

Protecting Aquatic Life

Federal regulation of water continues to grow



“Protecting Aquatic Life from Effects of Hydrologic Alteration” is a joint report of the U.S. EPA and U.S. Geological Survey. This 92-page document focuses on supporting “healthy aquatic ecosystems.” This means virtually anything — not just fish — that can exist in a moist patch of earth. The report identifies how the federal Clean Water Act can be used to protect aquatic life, particularly when use of what the agencies regard as a “stream”

might be subject to one of the Act’s regulatory programs.

Historically, the manipulation and alteration of streams has long been practiced for private as well as public purposes for reasons other than providing aquatic habitat for insects. Farmers drained their land with ditches and tiled their fields to make them more productive. States regulated streams for commercial purposes such as milldams and canals. In the 20th

century, federal authority was invoked to control regional flooding and to generate hydroelectric power. As explained in the report, since everything can be protected, every activity, which can affect those “waters,” can be regulated. Although the report does not explicitly acknowledge the “federalization” of the nation’s waters, it calls into question whether each state, including Indiana, will retain any independent control over state waters.

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