



Summer Meeting
Chicago, Illinois
August 8 & 9, 2008
Meeting Summary

The following is a summary of the presentations and discussions that took place during the Summer 2008 Meeting of the Environment & Energy Committee. For additional information see the Powerpoint presentations on the Committee webpage <http://www.acec.org/advocacy/environmental.cfm>, under "Committee Meetings."

Presentations

Great Lakes Issues

Tim Eder, Executive Director, Great Lakes Commission

Mr. Eder reviewed the key issues affecting the Great Lakes – contaminated sediment removal, increase federal investment, climate change, potential energy sources, the Great Lakes-St. Lawrence River Basin Water Resources Compact, and invasive species.

He outlined several examples of successes by the sediment removal program for cleaning up Superfund and brownfields sites in the Great Lakes rivers and harbors. He also highlighted the challenges that remain under the Great Lakes Legacy Act, noting that the long term plan is to show the benefits and return on investment to the nation to justify significant new federal investments. Climate change will have a key effect on the lakes, with increased evaporation decreasing water levels and affecting hydroelectric generation, shipping and navigation, drinking water intakes, and recreational boating. In addition, increased volatility in the weather could bring more flooding and droughts to the region. He discussed the potential of wind generation and the formation of the Great Lakes Wind Collaborative.

On the issue of withdrawing and diverting Great Lakes water, he noted the new compact will not only safeguard Great Lakes water from diversion from the basin without consent of the signatory states and provinces, it will also provide a comprehensive water management program for achieving sustainable water use and resource protection. It includes mandatory conservation and sustainability features, including water meters in areas that have never had them. Invasive species, particularly zebra mussels, have caused a great amount of damage to water intake pipes and are changing the food web in the Great Lakes. Ballast water legislation is underway in Congress, but the problem is quite difficult to solve.

Chicago O'Hare Airport's Sustainable Modernization Program

Christopher P. Arman, Deputy Director, O'Hare Modernization Program

Mr. Arman outlined the City of Chicago's O'Hare Modernization Program that is focused on Sustainable Design that has highlighted a project ranking and evaluation process that issues "Green Airplane Certification" awards to its design teams for sustainability achievements. One of the keystone accomplishments of the program is the Sustainable Design Manual that is included in contracts and distributed to all designers working on the project. The Manual is based on the U.S. Green Building Council's LEED rating system. It incorporates a variety of strategies applicable to most project categories and provides a certification point system, with benchmarks for achieving green certification.

In addition to the manual, there are a variety of other initiatives underway, including green roofs on an air traffic control tower and other buildings, using recycled content materials for construction projects; procuring regionally manufactured materials; retrofitting construction equipment with air pollution control devices; using ultra low sulfur diesel fuel before federal requirements become effective; diverting 90% of construction waste from landfills; mitigating on-site low quality wetlands with three times as many off-site higher quality wetlands; achieving a 30% reduction in baseline water use; and providing preferred parking for carpools and vans.

Removing Market Barriers to Green Buildings

Chris Choi, Research Associate, Land Revitalization Group, USEPA, Region 5

Mr. Choi noted that buildings are responsible for nearly 40% of U.S. energy use and CO₂ Emissions, as well as more than 12% of the total water consumed in the nation per day. Since, green buildings can provide economic profits to owners as well as environmental and energy savings benefits, EPA is attempting to encourage more owners and their advisors to get on board. Mr. Choi reviewed the most significant market impediments to green development practices and outlined EPA's approach to developing strategies to eliminate or minimize the barriers. The agency's methodology is to identify, strategize, research solutions, and communicate the results to the broader building community. They have been holding a series of meetings and workshops in the Midwest with participants, outside experts and stakeholders.

The Chicago Climate Exchange

Stephen McComb, Economist, Chicago Climate Exchange

Mr. McComb provided an overview of the CCX, noting that it is North America's only active voluntary, legally binding integrated trading system to reduce emissions of all six greenhouse gases, with offsets worldwide. He reviewed how the market is structured, the types of offset projects that CCX qualifies, and the kind of revenues that CCX is bringing in.

