

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT MEMORIAL NO. 9

BY RESOURCES AND CONSERVATION COMMITTEE

A JOINT MEMORIAL

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

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

8 WHEREAS, on April 2, 2009, federal legislation was introduced as Senate
9 Bill 787 in the United States Senate by Senator Russell Feingold. The legis-
10 lation is known as the Clean Water Restoration Act, and is proposed to clar-
11 ify which waters are subject to the jurisdiction of the United States under
12 the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq.; and

13 WHEREAS, the federal legislation purports to seek to clarify jurisdic-
14 tion by striking the term "navigable waters" and replacing it with "waters
15 of the United States" defined as "all waters subject to the ebb and flow of
16 the tide, the territorial seas, and all interstate and intrastate waters and
17 their tributaries, including lakes, rivers, streams (including intermit-
18 tent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes,
19 wet meadows, playa lakes, natural ponds, and all impoundments of the forego-
20 ing..."; and

21 WHEREAS, striking the term "navigable waters" would expand the federal
22 government's reach beyond that which was intended by the Clean Water Act
23 and thereby blur jurisdictional authority to manage and regulate water
24 resources within state and local government jurisdictions; and

25 WHEREAS, given the ambiguity of the legislation's jurisdictional
26 reach, the implementation of the proposal would lead to increased litigation
27 and uncertainty among public and private stakeholders, including homeown-
28 ers, farmers, water districts and state and federal agencies, among others.

29 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-
30 sion of the Sixtieth Idaho Legislature, the House of Representatives and the
31 Senate concurring therein, that the Idaho Legislature adamantly opposes the
32 proposed Clean Water Restoration Act, introduced as Senate Bill 787 in the
33 United States Senate, and urges congress not to enact this or any similar
34 legislation.

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