I hope my colleagues join the Senator from Iowa and me and many others in saying we don't want this rule to go into effect.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE CORPS OF ENGINEERS AND THE ENVIRONMENTAL PROTECTION AGENCY—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, pursuant to the provisions of the Congressional Review Act, I move to proceed to S.J. Res. 22, a joint resolution providing the congressional disapproval of the rule submitted by the Corps of Engineers and the EPA relating to the definition of ''waters of the United States'' under the Federal Water Pollution Control Act.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 286, S.J. Res. 22, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to the definition of ''waters of the United States'' under the Federal Water Pollution Control Act.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from South Carolina (Mr. GRAHAM).

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

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

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—55

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

NAYS—43

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

NOT VOTING—2

Brown	Graham

The motion was agreed to.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE CORPS OF ENGINEERS AND THE ENVIRONMENTAL PROCTECTION AGENCY

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 22) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to the definition of ''waters of the United States'' under the Federal Water Pollution Control Act.

The PRESIDING OFFICER. Pursuant to 5 USC 802(d)(2), there is 10 hours of debate, equally divided, on the joint resolution.

The Senator from Iowa.

Mrs. ERNST. Madam President, I wish to take a quick moment and thank my friends, my colleagues for supporting this effort, and I look forward to some lively discussion on the EPA's overreach and this WOTUS rule. I encourage my fellow Republicans and my fellow Democrats to carefully consider what this overreach by the EPA does to their home States. Just as it does in Iowa—it covers 97 percent of our land. I encourage them to listen to their constituents very carefully as we move forward on this debate and this vote.

Again, I thank my colleagues for supporting this effort.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I wish to congratulate our friend and colleague, the Senator from Iowa, on this strong vote on the motion to proceed to this congressional resolution of disapproval of this overreaching regulation issued by the Environmental Protection Agency. I want to talk a little bit about this rule, but I also want to talk about how symptomatic this is of the overreach we are seeing coming from the executive branch, particularly when it involves rulemaking.

This rule is a response to a Supreme Court decision and a number of other decisions by the lower courts which held previously that the Federal Government had overreached when it comes to trying to regulate so-called navigable waters of the United States.

I think there is no real question in anybody's mind that under the interstate commerce provisions of the U.S. Constitution, the Federal Government has a responsibility when it comes to navigable waters, but, as the Sixth Circuit Court of Appeals said in a decision it handed down on October 9, the plaintiffs in the case against the Environmental Protection Agency and this particular rule established a substantial possibility of success on the merits of their claims where they said that the rule's treatment of tributaries, adjacent waters, and waters having a significant nexus to navigable waters is at odds with the Supreme Court's decision in the Rapanos case, which was handed down in 2006. It said also that the provisions of the rule make it unclear as to the distance limitations, whether it is harmonious with the decisions of the Supreme Court. So, for example, if you could say the tributary that feeds another body of water that feeds another body of water that then feeds another body of water that eventually gets into navigable water is subject to the rulemaking authority of the Environmental Protection Agency is in conflict with the decision in the Rapanos case, and I don't believe it would ever withstand constitutional scrutiny.

Moreover, the Sixth Circuit Court of Appeals said the rulemaking process by which the so-called distance limitations were adopted is suspect. They said it did not include any proposed distance limitation in use of the terms such as ''adjacent waters'' or ''significant nexus.'' So under the opinion of the Sixth Circuit Court of Appeals, a body of water could be far removed from that navigable water and still be determined as an adjacent water or have a significant nexus and be subject to the far-reaching provisions of the rule.

The Sixth Circuit Court of Appeals also said that there was no scientific support for the distance limitations that were included in the final rule.

The plaintiffs contended and the Sixth Circuit agreed that this rule is not the product of reasoned decision-making and is vulnerable to attack as impermissibly arbitrary or capricious under the Administrative Procedure Act.

Ordinarily, the Court of Appeals for the Sixth Circuit said, they would not issue a stay pending the resolution of the challenge to the rule, but they said the sheer breadth of the ripple effect caused by the rule's definitional changes counsel strongly in favor of maintaining the status quo for the time being. They also noted that the rule had already been stayed in 13 different States where previous litigation had been filed and decided. So, as a result, on October 9, the Sixth Circuit

Court of Appeals issued a nationwide stay for the very rule that is the subject of this Congressional Review Act vote that we just had and that we will have after 10 hours of debate.

But beyond the arcane provisions of the Administrative Procedure Act and what is navigable water and what is adjacent water, what has a sufficient nexus and the like, I think what we need to recognize is that this rule represents the single largest private property grab perhaps in American history because it claims as Federal jurisdiction private property that previously had not been thought of as having any nexus or connection with Federal authority or even interstate commerce—potholes, drainage ditches, culverts, stock ponds, things such as that that are arguably now within the ambit of this rule, and that cannot be the case.

That is why so many of us have heard not just from our farmers, cattle raisers, and agriculture producers, but we have heard from people in the construction business, people who are concerned about this private property grab, and they said this cannot be the case. As I said, farmers and ranchers, homebuilders, manufacturers, utilities, the concrete industry—any entity that builds or develops on real estate will likely be impacted.

I am very happy that under the leadership of the Senator from Iowa, we have gotten this far on this congressional resolution of disapproval, and I hope that after this debate—perhaps tomorrow—we will be in a position to send this to the President of the United States stating views of the U.S. Senate and Congress that this rule simply is too broad and cannot stand.

The Sixth Circuit Court's opinion is not a substitute for what we do under the Congressional Review Act. It is part of our responsibility as Members of the U.S. Congress.

In my State, as, I am sure, in other places around the country, farming and ranching is more than a job. It is a way of life. It is part of our culture and very definitely a family affair. In fact, about 98 percent of all farms and ranches in Texas are family-owned. When I am back home and have the chance to visit with those who provide the food and the fiber to feed and clothe us, they are very concerned about this legislation—as they should be—because it not only represents a threat to their way of life and their ability to provide for their families and for our States and our country, it is a power grab unprecedented in U.S. history.

In May, the Environmental Protection Agency released the final rule that is supposed to protect our water. Who could be opposed to that? Well, nobody if they had done it within the Constitution and within the law. That sounds innocuous enough. But in reality, it acts as a Federal land grab, one which would add significant costs to our farmers and ranchers and which has the potential to greatly intrude on the private property of landowners.

While we all can agree that clean water is a priority, the Obama administration has overstepped that goal and pitted the EPA and the Army Corps of Engineers against the hard-working farmers and ranchers in Texas and across the country. But it is not just the agriculture sector, as I mentioned a moment ago. I have been hearing from a lot of stakeholders back home who are incredibly concerned about the negative potential impact this rule will have on their business. This rule is such a vast expansion of Federal jurisdiction that multiple sectors of our economy could be adversely affected—as I said, homebuilders, the oil and gas industry, mining companies, and manufacturers.

This rule is not just some simple, straightforward provision to protect water; it is a veiled threat against the private sector and a blueprint for stifling economic growth in our country.

In 2014 the economy in my State grew roughly 5.2 percent. We were among the most fortunate States in the Nation to see a lot of job growth and opportunity. That is why people are moving to Texas—because that is where the jobs are. Conversely, in 2014 we saw across the country our economy grow at roughly 2.2 percent.

While we have been encouraged to see the unemployment rate tick down little by little, the truth is that when you start getting into the numbers, you realize that the labor participation rate—the percentage of people actually actively looking for work—is at a 30-year low, thus making that lower unemployment rate look better than it really is.

This is an important piece of legislation, and I know a lot of people are paying attention to it back home and across the country because of its impact. I am frustrated we weren't able to move the earlier legislation forward due to a filibuster by the minority, in this case, who are clearly trying to do everything they can to protect this administration and its overreach, but of course all of us are going to be held accountable at the ballot box, as we should be. Anyone who has voted against proceeding with this commonsense legislation to rein in an out-of-control Federal agency, I believe, will live to regret that decision.

CONGRATULATING SENATOR GRASSLEY ON CASTING HIS 12,000TH VOTE

Madam President, I just have one other thing to say on a different topic. It has sort of been the quiet after we celebrated the 15,000th vote by the Senator from Vermont very publicly the other day. Our more reticent, and perhaps even occasionally shy, Mr. CHUCK GRASSLEY, the senior Senator from Iowa, celebrated his 12,000th vote in the Senate.

Senator GRASSLEY is well known for his consistency and steadfast commitment to the people of Iowa. I have to say, I don't know of any Senator who works harder to get and to keep the trust and confidence of the people he represents. This 12,000th vote should come as no surprise. He actually hasn't even missed a vote since 1993. Every year for more than 30 years, Senator GRASSLEY has demonstrated his commitment to the people of Iowa by visiting every one of the State's 99 counties.

I know he keeps his colleague, the junior Senator from Iowa, Mrs. ERNST, running just trying to keep up with him. That is an impressive record for anyone, and one that many—including our Presidential candidates—sometimes need to try to duplicate.

I will speak, for just a second, beyond statistics about Senator GRASSLEY because I have the honor of serving with him on both the Finance and Judiciary Committees. He has worked tirelessly, not just for the people of Iowa but for all Americans. Indeed, my colleague shares my concern for creating a more open and transparent government. As somebody who is conservative by ideology and by nature, I was not sent by my constituents in Texas to pass more rules and regulations. I am here to hold the government, and particularly the bureaucracy, accountable. One way we can do that, without adding additional regulations, rules, and costs to the taxpayer, is by encouraging an open and more transparent government because with that comes accountability.

Senator GRASSLEY has used his role as chairman of the Judiciary Committee to advance these values and to hold government and the bureaucracy accountable for the benefit of not just Iowans but for the benefit of the American people.

I thank the Senator from Iowa for the great example he sets for the rest of us and applaud him for casting his 12,000th vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mrs. CAPITO. Madam President, I rise to speak in support of the CRA, Congressional Review Act amendment on the waters of the United States, of my colleague from Iowa. West Virginia is no stranger to the crushing consequences of harmful regulations. Our unemployment rate is the largest in the Nation. Layoff notices keep coming and declining revenues from coal severance taxes are eroding our State's budget. I read an article earlier today saying that this far into the fiscal year in the State of West Virginia we have a deficit of $91 million.

