for 117 million Americans—1 out of every 3 Americans. The source of their water could very well come from unregulated supplies being exempt from the Clean Water Act. I don't think we want to do that.

I agree with my colleagues that we want to have certainty. That is why we want the rule to move forward. But it does more than that—the underlying bill. It also changes the standard that would be judged in deciding what is to be regulated waters. The current law says it is to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.''

In other words, it is science-based. If we need to regulate in order to protect our water supply, we can regulate. That is what we are trying to achieve—regulating waters that end up in our streams, waters that end up in our water supply. If, on the other hand, we take what is being done under this legislation to protect traditional navigable waters from pollution, we are exempting so many of the waters that are critically important. I mentioned a little earlier that it has to have a continuous flow. Well, there are seasonal variations of what enters into our water supply in this country. That would be exempt.

I want to dispel two things. First, this bill would remove certainty, not give certainty. The Supreme Court cases caused us to lose our traditional definitions of what was covered under the Clean Water Act. We need that. It returns certainty, which I think is in everyone's interest. The last point is—and I have said it many times, and the Department has confirmed this—this final rule on waters of the United States does not change the regulatory structure for permitting for agriculture. There are no additional requirements. They are exempt. The exemptions that exist today will continue to be exempt. The agency responded to the concerns of the agricultural community as they should.

The bottom line is that clean water and agriculture go together, and we all need to work together in that regard. So I urge my colleagues to allow this rule to go forward. I urge my colleagues not to have a legacy of weakening our protections for clean water in America, and that is what this bill would do.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 153, S. 1140, a bill to require the Secretary of the Army and the Administrator of the Environmental Protection Agency to propose a regulation revising the definition of the term ''waters of the United States,'' and for other purposes.

Mitch McConnell, Dean Heller, Jeff Flake, Steve Daines, Johnny Isakson, Mike Rounds, Ben Sasse, Roy Blunt, Daniel Coats, John Cornyn, John Boozman, Richard Burr, Cory Gardner, Shelley Moore Capito, Richard C. Shelby, David Perdue, John Barrasso.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1140, a bill to require the Secretary of the Army and the Administrator of the Environmental Protection Agency to propose a regulation revising the definition of the term ''waters of the United States,'' and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—57

Alexander	Ernst	Moran
Ayotte	Fischer	Murkowski
Barrasso	Flake	Paul
Blunt	Gardner	Perdue
Boozman	Graham	Portman
Burr	Grassley	Risch
Capito	Heitkamp	Roberts
Cassidy	Heller	Rounds
Coats	Hoeven	Rubio
Cochran	Inhofe	Sasse
Collins	Isakson	Scott
Corker	Johnson	Sessions
Cornyn	Kirk	Shelby
Cotton	Lankford	Sullivan
Crapo	Lee	Thune
Cruz	Manchin	Tillis
Daines	McCain	Toomey
Donnelly	McCaskill	Vitter
Enzi	McConnell	Wicker

NAYS—41

Baldwin	Heinrich	Reed
Bennet	Hirono	Reid
Blumenthal	Kaine	Sanders
Booker	King	Schatz
Boxer	Klobuchar	Schumer
Cantwell	Leahy	Shaheen
Cardin	Markey	Stabenow
Carper	Menendez	Tester
Casey	Merkley	Udall
Coons	Mikulski	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Franken	Nelson	Wyden
Gillibrand	Peters	

NOT VOTING—2

Brown	Hatch

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. MCCONNELL. Mr. President, I withdraw the motion to proceed to S. 1140.

The PRESIDING OFFICER. The motion is withdrawn.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2016—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to Calendar No. 118, H.R. 2685.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

Motion to proceed to Calendar No. 118, H.R. 2685, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2016, and for other purposes.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to H.R. 2685, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, James M. Inhofe, John Hoeven, John Thune, Lamar Alexander, Richard Burr, Jerry Moran, John Cornyn, James E. Risch, Mike Crapo, Steve Daines, Jeff Flake, Cory Gardner, John Boozman, Thad Cochran, Pat Roberts, David Perdue.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized for his inaugural address.

SENATE CULTURE

Mr. SASSE. Mr. President, I rise to speak from the floor for the first time. I have never been in politics before, and I intentionally waited to speak here.

I wish to talk about the historic purposes and uses of the Senate, about the decades-long decline of the legislature relative to the executive branch, and about what baby steps toward institutional recovery might look like.

Before doing so, let me explain briefly why I chose to wait a year since election day before beginning to fully engage in floor debate. I have done two things in my adult work life. I am a historian by training and a strategy guy by vocation. Before becoming a college president, I helped over a dozen organizations through some very ugly strategic crises, and one important lesson I have learned again and again when you walk into any broken organization is that there is a very delicate balance between expressing human empathy on the one hand and not becoming willing to passively sweep hard

truths under the rug on the other. It is essential to listen first, to ask questions first, and to learn how a broken institution got to where it is because there are reasons. People very rarely try to break special institutions that they inherit. Things fray and break for reasons.

Still, empathy cannot change the reality that a bankrupt company is costing more to produce its products than customers are willing to pay for them, that a college that has too few students is out not only of money but out of spirit. This is the two-part posture I have tried to adopt during my rookie year here. Because of this goal of empathetic listening first and interviewing first and because of a pledge I made to Nebraskans—in deference to an old Senate decision—last year I have waited.