He explained that the CCX is trading the "rights to emit" CO₂, thereby assigning a value to a scarce resource. Companies join for a variety of reasons including creating

shareholder value, limiting threats from potential shareholder pressure, demonstrating corporate and environmental transparency, and obtaining “first-mover” advantage in any future mandatory emission trading programs. Member companies that emit CO₂ measure their baseline emissions, then commit to reduce emissions along a reduction schedule. Mr. McComb outlined many projects that are qualifying for credits – noting that the projects must be certified by a 3rd party engineer – and are earning significant amounts of money for their credit sales. The presentation engendered wide-ranging questions and comments about the workings of the CCX, and the pros and cons of buying and selling credits.

James R. Monk, President

Illinois Energy Association

Mr. Monk noted that he represents electricity and gas distribution companies in Illinois, as well as some generating companies. One of his members, Excelon, operates more nuclear power plants than any other state in the country. Illinois has deregulated its generation and transmission industry, but distribution is still regulated by the state Public Utility Commission.

Challenges to the industry reflect the need to meet an expected 30% increase in demand by the year 2030, as predicted by the Energy Information Administration. They include:

- The need for utilities nationwide to invest as much as \$1.5 trillion in new power plants, transmission lines and other new infrastructure over the next 20 years to meet growing demand.
- the \$1.5 trillion will include:
 - Between \$600 million and \$700 million for new nuclear, coal-fired or natural gas power plants.
 - Hundreds of millions for additional transmission lines, especially in regions such as the Midwest, where solar and wind energy are being added.
 - Between \$300 million and \$500 million for compliance costs if federal renewable electricity standards mandated and limits on carbon emissions are enacted.

He noted that natural gas prices continue to be too volatile to rely upon to supply future power plants. Midwest plants are not burning high-sulfur coal from Illinois, Indiana, and West Virginia, but rather are buying western coal that is lower in sulfur, despite its higher cost. 33 million tons of coal is produced in Illinois but is being exported to other countries. Wind and other renewables will not be able to replace base load coal and natural gas. As a result, the state is in a quandary about the future of electricity production, particularly with the strong opposition of environmental groups to new coal plants. With regard to nuclear energy, Mr. Monk noted that by the time that Illinois actually builds a new nuclear plant, the cost of construction will be cost-prohibitive, likely in the range of \$10-12 billion. The decisions about how many and what kinds of

plants to build will depend upon a variety of factors, most of which are outside the control of the industry.

Committee Business

Chairman's Report and Visioning Discussion

Mike Cline, chairman, led the committee in a review of the Committee's history and past activities. Committee members outlined the various incarnations of the committee, noting that its function was traditionally advocacy. Today, the function of education is also important to the committee, which feels that it has the opportunity to move to another level by using our own experts to help firms survive in the 21st Century. It should also serve as a watchdog of issues that will affect firms in the future.

Committee members felt that we should be gearing up for a productive relationship with the new Administration. We should look at the candidates' position statements now and send comments to them about our issues. Our hope would be to be invited to meet with the transition team of the president-elect after November.

There was also discussion about meeting in DC in the late winter or early spring to visit Members of Congress, federal agencies, and possibly environmental groups and governors associations. Generally, Committee members wanted to be more proactive than reactive.

Government Affairs Update-- Environment and Energy

Diane Shea, Director of Environmental & Energy Programs, ACEC

Ms. Shea reviewed the status of environmental and energy legislation currently being considered by Congress, and what the next few months will likely hold. She outlined the water infrastructure legislation still waiting for Senate consideration, the successful override of the President's veto of the WRDA bill, the status of energy legislation, climate change legislative proposals, and miscellaneous other topics.

For additional information, see below Government Affairs update that provided more detailed information on key legislative issues. (More current information is available in the Weekly Government Affairs Updates.)

Subcommittee Reports

Subcommittee chairmen who were present at the meeting provided reports of their subcommittees' activities.

- **Carbon Balance Subcommittee (Randy Smith and Russell Erbes, co-chairs)**

Since the Senate passed a comprehensive climate change bill that may provide the basis for a future bill, the subcommittee intends to review the bill in detail. Diane will provide

a hard copy if it's available, or if not, a detailed summary and an electronic version of the text.

- **Sustainability Subcommittee (Randy Smith and Bill Wallace co-chairs)**

There was discussion about creating a short summary of integrated project delivery design concepts. Randy Smith noted that AIA has a guide to integrated project delivery that integrates all the disciplines early in the process and provides a different contract approach. It might be possible to develop a database with a list of contacts to be shared. For example, the LAX airport website has real world data on energy savings that could be included. Information could be distributed to state Member Organizations.

