



NATIONAL ASSOCIATION OF REALTORS®

*The Voice For Real Estate®*

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June 17, 2009

The Honorable Barbara Boxer  
Environment and Public Works  
112 Hart Senate Office Building  
Washington, D.C. 20510

Dear Chairman Boxer:

The 1.2 million members of the National Association of REALTORS® strongly oppose S. 787, the “Clean Water Restoration Act.” This bill would redefine and expand the scope of the Clean Water Act (CWA) to include all waters of the U.S., not just the navigable ones.

S. 787 amends the CWA by replacing the term “navigable waters” with “waters of the United States” defined as “all... intrastate waters, including ... all tributaries ... and all impoundments of the forgoing.” Simply codifying a regulatory definition or reverting to the EPA or Corps’ interpretation of CWA which failed to resolve the issue and twice culminated in a Supreme Court decision will not reduce the litigation. Rewinding the clock to a time when agencies proposed to regulate waters based on the potential presence of migratory birds or a hydrologic connection via a drainage ditch or creek that does not flow year-around will not bring any more clarity to the underlying issue over which waters are subject to federal regulation.

While we appreciate codification of regulatory exclusions and the stipulation that the bill itself would not provide a new right of access to private property, these new provisions will not reduce the number of new property owners that must now obtain a federal permit for daily land management because the geographic region of the CWA has expanded with this bill. Any legislation that begins by substituting one nebulous phrase (navigable waters) with another (waters of the U.S.) is not a workable approach.

Again NAR opposes S. 787: the Clean Water Restoration Act or any amendment that expands non-tidal wetlands permitting authority under the Clean Water Act regulations. We urge you to vote “no” when the committee considers this legislation.

Sincerely,

A handwritten signature in black ink that reads 'Charles McMillan'.

Charles McMillan, CIPS, GRI  
2009 President

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