Please do not misunderstand. Do not confuse a deliberate approach with passivity. I ran because I think the public is right that we are not confronting the generational challenges we face. We do not have a foreign policy strategy for the age of jihad and cyber war, and our entitlement budgeting is entirely fake. We are entering an age where work and jobs will be more fundamentally disrupted than at any point in human history since hunter-gatherers first settled in agrarian villages, and yet we do not have many plans. I think the public is right that the Congress is not adequately shepherding our Nation into the serious debates we should be having about the future of this great Nation.

I will outline the key observations from my interviews with many of my Senate colleagues in summary form on another day, but for now let me flag just the painful top-line takeaway. I don't think anyone in this body truly believes we are laser-focused on the greatest challenges our Nation faces—no one. Some of us lament this fact, some of us are angered by this fact, some of us are resigned to it, some try to dispassionately explain how we got to the place where we are, but I don't think anyone actually disputes it.

If I can be brutally honest for a moment, I am home basically every weekend, and what I hear every weekend, I think, are most of the same things most all of my colleagues hear every weekend, which is some version of this: a pox on both parties and all of your houses. We don't believe that the politicians are even trying to solve the great problems we face—the generational problems.

To the Republicans, those of us who would claim that the new majority is leading the way, few people believe it. To the grandstanders who would try to use this institution chiefly just as a platform for outside pursuits, few believe that the country's needs are as important to you as your own ambitions.

To the Democrats who did this body great harm through nuclear tactics, few believe that bare-knuckled politics are a substitute for principled governing.

Who among us doubts that many—both on the right and on the left—are now salivating for more of these radical tactics? The people despise us all.

Why is this? Because we are not doing our job. We are not doing the primary things that the people sent us here to do. We are not tackling the great national problems that worry our bosses at home. I therefore propose a thought experiment. If the Senate isn't going to be the venue for addressing our biggest national problems, where should we tell people that venue is? Where should they look for long-term national prioritization if it doesn't happen on this floor? To ask it more directly of ourselves, Would anything really be lost if the Senate didn't exist?

To be clear, this is a thought experiment, and I think that many great things would be lost if the Senate didn't exist, if our Federal Government didn't have the benefit of this body, but game out with me the question of why. What precisely would be lost if we only had a House of Representatives, a simple majoritarian body instead of both bodies? The growth of the administrative state, the fourth branch of government, is increasingly hollowing out the Senate and the entire article I branch, the legislature. Oddly, many in the Congress have been complicit in this hollowing out of our own powers. Would anything really be lost if we doubled down on Woodrow Wilson's obsession and inclination toward greater efficiency in government, his desire to remove more of the clunkiness of the legislative process? What would be lost? We could approach this thought experiment from the inside out and ask: What is unique about the Senate? What can this body do particularly well? What are the essential characteristics of just this place, which has often been called the gem of the Founders' structure. What was the Senate built for? Let's consider its attributes.

We have 6-year terms, not 2-year terms, and the Founders actually deliberated about whether Senators should have lifetime appointments. We have proportional representation of States, not of census counts, reflecting a Federalist concern that we would always maintain a distinction between perhaps agreeing that government has a responsibility to address certain problems and yet guarding against a routinized assumption that only a centralized, nationalized, one-size-fits-all government could tackle X or Y.

Third, we have rules designed to empower individual Senators, not to the end of obstruction but for the purpose of ensuring full debate and engagement with dissenting points of views, for the Founders didn't share Wilson's concern with governmental efficiency, they were preoccupied with protecting minority rights and culturally unpopular views in this big and diverse Nation.

Fourth, we didn't even have any rules in this body that recognized political parties until the 1970s. There was merely an early 20th century convention that gave right of first recognition in floor debate to the leaders of the two largest voting blocks. We have explicit constitutional duties related to providing the Executive with advice—it is a pretty nebulous thing—about building his or her human capital team and about the long-term foreign policy trajectory of this Nation. Six-year terms, representation of States, not census counts, nearly limitless debate to protect dissenting views, almost no formal rules for political parties, what does all this add up to? What is the best answer to the question, What is the Senate for?

Probably the best shorthand is this: to shield lawmakers from obsession with short-term popularity so we can focus on the biggest long-term challenges we face.

Why does the Senate's character matter? Precisely because the Senate is built to insulate us from ''short-termism.'' That is the point of the Senate. This is a place built to insulate us from opinion fads and from the bickering of 24-hour news cycles. That is the point of the Senate. The Senate is a place to focus on the biggest stuff. The Senate was built to be the antidote to sound bites.

I have asked many of you what you think is wrong with the Senate. What is wrong with us? As in most struggling organizations, in private it is amazing how much common agreement there actually is. There is so much common agreement about what around here incentivizes short-term thinking and behavior over long-term thinking, behaving, and planning.

