

FIRST ENGROSSMENT

Sixty-first
Legislative Assembly
of North Dakota

**ENGROSSED HOUSE CONCURRENT
RESOLUTION NO. 3014**

Introduced by

Representatives Brandenburg, Belter, Boe

Senators Heckaman, O'Connell, Wanzek

1 A concurrent resolution urging Congress not to replace "navigable water" with "waters of the
2 United States" in any Clean Water Act-related legislation considered by Congress.

3 **WHEREAS**, the Clean Water Act is the foundation of federal and state efforts to protect
4 the nation's water and water resources and one of the primary reasons for the success of the
5 Clean Water Act over the past 35 years is the Act's clear recognition of a partnership between
6 the federal government and state governments to protect these resources; and

7 **WHEREAS**, this federal-state structure of shared responsibility allows states the
8 essential flexibility they need to protect truly ecologically important and environmentally
9 sensitive areas within their borders while, at the same time, preserving the authority of states
10 and local communities over their own land and water use planning; and

11 **WHEREAS**, the distinction between federal and state responsibility is set forth in
12 Section 101 of the Clean Water Act which states "[i]t is the policy of Congress to recognize,
13 preserve, and protect the primary responsibilities of States to prevent, reduce, and eliminate
14 pollution, to plan the development and use (including restoration, preservation and
15 enhancement) of land and water resources ... and that the authority of each State to allocate
16 quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise
17 impaired ..."; and

18 **WHEREAS**, legislative proposals before Congress that seek to replace the term
19 navigable with a broad definition of waters of the United States would destroy the Clean Water
20 Act's careful calibration of federal and state authority because it would provide federal
21 regulation over virtually every water body in the nation; and

22 **WHEREAS**, broadening the Clean Water Act with vague and ambiguous terminology
23 will abandon the cooperative federalism policies Congress sought to achieve and will
24 undermine the states' authority to plan the development and use of land and water resources
25 and to allocate water within each state's jurisdiction; and

1 **WHEREAS**, altering the Act's definitional structure could have dire and unintended
2 consequences by adding further regulatory burdens on states and local communities, usurping
3 state authority to manage vital water resources, including ground water, and imposing
4 substantial costs and delays to replace aging water infrastructure; and

5 **WHEREAS**, the successes of the last 35 years will not alone yield the solutions in the
6 next 35 years and the intractable water challenges faced today as a nation demand more
7 cooperative federalism, not more federal authority;

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

10 That the Sixty-first Legislative Assembly urges the Congress of the United States not to
11 replace "navigable water" with "waters of the United States" in any Clean Water Act-related
12 legislation considered by Congress; and

13 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this
14 resolution to the President of the United States, the Senate and House Majority and Minority
15 Leaders of the United States House of Representatives and the United States Senate, the
16 United States Secretary of Agriculture, the United States Secretary of the Interior, and to each
17 member of the North Dakota Congressional Delegation.