

House Resolution 112 - Introduced

HOUSE RESOLUTION NO. 112

BY WILLS

1 A Resolution regarding the Environmental Protection
2 Agency's definition of "waters of the United
3 States".

4 WHEREAS, the federal Clean Water Act and
5 implementing regulations of the past four decades
6 recognize the partnership between federal, state, and
7 local governments to achieve the objectives of the
8 Act; and

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12 shall not be superseded, abrogated or otherwise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

14 WHEREAS, the United States Environmental Protection
15 Agency and United States Army Corps of Engineers have
16 proposed a rule to redefine "waters of the United
17 States" that could significantly increase the costs and
18 regulatory requirements for state and local governments
19 and ultimately the costs for state and local residents
20 and businesses; and

21 WHEREAS, the proposed rule provides almost unlimited
22 federal jurisdiction under the Clean Water Act, impairs
23 state authority and therefore contravenes congressional
24 intent, and is not consistent with three distinct
25 rulings by the Supreme Court regarding the limits of
26 federal jurisdiction; and

27 WHEREAS, the proposed rule will apply to all
28 programs of the Clean Water Act and therefore

1 subject more activities to Clean Water Act permitting
2 requirements, National Environmental Policy Act
3 analyses, mitigation requirements, and citizen suits
4 challenging local actions based on the applicability
5 and interpretation of newfound authorities; and

6 WHEREAS, the proposing agencies' economic analysis
7 for this rule did not consider impacts for the full
8 range of Clean Water Act programs affected or the
9 economic impacts to small businesses, and the analysis
10 relied on outdated cost data; and

11 WHEREAS, the justification for the scope of the
12 proposed rule rests on a scientific analysis that is
13 still under review and the proposing agencies proceeded
14 with development of a proposed rule addressing issues
15 associated with the connectivity of waters prior to
16 being informed by the Science Advisory Board review and
17 the implications of its findings; and

18 WHEREAS, the proposed rule does not provide an
19 explanation or clear understanding about how the
20 proposed expansion of Clean Water Act jurisdiction and
21 transfer of ultimate authority might affect other Clean
22 Water Act programs, state laws and responsibilities,
23 water rights, land use, governances, and regulated
24 parties; and

25 WHEREAS, the Environmental Protection Agency and the
26 Army Corps of Engineers have not fully consulted the
27 states and have undermined the cooperative federalism
28 asserted in the Clean Water Act; NOW THEREFORE,

29 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That
30 the House of Representatives urges the Environmental

1 Protection Agency and the Army Corps of Engineers to
2 fully consult and engage states in any process that
3 may affect the management of their waters and to defer
4 redefining "waters of the United States" until the
5 Science Advisory Board concludes its review and the
6 Environmental Protection Agency and the Army Corps of
7 Engineers incorporate the conclusions of such review,
8 an economic analysis is completed that fully identifies
9 impacts of the proposal and any revised proposal on
10 economic development, and the redefinition provides
11 clarity on definitions and federal jurisdiction
12 consistent with previous Supreme Court rulings to
13 affirm that there is a limit to federal jurisdiction
14 under the Clean Water Act.