The EPA and the Army Corps of Engineers waters of the United States rule, known as the WOTUS rule, is just the latest example of a regulatory environment that threatens to put West Virginians and other Americans out of business. Everyone can agree—and the Senator from Texas just talked about this and I know the Senator from Iowa has talked about it frequently—that we must protect our drinking water resources, and we also must protect our precious natural resources, but a rule that subjects puddles and ditches to

regulations just goes too far. The EPA's unprecedented expansion of Federal authority has very serious consequences, both in the State I represent, West Virginia, and throughout the rest of the country.

In my State of West Virginia, the steep mountainous terrain means that the EPA would have oversight over any land located in the valley or low-lying area. If you have been to West Virginia, you know you are either on a mountain or in a valley in a low-lying area. There is very little flat land.

The West Virginia Coal Association pointed out that the WOTUS rule would trigger ''an alphabet soup of statutes, regulatory programs and federal regulatory agencies'' involved in traditionally nonregulated activities. Something as simple as digging a ditch on a farm or building a home on privately owned property could be under the purview of the EPA and a failure to comply with that rule could result in fines as high as $37,500 a day.

A county commissioner from Monongalia County recently wrote to my office expressing concerns that this WOTUS rule would impede the county's attempt to create developable tracks of land needed to attract large employers in West Virginia.

I will remind everyone that developable land in a State like mine is very difficult to create because it is not natural and it would create a lot of those low-lying areas, ditches, and puddles that this regulation goes way beyond to regulate.

A small business owner in Scott Depot, WV, shared her concern that small businesses were not adequately considered in the WOTUS rule. She said:

> Government regulations, like the proposed rule, are complicated, expensive to navigate, and a real obstacle to my growing business. This change, and its ridiculous overreach and restrictions could decrease land value and hinder my ability to expand, develop and use my own private land.

We talk a lot about creating jobs in this country. This is a quote from a small business owner who is concerned about her ability to control her own destiny with her own small business on her own privately owned land. I think this is the reason that 31 States, including West Virginia, are suing to overturn this misguided rule, and two courts have already found it likely illegal.

Rather than incorporating thoughts from Congress and concerned Americans, this misguided rule doubles down on overreach and threatens to impede small businesses, agriculture, manufacturing, coal, natural gas production, and many other vital sectors of the economy as the Senator from Texas just talked about.

The decision by the Sixth Circuit Court of Appeals to block the implementation of the WOTUS rule nationwide confirms that WOTUS was the wrong approach to protecting our water resources and reinforces the need to rein in this administration's unprecedented and overreaching regulations.

Along with colleagues on both sides of the aisle—just this afternoon at 2:30 p.m.—I proudly supported Senator BARRASSO's Federal Water Quality Protection Act, which would have directed the EPA and the Corps of Engineers to withdraw this rule, go back to the drawing board, and issue an alternative approach that is crafted in consultation with State and local governments and small businesses.

The bill we voted on earlier today received bipartisan support from 57 Senators but only partisan opposition. Both Republicans and Democrats supported moving forward on the Federal Water Quality Protection Act because we wanted to offer a real solution that would bring clarity and common sense to the protection of our Nation's waters.

This legislation would have provided certainty to farmers, manufacturers, energy producers, State and local governments, and anyone seeking to do virtually anything on private land. Unfortunately, 41 Democrats stopped a bipartisan majority from considering this bill. We must now consider other options to block the misguided WOTUS regulation issued by the EPA and Corps of Engineers.

I am glad we will have the opportunity to vote on a Congressional Review Act resolution of disapproval offered by the Senator from Iowa. This resolution would protect hard-working West Virginia families, small businesses, energy producers, and others across the country who would be unfairly burdened by this onerous and deeply flawed WOTUS rule. The WOTUS rule would lead to a massive expansion, again, of costly permitting requirements and hinder our already struggling economy, an outcome West Virginia and the Nation simply cannot afford.

I urge my colleagues to join with me and the Senator from Iowa, who is leading the charge in such an admiral way in supporting this important effort to block the harmful WOTUS rule.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

FEDERAL WATER QUALITY PROTECTION BILL

Mrs. FISCHER. Madam President, I rise not only in support of the critical bipartisan legislation that was before the Senate earlier today but also in support of the proposal of the Senator from Iowa that is before us now. While the measure failed to secure the necessary votes earlier today, the fight is not over.

The Federal Water Quality Protection Act would have enabled American citizens to maintain control over their water resources, and it would have stopped the administration's WOTUS rule. Congress has already limited the Federal Government's regulatory authority under the Clean Water Act to only navigable waterways, but instead of following the law, this administration has broadened the definition of ''waters of the United States'' and extended Federal authority far beyond the law's original intent.

The rule, which is commonly referred to as WOTUS, exponentially expands Federal jurisdiction over all water—from prairie potholes to ditches and everything in between. Ultimately, this rule prevents State and local agencies from effectively regulating our water by placing control in the hands of Washington bureaucrats.

I am proud to have worked with my colleagues on a bipartisan effort to overturn this dangerous rule and force both the EPA and the Army Corps of Engineers to go back to the drawing board. Our legislation, known as the Federal Water Quality Protection Act, would have required the administration to consult with States and local stakeholders before imposing the Federal regulations on our State-owned water resources. Additionally, the bill would have ensured a thorough economic analysis to make sure that was conducted before restricting States from managing their own natural resources.

The importance of allowing our States to manage these resources hit home during a Senate Environment and Public Works Committee field hearing that I chaired in Lincoln, NE, this past March. At the hearing, a wide variety of Nebraska stakeholders provided personal accounts of how this will affect families, businesses, and communities all across our State.

One witness from the Nebraska State Home Builders Association noted that 25 percent of the current cost associated with building a new home are due to existing regulations. Adding more Federal rules and regulations will only put that American dream of owning a home out of reach for most of us. That is not right, and that is not the kind of government people want.

Additionally, the Common Sense Nebraska Coalition noted that the sweeping impact of this rule would affect everyone, from county officials trying to build a road to farmers trying to manage that rainwater runoff.

The WOTUS rule affects much more than rural America. Our municipalities are charged with wastewater, storm water, and flood control systems, as well as providing drinking water, electricity, and natural gas to our citizens. Taxpayers will shoulder these added costs. We are going to pay more for road construction. We will pay more for levees that protect our drinking water. We will pay more for wastewater improvements, and that will cost our families. Those higher taxes will hurt our families.

With the expanded definition of ''navigable water'' under this rule and our extensive aquifer system, the Federal Government can assert control over nearly all the water in the State of Nebraska. Nebraskans take their role in protecting and conserving our natural resources very seriously. Responsible

resource management, including the careful stewardship of our water, is the cornerstone of my State's economy.

We all also understand that the people closest to a resource are the ones who manage it best. That is a principle that is shared across this country. That is why I am committed to working with my colleagues to manage responsibly our Nation's water for our current and future generations. I don't believe the Federal Government should focus on ways to make life harder for people. That is not what we were sent to do. Instead we need to explore policy options that will promote growth and conservation.

I am proud to be an original cosponsor of the Federal Water Quality Protection Act. This important bipartisan legislation would have set clear limits on the Federal regulation of water. I am disappointed the Obama administration would force this irresponsible, overreaching rule on hard-working Americans. We have a duty to roll back this rule. We have a duty to prevent the harm it will inflict.

I encourage all of my colleagues to come together on this so we can ensure that job creators, communities, and families from across the country can continue to prosper.

Thank you, Madam President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. GARDNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GARDNER. Madam President, there is a saying by Thomas Hornsby Ferrill engraved on the walls of the Colorado State Capitol that reads, ''Here is a land where life is written in water. . . . '' I come to the floor to talk about the most precious natural resource in the West; that is, of course, our water. Water in the West has helped shape communities, agriculture, tourism, and industry. The management of that water has been traditionally controlled at the State and local level, not the Federal Government.

Colorado is the State of origin for four major river basins: The Colorado, the Arkansas, the Platte, and the Rio Grande. These water basins help make for a robust agricultural economy throughout the State. According to the Colorado Department of Agriculture, this industry contributes nearly $41 billion to the State economy and employs nearly 173,000 people. Colorado has more than 35,000 farms and ranches and more than 31 million acres for farming and ranching.

The State ranks in the top five nationwide for production of products ranging from potatoes and cantaloupes to sunflowers and wheat. Unfortunately, the Environmental Protection Agency has decided to put forth a rule that would endanger many of these farms as well as the jobs and local economies they help support. The waters of the United States rule, known as WOTUS, would significantly expand the definition of navigable waters under the Clean Water Act. With this rule, the EPA and the Army Corps of Engineers have unilaterally decided that isolated ponds and irrigation ditches may be subject to the same Federal oversight as the Mississippi River. They are doing all of this based on authority passed by Congress more than 40 years ago.

Instead, this rule could have significant negative impacts on agriculture, industry, local utilities, and water districts, merely by the uncertainty it creates with local entities trying to determine if their water is subject to Federal oversight.

According to the Colorado Farm Bureau, an additional 1.3 million acres of land and an additional 170,000 stream miles in Colorado alone could be subject to Federal Government jurisdiction. It is important to point out that Colorado is a lower 48 State, one of the only lower 48 States that has all water flowing out of it and no water flowing into it. Farmers and ranchers would likely be subjected to increased permitting requirements under Section 404 of the Clean Water Act to canals and ditches on their own land. Even if their land is exempted, as some would have you believe from the WOTUS rule under the proposed exclusions, there is already an air of uncertainty for these farmers and ranchers who will have to try and navigate the Federal bureaucracy to determine if they have to apply for the increased permitting requirements.

It is no secret that the Environmental Protection Agency often works very slowly in the regulatory and permitting process. Two water projects in Colorado with bipartisan support, the Northern Integrated Supply Project and Gross Reservoir Expansion, have languished in the regulatory process for more than a decade. The waters of the United States rule is simply not the answer.

