2015 HOUSE AGRICULTURE

HCR 3009

2015 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HCR 3009
1/22/2015
22372

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Pe Mae Kuehn

Explanation or reason for introduction of bill/resolution:

To address the concerns of the agriculture industry in defining the "waters of the United States" in the Clean Water Act

Minutes: Attachments #1-4

Representative Dick Anderson: (Attachment #1)

Julie Ellingson, ND Stockmen's Association: (4:11)
The EPA's Waters of the United States rule is what kept cattlemen awake at night over the last year. Our producers' concerns include: the draft science used to develop the rule, its ambiguous language, and other inexcusable holds that could make WOTUS the largest federal land grab in U.S. history.

We are very supportive of HCR 3009. This will help clarify the WOTUS proposal and help bring local and state officials to the table to help insure the proposal doesn't impair our industry's ability to produce food or strip our private property rights with burdensome regulations.

Mike Dwyer, ND Water Users and the ND Resource Districts and the ND Irrigation Association: (5:36) We are also in support.

The Clean Water Act was passed in 1972. The question of the definition of Waters of the United States went to the U.S. Supreme Court on two occasions. The Supreme Court ruled on it. Some parties that didn't like the ruling tried to get Congress to change the definition. So now the current administration is trying to do that anyway.

We would like to offer an amendment that both the agriculture and water development/water management industries stand in opposition to the current regulations.

Representative Alan Fehr: You are suggesting an amendment?

Mike Dwyer: It refers to the agriculture industry and it would be a good idea to add the water development and water management industry in the places where it refers to agriculture.

Dan Wogsland, Executive Director, ND Grain Growers Association: (Attachment #2)

Pete Hanebutt, ND Farm Bureau: (8:58) In support of HCR 3009.
When the act was written in 1972, the word "navigable" was the key to all of it. That meant if you could put a canoe in it and float from one side to the other, it might be commerce. Therefore, it might be useful. The current interpretation by EPA is to take out the work "navigable." If the water doesn't have to be navigable, any water that falls anywhere has the oversight of the EPA. Therefore it allows the federal government into every backyard in the U.S.

No problems with the suggested amendment.

Britt Aasmundstad, ND Dept. of Agriculture: (Attachment #3)

Representative Alan Fehr: Are you aware of any discussions our commissioner has had on the federal level?

Britt Aasmundstad: We have had conversations with the EPA. Those conversations usually ended with more uncertainty than they began with.

Gail Peterson, Northwest Landowners: We strongly support this resolution.

Gary Knutson, ND Ag. Association: Our interest is in crop production. This resolution makes good sense. Can we have an emergency clause?

Tom Lilja, Executive Director, ND Corn Growers Association: In support of this resolution. Water quality is almost a full time job. We feel it is federal overreach.

Larry Syverson, Chairman of the Board of Supervisors of Roseville Township of Traill County: (Attachment #4)
Not in attendance but provided written testimony.

Opposition:

None

Neutral:

None

Vice Chair Wayne Trottier: Closed the hearing

2015 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HCR 3009
1/23/2015
22463

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Rae Mae Kuehn

Explanation or reason for introduction of bill/resolution:

To address the concerns of the agriculture industry in defining the "waters of the United States" in the Clean Water Act
(Committee Work)

Minutes: **Attachment #1**

Chairman Dennis Johnson: Representative Diane Larson has amendments.

Representative Diane Larson: We have a recommendation from the Water Resource District that we add water development and water management industry in addition to the agriculture industry. They wanted to be included as opposing any expansion of this. Others would welcome this amendment also.

Representative Diane Larson: Moved the amendment. (Attachment #1)

Representative Alan Fehr: Seconded the motion.

Voice Vote taken. Motion carries.

Representative Diane Larson: Moved Do Pass as amended

Representative Alex Looysen: Seconded the motion.

A Roll Call vote was taken: Yes 12, No 0, Absent 1.

