



December 27, 2010

U.S. Department of Housing and Urban Development
Office of General Counsel
Regulations Division,
451 7th Street, SW., Room 10276,
Washington, DC 20410-0500.

Re: Housing Trust Fund: Docket No. FR-5246-P-02; RIN 2506-AC30

Attn: Ms. Marcia Sigal, Office of Community Planning and Development

Our organizations appreciate the opportunity to provide comments regarding the Housing Trust Fund (HTF) proposed rule contained in Docket No. FR-5246-P-02; RIN 2506-AC30. We support the primary purpose of the HTF – provide grants to State governments to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families, and to increase homeownership for extremely low- and very low-income families.

However, we are concerned with two specific provisions in the proposed rule which we believe will create a tremendous regulatory burden on projects seeking to qualify for HTF grants. Specifically, we believe that the proposed definition contained in §92.741, Subsection (f)(7) and § 92.742, Subsection (c)(7) as it relates to wetlands will create a dueling definition with the U.S. Army Corps of Engineers (Corps) definition of a “wetland.” Such dueling definitions will lead to regulatory uncertainty for project applicants.

Under the federal Clean Water Act, the Corps has developed a definition for what constitutes a “wetlands” based on a long-standing wetland delineation method. It is unclear why the Department has decided to subject projects to a wetland definition different from the one developed and used by the Corps. The proposed HTF rule states that the wetlands definition is

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“independent of the definition of jurisdictional wetland used by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 et seq.).

We believe that the inclusion of a wetlands definition different from the one currently used by the Corps exceeds the statutory authority of HUD and Public Law 110-289-July 30, 2008 which does not include any new authority for HUD to adopt a “wetlands definition.” We strongly object to the use of the HTF as a vehicle to adopt – in regulation – a complex and controversial standard redefining the term “wetland” outside of the federal Clean Water Act. Our organizations believe the inclusion of a different definition in the proposed HTF rule will only create confusion and project delays.

Based on our concerns, we respectfully request that the language contained in §92.741, Subsection (f)(7) and § 92.742, Subsection (c)(7) be modified in a manner that only references a wetland definition identical to the one used by the Corps under Section 404 of the Clean Water Act.

Thank you for the opportunity to provide our comments on this important regulatory rulemaking process.

Sincerely,




Paul Meyer
American Council of Engineering Companies of California



Elizabeth Gavric
California Association of REALTORS®



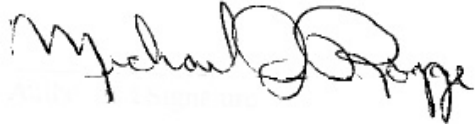
Richard Lyon
California Building Industry Association



Rex S. Hime
California Business Properties Association &
National Association of Industrial and Office Properties



Valerie Nera
California Chamber of Commerce



Mike Rogge
California Manufacturers and Technology Association



Karen Keene
California State Association of Counties



Denise Muha
National Leased Housing Association



Jim Arbury
National Multi Housing Council/National Apartment Association



Kathy Mannion
Regional Council of Rural Counties

cc: Members of the California Congressional Delegation