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November 14, 2014

Environmental Protection Agency  
Water Docket  
Mail Code 2822T  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**Re: Comments on the U.S. Environmental Protection Agency's and U.S. Army Corps of Engineers' Proposed Rule to Define "Waters of the United States" Under the Clean Water Act, Docket ID No. EPA-HW-OW-2011-0880**

Ladies and Gentlemen:

Thank you for the opportunity to submit written comments regarding the Environmental Protection Agency (EPA) and Army Corps of Engineers' (Corps) proposed rule to define "Waters of the United States" under the Clean Water Act (CWA). The Virginia Agribusiness Council represents around 40,000 farmers and agribusinesses around the Commonwealth, all who could potentially be negatively affected by this proposed rule.

Although the rule has been offered by the Agencies as a clarification of current jurisdiction, the reality is an unprecedented expansion of authority, while creating layers of confusion for farmers and other agribusinesses. The current definitions in the rule, especially those with regard to the definitions of terms like "tributary" and "adjacent," mean that even features such as drainage ditches and irrigation ponds, which have no actual relationship to navigable waters, could potentially fall under the jurisdiction of the federal government. The Agencies have stated they do not intend to interpret the rule in this way, but these broad definitions give regulators and citizen plaintiffs ample ground to argue that these features are jurisdictional.

Placing more uncertainty and onerous regulation on farmers could have a disastrous effect. By placing common land features, such as ditches, ponds, and even low-lying areas, under the potential jurisdiction of the federal government, farmers could in fact see cases where they are forced to apply for federal permits to complete common farming activities, such as applying fertilizer, protecting crops from disease and pests, and building fences.

As co-signatories on the comments of the American Farm Bureau Federation, we echo all these concerns. We urge the Agencies not to finalize this flawed rule, which would fundamentally change the scope of the CWA and radically expand the Agencies' regulatory power over routine agricultural practices. Thank you again for the opportunity to share these written comments.

Sincerely,

Katie Frazier  
President

Brad Copenhaver  
Director of Government Affairs