The Federal Government should not be passing expansive new laws without the consent of Congress to regulate every drop of water. The EPA wants you to believe that the proposed WOTUS rule is not a major expansion of power and that this rule does not add any new requirements for agriculture or interfere with private property rights or include the regulation of most irrigation ditches.

Fortunately, our Nation maintains a separation of power. On October 9, the U.S. Court of Appeals for the Sixth Circuit issued a nationwide stay for the waters of the United States rule after a lawsuit was filed by 18 States, including the State of Colorado. The order of stay specifically states that the rule effectively redraws the jurisdictional lines over our Nation's waters and that the States and others would be harmed if the justice system did not act.

I applaud the Sixth Circuit for their action and for the 18 States that moved forward to protect control of the water within their boundaries. Now I believe it is time for Congress to act. Unfortunately, yesterday we watched as a strictly partisan minority blocked S. 1140, the Federal Water Quality Protection Act authored by Senator BARRASSO of Wyoming.

This legislation, which had moved through the Senate under regular order and in a bipartisan fashion, would seek to have the EPA and others make significant revisions to the WOTUS rule and would throw out the current rule. It calls for significant consultations with State and local governments who actually control the water. I believe this consultation process is a significant step forward.

I have heard from many water districts and utilities throughout Colorado. They all have major concerns with the WOTUS rule in its current form and the unintended consequences of the rule. But because of this partisan minority of Senators blocking the legislative vehicle to try to address the many shortcomings of the WOTUS rule, I believe we have no other choice but to move forward in disapproving of the rule in its entirety. I applaud my friend and colleague Senator ERNST of Iowa for her work in introducing S.J. Res. 22, which provides for Congressional disapproval of the waters of the United States rule.

That is why I have come to the floor today, to urge a ''yes'' vote on S.J. Res. 22 because in Colorado, we know that we have to stick up for our water rights. In Colorado, we know we have to stand up for our water law. In Colorado, we know that we have to keep the Feds' hands off our water rights. I urge the adoption of this measure.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER (Mr. GARDNER). Without objection, it is so ordered.

Mr. HOEVEN. Mr. President, I am here to actually address some of the recent developments on the Keystone XL Pipeline. Before going into that, I would like to take a minute, though, and mention the Congressional Review Act that is before us now and how important it is that we pass it.

I want to commend Senator ERNST for her diligence on this very important matter. The waters of the United States is a regulation issued by the EPA that goes far beyond their statutory authority, far beyond the statutory authority that Congress has given them under a legal theory referred to as ''significant nexus.'' It is something I have worked on for a long time. In fact, I have included a bill that would defund the regulation as part of the EPA appropriations bill in our appropriations, both at the subcommittee and the full committee level.

So I certainly hope and feel that the good Senator from Iowa will be successful in this CRA effort, as far as getting it through Congress. I think it will go through in strong fashion in both the Senate and the House, thanks to her good work and, of course, the underlying importance of the issue.

Of course, our challenge will be with the administration. I hope the administration will look at the strong support here in Congress and listen to the people of this great country, the farmers and ranchers across our country, and the small business people across the country who know so well that WOTUS is a serious problem for them. I hope the President will consider them and not veto the legislation, but I am concerned that he will veto it. And if he does, then we will continue to work through the appropriations process to defund this legislation.

Again, even if we are not able to deauthorize it through the CRA process, we will work to defund it. Of course, the disadvantage with defunding is that only goes for a year, but obviously that would take us through most of the balance of the Obama administration and hopefully get us to a fresh start.

I think the key point, though, is that we rescind this onerous regulation. That can be through deauthorizing it, it can be through defunding it, and, in fact, it can be through litigation. I think in excess of 30 States have joined in litigation across the country pushing back on this onerous regulation. In fact, the Federal district court in North Dakota stayed the regulation. That stay was upheld, that injunction was upheld by the Sixth Circuit Court of Appeals in Cincinnati, OH. So right now there is a national stay on this regulation, which I think just goes to show that we are on the right track here because we are coming at it from so many angles with so many people who are saying: Look, this is common sense. This is a big-time overreach by EPA. It adversely affects farmers, ranchers, small businesses, and property rights. In fact, in this great country, it adversely affects property rights. So through deauthorization, defunding, and the legal process, we will work to rescind it.

Again, I wish to echo the strong comments of my esteemed colleague from the great State of Colorado and also acknowledge and commend the good Senator from the State of Iowa on her efforts to lead the charge.

KEYSTONE XL PIPELINE

Mr. President, I wish to speak, as I said, for up to 10 minutes as in morning business on the subject of the Keystone XL Pipeline.

Yesterday, after 7 years—7 years starting in September of 2008—the TransCanada company asked the U.S. State Department to pause or suspend its application to build the Keystone XL Pipeline. The company asked for that pause because it is working through an application process for route approval by the Public Service Commission in Nebraska. The Governor and the legislature in Nebraska actually approved the route for the pipeline in Nebraska, but after many lawsuits in the State of Nebraska and demonstrations, often led by movie stars and other celebrities, the company has chosen what I would call a belt-and-suspenders approach. Essentially, they have decided that in spite of the fact that they have received approval from the Governor, the legislature, and that that decision has been upheld by the Nebraska Supreme Court, they are going back and they are going through the process with the Nebraska Public Service Commission. So that is why I say it is really a belt-and-suspenders approach. Now they are going back, and in addition to the approvals they have already received, in addition to the decision by the Nebraska Supreme Court, now they are going back through the Public Service Commission process in Nebraska as well. The thing about that is it will take about a year to do it.

So now TransCanada is asking for forbearance from the Obama administration—not because the company hasn't met all the legal and regulatory requirements. It has. It has met all of them and it spent millions of dollars doing so. But, rather, TransCanada is asking for forbearance on the project because the company is once again going through all of the requirements, all the regulations, and all the redtape to get every approval—State, local, and ultimately Federal—for the project. That is why I call it, as I said, the belt-and-suspenders approach.

Now we will see what the Obama administration does with TransCanada's request. Will they now hold off or wait on their denial decision, which the Obama administration obviously wants to make based on their environmental agenda, or will they honor TransCanada's request to pause or suspend the project, just as they have made TransCanada wait now for 7 years pending all of the administration's requirements, including the Obama administration's adamant concern that the process in Nebraska be fully completed before the administration render a decision. Remember, this administration made a big deal about waiting until the Nebraska process was fully completed before the administration would make a decision. So let's see what they do. As I have just outlined, that process would probably take another year.

So will they forbear on making a decision now after they held the process up 7 years? Will they honor the request by TransCanada to pause while the company completes this process in Nebraska or will they say no, in spite of their concern that that be fully completed? Will they go ahead and in essence reverse themselves on process and deny the project? Well, we will see. We will see what they do. But if they don't grant this pause or suspend the application pending completion of the project in Nebraska, it seems to me like a double standard. On the one hand, they hold up the project for 7 years and they say the company must go fully through the process in Nebraska. So for them now to say ''No, we are not going to provide the time to do that'' seems, in fact, very much like a double standard.

As I have talked about in this Chamber before and as I think the administration is very well aware—and I think that is part of the reason they have held up on making a decision rather than turning down the project—this is a project which is overwhelmingly supported by the American people. In poll after poll, there is 65 percent to 70 percent support by the American people. Also, it is supported by Congress. It passed overwhelmingly with more than 60 votes in this Chamber. It passed with a big bipartisan majority in the House.

Another consideration obviously now for the administration is, what about the new administration in Canada? The Trudeau administration is coming in, and the new Prime Minister in Canada supports the project. So what is the message to Canada if the administration says ''No, we are not going to honor that company's request for a stay or a pause or an extension on the project now'' and instead goes ahead and turns it down?

The administration's own Quadrennial Energy Review dedicates a whole chapter to the benefits of integrating North American energy markets. The administration states that ''energy system integration is in the long term interest of the United States, Canada, and Mexico, as it expands the size of energy markets, creates economies of scale to attract private investment, lowers capital costs, and reduces energy costs for consumers.'' That is right out of their own Quadrennial Energy Review, prepared by their own Department of Energy, which says we need to work with Canada on energy.

So what will they do? In spite of all of that, will they turn down the project now or will they treat the company fairly and give them due process?

Well, regardless of the decision the Obama administration makes, I think in the final analysis the project will be approved. It might take a year, it might take a little over a year, but I think in the final analysis this project will be approved. It should be approved because the people of this country overwhelmingly support it and recognize that it is in their interest and to their benefit. But what it really comes down to is the merits. In the final analysis, a project should be approved or disapproved on the merits, right? And the merits are these, very simple: To build the kind of energy plan that we want for this country, where we are energy secure—meaning we produce more energy than we consume—we have to build the energy infrastructure we need to move that energy safely and efficiently from where it is produced to

where it is consumed. That means we need pipelines, we need transmission lines, we need rail, and we need road to move that energy as safely and cost-effectively as possible.

If you think about it, that doesn't mean just oil and gas; that means all types of energy. That means renewables too, right, to move those electrons through transmission lines. We need the energy infrastructure for the right kind of energy plan for this country—energy from sources, traditional and renewable, to move that energy as safely and as cost-effectively as possible.

So what is the message here? The message is very simple: If we want companies to step up and invest the hundreds of millions and billions of dollars it takes to build that infrastructure, then we have to have a legal and regulatory process where they know that if they go through it and they meet all the requirements, they can then get approval for the hundreds of millions that they invest to get that done and to build these projects.

That is energy infrastructure we need to build so that we don't continue to rely on OPEC or let Russia dominate the energy markets or rely on countries such as Venezuela, and ultimately, that is what the American people want. That energy security, that energy independence, if you will, working with our closest friend and ally, like Canada, and developing energy in this country, is what the American people want. That is what the American people want because it makes us strong and secure.

This is just one project, but it is about all of the projects we need to build to make this Nation energy secure. That is why ultimately this project will be approved on the merits.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

THE BUDGET

Mr. TOOMEY. Mr. President, I wish to speak this evening a little bit about the budget deal that was recently enacted. There are three parts of that I wish to address. One is the spending increases, another is the debt ceiling, and finally there is the Crime Victims Fund, which—I am very upset about this.

