

HOUSE JOINT RESOLUTION NO. HJ0010

Resolution-primacy of Wyoming's water rights.

Sponsored by: Representative(s) Simpson, Childers, Quarberg and Wallis and Senator(s) Coe and Peterson

A Bill

for

1 A JOINT RESOLUTION requesting Congress to reaffirm the  
2 primacy of Wyoming's water rights.

3

4 WHEREAS, The Tenth Amendment to the Constitution of the  
5 United States provides that the powers not delegated to the  
6 United States by the Constitution, nor prohibited by it to  
7 the states, are reserved to the states respectively, or to  
8 the people; and

9

10 WHEREAS, Article 8, Section 1 of the Wyoming Constitution  
11 provides that the water of all natural streams, springs,  
12 lakes or other collections of still water, within the  
13 boundaries of the state, are hereby declared to be the  
14 property of the state; and

15

1 WHEREAS, Article 1, Section 31 of the Wyoming Constitution  
2 provides that water being essential to industrial  
3 prosperity, of limited amount, and easy of diversion from  
4 its natural channels, its control must be in the state,  
5 which, in providing for its use, shall equally guard all  
6 the various interests involved; and

7

8 WHEREAS, the act of congress admitting Wyoming into the  
9 union accepted, ratified and confirmed the Wyoming  
10 Constitution, thereby consenting to the control and  
11 appropriation of water in the state of Wyoming by the state  
12 of Wyoming; and

13

14 WHEREAS, Congress enacted the Federal Water Pollution  
15 Control Act, commonly referred to as the Clean Water Act,  
16 to restore and maintain the chemical, physical and  
17 biological integrity of the nation's waters; and

18

19 WHEREAS, Congress amended the Federal Water Pollution  
20 Control Act in 1980, with what is commonly referred to as  
21 the Wallop Amendment, stating the policy of Congress is  
22 that the authority of each state to allocate quantities of  
23 water within its jurisdiction shall not be superseded,  
24 abrogated or otherwise impaired; and

1

2 WHEREAS, the Wallop Amendment also provided that the  
3 Federal Water Pollution Control Act shall be construed to  
4 not supersede or abrogate rights to quantities of water  
5 which have been established by any state; and

6

7 WHEREAS, Congress is considering an amendment to the  
8 Federal Water Pollution Control Act. The amendment, known  
9 as the Clean Water Restoration Act, would replace  
10 "navigable water" with the term "waters of the United  
11 States," thereby expanding federal jurisdiction of waters  
12 into control of all waters within Wyoming.

13

14 *NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE*  
15 *LEGISLATURE OF THE STATE OF WYOMING:*

16

17 **Section 1.** That the Wyoming Legislature claims  
18 sovereignty under the Tenth Amendment to the Constitution  
19 of the United States over all powers not otherwise  
20 enumerated and granted to the federal government by the  
21 Constitution of the United States, including the control of  
22 water within Wyoming.

23

1           **Section 2.** That this resolution serve as notice and  
2 demand to the federal government, to cease and desist,  
3 effective immediately, from enacting mandates that are  
4 beyond the scope of these constitutionally delegated  
5 powers, including the control of water within Wyoming.

6  
7           **Section 3.** That the Secretary of State of Wyoming  
8 transmit copies of this resolution to the President of the  
9 United States, to the President of the Senate and the  
10 Speaker of the House of Representatives of the United  
11 States Congress and to the Wyoming Congressional  
12 Delegation.

13

14

(END)