



State of New Mexico

Office of the Governor

Bill Richardson

Governor

For Immediate Release
July 16, 2007

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Governor Richardson's Environment Secretary to Testify before Congress in favor of Clean Water Restoration

(Santa Fe, N.M.) New Mexico Environment Department Secretary Ron Curry testified Tuesday before a U.S. House Transportation and Infrastructure Committee in Washington D.C. to urge federal lawmakers to pass legislation that would restore protections for surface waters in New Mexico and across the nation.

HR 2421, the Clean Water Restoration Act of 2007, would restore protections for surface waters under the Clean Water Act that were lost after two Supreme Court decisions. Those decisions were *Solid Waste Agency of Northern Cook County v. US Army (SWANCC)* in 2001 and *Rapanos v. US (Rapanos)* in 2006.

"The Southwest has a limited water supply and that creates a need for well-defined protections for surface waters under the Clean Water Act," said Governor Bill Richardson. "The aftermath of the two Supreme Court decisions left large portions of New Mexico's surface waters vulnerable and threatened our state's precious, limited groundwater resources — the source of 90 percent of our clean drinking water."

"We simply have no water to waste," said New Mexico Environment Department Secretary Ron Curry. "The water we have — and its quality — is important for the continued health of our citizens and future economic development of our region."

U.S. Reps. James Oberstar, D-Minn., John Dingell, D-Mich. and Vernon Ehlers, R-Mich. introduced H.R. 2421 on May 22 to clarify congressional intent regarding the jurisdiction of the 1972 landmark federal Clean Water Act. U.S. Rep. Tom Udall, D-N.M., is a cosponsor of HR 2421, which replaces the phrase "navigable waters" with "waters of the United States." That clarification would help remove confusion created by the two Supreme Court decisions that limited waters that receive protection under the Act.

Those decisions potentially limited federal protection in New Mexico for 84 miles of perennial streams, 3,900 miles of intermittent waters, 4,000 playa wetlands, and numerous headwaters, springs, cienegas and isolated wetlands. In addition, closed basins that comprise 20 percent of New Mexico's land area are now considered to fall outside the jurisdiction of the Clean Water Act.

The Supreme Court rulings essentially defined two classes of water, one that is tied directly to “navigability” and deserves federal protection from pollution, and a second class that is completely abandoned or must undergo a case by case "significant nexus" test. That test requires that tributaries or wetlands would be dropped from protection if the government cannot directly prove they empty into navigable waters.

Governor Richardson has fought to restore protections to New Mexico’s waters. In March 2003, he filed formal comments with the U.S. Environmental Protection Agency petitioning that New Mexico’s closed basins and other imperiled waters remain protected under the federal Clean Water Act. He also strongly supported the Clean Water Authority Restoration Act of 2003, a precursor to this legislation.

More recently, Governor Richardson successfully opposed oil and gas drilling in the Valle Vidal of Northern New Mexico, and in order to protect its world class trout streams, he had this area’s streams listed as Outstanding National Resource Waters. He is also fighting to protect the Salt Basin Aquifer from energy development at Otero Mesa. Governor Richardson also recently launched a multi-million dollar effort — the first in state history — to provide a state funding source for river ecosystem restoration.

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