

AFL-CIO * AFSCME * Alaska Wilderness League * Alliance for Justice * Altamaha Riverkeeper * American Association for Justice * American Rivers * Anacostia Riverkeeper * Atchafalaya Basinkeeper * Bayou City Waterkeeper * Black Warrior Riverkeeper * Blue Water Baltimore * Boulder Creek, A Waterkeeper Alliance Affiliate * California Coastkeeper Alliance * Center for Biological Diversity * Center for Justice & Democracy * Center for Science in the Public Interest * Center for Science in the Public Interest * Chattahoochee Riverkeeper * Clean Water Action * Coastal Carolina Riverwatch * Columbia Riverkeeper * Consumer Action * Consumer Federation of America * Coosa River Basin Initiative * Coosa Riverkeeper * Crystal Coast Waterkeeper * Defenders of Wildlife * Earthjustice * Economic Policy Institute Policy Center * Edisto Riverkeeper * Emerald Coastkeeper, Inc. * Endangered Species Coalition * Environment America * Environment in the Public Interest * Environmental Defense Fund * Environmental Law & Policy Center * Friends for Our Riverfront * Friends of the Earth * Georgia Watch * Gulf Restoration Network * Hackensack Riverkeeper * Harpeth Conservancy * Hip Hop Caucus * Humboldt Baykeeper * Hurricane Creekkeeper * Institute for Agriculture and Trade Policy * Iowa Environmental Council * League of Conservation Voters * Lower Mississippi River Foundation * Lower Susquehanna Riverkeeper Association * Matanzas Rivekeeper * Milwaukee Riverkeeper * Mobile Baykeeper * National Association of Consumer Advocates * National Consumer Law Center * National Consumers League * National Employment Law Project * National Parks Conservation Association * Natural Resources Defense Council * North Sound Baykeeper * NY/NJ Baykeeper * Oceana * People For the American Way * Potomac Riverkeeper Network * Prairie Rivers Network * Progressive Congress Action Fund * Public Citizen * Quad Cities Waterkeeper Inc. * Riverkeeper, Inc. * San Luis Obispo Coastkeeper * Save EPA * Save EPA Ann Arbor * Sierra Club *Southern Environmental Law Center * State Innovation Exchange (SIX) * Suncoast Waterkeeper * Tennessee Clean Water Network * Tennessee Riverkeeper * Texas Watch * The Impact Fund * The Wilderness Society * Tualatin Riverkeepers * U.S. PIRG * Waterkeeper Alliance *White Oak-New Riverkeeper Alliance * WildEarth Guardians

October 23, 2017

Re: Oppose H.R. 469 – The Delaying Public Protections Bill

Dear Representative:

On behalf of our millions of members and supporters nationwide, our organizations urge you to oppose the so-called “Sunshine for Regulations and Regulatory Decrees and Settlements Act of 2017” (H.R. 469). This bill will undermine the enforcement of federal laws and impede the resolution of various consumer protection, anti-discrimination, environmental, and public health cases before our federal courts.

H.R. 469 targets consent decrees and settlement agreements involving congressionally mandated federal agency actions. These agency actions in many instances have the purpose of protecting civil rights, health, safety, and the environment. H.R. 469 prescribes a host of burdensome – and, in some cases, ambiguous – steps for courts and parties relating to such consent decrees and settlements that would favor continued litigation over settlement.

Today, if the government is sued for missing a deadline (or other non-discretionary requirement) it may enter into settlement discussions with the party that sued it, because there are no legal defenses for missing a statutory deadline and the violation can be easily confirmed by looking at a calendar. The parties then negotiate the date of the new deadline under the supervision of a federal judge who must review and approve any agreement. H.R. 469 establishes a prolonged process of publication, intervention, and court-supervised mediation for these types of settlements. This wastes judicial, individuals, and local governments’ resources, while wealthy corporations are empowered to perpetuate

violations of federal rules. Such hurdles to settlements conflict directly with the expressly stated and longstanding policy of the federal judiciary system to favor compromise and the settlement of disputes in order to make best use of limited judicial resources.

