The bottom line is the Supreme Court has twice said that the executive branch agencies have overreached their authority. Twice there was legislation to try to expand that authority, which failed miserably, and now what the Supreme Court said they could not do and what Congress would not grant them to do, the agencies are trying to accomplish by creating a rule to give them powers that they ought not to have.

That—I am sorry, Madam Speaker—is simply wrong. The reason it is wrong is that it hurts people. People trying to live their lives find themselves frustrated by executive agency overreach.

That is why Congress must indeed pass not only this resolution and rule, but also the underlying bill, and it must move forward to make sure that Congress controls these issues in the future, not an executive branch agency. I have to reiterate that this rule is fair, and the underlying legislation is appropriate.

With that, Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 179, not voting 23, as follows:

[Roll No. 484]

YEAS—229

Aderholt
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Burgess
Byrne
Calvert
Camp
Campbell
Capito
Carter
Chabot
Chaffetz
Clawson (FL)
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Costa
Cotton
Cramer
Crawford
Crenshaw
Culberson
Daines
Denham
Dent
DeSantis
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jordan
Joyce
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Owens
Palazzo
Paulsen
Pearce
Perry
Peterson
Petri
Pittenger
Pitts
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—179

Barrow (GA)
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Maffei
Maloney, Sean
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—23

Bucshon
Cassidy
Cicilline
Clark (MA)
Clarke (NY)
Davis, Rodney
DesJarlais
Dingell
Gosar
Jones
King (IA)
Lee (CA)
Lynch
Maloney, Carolyn
Meng
Miller, Gary
Nadler
Nunnelee
Poe (TX)
Rush
Sewell (AL)
Tierney
Velázquez

□ 1352

Ms. FRANKEL of Florida, Messrs. MORAN, BARROW, and COHEN changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RODNEY DAVIS of Illinois. Madam Speaker, on rollcall No. 484 I was unavoidably detained. Had I been present, I would have voted "yes."

Mr. BUCSHON. Madam Speaker, on rollcall No. 484, had I been present, I would have voted "yes."

Mr. KING of Iowa. Madam Speaker, on rollcall No. 484, I was not present to vote. Had I been present, I would have voted "yes."

WATERS OF THE UNITED STATES REGULATORY OVERREACH PROTECTION ACT OF 2014

GENERAL LEAVE

Mr. SHUSTER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 5078.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 715 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5078.

The Chair appoints the gentleman from Texas (Mr. POE) to preside over the Committee of the Whole.

□ 1356

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, with Mr. POE of Texas in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from West Virginia (Mr. RAHALL) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chair, I yield 2 minutes to the Congressman from Florida (Mr. SOUTHERLAND), who is the original sponsor of H.R. 5078, the

Waters of the United States Regulatory Overreach Protection Act.

I think it is a thoughtful piece of legislation.

Mr. SOUTHERLAND. Mr. Chair, I appreciate the efforts of you and Ranking Member RAHALL, and those efforts, how they have advanced this bipartisan piece of legislation. I would also like to thank Subcommittee Chairman GIBBS for giving this issue the urgent attention that it deserves.

For more than 40 years, America's waters have been made cleaner and safer by a balanced regulatory partnership between the States and the Federal Government. The basis for this partnership was a commonsense understanding that not all waters are subject to Federal jurisdiction and that the States must have the primary responsibility for regulating waters within their own boundaries.

But, now, decades of success have been put at risk under the guise of clarifying the scope of the Federal jurisdiction.

Under its proposed rules, Federal agencies like the EPA and the Army Corps of Engineers would see their regulatory authority under the Clean Water Act drastically expanded, to the point of covering almost any body of water throughout America, from ditches to culverts to pipes to watersheds to farmland ponds.

This would have devastating consequences on virtually every major section of our economy, including farming, construction, manufacturing, transportation, and energy development.

That is why I have introduced H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014. Our bipartisan bill draws a line in the sand that preserves the critical Federal-State partnership in place today.

By preventing the EPA and the Corps of Engineers from finalizing or implementing the proposed rule, we are providing a safeguard against the Federal Government's overreach into regulatory decisions best made by officials at the State and local levels.

We are also requiring the EPA and the Corps to consult with the State and local officials to form a consensus proposal on the scope of the future water regulations under the Clean Water Act.

This bill is not anti-environment. It is not anti-clean water. Our bill preserves the partnership we have had in place for years to strengthen the health of our waterways and manage our water quality, and it does so in a way that maintains certainty for our job creators.

□1400

For these reasons, I urge all of my colleagues to support this bipartisan bill.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5078.

In proposing its latest version of regulations defining ''waters of the United States,'' the EPA claims to be attempting to provide clarity. It claims to be attempting to provide certainty for multitudes of Americans who have been left perplexed by Clean Water Act jurisdiction for many years.

Without a doubt, confusing and conflicting Supreme Court decisions have helped to create a regulatory jumble. But the EPA's proposed new regulations are doing little, if anything, to clear and calm those murky and roiling regulatory waters.

These proposed regulations have only stirred up more worry, aggravation, and, frankly, anger. In truth, the only certainty that these regulations provide is the sure knowledge that, under them, anyone undertaking nearly any activity involving so much as a ditch in the United States will have to deal with the bureaucracy known as the EPA.

I stand here today voicing the sheer dread and utter frustration of enterprises and individuals across southern West Virginia—from coal miners and coal mining families to farmers and farming families to builders and businesses, large and small. We have seen firsthand how this EPA uses its limited legal authorities to drive a broad and growing ideological agenda. We have seen this EPA use permits to threaten our coal industry, browbeat our State, and elbow out other federal agencies. And we have witnessed this EPA's cold and callous disregard for how its politically driven agenda is affecting the lives of hardworking West Virginia families.

The proposed regulations concerning ''waters of the United States'' certainly amount to an expansion of EPA's reach into waters never before envisioned by the Congress to be subject to the Clean Water Act. They would stake out Federal Government oversight of areas long reserved to the States. If implemented, they would entail more than a power grab; they would result in a land grab, enabling EPA to dictate to more and more citizens just how they can use their own property.

I stand with our coal miners, our farmers, our builders, and our manufacturers. Our citizens need—and certainly they are owed—clarity and certainty. For the EPA to claim that these proposed regulations answer that need, well, one has to wonder just what is in the water over at the EPA headquarters.

I support the pending measure, and I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, it is now my honor to yield 1-1/2 minutes to the gentleman from Ohio (Mr. GIBBS), the chairman of the Water Resources Subcommittee.

Mr. GIBBS. Mr. Chairman, I rise in support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014.

Mr. Chairman, I have serious concerns about the administration's proposal to redefine the scope of jurisdiction under the Clean Water Act and the unilateral approach the agencies took developing this rule. The agencies' attempt to expand their jurisdiction under the Clean Water Act will have serious consequences for the Nation's economy, threaten jobs, and restrict landowners from making decisions about their property.

In my subcommittee hearing earlier this year, we discovered that the EPA could not identify a single State that supports this rule. Under the Clean Water Act, the States are supposed to act as coregulators with the Federal Government, and this partnership has enjoyed much success over the years. It is unfortunate that the agencies have chosen to take a closed-door approach to this rulemaking instead of engaging in a proper and transparent process working with their State counterparts.

Mr. Chairman, H.R. 5078 will put an end to the EPA's overreach and will ensure that any new rule is adopted openly and responsibly, and takes into consideration the concerns of the State, local governments, and other stakeholders. Mr. Chairman, I strongly urge all Members to support this bipartisan bill.

Mr. RAHALL. Mr. Chairman, I am very honored at this time to yield 4 minutes to the gentleman from New York (Mr. BISHOP), the distinguished ranking member of our Subcommittee on Water Resources and Environment on our Transportation Committee, although we are not in full agreement on this measure.

Mr. BISHOP of New York. Mr. Chairman, I thank my friend and our ranking member from West Virginia for yielding and for his leadership on the T&I Committee.

Mr. Chairman, I rise in strong opposition to H.R. 5078. Last session, the Republican majority pushed through a rider to the Energy and Water Appropriations bill to block this administration from using Agency guidance to clarify how they would interpret two confusing decisions of the U.S. Supreme Court that called into question the protections of the Clean Water Act over our Nation's waters.

At that time, the Republican majority claimed that this use of administration guidance was unprecedented and in violation of the law, notwithstanding the fact that the previous administration followed the exact same process in issuing two guidance documents which, coincidentally, remain in force today. In fact, it is these two Bush-era guidance documents that have compounded the confusion, uncertainty, and increased compliance costs faced by our constituents today.

But don't take my word on this. Let me quote from some of the comments made in opposition to the Bush-era guidance. According to the American Farm Bureau Federation and others:

> With no clear regulatory definitions to guide their determinations, what has emerged is a hodgepodge of ad hoc and inconsistent jurisdictional theories.

