

Clarification of Federal Jurisdiction under the Clean Water Act

10-20

Whereas, all Americans need clean water and healthy watersheds to ensure clean and safe drinking water supplies and outdoor recreation, and to protect bridges, roads, hospitals, treatment plants, and other critical infrastructure; and

Whereas, county officials are on the front lines in protecting the health, safety, and welfare of our citizens; and

Whereas, for nearly 30 years, virtually all natural surface waters were “waters of the United States” and protected by the Clean Water Act; and

Whereas, counties across the nation are facing increased flooding, surface water pollution, toxic blue-green algae outbreaks, and problems caused by jurisdictional determinations—all related to the lack of enforcement of the original Clean Water Act of 1972; and

Whereas, the Environmental Protection Agency estimates that over 117 million people in 5,646 public drinking water supply systems rely on surface water protection areas within headwater and seasonal streams; and

Whereas, nearly 20 million Americans fall ill every year from drinking water contaminated with parasites, bacteria or viruses; and

Whereas, wetlands are among the most productive ecosystems in the world, providing habitats for many kinds of plants and animals, including more than one-third of the United States’ threatened and endangered species; and

Whereas, wetlands play an important role in providing a number of ecological services, including flood protection and control; erosion and sedimentation prevention and control; surface water filtration; groundwater recharge; and support for economic activity that depends on healthy populations of fish and wildlife; and

Whereas, wetlands provide opportunities for recreation, education, and research as well as measurable economic contributions; and

Whereas, the Clean Water Act’s jurisdiction over wetlands and all waters of the United States has been made uncertain by U.S. Supreme Court decisions in *Solid Waste Agency of Northern Cook County (SWANCC) v. United States Army Corps of Engineers* and related cases *Rapanos v. United States* and *Carabell V. United States*; and an estimated 20 million acres of wetlands and 59% of all stream miles in the lower 48 states are jeopardized by the Supreme Court decisions; and

Whereas, despite the issuance by the U.S. Corps of Engineers and the U.S. Environmental Protection Agency of supplementary guidance concerning Clean Water Act jurisdiction, confusion over federal jurisdiction under the Clean Water Act persists, adding substantial delays to valid permit actions and otherwise undermining the ability of the federal government and the states (whose wetland programs are legally intertwined with the Clean Water Act) to protect intermittent streams and isolated wetlands, placing many wetlands and streams at risk of pollution and destruction; and

Whereas, water flows downhill and across county and state lines;

Therefore, Be It Resolved that the Board of Commissioners of Queen Anne’s County, Maryland, supports continued and consistent definitions of federal jurisdiction of wetlands and waters of the United States as those in existence prior to the SWANCC Supreme Court decision; and

Be It Finally Resolved, that the Board of Commissioners of Queen Anne’s County, Maryland, encourages the U.S. Congress to act immediately to reestablish Clean Water Act jurisdiction to the full scope of waters protected prior to the recent Supreme Court decisions.

ATTEST:

THE COUNTY COMMISSIONERS OF
QUEEN ANNE’S COUNTY

Gene Ransom, III

Margie A. Houck

Courtney M. Billups

Paul L. Gunther

Carol R. Fordonski