



NATIONAL
ASSOCIATION of
REALTORS®

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The Honorable Lamar Smith
Chairman
House Committee on Science, Space and
Technology
2409 Rayburn House Office Building
Washington, DC 20515

The Honorable Eddie Bernice Johnson
Ranking Member
House Committee on Science, Space and
Technology
2468 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Smith and Ranking Member Johnson:

The National Association of REALTORS® (NAR) is pleased that the House Committee on Science, Space and Technology is holding a hearing on “Ensuring Sound Science at Environmental Protection Agency (EPA).” Using the best available science for developing rules is a fundamental pillar of the federal regulatory process. If sound science is not used by federal agencies, then the entire rulemaking process will lack credibility and increase market uncertainty.

For NAR members, one issue that has caused concern has been the Waters of the U.S. (WOTUS) rulemaking by the U.S. EPA and the Army Corps of Engineers (USACE) to redefine which U.S. water bodies are regulated under the Clean Water Act. NAR is deeply concerned this rule will impede development opportunities and hurt property rights, with no improvement in water quality.

NAR is also concerned about the science that underpins the WOTUS rule and how the science was used in the process. EPA’s report, *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (Synthesis Report)* purports to provide the scientific rationale for a sweeping revision of the Clean Water Act. In reality, this scientific assessment contained numerous flaws, including:

- Provided no science to make distinctions between significant connections and non-significant connections;
- Did not account for factors of variability in connectivity, such as climate, stream size, habitat, or the watershed;
- Made the unsupported conclusion that any wetland or water within a riparian area or a floodplain has a significant connection to downstream waters.

In addition to the scientific irregularities, NAR is also concerned about how the science was used in the process. EPA’s own Science Advisory Board (SAB) convened a panel to review the Synthesis Report and solicited public comments to be reviewed by the panel. On the same day of that panel, EPA announced that it had sent a proposed rule to the Office of Management and Budget (OMB) for interagency review, thereby obviating the ability to integrate any comments made by the public or the peer review into the Synthesis Report.

It is clear that the EPA did not use the best available science to develop the WOTUS rule. Instead, the agency developed a rule prematurely, then created a flimsy review of old science and did not take into account the independent scientific input of experts or of the public.

There is currently a nationwide judicial stay on implementation of the rule. If the stay is lifted and the EPA implements the WOTUS rule, its impacts will be far-reaching. For this reason, NAR urges the Committee to work with the House leadership to pass legislation that would withdraw the rule before it undermines the nation’s economy and the rights of property owners.

Sincerely,

Tom Salomone
2016 President, National Association of REALTORS®

cc: House Committee on Science, Space and Technology



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