

SENATE CONCURRENT RESOLUTION NO. 46

BY SENATORS LONG, BROOME, CLAITOR, CROWE, DONAHUE, ERDEY, GUILLORY, MARTINY, MILLS, MORRELL, MORRISH, MURRAY, PEACOCK, PERRY, RISER, GARY SMITH, JOHN SMITH, TARVER AND WARD

A CONCURRENT RESOLUTION

To express the right of the state of Louisiana to manage its water resources.

WHEREAS, the state of Louisiana has historically been charged with overseeing the stewardship of its natural resources; and

WHEREAS, since the passage of Federal Water Pollution Control Act, commonly referred to as the Clean Water Act, the partnership between federal, state, and local governments has been an integral part in achieving the goals of providing and maintaining clean and usable water to citizens and businesses; and

WHEREAS, Section 101(g) of the Clean Water Act expressly states that "the authority of the state to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this Act"; and

WHEREAS, the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers have proposed a rule to redefine "waters of the U.S." that could significantly increase the cost and regulatory requirements for state and local governments and ultimately the costs for state and local residents and businesses; and

WHEREAS, the push to unilaterally broaden the scope of the Clean Water Act and the federal government's reach into Americans' everyday lives could threaten to undermine the federal-state partnership and erode Louisiana's authority over its natural resources by granting sweeping new federal jurisdiction to waters never intended for regulation under the Clean Water Act, including ditches, man-made ponds, flood plains, riparian areas, and seasonally-wet areas; and

WHEREAS, the proposed rule provides almost unlimited federal jurisdiction, impairs state's rights, contravenes congressional intent, and is not consistent with three rulings by the United States Supreme Court regarding the limits of federal jurisdiction; and

WHEREAS, the proposed rule does not provide an explanation or clear understanding about how the proposed expansion of Clean Water Act jurisdiction and transfer of ultimate authority might affect other Clean Water Act programs, state laws and responsibilities, water rights, and land use; and

WHEREAS, this expansion of federal regulatory power also could have serious consequences for the nation's economy, threaten jobs, invite costly litigation, and significantly restrict the ability of landowners to make decisions about their property and the rights of state and local governments to plan for their own development; and

WHEREAS, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers have failed to fully consult with Louisiana and other states, thereby undermining the cooperative federalism intent at the heart of the Clean Water Act; and

WHEREAS, as co-regulators of water resources, Louisiana and other states should be fully consulted and engaged in any process that may affect the management of their waters.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby express its historical and constitutional right to be the ultimate authority to manage the use and protection of its water.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the administrator of the U.S. Environmental Protection Agency and the commanding general and chief of engineers of the U.S. Army Corps of Engineers.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES