

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT MEMORIAL NO. 6

BY STATE AFFAIRS COMMITTEE

A JOINT MEMORIAL

1 TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES  
2 IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION  
3 REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED  
4 STATES.  
5

6 We, your Memorialists, the House of Representatives and the Senate of the State of Idaho  
7 assembled in the First Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully  
8 represent that:

9 WHEREAS, federal legislation was introduced as H.R. 2421 in the United States House  
10 of Representatives by Congressman James Oberstar. The legislation was known as the Clean  
11 Water Restoration Act of 2007, and was proposed to clarify which waters are subject to the ju-  
12 risdiction of the United States under the Federal Water Pollution Control Act, 33 U.S.C. 1251,  
13 et seq.; and

14 WHEREAS, the federal legislation sought to clarify jurisdiction by striking the term "nav-  
15 igable waters" and replacing it with "waters of the United States" defined as "all waters subject  
16 to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and  
17 their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sand-  
18 flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all  
19 impoundments of the foregoing..."; and

20 WHEREAS, the bill, having not come up for debate, never became law and at the end  
21 of the congressional session all proposed bills and resolutions that have not passed are cleared  
22 from the books. There is, however, a strong likelihood that the bill will be reintroduced in this  
23 new congressional session; and

24 WHEREAS, striking the term "navigable waters" would potentially expand the federal  
25 government's reach beyond that which was intended and thereby blur jurisdictional authority to  
26 manage and regulate water resources within state and local government jurisdictions; and

27 WHEREAS, given the ambiguity of the legislation's jurisdictional reach, the implementa-  
28 tion of the proposal may lead to increased litigation and uncertainty among public and private  
29 stakeholders, including homeowners, farmers, water districts and state and federal agencies,  
30 among others.

31 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of  
32 the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein,  
33 that the Idaho Legislature adamantly opposes any proposed federal legislation, similar to the  
34 Clean Water Restoration Act of 2007, introduced as H.R. 2421 in the United States House of  
35 Representatives in May, 2007, and urges congress not to enact any similar legislation.

36 BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be,  
37 and she is hereby authorized and directed to forward a copy of this Memorial to the President  
38 of the Senate and the Speaker of the House of Representatives of Congress, and the congres-  
39 sional delegation representing the State of Idaho in the Congress of the United States.