The incessant fundraising, the ubiquity of cameras everywhere that we talk, the normalization over the last decade of using many Senate rules as just shirts-and-skins exercises, the constant travel—again, fundraising—meaning, sadly, many families around here get ripped up. That is one of the things we hear about most in private in this body. This is not to suggest that there is unanimity among you in these private conversations. The divergence is actually most pronounced at the question of what comes next and whether permanent institutional decline is inevitable in this body. Some of you are hopeful for a recovery of a vibrant institutional culture, but I think the majority of you, from my conversations, are pessimistic. The most common framing of this question or this worry is this: OK. So maybe this isn't the high moment in the history of the Senate, but isn't the dysfunction in here merely an echo of the broader political polarization out there? It is an important question. Isn't the Senate broken merely because of a larger shattered consensus of shared belief across 320 million people in this land? Surely that is part of the story, but there is much more to say.

First, the political polarization beyond Washington is so often overstated. We could talk about the election of 1800, the runup to the Civil War, the response to Catholic immigration waves at the beginning of the last century, the bloodiest summers of the Civil Rights movement, the experience of troops returning from Vietnam, if you want to mark some really high-water marks of political polarization in American life.

Second, civic disengagement is arguably a much larger problem than political polarization. It isn't so much that most regular folks we run into back home are really locked into predictably Republican and predictably Democratic positions on every issue, it is that they tuned us out altogether. Despite the echo chambers of those of us who have these jobs, are we aware that according to the Pew Research Center, the 24-hour viewership of CNN, FOX, and MSNBC is about 2 million. That is it.

Third, one of our jobs is to flesh out competing views with such seriousness and respect that we, the 100 of us, should be mitigating, not exacerbating, the polarization that does exist. This is one of the reasons we have a representative rather than a direct democracy.

Fourth, surveys reveal that the public is actually much more dissatisfied with us than they are even scared about the intractability of the big problems we face. Consider the contrast. Somewhere between two-thirds and three-quarters of the country think the Nation is on a bad track; that the experiences of their kids and grandkids will be less than the experience of their parents and grandparents. That is bad. Consider this: Only 1-in-10 of them is comforted that we are here doing these jobs.

Let's be very clear what this means. If the American people were actually given a choice to decide whether to fire all 100 of us and all 535 people in the Congress, do any of us doubt at all what they would do?

There are good and bad reasons to be unpopular. A good reason would be to suffer for waging an honorable fight for the long term that has near-term political downsides, like telling seniors the truth that the amount they have paid in for Social Security and Medicare is far less than they think and far less than they are currently receiving. That would be a good reason to be unpopular, but deep down we all know the real reason the political class is unpopular is not because of our relentless truth-telling but because of politicians' habit of regularized pandering to those who most easily already agree with us.

The sound-bite culture, whether in our standups for 90-second TV in the Russell rotunda or our press releases or what we all experienced on our campaigns—both for and against—the sound-bite culture is everywhere around us. We understand that, but do we also understand and affirm in this body that this place was built expressly to combat that kind of reductionism, that short-termism?

The Senate is a word with two meanings. It is the 100 of us as a community, as a group, as a body—that is an important metaphor—and it is this room. This is the Chamber where we assemble supposedly to debate the really big things. What happens in this Chamber now is what is most disheartening to a newbie like me. As our constituents know, something is awry here. We, in recent decades—again, this is a body and not just us but what we have inherited—have allowed short-termism and the sound-bite culture to invade this Chamber and to reduce so many of our debates to fact-free zones.

I mentioned that I have done two kinds of work before coming here. I was a historian/college president and crisis turnaround guy. Although they sound very different, they actually have a lot of similarities because they are both driven by a kind of deliberation, a Socratic speech.

Good history is good storytelling, and good storytelling demands empathy. It requires understanding different actors, differing motivations, and competing goals. Reducing everything immediately to good versus evil is bad history—not only because it isn't true and because it is unpersuasive but because it is really boring. Good history, on the other hand, demands that one be able to talk Socratically so you can present alternate viewpoints, not straw-man arguments, and explain how people got to where they are.

Similarly, can you imagine a business strategist who presents just one idea and immediately announces that it is the only right idea, the only plausible idea, and every other idea is both stupid and wicked? How would companies respond to such a strategist? They would fire him. A good strategist, by contrast, puts the best construction on a whole range of scenarios, outlines the best criticisms of each option, especially including the option you plan to argue for most passionately, and then you assume that your competitors will upgrade their game in response to your opening moves. This is a kind of Socratic speech. But bizarrely, we don't do that very much around here. We don't have many actual debates.

This is a place that would be difficult today to describe as the greatest deliberative body in the world, something that was true through much of our history. Socrates said it is dishonorable to make the lesser argument appear the greater or to take someone else's argument and distort it so that you don't have to engage their strongest points. Yet here, on this floor, we regularly devolve into a bizarre politician speech. We hear the robotic recitation of talking points.

Well, guess what. Normal people don't talk like this. They don't like that we do, and more important than whether or not they like us, they don't trust our government because we do.

It is weird, because one-on-one, when the cameras are off, hardly anyone around here really thinks the Senators from the other party are evil or stupid or bribed. There is actually a great deal of human affection around here, but again, it is private, when the cameras aren't on.

