



YAVAPAI COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 1874

A RESOLUTION OPPOSING EXPANSION OF THE AUTHORITY OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE US ARMY CORPS OF ENGINEERS UNDER THE CLEAN WATER ACT

RECITALS:

WHEREAS, The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) have released draft rule amendments under the Clean Water Act (Act) redefining what constitutes “Waters of the United States” under the Act; and

WHEREAS, The proposed rules will have the effect of expanding the authority of the EPA and the Corps beyond the limits granted them by the Act; and

WHEREAS, Since the scientific document supporting the proposed rule is still under review and has yet to be vetted, the review and comment period on this rule should be suspended until the scientific document has been vetted; and

WHEREAS, The proposed classification under the proposed rule of all intermittent and ephemeral streams as “tributaries” subject to the jurisdiction of the EPA and the Corps under the Act is not consistent with the limits of the EPA’s and Corps’ jurisdiction as defined in the prevailing opinion of the Supreme Court of the United States in *Rapanos v United States*; and

WHEREAS, The proposed expansion of the authority of the EPA and Corps to large geographic areas based on ground water connections alone as the “significant nexus” with waters of the United States is not consistent with the terms of the United States Constitution, the Act and the interpretation of the Act by the United States Supreme Court; and

WHEREAS, The proposed expansion of the authority of the EPA and Corps to all consider all waters as within the jurisdiction of the Act on a “case by case” basis is not supported by the Act and by interpretations of the Act by the United States Supreme Court; and

WHEREAS, The proposed rules inclusion of irregular ephemeral flows, playa lakes and internal drainage systems that do not directly connect to a water of the United States, or affect interstate or foreign commerce is beyond the limits of the authority granted to the EPA and the Corps under the Act; and

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED that the Yavapai County Board of Supervisors hereby opposes the proposed rule changes as an unnecessary expansion of the powers of the EPA and Corps.

BE IT FURTHER RESOLVED the Clerk of the Board of Yavapai County is directed to forward a certified copy of this resolution to Jan Brewer, Governor, State of Arizona, and the Environmental Protection Agency, the Army Corps of Engineers for inclusion as a public comment on the proposed rules.

Approved and Adopted by the Yavapai County Board of Supervisors

this 16nd day of June 2014.

/s/ Rowle P. Simmons

Rowle P. Simmons, Chairman

ATTEST:

/s/ Ana Wayman-Trujillo

Ana Wayman-Trujillo, Clerk of the Board

APPROVED AS TO FORM AND DETERMINED TO BE WITHIN THE SCOPE OF PERFORMANCE OF DUTY OF THE YAVAPAI COUNTY BOARD OF SUPERVISORS:

/s/ Jack Fields

Jack Fields

Deputy County Attorney