



FOR RELEASE  
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## **CPR's Buzbee Urges Action on Clean Water Restoration Act**

### ***Court Decisions were 'Major Blows' to Clean Water Act; 'Restoring Protections Makes Ecological, Economic, Legal Sense'***

Washington, DC ---- CPR Member Scholar William Buzbee told a House subcommittee today that recent Supreme Court decisions had struck a "major blow" to the reach of the Clean Water Act, leaving lower courts in confusion over application of the Act. That confusion, he said, has prompted decisions leaving important waters unprotected from industrial pollution.

In addition to his role with the Center for Progressive Reform, Buzbee is a professor of law at Emory Law School in Atlanta, Georgia. He served as co-counsel for an amicus brief filed in one of the relevant Court cases, *Rapanos vs. United States*, by a bipartisan group of four former Administrators of the Environmental Protection Agency. The Administrators served under Presidents Nixon, Ford, Carter and Clinton. The 2006 case, in which a mall developer argued that the Clean Water Act did not protect areas that drained into larger waterways, led to a significant diminution of the Clean Water Act's reach. The other case Buzbee noted in his testimony was the 2001 SWANCC decision, which also restricted the reach of the Act.

Buzbee testified that the two decisions "have together reduced the reach of the CWA, engendered regulatory confusion, and given polluters newfound artillery to oppose application of federal anti-pollution laws, regulations and permits." He added, "If clean water remains a national priority, as it has been for over three decades of bipartisan consensus, then new legislative action is necessary. At stake is far more than just wetlands, but the core of federal power to protect America's waters from industrial pollution and preserve America's waters for their many crucial economic, agricultural, ecological, and recreational uses."

Buzbee's testimony this morning was before the U.S. House of Representatives Committee on Transportation and Infrastructure, chaired by Rep. James Oberstar.

“Certainly there are core protected waters beyond dispute,” even after the Court’s decisions, Buzbee said “But once one moves to wetlands and tributaries, feeder streams, headwaters of America’s precious rivers, and vast swaths of the country where heat and drought leave river and stream beds empty for parts of the year, then what are protected waters becomes critical and subject to contestation. The Supreme Court’s decisions have left many waters unprotected, or at least created regulatory uncertainty about what is protected.”

“The Restoration Act, he said, “offers, through a limited amendment of the Federal Water Pollution Control Act (known as the Clean Water Act (CWA), a means to restore protections long provided to America’s waters, as well as greatly reduce legal uncertainty, regulatory skirmishing, and attendant litigation resulting from the somewhat uncertain intersection of these three important cases.... At stake is far more than just wetlands, but the core of federal power to protect America’s waters from industrial pollution and preserve America’s waters for their many crucial economic, agricultural, ecological, and recreational uses.”

Professor Buzbee’s testimony is available at  
[http://www.progressivereform.org/articles/Buzbee\\_Testimony\\_041608.pdf](http://www.progressivereform.org/articles/Buzbee_Testimony_041608.pdf).

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*The **Center for Progressive Reform** is a nonprofit research and educational organization whose network of scholars across the nation is dedicated to protecting health, safety, and the environment through analysis and commentary. For more information, contact Matthew Freeman at 301-762-8980 or at [mfreeman@progressivereform.org](mailto:mfreeman@progressivereform.org). Visit CPR on the web at [www.progressivereform.org](http://www.progressivereform.org).*