Perhaps I should pause and acknowledge that I am really uncomfortable with this as an opening speech. It is awkward, and I recognize that talking honestly about the recovery of more honest Socratic debate runs the risk of being written off as being overly romantic and naively idealistic. To add to the discomfort, I am brand new to politics, 99th in seniority, and occasionally mistaken for a page. But talking bluntly about what is not working in the Senate in recent decades—not just this year or last year—but talking bluntly about what is not working around here is not naive idealism; it is aspirational realism. Here is why. I think that a cultural recovery inside this body is a partial prerequisite for a national recovery.

I don't think that generational problems such as the absence of a long-term strategy for combatting jihad and cyber war, such as telling the truth about entitlement overpromising, and such as developing new human capital and job retraining strategies for an era of much more rapid job change than our Nation has ever known—I don't think that long-term problems such as these are solvable without a functioning Senate. And a functioning Senate is a place that rejects short-termism, both in substance and in tone.

The Senate has always had problems. This is a body made up of sinful human beings, but we haven't always had today's problems. There have been glorious high points in the Senate. There have been times when this place has flourished, and I believe a healthier Senate is possible again. But it will require models and guides.

To that end, I have been reflecting on three towering figures over the last half-century who used this floor quite differently than we usually use it today, and who thereby have much to teach us. Before naming them, let me clarify my purpose. I don't think there is a magic bullet to the restoration of the Senate. My purpose in speaking today is really just to move into public conversations I have been having with lots of you in private as I try to define a personal strategy for how to use the floor. I want advice, and I am opening a conversation on how to contribute to the broader theme. There are many of you here who want an upgrading of our debate, of the culture, of the prioritization, and of our seriousness of what are truly the biggest long-term challenges we face.

Two weeks ago, in a discussion with one of you about these problems, I was asked: So you are going to admit our institutional brokenness and issue a call for more civility? No. While I am in favor of more civility, my actual call here is for more substance. This is

not a call for less fighting. This is a call for more meaningful fighting. This is a call for bringing our A game to the biggest debates about the biggest issues facing our people and with much less regard for 24-month election cycles and 24-hour news cycles. This is a call to be for things that are big enough that you might risk your reelection over.

So let's name the three folks who have something on which to instruct us because they brought a larger approach to the floor.

First, I sit quite intentionally at Daniel Patrick Moynihan's desk. The New Yorker who cast a big shadow around here for a quarter century famously cautioned that each of us is entitled to our own opinions, but we are most certainly not entitled to our own set of facts. He read social science prolifically and sought constantly to bring data to bear on the debates in this Chamber. Like any genuinely curious person, he asked a lot of questions. So you couldn't automatically know what policy he might ultimately advocate for because he asked hard questions of everyone. He had the capacity to surprise people. We should do that.

Second, in a time when circling partisan wagons and castigating the opposing party feels reflexively easy, we can all benefit from reading again Margaret Chase Smith's heroic ''Declaration of Conscience'' speech on this floor in June of 1950. The junior Senator from Maine was a committed anti-Communist. She was also called the first female cold warrior in the Nation. For her, that meant not knee-jerk opposition to competing views but rather the full-throated defense of what she called ''Americanism.'' She defined it as ''the right to criticize; the right to hold unpopular beliefs; the right to protest; and the right of independent thought.'' Senator Smith was rightly worried about Alger Hiss and the infiltration of the State Department by actual Communist spies. This was actually happening. So for her, grandstanding and lazy character smearing were not only dishonest, they were distracting and therefore inherently dangerous. Thus, the freshman Senator—at this point she was the only woman in the body—came to the floor to demand publicly what she repeatedly sought unsuccessfully in private from Joe McCarthy. Was there any evidence for all of these scandalous claims? Think of that. As a committed truth-teller, she was willing to challenge someone not just in her own party but someone with whom she had lots of ideological alignment. She wanted to reject straw-man arguments and disingenuous attacks. Because of that moment, 4 years later the Senate would censure McCarthy and banish McCarthyist tactics from this floor.

Finally, and for my purposes today most importantly, I would like us to recall Robert Byrd, one of the larger figures in the two-and-a-half-century history of this body. As a historian, I have long been a student of the West Virginian, troubled though he was.

We sometimes conceive of our role today here as merely policy advocates—as those who argue for our respective party's position on short-term policy fights, and that is sometimes important, but that is only one of our roles, for we don't have a parliamentary system and we don't have one on purpose. With Moynihan and Margaret Chase Smith, we also need to contextualize our debates about our largest national challenges with facts and data. We need to agree on what problems we are trying to solve before we bicker about which programs would be more or less effective toward those ends. We need to challenge those in our own party not to construct straw-men arguments with those we are debating. But there is something else we need as well.

Beyond policy advocating and policy clarifying, we need an overarching shared narrative of what America means. We need to pause to regularly recall the larger American principles that bind us together—our constitutional creed, our shared stories, and our exceptional American commitment to a dream of life, liberty, and the pursuit of happiness for all 320 million of our country men and women.

We all know in our marriages that sometimes the only way around a small disagreement is to pause to embrace again our larger shared commitments and our history. We need more of that here. We need to be able to more often agree on some big things before we get to the work of honorably disagreeing about smaller things.

One of the important legacies of Senator Byrd—and again this is no commentary on other aspects of his messy past—but one of the important legacies of Senator Byrd is that he forced this Senate to grapple with our history, with the 100 of our specific duties, and with the unique place in the architecture of Madisonian separation of powers that this body and this body alone sets.

