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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-1009**

COMMITTEE ON  
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COMMITTEE ON  
FOREIGN AFFAIRS  
MIDDLE EAST AND NORTH AFRICA  
ASIA AND THE PACIFIC

June 11, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

The Honorable John McHugh  
Secretary  
Department of the Army  
The Pentagon, Room 3E700  
Washington, D.C. 20310

Dear Administrator McCarthy and Secretary McHugh:

The Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) proposed a rule to amend the Clean Water Act (CWA), which affects the “Waters of the United States” section of the CWA. This rule will expand the regulatory jurisdiction of the EPA and Corps, and in turn place more restrictions on landowners who will fall under this new umbrella of jurisdiction. While I appreciate the importance of clean water and uncontaminated waterways, I believe that the CWA has grown to the point where it is a burden on our citizenry. Therefore, I oppose this further expansion of the Clean Water Act.

The Clean Water Act was passed into law on October 18, 1972, overriding President Nixon’s veto, with the intention to place the “navigable waters of the United States” under the jurisdiction of the EPA and Corps. The CWA defined “navigable” waters as those which travel and commerce can take place, and all bodies “adjacent” to those deemed “navigable.” A special case section known as “other” waters has also been added to the CWA since its initial implementation. It pertains to bodies of water which are not necessarily “adjacent,” but have a direct effect on the “navigable” water. The original intention was to allow the Corps and EPA to regulate and protect these waters for the greater good of the environment and U.S. economy. In recent years the EPA and Corps have overreached their regulatory authority as to what constitutes “navigable” water and all those “adjacent” or “other” to the body deemed “navigable.” In the 2008 *Rapanos* case, the Supreme Court determined there would need to be “case-by-case” rulings done to determine whether or not the body of water was indeed an “other” body, contained a “significant nexus” to the “navigable” water or was in need of EPA and Corps oversight. The ultimate goal for the EPA and Corps is to extend their power to micromanage all bodies of water, including but not limited to: intermittent streams, dry-ditches, and private irrigation ponds, in the U.S. and expand the jurisdictional scope of the CWA.

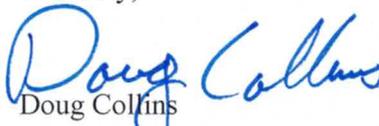
The CWA places waters, which if contaminated, could potentially harm civilians, degrade the environment, or inhibit the ability for trade via waterways in the United States under EPA and Corps jurisdiction. Choosing to keep the CWA as is and not expand the jurisdiction of the EPA and Corps is crucial to the survival of small businesses, commercial and domestic farmers, and landowners throughout the nation. The Clean Water Act contains a step-by-step process for determining whether or not a body of

water rightfully belongs under the “other” waters label. This process restricts the EPA and Corps from being able to infringe on the given rights of landowners, but it also provides the option for EPA or Corps oversight if an infraction is committed. The current exclusions from the CWA would not in any way change with the implementation of this rule. If anything the new rule further limits the possibility for exclusions. The exclusions would include: water treatment facilities which meet CWA requirements, prior converted cropland, some artificially irrigated areas, and some upland ditches which do not meet the rule’s new revised definition of “tributary.” Although these are exclusions to the rule, they are very narrow and in no way beneficial to the landowner if this rule were to be passed.

Implementing this rule will lead to unnecessary and burdensome restrictions on landowners through the use of a clause which broadens the category of “other” waters under CWA rules. For example, if one hundred acres are owned by an individual and this property has numerous “dry-ditches” for the purpose of runoff during heavy rains, then this landowner’s land could potentially fall subject to EPA and Corps regulations. The proposed rule would deem it unnecessary to always submit a report on a case-by-case basis revealing why a particular body is in need of EPA or Corps oversight. This rule will impede on the rights of property owners. Landowners will be forced to relocate poultry houses, restricted to smaller areas to raise cattle, or be further limited in the acreage desirable for harvesting crops. These are just a few of the many issues which would come with this rule. This rule will lead to the EPA and Corps enforcing needless restrictions on landowners without the proper due process being given to the landowner.

I urge the EPA and Corps to abandon their attempt to expand regulatory jurisdiction through the Clean Water Act. It is evident through previous Supreme Court rulings the EPA and Corps has previously implemented their jurisdiction in areas where it should not be subject to CWA standards. These actions display the need to strike down this proposed rule and see to it the EPA and Corps does not have the ability to overreach their authority. Congressional oversight is vital in protecting the rights of landowners and ensuring these rights are not infringed upon by regulatory agencies.

Sincerely,



Doug Collins  
Member of Congress