

**Nevada Association of Counties (NACO)  
Resolution 09-03**

**Resolution Opposing Congressional Efforts to Expand the  
Jurisdiction of the Clean Water Act**

**WHEREAS**, Over the past 35 years, the federal Clean Water Act (CWA), supported by other federal, state and local laws, and clarified by Supreme Court rulings, has governed our nation's waters and has helped ensure that Americans enjoy among the cleanest rivers and lakes in the world, and

**WHEREAS**, This landmark statute established proper balance between state, local, and federal regulatory authority and responsibilities while at the same time recognizing and protecting states primacy over water jurisdiction, and

**WHEREAS**, It is anticipated that legislation similar to the "Clean Water Restoration Act of 2007" (H.R. 2421 and S. 1870), attempting to make extreme changes to the Clean Water Act by expanding the definition from "navigable" to "waters of the United States" over which federal jurisdiction extends thereby altering the careful inter-governmental balance that has been the hallmark of the law throughout its long history will be introduced during the 111<sup>th</sup> Congress, and

**WHEREAS**, That language change would allow federal reach to explicitly include "all interstate and intrastate waters and their tributaries ...", essentially establishing under federal law that all wet areas within a state, or areas that have been wet at some time, would fall under federal regulatory authority, including groundwater, ditches, pipes, streets, gutters, desert features, and even pools and puddles, and

**WHEREAS**, The anticipated legislation would give the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers authority over "all interstate and intrastate waters," including non-navigable waters, thereby granting to Congress authority far beyond the original scope of the Clean Water Act, and

**WHEREAS**, "Non-navigable" waters are unlikely to fall under the Commerce Clause, the principle enumerated power upon which Congress has relied for passage of environmental laws, thereby making questionable the constitutionality of the proposed legislation, and

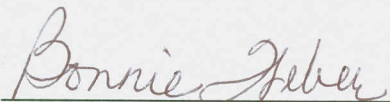
**WHEREAS**, This anticipated legislation would eliminate existing regulatory limitations that allow common-sense uses such as prior converted cropland and waste treatment systems since the proposed definition does not include any regulatory limitations. Existing rules acknowledge two important limitations covering prior converted cropland and waste treatment systems designed to meet CWA requirements, and

**WHEREAS,** The anticipated legislation expanded definition would burden state and local governments administratively and financially and would thrust unfunded mandates on state and local governments by imposing significant new administrative responsibilities upon them, and

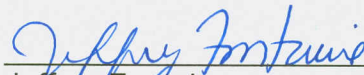
**WHEREAS,** County governments, both large and small, will also be impacted because they are responsible for a number of public infrastructure projects such as water supply, solid waste disposal, road and drainage channel maintenance, storm water detention, mosquito control and construction projects. County government efforts to carryout maintenance of government-owned buildings and lands could also be adversely impacted.

**NOW THEREFORE BE IT RESOLVED,** That the Nevada Association of Counties calls on Congress to preserve the traditional power of states over land and water use by not enacting legislation that would amend the Clean Water Act by unnecessarily expanding federal jurisdiction to "non-navigable" waters. Nevada's counties are committed to the goals and objectives of the original Clean Water Act and do not believe that it is in the nation's interest for the federal government to regulate ditches, culverts and pipes, desert washes, dry arroyos, farmland and treatment ponds as "waters of the United States" and therefore subjecting such waters to all of the requirements of federal regulation.

**BE IT FURTHER RESOLVED,** That a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives and members of Nevada's congressional delegation.



Bonnie Weber  
President



Jeffrey Fontaine  
Executive Director