To return to our thought experiment, do we think the Founders would have regarded a 9-percent congressional approval rating—a stunning level of distrust in representative government—do we think they would have regarded that as an existential crisis? Is it conceivable we can get away with just drifting along like this or must we fix it? Count me emphatically among those who think we need to fix it. We should not be OK with this.

If we are going to restore this place, part of it will center on recovering the executive-legislative distinction. The American people should be demanding more of us as legislators, and they should be demanding more of the next President as a competent administrator of the laws that we pass. This is possible only if we again recover a sense of our identity that has some connection not just to Republican and Democrat but to the Constitution's article I legislative duties and some tension on purpose with the duties of the article II executive branch. Everything cannot be simply Republican versus Democrat. We need Democrats who will stand up to a Democratic President who exceeds his or her power, and I promise you that I plan to speak up the next time a President of my party seeks to exceed his or her legitimate constitutional powers.

Despite all of his other failings, Robert Byrd labored hard to mark these nonpartisan lines, and we should too. To that end, in the coming months I plan a series of floor speeches on the historic growth of the administrative state. This will not be a partisan effort. It will not be a Republican Senator criticizing the current administration because it is Democratic. Rather, it will be a constructive attempt to try to understand how we got to the place where so much legislating now happens inside the executive branch. Our Founders wouldn't be able to make sense of the system we are living right now.

This kind of executive overreach came about partly because of a symbiotic legislative underreach. Republicans and Democrats are both to blame for grabbing more power when they have the Presidency. Republicans and Democrats are both to blame in this legislature for not wanting to take on hard issues and to lead through hard votes but rather to sit back and let successive Presidents gobble up more and more power. We can and we must do better than this.

A century-long look at the growth of executive branch legislating over the next many months will be an attempt to contribute to the efforts of all here, both Republicans and Democrats, who want to see the Senate recover some of its authorities and to recover some of its trustworthiness in the eyes of the people for whom we work.

Each of us has an obligation to be able to answer this question: Why doesn't Congress work and what is your plan for fixing the Senate? If your only answer to this question is to blame the other party, then you don't get it, and the American people think you are part of the problem, not part of the solution.

This institution wasn't built for the two political parties, and this institution wasn't built just to advocate policy X versus new policy Y for next month. We must serve as a forum for helping our Nation understand and navigate the hardest generational debates before us. Our ways of speaking should mitigate, not exacerbate, the polarization that does exist. As was well said around here last week:

> We will not always agree—not all of us, not all of the time. But we should not hide our disagreements. We should embrace them. We have nothing to fear from honest differences honestly stated . . . [for] I believe a greater clarity between us can lead to greater charity among us.

Again, saying that we should be reducing polarization doesn't mean we

should be watering down our convictions. I mean quite the contrary. We do not need fewer conviction politicians around here; we need more. We don't need more compromising of principles; we need a clearer articulation and understanding of the competing principles so that we can actually make things work better and not merely paper over the deficits of vision that everyone in the country knows exist.

We should be bored by lazy politician speech. We should be bored by knee-jerk certainties on every small issue. We should primarily be doing the harder work of trying to understand competing positions on the larger issues.

Good teachers don't shut down debate; they try to model Socratic seriousness by putting the best construction on their arguments, even and especially to those on which they don't agree. Our goal should not be to attack straw men but rather to strengthen and clarify meaningful contests of ideas for the American people.

Representative government will require civic reengagement. Our people need to know that we in this body are up to the task of leading during a time of nearly universal angst about whether this Nation is on a path of decline.

A 6-year term is a terrible thing to waste. A 2-year term requires hamster-wheel frenzy; our jobs do not. I think we can do better, and I pledge to work with all of those who want to figure out how.

Thank you, Mr. President.

(Applause, Senators rising.)

The PRESIDING OFFICER (Mr. LANKFORD). The majority leader.

CONGRATULATING SENATOR SASSE

Mr. MCCONNELL. Mr. President, I would like to congratulate our new colleague, Senator SASSE. There was a good deal of suspense attached to wondering what the junior Senator from Nebraska would have to say, as he chose to wait until the end of the year and to listen and begin to study the institution. I expect most people would not have predicted that the best lesson we were to hear about what is wrong with the Senate and what needs to change would come from somebody who just got here.

I think the fact that there were so many Senators on the floor to listen was a tribute to the great work the Senator has done here and the study he has put into this institution and what needs to be done on all of our parts to make it work better.

On behalf of all of the Senate, I congratulate the junior Senator from Nebraska on an extraordinary maiden speech.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, that was a wise speech. It was a speech that made me think of the comment someone once said—that the Senate was the one authentic piece of genius in the American political system. What Senator SASSE has done is put fresh eyes on a subject, and sometimes fresh eyes are the best eyes.

What he has reminded us is to remember what a privilege it is to serve here and that if we are temporarily entrusted with the responsibility and opportunity to give real meaning to the idea that this is the one authentic piece of genius in the American political system, we have some work to do.

I am delighted he is here. I am delighted he took the time to wait, study, listen, and make his comments. I listened very carefully. I hope every single Member of the Senate did. I pledge to work with him toward the goal he set out. I look forward to serving with him for a long time.

