Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE CONCURRENT RESOLUTION NO. 3009
(Representatives D. Anderson, Hofstad, Hunskor, D. Johnson, Kempenich)
(Senators Carlisle, Miller, O'Connell, Sinner)

A concurrent resolution urging Congress to pass H.R. 5078 or otherwise address the concerns of the agriculture industry, water development industry, and water management industry, in defining the "waters of the United States" in the Clean Water Act.

WHEREAS, the Clean Water Act compels the Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Corps) to protect the integrity of the "waters of the United States"; and

WHEREAS, the term "waters of the United States" was not defined in statute so it has been argued that the term means many things from the spectrum of navigable waters to anything that affects navigable waters; and

WHEREAS, H.R. 5078 of the 113th Congress prohibits the EPA and the Corps from developing, finalizing, adopting, implementing, applying, administering, or enforcing the proposed rule entitled, "Definition of 'Waters of the United States' Under the Clean Water Act," issued on April 21, 2014, or the proposed guidance entitled, "Guidance on Identifying Waters Protected By the Clean Water Act," dated February 17, 2012; and

WHEREAS, H.R. 5078 also prohibits using the proposed rule or proposed guidance, any successor document, or any substantially similar proposed rule or guidance as the basis for any rulemaking or decision regarding the scope or enforcement of the Clean Water Act; and

WHEREAS, H.R. 5078 requires the Corps and the EPA to withdraw the interpretive rule entitled, "Notice of Availability Regarding the Exemption from Permitting Under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices," issued on April 21, 2014; and

WHEREAS, H.R. 5078 requires the Corps and the EPA to consult with relevant state and local officials to develop recommendations for a regulatory proposal that would identify the scope of waters covered under the Clean Water Act and the scope of waters not covered; provide for the public review and comment of a draft report that includes a recommendation only if consensus has been reached with regard to the recommendation among the Corps, the EPA, and state and local officials; publish a final report; and report to Congress on the recommendations;

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

That the Sixty-fourth Legislative Assembly urges the Congress of the United States to pass H.R. 5078 or otherwise address the concerns of the agriculture industry, water development industry, and water management industry, in defining the "waters of the United States" in the Clean Water Act; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Commanding General of the United States Army Corps of Engineers, the Administrator of the Environmental Protection Agency, 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 31st day of March, 2015,

at 9:26 o'clock A M.

Secretary of State