Congress of the United States
House of Representatives
Washington, DC 20515

March 23, 2015

The Honorable Mike Simpson
Chairman
Energy and Water Subcommittee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Marcy Kaptur
Ranking Member
Energy and Water Subcommittee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Simpson and Ranking Member Kaptur:

I respectfully urge you to include language in the FY2016 spending bill which would prohibit appropriated funds from being used to "develop, adopt, implement, administer, or enforce any change" to the definition of waters of the United States (WOTUS) under the Clean Water Act.

As you are aware, on March 24, 2014 the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) published a proposed rule which would revise the definition of WOTUS regulated under the Clean Water Act and expand federal jurisdiction to nearly all areas with any hydrologic connection to downstream navigable waters under the. Under this rule, the federal government would expand its authority to include man-made ditches, treatment ponds, ephemeral drainages, prairie potholes, seeps, flood plains, and other occasionally or seasonally wet areas.

The revised definition of WOTUS will place a massive and unnecessary regulatory burden on businesses and communities across the country, and there is clear, bipartisan opposition to its implementation. During the 113th Congress, the House passed the Energy and Water Development and Related Agencies Appropriations Act of 2015 (H.R. 4923) by a vote of 253-170. This legislation included language which would have defunded the proposed rule:

> *"None of the funds made available in this or any other Act making appropriations for Energy Water Development for any fiscal year may be used by the Corps of Engineers to develop, adopt, implement, ad minister, or enforce any change to the regulations and guidance in effect on October 1, 2012, pertaining to the definition of waters under the jurisdiction of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including the provisions of the rules dated November 13, 5 1986, and August 25, 1993,*

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relating to such jurisdiction, and the guidance documents dated January 15, 2003, and 7 December 2, 2008, relating to such jurisdiction" (Section 106, H.R. 4923).

Regrettably, Section 106 was not included in the Consolidated and Further Continuing Appropriations Act for FY2015 (Public Law 113-235). However, P.L. 113-235 did include a provision which required the United States Department of Agriculture's National Resources Conservation Service to withdraw its misleading interpretive rule which claimed to exempt 56 already exempt agricultural conservation practices from the Clean Water Act. It is imperative Congress build off this success and keep the pressure on the EPA. For this reason, we are requesting that identical or substantially similar language to Section 106 be again included in the FY2016 spending bill.

I look forward to working with you to rein in excessive government regulation which stifles innovation and damages our economy.

Sincerely,

ADRIAN SMITH
Member of Congress