

[INSERT DATE] November 2014

The Honorable Regina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Major General John Peabody
Deputy Commanding General
Civil and Emergency Operations
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314
Attn: CECW-CO-R

Re: Proposed Rule: Definition of "Waters of the United States" Under the Clean Water Act, 79 Fed. Reg. 22188 (April 21, 2014); Docket No. EPA-HQ-OW-2011-0880

Dear Administrator McCarthy and General Peabody:

[INSERT COMPANY NAME AND BRIEF INFORMATION ABOUT THE COMPANY].

The ready mixed concrete industry manufactures a construction material vital for constructing our built environment. From roads and bridges, to homes and high-rises, our built environment could not be realized without the use of ready mixed concrete. This important building material is created by combining fine and coarse aggregates, cement and water. In 2013 alone, the industry produced more than 300 million cubic yards of ready mixed concrete, representing a value of roughly \$30 billion. Virtually every construction project in America uses at least some ready mixed concrete.

[INSERT COMPANY NAME] supports and is committed to smart practices and common sense methods for keeping our nation's waterways and their tributaries clean and healthy. [INSERT COMPANY NAME] appreciates the opportunity to comment on the Army Corps of Engineers (the Corps) and Environmental Protection Agency's (EPA) (collectively the agencies) proposed rule "Definition of 'Waters of the United States' Under the Clean Water Act." While [INSERT COMPANY NAME] understands the need for strong laws and regulations, we believe that incentivizing and promoting environmentally conscientious practices will go significantly further to achieving the goals of the CWA to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," than expansive new regulations.

[INSERT COMPANY NAME] interacts with the CWA both at our ready mixed concrete facilities as well as on construction sites. Our facilities that do have discharges are subject to National Pollutant Discharge Elimination System (NPDES) permits and work with the appropriate federal and state agencies to ensure their compliance with their permit. In addition to our facilities that are subject to stormwater regulations, our drivers are also subject to permit requirements of construction sites when delivering concrete. As well, our facilities incorporate numerous best management practices to ensure the environmental health and wellness of our nation's waters.

In order to have an effective rule, everyone must understand how to comply with it. The proposed rule's vague and confusing definitions make it nearly impossible for ready mixed concrete producers to determine what they will need to do to meet federal requirements for doing every day, routine tasks around their facility and

on a construction site. Furthermore, [INSERT COMPANY NAME] already has to, and does, comply with numerous requirements to ensure that all waters on and around ready mixed concrete facilities are not subject to harmful pollutants and discharges; begging the question of why such a confusing “clarification” would then be needed at all?

[INSERT COMPANY NAME] has concerns that this rule will greatly increase the cost of doing business, as well as raise the cost of all construction projects across the country to unacceptable and unnecessary levels. [INSERT COMPANY NAME] suggests EPA take great consideration of the economic effects on both materials. Please see comments submitted by the National Ready Mixed Concrete Association for more information, in part, on the economic impacts on the industry as a whole.

Additionally, the agencies state that this rule would not have a significant economic impact on small entities. This is simply not the case. Failure to take into account impacts to small entities is incredibly concerning and not calling a small business advocacy review panel, the agencies have missed valuable input from small entities, like ready mixed concrete producers; 85% of which are small entities. [INSERT COMPANY NAME] believes a Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel is needed to provide more complete, accurate, timely and relevant information on how small businesses will be affected by the proposal. The agencies must do this outreach before moving forward with this proposed rulemaking in order to better assess the impacts on and reduce the impacts to small entities.

[INSERT COMPANY NAME] believes it is important for the agencies to do a better, more thorough analysis of the economic impacts of changes to jurisdiction under the CWA. Without obtaining information on how the proposal will impact small businesses, [INSERT COMPANY NAME] believes the current proposal lacks complete, accurate, timely and relevant data and information to craft and eventually finalize the proposal. EPA needs to appropriately and further consider the rule’s affects on all the small businesses it intends to regulate.

Finally [INSERT COMPANY NAME] is greatly concerned about how the broad, vague language in the rule is being interpreted. If the regulated community can read the rule to mean nearly every place where water falls on the ground after it rains, could be subject to federal jurisdiction and that is not the agencies intent, as representatives for the EPA and Corps have repeatedly asserted in stakeholder meetings and hearings, then this rule needs to be pulled back and the agencies need to try again.

[INSERT COMPANY NAME] requests that the agencies withdraw the rule and work with their state and local co-regulators, and stakeholders, like the national Ready Mixed Concrete Association (NRMCA), to come up with a clearer definition of waters of the United States. The agencies are under no legal or statutory deadline for completing this rule, so there is ample time to work to get it right.

[INSERT COMPANY NAME] appreciates the opportunity to comment on this proposed rule. Should you have any questions or need more information please feel free to contact [INSERT EMPLOYEE NAME] at [INSERT EMAIL ADDRESS] or [INSERT PHONE NUMBER].

Sincerely,

[INSERT EMPLOYEE NAME]
[INSERT EMPLOYEE TITLE]
[INSERT COMPANY NAME]
[INSERT COMPANY ADDRESS]