Do Pass as amended carries.

Representative Looysen will carry the bill.

15.3037.01001
Title.02000

Adopted by the Agriculture Committee

January 23, 2015

1-23-15

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3009

Page 1, line 2, after "industry" insert ", water development industry, and water management industry,"

Page 1, line 17, remove the first "the"

Page 2, line 6, after "industry" insert ", water development industry, and water management industry,"

Renumber accordingly

Date: 1/23/2015

Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3009

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: 15.3037.01001

Recommendation:
☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Larson Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Boschee		
Vice Chairman Wayne Trottier			Rep. Jessica Haak		
Rep. Bert Anderson			Rep. Alisa Mitskog		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Tom Kading					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. Alex Looysen					
Rep. Cynthia Schreiber Beck					

Voice Vote
Motion passed

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep. _____

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

Include the Water Development and Water Management Industry along with the Agriculture Industry

Date: 1/23/2015

Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3009

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation:
☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Larson Seconded By Rep. Looysen

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschee	X	
Vice Chairman Wayne Trottier	X		Rep. Jessica Haak	X	
Rep. Bert Anderson	X		Rep. Alisa Mitskog	AB	
Rep. Alan Fehr	X				
Rep. Craig Headland	X				
Rep. Tom Kading	X				
Rep. Dwight Kiefert	X				
Rep. Diane Larson	X				
Rep. Alex Looysen	X				
Rep. Cynthia Schreiber Beck	X				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Looysen

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

REPORT OF STANDING COMMITTEE

HCR 3009: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3009 was placed on the Sixth order on the calendar.

Page 1, line 2, after "industry" insert ", water development industry, and water management industry,"

Page 1, line 17, remove the first "the"

Page 2, line 6, after "industry" insert ", water development industry, and water management industry,"

Renumber accordingly

2015 SENATE AGRICULTURE

HCR 3009

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HCR 3009
3/13/2015
Job #24805

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Emmery Grotberg

Explanation or reason for introduction of bill/resolution:

To address the concerns of the agriculture industry in defining the "waters of the United States" in the Clean Water Act

Minutes: *Attachments: #1-4*

Representative Dick Anderson, District 6 introduced HCR 3009 (see attachment #1).

Julie Ellingson, ND Stockman's Association testified in support of HCR 3009 (see attachment #4).

Larry Syverson, NDTOA testified in support of HCR 3009 (see attachment #2).

Dan Wogsland, ND Grain Growers Association testified in support of HCR 3009 (see attachment #3).

Pete Hanebutt, ND Farm Bureau testified in support of HCR 3009.

Gary Knutson, NDAA (ND Agriculture Association) testified in support of HCR 3009.

Levi Otis, Ellingson Companies testified in support of HCR 3009.

Chairman Miller closed the hearing on HCR 3009.

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HCR 3009
3/19/2015
Job #25091

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Emmery Brotherg

Explanation or reason for introduction of bill/resolution:

To address the concerns of the agriculture industry in defining the "waters of the United States" in the Clean Water Act

Minutes: *Attachments: n/a*

Chairman Miller opened the discussion on HCR 3009.

Senator Klein: I don't know how many of the concerns are reality right now. I think it is important to send the message of the state's perceptions in case the concerns become reality so I think this is a good idea; I just don't know how well resolutions are received.

Chairman Miller: When I look at the new labels on technology, they have all the information on the label about water ways and things they are trying to do with the Waters of the US. That concerns me and I think it is important to keep sending messages.

Senator Klein moved for a Do Pass on SCR 3009.

Senator Larson seconded the motion.

A Roll Call vote was taken. Yea: 6; Nay: 0; Absent: 0.

Do Pass carries.

Vice Chairman Luick will carry the committee's recommendation to the senate floor.

The committee had a discussion pertaining to what happens when the legislature passes resolutions.

