

Congress of the United States
Washington, DC 20515

March 15, 2016

The Honorable Mike Simpson
Chairman
Subcommittee on Energy and Water
Development
House Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Marcy Kaptur
Ranking Member
Subcommittee on Energy and Water
Development
House Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Ken Calvert
Chairman
Subcommittee on Interior and Environment
House Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Betty McCollum
Ranking Member
Subcommittee on Interior and Environment
House Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Simpson and Calvert and Ranking Members Kaptur and McCollum:

We write to urge you to include language in the upcoming Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2017 and the Energy and Water Development and Related Agencies Appropriations Act for Fiscal Year 2017 prohibiting the use of any funds to be used by the Environmental Protection Agency (EPA) and Army Corps of Engineers (ACE) to regulate agricultural activities identified as exempt under the Clean Water Act (CWA).

Current Clean Water Act regulations, 33 CFR § 323.4(a)(1)(iii)(D), exempt permit requirements for discharges associated with “normal farming, silviculture and ranching activities such as plowing, seeding, cultivation, minor drainage, and harvesting for the food production of food, fiber, and forest products, or upland soil and water conservation practices.”

However, the EPA and ACE have continued to regulate these activities through creative interpretations of the CWA. Specifically, these agencies interpret the term “normal” in the exemption to mean “existing and ongoing,” adding additional requirements never intended by Congress.

Under this interpretation, farmers who simply change crops can be subject to regulation. Even farmers forced to leave fields fallow due to drought would no longer be engaged in an “existing and ongoing” activity under the EPA/ACE interpretation.

The activities of the EPA and ACE go well beyond the law to impose these requirements, significantly expanding the jurisdiction of the Clean Water Act, and clearly exceed Congressional intent.

Accordingly, we respectfully request you include language similar to the following in the FY 2017 Appropriations Acts:

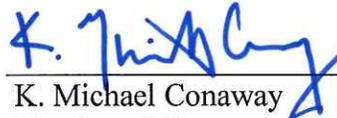
"SEC. __. None of the funds made available by this Act may be used to require a permit for the discharge of dredged or fill material under subsection (f) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344(f)) for an activity identified in subparagraph (1)(A) or (C) of such subsection."

Thank you for your consideration of this request.

Sincerely,



Doug LaMalfa
Member of Congress



K. Michael Conaway
Member of Congress



Collin C. Peterson
Member of Congress



Bill Shuster
Member of Congress



Bob Gibbs
Member of Congress



Glenn 'GT' Thompson
Member of Congress