The PRESIDING OFFICER. The majority leader.

Mr. MCCONNELL. Mr. President, for the information of all Senators, we should expect a rollcall vote around 4 o'clock on the motion to proceed to S.J. Res. 22, which is the Congressional Review Act on the waters of the United States.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. ERNST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WATERS OF THE UNITED STATES RULE

Mrs. ERNST. Mr. President, I rise today to talk about this ill-conceived and harmful waters of the United States rule—better known as WOTUS—and how its implementation threatens the livelihoods of many of my fellow Iowans.

As the Presiding Officer knows, recent court decisions have forced this rule—EPA's latest power grab—to come to a screeching halt across the country because of the likelihood that EPA has overstepped its authority. To be clear, it is not just me saying that; it is the court.

As my colleague and friend, the senior Senator from Iowa, CHUCK GRASSLEY, often says, Washington is an island surrounded by reality. There is not a more perfect phrase to describe how the events and processes have unfolded surrounding this confusing rule. Only in Washington do unelected bureaucrats take 300 pages to simplify and provide clarity. This rule is so complex and so ambiguous that folks in my State are concerned that any low spot on a farmer's field or a ditch or a puddle after a rainstorm may now fall under the EPA's watch.

We all want clean water and clean air. That is not disputable. Time and again, I have emphasized that the air we breathe and the water we drink need to be clean and safe. Statements suggesting otherwise cannot be further from the truth. It is unfortunate that the EPA continues to fuel that line of false attack through their election-style tactics and controversial lobbying efforts on social media.

This rule and this debate are not about clean water. The heart of this debate is about how much authority the Federal Government and unelected bureaucrats should have to regulate what is done on private land.

You can see the map behind me. Look at my State of Iowa. This rule would give the EPA extensive power to regulate water on 97 percent of the land in the State of Iowa—97 percent. If you compare that to Iowa's Federal land percentage in acreage of 0.3 percent, it is quite a shift in the current makeup of Federal authority over the land in Iowa.

I spent the weekend going back through letters my fellow Iowans have sent me on this issue. So many of them are frustrated with the lack of common sense coming out of Washington. They are taking this issue personally because their livelihood depends on it. Many of the letters I get are from farmers who spend their days working land that has been in their families for generations, some going back over 100 years. They have an incentive to take care of their land and conserve it for future generations. Caring for the land and conserving is a way of life in the heartland. It is as if the EPA turns a blind eye to that fact.

One Iowan wrote:

> This proposed rule is so vague, long, and very unclear, that I feel they are wanting farmers to fail so a large fine can be assessed. Why am I taking this so personal? Because for me and my family, we live off this land. If we don't take care of it, it will not take care of us. So I will do whatever I can to protect this land and water for my children. My family lives on well water. My cattle drink from the same wells. I don't want either to get sick.

That is what one Iowan wrote. I believe the same exactly.

This rule would give EPA the authority to expand its power over family farms, small businesses, ranches, and other landowners in our rural community. Iowans are so concerned about this rule because they know it will actually create a negative impact on conservation and it is contradictory to the commonsense and voluntary work that is taking place in communities across Iowa today.

In Iowa, we have had a State-level clean water initiative in place for several years now. It is a partnership between the State legislature, the Department of Natural Resources, the Iowa Department of Agriculture and Land Stewardship, Iowa State University, and a myriad of stakeholders across the State.

The voluntary Nutrient Reduction Strategy is based on extensive research and provides a path forward for conservation efforts that individual farmers can pursue with matching funds from the State. This science-based approach provides incentives for farmers and other landowners to make sustainable decisions on their own land rather than be forced to adhere to a one-size-fits-all regulation that would do far more harm than good. A farm in Iowa is not the same as one in Montana, and the rolling plains of Texas are very different from the hills and valleys of

Pennsylvania. This is simply one more reason this WOTUS rule is the wrong approach. A one-size-fits-all solution from inside the beltway could have disastrous effects nationwide.

As I mentioned, I have heard from constituents across the State of Iowa who have grave concerns with the ambiguity of this rule. They are holding off on making conservation improvements to their land for fear of being later found out of compliance with this WOTUS rule and facing significant fines. Maybe it is because we are so ''Iowa nice'' that we are inclined to work together collaboratively rather than simply issuing more onerous regulations.

Take the Middle Cedar Partnership, for example. This project in Eastern Iowa uses local dollars and State funding, coupled with Federal grants from the USDA, to organize and advocate for land practices that improve water quality downstream. The coalition is made up of city, county, and State officials, businesspeople, farmers, environmentalists, and other concerned citizens. Together they are making meaningful progress on multiple watershed projects within the Cedar River basin and sharing what they have learned. This approach is now being adopted by other municipalities within the State.

Contrary to what some claim, Iowa has done all of this on its own, not at the behest of the EPA. In fact, the EPA has asked the leaders of Iowa's efforts to come to DC and explain how they are able to get such grassroots buy-in on voluntary conservation projects and programs. The other States in the Mississippi River Basin look to Iowa as a leader on water quality and are modeling their own State-level efforts after ours in the State of Iowa. While there are clear indications that this WOTUS rule is illegal and likely to be scrapped by the courts, that process could take years to play out—and all at the expense of the average American.

