

2009 HOUSE AGRICULTURE

HCR 3014



2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3014

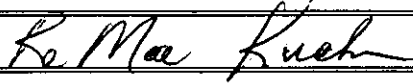
House Agriculture Committee

Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9355

Committee Clerk Signature



Minutes:

Dan Wogsland, Executive Director of the ND Grain Growers Assn.:

(Written testimony attached #1) Deleting the word "navigable" out of the definition puts ALL waters of the United States under federal authority.

Joe Friedlander, Environmental Manager, North American Coal:

(Written testimony attached #2) Every permit, no matter how small, would become a Federal action, subject to a requirement for an environmental impact statement. There's a reason this proposal is called the "birdbath bill."

Sheyna Strommen for Julie Ellingson, ND Stockmen's Assn.:

(Written testimony attached #3) Changing the definition would allow every pond, stream, . . . or other wet spot that might contain water at any time to fall under federal jurisdiction.

Representative Belter, Sponsor: I would like to add an amendment which would state that (page, line 13) "Be it further resolved, that the Secretary of State forward copies of this resolution to the President, Majority/Minority Leaders of the US House of Representatives and US Senate and the North Dakota Congressional Delegation." It's important that all powers in

Washington get a copy of our resolution.

Todd Sando, Asst. State Engineer for the ND State Water Commission:

(Written testimony attached #4) Under existing state and federal laws, water quality is effectively protected.

Representative Vig: What does Congress hope to accomplish by switching the Clean Water Act?

Todd Sando: They feel they can manage the waters better and have more regulation.

Representative Rust: In your third paragraph of your testimony, the definition of "waters of the United States", where did you get that?

Todd Sando: That came from our staff and legal.

Representative Rust: It's pretty inclusive

Mike Doyer, Executive Director, ND Irrigation Assn.: I represent the Water Users in the Water Resource Districts in the area. **(Written testimony attached #6)** The United States Supreme Court has ruled against the Corp of Engineers and the effort to expand regulation waters in the U.S. in two instances this decade. This federal bill is an attempt to overturn those Supreme Court decisions because the Supreme Court ruled that the definition of navigable waters is indeed restrictive. All sources would be affected including ground water because of potential effects on surface water features. The only sources that may not be affected are the deep aquifers in the bedrock aquifers.

Mike Beltz, ND Ag Coalition: (Written testimony attached #5)

Omission of the word "navigable" would create unnecessary regulations for local authorities as virtually all bodies of water would be included, even the potholes in a yard.

Brian Kramer, ND Farm Bureau: We concur with everything that has been said. We support

HCR 3014.

Opposition: None

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3014

House Agriculture Committee

Check here for Conference Committee

Hearing Date: February 12, 2009 (**Committee Work**)

Recorder Job Number: 9359 (9'00")

Committee Clerk Signature *Re Mae Kueh*

Minutes:

Representative Schatz: Moved to amend p.2, line 14 by adding "President of the United States, House Majority/Minority Leader, Senate Majority/Minority Leader, Secretary of Agriculture, and Dept. of Interior."

Vice Chairman Brandenburg: Seconded it.

Voice vote taken. Passed.

Representative Schatz moved Do Pass as amended to be placed on the consent calendar.

Representative Boe seconded.

A Roll Call vote was taken. **Yes: 11, No: 0, Absent: 2**, (Representatives Belter & Froelich).

Representative Schatz will carry the bill.

VR
2/12/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 3014

Page 2, line 14, after "to" insert "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 United States Secretary of Agriculture, the United States Secretary of the Interior, and to"

Renumber accordingly

Date: 2/12/09

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3014

House Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 93046.0101

Action Taken Do Pass Do Not Pass Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Mike Brandenburg, Vice Chair			Rod Froelich		
Wesley R. Belter			Richard Holman		
Joyce M. Kingsbury			Phillip Mueller		
David S. Rust			Benjamin A. Vig		
Mike Schatz					
Gerry Uglem					
John D. Wall					

*voice vote
amended
passed*

Total (Yes) _____ No _____

Absent _____

Bill Carrier _____

If the vote is on an amendment, briefly indicate intent:

Add U.S. leaders

Date: 2/12/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3014

House Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 93046.0101

Action Taken Do Pass Do Not Pass Amended

Motion Made By Rep. Schatz Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	✓		Tracy Boe	✓	
Mike Brandenburg, Vice Chair	✓		Rod Froelich	AB	
Wesley R. Belter	AB		Richard Holman	✓	
Joyce M. Kingsbury	✓		Phillip Mueller	✓	
David S. Rust	✓		Benjamin A. Vig	✓	
Mike Schatz	✓				
Gerry Uglem	✓				
John D. Wall	✓				

Total (Yes) 11 No 0

Absent 2

Bill Carrier Rep. Schatz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3014: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3014 was placed on the Sixth order on the calendar.