Again, according to the American Farm Bureau Federation and others:

> The Bush administration guidance is causing confusion and added delays in an already burdened and strained permit decisionmaking process, which ultimately will result, and is resulting, in increased delays and costs to the public at large.

Finally, according to the Waters Advocacy Coalition:

> Until a comprehensive set of rules regarding which water bodies the agencies will regulate is promulgated, the public and Agency field staff will be beleaguered by partial answers, confusing standards, and ad hoc, overbroad, and arbitrary decisions pertaining to the scope of Federal jurisdiction.

In April of 2011, over 150 Members of this House wrote to the Environmental Protection Agency and to the Corps requesting that a proposed guidance document of the Obama administration be reconsidered. In that letter, these Members suggested:

> If the administration seeks to make regulatory changes to the Clean Water Act, a notice-and-comment rulemaking is required.

In the intervening months, this is exactly what the administration has done. In 2012, the administration chose to withdraw the proposed 2011 guidance document and instead pursued a notice-and-comment rulemaking to address much of the confusion, uncertainty, and increased costs surrounding the scope of the Clean Water Act protections.

However, many of these same Members who asked for a formal rulemaking are now vehemently opposed to this rulemaking going forward. I have to ask why? Are these Members opposed to providing greater clarity on the scope of Federal Clean Water Act protections? Are they opposed to trying to reduce the confusion and uncertainty facing our regulated communities while at the same time trying to ensure that our network of waters and wetlands are protected from pollution or destruction?

Opponents of this rulemaking are trying to portray this as a Federal attempt to regulate birdbaths, puddles, and driveways, but both common sense and the testimony of representatives of the EPA and the Corps before our committee would confirm that these were never subject to Clean Water Act jurisdiction, nor would they be subject to the act under the administration's proposed rule.

In short, this is not a debate about the Federal Government trying to regulate someone's backyard birdbath, but it is about ensuring that those waters and wetlands that provide hundreds of millions of Americans with their drinking water, provide vital protection to our towns and communities, and provide valuable habitat to our native fish and wildlife are protected.

Mr. Chairman, to be fair, several of my own constituents have expressed concern with the substance of the proposed rule. I have listened to their concerns, and I have pressed the Agency witnesses who have appeared before our subcommittee on several critical areas. I have questioned the agencies to ensure that the scope of the proposed rule lives solely within the confines of the two Supreme Court decisions on this matter; otherwise, such changes would require an act of Congress.

The CHAIR. The time of the gentleman has expired.

Mr. RAHALL. I yield the gentleman an additional 1 minute.

Mr. BISHOP of New York. Mr. Chairman, I have asked for Agency assurance that this proposed rule does not expand the scope of the Clean Water Act jurisdiction over what was covered by prior rulings of the Supreme Court. Again, I have been assured that this is the case.

I have asked the Agency staff to clarify that these proposed rules do not eliminate any existing statutory or regulatory exemptions for agriculture, including activities on prior converted cropland. Again, we have been assured by the Agency that all of the existing exemptions for farming, silviculture, and ranching in the current Clean Water Act and regulations remain in place.

In my view, this is not a perfect proposed rule—few are—but it does establish a reasonable process for providing additional clarity on Clean Water Act protections that we desire. To suggest that the solution is to simply throw out this proposed rule and to forever leave the regulated community with the current regulatory morass simply makes no sense.

Mr. Chairman, I urge a ''no'' vote on H.R. 5078. I thank the ranking member for his indulgence.

Mr. SHUSTER. Mr. Chairman, it is now my honor to yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER), the chair of the House Administration Committee.

Mrs. MILLER of Michigan. Mr. Chairman, recently, I met with about 600 farmers at an annual gathering in my district which we call Dinner on the Farm, where local farmers express their concerns over the negative impact EPA's proposed regulations would have on their businesses.

The Michigan Farm Bureau actually showed me this map of my district which shows what could be subject to Federal regulation if the proposed EPA rule is actually adopted. And highlighted are the water sources that would be impacted. It actually excludes wetlands because then it would cover my entire district, including just about anything that includes moisture.

Mr. Chairman, this is another shocking example of this administration trying to do an end run around the Congress and the legislative process with more overreaching regulations that will drive up food prices for American families.

By stopping the EPA from expanding their scope and requiring the Agency to coordinate with States, this legislation will help to protect this Nation's agricultural community from Federal overreach that threatens their livelihood and ultimately this Nation's economic success.

Mr. RAHALL. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO), a very valued member of our committee. He is also the ranking member of the Committee on Natural Resources.

Mr. DEFAZIO. It is unfortunate that we are here today. We have departed from reality, which would be the districts we represent, where I just spent 5 weeks, and now we are back inside the Beltway. And we are doing things in this case that we know will never become law, but we do have an opportunity actually to do something real and allay the concerns—legitimate concerns—of farmers, ranchers, and others who feel that the EPA is either overreaching or has written a somewhat garbled rule. I would agree with that.

But instead of approaching it in a measured way and saying we want to be certain that you are not doing this, and we want to be certain that you are doing this, this would say that anything and everything that they have considered over the last 2 years in developing this rule is now ineligible for future consideration. Well, what does that mean? Well, it means that the determination that certain things are exempt, well, we probably can't revisit those. Can we use the Court's decision or any of those documents? Seems not.

So where do we end up if this cockamamy thing passes the House and becomes law—which it won't? Well, where we end up is back in the earlier era of the 2003 and 2008 guidances. And many of the groups that are here today supporting this unbelievably broad overreach are actually groups who had objected strenuously to what the Bush administration did in the 2003 guidance and the 2008 guidance.

Here is a quote from the American Farm Bureau, 2003:

> No clear regulatory definitions to guide their determinations. What has emerged is a hodgepodge of ad hoc and inconsistent jurisdictional theories.

2008, American Farm Bureau:

> Guidance is causing confusion, added delays in an already burdened and strained permit decisionmaking process which ultimately will result and is resulting in increased delays and costs to the public at large.

Then, on the other side, groups such as the National Wildlife Federation and Ducks Unlimited also found the objections of the 2003 and 2008 guidances to be totally inadequate, and, of course, the Supreme Court itself split 4–1–4 on one of the guiding documents behind this.

□ 1415

So instead of wading in, rolling up your sleeves, and acting like legislators, you are acting like idiot ideologues here today. You are saying nothing that was considered in developing this rule can ever be used again

to develop a future rule. What does that mean? That means you are stuck with a 2003–2008 guidance, which all these groups found to be disturbingly inconsistent, expensive, causing unnecessary delays, and we need new guidance. We do need new guidance. We do need new definition.

There are some who have the agenda of wanting to repeal the Clean Water Act altogether. Let's go back to the good old days, when you could light a match and watch the Cuyahoga River burn or when the Willamette River in Oregon was an open sewer. Let's go back to those good old days before the Clean Water Act.

No, I don't think the American people want to go there, and I don't think a majority in this House want to go there, but instead of fixing and limiting the problems and the potential defects of this incompetent rulemaking that is ongoing and is, at this point, only proposed, perhaps the Agency itself will wake up and withdraw and revise the rule.

That is what public comment periods are all about; but no, we are going to preempt it before then and say nothing that went into developing this rule can ever be considered again in developing another rule. You are stuck with something that doesn't work, which these same groups object to.

It is just very sad that we are aren't a legislative body anymore. You take someone who has got a tough race, you give them a bill, they go out and rah-rah-rah, they pretend they did something, and they go home and get reelected, instead of really doing something.

Mr. SHUSTER. Mr. Chairman, I urge the gentleman from Oregon to go back and read the second part of the bill—the last half of the bill. He may find a little different perspective on it.

With that, I yield 1 minute to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Chairman, I want to thank the chairman of the full committee and the ranking member as well.

I stand in strong support of H.R. 5078 because it represents another administration overreach that will impact our entire economy. Under the vague regulation proposed by the EPA and the Corps, Federal power will grow and tie up our agriculture, construction, and energy industries in even more red tape.

Expanding the scope of Federal jurisdiction will require many more Clean Air permits, which will mean more permitting delays, and more permitting delays means fewer jobs.

During the August recess, I traveled all across the State of West Virginia and met with farmers who were particularly concerned, construction workers, miners, and many others, who are very, very upset about the EPA's regulatory assault that is costing us West Virginia jobs.

We should support this bill today, reject this proposed rule, and send Federal officials back to the drawing board to work with State and local leaders on a jurisdictional water rule that makes sense for our economy and our environment.

Mr. RAHALL. Mr. Chairman, I am very happy at this time to yield 2 minutes to the gentleman from Minnesota (Mr. PETERSON), a strong supporter, the cosponsor of this legislation, original cosponsor of it, and the ranking member of the Committee on Agriculture.

Mr. PETERSON. Mr. Chairman, I thank the gentleman.

I rise today in strong support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act.

As others have said, H.R. 5078 would prohibit the EPA and the Army Corps of Engineers from redefining waters of the United States under the Clean Water Act.

The bill would also prohibit implementation of the interpretive rule for agriculture which, while it probably was meant to provide some clarity to farmers and ranchers, only creates more confusion and is bad for agriculture.

This legislation is necessary because, in my view, the EPA does not seem to understand the real world effects that these regulations will have on farmers across the country.

We still don't have any clear definition of a wetland in agriculture, an issue that is dating back to the eighties and nineties. Maps used by the USDA were unclear then and often mislabeled wetlands. This rule would not clarify it. It would only add more to the uncertainty that we are facing in that regard.

In my State, the USDA's Natural Resources Conservation Service has done a great job working with farmers to encourage voluntary conservation efforts. This rule would severely disrupt those positive efforts.

I urge my colleagues to support this legislation.

Mr. SHUSTER. Mr. Chairman, can I inquire as to how much time is remaining on each side?

The CHAIR. The gentleman from Pennsylvania has 24½ minutes remaining. The gentleman from West Virginia has 16½ minutes remaining.

Mr. SHUSTER. Thank you, Mr. Chairman.

I now yield 1 minute to the gentleman from Pennsylvania (Mr. BARLETTA).

(Mr. BARLETTA asked and was given permission to revise and extend his remarks.)

Mr. BARLETTA. Mr. Chairman, I rise in support of the bill.

For 4 decades, the Clean Water Act has worked as a strong partnership between the Federal Government and the States. This bill protects that partnership against the proposed rule from the EPA and the Army Corps of Engineers.

I have heard from many of my constituents that this rule would force them to prove that large mud puddles and ditches on their property are not federally regulated waters.

However, the new definition of Federal waters is so vague that it is impossible to know what standards you will need to prove. This rule will cost my constituents time, money, and jobs.

Mr. Chairman, I support this bill because sometimes a mud puddle is just a mud puddle.

Mr. RAHALL. Mr. Chairman, at this time, it is my pleasure to yield 4 minutes to the gentlelady from Ohio (Ms. KAPTUR), a very powerful lady on the Committee on Appropriations, the ranking member on Energy and Water Development.

Ms. KAPTUR. Mr. Chairman, I thank the ranking member, Mr. RAHALL, for his great leadership and consider it a privilege to speak today.

Let me inform this House why it should vote down this death bill—yes, death bill.

This is a jar of algae, toxic to humans and animals. It was just drawn from Lake Erie, one of our great freshwater lakes, a drinking source for some 11 million people.

On August 2, this green muck filled with toxic microcystin surrounded the Toledo drinking water intake, leaving over half a million people with no safe drinking water for 3 days. It almost seemed surreal. One of America's biggest cities and regions with no fresh drinking water.

Now, the region that our watershed drains is 85 percent agricultural. How fortunate we are. In fact, it is the largest watershed in the entire Great Lakes, but allowing farm field runoff of manures and fertilizers, applied at four times the rate of 20 years ago, with excessive phosphorous and nitrogen that feed the growth of this green muck, is simply no longer acceptable.

The number of people who live in our tristate watershed totals 2 million, Ohio, Indiana, Michigan, and of course, with Canada even more; but the number of animals in the watershed is 10 to 15 times the human population. The manure load of those animals—compared to 20 years ago—spread on the land, even in the wintertime, contributes, with increasing rainfall, to the pollution that then drains to places like Toledo.

Utility rates are going up—what are they going to do? How are they going to afford the bills to pay to clean up the pollution from a massive tristate and, indeed, international watershed?

Instead of helping clean up our water for future generations, this Republican bill takes America backwards. Do you know what I say? Shame on you. Shame on you.

Today, the United States Environmental Protection Agency recognizes that harmful algal blooms are a major environmental problem in all 50 States, with severe impacts on human health.

The Toledo water plant and what happened to us is a severe warning for our country, and we better pay attention. Communities are incurring massive costs for water treatment as a result of pollution and toxic algae because our water plants have to somehow clean this mess up and then send

fresh drinking water to our citizens. These costs are being paid not by the polluters, but by the ratepayers downstream at the receiving end of the muck—how unfair.

I am back here in Washington, fighting for our lake. Our citizens must turn this green muck back into blue water to sustain life itself. One of the ways we start is by defeating this bill. It is an embarrassment to the country at this point in our history.

I can tell you, to the people who still don't know what their future holds in places like Toledo and along Lake Erie, I urge my colleagues to oppose this bill. Reject the dead water direction in which it leads America because it isn't just this generation, but it is those that follow that we should be voting for here in this House. I urge defeat of this measure.

I want to thank Congressman RAHALL and those who understand what it takes to build a great nation. Let us do something worthy in our time and generation.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma (Mr. MULLIN).

Mr. MULLIN. Mr. Chairman, I rise today in support of H.R. 5078.

As you have heard from many Members today, the EPA's proposed rule is a clear overstep of authority. Back in my home State of Oklahoma, ranchers and farmers have been very clear that this rule would significantly limit their operations.

As a rancher myself, I understand and agree with their concerns. The definition of ''navigable waters,'' as stated and written by the EPA, would put all farmers and ranchers on notice that they are no longer in charge of their own land. From now on, they will have to ask permission to get a permit or to operate their own land the same way they have for many years.

In summary, this would be an unprecedented land grab by our government through the EPA and the bureaucrats of Washington, D.C. The EPA is simply out of touch with rural America.

I stand with our farmers and our ranchers when I say it is time to stop the EPA's overreach and their redefinition of navigable waters.

Mr. RAHALL. Mr. Chairman, at this time, I am happy to yield 4 minutes to the gentleman from Virginia (Mr. MORAN), who is leaving this august body, but certainly, we will continue to rely upon his wisdom and friendship, wisdom that is except on this particular bill, the ranking member of the Subcommittee on Interior and Environment on the Committee on Appropriations.

Mr. MORAN. Mr. Chairman, I want to thank my good friend from West Virginia, and I understand where we sit is where we stand. The gentleman has always been in the forefront of protecting his citizens in West Virginia and his workforce, including the mine workers of West Virginia, and I fully understand that, but nevertheless, I rise in opposition to this regressive legislation.

With very few days remaining before this Chamber adjourns, we are wasting what limited floor time remains debating a legislative proposal that this Chamber has already passed and the Senate has rejected.

Today, we will be voting for the 218th time—the 218th time this session—to weaken existing laws that protect our health and the environment that we depend upon.

Later this week, we will vote for the 53rd time to weaken the Affordable Care Act, which the American people are beginning to realize is actually working on their behalf.

None of these measures that have passed this session or will pass the House this week will become law. The President has already said if it passes, he will veto it, and my friend knows that. In fact, he reminded me. We know he is going to veto that if it were to pass, so you would think this is kind of a misguided and wasteful use of this institution.

We are planning on only 6 full legislative days before the election, and we are using one of those days on such a fruitless exercise. How about addressing the problems at our border or passing an extension of unemployment benefits or even passing a budget, which is one of our most basic responsibilities?

Instead of doing something useful and productive that might become law, we will again vote on a measure to prevent the Corps of Engineers and the Environmental Protection Agency from finalizing their joint proposed rule clarifying the limits of Federal jurisdiction under the Clean Water Act.

□ 1430

This is what the Supreme Court instructed us to do. This rule is necessary. It is our responsibility. EPA and the Corps of Engineers need to clarify their authority because there is a lot of confusion on what falls under the protection of the Clean Water Act following two Supreme Court rulings.

Clarity will also help the States that use the Federal definition to operate their State water protection programs. Ninety percent of what the EPA does is in fact carried out by the States.

The proposed rule clarifies that most seasonal and rain-dependent streams are not affected. Wetlands near rivers and streams are not included. Other types of waters that may have more uncertain connections with downstream water will be evaluated through a case-specific analysis of whether the connection is or is not significant. EPA and the Corps have encouraged recommendations from the public for how best to determine whether a water body has a significant connection to downstream waters.

My colleagues, an estimated 59 percent of all stream miles in the lower 48 States fall into the category of intermittent or ephemeral—they don't exist for part of the year—yet they receive 40 percent of all individual wastewater discharges. That is what the problem is. More than 117 million Americans get some of their drinking water from these very streams that don't flow year-round. Shouldn't their drinking water be safe from toxic elements?

If this measure were to be enacted, it would only ensure that the confusion continues and that these sources of drinking water remain a serious risk to the public's health. That is why I urge my colleagues to oppose this bill.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from California (Mr. MCCARTHY), the Republican leader.

Mr. MCCARTHY of California. I thank the gentleman for yielding.

Mr. Chairman, I rise today against an unlawful expansion of Federal power. The EPA's attempt at an unprecedented power grab will ultimately saddle hardworking Americans, small businesses, and farmers with new, onerous regulatory burdens.

