

U.S. Representative Tim Walz
1529 Longworth House Office Bldg
Washington, DC 20515

Dear Congressman Walz:

October 28, 2007

I am writing to ask your help in defeating HF 2421, the Clean Water Restoration Act, authored by Rep. Jim Oberstar. HF 2421 is the biggest attempted federal land grab in our state's history.

This bill would vastly expand the Clean Water Act and would dramatically increase the extent of federal government control over our lives and property. Freedom would be sacrificed at the expense of government growth.

If enacted, even land that is mostly dry will be considered a federally protected water of the United States. People placing clean fill on mostly dry land would be charged with a federal felony, punishable by steep fines and even imprisonment.

H.R. 2421 is misleadingly titled the "Clean Water Restoration Act. The bill has nothing to do with clean water and if enacted, the federal government *for the first time ever* would control all waters and, because of its broad definitions, a majority of dry land, as well.

Like you, I have taken an oath of office. Our oaths require us to uphold the constitutions of both Minnesota and the United States. I intend to honor that oath and encourage you to join me.

Amendment 10 of the United States Constitution says "*powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states...*" This Amendment makes it abundantly clear that H.R.2421 violates state sovereignty. The State of Minnesota alone has authority over navigable waters and public land within its boundaries.

Minnesota's Constitution asserts state authority over all its navigable waters. Article 2 Sec. 2. says, "*The state of Minnesota has concurrent jurisdiction on the Mississippi and on all other rivers and waters forming a common boundary with any other state or states. Navigable waters leading into the same shall be common highways and forever free to citizens of the United States...*"

HF2421 violates both Constitutions.

HF2421 also violates CWA sections 101(b) and 101(g) which state Congressional intent to "*recognize, preserve, and protect the primary responsibilities and rights of the States*" to control the development and use of local land and water resources and to "*allocate quantities of water within [State] jurisdiction.*"

The bill would also eliminate existing regulatory exemptions that were authorized by both Democratic and Republican administrations for prior converted cropland and waste treatment systems.

Local government authorities and private property owners would lose their unalienable right to control their property. The expansion of federal jurisdiction over private property proposed in this bill would pre-empt traditional state and local government authority over land and water use decisions. This bill's usurping of local and state authority in land use decision-making will further erode the constitutionally respected and fundamental aspect of American government

known as “federalism.”

The economic consequences of this bill would increase delays in securing permits, impeding many economic activities, the cost of which has not been calculated. Currently, it can take between 2-3 years to obtain an individual permit costing from \$20,000 to over \$200,000! These added costs would be passed on to consumers. The disadvantaged would suffer the most from these added costs. Many of the industrious advantages our nation possesses, would be jeopardized. Will government force more industry to move off shore? It appears to me that there are many unintended consequences to be considered. As a leader, you know the U.S. must remove barriers that inhibit our competition in the global marketplace, rather than insert new ones. The planned exodus of 3M from Minnesota is a prime example of what happens when government becomes too onerous and oppressive.

Further costs would be involved because critical regulatory decisions would be placed in the hands of constitutional lawyers resulting in costly litigation regarding the scope of “intrastate waters,” the extent of “activities affecting these waters” and the limit of Congress’s authority under the Constitution.

The bill causes further costs by imposing an unfunded mandate on States by increasing the number of waters subject to water quality standards, effluent limitation guidelines, the setting of Total Maximum Daily Loads (TMDLs), and expanding the permitting workload under various aspects of the state-administered programs.

Consider the plight of the farmer and the entire agriculture industry. Can they afford this unfunded mandate? Can we afford another program to subsidize the farm economy after we cripple it with more restrictive and costly mandates? You and I both represent farmers who would be directly impacted by this bill. Our farmers are the only industry that can’t pass on their mandated costs to the consumer.

We all want clean water, and the quality of our water has been steadily increasing, but the Oberstar bill is nothing short of a “regulatory takings” on a massive scale. Please join me in taking a public position opposing this bill so that we can allow free Minnesotans to continue to improve the quality of our water as we have for the past two decades.

Sincerely,

Steve Drazkowski
State Representative, District 28B

c:	Representative James Oberstar	U.S. Senator Norm Coleman
	U.S. Senator Amy Klobuchar	Governor Tim Pawlenty
	All Minnesota State Representatives	Goodhue County Commissioners
	Winona County Commissioners	Wabasha County Commissioners
	Township Clerks, Goodhue, Winona, and Wabasha Counties	
	City Clerks, Goodhue, Winona, and Wabasha Counties	

SAMPLE RESOLUTION OPPOSING HF 2421 ‘The Clean Water Restoration Act’

Whereas, HF 2421, the Clean Water Restoration Act, authored by Rep. Jim Oberstar. HF 2421 is the biggest attempted federal land grab in our state’s history.

Whereas, HF 2421 would vastly expand the Clean Water Act and would dramatically increase the extent of federal government control over our lives and property while sacrificing Freedom at the expense of government growth.

Whereas, if enacted, even land that is mostly dry will be considered a federally protected water of the United States while People placing clean fill on mostly dry land would be charged with a federal felony, punishable by steep fines and even imprisonment.

Whereas, HF 2421 would violate Amendment 10 of the United States Constitution “*powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states...*” and Article 2 Sec. 2. of Minnesota’s constitution “*The state of Minnesota has concurrent jurisdiction on the Mississippi and on all other rivers and waters forming a common boundary with any other state or states. Navigable waters leading into the same shall be common highways and forever free to citizens of the United States...*” and would also violate CWA sections 101(b) and 101(g) which state Congressional intent to “*recognize, preserve, and protect the primary responsibilities and rights of the States*” to control the development and use of local land and water resources and to “*allocate quantities of water within [State] jurisdiction.*”

Whereas, HF 2421 would also eliminate existing regulatory exemptions that were authorized by both Democratic and Republican administrations for prior converted cropland and waste treatment systems.

Whereas, HF 2421 would usurp local and state authority in land use decision-making and further erode the constitutionally respected and fundamental aspect of American government known as “federalism.”

Whereas, HF 2421 would increase delays in securing permits, impeding many economic activities, the cost of which has not been calculated.

Whereas, unintended consequences of passing HF 2421 have not been considered.

Whereas, HF 2421 creates additional barriers that inhibit our competition in the global marketplace.

Whereas, HF 2421 creates further regulatory costs as critical regulatory decisions would be placed in the hands of constitutional lawyers resulting in costly litigation regarding the scope of “intrastate waters,” the extent of “activities affecting these waters” and the limit of Congress’s authority under the Constitution.

Whereas, HF 2421 creates unfunded mandates on States by increasing the number of waters subject to water quality standards, effluent limitation guidelines, the setting of Total Maximum Daily Loads (TMDLs), and expanding the permitting workload under various aspects of the state-administered programs.

Whereas, HF 2421 will place an undue burden on the farmer and the entire agriculture industry, as farmers are the only industry that can’t pass on their mandated costs to the consumer.

Whereas, our water quality in Minnesota has been steadily increasing over the past three decades.

Therefore, The (*jurisdiction, organization name here*) opposes HF 2421—‘The Clean Water Restoration Act’ by a vote of: __ to __.