Page 2, line 14, after "to" insert "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 United States Secretary of Agriculture, the United States Secretary of the Interior, and to"

Renumber accordingly

2009 SENATE AGRICULTURE

HCR 3014

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3014

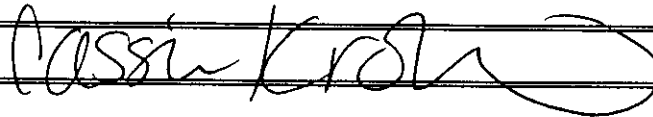
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 20, 2009

Recorder Job Number: 11354

Committee Clerk Signature



Minutes:

Sen. Flakoll opened the hearing on HCR 3014, a resolution urging Congress not to replace "navigable water" with "waters of the United States" in any clean water act related legislation considered by Congress. All members (7) were present.

Rep. Brandenburg, district 28, testified in favor of the bill.

Rep. Brandenburg- we have a lot of concerns as to what is going to be happening with the corp of engineers and what they are going to be in control of. We have some feelings that this could be a danger cause not only would they be in charge of navigable waters but also small pot holes. This resolution deals with that, saying that if we want to send this on to Washington and let them know that we want to take care of the water the way that we want to take care of it and if we could have our water back on the rivers we want it back cause we can do a better job then they can.

Dale Frinck, ND State Water Commission, testified in favor of the bill.

Dale- We are in support of this bill. This is related to the clean water act that was passed in 1972. That is regarded as one of the most successful acts that Congress ever passed. (Gave background and history 3:12-8:56)

Sen. Taylor- Navigable lake would be like what size body of water?

Dale- most bodies of water in ND are considered navigable.

Sen. Miller- is it my understanding that navigable is considered if they could ride a canoe down it?

Dale- yes that would be somewhat correct.

Sen. Wanzek- so what you are saying is that they were not able to get this accomplished to their liking and the courts threw it out so what we are looking at is federal legislation to make it to their liking and we are trying to say that we don't want it and to leave it the way it is?

Dale- correct.

Brian Kramer, ND Farm Bureau, testified in favor of the bill.

Brian- We stand strongly in support of this resolution, I think that they are trying to do something legislatively now that they were stopped to do through rule making. They have been relentless in trying to take over all of the waters of this united states. So we ask for your support on this.

Sen. Wanzek- when you say "they" who is "they"?

Brian- I am talking about EPA, Corp of Engineers, game and fish wildlife service, NRCS all those regulatory groups that have anything to do with water on the federal level.

Byron Richard, President of the ND Grain Growers association, testified in favor of the bill.

See attachment #1.

Julie Ellingson, ND stockmen's association, testified in favor of the bill.

Julie- Our association does stand in support of this resolution, as you heard this morning changing the definition would allow every pond, stream, creek bed, ditch, gravel pit andy wet spot that may contain water at anytime to fall under federal regulation. We feel this would weaken the ability of our state government and private property owners to manage land and resources at the local level.

Deana Wiese, administrator of the ND Ag Coalition, testified in favor of the bill. See attached testimony, attachment #2.

No opposition to the bill.

Sen. Flakoll closed the hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3014

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 20, 2009

Recorder Job Number: 11355

Committee Clerk Signature 

Minutes:

Sen. Flakoll opened the discussion on HCR 3014.

Sen. Wanzek motioned to adopt amendment and was seconded by **Sen. Klein**, roll call vote
7b yea 0 nay 0 absent.

Sen. Klein motioned for a Do pass as amended and was seconded by **Sen. Heckaman**, roll
call vote 7 yea 0 nay 0 absent.

