

AFL-CIO * Alaska Wilderness League * Alliance for Justice * American Association for Justice * American Federation of State, County, and Municipal Employees (AFSCME) * American Lung Association * American Rivers * Blue Ridge Environmental Defense League * Caney Fork Headwaters Association * Center for Biological Diversity * Center for Effective Government * Center for Food Safety * Center for Justice & Democracy * Center for Responsible Lending * Center for Science in the Public Interest * Clean Water Action * Consumer Federation of America * Consumers Union * Cornucopia Network NJ/TN Chapter * Cumberland Countians for Ecojustice * Defenders of Wildlife * Earthjustice * EarthRights International * Environment America * Environmental Action Center * Environmental Working Group * Food & Water Watch * GreenLatinos * Greenpeace International Center for Technology Assessment * Institute for Agriculture and Trade Policy * League of Conservation Voters * League of United Latin American Citizens (LULAC) * NAACP * National Association of Consumer Advocates * National Employment Lawyers Association * National Parks Conservation Association * Natural Resources Defense Council * Network for Environmental & Economic Responsibility of United Church of Christ * People for the American Way * Protect All Children's Environment * Public Citizen * Sierra Club * The Wilderness Society * U.S. Public Interest Research Group (USPIRG)

January 6, 2015

Re: Please Oppose H.R. 712 Which Would Undermine Citizen Enforcement of Important Federal Laws.

Dear Representative:

On behalf of our millions of members and supporters nationwide, we urge you to oppose the so-called "Sunshine for Regulatory Decrees and Settlements Act of 2015" (H.R. 712), which would undermine citizen enforcement of our laws and impede the resolution of consumer protection, anti-discrimination, environmental protection, and other important cases before our federal courts.

H.R. 712 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. 712 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, since there are no legal defenses for missing a statutory deadline and a violation is easily confirmed on any calendar. The parties then negotiate when the new deadline will be under the supervision of a judge, who reviews and must approve any eventual settlements with the court. H.R. 712 would create new procedural obstacles to resolving these types of cases early in the process, wasting the time and resources of the parties and the courts. Such hurdles to settlement conflict directly with the expressly stated and longstanding policy of the federal judiciary 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; such agreements simply seek to enforce mandatory statutory, procedural duties (such as deadlines enacted by Congress that direct an agency to perform a rulemaking through public notice and comment). 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 Further, 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. That is, parties and non-parties alike are provided with numerous opportunities to provide input in advance of rules being finalized.

H.R. 712 would 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's indiscriminate anointment of intervenors to exercise obstruction and delay in federal consent decrees and settlement agreements will harm plaintiff corporations, state and local governments, nonprofit groups, and individuals alike, when they or their interests have been harmed by illegal federal agency actions or inactions. H.R. 712 would also create special rights for non-parties seeking to obstruct settlements as *amicus curiae*, improperly constraining courts' discretion to regulate their dockets efficiently and causing further delay. And the bill would impose burdensome and unprecedented new requirements on the Attorney General and agency heads related to settlement, all of which would impede resolution of litigation and waste resources.

For the foregoing reasons, **we respectfully urge you to oppose H.R. 712.** Thank you for your attention to this important matter and for defending the rights of all who seek justice in our nation's federal courts.

Sincerely,

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Center for Responsible Lending
Center for Science in the Public Interest
Clean Water Action
Consumer Federation of America

Consumers Union
Cornucopia Network NJ/TN Chapter
Cumberland Countians for Ecojustice
Defenders of Wildlife
Earthjustice
EarthRights International
Environment America
Environmental Action Center
Environmental Working Group
Food & Water Watch
GreenLatinos
Greenpeace
Institute for Agriculture and Trade Policy
International Center for Technology Assessment
League of Conservation Voters
League of United Latin American Citizens (LULAC)
NAACP
National Association of Consumer Advocates
National Employment Lawyers Association
National Parks Conservation Association
Natural Resources Defense Council
Network for Environmental & Economic Responsibility of United Church of Christ
People for the American Way
Protect All Children's Environment
Public Citizen
Sierra Club
The Wilderness Society
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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)