Under this proposed new rule, the EPA will be able to claim jurisdiction over almost all bodies of water in the U.S. So, along with the bays and rivers, EPA's hand will extend over streams, ponds, ditches, and even storm water runoff. Beyond sounding ridiculous, this rule will impact farmers, energy producers, and any private citizens that use their land for economic or recreational purposes. It is harmful and unnecessary.

I live in the West. The West is burdened right now with the drought. Some of that drought is based upon excess regulations that choose fish over people, and that water will run out to the ocean because of a regulation and a lawsuit.

I have seen where regulatory effects and burdens have gone before. I have a town in my community called Taft. It is a hardworking town like many of you have. The EPA has been a part of it before. It is a town that could be anywhere in America.

Taft had a waterway, the EPA said, called Sandy Creek. The only challenge, though, in Sandy Creek is it was a dry ditch. It had been dry for 30 years. So when they came to me and they wanted to be able to move forward, they found that the Federal Government was trying to impose a permitting regulation of excess regulation on this private land. I had to personally call them, and they said: No, you cannot do it because of the creek. I had to drive an individual all the way out to the dry dirt and sit them in the dry creekbed until finally they said ''yes.''

Under the new bill, Sandy Creek will not be dry anymore because that burdensome regulation can possibly be back on them. It could be redesignated, and we will not be able to grow again.

Mr. Chairman, we are struggling with job creation in America. We are struggling with small businesses trying to make ends meet. Milk prices are at an alltime high. Why would we burden

America with more regulation? Why would we not unshackle what holds us back and let us be able to grow and let people keep their private land and protect our water, but do it in a sense that has common sense?

Mr. RAHALL. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from Illinois (Mr. ENYART), who is on the Agriculture Committee and an original sponsor of the legislation. He has been of tremendous help in moving this forward.

Mr. ENYART. I thank the gentleman for yielding.

Mr. Chairman, today I rise in support of this legislation and to share my concern about overreaching jurisdiction in the proposed rulemaking expanding the reach of the EPA and the Army Corps of Engineers.

I have spent the last 5 weeks talking to constituents in my district, meeting with landowners, and discussing legislation with my agriculture advisory committing, talking to leaders from small communities and large cities alike.

Again and again, I hear the same thing: southern Illinoisans believe the Army Corps of Engineers and the EPA went too far rewriting the Federal Government's jurisdiction over waters of the United States. The Federal Government is claiming to have jurisdiction over small private property waterways.

The biggest concerns voiced by constituents were over the new areas that would become waters of the U.S. Under the proposed rule, many ditches, small ponds, and low spots in fields could be considered within the purview of the Federal Government.

Farmers and growers already protect their waters. They need it for livestock, orchards, soybean fields, and cornfields. Our Nation's farmers are the first conservationists of our time.

Additionally, I am further concerned about the lack of scientific analysis and economic outlook used to determine the scope of jurisdiction. Our farmers, land owners, communities, and our country's waterways deserve better planning than this. They deserve detailed studies and thoughtful execution. Our constituents sent us to Washington to keep their best interests in mind, not to pile on more red tape in a blanket fashion.

I urge you to join me and take into consideration those who will be affected by the proposed expansion of the EPA and the Corps' power.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from Illinois (Mr. RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Mr. Chairman, the EPA is at it again, this time with an overly burdensome rule that would expand their reach and power to regulate under the Clean Water Act.

I have heard from roadbuilders, homebuilders, and small businesses who are concerned about this overreach. In particular, farmers in my district are very concerned that this rule could add new permitting requirements for farming activities like irrigation ponds and drainage ditches.

That is right. The EPA, which is the same Agency that inexplicably released the personal information of livestock producers, is now telling farmers ''just trust us'' when it comes to this new rule. There is a trust gap between the EPA and the agricultural community. One of my priorities is trying to bridge that gap.

Instead of this proposed rule, the EPA and the Corps of Engineers should engage with States and local governments to produce a more commonsense approach to regulating our waterways.

I urge my colleagues to support this bill, the WOTUS Regulatory Overreach Protection Act.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. It is now my pleasure to yield 1 minute to the gentleman from Florida (Mr. JOLLY).

Mr. JOLLY. Mr. Chairman, I rise in support of this legislation and in opposition to the EPA's Waters of the U.S. Act.

I represent Pinellas County, Florida, a district that lies between the Gulf of Mexico and Tampa Bay, surrounded by water and prone to flooding and storm runoff. So, like many coastal communities, this is an important issue to us.

EPA issues can be divisive—we know that—but they need not be. My message today is not one of anger. It is simple common sense. We can do better. The EPA can do better and the Corps can do better.

This is not a debate over clean water. Everybody in this body supports clean water. But this is a debate over the expanded jurisdiction of a Federal Agency and the current overreach of that Agency. In this case, this legislation is opposed by a variety of interests, from agriculture, shopping centers, chambers, homebuilders, manufacturers, transportation interests, but very importantly, by counties and mayors like many in my district who spoke to me in August.

We are called as Members of this body to represent our communities. Let's do that today. Let's represent the interests of our communities. This is not a moment for ''Washington knows best,'' because Washington does not know best in this case.

Mr. Chairman, we can do better. In this case, let's send it back and insist on a better rule.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1½ minutes to the gentleman from Oklahoma (Mr. LUCAS), the chairman of the Agriculture Committee.

Mr. LUCAS. Mr. Chairman, I rise today in support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act.

The Environmental Protection Agency is once again seeking to overstep its authority, and we are here to remind them of the balance of powers.

This year, EPA proposed a rule to redefine the waters of the United States under the Clean Water Act. This rule expands Federal control of land and water resources across the Nation. This rule would trigger an onslaught of additional permitting and regulatory requirements to protect not our great natural resources but, rather, our backyard ponds and agricultural ditches.

These requirements would extend to every landowner, farmer, and rancher. What this means for farmers and ranchers is that their normal business activities for the production of food would be subject to even more permitting requirements or faced with penalties. Traditional conservation guidelines which were once voluntary will become mandatory or the farmer will be subject to fines and vulnerable to lawsuits.

In this rulemaking, EPA assumes discretion never intended or granted by Congress through which Federal agencies would be empowered to make decisions, and those decisions could be made in an arbitrary fashion.

H.R. 5078 blocks the Agency from finalizing, implementing, and enforcing this rule. It preserves States' rights, ensures the Obama administration consults States and local officials on any future proposal to regulate and protect our Nation's waters under the Clean Water Act.

Protecting our natural resources is a noble cause and one that the agricultural community stands solidly behind, but this proposal is an underhanded way to harm American agriculture and threaten America's food security.

Mr. Chairman, I urge my colleagues to join me in supporting this bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I rise in favor of this bill and against the EPA's ditch rule.

If this rule were to go forward, two things would assuredly occur: less clarity of what waters are jurisdictional under the Clean Water Act for our farmers and ranchers, and more overreach of jurisdiction by the EPA.

This rule joins a long list of initiatives undertaken by the Agency which would increase the regulatory burden on Nebraska's farmers, ranchers, businesses, and everyday citizens.

In my State, multiple organizations banded together to fight this rule. The group calls itself Common Sense Nebraska Coalition. It includes folks that you would expect, such as farmers and ranchers, but what is interesting is that so many others have heard about this and joined in the fight, including the Nebraska Chamber of Commerce, Nebraska Bankers Association, county officials, resource districts, the Water Resources Association, homebuilders, general contractors, and the Rural Electric Association. They have all joined in this cause because of its uncertainty and massive jurisdiction under the EPA.

My State supports this bill, and I stand proudly with them.

Mr. SHUSTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. SMITH), former chairman of the Judiciary Committee and now a member of the Science and Technology Committee.

Mr. SMITH of Texas. First of all, let me thank the chairman of the Transportation Committee, the gentleman from Pennsylvania (Mr. SHUSTER), for yielding.

Mr. Chairman, Science Committee investigations revealed that the EPA prepared State maps that show the widespread impact of their proposed regulations. As you can see by the colored areas on this map, the EPA plans to regulate nearly every square inch on the map. More detailed maps of every State can be found on our Science Committee's Web site, science.house.gov.

The EPA's rewriting of the law is an unprecedented expansion of Federal control over Americans' private property, and these maps make that clear. The Waters of the United States Regulatory Overreach Protection Acts stops the EPA and protects Americans from the President's drive to regulate private property.

□ 1445

I thank the gentleman from Florida (Mr. SOUTHERLAND) for taking the initiative on this bill, and I thank the chairman again for yielding me time. I urge my colleagues to support this legislation.

The CHAIR. The gentleman from West Virginia has 6½ minutes remaining, and the gentleman from Pennsylvania has 16 minutes remaining.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from New York (Mr. COLLINS).

Mr. COLLINS of New York. I thank the gentleman from Pennsylvania for yielding.

Mr. Chairman, expanding the scope of ''waters of the United States'' is a dangerous expansion of authority strongly opposed by the farmers in my western New York district.

