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July 15, 2014

The Honorable Bill Shuster
Chairman
House Committee on Transportation and
Infrastructure
Washington, DC 20515

The Honorable Nick Rahall
Ranking Member
House Committee on Transportation and
Infrastructure
Washington, DC 20515

Dear Chairman Shuster and Ranking Member Rahall:

On behalf of its one million members, the National Association of REALTORS® (NAR) strongly supports H.R. 5078, the Waters of the U.S. Regulatory Overreach Protection Act. The Transportation and Infrastructure Committee is scheduled to mark up this critical measure on Wednesday, and NAR urges support for the bill.

H.R. 5078 prevents two federal agencies – the Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) – from finalizing proposed regulations which, in effect, write the term “navigable” out of the Clean Water Act. Currently, agencies may not declare U.S. waters on most private properties without physically visiting the site and collecting data that shows that regulation could prevent significant pollution to an ocean, lake, or river that is, in fact, navigable. Because the agencies complain this process is too costly and time consuming, they propose to shift the burden of proof to individual small businesses and homeowners, who otherwise must go through a lengthy federal negotiation and permitting process in order to build or make other improvements on their own land.

This bill does not prevent the EPA or Corps from protecting navigable or significant nexus waters within the congressionally intended scope of the Clean Water Act. It does send these overreaching agencies back to the drawing board to provide a reasonable, sound science basis for their regulatory decisions. The agencies should also work with the states to build consensus around a scope of waters which are state responsibility and not the federal government’s.

NAR believes that data and analysis leads to better regulatory decisions; the conclusions of a recent report by EPA’s Inspector General bear this out. Scientists have also testified that the proposed rule’s literature review and “synthesis” in lieu of actual site-specific data does not support a finding that the Clean Water Act categorically applies to private properties with a stream or wetland. On the other hand, NAR has provided testimony showing how U.S. water declarations and the uncertainties created by this proposed rule could complicate real estate transactions and become another variable that stalls property sales throughout the country.

NAR urges swift Committee approval of H.R. 5078, Waters of the U.S. Regulatory Overreach Protection Act. NAR looks forward to working with the Committee to find reasonable, sound science approaches that protect high value wetlands while providing certainty to the Nation’s homeowners and small businesses.

Sincerely,



Steve Brown
2014 President, National Association of REALTORS®

cc: Members of the House Committee on Transportation and Infrastructure

