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EDITORIAL: Leave our fish ponds alone

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Not content to have the government control the very air we exhale, some liberal members of Congress want to regulate every drop of water in the country and the land on which it sits. If they get their wish, the government would exercise dominion over land, air and sea to an extent never before seen.

Earlier this week came news of the decision by the power-hungry Environmental Protection Agency that carbon dioxide, which all animals and people exhale with every breath, amounts to an "endangerment" of human health. Now comes Rep. James Oberstar, Minnesota Democrat and chairman of the House Transportation and Infrastructure Committee, to try to match a Senate committee that already advanced a bill to radically expand the scope of federal water regulations. Last week, Mr. Oberstar's staff repeated his determination to do likewise by year's end, with a bill misnamed the Clean Water Restoration Act (CWRA).

The Senate version of the legislation looks deceptively like a minor change. As confirmed in several recent U.S. Supreme Court cases, federal regulatory authority currently extends only to waters that are navigable or perhaps directly connected to navigable waters. The Senate bill would remove the word "navigable." The significance of the dropped word is that any backyard fish pond or birdbath, any swimming pool or even a piece of low ground that is prone to forming puddles after rains, could be subject to the dictates of bureaucrats at the EPA and the Army Corps of Engineers.

That prospect makes even some Democrats nervous. A few months back, Sen. Blanche Lincoln, Arkansas Democrat, told a farm group that, "We certainly don't want to give the EPA the broad authority that would allow them onto your farms to regulate ponds, ditches and gutters."

And no wonder. Consider a case highlighted in a 2008 report issued by the [Washington Legal Foundation](#). Massachusetts small business owner James Knott had won awards for

manufacturing pollution-control technology, but that didn't protect him from the EPA. Twenty-one EPA agents, many of them armed, took over Mr. Knott's plant commando-style in November 1997 as they tested the pH of the facility's rinse-water discharges. A U.S. Attorney eventually indicted Mr. Knott on two felony counts of discharging water that was supposedly too acidic. The charges later were dropped when it turned out the lab reports had been tampered with; the actual discharges were fine all along. In the meantime, however, Mr. Knott lost hundreds of thousands of dollars in legal fees.

The good news is that 11 senators and 17 House members sent a letter on Tuesday to congressional leaders promising to put up a major fight against the CWRA because it would "slow or stop vital economic activities all across the country" and cost "thousands of jobs." The prospect of an unconstrained EPA, especially in a troubled economy, is reason enough to kill the proposal.