



**RESOLUTION OPPOSING THE PROPOSED RULES PROMULGATED BY THE  
U.S. ENVIRONMENTAL PROTECTION AGENCY AND THE U.S. ARMY CORPS OF ENGINEERS  
REGARDING THE SCOPE OF THEIR REGULATORY AUTHORITY  
UNDER THE CLEAN WATER ACT**

**WHEREAS**, the U.S. Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) have released a 371-page draft regulation, redefining the Waters of the U.S. under the Clean Water Act; and;

**WHEREAS**, both agencies are seeking a rule change to give the federal government more authority and control by expanding the definition of "navigable waters" in the Clean Water Act; and;

**WHEREAS**, the rule change proposed by the EPA and the Corps will subject almost all physical areas with a connection to downstream navigable waters, including features such as ditches, natural or man-made ponds and flood plains, to the jurisdiction of the Clean Water Act; and

**WHEREAS**, this proposed regulation creates uncertainty rather than clarity and would now capture a significant number of public works activities and transportation infrastructure that will now be subject to the Clean Water Act (CWA) and its costly and time-consuming permitting and regulatory protocols; and

**WHEREAS**, the proposed regulation greatly expands the number of projects subject to jurisdictional determination or CWA permitting which do not require such oversight at great expense to the taxpayers of the Town with little, if any, substantive environmental benefit while diverting scarce resources from other programs that do provide environmental protection and conservation benefits; and

**WHEREAS**, the financial impact of the proposed regulation to the Town will create significant ongoing maintenance costs and delays to Town citizens due to the need for jurisdictional determinations and expanded jurisdictional authority of the EPA and Corp; and

**WHEREAS**, the change will stall the development of businesses, take control of lands, and negatively impact Town-owned and maintained infrastructure such as roadside ditches and flood-control channels; and

**WHEREAS**, the costs to the Town of Nags Head and Dare County property owners, businesses, farms and taxpayers will be enormous creating another unfunded mandate; and

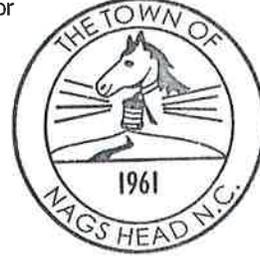
**WHEREAS**, because of funding shortfalls from the Congress of the United States, the Army Corps of Engineers is currently unable to maintain currently defined "navigable waters" such as the Oregon Inlet and the Hatteras-Ocracoke Ferry Channel, and thus they cannot hope to be successful with an expanded definition; and

**WHEREAS**, it is impractical for the federal government to regulate every ditch, pond and rain puddle that may have some tenuous connection or "significant nexus", miles away, to a body of water currently defined as "navigable".

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Town of Nags Head, North Carolina strongly opposes the EPA's proposed expansion of the Clean Water Act and urges the EPA and the Corps to withdraw the proposed CWA regulation immediately and work collaboratively with states and local governments to clarify federal jurisdiction under the CWA that is reasonable, environmentally responsible and respects the authority of the state and local governments in ensuring the protection of our water resources and protection to property owners.

This the 3<sup>rd</sup> day of September 2014.

  
Robert C. Edwards, Mayor  
Town of Nags Head



ATTEST:

  
Carolyn J. Morris, Town Clerk

The following Commissioners voted for the passage of the above resolution:

Mayor Edwards, Mayor Pro Tem Walters, Comr. Cahoon, Comr. Ratzenberger, and Comr. Demers

The following Commissioners voted against the passage of the above resolution:

None