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(Original Signature of Member)

108TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. OBERSTAR (for himself, Mr. DINGELL, Mr. DEFazio, Mr. LEACH, Mr. HOEFFEL, Mr. KUCINICH, Mr. KILDEE, Mr. BROWN of Ohio, Ms. BALDWIN, Ms. NORTON, Ms. MCCOLLUM, Mr. PASCRELL, Mr. BOEHLERT, Mr. BLUMENAUER, Ms. SCHAKOWSKY, Mr. MARKEY, Mr. GEORGE MILLER of California, Mr. VISCLOSKEY, Mr. INSLEE, Mr. NADLER, Mrs. NAPOLITANO, and Mrs. TAUSCHER) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Clean Water Authority
3 Restoration Act of 2003”.

4 **SEC. 2. PURPOSES.**

5 The purposes of this Act are as follows:

6 (1) To reaffirm the original intent of Congress
7 in enacting the Federal Water Pollution Control Act
8 Amendments of 1972 (86 Stat. 816) to restore and
9 maintain the chemical, physical, and biological integ-
10 rity of the waters of the United States.

11 (2) To clearly define the waters of the United
12 States that are subject to the Federal Water Pollu-
13 tion Control Act.

14 (3) To provide protection to the waters of the
15 United States to the fullest extent of the legislative
16 authority of Congress under the Constitution.

17 **SEC. 3. FINDINGS.**

18 Congress finds the following:

19 (1) Water is a unique and precious resource
20 that is necessary to sustain human life and the life
21 of animals and plants.

22 (2) Water is used not only for human, animal,
23 and plant consumption, but is also important for ag-
24 riculture, transportation, flood control, energy pro-
25 duction, recreation, fishing and shellfishing, and mu-
26 nicipal and commercial uses.

1 (3) In enacting amendments to the Federal
2 Water Pollution Control Act in 1972 and through
3 subsequent amendment, including the Clean Water
4 Act of 1977 (91 Stat. 1566) and the Water Quality
5 Act of 1987 (101 Stat. 7), Congress established the
6 national objective of restoring and maintaining the
7 chemical, physical, and biological integrity of the wa-
8 ters of the United States and recognized that achiev-
9 ing this objective requires uniform, minimum na-
10 tional water quality and aquatic ecosystem protec-
11 tion standards to restore and maintain the natural
12 structures and functions of the aquatic ecosystems
13 of the United States.

14 (4) Water is transported through inter-
15 connected hydrologic cycles, and the pollution, im-
16 pairment, or destruction of any part of an aquatic
17 system may affect the chemical, physical, and bio-
18 logical integrity of other parts of the aquatic system.

19 (5) Protection of intrastate waters, along with
20 other waters of the United States, is necessary to re-
21 store and maintain the chemical, physical, and bio-
22 logical integrity of all waters in the United States.

23 (6) The regulation of discharges of pollutants
24 into interstate and intrastate waters is an integral

1 part of the comprehensive clean water regulatory
2 program of the United States.

3 (7) Small and periodically-flowing streams com-
4 prise the majority of all stream channels in the
5 United States and serve critical biological and
6 hydrological functions that affect entire watersheds,
7 including reducing the introduction of pollutants to
8 large streams and rivers, and especially affecting the
9 life cycles of aquatic organisms and the flow of high-
10 er order streams during floods.

11 (8) The pollution or other degradation of wa-
12 ters of the United States, individually and in the ag-
13 gregate, has a substantial relation to and effect on
14 interstate commerce.

15 (9) Protection of the waters of the United
16 States, including intrastate waters, is necessary to
17 prevent significant harm to interstate commerce and
18 sustain a robust system of interstate commerce in
19 the future.

20 (10) Waters, including wetlands, provide protec-
21 tion from flooding, and draining or filling wetlands
22 and channelizing or filling streams, including intra-
23 state wetlands and streams, can cause or exacerbate
24 flooding, placing a significant burden on interstate
25 commerce.

1 (11) Millions of people in the United States de-
2 pend on wetlands and other waters of the United
3 States to filter water and recharge surface and sub-
4 surface drinking water supplies, protect human
5 health, and create economic opportunity.

6 (12) Millions of people in the United States
7 enjoy recreational activities that depend on intra-
8 state waters, such as waterfowl hunting, bird watch-
9 ing, fishing, and photography and other graphic
10 arts, and those activities and associated travel gen-
11 erate billions of dollars of income each year for the
12 travel, tourism, recreation, and sporting sectors of
13 the economy of the United States.

14 (13) Activities that result in the discharge of
15 pollutants into waters of the United States are com-
16 mercial or economic in nature.

17 (14) States have the responsibility and right to
18 prevent, reduce, and eliminate pollution of waters,
19 and the Federal Water Pollution Control Act re-
20 spects the rights and responsibilities of States by
21 preserving for States the ability to manage permit-
22 ting, grant, and research programs to prevent, re-
23 duce, and eliminate pollution, and to establish stand-
24 ards and programs more protective of a State's wa-

1 ters than is provided under Federal standards and
2 programs.

3 (15) Protecting the quality of and regulating
4 activities affecting the waters of the United States
5 is a necessary and proper means of implementing
6 treaties to which the United States is a party, in-
7 cluding treaties protecting species of fish, birds, and
8 wildlife.

9 (16) Protecting the quality of and regulating
10 activities affecting the waters of the United States
11 is a necessary and proper means of protecting Fed-
12 eral land, including hundreds of millions of acres of
13 parkland, refuge land, and other land under Federal
14 ownership and the wide array of waters encompassed
15 by that land.

16 (17) Protecting the quality of and regulating
17 activities affecting the waters of the United States
18 is necessary to protect Federal land and waters from
19 discharges of pollutants and other forms of degrada-
20 tion.

21 **SEC. 4. DEFINITION OF WATERS OF THE UNITED STATES.**

22 Section 502 of the Federal Water Pollution Control
23 Act (33 U.S.C. 1362) is amended—

24 (1) by striking paragraph (7);

1 (2) by redesignating paragraphs (8) through
2 (23) as paragraphs (7) through (22), respectively;
3 and

4 (3) by adding at the end the following:

5 “(23) WATERS OF THE UNITED STATES.—The
6 term ‘waters of the United States’ means all waters
7 subject to the ebb and flow of the tide, the territorial
8 seas, and all interstate and intrastate waters and
9 their tributaries, including lakes, rivers, streams (in-
10 cluding intermittent streams), mudflats, sandflats,
11 wetlands, sloughs, prairie potholes, wet meadows,
12 playa lakes, natural ponds, and all impoundments of
13 the foregoing, to the fullest extent that these waters,
14 or activities affecting these waters, are subject to the
15 legislative power of Congress under the Constitu-
16 tion.”.

17 **SEC. 5. CONFORMING AMENDMENTS.**

18 The Federal Water Pollution Control Act (33 U.S.C.
19 1251 et seq.) is amended—

20 (1) by striking “navigable waters of the United
21 States” each place it appears and inserting “waters
22 of the United States”;

23 (2) in section 304(l)(1) by striking “NAVIGABLE
24 WATERS” in the heading and inserting “WATERS OF
25 THE UNITED STATES”; and

1 (3) by striking “navigable waters” each place it
2 appears and inserting “waters of the United
3 States”.