Starting with spending, it shouldn't be controversial—but of course it is—that we spend too much money here. We spend way too much money. There are any number of metrics that would confirm and demonstrate how much we overspend, but I think the most compelling is the size of the deficit that all this spending is creating, with record revenue. I want to underscore that. The Federal Treasury is taking in record amounts of tax revenue. So with alltime-record levels of revenue, we are still spending so much above and beyond that that this year we are going to run about a $450 billion deficit.

There are some people in this town who practically sprained their arms patting themselves on their backs because it used to be a $1 trillion deficit. That is true, but $450 billion is still way too much. We have too much debt now, and a $450 billion deficit this year is going to add $450 billion to a debt level that is already too big. And guess what. All forecasts, everybody's forecasts—liberal, conservative, Democrat, Republican, CBO, private sector—everybody agrees the deficits are on path to get worse. So we are spending too much. Our deficits are too big. They are adding to a debt that is already too high, already doing damage to our economy, our ability to create jobs, because of all the uncertainty and the risk that all this debt creates. And what happens? The only spending discipline we have been able to achieve in recent years—the spending caps that were enacted in 2011—the President insists we have to bust them.

Many of us believe we should be spending more on defense. If we are going to do that—I think part of our job is to prioritize spending. National security, defending our country, should be our No. 1 priority, and since we need to spend more there, you offset that with spending reductions somewhere else. That would be the prudent thing to do. But that is not what the President insisted on. The President insisted that if we were going to spend anything more on defense, we had to match that dollar-for-dollar with increased spending elsewhere. So not only were we not offsetting the increase in defense spending, but we were compounding the spending by increasing the nondefense spending. So this deal busts the spending caps, and, in fact, the deficits will be larger than they otherwise would be.

That leads me to the second point, and that is the debt ceiling. Let's think about the context of where we are. When President Obama took office, the total amount of debt owed to the public—the amount of money the Treasury had borrowed because of previous deficits was less than $6 trillion. It was a very big number, but it was less than $6 trillion. By the end of next year, it is going to be over $13 trillion. So this President, by the time he leaves office, will have more than doubled the total amount of debt we have borrowed to fund these deficits. Another way to think about it is that this President will have added to our debt burden by an amount greater than the sum total of every single one of his predecessors combined, from George Washington to George W. Bush. This is a staggering amount of debt that we have imposed on ourselves, our kids, our grandkids, our economy, and on our ability to be a productive country.

And what did the President say in response to all this debt? Give me the authority to borrow more with no conditions. We are not even going to have a discussion or a negotiation about the underlying problem that is causing all of this debt.

I think that is, frankly, outrageous, and it is extremely unusual because for decades now American Presidents have met with Congress, and when we have had discussions in the past about the level of debt and what we are going to do about it—when the Presidents have said we need to increase our debt ceiling so that we can borrow more money—that has very typically included a discussion about dealing with the underlying problems.

There are many examples of this. Back in 1985, during the Reagan administration, it was in the context of a debt ceiling debate that we passed the Gramm-Rudman-Hollings measure, which was about limiting our deficits and reducing the amount of debt we would incur going forward. In 1990 George Herbert Walker Bush negotiated with Congress the Budget Enforcement Act, which again was related to a debt ceiling increase at the time and which adopted measures to deal with the deficits of that day. In 1997, William Jefferson Clinton—President Clinton—with a Republican Congress sat down and negotiated a balanced budget agreement. And you know what happened? They balanced the budget. So President Clinton decided to work with Republicans in Congress to deal with this underlying problem, and within a few years we actually had balanced budgets.

Then in 2011, in the context of the debt ceiling increase that was discussed at the time and eventually raised, these spending caps were established as a way to at least do something about this runaway spending and these excessive deficits and the debt. But this time the President had a different view. His view was that he would not even have a discussion. There would be no negotiations, no consideration. We are not even going to talk about the underlying problem. He wanted to have unlimited authority to borrow more money through the end of his Presidency, and that is what is in this deal.

So what can we expect? We can expect a whole lot more debt. That is exactly what is going to happen. By the way, contrary to what some in the administration like to say, this has nothing to do with paying for past bills. We have paid for those bills. This is to enable excessive spending going forward—the deficits we are going to incur because this President is insisting on this overspending.

Let me get to the last point I wanted to stress today, which is one of the really disturbing things about this budget deal and what it has done with the Crime Victims Fund. By way of background, the Crime Victims Fund was a fund established in 1984. It consists exclusively of monies that are assessed to convicted criminals—corporate or individuals. As part of their punishment, they are made to pay a fine, and the fine goes into an account with the Federal Government. It actually is quite substantial. Year in and year out this ends up being actually billions of dollars.

The statute requires, first of all, that all this money go to victims of crimes and their advocates, and specifically, it requires a priority for victims of child abuse, sexual assault, and domestic violence and that those three categories of crimes be given a special priority. There are organizations that do wonderful work across Pennsylvania and across the country in helping people who are victims of these terrible, terrible crimes that are so difficult to recover from. There are groups of people who do great work in helping these victims to recover.

The whole idea of the Crime Victims Fund is to take these dollars from the criminals—not a penny of tax dollars—and give it to the victims of crimes and the people who are advocates for them. But what this budget deal does is it takes $1.5 billion out of the Crime Victims Fund and it spends it on other things.

I think this is outrageous. This is not taxpayer money in the first place. It is not as though we don't have victims of crimes anymore. Obviously, we still do. And we have organizations that can do great work if they had the resources. But in the absence of resources, it means that children who are victims of child abuse don't get the counseling and the care they need. It means a victim of domestic violence doesn't have a place to stay when she needs protection from an abusing spouse. It means people who really need these services are going to go without because we are diverting this money that is supposed to be going to crime victims and we are spending it somewhere else.

The most important thing I want to say tonight is that it is not too late to fix this. What the Congress passed and the President signed last week paves the way to misallocate this money from the Crime Victims Fund, but it doesn't require that to happen. So I have a bill that will fix this problem. I have a bill called the Fairness for Crime Victims Act, and what it will do is it will require that the money go to the victims, as it was always intended.

By the way, the idea that we should not be diverting the Crime Victims Fund to these other miscellaneous spending categories is a bipartisan idea. There is broad bipartisan support for the idea that the money in the Crime Victims Fund should go to victims of crime. The Wall Street Journal ran an article on Sunday, and they quoted a crime advocate describing the budget deal saying, this deal ''violates the integrity of a decades-old program that funds safe havens for domestic violence victims, counseling for abused children and financial aid for murder victims' families, among other programs.''

Josh Shapiro is the chairman of the Pennsylvania Commission on Crime and Delinquency, and he wrote about this provision in the budget deal. He said that it ''puts in danger our commitment to victims of crime throughout our country.'' Democratic members of the Pennsylvania State House agree with me that this money should not be diverted this way. They sent a letter, among other things, saying that the budget deal increases spending to ''the detriment of current and future crime victims'' and that this constitutes ''a terrible precedent.''

I couldn't agree more, and that is why I hope we will pass my legislation, the Fairness for Crime Victims Act. It ends this injustice. Here is the way it works. It is very simple. It simply requires that Congress allocate to crime victims and their advocates an amount equal to the sum of the previous 3-year average that went into the fund. So the short way to think about it is that it means we are going to send to crime victims the money that comes in for crime victims, and we are not going to send it somewhere else.

This means that victims of crime and their advocates are going to see a big increase in this funding, because for years Congress has refused to allocate all of the money that has been coming in. In the past, they just refused to allocate it. There are budgetary gimmickry reasons for doing that, and this needs to come to end. We certainly can't continue diverting this fund for other purposes.

We have had colleagues—Members of this body—come to the floor and make the point that we shouldn't use Medicare and Social Security funds as an ATM to fund other programs. I agree. We also shouldn't use the Crime Victims Fund, which is not a single dime of taxpayer money. We shouldn't use that to fund other programs either. It is not too late to do the right thing for victims of some of the most heinous crimes that are committed anywhere.

I urge my colleagues to help pass this piece of legislation. This was reported out of the Committee on the Budget unanimously. There was very broad bipartisan support. What happened in this budget deal is an illustration of why my legislation is necessary. Money that is left around in a pot somewhere in this town gets spent pretty quickly by someone for something. This money needs to go to crime victims. If we pass my legislation, that is where it will go.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Mr. President, I want to talk about what we have been debating today on the Senate floor, the waters of the United States rule, and legislation that has received bipartisan support so far. We think it needs a lot more support on why this is so important for the country.

I was a cosponsor of Senator BARRASSO's bill. Unfortunately, that bill didn't get the 60 votes necessary, but Senator ERNST has a resolution that I think is going to be very important to pass that would stop this rule from being enacted by the EPA. Hopefully, we will see if the President, once this is put on his desk, has the common sense to sign it rather than veto it.

I want to put this rule in a much broader context, to put the debate we are having on the waters of the United States rule into the broader context of actually what is happening in our country and how the EPA's waters of the United States rule is actually a symbol for much broader problems that I think the vast majority of Americans recognize.

The other night I went to a premiere of a short film on the Trans-Alaska Pipeline system, what we call in Alaska TAPS. It is Alaska's 800-mile artery of steel that was done in the most responsible manner, in terms of the environment, that brings much energy to our country. When it was built, it was actually one of the biggest private sector construction projects ever in the history of our great Nation, and literally directly and indirectly employed tens of thousands of Americans. It has carried almost 17 billion barrels of American oil to energy-thirsty American markets and continues to provide thousands and thousands of jobs, not only in Alaska but throughout the country. It is certainly a technological and environmental marvel. Here is the thing: That kind of huge project was built in 3 years.

Think about that, 800 miles of steel pipeline, crossing 3 mountain ranges, more than 30 major rivers and streams, and it took Americans 3 years to build it. Go to Alaska and it is functioning incredibly well today. We are reminded of how, when this Nation puts its mind to something, we can get great things done. In many ways, Congress played a critical role in making sure that incredible energy infrastructure system happened.

We are a great nation, but I must admit when I was watching this movie last week with a bunch of Alaskans—Senator MURKOWSKI, DON YOUNG, and others—I did feel a sense of unease, almost a little nostalgia, when we were watching this film about this great project that Americans came together from all over the country to build. We all know we used to do great things here and built great things. Let me give a few examples.