In May, I led a bipartisan letter with Mr. SCHRADER of Oregon, supported by a majority of this House, asking the EPA and the Army Corps of Engineers to withdraw this overreaching rule.

EPA officials have testified that they realize this rule, as drafted, is confusing and needs modification, but they have refused to withdraw the rule and start over.

I ask my colleagues to join me in supporting H.R. 5078, the bipartisan legislation that will address this problem.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from Florida (Mr. YOHO).

Mr. YOHO. Mr. Chairman, I want to congratulate my friend and colleague, STEVE SOUTHERLAND, for crafting the Waters of the United States bill, this important piece of legislation.

Mr. Chairman, I have heard from farmers, ranchers, contractors and even homeowners across my district and across this country. They have had enough of regulatory overreach by the administration and the EPA.

As many of my colleagues have already stated, this bill will stop this administration from using a pen and a phone to unfairly target those who are our greatest stewards of our land, the farming and ranching families of this country.

I urge all of my colleagues to support this legislation. Government should facilitate businesses, not hinder them.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. STUTZMAN).

Mr. STUTZMAN. I thank Chairman SHUSTER for bringing the Waters of the United States Regulatory Overreach and Protection Act to this body.

Mr. Chairman, this administration has continually tried to expand the role of the Federal Government in the everyday lives of American families, and now the EPA wants to regulate almost all bodies of water throughout the country, including ditches, pipes, and even farmland ponds.

After meeting with many of my constituents back home throughout the month of August, I know that my fellow farmers, whom I sat with in Indiana, and those of any other State don't want or need more regulatory overreach from Washington, D.C.

From irrigation for crops to water for livestock, farmers feed us and the world with this precious resource. This legislation is an opportunity to maintain the relationship between local and Federal officials already established in the Clean Water Act.

I would like to thank Chairman SHUSTER, Ranking Member RAHALL, and the rest of Committee on Transportation and Infrastructure for their hard work on this issue. I urge my colleagues to support this very important bill for rural America.

Mr. SHUSTER. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. LAMALFA).

Mr. LAMALFA. I appreciate the chairman yielding me time here today on this very important measure.

We have seen the EPA now trying to claim jurisdiction over virtually every body of water in the United States, puddle or not, navigable or not, manmade or natural, year-round or just even seasonal. In order to protect these waters, the EPA claims it needs to control vast amounts of land surrounding these waters.

Now, the residents of my district in northern California are already familiar with this type of regulatory act. In California, the EPA is already ignoring clear exemptions for farming activities that have been going on for years and years and are even in the law as exempt; this, in order to pursue massive fines against family farmers simply for changing crops or maintaining their already manmade irrigation systems, thus, in the process paralyzing farmers who are waiting months and months or even years for EPA or their cohorts in the Army Corps to decide these legal activities can continue to go on, otherwise they will be subject to huge fines.

This is form of tyranny that is a gigantic overreach and needs to be stopped. That is why I support H.R. 5078 as a way to limit EPA back to the proper role of actually watching out for clean waters, not regulating to the last drop every water drop in the United States.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. HURT).

Mr. HURT. Mr. Chairman, today I rise in support of this regulatory overreach protection act. I believe that it is safe to say that no one has a greater interest in protecting our water resources than our Nation's farmers, farmers who depend on clean water for their livelihood.

Just last month, I met with many farmers across Virginia's Fifth District who expressed their grave concern about the Federal Government's unilateral expansion of the Clean Water Act far beyond that intended by Congress. This overreach will add huge costs for our farmers and the millions of American families that depend upon them.

That is why I ask my colleagues to join me today in supporting this commonsense, bipartisan bill to stop this administration's sweeping overreach on American farms.

Mr. RAHALL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to first commend the chairman of our Transportation and Infrastructure Committee, Mr. SHUSTER, for bringing this legislation forward and commend the staff on both sides of the aisle for the work in producing this bill. I commend the gentleman from Florida (Mr. SOUTHERLAND) as well.

This legislation is truly about giving the American people and giving our States a say in what is theirs and in the direction that they wish for the people within their borders.

Much has been said about the homebuilders' support for this bill, the contractors' support for this bill, and many, many, many other organizations. But I have two quotes here from the National Association of Home Builders and the Associated General Contractors.

These individuals are on the ground. They know what the effect is, the day-to-day effect of policy that emanates or regulations that are promulgated from our Nation's Capital.

These are the individuals that provide jobs for our people. As I said, they are on the ground, on the front lines every day trying to provide those jobs for our people, and in an environmentally sound way, I might add, as well.

Mr. James Tobin has written Members of Congress on behalf of the National Association of Home Builders, and he says, and I quote:

For home builders, this proposed rule adds confusion and increases the cost and time needed to obtain a Federal wetlands permit prior to home construction. The costs of this rule will increase the price of a home at a time when home construction is beginning to recover from the devastating effects of the economic downturn. Many American families will be priced out of the housing market if this rule is finalized in its current form.

That hits home. That hits home to the young people of this Nation seeking to buy their first-time home. It speaks to those seeking to refinance their homes. It speaks to a key sector of our economy that provides jobs and provides a future for this country that many of our young people are looking to improve.

The Associated General Contractors has written Members of Congress. Their senior executive director, Mr. Jeff Shoaf, has said that we must find ''a more predictable definition to clearly differentiate those waters that are regulated by the Federal Government from those that fall under the jurisdiction of State and local governments.''

In my opinion, it is time that this EPA recognize that our States do have a say in the future of regulations that affect people within their borders.

Unfortunately, we have seen too many instances, as I said in my opening comments, where this EPA has overreached. It has reached beyond what its legal authority is in trying to promote an ideological agenda that is not good for the heartland of America, the true areas that have built this country and provided jobs for our people in the past, and can provide jobs to a very talented and available workforce that is available, if only given a chance to work without further intrusion from the EPA.

So I conclude, and, again, commend my chairman for bringing this bill forward, and urge all Members to support the pending legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. SHUSTER. Mr. Chairman, I will conclude and yield myself the balance of my time, first, by thanking Mr. RAHALL for working with us to come forward with a commonsense approach to stopping another grab by the executive branch.

I also want to thank Congressman STEVE SOUTHERLAND from Florida, who introduced H.R. 5078. Mr. SOUTHERLAND has been a leader on the water issue since he arrived in Congress.

As we have been talking about here, and as Mr. RAHALL agrees, this proposed rule would significantly increase the geographic scope of the Federal Government's authority under the act and is outside the bounds of what can legitimately be done by the rulemaking.

It also is going to create great uncertainty within the many industries in this country. The rulemaking proposed by the administration is yet another example of the disturbing pattern as this Presidency seeks to use brute force to expand executive action while ignoring Congress and the Supreme Court.

I would urge all the Members, all 435 Members of this body, to look seriously at this piece of legislation and what this administration is trying to do. The President tries to grab Congress' legitimate constitutional authority. And if you have any doubts on that, the Supreme Court, twice, rejected a rulemaking by the EPA.

I think all 435 of us ought to be looking closely, whether it is a Republican or a Democrat administration, at these power grabs by the executive branch. It has gone on for far too long, and Congress needs to stand up and maintain its constitutional authority.

This is a massive Federal jurisdiction grab. In the 110th and the 111th Congresses, there were attempts through various committees and through various amendments which were rejected on a bipartisan basis to stop this.

H.R. 5078, introduced by our colleague, Mr. SOUTHERLAND, simply prevents the EPA and the Corps from finalizing the ill-conceived proposed rule, and directs the agencies to consult with the States and local officials. That is the way forward, going back to our States and our local governments.

They care as much or more about the waters in Pennsylvania and West Virginia and California and Oregon than the EPA does. This notion in Washington that Washington has the greater concern, that Washington has the better idea, the one-size-fits-all, just doesn't work, and it has been proven time and time again.

So again, this stops the administration proceeding. It has a path forward. I would urge my colleagues to read all nine pages of this bill. If you get to the end, you will see there is a way forward, and that is to consult with the States and the locals to come up with a consensus rule that can result in reasonable regulatory process that protects our waters.

So, with that, Mr. Chairman, I support this legislation. I urge all Members to vote in favor of H.R. 5078, and I yield back the balance of my time.

Mrs. McMORRIS RODGERS. Mr. Chair, I rise today in strong support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014. I commend Chairman SHUSTER and the members of the House Transportation and Infrastructure Committee for their work on this important legislation.

For over forty years, the quality of our nation's waters has been managed through a partnership between individual States and the Federal Government. This relationship, established by the Clean Water Act (CWA), recognizes that some waters are more effectively regulated by local stakeholders and state officials than the Federal Government in Washington, DC. This partnership has led to less pollution and cleaner water for Eastern Washington and our nation. Despite decades of success, the Obama Administration has recently proposed a rule that would significantly alter this partnership by increasing Federal oversight of our nation's waters.

