, Pat Roberts, David Perdue.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

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

The Senator from Nebraska is recognized for his inaugural address.

SENATE CULTURE

Mr. SASSE. Mr. President, I rise to speak from the floor for the first time. I have never been in politics before, and I intentionally waited to speak here.

I wish to talk about the historic purposes and uses of the Senate, about the decades-long decline of the legislature relative to the executive branch, and about what baby steps toward institutional recovery might look like.

Before doing so, let me explain briefly why I chose to wait a year since election day before beginning to fully engage in floor debate. I have done two things in my adult work life. I am a historian by training and a strategy guy by vocation. Before becoming a college president, I helped over a dozen organizations through some very ugly strategic crises, and one important lesson I have learned again and again when you walk into any broken organization is that there is a very delicate balance between expressing human empathy on the one hand and not becoming willing to passively sweep hard