

NACo's Existing "Waters of the US" Resolution CONFLICTS with NACo's American County Platform

American County Platform

"NACo recognizes that the availability of an adequate supply of clean water is vital to our nation. Water quality degradation can impose human health risks through contaminated drinking water supplies, diseased fish, and unsafe or polluted water bodies used for recreation . . ."

"NACo supports . . . comprehensive watershed plans, stormwater or wastewater management plans, non-point source pollution control plans, ecosystem or estuarine management plans, and coastal management plans which must address water pollution from all sources, including non-point, sewer overflows, or point."

"NACo supports federal funding to meet all Clean Water Act (CWA) mandates imposed on counties. The CWA governs water pollution from point and non-point sources by keeping toxic substances out of our nation's waterways, thus ensuring that surface waters are safe for sport and recreational purposes. . . . NACo endorses enforcement measures for compliance with CWA . . ."

Waters of the US Resolution

This resolution states "NACo supports Clean Water Act provisions that protect wetland habitats and rivers and streams of the United States, but **does not support federal efforts to change the definition of the Clean Water Act from navigable waters to "waters of the United States."** An adequate supply of clean water is not possible if only some of our nation's waters are protected from pollution. According to EPA, over 110 million Americans get their water from intermittent or ephemeral streams and rivers – waters most at risk of losing pollution safeguards if the term "navigable" remains in the Clean Water Act. Only 1 – 2 percent of the nation's waters are actually designated as "navigable" waters. If that was all the Clean Water Act protected, drinking water would become contaminated, fish more diseased, and human recreation rendered unsafe.

If the law does not cover all waters, **this is not possible.** Many water pollution sources – point and non-point – would suddenly become unregulated if only "navigable" waters were covered. Just considering point sources alone, according to EPA, more than 40% of facilities (14,800) with Clean Water Act NPDES permits discharge into small or intermittent streams. Already several such facilities are arguing that because of *Rapanos* and *SWANCC*, they no longer require permits which impose limits on their pollution levels.

Enforcement measures for **compliance with CWA will not be possible under the Waters of the US Resolution.** Federal enforcement officials have already reported that approximately 40 percent of existing water pollution enforcement cases have been dropped, lowered in priority, or undermined by industry defenses because of the *Rapanos* decision alone.

These NACo policies are not achievable if Congress does not pass legislation to restore the scope of the Clean Water Act to protect those waters protected prior to 2001.

The Waters of the U.S. Resolution therefore conflicts directly with the fundamental goals of the American County Platform – it would render them impossible to achieve.