Date: 3/19/2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3009

Senate Agriculture Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Senator Klein Seconded By Senator Larsen

Senators	Yes	No	Senators	Yes	No
Chairman Joe Miller	Y		Sen. Erin Oban	Y	
Vice Chairman Larry Luick	Y		Sen. John M. Warner	Y	
Sen. Jerry Klein	Y				
Sen. Oley Larsen	Y				

Total Yes 6 No 0

Absent 0

Floor Assignment Senator Luick

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

REPORT OF STANDING COMMITTEE

HCR 3009, as engrossed: Agriculture Committee (Sen. Miller, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3009 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HCR 3009

HCR 3009 1/22/15

Rep. Dick Anderson #1

The wotus agreement is a rule that would give the environmental protection agency and the Army Corps of Engineers authority to redefine the waters of the United States. It is a broad overboard expansion of federal authority. The proposed rule attempts to redefine the Clean Water Act protection to areas within the watersheds of rivers and streams despite earlier US Supreme Court decisions that these areas are not covered by the act.

In a letter our governor and attorney general say that the proposed rule on the unlawfully and unconstitutionally asserts federal jurisdiction over local water and land use management, bill making it impossible for farmers, developers, and homeowners to know whether they can continue certain activities without obtaining expensive and time-consuming permits.

North Dakota is a home to a number of bodies of water that are considered for EPA purposes waters WOTUS. The Clean Water Act passed by Congress in 1972, bands the discharge of pollutants into WOTUS. This prohibits any person from putting pollutants into any one of the bodies of water currently under the categorization in North Dakota. With the incredibly cynical, unpredictable ferocious nature of North Dakota's wet and dry seasons, expanding the definition of waters of the US would be damaging, difficult to track and highly impractical. The EPA would have jurisdiction over areas that are wet during some months but dry during others. This impacts North Dakota's agricultural sector is farmers, ranchers and others who utilize the land will be unable to perform critical functions for the fear of violating the Clean Water Act.

North Dakota farms 39.3 million acres nearly 90% of the land in North Dakota North Dakota is a top producer of number of crops including spring wheat, durum, barley, sunflowers, dry edible beans, Pinto beans, flaxseed, and Honey. North Dakota also boasts 1.7 million head of cattle 1.2 million turkeys hundred and 60,000 ~~pogs~~ Pigs and 88,000 sheep. This industry making up a great deal of North Dakota's economy will be negatively impacted by the expansion of this definition.

I would hope the agricultural committee will support the resolution requesting that the WOTUS proposal will be withdrawn.

WATERS ADVOCACY COALITION

WAC

Short Summary of WOTUS Rule

The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) have released a proposed rule to revise the definition of "waters of the United States" (WOTUS) for all Clean Water Act (CWA) programs. Despite the agencies' claims to the contrary, the definitional changes contained in the proposed WOTUS rule would significantly expand federal control of land and water resources across the Nation, triggering substantial additional permitting and regulatory requirements.

Key Provisions of the Proposed Rule

The following outlines briefly the key provisions of the regulatory text.

- **WOTUS Under the Proposed Rule**
  1. All waters currently used, used in the past, or may be susceptible to use in interstate or foreign commerce, including tidal waters (frequently referred to as traditional navigable waters (TNWs));
  2. All interstate waters, including interstate wetlands;
  3. The territorial seas;
  4. All impoundments of waters identified in (1)-(3) above;
  5. All tributaries of waters identified in (1)-(4) above;
  6. All waters, including wetlands, adjacent to a water identified in (1)-(5) above; and
  7. On a case-specific basis, other waters, including wetlands, that alone or in combination with other similarly situated waters in the region have a significant nexus to a water identified in (1)-(3) above.