Let's not wait around for the inevitable and force our small farmers and businesses to operate in the dark while they wait. Let's fix this now and give American families the certainty they deserve. We can do that by passing the legislation before us.

I have led the charge in the Senate on this joint resolution of disapproval which would scrap the rule entirely. My legislation is the necessary next step in pushing back against this blatant power grab by the EPA. We will send this to the President, and he will be forced to decide between the livelihood of our rural communities nationwide and his unchecked Federal agency.

I also voted for S. 1140, which provides the EPA with clear principles and directions on how best to craft a waters of the United States rule. It spells out steps they should have taken prior to finalizing this rule to guarantee they can take into consideration the thoughtful comments from folks such as farmers, ranchers, small businesses, and manufacturers. Congress is acting because it is evident that the EPA did not seriously consider the comments and perspective from those whom this rule will directly impact, and it is clear they are far outside the bounds of the congressional intent of the Clean Water Act.

Iowa is bounded by rivers. The very shape of our State is dictated by the mighty Mississippi and Missouri Rivers. Take one look at commerce and recreation happening on them, and it is easy to see why these are considered navigable waters. When Congress passed the Clean Water Act, this was the type of water it intended to protect, not a grass waterway running across a farmer's field or a ditch bordering it. This rule ignores congressional intent and is nothing more than a power grab by the EPA.

The EPA continues to run roughshod over Iowans, acting as if they are a legislative body—something they have no business doing. It is no wonder they have lost the trust of the American people and many in Congress. Every community wants clean water and to protect our Nation's waterways, but we simply cannot allow mounting, unnecessary regulations to overwhelm the commonsense voice of hard-working Americans, especially when they are not based on sound science. Again, it is not just me saying that, the courts and the Army Corps have both called the EPA on their shaky data, or lack thereof. Yet unelected bureaucrats remained committed to making a political decision instead of the right decision.

As Iowa's U.S. Senator, it is my responsibility to speak for the folks I represent and hold the Federal Government accountable when it is clear they have gone too far. And make no mistake—they have here.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I rise in strong support of this effort to turn back this rule. The rule has been well explained by the Senator from Iowa. Her efforts are about all that Congress can currently do. Frankly, I would hope that we can figure out how to go further so that the Congress has to approve every rule that is issued by every agency of government that has significant economic impact.

It is, frankly, hard to imagine a rule that has a more wide-ranging impact or more economic impact than this one does. As has been well pointed out, the authority given to the EPA under the Clean Water Act was very consistent with Federal discussions and debates for 170 years. I think 1846 was the first time the term ''navigable waters'' was used in Federal law, in a bill that James Knox Polk—President Polk actually vetoed the bill, but the term was understood, and it quickly came back into Federal law, and it meant exactly what it said: navigable waters of the United States.

Why would that be a Federal responsibility? Because ''navigable'' means you can move something on it. ''Moving something on it'' means commerce, and one of the principal reasons for the Constitution was to regulate interstate commerce. So this is a long-established principle. Yes, there is some Federal responsibility for those avenues of commerce in the country—areas, rivers, waterways you can navigate. But, of course, that is not good enough for the EPA—170 years of Federal law, total and complete understanding around the country and, it appears, even on the part of Federal judges of what ''navigable'' means.

There is a way to get expanded jurisdiction if the EPA wanted expanded jurisdiction, and that is to come to Congress and say: Give us not just responsibility over navigable waters but all the water that can run into all of the water that can run into any water that can run into any water that can run into navigable waters.

If the EPA got this jurisdiction, you wouldn't be able to come up with enough Federal bureaucrats to oversee this level of jurisdiction. In a map that is not nearly as large as the map we have on the poster but a map that the Missouri Farm Bureau put out in our State, this is how much of the State of Missouri would be under the jurisdiction of the EPA under this law.

Even if you are standing very close to this map, you can't see the non-red areas. The red area is the new Federal jurisdiction. The non-red area is three-tenths of 1 percent of the State. So anything that goes on in 99.7 percent of our State is really founded on the basis of the rivers that cut through the middle of it, that bind it on the east, and would be, obviously, waters that are in most cases navigable and inarguably navigable, but all the water that runs into any water that could ever run into any water that runs into that water is clearly not navigable.

That is why county commissioners all over our State are calling and saying: If this passes, what does it mean? Can we mow the right-of-way without a Federal permit?

There is no question that if this passes, every roadside ditch in the entire State of Missouri would be navigable waters. There is nowhere outside the offices of the EPA and the most extreme among us where anybody would want to argue that every ditch along every road and highway is navigable waters. The EPA wants jurisdiction they couldn't exercise.

This is a moment when Congress can stand and say: We do not want this rule to go into effect. We are going to pass a resolution that puts this on the President's desk, and if the President is going to be for this no matter what the courts say, no matter what the Corps of Engineers says, no matter what the Congress says, the President has to take a position on this rule. It is his EPA; it is out of control on this rule.