The second item of discussion was how to influence the next Administration. The Subcommittee is interested in finding out the environmental and energy positions and plans of the candidates and sending those links to the full committee. Following up on the previous day's discussion, we could express ACEC's views to the candidates' advisors and ultimately the transition team of the president-elect.

It was suggested that we schedule a conference call after the election to launch the process and get input from Committee members. Diane Shea will follow up with ACEC staff leadership to vet the Committee's work products and get their approval to proceed. An effort may be underway at ACEC to communicate with the transition team on a variety of issues in addition to environment and energy; Diane will find out and report back to the chairman.

- **Water Infrastructure Subcommittee (Mike Cline, Chair)**

Mike asked for someone to serve as chair of the subcommittee this year, and encouraged volunteers to contact him.

Mike also summarized a bill that has been introduced by Sen. George Voinovich (R-OH). His office asked for our views on the legislation, which requires EPA to adjust its affordability criteria to define a wastewater utility's financial capability regarding long-term control plans for CSO's and SSO's. After some discussion there was agreement that more flexibility for utilities would be bad for water quality as well as damaging to our business. A small group of committee members (Pete Yakimowich, Gene Koontz, Paul Grosser, and possibly someone from CDM and Michael Baker, Inc.) offered to meet with Sen. Voinovich's staffer to discuss the bill with her.

- **Public Markets Subcommittee (Gene Koontz, Chair)**

Gene updated the committee on the joint task force work underway with two other ACEC committees – the Federal Agencies & Procurement Advocacy Committee, and the Risk Management Committee – on flood management and levee liability. The task force has met with the Corps of Engineers in DC and discussed the need for addressing certification and liability issues. At one of the meetings, it was found that 22 out of the

25 firms polled were not doing levee work, despite the fact that 800 communities need to get their levees certified in order to stay in FEMA's flood control insurance program.

Other issues include adequate funding for maintaining levees, NEPA permitting delays, and transparency of flood risks for potential buyers. The task force is drafting a joint committee position paper that will address the problems and urge Congress to adopt legislative changes. One of the key recommendations will be to eliminate certification levees and require everyone to obtain flood insurance, with the rate based upon the risk of flooding. A risk based assessment system would require engineering firms to develop a numerical risk assessment score.

The draft position paper is still in progress and will be circulated to the full Committee for comments in a month or two.

o **Private Markets Subcommittee** (George Jamison & Dave Stewart, Co-Chairs)

Dave Stewart noted that the subcommittee should be looking at industrial markets, and such types of projects as waste-to-energy, methane to carbon credits, and dry cooling of power plants in the western U.S. An information exchange would be very useful, as would meeting with the U.S. Chamber of Commerce's environment committee. Dave encouraged more members to join the Subcommittee.

Next Meeting

The Committee will meet for a short meeting at the ACEC Fall Conference in Montreal. Russ Erbes, vice-chair, will chair the meeting in Mike Cline's absence. If it's possible to get a Canadian speaker – perhaps from McGill University's School of Engineering – the topic could be the similarities and differences between U.S. and Canadian environmental strategies. Diane will try to find an appropriate speaker. She will also explore the dates and locations for a 2009 winter meeting in Washington, DC. The Committee also indicated an interest in meeting in Sundance, Utah for our summer 2009 meeting.

Local/Regional/State Reports on Hot Topics in the Environmental and Energy Arenas

Committee Chair Mike Cline led a roundtable discussion on "hot" environmental and/or energy issues of importance. Each member of the committee provided a short report on issues that are currently "hot" within their community, state, or region. These issues will be used to help the committee identify emerging issues that may require additional committee involvement. The following is a summary of these issues:

City/State/Region	Hot Topic
Colorado	<ul style="list-style-type: none">• There are 18 ballot initiatives this fall, including expanding criminal liability of corporate officers and allowing