- **Tributary Definition**
  - Water with a bed and banks and ordinary high water mark which contributes flow directly or through other water bodies to waters in (1)-(4) above.
  - **Wetlands, lakes, and ponds** can be tributaries (even if they lack a bed and banks or ordinary high water mark) if they contribute flow.
  - Water does not lose its tributary status if there are man-made breaks (such as bridges, culverts, pipes, dams) so long as bed and bank and ordinary high water mark can be identified upstream of the break.
  - A tributary can be natural, man-altered, or man-made and includes rivers, streams, lakes, impoundments, canals, and ditches (unless excluded).
  - The proposed rule, for the first time ever, specifically defines **ditches** as jurisdictional tributaries (unless excluded, as discussed below) under all CWA programs. The inclusion of roadside, irrigation, and stormwater ditches will have huge practical consequences that have yet to be evaluated by the agencies.

- **Adjacent Waters Definition**
  - **Adjacent** waters, including wetlands, are jurisdictional. Bordering, contiguous, or neighboring waters separated from other WOTUS by dikes, or barriers are adjacent waters.
  - **Neighboring** means waters located within a riparian area or floodplain or waters with a shallow subsurface connection or confined surface hydrologic connection.
  - **Riparian areas** are transitional areas between water and land where surface or subsurface hydrology influences the ecological process and plant community of the area

- **Floodplain** is an area bordering inland or coastal areas that is inundated during periods of moderate to high water flows. Proposed rule does not define flood interval, but leaves up to agencies' "best professional judgment."

- **Significant Nexus Definition**
  - Means water, including wetlands, either alone or in combination with other similarly situated waters on the region significantly affects water identified in (1)-(3) above.
  - Other waters, including wetlands, are similarly situated when they perform similar functions and are located sufficiently close together so that they can be evaluated as a single landscape unit. Proposed rule does not define "single landscape unit."
  - For an effect to be significant, it must be more than speculative or insubstantial.

- **Exclusions in Proposed Rule**
  - Waste treatment systems designed to meet the requirements of the CWA;
  - Prior converted cropland;
  - Ditches excavated wholly in uplands that drain only uplands and have less than perennial flow;
  - Ditches that do not contribute flow, either directly, or through another water, to a water identified in paragraphs (1)-(4) above;
  - Artificially irrigated areas that would revert to upland should application of irrigation water to that area cease;
  - Artificial lakes or ponds created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing;
  - Artificial reflecting pools or swimming pools created by excavating and/or diking dry land;
  - Small ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons;
  - Water-filled depressions from construction;
  - Groundwater, including groundwater drained through subsurface draining systems; and
  - Gullies, rills, and non-wetland swales.
  - Although these features (certain ditches, groundwater, gullies, rills, and non-wetlands, etc.) are not WOTUS under the proposed rule, they can serve to establish a connection under the proposed rule (*e.g.* connection that demonstrates adjacency to jurisdictional or demonstrates that an "other water" has a significant nexus to a (a)(1) – (3) waters).

Interpretative Rule (IR) Governing Exemptions for Farming, Ranching, and Forestry Provides Insufficient Protections

The proposed rule imposes a new regime even as it continues existing statutory and regulatory exemptions from Section 404 permitting requirements for normal farming, silviculture and ranching practices where these activities are part of an ongoing farming, ranching or forestry operation. In tandem with the proposed rule, the agencies have issued an "interpretive rule" that was made immediately effective, without advance notice and comment.

- The IR purportedly expands the list of existing agricultural exemptions to include an additional 53 activities that are exempt from permitting requirements so long as they are conducted consistent with Natural Resources Conservation Service (NRCS) conservation practice standards – a requirement that is nowhere found in the law.

- EPA and the Corps will enter into a Memorandum of Agreement with the NRCS to develop and implement a process for identifying, reviewing, and updating NRCS agricultural conservation practices and activities that would qualify for the exemption.

Concerns with the Interpretative Rule:

- The agencies' discussion of the agricultural exemptions is misleading and intended to minimize opposition to the rule. But the IR has no effect on CWA jurisdiction, *i.e.*, the exemption is not an exclusion from federal CWA jurisdiction. In addition, the IR is nothing more than agency guidance and does not have the force of law.