Sen. Heckaman was designated to carry the bill to the floor.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT RESOLUTION NO. 3014

Page 2, Line 15 after "Senate," insert "Representative James Oberstar"

Date: March 20
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3014

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment

Motion Made By Wanzek Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur Behm	X	
Terry Wanzek-Vice Chairman	X		Joan Heckaman	X	
Jerry Klein	X		Ryan Taylor	X	
Joe Miller	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: March 19, 09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3014

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as Amended

Motion Made By Klein Seconded By Heckaman

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur Behm	X	
Terry Wanzek-Vice Chairman	X		Joan Heckaman	X	
Jerry Klein	X		Ryan Taylor	X	
Joe Miller	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Heckaman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 23, 2009 2:18 p.m.

Module No: SR-52-5621
Carrier: Heckaman
Insert LC: 93046.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HCR 3014, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3014 was placed on the Sixth order on the calendar.

Page 2, line 15, after the comma insert "the chairman of the Committee on Transportation and Infrastructure of the United States House of Representatives,"

Renumber accordingly

2009 TESTIMONY

HCR 3014



#1 2/12/09
3014
Dan Wogsland
Working for you,
the producer!

**Testimony of Dan Wogsland
North Dakota Grain Growers Association
HCR 3014
House Agriculture Committee
February 12, 2009**

Mr. Chairman, members of the House Agriculture Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association.

The North Dakota Grain Growers Association is here in support of HCR 3014.

NDGGA applauds the efforts of Representative Brandenburg and all of the co-sponsors of HCR 3014 for recognizing the seriousness of the navigable waters issue now before Congress. Deletion of the word “navigable” from the definition of waters of the United States in the Clean Water Act would destroy the carefully crafted federal and state partnership in the stewardship of U.S. water resources and the deletion would have serious negative consequences for U.S. and North Dakota agriculture. Simply put, deleting the word “navigable” out of the definition puts ALL waters of the United States under federal authority.

The Clean Water Act truly is the foundation of the efforts to protect the nation’s water resources. The provisions of the Act provide for a federal and state partnership in the responsibility and protection of U.S. water resources. While federalism is a key component of the Act, it is critical that states maintain their present flexibility in order to properly manage their respective waters. Tilting the balance towards more federal and less state involvement in water management takes away the power to manage the resource from those who know it best. Such a scenario has a detrimental effect on the very entities the Clean Water Acts seeks to protect; namely the public and the environment that surrounds them.

Mr. Chairman, members of the Committee, you may ask how imminent is the passage of such Congressional legislation. In the face of the present economic crisis, this and other initiatives have taken a back seat in Congress. I can tell you that a very powerful Congressman is pushing this legislation. I can tell you he has over 100 co-sponsors of the bill. I can tell you more federal involvement means more regulation and less local control. I can tell you that North Dakota needs to take a stand NOW so that our Representatives in Congress recognize our concerns.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

Mr. Chairman, members of the House Agriculture Committee, HCR 3014 sends the right message to Congress. Proper water management is all of our concern; we as a state should continue to be allowed to exercise that management. The North Dakota Grain Growers Association respectfully requests your favorable consideration of HCR 3014.

Thank you!

Mr. Chairman and members of the committee. My name is Joe Friedlander, and I am here this morning to provide brief comments supporting House Concurrent Resolution No. 3014, 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. As Environmental Manager for the nation’s largest lignite coal mine, I’ve been responsible for all environmental permitting for more than 25 years and have a long history dealing with water issues and water regulation.

I can tell you unequivocally that Congressional changes being contemplated by revising the language of the Clean Water Act will expand the current scope of Federal water regulation from interstate rivers and tributary streams to every single place that water stands or flows in every state in the Union. By Congress changing a few words and definitions in the Clean Water Act, what is now regulated by the state of North Dakota would instead become regulated by the Federal government. This would be a massive expansion of Federal authority and would usurp the state of its current control.

What would this mean for the lignite industry in the state? Every permit, no matter how small, would become a Federal action, subject to a requirement for an environmental impact statement; additional permitting, additional costs, additional delays. And by the way, this wouldn’t just be for coal mine development – it would mean that any action that affects any water anywhere in the state would be subject to expanded Federal requirements. There’s a reason this Congressional proposal is called the “birdbath bill”.

The State of North Dakota does a good job regulating its intrastate waters, or water that doesn’t cross state lines and therefore is currently not subject to Federal control. For our part, the excellent environmental record of the state’s lignite industry, when dealing with North Dakota’s waters, speaks for itself. Expanded Federal control will not improve environmental protection, but will only add unnecessary costs onto an already highly regulated industry, and delay new energy development, while taking authority and local control away from the state.

