

SENATE CONCURRENT RESOLUTION No. 1605

A CONCURRENT RESOLUTION urging the Bush administration to withdraw certain environmental protection agency regulations.

WHEREAS, The first official act of President George W. Bush on January 20, 2001, was to order a moratorium on all new federal regulations not yet published in the Federal Register; and

WHEREAS, The proposed new requirement for the Environmental Protection Agency to further regulate confined animal feeding operations within the State of Kansas should be subject to the moratorium; and

WHEREAS, The regulation of confined animal feeding operations within Kansas is properly the responsibility of the State of Kansas, not of the federal government; and

WHEREAS, The President's order also imposed a 60-day stay on implementation of new federal regulations that have already been published in the Federal Register but have not yet entered into force; and

WHEREAS, The purpose of the regulatory moratorium and stay ordered by President George W. Bush is to permit officials in his administration time to review proposed regulations and determine, on a case-by-case basis, whether each such regulation should be implemented; and

WHEREAS, One regulation that should be reviewed is a proposed new requirement for the federal Environmental Protection Agency to regulate farm ponds; and

WHEREAS, Another regulation that should be reviewed relates to default low flows; and

WHEREAS, Another regulation that should be reviewed relates to antidegradation requirements; and

WHEREAS, Another regulation that should be reviewed relates to effluent created flow; and

WHEREAS, Another regulation that should be reviewed relates to primary versus secondary contact recreation; and

WHEREAS, Neither the Federal Water Pollution Control Act of 1972 (Clean Water Act) nor any other act of Congress grants the federal government authority to regulate nonpoint source pollution, farming practices or issues involving water quantity in Kansas; and

WHEREAS, The regulations described in this Concurrent Resolution, if implemented, would have the effect of indirectly requiring regulation of nonpoint source pollution in Kansas waters in a manner inconsistent with the 10th Amendment to the United States Constitution by federally regulating matters traditionally and statutorily reserved to the states; and

WHEREAS, The United States Supreme Court in *Solid Waste Agency of Northern Cook County v. United States Corps of Engineers* recently held that the federal government exceeded its authority under the Clean Water Act in attempting to regulate isolated bodies of water, such as farm ponds; and

WHEREAS, Each regulation described in this Concurrent Resolution would, if fully implemented, impose substantial new financial and regulatory burdens on Kansas farmers, ranchers and other landowners; and

WHEREAS, Each regulation described in this Concurrent Resolution already has hindered and delayed ongoing efforts to protect and improve water quality in Kansas by diverting the time, attention and resources of farmers, ranchers and other landowners away from the planning and implementing of effective conservation and water-quality programs; and

WHEREAS, The full implementation of any of the regulations described in this Concurrent Resolution would impose unacceptable financial and regulatory burdens on Kansas farmers, ranchers and other landowners; would further hinder the ongoing voluntary, incentive-based efforts by the State of Kansas to protect and improve water quality in our state; and would constitute an unjustified and excessive intrusion by the federal government upon the proper authority of the State of Kansas to regulate the state's waters and protect the state's environment for the benefit of all Kansans; and

WHEREAS, All Kansans want clean water and the State of Kansas is committed to protecting water quality in Kansas without the need for further federal mandates: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Kansas Legislature hereby urges and requests the administration of President George W. Bush to permanently withdraw or withdraw and review and revise each of the regulations described in this Concurrent Resolution to fully accommodate the concerns expressed by Kansans during the public hearings conducted by the Environmental Protection Agency; and

Be it further resolved: That the Secretary of State is authorized and directed to send copies of this Concurrent Resolution to the President of the United States, to the White House Chief of Staff, to the Director of the federal Office of Management and Budget, to the administrator of the United States Environmental Protection Agency and to each member of the Kansas congressional delegation.

I hereby certify that the above CONCURRENT RESOLUTION originated in the SENATE, and was adopted by that body

President of the Senate.

Secretary of the Senate.

Adopted by the HOUSE _____

Speaker of the House.

Chief Clerk of the House.