- The "expanded" list of excluded activities in the IR already fall within the "normal" farming and ranching exclusion and therefore were already exempt from permitting requirements if undertaken as part of an ongoing operation. Instead, the IR – in effect – limits farmer's ability to use the agricultural exemptions by introducing compliance with NRCS standards as a qualification for their use. Also, through the regulation and guidance, the agencies are narrowing what is "normal" farming and ranching activities by limiting them to those that have been on-going since the 1970s. They do not apply if there is a change of land use (i.e. easement for a wind turbine), an interruption in activities, or a change in crops.

- The exemptions affirmed in the IR only apply to the Section 404 "dredge and fill" permit program, not the Section 402 NPDES permit requirements for discharges of pollutants. This will affect every day weed control, fertilizer applications and other common farm activities.

- Additional problems with the agency's approach include: (1) who will inspect and enforce compliance with NRCS guidelines; (2) will third parties have the ability to challenge exempt status; (3) EPA's role in NRCS programs that will be defined through a Memorandum of Agreement that has yet to be developed; and (4) whether this is an interpretative or a legislative rule under the Administrative Procedure Act.

#2

North Dakota
Grain Growers Association

Your voice for wheat and barley. www.ndgga.com

North Dakota Grain Growers Association
Testimony on HCR 3009
House Agriculture Committee
January 22, 2015

Chairman Johnson, members of the House Agriculture Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. NDGGA appears before you today in support of HCR 3009.

The Environmental Protection Agency and United States Army Corps of Engineers proposed rule regarding the waters of the United States (WOTUS) has been a source of vast interpretation and national debate. That said, the negative impacts of the proposed rule on North Dakota agriculture has led to the North Dakota Grain Growers Association to join with 149 agricultural organizations from across the United States in asking EPA and the USACE to "ditch the rule". H.R. 5078 is a needed step in the right direction and the measure before you, HCR 3009, sends a clear message to Washington D.C. decision-makers that the concerns of North Dakota agriculture must be addressed.

In short the proposed EPA/USACE WOTUS rule is a takings of North Dakota landowner property rights and represents a dramatic shift in control of North Dakota agricultural land. It has been the goal of fringe environmental and conservation groups in this state and nation to control North Dakota farmland without having to pay for it. If you can control agricultural land use by rule and regulation, not pay for it, and divert its use to your particular agenda you've gained control of 39 million acres of North Dakota farmland, over 90 percent of which is in private hands. That's NOT in the best interest of North Dakota landowners and North Dakota agriculture.

HCR 3009 sends a clear message to EPA, USACE, and the North Dakota Congressional Delegation that the public policy envisioned by the proposed WOTUS rule is NOT in the best interest of our state's number 1 industry and that action must be taken to ensure North Dakota agricultural landowner interests are protected.

Therefore Chairman Johnson, members of the House Agriculture Committee the North Dakota Grain Growers Association respectfully requests you favorable consideration of HCR 3009 and asks for a Do Pass Committee recommendation.

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.

Phone: 701-282-9361 | Fax: 701-239-7280 | 1002 Main Avenue W. #3 West Fargo, N.D. 58078

#3

COMMISSIONER
DOUG GOEHRING

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NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

Testimony of Britt Aasmundstad, Policy Analyst
North Dakota Department of Agriculture
House Concurrent Resolution 3009
House Agriculture Committee
Peace Garden Room
January 22, 2015

Chairman Johnson and members of the House Agriculture Committee, I am Britt Aasmundstad, policy analyst at the North Dakota Department of Agriculture. Thank you for the opportunity to appear before the committee. I am here today on behalf of Agriculture Commissioner Doug Goehring in support of HRC 3009, urging the Congress of the United States to pass H.R. 5078 or otherwise address the concerns of the agriculture industry in defining the "waters of the United States" (WOTUS) in the Clean Water Act (CWA).

