

June 5, 2014

The Honorable Bill Shuster  
Chairman, Transportation & Infrastructure Committee  
2165 Rayburn House Office Building  
Washington, DC 20515

The Honorable Nick Rahall  
Ranking Member, Transportation & Infrastructure Committee  
2163 Rayburn House Office Building  
Washington, DC 20515

CC: All Members of Congress

Dear Chairman Shuster and Ranking Member Rahall:

The undersigned organizations commend your continued oversight on the proposal by the U.S. Environmental Protection Agency and Army Corps of Engineers to increase their authority under the Clean Water Act, and urge Congress to stop the proposed expansion of federal jurisdiction and limit EPA's ability to unilaterally halt job-creating projects. EPA and the Army Corps of Engineers' recent activities will federalize our nation's waters and public and private lands, resulting in dramatic impacts on job creation and economic investment and growth.

Nearly every sector of the economy – including agriculture, construction, housing, manufacturing, utilities, energy production, and transportation – is immediately affected by how EPA and the Corps interpret and implement the CWA. Just as importantly, private property owners who want to develop their own land, as well as state and local governments building critical infrastructure, must also frequently obtain CWA permits.

Twice the Supreme Court has affirmed that both the U.S. Constitution and the CWA place limits on federal authority over intrastate waters, and Congress has declined to alter that careful balance between federal and state regulation. Yet EPA and the Corps are now attempting to substitute their own judgment for that of Congress, and to unlawfully expand the scope of federal jurisdiction beyond anything that has ever existed under the CWA. We strongly support the Committee's efforts to ensure that the agencies' regulations defining their authority adhere to Congressional intent, and we pledge to work with you on this critically important matter.

We also want to register our continuing support of efforts by the Committee to address other regulatory overreach by the agencies. Nowhere is this more prominent than in Section 404 of the CWA, where EPA has already provided two telling examples of what can happen to U.S. projects that require federal CWA permits. Notably, EPA for the first time ever recently used Section 404 to retroactively veto a valid CWA permit, thereby halting an on-going lawful operation. EPA then used Section 404 to prospectively veto another project before the companies involved could even apply for a permit, but after hundreds of millions of dollars had been spent in up-front capital expenditures.

If EPA is allowed to continue in this manner, and indeed to expand its authority over more land, it will have a devastating impact on U.S. investment and job creation, as companies will not be able to rely on the rule of law in the United States and will not invest in U.S. projects.

The undersigned organizations are committed to the protection and restoration of America's water resources. And while the environmental protections provided by the CWA are vital, so too is the rule of law and the ability of investors to rely on the U.S. permitting process. Congress must act to protect both by requiring federal agencies to recognize the legal limits to CWA authority, and ensuring that EPA exercises its CWA authority in a manner consistent with due process and fundamental fairness.

It is critical that the federal government use the legally promulgated processes under the CWA and National Environmental Policy Act to make fair, informed decisions about job-creating projects. It is likewise vital that, once companies receive their permits, the companies – as well as the investors and employees relying on them – can rely on those permits to not be revoked at any time for any reason. Finally, it is extremely important that EPA and the Corps not be permitted to arrogate authority to themselves that Congress never intended.

We therefore ask that you stop EPA and the Corps from finalizing their proposed rule defining their authority under the CWA, and limit EPA's ability to act under Section 404 until after the NEPA and 404 environmental review processes are completed but before a permit is issued. Such limitations would provide for robust environmental protection, transparency and certainty for the regulated community, and economic investment and growth.

Sincerely,

Agribusiness Association of Kentucky  
Agribusiness Council of Indiana  
Agricultural Retailers Association

Alabama Associated Builders and Contractors  
Alabama Cattlemen's Association  
Alaska Associated Builders and Contractors  
American Coke & Coal Chemicals Institute  
American Concrete Pressure Pipe Association  
American Exploration & Mining Association  
American Farm Bureau Federation  
American National CattleWomen  
American Petroleum Institute  
American Road & Transportation Builders Association  
Arizona Builders' Alliance  
Arizona Cattle Feeders' Association  
Arizona Cattle Growers' Association  
Arizona Mining Association  
Arkansas Associated Builders and Contractors  
Arkansas Cattlemen's Association  
Associated Builders and Contractors  
Associated Equipment Distributors  
Baltimore Metro Chapter, Associated Builders and Contractors  
Beefmaster Breeders United  
California Cattlemen's Association  
Carolinas Associated Builders and Contractors  
Carroll Co. Farm Bureau  
Central Florida Chapter, Associated Builders and Contractors  
Central Ohio Chapter, Associated Builders and Contractors  
Central Pennsylvania Chapter, Associated Builders and Contractors  
Central Texas Chapter, Associated Builders and Contractors  
Chariton County Farm Bureau  
Colorado Cattlemen's Association  
Colorado Livestock Association  
Colorado Mining Association  
Connecticut Chapter, Associated Builders and Contractors  
Cornhusker Chapter, Associated Builders and Contractors  
Crop Protection Association of North Carolina  
Dairy Producers of New Mexico  
Delaware Chapter, Associated Builders and Contractors  
Dyno Nobel Inc.  
Eastern Pennsylvania Chapter, Associated Builders and Contractors  
Empire State Chapter, Associated Builders and Contractors  
Far West Agribusiness Association  
Florida Associated Builders and Contractors  
Florida Cattlemen's Association  
Florida East Coast Chapter, Associated Builders and Contractors  
Florida Fertilizer & Agrichemical Association  
Florida First Coast Chapter, Associated Builders and Contractors  
Florida Golf Coast Chapter, Associated Builders and Contractors  
Georgia Agribusiness Council  
Georgia Associated Builders and Contractors

