

1-1 By: Seliger S.C.R. No. 32
1-2 (In the Senate - Filed March 11, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 4, 2011, reported favorably by the following vote: Yeas 8,
1-5 Nays 1, 1 present not voting; May 4, 2011, sent to printer.)

1-6 SENATE CONCURRENT RESOLUTION

1-7 WHEREAS, Individual state governments have traditionally
1-8 held jurisdiction over intrastate water resources, but S. 787,
1-9 111th Cong. (2009), and H.R. 5088, 111th Cong. (2010), would expand
1-10 the Federal Water Pollution Control Act, widely known as the Clean
1-11 Water Act, to extend federal jurisdiction from "navigable waters of
1-12 the United States" to "waters of the United States," defined to
1-13 include "all other waters, such as intrastate lakes, rivers,
1-14 streams (including intermittent streams), mudflats, sandflats,
1-15 wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or
1-16 natural ponds"; and

1-17 WHEREAS, Not only would such changes involve the federal
1-18 government in inefficient and cumbersome efforts to regulate highly
1-19 localized water resources, such as abandoned pits and ponds, but
1-20 this definition also grants the United States Environmental
1-21 Protection Agency broad and vague flexibility to interpret federal
1-22 jurisdiction expansively, which the agency has attempted to do
1-23 under the current law and with which the United States Supreme Court
1-24 has disagreed; in *Solid Waste Agency of Northern Cook County v.*
1-25 *United States Army Corps of Engineers* (2001) and *Rapanos v. United*
1-26 *States* (2006), the supreme court held that the Clean Water Act was
1-27 not intended to grant federal authority over intrastate waters and
1-28 that these waters were not subject to regulation under the
1-29 Interstate Commerce Clause of the United States Constitution; and

1-30 WHEREAS, The Tenth Amendment of the United States
1-31 Constitution preserves powers not delegated to the federal
1-32 government for the states, establishing federalism and state
1-33 sovereignty as integral founding principles of American
1-34 government; recent proposals by Congress to amend the Clean Water
1-35 Act represent a clear attempt to diminish the sovereignty of states
1-36 by depriving them of their jurisdiction over intrastate waters and
1-37 placing all water resources under the control of the federal
1-38 government; now, therefore, be it

1-39 RESOLVED, That the 82nd Legislature of the State of Texas
1-40 hereby express its opposition to any attempt by the federal
1-41 government to diminish the jurisdiction of individual states over
1-42 their intrastate water resources; and, be it further

1-43 RESOLVED, That the Texas secretary of state forward official
1-44 copies of this resolution to the president of the United States, to
1-45 the president of the Senate and the speaker of the House of
1-46 Representatives of the United States Congress, and to all the
1-47 members of the Texas delegation to Congress with the request that
1-48 this resolution be entered in the Congressional Record as a
1-49 memorial to the Congress of the United States of America.

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