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

HOUSE RESOLUTION NO. 5001
(Representatives Headland, D. Anderson, Belter, Boe, Brandenburg, Delzer, Kempenich, Porter, Schmidt, Schreiber Beck, Streyle, Weisz)

A resolution urging Congress to invalidate the rules adopted by the Environmental Protection Agency and the United States Army Corps of Engineers defining the "waters of the United States" under the Clean Water Act.

WHEREAS, in early 2014, the Environmental Protection Agency and the United States Army Corps of Engineers released a proposed rule that would define "waters of the United States" to grant the federal government unprecedented regulatory authority over nearly all bodies of water including prairie potholes, small ponds, creeks, ditches, and other occasionally wet areas, which have historically been under state stewardship; and

WHEREAS, the rule was introduced even after similar proposals before the 110th and 111th Congress failed and after two United States Supreme Court decisions limiting federal jurisdiction under the Clean Water Act and was adopted after a process that included an inadequate, virtually nonexistent, consultation process with state and local government and private landowners' groups; and

WHEREAS, the rule was subject to massive opposition from Congress, states, groups, and individuals, all of which was given little or no serious consideration as the agencies proceeded to final adoption of an unprecedented usurpation of state authority by unelected federal officials; and

WHEREAS, the agencies that adopted the rule lack the capability to properly administer the vast authority they have seized without enormous increases in staff and spending; and

WHEREAS, the state of North Dakota contains many water resources, the use of which for agriculture, municipal water supply, and economic health is needed and the rules will needlessly complicate and may prohibit the safe and intelligent development and management of this state's water resources; and

WHEREAS, the North Dakota House of Representatives will not stand idly by as this state's major industries and the provision of potable water to the people of this state are threatened by these rules that usurp North Dakota's traditional and proper role in the regulation of this state's waters and the North Dakota House of Representatives supports and has authorized funding for use of the court system to challenge these rules, if Congress does not act;

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

That the North Dakota House of Representatives urges the Congress of the United States to invalidate the rules adopted by the Environmental Protection Agency and the United States Army Corps of Engineers 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 Administrator of the Environmental Protection Agency, the Commanding General of the United States Army Corps of Engineers, and to each member of the North Dakota Congressional Delegation.

Speaker of the House

Chief Clerk of the House

Filed in this office this 16th day of June, 2015,

at 12:37 o'clock P M.

Secretary of State