I would like to thank the committee for hearing this concurrent resolution and acknowledging the importance of H.R. 5078. HCR 3009 parallels the efforts state agencies put into pushing back the proposed rule this fall.

Managing water is crucial for North Dakota farmers. If EPA is allowed to implement, administer and enforce the proposed rule, the uncertainty it will create will prevent farmers from knowing which resources on their land are manageable—whether it's land or water. The proposed rule creates an expansive jurisdiction for the Environmental Protection Agency and the Army Corps of Engineers that strips state authority and will have unintended consequences throughout the country.

1

In addition to the overreach of the entire proposed rule, the Interpretive Rule is especially concerning for agriculture. This rule, which was issued as a guidance document, would have limited the scope of exempt farming practices under the rule and utilized NRCS to enforce standards under Section 404 of the CWA. The recent omnibus spending bill, which was passed by both houses, withdrew the Interpretive Rule. The withdrawal of this rule should allow farmers and ranchers to carry out their normal farming operations that have been exempt under the CWA for years—at least until the WOTUS rule is finalized, which we hope does not happen. Accordingly, Chairman Johnson and members of the committee, Commissioner Goehring urges a "do pass" on HCR 3009. I would be happy to answer any questions you may have.

1/22/15 #4

Support HCR 3009

House Agriculture Committee

January 22, 2015

Chairman Johnson and Committee members,

I am Larry Syverson from Mayville, I raise soybeans on my farm in Traill County, I am the Chairman of the Board of Supervisors of Roseville Township of Traill County and I am now the Executive Secretary of the North Dakota Township Officers Association. NDTOA represents the 6,000 Township Officers that serve in more than 1,100 dues paying member townships.

On December 1, 2014 the membership of the North Dakota Township Officer's Association held their annual meeting and passed the following resolution.

"Be it Resolved that NDTOA opposes the new rules proposed in the Federal Clean Water Act as proposed by the Environmental Protection Agency (EPA) & the US Corps of Engineers."

In keeping with that resolution, I ask that you give HCR 3009 your favorable recommendation.

Thank you, Chairman Johnson and Committee members.

Rep. Larson
1/23/15 #1

Amendment for House Concurrent Resolution no. 3009

Page 1, line 2 after the word industry insert and the Water Development and Water Management Industry

Page 2, line 6 after the word industry insert and the Water Development and Water Management Industry

Rep. Anderson

HCR 3009
3/13/15
#1

The WOTUS agreement is a rule that would give the environmental protection agency and the Army Corps of Engineers authority to redefine the waters of the United States. It is a broad overboard expansion of federal authority. The proposed rule attempts to redefine the Clean Water Act protection to areas within the watersheds of rivers and streams despite earlier US Supreme Court decisions that these areas are not covered by the act.

In a letter our governor and attorney general say that the proposed rule is unlawful and unconstitutional. It asserts federal jurisdiction over local water and land use management. It will make it impossible for farmers, developers, and homeowners to know whether they can continue certain activities without obtaining expensive and time-consuming permits.

North Dakota is a home to a number of bodies of water that are considered for EPA proposal WOTUS. The Clean Water Act passed by Congress in 1972, bans the discharge of pollutants into WOTUS. This prohibits any person from putting pollutants into any one of the bodies of water currently under that categorization in North Dakota. With the incredibly cynical, unpredictable ferocious nature of North Dakota's wet and dry seasons, expanding the definition of waters of the US would be damaging, difficult to track and highly impractical. The EPA would have jurisdiction over areas that are wet during some months but dry during others. This impacts North Dakota's agricultural sector as farmers, ranchers and others who utilize the land will be unable to perform critical functions for the fear of violating the Clean Water Act.