North Dakota



STOCKMEN'S ASSOCIATION

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3014

#3

2/12/09

Julie Ellingson

HCR 3014 Testimony

Good morning, Chairman Johnson and members of the House Agriculture Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association.

The North Dakota Stockmen's supports HCR 3014, recognizing that there has been efforts in Congress to expand federal authority under the Clean Air Act, usurp local authority and defy private property rights.

The NDSA opposes any move to expand federal jurisdiction of the Clean Water Act, including moves to redefine "waters of the United States" by removing the requirement that such waters be navigable to be federally regulated. Changing the definition would allow every pond, stream, creek bed, drainage ditch, prairie pot hole, drain tile or other wet spot that might contain water at any time to fall under federal jurisdiction. This would weaken the ability of state governments and private property owners to manage land and water resources at the local level.

It's important to note that agriculture is already effectively regulated by a wide range of state and federal environmental laws, regulations and permitting requirements that protect the water resources on the land; U.S. farmers and ranchers are responsible stewards of

their natural resources; and preserving a safe, healthy environment is key to our heritage and legacy.

For these reasons, the NDSA supports 3014 and asks for a favorable recommendation on it.

Our association's environmental services director, Scott Ressler, is here in the room today. He or I would be happy to answer any questions you have.

#4
2/12/09
Todd Sando
3014

TESTIMONY ON HOUSE CONCURRENT RESOLUTION 3014

House Agriculture Committee

**Todd Sando
Assistant State Engineer
North Dakota State Water Commission**

February 12, 2009

Mr. Chairman and members of the House Agriculture Committee, I am Todd Sando, Assistant State Engineer to the North Dakota State Water Commission.

I am appearing before you today in support of House Concurrent Resolution 3014, which urges Congress not to replace the term "navigable waters" with "waters of the United States" in any Clean Water Act (CWA) related legislation considered by Congress.

The term "waters of the United States" is defined as all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, to the fullest extent that these waters, or activities affecting them, are subject to the legislative power of Congress under the Constitution.

It is my belief that amendments of the scope of the CWA would have far-reaching and unintended consequences on the waters of North Dakota.

An amendment of the CWA to exponentially expand the waters in North Dakota that would be subject to federal regulation is unnecessary, and has the potential to paralyze all future water projects in the United States.

At present the State of North Dakota successfully oversees not only those water bodies listed as "navigable" but also other water bodies primarily through two state agencies - the North Dakota Department of Health and the Office of the State Engineer/State Water Commission.

The Office of the State Engineer (OSE) currently manages many of the issues that the CWA is intended to affect without any water quality degradation issues. The OSE regulates State Water Commission activities for both surface and ground waters in the following areas: construction permits, water use permits, sovereign land permits, and drainage permits. These areas are managed effectively at the state level, and

expanding the scope of the CWA would likely only have the effect of delaying OSE actions on many projects important to the state and its citizens.

On the water quality side, the Department of Health regularly analyzes the water quality of our streams and lakes. In fact, North Dakota has very clean water, with the majority of our examined waters meeting their designated uses. Under our existing state and federal laws, water quality is effectively protected. The Environmental Protection Agency has already shown its approval of the way that the Department of Health handles water quality issues with its support in that state agency being able to manage section 402 water quality permits in our state.

A proposed expansion of the CWA's scope could have serious and unintended consequences on anything in North Dakota that in some way comes in contact with water. Work on water bodies as varied as isolated artificial drainage ditches, decorative ponds, swimming pools, and gravel pits could require a section 404 permit from the United States Army Corp of Engineers. This could paralyze development in North Dakota, with every new parking lot, drainage ditch maintenance, or yard improvement requiring a permit from the federal government to go forward. A 404 permit can already be a lengthy process. Expanding the scope of the CWA to apply to everything in the state that can be wet at some time would likely delay even simple projects by years.