The Administration's proposal would dramatically expand the definition of ''waters of the United States'' under the CWA, potentially placing ditches, drainages, creeks, and even seasonally wet areas under Federal jurisdiction. Additionally, the U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) issued an interpretative rule that would increase regulation of our nation's farms by narrowing an exemption under the CWA for certain agricultural practices. As such, this proposed interpretative rule will negatively impact farmers and growers in Eastern Washington and throughout the nation.

I support the Waters of the United States Regulatory Overreach Protection Act of 2014 because it seeks to rein in the Administration's overreach into our nation's waters. First, this bill prohibits finalization and implementation of the proposed rule expanding Federal regulatory authority over bodies of water currently managed by or jointly with the States. Additionally, this bill prohibits the interpretative rule which expands Federal regulation of our nation's agricultural communities. The legislation also requires the EPA and the Corps to engage in a ''federalism consultation'' with State and local governments to help identify which bodies of water should be federally regulated and which should be left to the states. In short, H.R. 5078 restores the Federal-State partnership envisioned by Congress when it passed the CWA.

I believe regulation of our nation's waters must be done in a manner that balances the need to responsibly protect the environment with the economic needs of our communities. To that end, I support H.R. 5078 because it ensures that we can continue to protect our waters without unreasonable and burdensome regulation. I urge my colleagues to support H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and shall be considered as read.

The text of the bill is as follows:

H.R. 5078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Waters of the United States Regulatory Overreach Protection Act of 2014''.

SEC. 2. RULES AND GUIDANCE.

(a) IDENTIFICATION OF WATERS PROTECTED BY THE CLEAN WATER ACT.—

(1) IN GENERAL.—The Secretary and the Administrator are prohibited from—

(A) developing, finalizing, adopting, implementing, applying, administering, or enforcing—

(i) the proposed rule described in the notice of proposed rule published in the Federal Register entitled ''Definition of 'Waters of the United States' Under the Clean Water Act'' (79 Fed. Reg. 22188 (April 21, 2014)); or

(ii) the proposed guidance submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget for regulatory review under Executive Order 12866, entitled ''Guidance on Identifying

Waters Protected By the Clean Water Act'' and dated February 17, 2012 (referred to as ''Clean Water Protection Guidance'', Regulatory Identifier Number (RIN) 2040–ZA11, received February 21, 2012); or

(B) using the proposed rule or proposed guidance described in subparagraph (A), any successor document, or any substantially similar proposed rule or guidance, as the basis for any rulemaking or decision regarding the scope or enforcement of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(2) USE OF RULES AND GUIDANCE.—The use of the proposed rule or proposed guidance described in paragraph (1)(A), any successor document, or any substantially similar proposed rule or guidance, as the basis for any rulemaking or decision regarding the scope or enforcement of the Federal Water Pollution Control Act shall be grounds for vacating the final rule, decision, or enforcement action.

(b) EXEMPTION FOR CERTAIN AGRICULTURAL CONSERVATION PRACTICES.—

(1) IN GENERAL.—The Secretary and the Administrator are prohibited from developing, finalizing, adopting, implementing, applying, administering, or enforcing the interpretive rule described in the notice of availability published in the Federal Register entitled ''Notice of Availability Regarding the Exemption from Permitting Under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices'' (79 Fed. Reg. 22276 (April 21, 2014)).

(2) WITHDRAWAL.—The Secretary and the Administrator shall withdraw the interpretive rule described in paragraph (1), and such interpretive rule shall have no force or effect.

(3) APPLICATION.—Section 404(f)(1)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1344(f)(1)(A)) shall be applied without regard to the interpretive rule described in paragraph (1).

SEC. 3. FEDERALISM CONSULTATION.

(a) IN GENERAL.—The Secretary and the Administrator shall jointly consult with relevant State and local officials to develop recommendations for a regulatory proposal that would, consistent with applicable rulings of the United States Supreme Court, identify—

(1) the scope of waters covered under the Federal Water Pollution Control Act; and

(2) the scope of waters not covered under such Act.

(b) CONSULTATION REQUIREMENTS.—In developing the recommendations under subsection (a), the Secretary and the Administrator shall—

(1) provide relevant State and local officials with notice and an opportunity to participate in the consultation process under subsection (a);

(2) seek to consult State and local officials that represent a broad cross-section of regional, economic, and geographic perspectives in the United States;

(3) emphasize the importance of collaboration with and among the relevant State and local officials;

(4) allow for meaningful and timely input by State and local officials;

(5) be respectful of maintaining the Federal-State partnership in implementing the Federal Water Pollution Control Act;

(6) take into consideration the input of State and local officials regarding matters involving differences in State and local geography, hydrology, climate, legal frameworks, economies, priorities, and needs;

(7) promote transparency in the consultation process under subsection (a); and

(8) explore with State and local officials whether Federal objectives under the Federal Water Pollution Control Act can be attained by means other than through a new regulatory proposal.

(c) REPORTS.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary and the Administrator shall publish in the Federal Register a draft report describing the recommendations developed under subsection (a).

(2) CONSENSUS REQUIREMENT.—The Secretary and the Administrator may include a recommendation in the draft report only if consensus has been reached with regard to the recommendation among the Secretary, the Administrator, and the State and local officials consulted under subsection (a).

(3) FAILURE TO REACH CONSENSUS.—If the Secretary, the Administrator, and the State and local officials consulted under subsection (a) fail to reach consensus on a regulatory proposal, the draft report shall identify that consensus was not reached and describe—

(A) the areas and issues where consensus was reached;

(B) the areas and issues of continuing disagreement that resulted in the failure to reach consensus; and

(C) the reasons for the continuing disagreements.

(4) DURATION OF REVIEW.—The Secretary and the Administrator shall provide not fewer than 180 days for the public review and comment of the draft report.

(5) FINAL REPORT.—The Secretary and the Administrator shall, in consultation with the relevant State and local officials, address any comments received under paragraph (4) and prepare a final report describing the final results of the consultation process under subsection (a).

(d) SUBMISSION OF REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Secretary and the Administrator shall jointly submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate and make publicly available the final report prepared under subsection (c)(5).

SEC. 4. DEFINITIONS.

In this Act, the following definitions apply:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) STATE AND LOCAL OFFICIALS.—The term ''State and local officials'' means elected or professional State and local government officials or their representative regional or national organizations.

The CHAIR. No amendment to the bill is in order except those printed in House Report 113–581. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chair understands that amendment No. 1 will not be offered.

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AMENDMENT NO. 2 OFFERED BY MR. BISHOP OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 113–581.

Mr. BISHOP of New York. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Beginning on page 3, strike line 7 and all that follows through page 4, line 20, and insert the following:

(a) IN GENERAL.—The Secretary and the Administrator are prohibited from implementing any final rule that is based on the proposed rule described in the notice of proposed rule published in the Federal Register entitled ''Definition of 'Waters of the United States' Under the Clean Water Act'' (79 Fed. Reg. 22188 (April 21, 2014)) if such final rule—

(1) expands the scope of the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) beyond those waterbodies covered prior to the decisions of the U.S. Supreme Court in *Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers* (531 U.S. 159 (2001)) and *Rapanos* v. *United States* (547 U.S. 715 (2006));

(2) is inconsistent with the judicial opinions of Justice Scalia or Justice Kennedy in the *Rapanos* decision;

(3) increases the regulation of ditches when compared to existing Federal Water Pollution Control Act regulations or guidance;

(4) eliminates historical statutory or regulatory exemptions for agriculture;

(5) increases the scope of the Federal Water Pollution Control Act with respect to groundwater;

(6) requires Federal Water Pollution Control Act regulation of erosional features;

(7) requires Federal Water Pollution Control Act permits for land-use activities;

(8) requires Federal Water Pollution Control Act regulation of farm ponds, puddles, water on driveways, birdbaths, or playgrounds;

(9) is inconsistent with the latest peer-reviewed studies; or

(10) was promulgated without public notice or comment.

The CHAIR. Pursuant to House Resolution 715, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. BISHOP of New York. Mr. Chairman, my amendment gets to the heart of the debate on this proposed rule.

For months, opponents of the proposed rule have made numerous claims about its impacts. Yet, despite numerous efforts by representatives of the administration's to answer these claims and to point out how many of these claims are simply false, we seem to go around and around, again and again, on these allegations. My amendment simply addresses these concerns and claims, saying that, if any of them prove to be true, then the Secretary and the Administrator are prohibited from issuing any final rule that would bring about these occurrences.

For example, opponents of the proposed rule have claimed that this rule expands the scope of the Clean Water Act authority. When asked this direct question during our subcommittee hearing, the administration's witness stated clearly that the proposed rule ''would not assert jurisdiction over any type of waters not previously protected over the past 40 years.'' Under my

amendment, if the administration is proven incorrect, the final rule could not be implemented.

