June 21, 2011

Honorable John Mica  
Chair, Transportation and Infrastructure Committee  
U.S. House of Representatives  
Washington DC 20515

Honorable Nick Rahall  
Ranking Member, Transportation and Infrastructure Committee  
U.S. House of Representatives  
Washington DC 20515


Dear Chairman Mica, Ranking Member Rahall, Transportation and Infrastructure Committee Members:

On behalf of our organizations’ millions of members and supporters nationwide, we are writing in strong opposition to H.R. 2018. We are also very troubled by the committee’s lack of transparency and its decision to hold a mark-up on such significant legislation without a single prior hearing to properly consider it. We urge you to postpone the Committee markup this week to make time for at least one hearing to thoroughly review this bill. H.R. 2018 proposes potentially devastating changes to the Clean Water Act, which have neither been carefully considered nor debated.

The Clean Water Act’s goal, to “restore and maintain the chemical, physical, and biological integrity of the Nation's waters,” was written at a time when lakes and rivers served as wastewater treatment plants and as dumping grounds for toxic, flammable chemicals. H.R. 2018 undermines the Clean Water Act’s goal, and by extension, threatens to return our waters to the deplorable conditions of the past.

H.R. 2018 proposes sweeping changes to the Clean Water Act that would undercut the progress the Act has made in restoring our waters over the last four decades. The bill purports to strengthen “cooperative federalism” by giving the states more control over EPA’s Clean Water Act oversight. In fact, the bill undermines the federal-state partnership on which the Clean Water Act is based. We would welcome committee consideration of an appropriate increased role for the states. However, as written this bill clearly is intended to weaken implementation of the Clean Water Act.

**As written, H.R. 2018 attacks two critical components of the Clean Water Act:**

1. **Enforcement of water quality standards**

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H.R. 2018 undermines the use and enforcement of water quality standards, the Clean Water Act’s engines of water quality improvement and wildlife habitat protection. Water quality standards translate the broad goals of the Clean Water Act into waterbody-specific objectives. These standards then drive the development of water quality-based pollution discharge permits. The standards are also used to determine which waters need protection and which need to be restored.

H.R. 2018 would limit the federal government’s ability to compel states to implement or improve their water quality standards to deal with pollution and habitat destroying activities. The bill would also block EPA from objecting to individual permits that fail to comply with water quality standards. For waterbodies that span multiple states, like the Great Lakes or Chesapeake Bay, federal oversight is needed to ensure one state’s weaker standards do not undermine progress in reducing pollution across the waterbody.

H.R. 2018 will lead to a hodgepodge of water quality standards. Some states will adopt stronger standards, others weaker. The waters of states with stronger standards may be polluted by water flowing from adjacent states with weaker standards. This scenario, which will contribute to an overall reduction of U.S. water quality, is what the current Clean Water Act was enacted to avoid.

2. **Protection of waters from discharges of dredged and fill material**

Fundamental to protecting the nation’s waters is EPA’s oversight of dredge and fill permits issued by the Army Corps of Engineers. H.R. 2018 effectively guts this important oversight by rendering almost meaningless its EPA veto authority and its permit review. The bill also effectively guts fish and wildlife agency review as well. EPA’s “404c veto” authority has been used only 13 times in the past 38 years, eight of which were under Republican Administrations. While used sparingly, this authority is a critical safeguard against the most destructive and wasteful proposals. These are projects that have “unacceptable adverse effect[s] on municipal water supplies, shellfish beds and fishery areas…, wildlife or recreational areas.” Many of them would have cost taxpayers millions of dollars.

EPA’s “veto” has saved great rivers such as the South Platte (CO), Ware Creek (VA), and the Big River (RI) from wasteful, fish habitat destroying projects. It was also critical to stopping the Yazoo Pumps project which was supported by the State of Mississippi, but nonetheless would have destroyed more than 200,000 acres of wetlands in the Mississippi Delta.

**The Committee needs time to carefully examine how H.R. 2018 will affect our waters.** The Clean Water Act has led to immense progress nationwide on cleaning up our waters, restoring fish habitat, protecting drinking water sources, reducing wetlands loss, and developing water-based recreational economies.
We cannot afford to jeopardize waters that are economic powerhouses for many communities across our country. U.S. waters sustain the activities of 40 million anglers who spend about $45 billion a year, and about 2.3 million people spend $1.3 billion per year hunting ducks and other migratory birds. While states have a lead role in implementing some clean water protections, the law does not function without a federal backstop that ensures its goals are met.

We oppose H.R. 2018 and we urge the Committee to carefully consider the impacts of H.R. 2018 on the nation’s waters before moving to a mark up.

Sincerely,

Steve Kline  
Director of the TRCP Center for Agricultural and Private Lands  
Theodore Roosevelt Conservation Partnership

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cc: Members of the Transportation and Infrastructure committee