The consent decrees and settlement agreements at issue do not determine the *substance* of agency rules. Rather, such agreements simply seek to enforce mandatory statutory and procedural duties (such as deadlines enacted by Congress). In fact, a December 2014 Government Accountability Office report surveyed settlements over deadlines for major U.S. Environmental Protection Act rulemakings and found that the settlements *did not influence* the substantive results.¹ Furthermore, all public notice and comment requirements of the Administrative Procedure Act and the individual laws at issue still apply when an agency undertakes the substantive action for which a deadline was missed. Parties and non-parties alike are provided with numerous opportunities to provide input in advance of the rules being finalized.

H.R. 469 seeks to allow intervening parties an opportunity to obstruct and delay agency requirements to follow federal law, when these parties already have a reasonable opportunity to intervene under federal law. The bill attempts to give third parties the power to obstruct and delay the enforcement of federal law which will harm plaintiff corporations, state and local governments, nonprofit groups, and individuals alike, when their interests have been harmed by illegal federal agency actions or inactions.

We strongly oppose this latest attack on citizens' ability to enforce our nation's safeguards and **we respectfully urge you to vote against H.R. 469 when it comes to the House floor.**

Sincerely,

AFL-CIO
AFSCME
Alaska Wilderness League
Alliance for Justice
Altamaha Riverkeeper
American Association for Justice
American Rivers
Anacostia Riverkeeper
Atchafalaya Basinkeeper
Bayou City Waterkeeper
Black Warrior Riverkeeper
Blue Water Baltimore
Boulder Creek, A Waterkeeper Alliance Affiliate
California Coastkeeper Alliance
Center for Biological Diversity
Center for Justice & Democracy
Center for Science in the Public Interest
Center for Science in the Public Interest
Chattahoochee Riverkeeper
Clean Water Action

¹ United States Government Accountability Office. (December 2014). *Environmental Litigation: Impact of Deadline Suits on EPA's Rulemaking Is Limited*. (Publication No. GAO-15-34)

Coastal Carolina Riverwatch
Columbia Riverkeeper
Consumer Action
Consumer Federation of America
Coosa River Basin Initiative
Coosa Riverkeeper
Crystal Coast Waterkeeper
Defenders of Wildlife
Earthjustice
Economic Policy Institute Policy Center
Edisto Riverkeeper
Emerald Coastkeeper, Inc.
Endangered Species Coalition
Environment America
Environment in the Public Interest
Environmental Defense Fund
Environmental Law & Policy Center
Friends for Our Riverfront
Friends of the Earth
Georgia Watch
Gulf Restoration Network
Hackensack Riverkeeper
Harpeth Conservancy
Hip Hop Caucus
Humboldt Baykeeper
Hurricane Creekkeeper
Institute for Agriculture and Trade Policy
Iowa Environmental Council
League of Conservation Voters
Lower Mississippi River Foundation
Lower Susquehanna Riverkeeper Association
Matanzas Rivekeeper
Milwaukee Riverkeeper
Mobile Baykeeper
National Association of Consumer Advocates
National Consumer Law Center
National Consumers League
National Employment Law Project
National Parks Conservation Association
Natural Resources Defense Council
North Sound Baykeeper
NY/NJ Baykeeper
Oceana
People For the American Way
Potomac Riverkeeper Network
Prairie Rivers Network
Progressive Congress Action Fund
Public Citizen

Quad Cities Waterkeeper Inc.
Riverkeeper, Inc.
San Luis Obispo Coastkeeper
Save EPA
Save EPA Ann Arbor
Sierra Club
Southern Environmental Law Center
State Innovation Exchange (SIX)
Suncoast Waterkeeper
Tennessee Clean Water Network
Tennessee Riverkeeper
Texas Watch
The Impact Fund
The Wilderness Society
Tualatin Riverkeepers
U.S. PIRG
Waterkeeper Alliance
White Oak-New Riverkeeper Alliance
WildEarth Guardians