

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.

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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

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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

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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

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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

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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

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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23 water within its jurisdiction shall not be superseded,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

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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

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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.

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

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17 **Section 1.** That the State of Wyoming maintains
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.

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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.

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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.

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(END)