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MEMBERS

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- BNSF Railway Company
- Independent Beef Association of North Dakota
- Milk Producers Association of North Dakota, Inc.
- Minn-Dak Farmers Co-op
- North Dakota Ag Aviation Association
- North Dakota Ag Consultants
- North Dakota Agricultural Association
- North Dakota Agri-Women
- North Dakota Association of Soil Conservation Districts
- North Dakota Association of Agricultural Educators
- North Dakota Barley Council
- North Dakota Beef Commission
- North Dakota Corn Growers Association
- North Dakota Corn Utilization Council
- North Dakota Crop Improvement and Seed Association
- North Dakota Department of Agriculture
- North Dakota Dry Bean Council
- North Dakota Dry Edible Bean Seed Growers
- North Dakota Elk Growers
- North Dakota Farm Bureau
- North Dakota Farm Credit Council
- North Dakota Farmers Union
- North Dakota Grain Dealers Association
- North Dakota Grain Growers Association
- North Dakota Lamb and Wool Producers
- North Dakota Oilseed Council
- North Dakota Pork Producers
- North Dakota Soybean Council
- North Dakota Soybean Growers Association
- North Dakota State Seed Commission
- North Dakota State University Agriculture and University Extension
- North Dakota Wheat Commission
- North Dakota Soybean Growers Association
- Northern Food Grade Soybean Association
- Northern Plains Potato Growers Association
- Northern Pulse Growers Association
- Red River Valley Sugarbeet Growers

#5
3014
2/12/09
Mike Beltz

**Testimony of Mike Beltz
North Dakota Ag Coalition
In Support of HCR 3014
Feb. 12, 2009**

Chairman Johnson and members of the House Agriculture Committee:

For the record, I am Mike Beltz. I farm near Hillsboro and am here today as the chairman of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I would encourage your support of HCR 3014.

The Ag Coalition has provided a unified voice for North Dakota agricultural interests for more than 25 years. Today, we represent 38 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. The Ag Coalition takes a position on a limited number of issues brought to us by our members that have significant impact on North Dakota's agriculture industry.

The Ag Coalition supports keeping the word "navigable" in the Clean Water Act as its removal would have a detrimental impact on the agriculture industry in our state and the entire "prairie pothole" region. The omission of the word "navigable" would create unnecessary regulations for local authorities as virtually all bodies of water would be included, even the potholes in a yard. For 35 years, the Clean Water Act has built upon a partnership between state and federal governments to protect the nation's water and water resources. Removing "navigable" from the Clean Water Act compromises this partnership.

We appreciate your past support of the agriculture industry and urge your support of HCR 3014.

Beltz testimony in support of HCR 3014.

TESTIMONY ON HOUSE CONCURRENT
RESOLUTION 3014

House Committee on Agriculture
February 12, 2009

Presented by Mike Dwyer
Executive Director, ND Irrigation Association

#6
2/12/09
Mike Dwyer
3014

Mr. Chairman and members of the Committee my name is Mike Dwyer, Executive Director of the North Dakota Irrigation Association (NDIA). House Concurrent Resolution opposes the replacement of "navigable water" with "waters of the United States" in any revision of the Clean Water Act-related legislation the U.S. Congress may consider. The NDIA supports House Concurrent Resolution 3014.

A bill introduced in the previous Congress provided a specific definition for "waters of the United States":

"all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadow, playa lakes, natural ponds, and all impoundments of the foregoing, to the fullest extent that these waters, or activities affecting these waters, are subject to the legislative power of the Congress under the Constitution."

With such language the Federal Government would have jurisdiction to review and approve applications for the appropriation of water for beneficial use in North Dakota. All sources would be affected including ground water because of potential affects on surface water features. The only sources that may not be affected are the deep aquifers in the bedrock aquifers.

A change in the definition of "water" in the Clean Water Act to that proposed in 2007 would usurp North Dakota's authority for making the decisions concerning the proper development and management of its water resources for beneficial use. Such a change would likely result in the decisions of the State Engineer regarding water appropriation being reviewed by Federal Agencies such as the U.S. Army Corps of Engineers, Environmental Protection Agency, and the Department of the Interior, Fish and Wildlife Service. It could also result in the requirement of a Federal permit for the appropriation of water for beneficial use. Such permits may or may not be available in a timely manner, if at all, and the economic cost would be substantial.

We ask for your favorable consideration of this Resolution.



www.ndgga.com

Working for you,
the producer!

Testimony of Byron Richard
North Dakota Grain Growers Association
HCR 3014
Senate Agriculture Committee
March 20, 2009

Chairman Flakoll, members of the Senate Agriculture Committee, for the record my name is Byron Richard; I am a producer from the Belfield, North Dakota area. I am also President of the North Dakota Grain Growers Association.