In Alaska is what is called the Alcan Highway, the Alaska-Canada Highway, through some of the world's most rugged terrain, 1,700 miles, built in under 1 year. We built the Empire State Building in 410 days. We built the Pentagon in 16 months, the Hoover Dam, the Interstate Highway System, putting a man on the Moon—I could go on and on and on. When we look at the history of this country, it is a history of getting big things done, and it is not just getting big things done. These projects were a symbol of American pride, of American greatness, and they also created tens of thousands of jobs—great jobs, middle-class jobs, which gave workers a sense that what they were doing was very important in their daily lives and very important to their country.

In Alaska still, when you talk to someone who worked on TAPS, who

constructed this—for the country—they talk about it in terms of pride, in terms of what they were doing for their State but also what they were doing for America and how everybody came together to build this.

Here is a sad fact: These kind of projects are not being built today. Instead, we have become a redtape Nation. Instead of symbols of technological wonder, national pride, and American ingenuity, we now hear story after story—and we have all heard them in the Senate—of delay and discord and disappointment, all of which symbolizes a country that can't get things done. The main culprit—the main culprit—is right here: Washington, DC, the ''Capital of Dysfunction.'' Whether it is the Keystone Pipeline, transmission lines in California or bridges or highways or runways across the country, killing crucial development in infrastructure projects through permitting and regulatory delay and Federal agency overreach with new rules upon new rules—and all they do is stop development—this certainly has been a hallmark of the Obama administration. The WOTUS rule—the EPA's waters of the United States rule—is just the latest manifestation of this. As we know, this is happening all over the country.

Frequently, because of the political risks, the President and members of his administration, like Gina McCarthy, will not openly oppose economic development projects. Instead, they will wrap them in redtape until they delay them to death. Let me give some examples.

In 2008, Shell acquired leases in the Arctic Ocean off the coast of Alaska for over $2 billion. That is a company going to the Federal Government. The Federal Government is saying: We want to lease this land to you. A company says: We will give you billions in return—the Federal Government; that money has already been spent, the billions—to develop natural resources. Of course, this was big news in Alaska. New production of oil would have filled up three-quarters of TAPS, which I talked about earlier. It would have created jobs, some estimates are in the tens of thousands of jobs, direct and indirect jobs, and provided much needed State and local revenue and energy security for our country.

So what happened? Remember, the Federal Government is inviting a private sector company to do this. It didn't take long for this project to run into a maddening array of often conflicting and confusing permitting challenges, drilling moratoriums, new regulations, environmental lawsuits, permitting confusions, that year after year kept the drill bit above the ground.

Now, jump to 2015. What had once been a very robust exploration program has resulted in what happened this summer: The permission, finally, to drill one exploration well off the coast of Alaska where hundreds of wells have already been drilled safely. We have been doing this safely in Alaska for decades.

Let me sum it up. It took 7 years, $7 billion, to get permission to drill one exploration well in 100 feet of water; 7 years, $7 billion, to finally get the Federal Government's permission to drill one single exploration well in 100 feet of water. No company in the world can endure that. This was a project that was meant to be delayed, delayed, delayed until it was killed.

Some of my colleagues have been celebrating this—celebrating this. I think that is sad because what they are really celebrating is the loss of very good jobs for Americans throughout the country. In many ways they are celebrating what is a symbol of America's decline.

These resources in the Arctic are going to be developed one way or the other, and it is either going to be by countries like us who have the highest, most responsible standards on the environment or countries like Russia and China who don't. So the Russians and Chinese are now going to be in charge. They are going to be producing the energy, they are going to be getting the jobs, and they are not going to care at all about the environment. So instead of a win-win-win for the United States, this is a lose-lose-lose. Yet we have Members of this body celebrating this. Again, this is not a problem confined to my State or energy programs in terms of the delay, delay, delay. Let me provide a few examples.

We had a recent Senate commerce committee hearing on aviation infrastructure. Everybody thinks aviation infrastructure is important. I certainly do. The manager of the Seattle airport was testifying. As part of his role as CEO of the American Association of Airport Executives, he talked about how it took almost 4 years to build the Seattle airport's new runway. It seems like a fair amount of time. Maybe a construction project like that takes a fair amount of time. I had a question for him, which I didn't know the answer to. I asked him: How long did it take to get the Federal permits, to go through the Federal permitting system to build this additional runway at the Seattle airport?

His answer: 15 years—15 years to get the Federal permits to build a runway. You could have heard—well, you did hear the whole committee, the whole audience. They gasped. Then he said: They built the Great Pyramids of Egypt faster than that.

This is what is going on in our country, and this town is to blame. It is happening all over the country. Americans need to know this. It only took 9 years to permit a desalinization plan, which would provide much needed fresh water to drought-stricken California. Simply razing a bridge in New York—not building a new bridge, razing one—took 5 years and 20,000 pages of Federal permitting requirements.

The average time it now takes in America to get Federal approval for a major highway project is more than 6 years—again, not to build a highway but to get the Federal permission. It took almost 20 years, if you include the litigation, to get Federal permission to build a single gold mine in Alaska—20 years. We had to take that all the way to the U.S. Supreme Court because the Federal Government was not supporting us. Now the Kensington mine employs over 300 people at an average wage of $100,000 per person. Those are great jobs. We have a Federal Government that wants to delay, delay, delay.

Let's talk about the Keystone Pipeline. We had a debate here—7 years and counting to build a pipeline in terms of the Federal permits. Who is hurt by this? Our friends on the other side talk a lot about the companies and everything—TransCanada. The people who are hurt by this are American families, middle-class workers, union members.

One of the most surprising things I saw as a freshman this year when we were debating the override of the Keystone Pipeline—the State Department had predicted this would create as many as 30,000 jobs. These are good jobs—construction jobs, real jobs, real Americans working to build something important. I was presiding in the Chair like you, Mr. President, and some of the Members on the other side of the aisle started arguing that these aren't real jobs because they are temporary, that this isn't going to create 30,000 jobs because they are temporary jobs. I about fell out of my chair. Construction jobs aren't real jobs? Since when is that the case?

According to the President's own Small Business Administration, the regulatory costs on small businesses in the United States are close to $2 trillion per year. That is $15,000 per family. The bottom line is, we know we can do better. We have to do better if we want to grow this country and create jobs.

I believe there is a silver lining. I believe things have gotten so bad that this delay is happening everywhere on projects that matter to us as a nation. Projects that are so weighted down under redtape are making Americans, regardless of party, start to take note. I have seen a silver lining here. Both Democrats and Republicans are starting to demand change. They are demanding bold and serious regulatory reform.

I have had conversations with Members of both sides of the aisle here about how important this is for our economy, how important it is for jobs. That is why this debate today on the waters of the United States is so important.

Unfortunately, we didn't get the number of bills. We did have a pretty strong bipartisan group. I think we would have gotten to 59—1 vote short to move forward. It is unfortunate that the other side couldn't see the merits of this. But this rule will not help grow our economy. This rule will continue to stifle growth. This rule will certainly continue to kill jobs. It takes

what we all want—certainly, the whole idea of protecting our water, clean water. In my State of Alaska we have the cleanest water of any State in the country. We win awards every year for our clean, pristine water. It is not because the EPA is making that happen; it is because Alaskans are making that happen. But it takes the Clean Water Act and somehow, through a rule that the EPA itself has devised, it gives the EPA the power to regulate not major rivers but water in our backyards, literally.

Almost certainly this rule doesn't comport with Federal law. We have now had two courts say that. There is a stay on it nationally. The Sixth Circuit has put a stay on this rule. Over 30 States have sued to stop this rule—a bipartisan coalition of States—because it is almost certainly not legal.

I asked Administrator McCarthy about the legal opinion, the legal basis they had for this rule. I have never gotten an answer from the EPA Administrator. I am not sure they even care. In the last two Supreme Court terms, the EPA has lost two big cases in the U.S. Supreme Court. They have lost the Sixth Circuit case for now. Unfortunately, we had the Administrator of the EPA on TV a few months ago, on the eve of this Supreme Court case—EPA vs. Michigan. When asked if she was going to win the case, she said: We think we are going to win, but ultimately it doesn't really matter because the companies have already had to comply with hundreds of millions of dollars. Think about that. Think about what she said.

This rule is going to have a huge, profound impact on my State. Alaska has more waters under the jurisdiction of the Clean Water Act than any other State in the country. Over 50 percent of America's wetlands are located in Alaska.

I held multiple field hearings as a chairman of the subcommittee on fisheries, water, and wildlife on the waters of the United States rule. It is clear to me that Alaskans of vastly different backgrounds, ideologies, and different parts of the State are opposed to this rule. One group in my State said the rule would ''straitjacket any development.'' Another said that it would have negative impacts on ''virtually any economic development project'' in Alaska.

One project we are very focused on in Alaska—we are having a special session right now in our State legislature—is the Alaska LNG Project, a very large-scale LNG project that, like TAPS, will be great for the country and create thousands of jobs and energy security for Americans and our allies. This rule, if left in its present form, will very negatively impact the cost and timeline of that project.

Simply put, the waters of the United States is one of the largest land grabs in history, and it is an example of the kind of challenges we need to address here to get our economy moving again, to create good jobs for Americans. It is why this debate we are having is so important.

These are problems we can fix. We know we can fix them. Americans sent us here to fix these problems, and we need to start by stopping rules like the waters of the United States that undermine our country's future and the jobs that we need throughout this country.

Mr. President, I yield the floor.

Mr. WHITEHOUSE. Mr. President, I see a number of Senators on the floor. I don't know if there is an order at this point that has been established. What is our manner of proceeding? Senator ISAKSON is here.

The PRESIDING OFFICER. There is no time agreement.

Mr. ISAKSON. I ask unanimous consent that the Chair recognize Senator WHITEHOUSE from Rhode Island, followed by Senator ISAKSON, and then Senator DAINES.

The PRESIDING OFFICER. Is there objection?

