



July 31, 2011

**SENT VIA EMAIL [owdocket@epa.gov](mailto:owdocket@epa.gov)**

Lisa P. Jackson, Administrator  
Water Docket  
Environmental Protection Agency  
Mail Code 2822T  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Docket No: **EPA-HQ-OW-2011-0409** Draft Guidance on Identifying Waters Protected by the Clean Water Act (“Guidance”)

Dear Administrator Jackson:

The undersigned requests that your agency's proposed Clean Water Act “Guidance” be withdrawn from further consideration, and proceed with a formal rulemaking consistent with your statutory authority and Supreme Court precedent.

We are dismayed and alarmed at the expansion of federal power proposed by your agency under the 1972 Clean Water Act, particularly in light of the recent *SWANCC* and *Rapanos* U.S. Supreme Court decisions that found the federal government had exceeded its jurisdictional authority and found in favor of local government and the property rights of landowners.

Your proposed “Guidance” is arguably the largest federal power grab proposed by any agency in our nation's history:

- It usurps the rights of state and local governments to manage land and water resources
- It is contrary to U.S. Supreme Court precedent and directives
- It circumvents the requirements and safeguards of the Administrative Procedures Act
- It is in contravention of the U.S. Constitution

In short, your proposed “Guidance” is little more than a blatant attempt to achieve administratively what could not be accomplished through failed legislation authored by former Minnesota Congressman James Oberstar and former Wisconsin Senator Russ Feingold.

We note that the U.S. House of Representatives recently approved *H.R. 2018, the Clean Water Cooperative Federalism Act*, a bi-partisan attempt to rein in your agency's seemingly endless appetite for expanded federal powers. The bill has been sent to the Senate Environment and Public Works Committee for further consideration.

Thank you for your consideration of our request to withdraw your proposal and proceed with a formal rulemaking consistent with your statutory authority and Supreme Court precedent.

Sincerely,

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Co-Signatories: we are building a coalition of concerned citizens and organizations to educate our fellow Minnesotans about this and related issues. We will be informing our elected representatives of our concerns.

SW Metro Tea Party Patriots

North Metro Tea Party Patriots

Mille Lacs Tea Party Patriots

Mary Anne Weninger, Member, Objectivist Society

Doug Widen, 38'er's Snowmobile Club

Ann Buck, Coalition for Sensible Siting

Kristi Rosenquist, President, Wind Journey Farm, Goodhue, MN

Don Evanson

Mike Hughes, District Director, Minnesota United Snowmobile Association; Region 2  
Former Chairman, Parks and Recreation Commission, Itasca County, MN;  
Former President, Itasca County Trails Task Force

Tom Spitznagle