The North Dakota Grain Growers Association is here in support of HCR 3014.

NDGGA applauds the efforts of Representative Brandenburg and all of the co-sponsors of HCR 3014 for recognizing the seriousness of the navigable waters issue now before Congress. Deletion of the word "navigable" from the definition of waters of the United States in the Clean Water Act would destroy the carefully crafted federal and state partnership in the stewardship of U.S. water resources and the deletion would have serious negative consequences for U.S. and North Dakota agriculture. Simply put, deleting the word "navigable" out of the definition puts ALL waters of the United States under federal authority.

The Clean Water Act truly is the foundation of the efforts to protect the nation's water resources. The provisions of the Act provide for a federal and state partnership in the responsibility and protection of U.S. water resources. While federalism is a key component of the Act, it is critical that states maintain their present flexibility in order to properly manage their respective waters. Tilting the balance towards more federal and less state involvement in water management takes away the power to manage the resource from those who know it best. Such a scenario has a detrimental effect on the very entities the Clean Water Acts seeks to protect; namely the public and the environment that surrounds them.

Mr. Chairman, members of the Committee, you may ask how imminent is the passage of such Congressional legislation. In the face of the present economic crisis, this and other initiatives have taken a back seat in Congress. I can tell you that a very powerful Congressman is pushing this legislation. I can tell you he has over 100 co-sponsors of the bill. I can tell you more federal involvement means more regulation and less local control. I can tell you that North Dakota needs to take a stand NOW so that our Representatives in Congress recognize our concerns.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

Mr. Chairman, members of the Senate Agriculture Committee, HCR 3014 sends the right message to Congress. Proper water management is all of our concern; we as a state should continue to be allowed to exercise that management. The North Dakota Grain Growers Association respectfully requests your favorable consideration of HCR 3014.

Thank you!



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- North Dakota Wheat Commission
- North Dakota Canola Growers Association
- North Dakota Food Grade Soybean Association
- Northern Plains Potato Growers Association
- Northern Pulse Growers Association
- Red River Valley Sugarbeet Growers

**Testimony of Mike Beltz
North Dakota Ag Coalition
In Support of HCR 3014
March 20, 2009**

Chairman Flakoll and members of the Senate Agriculture Committee:

For the record, I am Deana Wiese, administrator of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I would encourage your support of HCR 3014.

The Ag Coalition has provided a unified voice for North Dakota agricultural interests for more than 25 years. Today, we represent 37 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. The Ag Coalition takes a position on a limited number of issues brought to us by our members that have significant impact on North Dakota's agriculture industry.

The Ag Coalition supports keeping the word "navigable" in the Clean Water Act as its removal would have a detrimental impact on the agriculture industry in our state and the entire "prairie pothole" region. The omission of the word "navigable" would create unnecessary regulations for local authorities as virtually all bodies of water would be included, even the potholes in a yard. For 35 years, the Clean Water Act has built upon a partnership between state and federal governments to protect the nation's water and water resources. Removing "navigable" from the Clean Water Act compromises this partnership.

We appreciate your past support of the agriculture industry and urge your support of HCR 3014.

Wiese testimony in support of HCR 3014.

North Dakota



STOCKMEN'S ASSOCIATION

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HCR 3014

The North Dakota Stockmen's supports HCR 3014, recognizing that there has been efforts in Congress to expand federal authority under the Clean ~~Act~~ Act, usurp local authority and defy private property rights. *Water*

The NDSA opposes any move to expand federal jurisdiction of the Clean Water Act, including moves to redefine "waters of the United States" by removing the requirement that such waters be navigable to be federally regulated. Changing the definition would allow every pond, stream, creek bed, drainage ditch, prairie pot hole, drain tile or other wet spot that might contain water at any time to fall under federal jurisdiction. This would weaken the ability of state governments and private property owners to manage land and water resources at the local level.

It's important to note that agriculture is already effectively regulated by a wide range of state and federal environmental laws, regulations and permitting requirements that protect the water resources on the land; U.S. farmers and ranchers are responsible stewards of their natural resources; and preserving a safe, healthy environment is key to our livelihood and legacy.

For these reasons, the NDSA supports 3014 and asks for a favorable recommendation.