The Honorable James L. Oberstar
U. S. House of Representatives
2365 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Oberstar:

I take this opportunity to comment in support of H.R. 2421. This bill would clarify the scope of the Clean Water Act (CWA) by amending the definition of waters of the United States.

Pennsylvania supports broad, comprehensive CWA jurisdiction, which ensures consistent protection of all the nation’s waters, not just the larger “navigable” waters of the United States. Elimination of the confusion regarding the scope of the CWA in the wake of recent Supreme Court decisions is important not only from an environmental perspective, but will also provide needed clarity for the regulated community. Determining, to a scientific certainty, the extent of the connection between a particular wetland to a navigable waterway requires extensive and long-term assessment. Such a case-by-case demonstration, which is the result of the Supreme Court’s recent rulings, is extremely expensive and time consuming, and has injected unwelcome uncertainty into land development decisions.

The undisputed purpose of the CWA is to restore and maintain the chemical, physical, and biological integrity of the nation’s waters. To achieve this goal, it is imperative that federal and state agencies responsible for achieving the objectives of the CWA have the broadest possible jurisdiction over intrastate waters.

Pennsylvania has 83,161 miles of streams in five major interstate watersheds—the Great Lakes, The Ohio River Basin, the Susquehanna River Basin and Chesapeake Bay, the Potomac River Basin, and the Delaware River Basin. In studying our water quality problems and developing the solutions for our largest and most important rivers, science and experience has shown that we must look to the watershed as a whole. The water resources are integrated and are not governed by permanent physical boundaries or by political boundaries.

In order to manage our watersheds, we are involved in seven major interstate commissions, several of them through binding interstate compacts. We have voluntarily chosen to exercise our sovereignty over our waters jointly with other states because it is the only way we have sufficient real control over enough of the watershed to achieve our goals for clean water. However, we cannot achieve our goals without attention to all of the water bodies that feed those waterways. As our commitment to interstate watershed commissions demonstrates, we can’t adequately protect the waters in our states without protecting the entire watershed. We need to apply uniform protection to these watersheds so there are clear expectations for business and our communities.
Pennsylvania has the necessary state laws and regulations to protect and maintain waters within our commonwealth. Although many of our state and federal water management programs are administratively integrated to provide process efficiency, our respective jurisdictions over wetlands and water resources are not interdependent. Therefore, our Department of Environmental Protection (DEP) does not believe that a narrow CWA—without the proposed amendment—affects Pennsylvania’s ability to provide the necessary protection of the water resources within the commonwealth. However, it will be difficult to protect our waterbodies for their many uses if upstream neighboring states choose not to provide the same minimum levels of protection. At the center of these watersheds are the major interstate waterways of the United States. A patchwork of wetlands protection, based solely upon state law, makes the states job harder, if not impossible. The integrity of our nation’s waters requires a strong federal framework.

Pennsylvania supports the proposed legislation because clear, unambiguous, and comprehensive CWA jurisdiction will ensure our ability to offer a consistent and unified federal and state regulatory program to the regulated community, and will clarify and simplify the administration and implementation of the integrated state and federal programs. Most importantly, this legislation will ensure effective resource protection that is beneficial to all.

Sincerely,

Edward G. Rendell
Governor

cc: Pennsylvania Congressional Delegation