

Warren County Board of Supervisors

RESOLUTION NO. 551 OF 2012

Resolution introduced by Supervisors Thomas, Taylor, Sokol, Monroe, Bentley, Wood, Kenny, Merlino and Conover

EXPRESSING WARREN COUNTY'S OPPOSITION TO THE CLEAN WATER ACT DRAFT GUIDANCE PROPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY

WHEREAS, the Warren County Board of Supervisors recognize and affirm their commitment to environmental stewardship and the protection of our natural resources, and the need to harmonize municipal land use and development programs and municipal services with the legislative intent and objectives of the Clean Water Act (CWA), and

WHEREAS, the Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Corps) have developed draft guidance which greatly expands the identified waters protected by the CWA (draft guidance) and which draft guidance purportedly clarifies the EPA's and Corps understanding and definition of the CWA that will apply to all of the EPA's regulatory programs and policy actions, and

WHEREAS, the draft guidance greatly expands the number of projects subject to jurisdiction or determination of CWA permitting and which projects do not currently require EPA or Corps oversight and at great expense to the taxpayers of Warren County with little, if any, environmental benefit while diverting scarce resources from other programs that provide environmental protection and conservation benefits, and

WHEREAS, the draft guidance creates uncertainty, confusion and, if implemented by EPA will include within EPA's purview a significant number of public works activities, transportation infrastructure, agricultural activities and commercial and residential development activities which, heretofore have not been subject to CWA's costly, time consuming permitting and regulatory protocols, and

WHEREAS, the Warren County Board of Supervisors maintains that the CWA was never intended to extend EPA's regulatory oversight to road side ditches, storm-water drains, culverts, farm and stock ponds, seeps, wet areas, isolated man-made ponds or channels for intermittent waterflow, and

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WHEREAS, the financial impact of the draft guidance to Warren County and its towns and villages will be significant with road side ditch projects and on-going maintenance alone causing additional fiscal stress on Warren County which is already experiencing difficulties due to unfunded State mandates and a State imposed tax cap, and

WHEREAS, the Warren County Board of Supervisors maintains that it is improper to so significantly change and expand the scope of CWA without legislative authorization by the United States Congress or through the formal Federal rule making process and absent any public and stakeholder comments on this critically important and complex issue, and the unilateral action by EPA presents serious separation of powers concerns as well as questions about the authority of a Federal Agency to initiate and implement without any legislative or public input expansive new authority, now, therefore, be it

RESOLVED, that the Warren County Board of Supervisors urges EPA and the Corps to withdraw the draft CWA guidance immediately, work collaboratively with state and local governments to enforce the current scope of the CWA while respecting the authority of state and local governments in ensuring the protection of our water resources, and be it further

RESOLVED, that the Warren County Board of Supervisors urges its Congressional and State representatives to intercede and request the EPA to report to them on their response and adaptations regarding the aforementioned concerns, and be it further

RESOLVED, that the Clerk of the Board of Supervisors be, and hereby is, authorized and directed to forward copies of this resolution to Senator Charles E. Schumer; Senator Kirsten E. Gillibrand, Congressman Christopher Gibson, EPA Administrator Lisa Jackson, New York Governor Andrew Cuomo, Senator Elizabeth O'C. Little, Assemblywoman Teresa Sayward and EPA Region 2 Administrator Judith Enck.