

Sixty-first
Legislative Assembly
of North Dakota

HOUSE CONCURRENT RESOLUTION NO.

Introduced by

Representative Brandenburg

1 A concurrent resolution urging Congress not to replace the term navigable water with the term
2 Waters of the United States in any Clean Water Act - Related legislation considered by
3 Congress.

4 **WHEREAS**, the Clean Water Act is the foundation of federal and state efforts to protect
5 the nations water and water resources and one of the primary reasons for the success of the
6 Clean Water Act over the past 35 years is the Act's clear recognition of a partnership between
7 the federal government and state governments to protect these resources; and

8 **WHEREAS**, this structure of shared responsibility allows states the essential flexibility
9 they need to protect truly ecologically important and environmentally sensitive areas within their
10 borders while, at the same time, preserving the authority of states and local communities over
11 their own land and water use planning; and

12 **WHEREAS**, the distinction between federal and state responsibility is set forth in
13 Section 101 of the Clean Water Act which states "[I]t is the policy of Congress to recognize,
14 preserve, and protect the primary responsibilities of states to prevent, reduce, and eliminate
15 pollution, to plan the development and (including restoration, preservation and enhancement) of
16 land and water resources ... and that the authority of each State to allocate quantities of water
17 within its jurisdiction shall not be superseded, abrogated, or otherwise impaired ...; and

18 **WHEREAS**, legislative proposals before Congress proceed to delete the term navigable
19 and replace the term with a broad definition of Waters of the United States would effective
20 destroy the Clean Water Act's careful calibration of federal and state authority because it would
21 provide federal regulation over virtually every water body in the nation; and

22 **WHEREAS**, broadening the Clean Water Act would vague and ambiguous terminology
23 will abandon the cooperative federalism policies Congress sought to achieve and will
24 undermine the state's authority to plan the development and use of land and water resources
25 and to allocate water within each states jurisdiction; and

1 **WHEREAS**, altering the Act's definitional structural could have dire and unintended
2 consequences by adding further regulatory burdens on states and local communities, use
3 _____ state authority to manage vital water resources, including ground water, and
4 imposing substantial costs and delays to replace aging water infrastructure; and

5 **WHEREAS**, the successes of the last 35 years will not alone yield the solutions in the
6 next 35 years and the attractable water challenges we face today as a nation demand more
7 cooperative federalism, not more federal authority;

8 **NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES**
9 **OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

10 That Sixty-First Legislative Assembly urges the Congress of the United States not to
11 replace the term navigable water with the term with Waters of the United States in any Clean
12 Water Act - Related legislation considered by Congress; and

13 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this
14 resolution to each member of the North Dakota Congressional Delegation.