Mr. WHITEHOUSE. Before that matter is settled, reserving the right to object, I will be speaking for about 15 minutes. If one of you is going to be quicker than that, particularly significantly quicker—not 14 minutes—I would be happy to yield and let somebody go first.

Mr. ISAKSON. The Senator from Montana is going to preside at 6:30 p.m., so I think he is the one who will need to go, and I will go after the Senator from Rhode Island.

Mr. WHITEHOUSE. Why doesn't the Senator from Montana proceed with his remarks.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Chair recognize the Senator from Montana, Mr. DAINES, followed by Senator WHITEHOUSE, followed by Senator ISAKSON.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Montana.

Mr. DAINES. Mr. President, today the Senate came a few votes shy of passing legislation to protect our farmers, ranchers, and small business owners from major new costs and regulatory burdens. I appreciate the bipartisan support demonstrated today by four key Senate Democrats. I have to say, I am disappointed that others chose instead to put loyalty to President Obama before the concerns of the constituents, the concerns of those people they represent.

Montanans know that this power grab has more to do with controlling Montanans' land-use decisions than ensuring access to clean water as the Clean Water Act intended. This is an ill-conceived rule that provides the EPA unprecedented power to regulate virtually any spot across Montana that is occasionally wet. This could have a devastating impact on Montana jobs, on Montana's natural resources and ag industries, and on Montanans' property rights.

Don't just take my word for it. POLITICO recently described it as having the potential to ''give bureaucrats carte blanche to swoop in and penalize landowners every time a cow walks through a ditch.'' The EPA's own estimates show this rule will cost Americans between $158 million and $465 million a year.

The New York Times describes how harrowing this situation is for Montana farmers: ''Farmers fear that the rule could impose major new costs and burdens, requiring them to pay fees for environmental assessments and obtain permits just to till the soil near gullies, ditches, or dry streambeds where water flows only when it rains.''

In Montana, this rule has received a severe rebuke from our farmers, our ranchers, and our small businesses who simply can't afford this overreach. The Montana chamber president and CEO, Webb Brown, said:

> If this rule stands, there will be tremendous cost to our states, our economies, and our employers, and their employees' families. Under this unprecedented extension of federal power, land and water use decisions will be made in Washington, D.C., far from the affected local communities.

Here is what Gene Curry of Valier, MT, from the Montana Stockgrowers Association says: ''This rule is an unwise and unwarranted expansion of EPA's regulatory authority over Montana's waters, and would have a significant detrimental impact on Montana's ranchers.''

Listen to Charlie Bumgarner, president of the Montana Grain Growers. I met with Charlie a week ago in Montana. Charlie says this: ''If implemented, the final WOTUS rule would have a devastating impact on grain growers across the state.''

Listen to Dustin Stewart with the Montana Homebuilders Association. I grew up in the home building industry. My dad is a home builder. Here is what Dustin had to say: ''The EPA's waters of the U.S. regulation is an incurably flawed rule. . . . ''

Dave Galt, the executive director of the Montana Petroleum Association, said:

> The EPA's new water rule is an unnecessary expansion of jurisdiction for the Federal Government. The EPA's rule will negatively impact all land-use industries including agriculture and energy production.

Yet, despite this broad opposition, President Obama is moving forward with yet another out-of-touch Washington, DC, regulation. But already two Federal courts have issued a stay on this misguided rule, demonstrating the questionable legal ground this regulation stands on. This is a rule issued by the same Federal Agency that has continued to perpetuate a war on American energy. In fact, earlier this year we saw the Supreme Court issue a severe rebuke of the EPA's mercury and air toxic standards which would have a direct and lasting impact on our economy in Montana. This MATS rule, just like WOTUS, is just one of the new, burdensome regulations cooked up by the Obama administration and

has the potential to eliminate good-paying jobs and devastate the livelihoods of hard-working Montana families and hard-working American families.

Throughout my home State of Montana, we have tremendous opportunities to develop our State's natural resources and create new jobs, and that is a good thing. Rather than hitting pause on our energy production, we need to encourage it. But the Obama administration is doing exactly the opposite.

President Obama's full assault on American energy independence has most recently resulted in TransCanada's decision to suspend its application to build the commonsense Keystone XL Pipeline, which, by the way, first enters Montana from Canada. This pipeline would have created new opportunities for good-paying jobs, helped advance American energy independence, and lowered American energy prices.

Well, the suspension on Keystone is bad news, but it is not the end of the line. We are going to keep fighting for this job-creating project that has the overwhelming bipartisan approval of Congress as well as the support of the American people because America can and America should power the world. But the Obama administration's relentless attacks on affordable energy and good-paying union jobs, as well as tribal jobs, through this so-called Clean Power Plan continue to hinder innovation. Under the final so-called Clean Power Plan, the Colstrip powerplant in Montana will likely be shuttered, putting thousands of jobs at risk.

Our farmers, ranchers, and local business owners should be empowered to drive local land use decisions, not a bunch of Washington, DC, bureaucrats who can't even find Montana on a map. We can only do it if the Obama administration steps back from its extreme overreach and allows American innovation to thrive once again.

I look forward to casting my vote tomorrow to permanently stop this misguided waters of the United States rule. It is time to ditch this rule.

The PRESIDING OFFICER. The Senator from Rhode Island.

CLEAN POWER PLAN

Mr. WHITEHOUSE. Mr. President, I guess in the order proceeding here, I am here to bring the opposing views. Every week we are here, I remind this body of the damage carbon pollution is doing to our atmosphere and to our oceans. I have traveled to Senator ISAKSON's State to see what the University of Georgia is measuring off of Sapelo Island, and I hope to have the chance to go west to continue this.

We have to wake up to climate change, and we have to move toward a clean-energy economy and the jobs and innovation that support it. Clear measurements exist of the harm that is already happening: climbing sea levels, we measure; climbing global temperatures, we measure; acidifying oceans, we measure.

Virtually every respected scientific and academic institution agrees that climate change is happening and that human activities—specifically carbon emissions—are driving it. Carbon pollution is affecting our economy, it is affecting agriculture and wildfires, and it is affecting storms and insurance costs.

There are so many people—doctors and health professionals, military and security leaders, insurance and reinsurance industry folks, our major utilities, American corporations, and our faith leaders all agree that climate change is a serious challenge and an important priority. Yet here, despite the growing chorus around the country calling for climate action, we hear congressional Republicans, such as the majority leader, claim they are here to stand up for our people by blocking the President's Clean Power Plan.

As carbon pollution piles up in the atmosphere, who are they standing up for? Certainly not the American people. Eighty-three percent of Americans, including 6 in 10 Republicans, want action to reduce carbon emissions. The Clean Power Plan delivers.

For the first time, we have a national plan to reduce carbon pollution from the largest source of U.S. carbon emissions, which is powerplants. The 50 dirtiest coal plants in America together emit more carbon pollution than all of South Korea and more than all of Canada. Are we going to do nothing about that?

Too often we hear on the Republican side folks who trumpet these industry-backed, one-sided reports that point only to the cost of action. They don't even measure or consider the cost of inaction. If you were an accountant and did the books that way, you would go to jail. Well, if you look at both sides of the ledger, the EPA shows that the projected health benefits of the Clean Power Plan will avoid 300,000 missed work and school days, 1,700 heart attacks, 90,000 asthma attacks, and 3,600 premature deaths every year. Every dollar invested through the Clean Power Plan will keep up to $4 in American families' pockets. The savings are also passed on to electricity consumers, with the average American family projected to save almost $85 per year on their electric bill by 2030.

I am from New England. We have the Regional Greenhouse Gas Initiative, RGGI, and it is proving that States grow their economies at the same time that they cut emissions. Putting a price on carbon and plowing that money back into clean energy products is saving us billions of dollars and helping to reduce carbon pollution.

The EPA put the States in the driver's seat to come up with plans that suit them. An analysis from the Union of Concerned Scientists shows that ''31 States are already on track to be more than halfway toward meeting their 2022 Clean Power Plan benchmarks.'' These States include both cap-and-trade States, such as California and the Northeast RGGI States, and coal-heavy States, such as Iowa, Ohio, and Kentucky.

''We can meet it,'' says Kentucky energy and environment secretary Leonard Peters about the plan. ''We can meet it.'' In fact, Dr. Peters praised the EPA for working with States like Kentucky to build this rule. ''The outreach they've done, I think, is incredible,'' he said. The EPA had an ''open door policy. You could call them, talk to them, meet with them.''

The Kentucky experience was echoed around the country, as EPA listens closely to hundreds of concerns, holds hundreds of public meetings, and the final rule includes significant adjustments to accommodate individual State's concerns.

Even with all of this, the majority leader, the senior Senator from Kentucky, will brook no serious conversation about climate change. We just never have that come up as a subject. The Republican leader, in a modern, massive resistance effort, wrote to all 50 Governors urging defiance of Federal regulation, calling the regulations ''extremely burdensome and costly.'' That might have been a more credible allegation about the regulations if he had not reached it months before the regulations were even finalized.

The Clean Power Plan, says the majority leader, is the latest battle in a great ''War on Coal.'' He says, ''[W]e have a depression in central Appalachia created because of the President's zeal to have an impact worldwide on the issue of climate.'' It seems that the head of one of his region's biggest electric utilities doesn't agree. Appalachian Power president and CEO Charles Patton told a meeting of energy executives last week that coal can no longer compete against cheaper alternatives such as natural gas and wind power. Coal, he said, will continue to decline with or without the Clean Power Plan. It has nothing to do with the President. ''If we believe we can just change administrations and this issue is going to go away,'' Patton said, ''we're making a terrible mistake.''

Mr. President, I ask unanimous consent that the article titled ''Coal not coming back, Appalachian Power president says'' and editorial titled ''Reality check on coal, future'' be printed in the RECORD at the conclusion of my remarks.

It says:

> With or without the Clean Power Plan, the economics of alternatives to fossil-based fuels are making end roads in the utility plan, companies are making decisions today where they are moving away from coal-fired generation. The debate largely at this time has been lost.

