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July 31, 2011

**To: The Environmental Protection Agency and the Department of the Army, Corps of Engineers**

[EPA-HQ-OW-2011-0409; FRL-9300-6]:

**Re: EPA and Army Corps of Engineers Guidance Federal Register published Guidance Regarding Identification of Waters Protected by the Clean Water Act (CWA).**

On behalf of Property Rights Alliance, I am writing to express concern over the "Clean Water Protection Guidance" that was issued by the Environmental Protection Agency and the U.S. Army Corps of Engineers. The guidance seeks to expand the scope of "waters of the U.S." beyond the original intent of the Clean Water Act. If enacted, this would infringe on the rights of property owners across the nation and result in an unprecedented expansion of the regulatory authority of the federal government.

Over the 39 year history of the Clean Water Act, confusion and uncertainty has led to extensive abuse by the federal government. By using a broad reach to define what is navigable, the government was able to exert its regulatory power and, as a result, diminish property values. This uncertainty was remedied when two U.S. Supreme Court cases clarified the scope of federal jurisdiction over wetlands and other "waters of the United States" under the Clean Water Act. The *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (2001) and *Rapanos v. U.S.* (2006) have significantly reduced the potential for abuse under the Clean Water Act, by limiting the previously broad definition of navigable water.

While the guidance aims to restore protection of wetlands and waterways, PRA believes the guidance overreaches and could place all navigable waters under regulatory control of the federal government, leaving property owners vulnerable to a potential federal "land grab". PRA is concerned that the draft guidance exceeds the original objective of the Clean Water Act by giving the federal government the power to regulate all interstate and intrastate waters, including non-navigable waters.

**Property Rights Alliance urges you to uphold the Court's decision and oppose unilaterally expanding the regulatory authority of the federal government.**

Sincerely,

A handwritten signature in black ink that reads "Kelsey Zahourek".

Kelsey Zahourek  
Executive Director