North Dakota farms 39.3 million acres nearly 90% of the land in North Dakota North Dakota is a top producer of number of crops including spring wheat, durum, barley, sunflowers, dry edible beans, Pinto beans, flaxseed, and Honey. North Dakota also boasts 1.7 million head of cattle 1.2 million turkeys hundred and 60,000 pages and 88,000 sheep. This industry making up a great deal of North Dakota's economy will be negatively impacted by the expansion of this definition.

I would hope the agricultural committee will support the resolution requesting that the WOTUS proposal will be withdrawn.

#2

In support of HCR 3009

Senate Agriculture Committee

March 13, 2015

Chairman Miller and Committee members,

I am Larry Syverson from Mayville, I raise soybeans on my farm in Traill County, I am the Chairman of the Board of Supervisors of Roseville Township of Traill County and I am also the Executive Secretary of the North Dakota Township Officers Association. NDTOA represents the 6,000 Township Officers that serve in more than 1,100 dues paying member townships.

On December 1, 2014 the membership of the North Dakota Township Officer's Association held their annual meeting and passed the following resolution.

"Be it resolved that NDTOA opposes the new rules proposed in the Federal Clean Water Act as proposed by the Environmental Protection Agency (EPA) & the US Corps of Engineers."

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Thank you, Chairman Miller and Committee members.

#3

North Dakota Grain Growers Association

Your voice for wheat and barley. www.ndgga.com

North Dakota Grain Growers Association
Testimony on HCR 3009
Senate Agriculture Committee
March 13, 2015

Chairman Miller, members of the Senate Agriculture Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. NDGGA appears before you today in support of HCR 3009.

The Environmental Protection Agency and United States Army Corps of Engineers proposed rule regarding the waters of the United States (WOTUS) has been a source of vast interpretation and national debate. That said, the negative impacts of the proposed rule on North Dakota agriculture has led to the North Dakota Grain Growers Association to join with 149 agricultural organizations from across the United States in asking EPA and the USACE to "ditch the rule". H.R. 5078 in Congress is a needed step in the right direction and the measure before you, HCR 3009, sends a clear message to Washington D.C. decision-makers that the concerns of the North Dakota Legislature and North Dakota agriculture must be addressed.

In short the proposed EPA/USACE WOTUS rule is a takings of North Dakota landowner property rights and represents a dramatic shift in control of North Dakota agricultural land. It has been the goal of fringe environmental and conservation groups in this state and nation to control North Dakota farmland without having to pay for it. If you can control agricultural land use by rule and regulation, not pay for it, and divert its use to your particular agenda you've gained control of 39 million acres of North Dakota farmland, over 90 percent of which is in private hands. That's NOT in the best interest of North Dakota landowners and North Dakota agriculture.

HCR 3009 sends a clear message to EPA, the United States Army Corps of Engineers, and the North Dakota Congressional Delegation that the public policy envisioned by the proposed WOTUS rule is NOT in the best interest of our state's number 1 industry and that action must be taken to ensure North Dakota agricultural landowner and farmer interests are protected.

Therefore Chairman Miller, members of the Senate Agriculture Committee the North Dakota Grain Growers Association respectfully requests your favorable consideration of HCR 3009 and asks for a Do Pass Committee recommendation.

#4
3/13/15

HCR 3009

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

The Environmental Protection Agency's and Corps of Engineers' proposed Waters of the United States rule is among the issues that keep cattlemen and cattlewomen lying awake at night. Our organization hosted EPA's agricultural adviser to the administrator here in North Dakota last fall and submitted comments on the WOTUS proposal and the corresponding Interpretive Rule to outline producers' concerns. Among them: the draft science used to develop the rule, its ambiguous terminology and other holes that could make WOTUS, in its current form, the largest federal land-grab ever assailed in U.S. history.

That's why we support HCR 3009 and its approach. In our view, it would help pull back the veil on the WOTUS proposal and bring local and state officials to the table to help ensure that it doesn't impair our industry's ability to produce food or strip us of our private property rights with costly and time-consumptive permits and burdensome regulations.

We encourage your favorable consideration of this resolution.