VIA ELECTRONIC SUBMISSION

November 14, 2014

Administrator Gina McCarthy
U.S. Environmental Protection Agency
Water Docket
Mail Code 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Docket ID EPA-HQ-OW-2011-0880, Definition of “Waters of the United States” Under the Clean Water Act

Dear Administrator McCarthy:

As representatives of the construction industry, we are writing in response to the Environmental Protection Agency’s (EPA) and U.S. Army Corps of Engineers’ (Corps) above-referenced notice of proposed rulemaking to redefine “waters of the United States” under all Clean Water Act (CWA) programs, which was published on April 21, 2014, at 79 Fed. Reg. 22188.

The CWA imposes substantial permitting and regulatory requirements on projects near waters covered by the act. The proposed rule, however, does not adequately define “waters of the United States” and other key concepts under CWA programs. As a result, the regulations fail to provide the information companies need to comply with the law. Inevitably, this will lead to a flood of unnecessary and excessive permitting requests with associated and equally unnecessary project delays and increased costs.

The uncertainty surrounding what will actually be considered “waters of the United States” under this proposal, coupled with the EPA’s and Corps’ broad authority to make determinations, could chill any construction near waterways that could conceivably be covered by the rule. This will almost certainly lead to fewer projects overall and negatively impact job creation in the construction industry.

For the reasons outlined above, we urge EPA and the Corps to withdraw the proposed rule. In addition, the undersigned organizations share the concerns and recommendations provided in comments filed to this docket by the Waters Advocacy Coalition, and incorporates them into this letter by reference.

Thank you for the opportunity to submit comments on this matter.

Sincerely,

Associated Builders and Contractors, Inc.
ABC Alaska Chapter
ABC of Arkansas
ABC Central Florida Chapter
ABC Central Ohio Chapter
ABC Central Pennsylvania Chapter
ABC Connecticut
ABC Cornhusker Chapter
ABC Cumberland Valley Chapter
ABC Delaware
ABC Eastern Pennsylvania Chapter
ABC Empire State Chapter
ABC Florida East Coast Chapter
ABC Florida First Gulf Chapter
ABC Florida Gulf Coast Chapter
ABC Georgia Chapter
ABC The Greater Michigan Chapter
ABC Greater Tennessee Chapter
ABC Hawaii Chapter
ABC Heart of America Chapter
ABC Illinois Chapter
ABC Indiana/Kentucky Chapter
ABC Inland Pacific Chapter
ABC of Iowa
ABC Keystone Chapter
ABC Los Angeles/Ventura Chapter
ABC of Maine
ABC Massachusetts Chapter
ABC of Metro Washington
ABC Minnesota/North-Dakota Chapter
ABC Mississippi Chapter
ABC Nevada Chapter
ABC New Hampshire/Vermont Chapter
ABC New Jersey
ABC of New Mexico
ABC New Orleans/Bayou Chapter
ABC North Florida Chapter
ABC Northern California
ABC Northern Ohio Chapter
ABC Oklahoma Chapter
ABC Pacific Northwest Chapter
ABC Pelican Chapter
ABC Rhode Island Chapter
ABC Rocky Mountain Chapter
ABC San Diego Chapter
ABC South Texas Chapter
ABC Southeastern Michigan Chapter
ABC Texas Mid Coast Chapter
ABC Utah Chapter
ABC West Virginia Chapter
ABC Western Michigan Chapter
ABC Western Pennsylvania Chapter
ABC of Western Washington
TEXO – The Construction Association