	workers to file lawsuits for workplace safety outside of the workplace.
Indiana	<ul style="list-style-type: none"> • The state has fully funded its 10-year transportation plan • The municipal league’s Green Cities designation program is very popular • The state SRF program offers incentives to promote sustainable infrastructure, giving additional points on project ranking and scoring, as well as an interest rate subsidy. • LEED certification is growing in the state, particularly in the commercial and medical buildings • Low impact design is being embraced by the public sector • The need for infrastructure infill in smaller communities for water and wastewater problems is significant.
California	<ul style="list-style-type: none"> • AB 32 which are the state’s GHG regulations, are beginning to be implemented. • Also part of AB 32 is a requirement that public buildings be green buildings • Efforts to promote low impact development are currently stalled. • A \$9 billion bond issue for water projects will be a referendum question on the ballot this fall. • Wildfires are leading to stormwater runoff problems • The environmental impact statement has been approved for the \$5 billion high speed rail line from southern to northern California.
Mid-Atlantic & Pennsylvania	<ul style="list-style-type: none"> • There is a huge influx of Marcellus shale work and a developing market to permit the natural gas projects that are underway. • The Chesapeake Bay program is starting to mature; under the waiver program, nutrient trading programs are beginning to take the place of nutrient reduction programs.

New York	<ul style="list-style-type: none"> • Upstate economy is in serious difficulty; downstate the economy is still healthy, largely because of foreign investment • In the New York City area, there is a lot of sustainable development; developers get a premium for sustainable buildings. • Geothermal projects using the ambient temperature of groundwater is becoming a very large market, even in NYC. • Other market growth is in calculating carbon footprints • For electricity supply, NY has the same issues as IL; power plants will be relying on natural gas despite its cost.
Western states	<ul style="list-style-type: none"> • The Western Climate Change Initiative will soon be signed by 7 states and 2 Canadian provinces • The program will cover more emission sources than any other regional plan, including not only power plants, but also the oil and gas industry, landfills, and cement plants. • The program begins in 2012 and plans to cut emissions 15% from 2005 levels by 2020. • Allowances will be given out by the end of 2008, with the remainder auctioned off • Industries have been involved in the stakeholder committees • States in the region are already taking public actions to reduce GHG, such as Utah's 4-day workweeks, etc.
Michigan	<ul style="list-style-type: none"> • The state is in economic distress although the western portion of the state is doing well.
Southeast and Tennessee	<ul style="list-style-type: none"> • There is a lot for foreign investment in auto manufacturing due to the favorable exchange rate • Approximately \$5 billion in

	<p>infrastructure investment is presenting significant opportunities</p> <ul style="list-style-type: none"> • TVA has taken a nuclear plant out of mothballs, and TVA is developing and selling wind energy. • The Corps has contracted to do a major lock and dam projects, with 2011 as the target date • A high-speed rail feasibility study is underway for a project from Chattanooga – Nashville, and possibly Atlanta. • There is still a great deal of public sector money being spent.

ACEC ENVIRONMENT & ENERGY COMMITTEE

Government Affairs Report July 2007

Water Infrastructure Legislation

Reauthorization of the wastewater State Revolving Fund continues to be a major focus of ACEC. We are working with the Water Infrastructure Network, a coalition of groups, including client groups such as AMSA and AWWA, who are interested in boosting infrastructure funding. Major progress has been made this year. In March, the **House** has passed the Water Quality Financing Act of 2007 (H.R.720) that:

- Reauthorizes \$14 billion in funding to capitalize Clean Water State Revolving Fund (SRF) over 4 years. The funds are allocated to states, which provide low-interest loans to communities for wastewater infrastructure.
- Includes a QBS requirement for SRF-funded projects – “a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States code, or an equivalent State qualifications-based requirement (as determined by the Governor of the State.”
- Requires the General Accountability Office (GAO) to study the feasibility and funding options for a water infrastructure trust fund. A trust fund would create a dedicated revenue stream for water infrastructure.
- Authorizes extended repayment periods (up to 30 years).
- Provides additional subsidies, including principal forgiveness and negative interest loans. The subsidies apply to communities that meet a state’s affordability criteria, for individual ratepayers that will experience hardship from potential rate increases,

and for the construction and implementation of innovative or alternative processes, materials, or technologies.

- Requires a state to use part of its funding to provide additional subsidization for disadvantaged communities.
- Encourages long-term asset management planning and financing that will ensure sustainable systems and the potential to reduce capital, operation and maintenance costs.
- Encourages communities to consider alternative and innovative processes, materials and technologies. (including “green infrastructure”).
- Requires that contractors and subcontractors on projects constructed with SRF funding will be paid not less than prevailing wages, as determined under the Davis-Bacon Act.

