

Resolution No. 54

Submitted By:

The Honorable David J. Berger, Mayor of Lima, OH
The Honorable Joy Cooper, Mayor of Hallandale Beach
The Honorable Mary Ann Lutz, Mayor of Monrovia, CA

**RESOLUTION TO ENSURE THAT MUNICIPAL CONCERNS
ARE ADDRESSED IN CLEAN WATER ACT REGULATIONS,
INCLUDING THE DEFINITION OF “WATERS OF THE U.S.”**

1. **WHEREAS**, the Clean Water Act and implementing regulations of the past four decades recognize the partnership between federal, state, and local governments to achieve the objectives of the Act; and
2. **WHEREAS**, local governments have assumed an ever-increasing share of the cost of achieving those objectives both as a regulator and permittee to maintain and improve water quality; and
3. **WHEREAS**, the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers have proposed a rule to define “Waters of the U.S.” that could significantly increase the cost and regulatory requirements for local governments and ultimately the costs for local residents and businesses; and
4. **WHEREAS**, the proposed rule and budget history for EPA and the Corps do not provide additional federal revenue nor anticipate assistance in the future to help meet the cost of this rule; and
5. **WHEREAS**, The United States Conference of Mayors has adopted and maintains policy that opposes legislation to expand Federal jurisdiction under the Clean Water Act unless the associated costs are born solely and entirely by the Federal government and its agencies and not levied as an unfunded mandate on the public and private sectors; and
6. **WHEREAS**, much of the anticipated cost of this rule would be financed from municipal resources, and thus divert resources from other essential public services,
7. **NOW, THEREFORE, BE IT RESOLVED**, that EPA and the Corps of Engineers suspend consideration of the Waters of the U.S. rule until local governments and other stakeholders are engaged in drafting a rule that addresses to the satisfaction of local governments and other stakeholders the full economic impact for all sections of the Clean Water Act beyond Section 404 (e.g. Sections 301, 311, 401, 402); incorporates the conclusions of the Science Advisory Board; and addresses the concerns of other federal agencies with water management and regulatory responsibilities affected by such a rule; and

8. **BE IT FURTHER RESOLVED**, that the rule include the following provisions that are priority concerns for local governments:
- Separate municipal storm sewers will continue to be regulated and permitted under Section 402 of the Clean Water Act, and shall not be considered, either in their entirety or any individual feature thereof, Waters of the U.S.; and
 - Green infrastructure developed to improve water quality or achieve multiple public benefits shall be encouraged and given priority consideration that does not impose additional financial and regulatory burdens of permittees and shall not be considered Waters of the United States; and
 - Water delivery, reuse, and reclamation systems and facilities shall not be considered waters of the U.S.; and
 - Ditches, streams and other drainage features that protect and ensure the operation of public infrastructure shall not be considered waters of the U.S.; and
 - Wastewater treatment systems and all associated infrastructure shall not be considered waters of the U.S.; and
 - Any proposal to regulate waters within a floodplain, riparian, or any other general area must include a specific definition, including the specific boundaries, of the floodplain, riparian, or other area subject to the rule; and
 - The rule must include sufficient clarity and specificity to better inform regulators and permittees and to minimize the potential for litigation; and
9. **BE IT FURTHER RESOLVED**, that failure to address any one or all of these concerns shall be considered an unfunded mandate and the costs of such mandate shall be fully and entirely born by the Federal government.

Projected Cost: Unknown