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Environmental News Service

# **Bush Administration Covered Up 500+ Blocked Water Pollution Cases**

**WASHINGTON, DC**, December 16, 2008 (ENS) - The results of a Congressional investigation released today detail the collapse of the Clean Water Act enforcement program in the wake of a Supreme Court decision that clouded the question of whether rivers, streams and wetlands remain protected from pollution and development.

The report reveals more than 500 clean water enforcement cases that have been dropped or stalled in the wake of the 2006 decision in *Rapanos v. United States*.

The investigation, by House Oversight and Government Reform Committee Chairman Henry Waxman and Transportation and Infrastructure Committee Chairman James Oberstar, uncovered new internal documents showing that hundreds of Clean Water Act violations have not been pursued with enforcement actions.

"One of the legacies of the Bush Administration is its failure to protect the safety and health of the nation's waters," said Chairman Waxman. "Our investigation reveals that the clean water program has been decimated as hundreds of enforcement cases have been dropped, downgraded, delayed, or never brought in the first place. We need to work with the new Administration to restore the effectiveness and integrity to this vital program."

In a letter sent today to President-elect Barack Obama, the two committee chairmen write of "an extensive joint investigation by our Committee staffs that finds that the federal government's Clean Water Act enforcement program has been decimated over the past two years, imperiling the health and safety of the nation's waters."

The chairmen forwarded to Obama the results of a review of more than 20,000 pages of documents produced to the committees by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers.

"The actual problems may be even worse than described in the documents," the chairmen wrote. "EPA has withheld hundreds of documents from the Committees. When documents were provided, the EPA redacted the identity of every corporation or individual accused of polluting waterways, as well as the specific waters affected."

The investigation shows that dozens of existing enforcement cases have become informal responses, have had civil penalties reduced, and have experienced delays. Many violations are not even being detected because of the substantial reduction in investigations.

**Violations involving oil spills make up nearly half of the Clean Water Act violations** that have been detected but are not being addressed.

In addition, the committees' investigation revealed that the Assistant Secretary for the Army for Civil Works **placed the interests of corporate lobbyists over the scientific determinations** of career officials in making Clean Water Act decisions about the Santa Cruz River in Arizona.

The regions with the most lost enforcement actions are EPA Region 6, which includes the states of New Mexico, Texas, Oklahoma, Arkansas, and Louisiana, where 138 enforcement cases were dropped, and EPA Region 8, which includes the states of Montana, North Dakota, South Dakota, Wyoming, Utah and Colorado, where 106 enforcement cases have been dropped.

In their letter to Obama, the chairman wrote, "The Dallas regional office warned that "[o]ur oil pollution enforcement program has been significantly impacted," dozens of oil spill cases are "on hold," and "no follow-up for penalties or corrective action has been sought."

"The Denver regional office warned that "[w]e have literally hundreds of OPA [Oil Pollution Act] cases in our 'no further action' file" and forwarded a lengthy list of 'violations which we failed to take cases on.'"

"The Kansas City regional office warned that morale 'has plummeted,' that employees 'have lost hope,' and that 'our stress level has been overwhelming [and] has reached critical levels.'" the chairmen told Obama.

"The San Francisco regional office warned that these problems 'are real and must be addressed,' noting in one case that "[i]t is time to pull the plug on keeping this case on life support,' the chairmen wrote.

In June 2006, the Supreme Court ruled in the Rapanos case that federal agencies could assert jurisdiction under the Clean Water Act for many waters only after going through a time-consuming and resource-intensive process of demonstrating a "significant nexus" to "traditional navigable waters."

"This Administration has only exacerbated a series of bad Supreme Court decisions by not enforcing the Clean Water Act and by placing development interests above those of the public," said Chairman Oberstar. "By withholding relevant information and misleading Congress our nation's waters have gone unprotected for too long. **Only through Congressional action can we restore necessary Clean Water Act protections to our nation's waters.**"

"We have known for some time that the Clean Water Act is broken and that thousands of streams, rivers and wetlands have lost federal anti-pollution protections," said Joan Mulhern,

legislative counsel with the public interest law firm Earthjustice. "But now we know the extent to which the Bush administration has been covering up the problem."

"While the committees' report is very revealing, **the EPA's cover-up continues," Mulhern said. "They are still withholding documents on hundreds of dropped enforcement actions,** and the information they did give the chairmen redacted identifying information that would tell the American people which water bodies have been contaminated illegally with oil spills, fills, and other industrial discharges by polluters."

"We thank Chairman Oberstar and Chairman Waxman for this investigation and their determination not to let the Bush administration off this hook for this huge breakdown in Clean Water enforcement and its proclivity for allowing polluting industries to set the nation's clean water policies," Mulhern said. "Earthjustice hopes to work closely with Congress and the next administration to get the needed legislative fix enacted as quickly as possible."

"The new administration must immediately reverse this pattern of leaving waters unprotected and hiding the mess from the public, and support swift Congressional passage of the Clean Water Restoration Act." This 2007 bill would clearly define the waters of the United States that are subject to the Federal Water Pollution Control Act.

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