Similarly, opponents have suggested that the rule is inconsistent with the rulings and jurisdictional tests outlined by the Supreme Court. The administration's witness has testified that this rule is consistent with the tests outlined by the U.S. Supreme Court. If my amendment is adopted and if the administration is wrong about this assertion, then the final rule could not be implemented.

Opponents of the proposed rule have claimed that the proposed rule increases the regulation of ditches. The administration has testified that, in fact, it would reduce the scope of jurisdictional ditches that are covered by the Bush administration guidance. If my amendment is adopted and if the administration is incorrect in this assertion, the rule cannot be implemented.

Opponents contend that, under this rule, individuals would be required to have Federal Clean Water Act permits for draining farm ponds or for activities in the water on your driveways or your birdbaths or puddles in your backyard. The administration has asserted, obviously, that these types of waters have never been subject to the Clean Water Act, nor would they be under this rulemaking. If somehow the administration is wrong about this, under my amendment, the final rule could not be implemented.

Lastly, opponents contend that the rule would eliminate existing statutory and regulatory exemptions for agriculture or increase the regulation of groundwater or require Federal Clean Water Act permits for land-use activities. Yet the administration has time and time again testified that these assertions are simply inaccurate. Again, if my amendment is adopted and if the administration is incorrect, the final rule cannot go forward.

In my view, this administration has put forward a good faith effort to provide additional clarity on the scope of Clean Water Act protections for our Nation's waters that are consistent with current scientific information as well as the precedent of the Supreme Court. While it is not perfect, this rule is far better than the current regulatory process that has led to numerous delays, significant increases in compliance costs, and greater difficulty in protecting our Nation's water resources.

I urge the adoption of my amendment, and I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Mr. Chairman, I must strongly oppose the gentleman's amendment because it seeks to gut this legislation.

This amendment would allow the administration to go forward and finalize its flawed rule, expanding Federal jurisdiction over the Clean Water Act if they determine entirely of their own discretion that the rule is consistent with the Supreme Court decisions and other factors listed in this amendment. Basically, the EPA can self-certify that they are ready to move forward.

This amendment is misleading. The administration has already stated that they believe the proposed rule is consistent with the Supreme Court decisions and with other factors listed in this amendment. The effect of this amendment is to allow the agencies to finalize their flawed rule that many believe is not consistent with the Supreme Court decisions and other listed factors.

This amendment would put the U.S. EPA solely in charge of America's waters, and it would take away the Federal-State partnership that H.R. 5078 seeks to preserve. It would allow the EPA to finalize and implement the rule without consulting with the States. Let me repeat that. It would allow the U.S. EPA to move forward without consulting with their counterpart State EPAs.

In contrast, H.R. 5078 preserves the Federal-State partnership that was set up under the Clean Water Act in 1972. This important legislation recognizes that the proposed administration rule has created controversy, confusion, and discord in the clean water regulatory programs. H.R. 5078 calls for a timeout to stop the final development of this ill-conceived rule. In addition, it requires that the agencies consult with State and local governments to develop a consensus rule that will work and protect our water resources.

As I said during the general debate in our subcommittee, they were not able to identify any State regulatory agency that supports this proposed rule. That ought to be a red flag to all American people and to all of the stakeholders involved.

As my friend on the other side talked about expansion and jurisdiction, I would argue of the proposed rule, if it is not necessary, why does the Secretary of Agriculture have to put together an interpretive rule when it has been said that agriculture is exempt from these practices? Why move forward?

We don't need this rule. I urge the Members to oppose this amendment and support the underlying bill.

I yield back the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, I yield whatever time I have remaining to the gentleman from Oregon (Mr. DEFAZIO).

The CHAIR. The gentleman from Oregon is recognized for 2 minutes.

Mr. DEFAZIO. I thank the gentleman.

Mr. Chairman, remember, should this bill pass and become law, which it never will, it will tie us to the 2003–2008 guidance, which the Farm Bureau has described as a hodgepodge of ad hoc and inconsistent jurisdictional theories, and will result in and is resulting in increased delays and costs to the public at large. That is why we are here today.

Everybody agrees that we need clarification, but you are excluding them from using the judicial decisions and any document that was used in coming up with this problematic rule, and you are saying you can't use any of that. So, basically, we are stuck with the 2003–2008 guidance, which, prior to this grandstanding over here, everybody agreed needed to be fixed. Now we are going to be stuck with it forever.

Instead of using a legislative scalpel, you pulled out the giant sledgehammer here. Sometimes it is harder to be a legislator and to actually get into the guts of something and figure out what is wrong and what isn't wrong, and Mr. BISHOP has done that.

They cannot expand the scope beyond those water bodies covered prior to the decisions of the U.S. Supreme Court in those two cases, and it cannot be inconsistent with the judicial opinions of Scalia's and Kennedy's in Rapanos. This is not judgmental stuff. These are clear legislative restrictions. This would be taking and putting walls around their rulemaking and saying, no, you're staying inside those rules. In addition to that, they can't increase the regulation of ditches. They can't eliminate any historical statutory or regulatory exemptions for agriculture, which do not exist under the 2003–2008 rules. There are questions about ditches under the 2003–2008 rules, and they are interpreted differently in all parts of the country.

You are going to bind us to something that doesn't work because you want to grandstand and pretend you are doing something for people who have legitimate concerns. Sometimes it is harder to say to them that this is a difficult and complicated question, because Americans want to preserve the clean waters of the United States. We don't want to go back in time, but we also want you people to farm and to ranch and to do other productive activities. That is hard to do, and that isn't what this bill before us today will do. It will bind us to the problems of the past.

The CHAIR. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. BISHOP of New York. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. BISHOP OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 113–581.

Mr. BISHOP of New York. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. 5. LIMITATION ON APPLICABILITY.

None of the provisions in this Act shall apply if the Administrator determines that the implementation of such provisions is likely—

(1) to increase the interstate movement of pollutants through surface waters;

(2) to increase the costs to be incurred by a State to maintain or achieve approved water quality standards for the State; or

(3) to cause or contribute to the impairment of surface or coastal waters of a State.

The CHAIR. Pursuant to House Resolution 715, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. BISHOP of New York. Mr. Chairman, my amendment would address one of the fundamental flaws I see in this legislation. The enactment of H.R. 5078 would almost certainly block current and future efforts to clarify the scope of the Clean Water Act.

Unfortunately, this would lock in place the interpretive guidance of the Bush administration, which took the narrowest and most cumbersome and confusing interpretation of the two recent Supreme Court decisions, and it has been uniformly criticized by the stakeholder community as well as by the conservation and environmental community.

I think it is important to remember that, under the current Bush administration's guidance, traditional Clean Water Act protections over a significant percentage of waters has been called into question or have simply been lost. These are Clean Water Act protections that existed for over 30 years prior to the issuance of the first Bush-era guidance in 2003 and are now all but lost, making it harder and more costly for individual States to protect their own waters should their upstream neighbors be unwilling or unable to fill in the gap in protecting water quality.

As we all know, if pollution is allowed to increase due to the competing financial and political interests of States, that pollution needs to go somewhere, and since pollution does not respect State boundaries when it travels downstream, it will have an adverse impact on the quality of life and the quality of the environment of those downstream States. As highlighted in my amendment, the end result of this will be that downstream States will become responsible for treating the pollution of their upstream neighbors, which, at a minimum, will increase the compliance costs of downstream States and, at a maximum, may destroy the ecological or economic health of these States.

As I have noted before, my district in New York is separated from Connecticut by the Long Island Sound. Over time, the number of polluters in the area has increased exponentially, killing fish, lobsters, and imperiling the $5 billion of economic output that the region depends upon. Fortunately, the State has decided that the Sound was impaired, and it proposed a more restrictive water quality standard for nitrogen. A $5 billion crisis has been averted. However, under the current Bush-era guidance, questions have arisen as to whether the Clean Water Act protection continues to apply to the upper reaches of watersheds, streams, and wetlands which feed the rivers that eventually flow into the Sound.

Under H.R. 5078, the EPA would be prohibited from ensuring that polluters in Connecticut continue to reduce excessive amounts of nitrogen in the Sound, leaving my constituents in the State of New York without any recourse under the Clean Water Act to stop them.

If this bill were to pass, individual States would decide that collective efforts to address the water quality impairments of the Chesapeake Bay, the Puget Sound, the Great Lakes, or the Gulf of Mexico were unnecessarily restrictive or burdensome, and they would refuse to participate in a meaningful way towards the restoration of these regional water bodies. This go-it-alone approach flies in the face of science, of common sense, and of decades of experience in implementing the Clean Water Act.

My amendment would limit the impact of this legislation if the administration determines that this bill were likely to, one, increase the interstate movement of pollutants through surface waters; two, increase the costs incurred by a downstream State to maintain or achieve approved water quality standards for that State; or three, to cause or contribute to the impairment of the surface or coastal waters of another State.