The **Senate** is working on a companion bill, with the goal of getting a bill to the floor this October. The bill will be introduced by Sen. Frank Lautenberg (D-NJ), chair of the Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality. He will likely have a hearing in late July or September. One of our key tasks is to make sure that the requirement for QBS is included in the Senate bill.

The major item of contention will continue to be whether the Davis-Bacon Act should apply to all SRF-funded projects. The House voted to apply the Act, but there may be significant opposition in the Senate that delays passage. This issue has prevented the bill from passing in previous Congresses, but the Democratic majority feels strongly about completing action on the bill, and the Republicans will have to decide whether they want to risk political capital on a filibuster over the Davis-Bacon issue. The Administration has issued a veto threat if HR 720 is adopted by Congress, based on its view that the bill authorizes “excessive” federal funding for the SRF, as well as the mandatory application of the Davis-Bacon Act.

WRDA Reauthorization

Both the House and Senate have passed different versions of the Water Resources Development Act and staff-level negotiations have been taking place over the last few months to negotiate the differences. As soon as they are complete (very likely this week or next) the House conferees will be quickly named, and a conference committee meeting with the Senate conferees will take place. The conference report may be on the Senate and House floors for final approval before the Congress recesses on August 3.

Both bills authorize more than 100 local environmental infrastructure projects – mostly water & sewer facilities and combined sewer overflow projects. There are some key differences between the bills:

- The bills create additional federal layers of review for projects over \$50 million (House)/\$40 million (Senate).
- The **Senate** bill would create a new “Water Resources Planning Coordinating Committee” composed of 10 Cabinet members to oversee and make changes to Corps policies and procedures.

- The Senate bill would also establish review panels to evaluate any feasibility or reevaluation reports and environmental impact statements, as well as projects for which the Governor requests a review, a federal agency determines there is a significant adverse impact, or the Secretary of the Army determines is controversial.
- The **House** bill would create a less burdensome process, putting the Secretary of the Army in charge of leading revision to the WRDA planning principles and guidelines. In addition, the independent review of projects section would designate the chief of engineers as the responsible entity to ask the National Academy of Science to create a panel of experts to peer review the project study.

Energy Legislation

Congress is moving closer to passage of an energy bill – a bill that is tipped toward alternative energy sources such as wind, geothermal, and biomass and away from oil and gas development.

- The **Senate** version, passed by a vote of 62-32 in June, increases ethanol production seven-fold, requires 50% of new cars to be able to run on 85% ethanol or biodiesel fuels, and increase vehicle mileage standards.
- More significant is what the bill *didn't* include:
 - A \$28 million tax package that would have provided incentives for new renewable electricity, clean coal, biofuels, and other technology projects. The new incentives would have been financed by taxes on oil and gas producers, causing the tax package to fail to gain enough votes to shut off debate.
 - A “renewable portfolio standard” that would have required electric utilities to sell 15% of electricity from renewable energy sources by 2020.
 - A coal-to-liquid fuel development package that would have provided incentives for new plants.
- The **House** bill is still being merged from several pieces passed by 10 committees, and – at least so far – does not include several of the more controversial issues the Senate energy bill addressed. *It's possible that this package will be on the floor the week of July 23rd. However, it's still unclear how it will be considered.*

Given the wide range of views among House and Senate members on the subject, prospects for movement on legislation this year is becoming increasingly unclear. Messages from the House leadership have been especially mixed. Two weeks ago, House Majority Leader Steny Hoyer (D-MD) said that the energy package – with contributions from 10 different House committees -- might be split into 2-3 pieces, and considered in July and September. Last week, the buzz was that Speaker Nancy Pelosi (D-CA) preferred a single large bill, but this Wednesday the word was that the leadership might now be inclined to break up the package. Bottom line: all options are open.

The most contentious issue is whether vehicle fuel economy standards – CAFE standards – will be part of the House bill or whether the House will reserve action on the subject until a joint House-Senate conference committee. The chairman of the House Energy & Commerce Committee, John Dingell (D-MI), a long-time opponent of increased CAFE levels, has indicated that he wants to wait until the House debates a global

warming bill this fall to take up the CAFE issue. Rep. Dingell opposes the CAFE standard of 35 mpg by 2020 adopted in the Senate energy bill last month. Waiting until the conference committee might allow the House leadership to delay a confrontation with one of Congress' most powerful chairmen.

