

**Oral Testimony before the Judiciary Committee
Arizona State Senate
James K. Chilton, Jr.
February 15-2010**

I am testifying on behalf of the Arizona Cattle Growers' Association, and my family.

My name is Jim Chilton and I am a 5th generation Arizona rancher. Like many western ranches, our ranch includes private property, state school trust land, three federal grazing permits and a small private land farm.

First, I want to discuss what the U. S. Congress is considering relating to Arizona water.

The Clean Water Restoration Act (SB 787) was passed out of Committee by the Senate Public Works Committee and is now being considered by the House Transportation Committee Chaired by Congressman Oberstar, Democrat from ?

The proposed act vastly expands the current Corps of Engineers and EPA regulatory jurisdiction and will result in limitless control over all water in the nation and the dramatic expansion of bureaucracy. Current regulations are bad enough.

SB 787 would regulate all watersheds in Arizona and the nation. Expansion of Federal jurisdiction would cover millions of isolated intra state pools, stock water ponds, small and large private lakes, depressions filled with water, drainage and irrigation ditches, irrigated areas that otherwise would be dry, sloughs, and damp places everywhere in Arizona.

Ultimately, federal bureaucrats would control not only water, but citizens' lives and land use.

The federal government already has a backlog of 15,000 to 20,000 existing 404 permit requests, why create 10's of thousands more? As the United States Supreme Court has recognized, "The average applicant for an individual Clean Water Act permit spends 788 days and \$271,596 in complying with the current process and the average applicant for a nationwide permit currently spends 313 days and \$28,915 - not counting the substantial costs of mitigation or design changes." Rapanos, 447 U.S. at 719 (plurality opinion)

Prior to the Supreme Court's Rapanos I wanted to improve a road on my private property by installing two culverts in two dry washes on an existing road. I was told by my lawyer that I needed a federal 404 permit from the Corps of Engineers since both washes had sand in the bottom greater than one foot wide..

I asked, how can these two dry washes impact a navigable stream since the nearest navigable stream is the Colorado River about 275 miles away? The two small dry washes run into the dry Yellow Jacket wash which runs into Arivaca wash which then runs into Brawley dry wash which sinks into the desert sand and disappears 40 miles from where I wanted to install two culverts. It was ridiculous?

The Clean Water Act of 1972 should not be expanded to include "activities affecting water." What life activity does not affect water? It would open the door to lawsuits regarding every human use. The citizen's suit provision of SB 787 would allow radical environmentalists to stop or seriously delay any small business man, land owner, farmer or rancher any where in Arizona.

"Greenmail" is routinely used by activist groups to extort money from productive people.

SB 787 pushes federal regulation to an extreme perhaps not matched in our nation's history. Arizona must fight abuses already occurring under the current Federal Clean Water Act.

The State of Arizona, the Counties of Arizona and all of the cities and municipalities should retain the authority to regulate intra state water in the best interests of Arizona citizens. SR 1046 stipulates that Arizona possesses the sole authority to define, designate and regulate non-navigable intra state waters.

Arizona needs to protect itself from the overreaching Federal Government and its water-grabbing policies. I believe the proposed constitutional amendment is essential to the State's economic future and to the State's control of its own destiny.