Georgia Cattlemen's Association  
Georgia Urban Ag Council  
Greater Michigan Chapter, Associated Builders and Contractors  
Hawaii Cattle Council  
Hawaii Chapter, Associated Builders and Contractors  
Idaho Cattle Association  
Illinois Beef Association  
Illinois Chapter, Associated Builders and Contractors  
Illinois Coal Association  
Illinois Fertilizer & Chemical Association  
Independent Petroleum Association of America  
Indiana Beef Cattle Association  
Indiana Coal Council  
Indiana/Kentucky Chapter, Associated Builders and Contractors  
Industrial Minerals Association – North America  
Inland Pacific Chapter, Associated Builders and Contractors  
Institute of Makers of Explosives  
Iowa Associated Builders and Contractors  
Iowa Cattlemen's Association  
Irrigation Association  
Kansas Livestock Association  
Kentucky Coal Association  
Keystone Chapter, Associated Builders and Contractors  
Lignite Energy Council  
Los Angeles/Ventura Chapter, Associated Builders and Contractors  
Luman Offutt Farms, Inc.  
Metro Washington Chapter, Associated Builders and Contractors  
Michigan Agri-Business Association  
Michigan Associated Builders and Contractors  
Michigan Cattlemen's Association  
Minnesota Crop Production Retailers  
Minnesota/North Dakota Chapter, Associated Builders and Contractors  
Mississippi Cattlemen's Association  
Mississippi Chapter, Associated Builders and Contractors  
Missouri Agribusiness Association  
Missouri Cattlemen's Association  
Missouri Levee & Drainage District Association  
Montana Agricultural Business Association  
Montana Stock Growers Association  
National Association of Manufacturers  
National Association of REALTORS®  
National Cattlemen's Beef Association  
National Industrial Sand Association  
National Mining Association  
National Sorghum Producers  
National Stone, Sand and Gravel Association  
Navajo Nation

Nebraska Agri-Business Association  
Nebraska Cattlemen's Association  
Nevada Cattlemen's Association  
Nevada Chapter, Associated Builders and Contractors  
New Jersey Chapter, Associated Builders and Contractors  
New Mexico Associated Builders and Contractors  
New Mexico Cattle Growers' Association  
New Mexico Federal Lands Council  
New Mexico Wool Growers, Inc.  
New Orleans/Bayou Chapter, Associated Builders and Contractors  
North Carolina Cattlemen's Association  
North Dakota Stockmen's Association  
North Florida Chapter, Associated Builders and Contractors  
Northern Alabama Chapter, Associated Builders and Contractors  
Northern California Chapter, Associated Builders and Contractors  
Northern Ohio Chapter, Associated Builders and Contractors  
Ohio Agribusiness Association  
Ohio Cattlemen's Association  
Ohio Coal Association  
Ohio Valley Chapter, Associated Builders and Contractors  
Oklahoma Agribusiness Retailers Association  
Oklahoma Chapter, Associated Builders and Contractors  
Oregon Cattlemen's Association  
Oregonians for Food & Shelter  
Pacific Northwest Chapter, Associated Builders and Contractors  
Pelican Chapter, Associated Builders and Contractors  
Pennsylvania Cattlemen's Association  
Pennsylvania Coal Alliance  
Portland Cement Association  
Public Lands Council  
Ray-Clay Farms, Inc.  
Responsible Industry for a Sound Environment  
Rhode Island Chapter, Associated Builders and Contractors  
Rocky Mountain Chapter, Associated Builders and Contractors  
San Diego Chapter, Associated Builders and Contractors  
Schertz Aerial Service, Inc.  
South Carolina Fertilizer & Agrichemicals Association  
South Dakota Agri-Business Association  
South Dakota Cattlemen's Association  
South Texas Chapter, Associated Builders and Contractors  
Southeast Michigan Chapter, Associated Builders and Contractors  
Southeast Texas Chapter, Associated Builders and Contractors  
Southeastern Livestock Network  
Southern California Chapter, Associated Builders and Contractors  
Southern Crop Production Association  
Southwest Council of Agribusiness  
Tennessee Cattlemen's Association  
Texas Ag Industries Association

Texas and Southwestern Cattle Raisers Association  
Texas Associated Builders and Contractors  
Texas Cattle Feeders Association  
Texas Coastal Bend Chapter, Associated Builders and Contractors  
Texas Gulf Coast Chapter, Associated Builders and Contractors  
Texas Mid-Coast Chapter, Associated Builders and Contractors  
Texas Vegetation Management Association  
Texas Wildlife Association  
TEXO, the Construction Association  
The Fertilizer Institute  
The McGregor Company  
U.S. Chamber of Commerce  
Utah Cattlemen's Association  
Utah Chapter, Associated Builders and Contractors  
Utah Mining Association  
Virginia Agribusiness Council  
Virginia Cattlemen's Association  
Virginia Chapter, Associated Builders and Contractors  
Virginia Christmas Tree Growers Association  
Virginia Green Industry Council  
Virginia Nursery & Landscape Association  
Virginia State Feed Association  
Virginia State Horticultural Society  
Washington Cattle Feeders  
Washington Cattlemen's Association  
Waters Farms, Inc.  
WePeCo, Inc.  
West Virginia Cattlemen's Association  
West Virginia Chapter, Associated Builders and Contractors  
Western Michigan Chapter, Associated Builders and Contractors  
Western Peanut Growers Association  
Western Pennsylvania Chapter, Associated Builders and Contractors  
Western Washington, Associated Builders and Contractors  
Wyoming Ag Business Association  
Wyoming Crop Improvement Association  
Wyoming Ethanol  
Wyoming Wheat Growers Association