



Consortium of
Aquatic Science Societies

November 2, 2015

Scientists Strongly Oppose Senate Joint Resolution 22 Invalidating the Final Clean Water Rule

Dear Senator:

We are writing today on behalf of CASS (Consortium of Aquatic Scientific Societies), a group of five scientific societies that include the American Fisheries Society, the Association for the Sciences of Limnology and Oceanography, the Phycological Society of America, the Society for Freshwater Science, and the Society of Wetland Scientists. Our member societies represent more than 12,000 professional aquatic and wetland scientists from academia, government agencies, private industry, NGOs, and elsewhere. Most of the leading freshwater and wetland scientists in the United States belong to at least one of our societies.

As the nation's leading scientists, we strongly support the current final Clean Water Rule with its inclusion of headwater streams, including intermittent or temporary streams that do not have perennial flow but that do directly drain to a Traditional Navigable Water, interstate waters or the sea. There is ample scientific evidence that there are strong and varied physical, chemical, and biological connections between wetlands, headwater streams (whether they have perennial flow or not) and downstream navigable or interstate waters. Loss of protection of these waters will harm water quality, degrade drinking water, negatively impact water storage that leads to reduced flooding, reduce carbon storage, be deleterious to wildlife and fisheries resources, and cause other harmful impacts. Our member organizations continue to strongly endorse the importance of the Clean Water Rule and find efforts of Senate Joint Resolution 22 (S.J. RES. 22) to be harmful to the interests of the nation.

The development of the Clean Water Rule was based upon an extensive review of current scientific knowledge which was captured in the EPA technical report, *Connectivity of Streams and Wetlands to Downstream Waters: a Review & Synthesis of the Scientific Evidence*. (EPA/600/R-14/475F). This document synthesized over 1,200 peer reviewed publications and other relevant documents. Furthermore, EPA engaged in a transparent and thorough multi-year rulemaking process that included over 400 stakeholder meetings and an extended public comment period that produced over one million comments. Nearly 900,000 members of the public commented in support of the Clean Water Rule.

We continue to be concerned that there is a push to define jurisdictional waters based on regulatory or legal language rather than on scientific evidence of the ecological links between a "water of the US" that may be isolated from surface water connection and other neighboring waters. Requiring that a water be subjected to a "Significant Nexus Test" is the best way to

implement the scientific method to truly separate and understand the significance of that water to improving water quality in wetlands and waters around our Nation—the goal of the Clean Water Act since 1972. Although difficulties in definition and methodologies exist, we do not believe the Rule should be abandoned. Encouraging the continued use and assessment of waters under the recently proposed Rule will allow scientists and regulators to refine and revise the methods necessary for inclusion of a water body within federal regulatory programs.

Senate Joint Resolution 22 is a premature and ill-advised initiative that will negate the extensive work performed by an outstanding group of scientists and the public. This work aids in the resolution of longstanding confusion and debate and promotes clarity and efficiency for regulatory programs promoting the health of aquatic ecosystems, and preserves longstanding protections for farmers, ranchers, and foresters. Maintaining the Clean Water Rule will provide the opportunity to understand the complex hydrologic systems that exhibit natural variations throughout our country especially in the face of altered precipitation, temperatures, and major storm occurrences accompanying climate change.

Furthermore, as a result of the October 9th ruling by the 6th Circuit Court of Appeals, which temporarily stayed the Clean Water Rule nationwide, there will be an opportunity for the legal basis of the Rule to be fully reviewed. It seems entirely imprudent to proceed with a Senate Resolution that would essentially void a court action that may provide clarity and a forum for full legal analysis of the Rule.

The goal of CASS is to promote scientific study, education, and outreach about aquatic and wetland ecosystems for the benefit of all Americans. Our hope is that decisions made about our nation's aquatic resources will be based on the best scientific knowledge available and this is the basis of our request to you. The members of CASS ask you to reject S.J. RES. 22 and any other legislative action against the Clean Water Rule that may follow.

Sincerely,

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