I hope my colleagues join the Senator from Iowa and me and many others in saying we don't want this rule to go into effect.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE CORPS OF ENGINEERS AND THE ENVIRONMENTAL PROTECTION AGENCY—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, pursuant to the provisions of the Congressional Review Act, I move to proceed to S.J. Res. 22, a joint resolution providing the congressional disapproval of the rule submitted by the Corps of Engineers and the EPA relating to the definition of ''waters of the United States'' under the Federal Water Pollution Control Act.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 286, S.J. Res. 22, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to the definition of ''waters of the United States'' under the Federal Water Pollution Control Act.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from South Carolina (Mr. GRAHAM).

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN) is necessarily absent.

The PRESIDING OFFICER (Ms. AYOTTE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—55

Alexander	Corker	Flake
Ayotte	Cornyn	Gardner
Barrasso	Cotton	Grassley
Blunt	Crapo	Hatch
Boozman	Cruz	Heitkamp
Burr	Daines	Heller
Capito	Donnelly	Hoeven
Cassidy	Enzi	Inhofe
Coats	Ernst	Isakson
Cochran	Fischer	Johnson
Kirk	Perdue	Shelby
Lankford	Portman	Sullivan
Lee	Risch	Thune
Manchin	Roberts	Tillis
McCain	Rounds	Toomey
McConnell	Rubio	Vitter
Moran	Sasse	Wicker
Murkowski	Scott	
Paul	Sessions	

NAYS—43

Baldwin	Heinrich	Reed
Bennet	Hirono	Reid
Blumenthal	Kaine	Sanders
Booker	King	Schatz
Boxer	Klobuchar	Schumer
Cantwell	Leahy	Shaheen
Cardin	Markey	Stabenow
Carper	McCaskill	Tester
Casey	Menendez	Udall
Collins	Merkley	Warner
Coons	Mikulski	Warren
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Franken	Nelson	
Gillibrand	Peters	

NOT VOTING—2

Brown	Graham

The motion was agreed to.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE CORPS OF ENGINEERS AND THE ENVIRONMENTAL PROCTECTION AGENCY

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 22) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to the definition of ''waters of the United States'' under the Federal Water Pollution Control Act.

The PRESIDING OFFICER. Pursuant to 5 USC 802(d)(2), there is 10 hours of debate, equally divided, on the joint resolution.

The Senator from Iowa.

Mrs. ERNST. Madam President, I wish to take a quick moment and thank my friends, my colleagues for supporting this effort, and I look forward to some lively discussion on the EPA's overreach and this WOTUS rule. I encourage my fellow Republicans and my fellow Democrats to carefully consider what this overreach by the EPA does to their home States. Just as it does in Iowa—it covers 97 percent of our land. I encourage them to listen to their constituents very carefully as we move forward on this debate and this vote.

Again, I thank my colleagues for supporting this effort.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I wish to congratulate our friend and colleague, the Senator from Iowa, on this strong vote on the motion to proceed to this congressional resolution of disapproval of this overreaching regulation issued by the Environmental Protection Agency. I want to talk a little bit about this rule, but I also want to talk about how symptomatic this is of the overreach we are seeing coming from the executive branch, particularly when it involves rulemaking.

This rule is a response to a Supreme Court decision and a number of other decisions by the lower courts which held previously that the Federal Government had overreached when it comes to trying to regulate so-called navigable waters of the United States.

I think there is no real question in anybody's mind that under the interstate commerce provisions of the U.S. Constitution, the Federal Government has a responsibility when it comes to navigable waters, but, as the Sixth Circuit Court of Appeals said in a decision it handed down on October 9, the plaintiffs in the case against the Environmental Protection Agency and this particular rule established a substantial possibility of success on the merits of their claims where they said that the rule's treatment of tributaries, adjacent waters, and waters having a significant nexus to navigable waters is at odds with the Supreme Court's decision in the Rapanos case, which was handed down in 2006. It said also that the provisions of the rule make it unclear as to the distance limitations, whether it is harmonious with the decisions of the Supreme Court. So, for example, if you could say the tributary that feeds another body of water that feeds another body of water that then feeds another body of water that eventually gets into navigable water is subject to the rulemaking authority of the Environmental Protection Agency is in conflict with the decision in the Rapanos case, and I don't believe it would ever withstand constitutional scrutiny.

Moreover, the Sixth Circuit Court of Appeals said the rulemaking process by which the so-called distance limitations were adopted is suspect. They said it did not include any proposed distance limitation in use of the terms such as ''adjacent waters'' or ''significant nexus.'' So under the opinion of the Sixth Circuit Court of Appeals, a body of water could be far removed from that navigable water and still be determined as an adjacent water or have a significant nexus and be subject to the far-reaching provisions of the rule.

The Sixth Circuit Court of Appeals also said that there was no scientific support for the distance limitations that were included in the final rule.

The plaintiffs contended and the Sixth Circuit agreed that this rule is not the product of reasoned decisionmaking and is vulnerable to attack as impermissibly arbitrary or capricious under the Administrative Procedure Act.

Ordinarily, the Court of Appeals for the Sixth Circuit said, they would not issue a stay pending the resolution of the challenge to the rule, but they said the sheer breadth of the ripple effect caused by the rule's definitional changes counsel strongly in favor of maintaining the status quo for the time being. They also noted that the rule had already been stayed in 13 different States where previous litigation had been filed and decided. So, as a result, on October 9, the Sixth Circuit