

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE CONCURRENT RESOLUTION NO. 3014
(Representatives Brandenburg, Belter, Boe)
(Senators Heckaman, O'Connell, Wanzek)

A concurrent resolution urging Congress not to replace "navigable water" with "waters of the United States" in any Clean Water Act-related legislation considered by Congress.

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

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

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 and that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired ..."; and

WHEREAS, legislative proposals before Congress that seek to replace the term navigable with a broad definition of waters of the United States would destroy the Clean Water Act's careful calibration of federal and state authority because it would provide federal regulation over virtually every water body in the nation; and

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

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

WHEREAS, the successes of the last 35 years will not alone yield the solutions in the next 35 years and the intractable water challenges faced today as a nation demand more cooperative federalism, not more federal authority;

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

That the Sixty-first Legislative Assembly urges the Congress of the United States not to replace "navigable water" with "waters of the United States" in any Clean Water Act-related legislation considered by Congress; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Senate and House Majority and Minority Leaders of the United States House of Representatives and the United States Senate, the chairman of the Committee on

Transportation and Infrastructure of the United States House of Representatives, the United States Secretary of Agriculture, the United States Secretary of the Interior, and to each member of the North Dakota Congressional Delegation.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State