Climate Change/Global Warming

Climate change is receiving a very high level of attention in Congress this year, but given the wide range of views among House and Senate members on the subject, prospects for movement on legislation is unclear. Both Senate and House leaders have declared their intent to place climate change at the top of the agenda, and legislators have filed nearly 70 bills addressing the issue. The House formed a new Select Committee on Energy Independence and Global Warming, however it has no authority to pass legislation.

105 hearings on the subject have been held in many committees and subcommittees, and in the Senate, at least six major climate change bills are considered the most comprehensive (see table). In the House, legislation by the Energy and Commerce Committee will likely be drafted by its chairman, Rep. John Dingell (D-MI). Rep. Dingell also has floated the idea of a new "carbon tax" on oil and coal production, with the goal of showing that the public will strongly oppose it.

While bills may emerge from committees, it's probably not likely that anything will pass the Congress this year, or even next. Sixty votes are needed in the Senate to overcome an expected filibuster, and obtaining 60 votes is always difficult.

Superfund

Any push to reform or clarify the Superfund law in the 110th Congress has probably been blunted by a recent U.S. Supreme Court decision that gives potentially responsible parties (PRPs) engaged in voluntary cleanups of brownfields and Superfund sites the right to sue other parties to recover cleanup costs, including the federal government (*U.S. v. Atlantic Research Corporation*). This issue had been one of the key reasons given for amending the Superfund statute. Based on a prior Supreme Court decision, lower courts had held that PRPs could only recover cleanup costs if they had first been sued by the federal government.

Other Superfund-related topics have been discussed but not gained much traction. Sen. Maria Cantwell (D-WA) has introduced a bill to require businesses that handle hazardous waste substances to provide financial assurance that they can pay for cleanup of potential environmental contamination. Rep. Earl Blumenauer (D-OR) is floating a proposal that would reinstate the Superfund taxes on oil products, chemicals, and businesses that pay a corporate income tax.

Produced Water

HR 902, the "More Water and More Energy Act of 2007", sponsored by Rep. Mark Udall (D-CO) easily passed the House last month as well as the Senate Energy and Natural Resources Committee. It is currently on the Senate floor awaiting action.

The bill would direct the Secretary of the Interior, acting through the Bureau of Reclamation and the U.S. Geological Survey, to study and report to Congress on: (1) the obstacles to increasing the extent to which water produced during the extraction of oil, natural gas, or coalbed methane can be used for irrigation and other purposes without adversely affecting water quality or the environment; and (2) the actions that could reduce or eliminate such obstacles.

It also authorizes BuRec to provide \$7.5 million in grants for the development of facilities to demonstrate the feasibility, effectiveness, and safety of processes to increase the extent to which produced water may be recovered and made suitable for irrigation, municipal, or industrial uses or other purposes without adversely affecting water quality or the environment. Such financial assistance – up to 50% of the total cost of a program - is to be provided for at least one project in: (1) one of the Upper Basin States other than New Mexico; (2) either New Mexico or one of the Lower Basin States other than California; (3) California; and (4) Texas.

Wetlands

The Transportation and Infrastructure Committee this week is holding two hearings to focus on a bill that would give the federal government authority to regulate most bodies of water in the United States. HR 2421 was introduced in response to a Supreme Court case, *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* that prohibited the Corps of Engineers from regulating wetlands "isolated" from navigable waters. Other more recent cases have limited the SWANCC decision, causing confusion about the federal government's power to regulate waters and streams.

[H.R. 2421](#), sponsored by the chairman of the two House committees with jurisdiction over water bodies, Energy and Commerce Committee Chairman John Dingell (D-MI) and Transportation & Infrastructure Committee Chairman Jim Oberstar (D-MN), would overturn SWANCC and subsequent cases by amending the 1972 Clean Water Act's Section 404.

The Supreme Court cases hinged on the phrase "waters of the United States," which defines the extent of federal jurisdiction. The section requires anyone who wants to deposit sediment into "navigable waters" to get a permit from the Corps.

The bill seeks to delete the term "navigable", giving the Corps the authority to require permits for virtually any water body, regardless of size or proximity to navigable waters, or whether the water flows year round. The legislation also includes a savings clause that clarifies that existing CWA exemptions, including those for agriculture, mining and silviculture, will remain in place.

Critics of the legislation warn that removing the word navigable would create a surge in lawsuits as courts decide Clean Water Act jurisdiction cases on a constitutional basis instead of looking at hydrological and physical connections of waters.

