

February 25, 2011

The Honorable Jack Reed
Chairman, Subcommittee on Interior,
Environment and Related Agencies
728 Hart Building
United States Senate
Washington, DC 20510

Dear Chairman Reed:

As hunters, anglers, and Americans who actively utilize our nation's incredible wetlands, streams and other water resources, we strongly oppose a provision (Section 1747) in HR 1 that would bar the Environmental Protection Agency (EPA) from taking steps in an open, public process to restore critical Clean Water Act protections for some of these waters. As you and your colleagues negotiate a continuing resolution with the House, we urge you to oppose this provision or any other that would limit the authority of the EPA or any other federal agency to restore these vital protections.

Our organizations seek to be engaged with Congress and the Administration to restore these protections, and to provide clarity to landowners, conservationists, and the regulated community, through statute and/or regulation changes. Restoring these lost protections will not only protect healthy habitat and water quality, it will also safeguard and support the sporting traditions that we and tens of millions of Americans enjoy. Section 1747 precludes the open and transparent public debate and comment necessary to achieve this important end.

We know you understand the value of prairie pothole wetlands, headwater streams, mountain lakes, and other waters to fish, wildlife, and waterfowl, and that the success of hunters and anglers in the field depends on high-quality habitat. Over the past 40 years, thanks in large part to the Clean Water Act, the rate of wetland loss has been dramatically reduced and water quality has significantly improved nationwide. These improvements directly benefit people, fish and wildlife, and outdoor recreation, including hunting, fishing, and boating. The economic benefits to the nation from these habitats are staggering: according to the U.S. Fish and Wildlife Service, wildlife-dependent recreation in the U.S. generates \$22 billion in hunting expenditures and \$42 billion in fishing expenditures annually.

However, the gains we've made and the protections provided by the Clean Water Act are increasingly at risk. Decisions by the U.S. Supreme Court in *SWANCC* and *Rapanos* and subsequent agency guidance have not only inserted tremendous confusion into the administration of the Act, they directly jeopardize critical water resources and habitat. Taken together, they have removed protections for at least 20 million acres of wetlands, especially prairie potholes and other seasonal wetlands that are essential to waterfowl populations throughout the country. Furthermore, these decisions put intermittent and headwater streams at risk. According to EPA, more than 117 million Americans receive their drinking water from public systems that are supplied in whole or in part by these streams.

Hunters, anglers, and conservationists across the country have actively supported legislation in recent Congresses to restore historic Clean Water Act protections. We applaud you for co-sponsoring the Clean Water Restoration Act in the past. While we continue to back legislative

action, we also support steps the Army Corps of Engineers and Environmental Protection Agency can take to ensure that certain waters remain protected while respecting the Supreme Court's decisions. Action by these agencies is necessary and appropriate. In fact, several Supreme Court justices, including Chief Justice Roberts, specifically pointed out that EPA should initiate a rulemaking to clearly define specific waters protected by the Act.

Section 1747 of HR 1 would prohibit EPA from taking any steps through the end of fiscal year 2011 to address growing threats to quality fish and wildlife habitat, hunting and angling, and drinking water. If this provision becomes law, the repercussions will be real and immediate. As you may know, the Office of Management and Budget (OMB) is currently conducting an interagency review of Clean Water Act guidance developed by EPA. Interested stakeholders, including our organizations and groups representing agriculture, homebuilders, and other industries, have been able to meet with OMB staff to discuss the draft guidance. Moreover, EPA has committed to solicit public comments on the proposed guidance following OMB review. The agency is not required to take this step; however, this demonstrates its commitment to transparency and public participation. Section 1747 would short-circuit this public process and prohibit any administration action that could help to safeguard some of our nation's most at-risk waters.

There is widespread agreement that a rulemaking is needed to clarify the jurisdictional reach of the Clean Water Act. Members of our organizations, who include farmers, ranchers, landowners as well as conservationists, seek pragmatic, common sense solutions to restore protections for the nation's wetlands, streams, and other waters that existed prior to the *SWANCC* decision. We also recognize the need to maintain existing exemptions that have been in the Clean Water Act since 1977, including those for standard agricultural and silvicultural practices.

We commend you for your leadership on this and many other conservation issues. We ask you once again to oppose any provision in short- or long-term continuing resolutions that would limit the administrative authority of federal agencies to restore essential Clean Water Act protections. We look forward to working with you in the months ahead to safeguard our waters, habitat, and the hunting and angling traditions that are important to so many Americans.

Sincerely,

Dale Hall
Chief Executive Officer
Ducks Unlimited

David Hoskins
Executive Director
Izaak Walton League of America

Larry Schweiger
President and CEO
National Wildlife Federation

Whit Fosburgh
President and CEO
Theodore Roosevelt Conservation Partnership

Chris Wood
President and CEO
Trout Unlimited

cc:

The Honorable Daniel Inouye, Chairman, Senate Appropriations Committee

The Honorable Harry Reid, Majority Leader, United States Senate

The Honorable Lisa Murkowski, Ranking Member, Interior Appropriations Subcommittee