

THE HONORABLE JEFF FLAKE

*Subcommittee on National Parks, Forest and Public Lands
Legislative Hearing on H.R. 5971 – Emergency Water Supply Restoration Act
1334 Longworth House Office Building – Friday, June 8, 2012, 9:00 a.m.*

Mr. Chairman, thank you for the opportunity to provide comments in support of H.R. 5791, the Emergency Water Supply Restoration Act, which I have introduced this Congress.

This legislation would ensure that during a declared state of emergency, local authorities are able to promptly make reasonable repairs to water supplies and infrastructure in federal Wilderness areas.

The Committee needs look no further than the current situation facing the City of Tombstone, Arizona to see the need for this legislation. The unforeseen consequences of federal laws and regulations threaten to do something outlaws, economic busts, and the Arizona desert couldn't...kill the town too tough to die.

As I am sure we will hear from our witnesses, after the record-setting 2011 fire season, monsoon-caused floods damaged mountain springs and piping that comprise Tombstone's primary water source, causing the Governor to declare an emergency and the town to seek repairs.

The problem is that several of the springs Tombstone had been drawing water from for more than a century fall within the boundaries of the Miller Peak Wilderness, established by an Act of Congress in 1984.

With that designation, Congress had tasked the Forest Service with carrying out a mission to keep this land untrammeled by man – despite the fact that a manmade water system ran through its boundaries.

So when Tombstone wanted to go in restore their water system they were meant with a mountain of red tape. Mechanized and motorized equipment would need to be approved and, in some cases, horses would be required to bring pipes to the sites and hand-tools would have to be used to install them.

Now I don't believe that when this Wilderness area was created, it was the intent of Congress to make life ever harder on the people of Tombstone; but as so often is the case, there are unintended consequences to what we do here.

Tempers flared, lines were drawn, and accusations flew between the good people of Tombstone and the hard-working men and women of the Forest Service; but if we are really after who is to blame, we ought to just look in a mirror.

I took a cue from the determination of all involved and worked to facilitate some sort of agreement where Forest Service could adhere to the law and Tombstone could have access to its primary water source.

After weeks of discussions, several site visits, and a few permit requests, I am pleased to say that Tombstone and the Forest Service have come to an agreement on an immediate plan to start the process of protecting the current temporary repairs from new flood damage.

However, this is just a small albeit promising step forward in a long and tedious process. In the mean time, the future of Tombstone's water supply remains in question and Forest Service still has to carry out a mountain of Congressional mandates. It's clear that a long-term solution will have to come from Congress.

To that end, I have introduced H.R. 5791, the Emergency Water Restoration Act. My bill would allow Forest Service to step aside and let people like Nancy Sosa, who I thank for coming all the way from Tombstone to testify today, rebuild after a catastrophic event takes their water.

Opponents will say that it gives too much power to the state, and it places the needs of a town above those of the environment. With all do respect...good.

I'm a fifth generation Arizonan. I know the value of water in the desert and I know what happens to people and business when it's in short supply.

Opponents will also say stated that H.R 5791 is unnecessary because there are already mechanisms in the law to allow for expedited access to, and the use of, mechanized and motorized equipment in wilderness areas. And as they say that I want the committee to think about how one year after the original metal pipeline was destroyed, Tombstone is still relying on a vulnerable, temporary fix constructed from plastic piping.

Simply put, the Emergency Water Supply Restoration Act affirms that when there is a disaster affecting water supplies, the health and safety of the American people comes first.

Mr. Chairman, I appreciate the opportunity to offer testimony in support this legislation and I look forward to it moving through the legislative process.