The Committee on Transportation and Infrastructure created the Clean Water Act over 40 years ago as a response to burning rivers, to Great Lakes that were pronounced dead, and to an understanding that a State-by-State approach to protecting water simply didn't work.

Let's not repeat the sins of the past but commit to moving forward in our efforts to protect the Nation's waters. Support my amendment, and allow the Agency to put back in place reasonable, comprehensive protections of our Nation's waters.

I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR (Mr. THORNBERRY). The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Mr. Chairman, I most strongly oppose the gentleman's amendment because it seeks to undermine the intent of this legislation.

There is a great deal of controversy over what the EPA's proposed rule would do or would not do. Added to that, they have a subsequent proposal of the interpretive rule from the Department of Agriculture.

What H.R. 5078 says is, ''Stop. Time out.'' The bill says, ''Stop this rule process. Go back to the States and back to the stakeholders and local governments and work together,'' which was the intent of the Clean Water Act. Let's have these agencies work together to develop a consensus rule that will actually provide clarity and allow the Federal and State governments to work as partners in protecting America's waters. This amendment would give the EPA unfettered discretion in making determinations regarding State water quality standards, taking away the Federal-State partnership that this legislation is seeking to preserve.

I need to remind everybody what this bill does. This bill says, ''Time out. EPA and Army Corps of Engineers, go back to the drawing board. Go back to the States. Work with the States. Work with your counterparts in the States, and develop a consensus to the rule that you need. Go back to the partnership.''

Let's have a cooperative relationship between the States and the Federal U.S. EPA.

□ 1515

Let's have commonsense proposals to protect our Nation's waters and not a one-size-fits-all policy coming out of Washington, D.C. Because when it comes to water bodies, streams, and so on, one-size-fits-all policies don't always work. We need to be working with those local governments and the States to develop the policies to protect and enhance our environment at the local level.

So let's send it back, support H.R. 5078, and make sure that our U.S. EPA and the Army Corps of Engineers will work with their counterparts to seek commonsense policies that protect and enhance our water quality and our safe drinking water here in the United States. I urge all Members to oppose the amendment.

I yield back the balance of my time.

Mr. BISHOP of New York. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BISHOP of New York. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

Mr. GIBBS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. POE of Texas) having assumed the chair, Mr. THORNBERRY, Acting Chair of the Committee of the Whole House on the

state of the Union, reported that that Committee, having had under consideration the bill (H.R. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, had come to no resolution thereon.

DISAPPROVAL OF THE ADMINISTRATION'S FAILURE TO NOTIFY CONGRESS BEFORE RELEASING INDIVIDUALS FROM GUANTANAMO BAY

Mr. MCKEON. Mr. Speaker, pursuant to House Resolution 715, I call up the resolution (H. Res. 644) condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 715, the amendments to the text and preamble printed in the resolution are adopted and the resolution, as amended, is considered read.

The text of the resolution, as amended, is as follows:

Whereas section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) requires the Secretary of Defense to notify the appropriate committees of Congress not later than 30 days before the transfer or release of any individual detained at United States Naval Station, Guantanamo Bay, Cuba (hereinafter referred to as ''GTMO'');

Whereas on May 31, 2014, the Department of Defense transferred five Taliban detainees held at GTMO to the State of Qatar;

Whereas according to declassified United States government documents, the five detainees were all senior Taliban leaders: Abdul Haq Wasiq was the Taliban Deputy Minister of Intelligence, Mullah Norullah Noori was the Taliban military commander at Mazar-e-Sharif, Mullah Mohammad Fazl was the Taliban Deputy Minister of Defense, Khairullah Said Wai Khairkwa was the Taliban Minister of Interior, and Mohammad Nabi Omari was the Taliban communications chief and border chief;

Whereas these five senior Taliban leaders have had associations with al-Qaeda or have engaged in hostilities against the United States or its coalition partners;

Whereas these five senior Taliban detainees held leadership positions within the Taliban in Afghanistan when it provided safehaven for al-Qaeda to conduct planning, training, and operations for the September 11, 2001, attacks;

Whereas in 2010, after an extensive evaluation meant to identify detainees who could be transferred out of the detention facility at GTMO, the Obama administration determined that these five should remain in United States detention because they were ''too dangerous to transfer'' because each ''poses a high level of threat that cannot be mitigated sufficiently except through continued detention'';

Whereas the President has stated that there is ''absolutely'' the ''possibility of some'' of these former Taliban detainees ''trying to return to activities that are detrimental to'' the United States;

Whereas other former GTMO detainees that were transferred have become leaders of al-Qaeda affiliates actively plotting against the United States and are ''involved in terrorist or insurgent activities'';

Whereas Secretary of Defense Chuck Hagel testified before the Committee on Armed Services of the House of Representatives that, pursuant to an agreement with Qatar, the five former detainees transferred in May would not be allowed to leave Qatar for one year, but after that date there would be no restrictions on the movement of the former detainees;

Whereas notwithstanding the fact that Qatar is an important regional ally, after another GTMO detainee was transferred to Qatar in 2008, Qatar apparently had difficulty implementing the assurances Qatar gave the United States in connection with that detainee's transfer;

Whereas senior officials in the Obama administration negotiated, through intermediaries in the government of Qatar, with the Taliban, and with the Haqqani Network, which the Department of State has designated as a foreign terrorist organization, and which held Sergeant Bowe Bergdahl captive;

Whereas Secretary Hagel testified to the Committee on Armed Services of the House of Representatives that negotiations for the transfer of the five Taliban detainees in exchange for Sergeant Bergdahl began in January 2014;

Whereas the General Counsel of the Department of Defense signed a memorandum of understanding with the Attorney General of the State of Qatar on May 12, 2014, regarding the security conditions for transfer of these five Taliban detainees;

Whereas in addition to an unknown number of officials of Qatar, senior Obama administration officials acknowledge that approximately 80 or 90 individuals within the Obama administration were knowledgeable of the planned transfer of the five Taliban detainees prior to their transfer;

Whereas Congress was not notified of the transfer until June 2, 2014, three days after such individuals were transferred, and 33 days after the date on which such notification was required by section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) and section 8111 of the Department of Defense Appropriations Act, 2014 (Public Law 113–76);

Whereas the Secretary of Defense, in consultation with the President and other senior Obama administration officials, did not comply with the 30-day notification requirement;

Whereas article II, section 3 of the Constitution stipulates that the President ''shall take care that the laws be faithfully executed'';

Whereas on January 15, 2009, the Office of Legal Counsel in the Department of Justice acknowledged that, under article I of the Constitution, Congress possesses legislative authority concerning the detention and release of enemy combatants;

Whereas the Obama administration has complied with the law in all other detainee transfers from GTMO since the date of the enactment of prevailing law; and

Whereas in 2011, after leaders of the Senate and House of Representatives expressed their bipartisan opposition to the prospective transfer of these Taliban detainees from GTMO, senior Obama administration officials assured these Senators and Members of Congress that there would be no exchange of Taliban detainees for Sergeant Bergdahl, and that any transfer of Taliban detainees that might otherwise occur would be part of a reconciliation effort with the Taliban and the Government of Afghanistan and that such a transfer would only take place in consultation with Congress pursuant to law: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns and disapproves of the failure of the Obama administration to comply with the lawful 30-day statutory reporting requirement in executing the transfer of five senior members of the Taliban from detention at United States Naval Station, Guantanamo Bay, Cuba;

(2) expresses grave concern about the national security risks associated with the transfer of five senior Taliban leaders, including the national security threat to the American people and the Armed Forces of the United States;

(3) expresses grave concern over the repercussions of negotiating with terrorists, even when conducted through intermediaries, and the risk that such negotiations with terrorists may further encourage hostilities and the abduction of Americans;

(4) stipulates that further violations of the law set forth in section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) and section 8111 of the Department of Defense Appropriations Act, 2014 (Public Law 113–76) are unacceptable;

(5) expresses that these actions have burdened unnecessarily the trust and confidence in the commitment and ability of the Obama administration to constructively engage and work with Congress; and

(6) expresses relief that Sergeant Bergdahl has returned safely to the United States.

The SPEAKER pro tempore. The gentleman from California (Mr. MCKEON) and the gentleman from Washington (Mr. SMITH) each will control 30 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H. Res. 644.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 644, a resolution offered by the gentleman from Virginia (Mr. RIGELL), condemning the Obama administration's failure to comply with the requirement to notify Congress before transferring individual detainees from Guantanamo Bay.

I would like to thank Mr. RIGELL for his leadership on this deeply troubling issue. He worked across the aisle to author a bipartisan resolution, sponsored by 94 Members of the House, including myself, focused on the Obama administration's clear violation of statute passed by the legislative branch and enacted into law by the President.

I would also like to thank Ranking Member SMITH. Though he did not support this resolution in its entirety, I