

GRANT COUNTY
RESOLUTION # R-14-51

**A RESOLUTION OPPOSING EXPANSION OF FEDERAL CONTROL UNDER
THE CLEAN WATER ACT**

WHEREAS, the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) are seeking to extend control over addition "Waters of the United States", and,

WHEREAS, the agencies have expanded their authority under the Clean Water Act to implement an onerous permit system that has forced delays as well as caused unnecessary additional expense to projects on the local level; and,

WHEREAS, the U.S. Supreme Court previously reprimanded the agencies for over-reaching their authority and Congress has recently documented concern with this effort to re-define the scope of federal power under the Clean Water Act; and

WHEREAS, the Grant County Board of Commission intend to submit the attached comments opposing the additional proposed regulations.

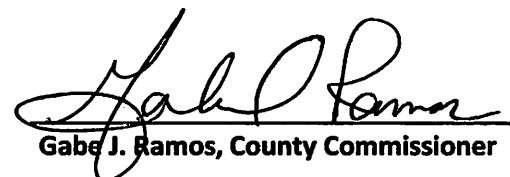
NOW THEREFORE BE IT RESOLVED, that the Grant County Board of Commissioners opposes additional regulations that have been proposed by EPA to redefine the current definition as well as implement additional enforcement with respect to the Clean Waters Act and the Waters of the United States.

PASSED AND ADOPTED, on this 7th day of October, 2014, by the Grant County Board of Commissioners in an open meeting in Silver City, Grant County, New Mexico.

**GRANT COUNTY BOARD OF COMMISSIONERS
GRANT COUNTY, NEW MEXICO**

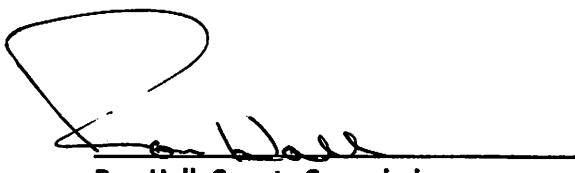


Brett A. Kasten
County Chairman

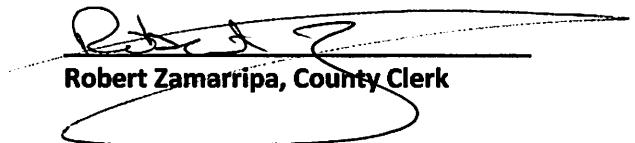


Gabe J. Ramos, County Commissioner

ATTEST:



Ron Hall, County Commissioner



Robert Zamarripa, County Clerk

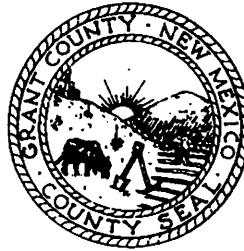
GRANT COUNTY

COMMISSIONERS

GABRIEL J. RAMOS
DISTRICT 1

BRETT A. KASTEN
DISTRICT 2

RON HALL
DISTRICT 3



COUNTY MANAGER
CHARLENE WEBB

Telephone: (575) 574-0008
Fax: (575) 574-0073

Water Docket
Environmental Protection Agency
Mail Code 2822T, 1200 Pennsylvania Ave. NM
Washington, DC 20460

Attn: Docket ID No. EPA-HQ-OW-2011-0880

To whom it may concern:

The County of Grant in New Mexico, would like to express opposition to the proposed rule defining the waters protected under the jurisdiction of the US Army Corp of Engineers (USACE). Although the rule is designed to simplify the process of identifying waters under the jurisdiction of the Corp it clearly will make the process more difficult for local governments. By expanding the requirements under the Clean Water Act and the jurisdiction of "waters of the United States" local governments will be required to "wade" through the permitting process for every potential "other water" as defined in the proposed rule change.

The permitting process is anything but simple and engages several other agencies for approval. This would add a significant burden for local governments not only for special projects but for routine maintenance as well. While the rule changes are proposed to reduce confusion related to waters under the jurisdiction of the USACE, the conditions by which the rules apply will actually increase overall need to identify impacts to a whole system of both urban and rural "categories of other water" of which a jurisdiction has not been identified. Under the new rule the definition of tributaries will be re-defined and henceforth potentially increase the need for local governments to obtain permits for example, routine maintenance of a rural roadway. Although within the rule there are exemptions identified related to ditches and their relationship with "waters of the United States" the definition of tributaries all but negates this exemption unless the ditches go absolutely nowhere. These exemptions, unless the ditch has no significant grade is useless. Most if not all ditches are designed to remove or transport water from adjacent infrastructure to nearby natural drainages to prevent erosion or damage.

By identifying each project and watercourse individually, jurisdictional data is consistently being collected whereas a blanket identification redefining "waters of the United States" could clearly leave room for error and or violation of the proposed rule. As proposed in the rule "other waters" would still have to have a case specific analysis for jurisdictional status and would still be subject to permitting requirements of the Clean Waters Act. The proposed rule also allows for blanket identification of "other waters" by simply defining similarities with other waters associated by region, similar characteristics, or simply by hydrological connection.

Office Of The Grant County Commissioners
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In conclusion although the proposed rule consistently refers to simplification of process, jurisdictional identification, and is design to reduce documentation requirements it does exactly the opposite. By redefining the term tributaries, and by not specifically containing a definition or identification of “other waters”, the proposed rule does nothing more than remove current duties specific to the USACE and place the burden onto the local governments to identify and provide evidence that they are not in violation of the “Clean Water Act”. Therefore, referring to the initial comment of this document the County of Grant in New Mexico is opposed to the implementation of the proposed rule the definition of “Waters of the United States” Under the Clean Water Act.

Sincerely,



Brett Kasten
Grant County Commission Chairman