Mr. Patton is not alone. In September, financial giant Goldman Sachs released several bleak reports on the future of the global coal market. The latest report was in September, where they drew the conclusion that ''[t]he industry does not require a new investment given the ability of existing assets to satisfy flat demand, so prices

will remain under pressure as the deflationary cycle continues.'' In plain English, market forces are driving coal's decline. I seriously doubt that any colleague would think Goldman Sachs is a bunch of liberal greenies who launched a war on coal. This is their clear economic thought.

Since the clean power rule was finalized in August, the massive resistance the majority leader sought has not ensued.

Kentucky Governor Steve Beshear has so far not heeded the majority leader's call to rebel.

Oklahoma Governor Mary Fallin, the first to publicly pledge to resist the President's plan, recently hinted that Oklahoma would submit a compliance plan after all.

Indeed, even while West Virginia leads the multistate lawsuit against EPA, Governor Earl Tomblin announced last week that his administration will begin working on a compliance plan. In the heart of coal country, in Charleston, WV, the newspaper, Gazette-Mail, praised the Governor's move, writing on its editorial page:

> It is the right thing to do—both to decrease emissions that contribute to human-caused climate change—

Here is a newspaper in the heart of coal country conceding that emissions contribute to human-caused climate change, and I don't know why we can't get over that in the Senate—

> and as the governor says, to make sure West Virginia's interests are best represented in how the plan is carried out.

They described Kentucky Senator MITCH MCCONNELL's urge to rebel against the rule as petulant and foolish. That is from the heart of coal country.

The coal industry, like an aging ship at sea, is taking on water. Between the costs of old, dirty powerplants and the competitive advantage of cheaper natural gas, coal is struggling to stay afloat. As Mr. Patton from Appalachian Power pointed out, those circumstances have nothing to do with whoever is sitting in the Oval office.

For States that have relied on coal for generations, the Clean Power Plan is actually a lifeboat. It is a chance to kick-start new industries and innovative technologies and to choose the path forward that is best for your State and your citizens. It is a way off a sinking ship.

Recognizing the costs of carbon pollution is another lifeboat. I know this sounds strange to my colleagues, but please bear with me. You can't build the carbon capture plants that could keep coal plants operating if they are free to pollute. There is no economic value to a carbon capture plant if it is free to pollute. The truculent insistence on this market failure by Big Coal is ironically coal's own undoing. Yet congressional Republicans won't engage. They waste time with the useless Gingrich-era Congressional Review Act efforts to block carbon pollution controls on powerplants—controls that Americans overwhelmingly support.

Beyond that, our Republican friends simply have no plan—nothing. There is no plan B to the President's Clean Power Plan. If you have something else, please bring it forward. We can debate which is better, but you can't just pretend this isn't a problem. They have no plan to deal with climate change, no plan to help coal-reliant communities find safe passage to a more sustainable economic future.

I ask my colleagues to please read what the CEO of Appalachian Power said. Please take it to heart. Please read the Charleston Gazette-Mail editorial. Please engage with us while we can still do some good because when the market completely collapses, when there is nothing left to do, when coal is priced out by solar and wind and natural gas and other fuels, then it is too late to come back and say: Now we need help. When the market has acted and someone suffers as a result, they don't get any sympathy in this building.

Now is the time when people who want to make this a smooth transition for coal economies need to come forward in the interests of their own people, in the interests of their own miners who need their pensions filled and fixed, in the interests of communities that need transitions, in the interests of their economy.

I thank the distinguished Senator from Georgia for his patience.

I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Charleston Gazette-Mail, Oct. 27, 2015]

COAL NOT COMING BACK, APPALACHIAN POWER PRESIDENT SAYS

(By David Gutman)

ROANOKE.—Coal consumption is not likely to increase, regardless of whether new federal regulations on power plants go into effect, and, from coal's perspective, the national debate on coal and climate change has largely been lost, the president of West Virginia's largest electric utility told a roomful of energy executives Tuesday.

The Clean Power Plan, the Obama administration's proposal to regulate greenhouse gas emissions from power plants, would cut coal consumption—but even if the regulations are blocked, coal consumption will not increase, Appalachian Power President Charles Patton said at the state Energy Summit at the Stonewall Resort.

''You just can't go with new coal [plants] at this point in time,'' Patton said. ''It is just not economically feasible to do so.''

Patton acknowledged that entire communities, particularly across Southern West Virginia, are being decimated by coal's decline. However, he laid out a series of stark economic realities.

By 2026, Patton said, Appalachian Power expects its use of coal power to be down 26 percent, with or without the Clean Power Plan.

That's because of cheaper alternatives and already-imposed environmental regulations that make coal uncompetitive, Patton said.

The cost of natural gas electricity, including construction of power plants and infrastructure, is about $73 per megawatt hour, Patton said. For a conventional coal plant, it's $95 per megawatt hour.

Even wind power, which is less dependable than coal, is still significantly cheaper, at $73 per megawatt hour, when a longstanding tax credit for wind energy production is factored in.

An advanced coal power plant, with carbon capture and storage to lower emissions, costs nearly twice as much, at $144 per megawatt hour, Patton said.

''With or without the Clean Power Plan, the economics of alternatives to fossil-based fuels are making inroads in the utility plan,'' Patton said. ''Companies are making decisions today where they are moving away from coal-fired generation.''

What's more, the debate over the ''war on coal,'' which sucks up so much of the political air in West Virginia, has largely been settled in other states, Patton said

He said 72 percent of Americans believe the earth is getting warmer and that man-made causes are partly attributable. Nearly two-thirds of Americans favor stricter emissions limits on greenhouse gases, Patton said, with even larger majorities among young people.

''Americans believe there is a problem, and while we in West Virginia believe that's ludicrous and we have our view on coal, it's really important to understand, if you're not in a coal-producing state, your affinity for coal is not there,'' Patton said. ''The debate largely, at this point in time, has been lost.''

Patton reminded the audience that the closest the United States ever came to a carbon tax was the cap-and-trade bill pushed by Sens. Joe Lieberman and John McCain. ''I don't see John McCain as a flaming liberal,'' Patton said.

He said he opposes the Clean Power Plan and said West Virginia should continue its lawsuit to block it. However, Gov. Earl Ray Tomblin said Tuesday that West Virginia will submit a plan to comply with the Clean Power Plan—despite Republican calls to boycott it—while those lawsuits play out.

Patton said the federal regulations, intended to help stave off the worst effects of climate change, would cause a reduction in coal use, but even defeating the regulations won't make the push to address climate change disappear.

He urged the crowd to ''think globally'' and work to advance cleaner-burning coal technologies.

''If we believe that we can just change administrations and this issue is going to go away,'' Patton said, ''we're making a terrible mistake.''

[From the Charleston Gazette-Mail, Oct. 30, 2015]

GAZETTE EDITORIAL: REALITY CHECK ON COAL, FUTURE

To his credit, Gov. Earl Ray Tomblin says West Virginia will participate in the federal Clean Power Plan by submitting its own proposal for cutting greenhouse gas emissions. He may be doing it with an air of resignation and distaste, but then again, no one likes the fact that West Virginians are struggling as market forces undercut an industry that has employed generations of people.

It is the right thing to do—both to decrease emissions that contribute to human-caused climate change, and as the governor says, to make sure West Virginia's interests are best represented in how the plan is carried out. States that choose not to come up with their own plan, as Kentucky's Sen. Mitch McConnell has petulantly and foolishly urged, will be handed one by the federal government. Gov. Tomblin is right. Better to have a say in how drastic changes will play out in your own state.

Arguments against trying to head off the worst effects of climate change are hollow.

Some elected officials (and their fossil fuel industry promoters) seem to think that because China is a big polluter, for example, the United States should just shrug and give up. That is no way to be a world leader. That is no way to stimulate new technological developments and industries.

Indeed, the Clean Power Plan is part of the reason why China has committed to limiting its own carbon dioxide emissions. Where the United States goes, the world follows.

The War on Coal public relations campaign has been a smashing success, convincing the most vulnerable working people and retirees that if only they could get the nasty federal government off their backs, all would right itself to some vague and misty perfection, circa 1955. West Virginians, in turn, convince their elected leaders to defend the status quo at all costs.

Senators Joe Manchin and Shelley Moore Capito are steady on the job, clinging to the past, signing on to a resolution that seeks to block the Clean Power Plan.

Of course, defeating efforts to further clean up the air locally won't bring coal back. The people pushing the campaign know it. The rest of the country knows it.

Appalachian Power CEO Charles Patton, who buys more coal than anyone, knows it. Also speaking at the state Energy Summit at the Stonewall Resort this week, he reiterated a message he has shared before: Coal isn't coming back, even without the Clean Power Plan, because of price. Coal is more expensive than wind or natural gas, partly because of existing environmental regulations, partly because natural gas is so cheap.

The goal now is to manage this change, to help people into new livelihoods and meaningful work, to minimize the predictable suffering of families and communities. West Virginia has wasted enough time.

The PRESIDING OFFICER (Mr. DAINES). The Senator from Georgia.

Mr. ISAKSON. Mr. President, I appreciate the words of the distinguished Senator from Rhode Island, and I always enjoy his speeches, whether I am on the floor or watching him back in my office. He is an articulate spokesman for what he believes, which is one of the things that make this Senate an important body. While from time to time I differ in terms of carbon emissions because of nuclear energy, that is part of the solution to the problems of the future, and I will speak about that on another day.

Mr. WHITEHOUSE. Mr. President, I would be glad to speak with the Senator from Georgia about that because he may find we agree more than we disagree.

Mr. ISAKSON. I think we probably would, and that is why I brought it up, and I look forward to that.

We are hear to talk about the rule for the waters of the United States undertaken by the EPA.

When I started working this afternoon and preparing myself for what I would say to try to make my point and express myself, I listened at 3 p.m. to the speech by Senator BEN SASSE from Nebraska. Today he made his maiden speech on the floor of the Senate. Because I had an important appointment to get to, I do know exactly how long he spoke. He spoke for 27 minutes—because that is how late I was for my appointment. But his speech was so good and so important and it affected so much this rule of the waters of the United States that I wanted to include it in my remarks tonight.

