



Written by [Tom DeWeese](#) on March 21, 2012

## Sen. Rand Paul Defends Property Owners from Federal Agencies

U.S. Senator Rand Paul (R-Ky.) has just introduced legislation designed to rein in out-of-control federal agencies such as the Environmental Protection Agency (EPA) and the Army Corps of Engineers. The bill, if enacted, will be a vital blow to the enforcement of radical environmental/Agenda 21-inspired regulations. The bill is called the Defense of Environment and Property Act of 2012 (S.2122).



A little history: in 1972, as the environmental movement was getting its start through popular efforts to stop pollution in our rivers and air, Congress passed the Federal Water Pollution Control Act (later called the Clean Water Act). The law prohibited the discharge of pollutants into “navigable waters” without a federal permit. The problems began when the EPA and the Army Corps of Engineers made a power grab by enforcing the act over ponds, occasional mud puddles, and even dry lands by labeling them as wet lands.

The result has been disastrous to property owners and businesses, sometimes even leading to jail sentences to “violators.”

The result of such outrageous interpretations of the Clean Water Act has led Senator Paul to introduce his bill to do the following:

Redefine “navigable waters” to explicitly clarify that waters must actually be navigable in fact, or “permanent, standing, or continuously flowing bodies of water that form geographical features commonly known as streams, oceans, rivers and lakes that are connected to waters that are navigable — in fact.”

- Excludes ephemeral or intermittent streams — the streams that sometimes form when rain falls — from federal jurisdiction.
- Restrains the EPA and Army Corps from regulating or “interpreting” the definition of a navigable water without Congressional authorization.
- Protects the rights of states to have primary authority over the land and water within their borders.
- Prohibits federal agents from entering private property without the express consent of the landowner



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- Requires the government to pay double the value of the land to any landowner whose property value is diminished by a wetlands designation.

Why is it necessary to write such juvenile-sounding legislation to define what any reasonable person should already understand? Who doesn't know what a river is? Apparently the EPA and Army Corps have little regard for such details as they zealously attack private property in the name of environmental protection. American citizens have been literally terrorized by these agencies and the consequences have been dire.

Some examples:

- Florida resident Ocie Mills planned to build a dream house for his son. He brought in 19 loads of clean building sand, cleared a dry ditch and began filling the ditch with sand to level the ground for the foundation. The Army Corps of Engineers sent him a notice demanding he immediately stop the fill because they considered the property to be a wet land. The Florida Department of Environmental Regulations (DER) sent out an agent who determined that the land was not a wetlands. Ocie resumed dumping fill on the foundation site. The Army Corps disagreed and sent US Marshalls to arrest Ocie and his son. In a trial with no legal representation Ocie was not allowed to submit evidence that the DER did NOT consider his land a wetland. As a result a panel of three federal judges sentenced both Ocie and his son to 21 months in jail with no parole and a fine of \$5,250 each. Six years later in a retrial a judge ruled that the land was not a wetlands.
- John Pozgai served a three year prison term for violating the Clean Water Act on his property in Pennsylvania. His crime? Pozgai, a first generation immigrant who escaped communist Eastern Europe, bought property that was being used as an illegal dump. The dump contained a storm water drainage system and a storm water drainage ditch dating back to 1936. The township was responsible for maintaining the drainage ditch but failed to do so, and that failure caused flooding on the adjacent road and in the Pozgai home. It had done so for 20 years. When Pozgai bought the land he began to clean out thousands of dumped tires, many of which were blocking the storm water drainage ditch. The Army Corps of Engineers declared the standing water caused by the plugged drainage ditch to be a wetlands. John Pozgai, who survived the tyranny of communism, couldn't beat the outrages of environmental zealots empowered with the force of government, which refuses to recognize private property rights.
- Charlie Johnson's family has been growing cranberries on his small farm near Carver, Massachusetts since the 1920s. The federal government prepared to take Johnson to court, claiming that many of the cranberry bogs were created in violation of the 1972 Clean Water Act. The EPA asked for permission to enter Johnson's property to collect data. Johnson gave his approval, believing he had nothing to hide. He later discovered that the EPA wanted to return his land to wetlands under the assumption that wetland conditions existed on the property before Johnson's cranberry bogs were constructed. He explained the bogs were originally constructed on dry sandy land that formerly contained a variety of forested uplands. The EPA based its theory on a number of small aerial photos taken during spring thaws when much of the land is underwater because of melting snow. If Johnson loses his case he will be forced to destroy his cranberry bogs and convert his property to artificial wetlands.

These are just a very few examples of the tyranny raining down on honest Americans who are simply trying to use their land and live in peace. When confronted by government officials they went to the "proper" authorities to assure they did the right thing. Many times they were misdirected by those very



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government agents and then trapped by it. Then they were fined, harassed and some went to jail for their “crimes.”

There is no room in a free society for such power-mad zealots in our government. Senator Paul’s bill is designed to bring a semblance of sanity and reason back to environmental regulations.

The EPA, Army Corps and other agencies of the government have been using the intimidation of government power to enforce the policies of Agenda 21 and Sustainable Development. These policies do not recognize private property rights and they have made a sham out of the rule of law and the court system, replacing it with rule by edict. Until now these outlaw agencies have terrorized American citizens without interference or control by their rightful masters — Congress.

However, little by little, in state legislatures and now in Congress, new legislation is being proposed to return sanity and control. Senator Paul’s Defense of Environment and Property Act is a start. It must be supported by everyone who professes allegiance to the Constitution and to the Republic for which it stands. With such action, step by step, we can restore that Republic of our Founders. Call your Senators and demand they support S.2122.

**Tom DeWeese** is one of the nation’s leading advocates of individual liberty, free enterprise, private property rights, personal privacy, back-to-basics education and American sovereignty and independence. Go to [americanpolicy.org](http://americanpolicy.org) for more information”



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