

National Association of Home Builders

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April 21, 2014

Donna Downing
Jurisdiction Team Leader, Wetlands Division
U.S. Environmental Protection Agency (EPA)
Water Docket
Room 2822T
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Stacey Jensen
Regulatory Community of Practice
U.S. Army Corps of Engineers,
441 G Street N.W.,
Washington, DC 20314

(Submitted electronically via website www.regulations.gov)

RE: EPA-HQ-OW-2011-0880

Dear Ms. Downing and Ms. Jensen:

On behalf of the National Association of Home Builders (NAHB), I respectfully request that the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (collectively the “Agencies”) extend the public comment period for the Proposed rule: Definition of “Waters of the United States.” Under the Clean Water Act, as published in the *Federal Register* on April 21, 2014, for an additional ninety days beyond the currently scheduled deadline of July 21, 2014.

NAHB represents more than 140,000 builder and associate member firms organized in approximately 800 affiliated state and local associations in all fifty states, the District of Columbia, and Puerto Rico, many of which are small business entities. Our members include not only people and firms that construct and supply single family homes, but also apartment, condominium, commercial and industrial builders, as well as land developers and remodelers. The Agencies’ interpretation of the meaning

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of “Waters of the U.S.” (WOTUS) under the Clean Water Act (CWA) continues to be a major concern for NAHB’s members as it impacts several programs that require them to obtain permits. For example, many builders and developers must obtain Section 404 permits for the “discharge of dredged or fill material” before they construct their residential, commercial and mixed-use projects. In addition, most of NAHB’s builder members are required to obtain Section 402 permits and meet state Section 303(d) requirements to be allowed to discharge stormwater into a water body that is considered to be a WOTUS.

Because of the significant impact this rule could have on our industry, it is imperative that it be finalized only after all parties are provided sufficient opportunity to give careful thought and consideration to all aspects of the rule and its implementation. Unfortunately, the current deadline fails to provide this opportunity. The Agencies’ proposal is lengthy, complex and raises many scientific, legal and policy issues that require careful consideration. The docket for this issue also includes several hundreds of pages of data, information and legal opinions – all of which must be reviewed and analyzed. Likewise, NAHB and other stakeholders will be required to collect additional information to fully assess the proposal’s impact because the rule will have different results in different geographical regions.

In light of the breadth of this proposal, coupled with its complex and technical nature, and in the interest of ensuring all stakeholders have the opportunity to fully and knowledgeably comment on the proposal and its supporting data and information, NAHB requests a 90 day extension to the public comment period in order to adequately review the proposed rule, determine its implications, and provide meaningful input.

I appreciate your consideration of our request. If you have any questions, please contact Ms. Tabby Waqar, of my staff at (202) 266-8327.

Sincerely,



Susan Asmus
Senior Vice President

cc: Nancy Stoner, Acting Assistant Administrator, Office of Water
cc: Meg Gaffney-Smith, Regulatory Branch Chief Headquarters