What Senator SASSE said very simply is this: In his 1 year in the U.S. Senate, observing the Senate and how it operates, how we all operate, he went back to his constituents and spoke to them. One thing he talked about is how we are moving more and more toward the government of an executive branch and a judicial branch and moving away from the legislative branch. We have administrations like the current administration which is trying to enforce the law through administrative rules and executive orders, not through legislation. He didn't just point out that being a Democratic situation, it is Republican as well.

If we look over the last 35 years, there has been a growth in the number of edicts that have come down regulatory-wise rather than legislatively. It is important for us to return the legislative branch of government to its appropriate place so we have a balance between legislative, executive, and judicial.

I use the waters of the U.S.A. rule to explain to my colleagues why that is so important. This is a horrible rule. It is a rule that is going to be litigated in court for the next 30 to 40 years. Why? Because the clean water bill, which is its predecessor, has been litigated for 30 or 40 years, and eventually we have come to good water policies—not because that is where we started, it is because that is where we ended.

I wish to take a few experiences that I had working on the Clean Water Act in the 1970s, 1980s, and 1990s to make the point of why the waters of the United States bill is so dangerous.

The Clean Water Act passed with almost unanimous support. There was some opposition. Almost everybody said: I can't be against clean water; everybody wants clean water. But then there is the word ''promulgate.'' We passed a law that expressed the intent of Congress, and then we said it is up to the agencies responsible for promulgating the laws, the rules, and regulations necessary to carry out the intent of the law. Therein lies the problem because agencies like the EPA start promulgating rules which take the force and effect of the law, which cause the wrong thing to happen.

Let me tell my colleagues what is going to happen with the waters of the U.S.A. if it becomes a rule. We are going to give the power to the EPA that we have given under eminent domain to cities and counties and States in the United States. Eminent domain is the way the government was allowed under the Constitution to take property but reimburse the owner of the property for the damage done by the government in the taking for road rights-of-way, sewer lines, water projects, and things of that nature. This is a grant for eminent domain to an agency without any requirement to compensate the person from whom they have taken the land or restricted the use of the land.

The Presiding Officer mentioned that his father and family were in the homebuilding industry. I was in the homebuilding industry too and the land development industry. What we do is we add value to the land. We add value to its resources. We improve its drainage and use of water. But if we have a regulatory agency that makes it too expensive to develop the land, we go out of business and the community goes out of business because there is no new housing. The effect of the rule is it shuts down the economy, growth, and opportunity; it doesn't add to it.

So it is very important to understand that when somebody says ''We are going to pass a waters of the U.S.A. rule that is going to improve the quality of our water, and we are going to do so by delegating to the EPA—an unelected appointment agency—the power to tell you what you have to do,'' they are in effect saying that they are giving the power of eminent domain to the EPA without a requirement that you as a landowner be compensated.

The reason America is different from every other country on the face of this Earth is because we are a nation of individual landowners. We own our country, and we are still good stewards of our land, and we appreciate that opportunity. In most countries around the world, people don't have the opportunity to own the land and have private ownership. They lease their little place in life and that is where they go. America is different, and that is what made us different. But if we are landowners and we come under a waters of the U.S.A. rule and the EPA provides edicts that have the force and effect of law without the requirement to be compensated by an unjust agency that is enforcing a rule or regulation, we are becoming nothing better than a European country or, worse than that, a country that no longer has the benefit of private ownership of land.

So it is very important that we understand that the quality of water is important, protecting our water is important, but it is a balance, and it is a balance between the user, the landowner, and the government. What we need to do is come together to develop policies that are necessary to see to it that we have a good quality of water and we have good use of our water but not a dictatorial agency in the Federal Government given the total priority to control our land and its use.

I love this country. I love the opportunity it has given to me and the opportunity to serve in the U.S. Senate, to take my life experiences and try to add to the quality of legislation we pass here. I hope we will pass the Ernst legislation and stop the growth of the waters of the U.S.A. rule and get everybody—all the users—to come to the table and talk about positive ways to protect the quality of our water and

the use and the management of our water but not the confiscation of our property and the dictates of an agency rather than an elected body.

We do not need America to become a dictatorial country. We need to continue to be a country of participation and negotiation, where everybody at the table has a stake and where in the end we work for the best interests of all, not just the interests of an agency or, worse than that, a central belief within that agency.

This rule is a rule that is bad for farmers, developers, landowners, cities, counties, water authorities, wastewater authorities, sewer treatment plants, and anybody else who has water.

I want to read what the EPA's coverage is in this bill. It says:

> The flawed rule of the EPA to regulate nearly all water includes manmade water management systems, water that infiltrates into the ground or moves over land, and any other water the EPA decides has a significant nexus to downstream water based on the use by animals, insects, birds, and on water storage considerations.

There is no other provision in there. It includes all water. It is the authority for EPA to regulate it.

We have a farm bureau in Georgia that came up with the right slogan. They just simply said, after talking about the rule, after talking about waters in the U.S.A., there is only one thing we need to do: We need to ditch the rule.

It is time tonight for the Senate to adopt the Ernst provision, ditch the rule, and go back to the table and pass laws that are partnership laws between landowners, land developers, the local communities, local city councils, local county commissions, the local States. Let's not be a nation that edicts from the top down, but let's have solutions from the bottom up that always protect land ownership and land distribution and never take control of the water out of the hands of the States and move it to Washington, DC, where there is no accountability.

Last but not least, do not give the power of eminent domain—by that name or any other name—to the U.S. Government and take away the right to compensate because if you do, you become no better than a third-world nation, and it would be no good for the United States of America.

I see the majority leader has come to the floor, and I am anxious to hear his remarks because I know his name was invoked a few moments ago, so I will yield back my time. I am sure the majority leader would like to speak.

MORNING BUSINESS

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

REMEMBERING JOHN DAVID GOODLETTE

Mr. MCCONNELL. Mr. President, I wish to pay tribute to a distinguished Kentuckian who is being honored by the Commonwealth and by the many people who know and respect his life's work. The late John David Goodlette came from small town beginnings: he was born in Hazard, KY, in 1925 to Dudley and Lillian Goodlette. He would go on to become a highly respected rocket engineer who was instrumental in the Viking missions to land American spacecraft on the surface of the planet Mars.

From a young age, John had a passion for flight and aircraft. He would assemble model aircraft as a hobby, and this hobby soon grew to include piloting gliders and small aircraft. John's interest in flight led him to study engineering, and after graduating from Hazard High School in 1943, he would enroll at the University of Kentucky, where he studied mechanical engineering. His studies were interrupted by his service in the U.S. Army during World War II, when John served as a tugboat captain in the South Pacific. After resuming his studies at UK, he graduated in 1949.

The majority of John's professional career was spent at the Martin Marietta Corp., now known as Lockheed Martin, where he worked for 39 years. His research initially focused on jet propulsion, heat transfer, and thermodynamics, but he soon found himself immersed in developing rocket programs for the company.

In 1956, John was selected to lead Martin Marietta's Titan intercontinental ballistic missile project. The project led him to increase his familiarity with nuclear physics, high-speed gas dynamics, and electrical engineering.

Then came the project that would be the highlight of John's career: the Viking project. John served as chief engineer on this project for 10 years, which culminated with the successful landing of two Viking spacecraft on the surface of Mars in July and September of 1976.

''The Viking was one of those heart-in-the-mouth things,'' John has been quoted as saying. ''We never knew for sure it was going to work. That kept us going at a fever pitch to make sure all went right.''

The Viking program was the most expensive and ambitious mission to Mars to that point and resulted in the bulk of our knowledge of the Red Planet for the next several decades. They were highly successful missions for which John Goodlette rightfully deserves a large share of the credit.

John is being inducted into the Kentucky Aviation Hall of Fame for his pioneering role in aviation and space exploration. Students and aviation enthusiasts from all over the Commonwealth, but especially from Hazard, can be proud of what this son of Kentucky accomplished in a brilliant career devoted to technology and science.

John also serves as an inspiration at the Challenger Learning Center of Kentucky, which uses space exploration as a tool to excite and inspire students to learn science, technology, engineering, and mathematics. The Center is located in Hazard, John's hometown.

John would go on to serve as a vice president of Martin Marietta and retire in 1991 after 39 years with the company. He has sadly passed on now and is unable to witness this historic occasion in his honor, but members of his family will be present at the Kentucky Aviation Hall of Fame induction ceremony.

I know John's three children, Sarah, David, and Alice, must be proud of all their father accomplished in his remarkable career. John not only served his country in uniform, he also added greatly to the sum total of knowledge in the universe for the benefit of his country and all of mankind.

On behalf of the Commonwealth of Kentucky, I want to thank the Goodlette family and express my admiration and respect for John David Goodlette's life and work. We are truly grateful for his passion to exploration and his service.

RECOGNIZING THE 125TH ANNIVERSARY OF THE ESTABLISHMENT OF YOSEMITE NATIONAL PARK

Mrs. BOXER. Mr. President, I ask my colleagues to join me in celebrating the 125th anniversary of Yosemite National Park, a California treasure nestled against the stunning backdrop of the Sierra Nevada mountain range.

In 1864, President Abraham Lincoln signed the Yosemite Grant Act, a landmark bill granting 39,000 acres of Yosemite Valley and the Mariposa Big Tree Grove to the State of California. This was the first time the United States had ever set aside land to protect it for the public to enjoy. Three decades later, Yosemite became the Nation's third national park—1,500 square miles of stunning waterfalls, magnificent sequoia trees, breathtaking mountain peaks, and portions of ancestral homeland for several American Indian tribes and groups.

Over the years, Yosemite National Park has been a leader, becoming the first national park to hire a female law enforcement ranger, open a museum, and establish partnerships to help preserve Yosemite for future generations. Yosemite has also championed efforts to reduce waste and pollution by establishing recycling programs in the 1970s and operating a fleet of hybrid electric shuttle buses.

Since its earliest days, Yosemite National Park has provided sanctuary, comfort, and inspiration to millions of visitors from across the globe who come to experience its natural splendor, rich geologic history, and abundant wildlife. The timeless beauty of Yosemite National Park is a testament to the vision and commitment of countless dedicated people and institutions over the past 125 years. I want to