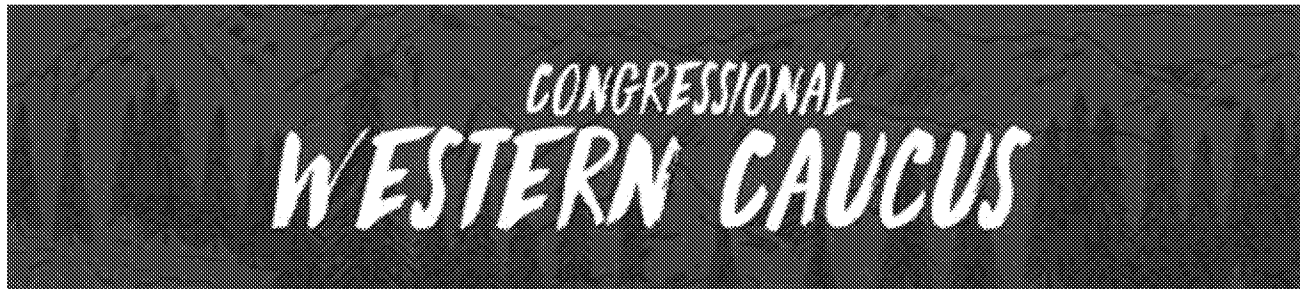


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Sent: 5/21/2018 4:49:14 PM
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CC: Small, Jeff [Jeff.Small@mail.house.gov]
Subject: ICYMI: Rep. Banks' WOTUS Repeal Amendment Passes House Floor



For Immediate Release
Contact: Tanner Hanson

Date: May 21, 2018
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In Case You Missed It: Rep. Banks' WOTUS Repeal Amendment Passes House Floor



WASHINGTON, D.C. – Congressional Western Caucus Chairman **Paul A. Gosar D.D.S. (AZ-04)** and Western Caucus Member **Jim Banks (IN-03)** released the following statements after Congressman Banks' Amendment #16 to H.R. 2 - which would repeal the 'Waters of the United States' rule issued by the Obama Administration - passed the Floor of the U.S. House of Representatives by a bipartisan vote of 238-173:

Congressman Jim Banks stated “While I am glad to see my colleagues support my amendment to repeal this onerous regulation, I am disappointed that the farm bill ultimately did not pass. The WOTUS rule gave unelected bureaucrats at the EPA the power to broadly interpret what is a navigable waterway, leading to mass confusion for farmers in northeast Indiana and across the country. We are getting closer than ever to providing much-needed clarity to the American people, and I am hopeful that the House will advance my amendment to the Senate in the near future.”

Chairman Paul Gosar said: “A permanent, legislative fix for WOTUS is crucially necessary, and my friend and colleague Jim Banks' amendment would allow one by paving the way for EPA to write a definition of 'navigable waters' under the Clean Water Act that is both Constitutional and commonsensical. By expanding EPA jurisdiction to transient waters and tiny ditches, the Obama-era definition is neither of those - and it must go. Congress must return regulatory certainty to our nation's farmers, ranchers, broader industry and private landowners by repealing this behemoth of a regulation.”

Background:

On Friday, May 18, 2018, Congressman Banks' Amendment #16 to H.R. 2 - colloquially known as the 'Farm Bill' - was agreed to by a vote of 238-173 on the Floor of the U.S. House of Representatives.

Rep. Banks' amendment had strong bipartisan support with 13 Democrats voting in favor of final passage.

If made law, the amendment would repeal the Obama-era definition of 'navigable waters' under the Clean Water Act that unconstitutionally expanded the EPA's jurisdiction over transient and insignificant waters, and in a way that was also inconsistent with the underlying Clean Water Act.

The previous Administration's Waters of the U.S. rule, commonly referred to 'WOTUS', attempted to assert Clean Water Act jurisdiction over nearly all areas with even the slightest connections to water resources, including man-made conveyances.

The language of the rule is drafted so vaguely as to encompass nearly all water sources with any hydrologic connection to downstream navigable waters, including ditches, pipes, farmland ponds, groundwater, as well as other waters traditionally regulated by the state. Although the agencies maintained that the rule was narrow and clarified Clean Water Act jurisdiction, it would in fact aggressively expand federal authority under the Clean Water Act while bypassing Congress and creating unnecessary ambiguity. In fact, even the Obama Administration admitted when announcing the final rule that WOTUS would expand agency control over 60% of our country's streams and millions of acres of wetlands which were previously non-jurisdictional.

This proposed water grab runs contrary to Supreme Court decisions as well as state and tribal water laws. If implemented, this misguided regulation would have devastating economic consequences for farmers, ranchers, small businesses, and communities throughout the country.

As the late Justice Scalia wrote in the plurality opinion in the case of *Rapanos v. United States*, which concerned this definition: "In applying the definition to 'ephemeral streams,' 'wet meadows,' storm sewers and culverts, 'directional sheet flow during storm events,' drain tiles, man-made drainage ditches, and dry arroyos in the middle of the desert, the Corps has stretched

the term 'waters of the United States' beyond parody. The plain language of the statute simply does not authorize this 'Land Is Waters' approach to federal jurisdiction."

See the text of Rep. Banks' amendment [here](#). A press release by Congressman Banks on the amendment's passage can be found [here](#).

Amendment Sponsors & Cosponsors (17):

Jim Banks*, Mark Amodei, Kevin Cramer, Jeff Duncan, Ron Estes, Paul Gosar, Jaime Herrera-Beutler, Trey Hollingsworth, Duncan Hunter, Markwayne Mullin, Steve Pearce, Dana Rohrabacher, Todd Rokita, Jason Smith, Scott Tipton, Mark Walker, Jackie Walorski

Endorsed by:

American Energy Alliance, American Exploration & Mining Association, American Farm Bureau Federation, American Forest & Paper Association, Americans for Tax Reform, Edison Electric Institute, FreedomWorks (Key Vote), Golf Course Superintendents Association of America, Independent Petroleum Association of America, Industrial Minerals Association, National Association of Home Builders (Key Vote), National Cattlemen's Beef Association, National Cotton Council, National Club Association, National Taxpayers Union (Key Vote), National Water Resources Association, National Stone Sand and Gravel Association, Public Lands Council, Women's Mining Coalition, U.S. Chamber of Commerce, Agribusiness & Water Council of Arizona, Alaska Miners Association, Arizona Association of Conservation Districts, Arizona Cattlemen's Association, Arizona Farm Bureau Federation, Arizona Mining Association, Arizona Pork Council, Arizona Rock Products Association, AZ , BASS Nation, The Bass Federation-AZ, Bullhead Area Chamber of Commerce Government Affairs Committee, Colorado Pork Producers Council, Golden Vertex Corp., Grand Canyon Electric Cooperative Association, International Council of Shopping Centers, Irrigation and Electrical Districts' Association of Arizona, Pima Natural Resource Conservation District, SRT Outdoors, Sulphur Springs Valley Electric Cooperative, Inc., Yavapai Cattle Growers Association, Arizona State Senator Sylvia Allen, Apache County Supervisor Doyel Shamley

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