



HAL QUINN
President & CEO

September 9, 2014

The Honorable Bill Shuster
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Shuster:

The National Mining Association strongly supports the “Waters of the United States Regulatory Overreach Protection Act of 2014” (H.R. 5078) and encourages members of Congress to vote in support of this legislation.

NMA commends your continued oversight of the proposal by the U.S. Environmental Protection Agency and Army Corps of Engineers to increase their authority under the Clean Water Act (CWA), and urges Congress to stop the proposed expansion of federal jurisdiction and limit EPA’s ability to unilaterally halt job-creating projects. By substantially increasing what constitutes a federally protected “waters of the United States” (WOTUS), the proposed rule would drastically expand the federal government’s regulatory control over state and private land and water resources and increase the cost of doing business in the U.S. Twice the Supreme Court has affirmed that both the U.S. Constitution and the CWA place limits on federal authority over state waters, and Congress has declined to alter that careful balance between federal and state regulation

We also want to register our continuing support of efforts by the House to address other regulatory overreach by the agencies. Nowhere is this more prominent than in Section 404 of the CWA, where EPA has already provided two telling examples of what can happen to U.S. projects that require federal CWA permits. Notably, EPA, for the first time ever, recently used Section 404 to retroactively veto a valid CWA permit, thereby halting an on-going lawful operation. EPA then used Section 404 to prospectively veto another project before the companies involved could even apply for a permit, but after hundreds of millions of dollars had been spent in up-front capital expenditures. We commend Reps. Joe Gibbs and Nick Rahall for their introduction of the “Regulatory Certainty Act” (H.R. 4854) and urge the Congress to also pass this important legislation.

If EPA is allowed to continue in this manner, and indeed to expand its authority over more land, it will have a devastating impact on U.S. investment and job creation as

companies will not be able to rely on the rule of law in the United States and will not invest in U.S. projects.

The mining industry is committed to the protection and restoration of America's water resources, however, EPA's proposed rule would expand the scope and reach of federal jurisdiction beyond anything that ever existed under the Clean Water Act. This results in dramatic consequences for those who operate in or near water and the thousands of American jobs these industries support.

We therefore ask that you stop EPA and the Corps from finalizing their proposed rule defining their authority under the CWA, and limit EPA's ability to act under Section 404 until after the National Environmental Policy Act and Section 404 environmental review processes are completed but before a permit is issued. Such limitations would provide for robust environmental protection, transparency and certainty for the regulated community and economic investment and growth.

We urge you to vote in support of H.R. 5078.

Sincerely,

A handwritten signature in black ink, appearing to read "Hal Quinn". The signature is fluid and cursive, with a prominent initial "H" and a long, sweeping underline.

Hal Quinn
President & CEO