Clean Water Rule Comment Compendium
Mass Mailing Campaigns

The Response to Comments Document, together with the preamble to the final Clean Water Rule, presents the responses of the Environmental Protection Agency (EPA) and the Department of the Army (collectively "the agencies") to the more than one million public comments received on the proposed rule (79 FR 22188 (Apr. 21, 2014)). The agencies have addressed all significant issues raised in the public comments.

As a result of changes made to the preamble and final rule prior to signature, and due to the volume of comments received, some responses in the Response to Comments Document may not reflect the language in the preamble and final rule in every respect. Where the response is in conflict with the preamble or the final rule, the language in the final preamble and rule controls and should be used for purposes of understanding the scope, requirements, and basis of the final rule. In addition, due to the large number of comments that addressed similar issues, as well as the volume of the comments received, the Response to Comments Document does not always cross-reference each response to the commenter(s) who raised the particular issue involved. The responses presented in this document are intended to augment the responses to comments that appear in the preamble to the final rule or to address comments not discussed in that preamble. Although portions of the preamble to the final rule are paraphrased in this document where useful to add clarity to responses, the preamble itself remains the definitive statement of the rationale for the revisions adopted in the final rule. In many instances, particular responses presented in the Response to Comments Document include cross references to responses on related issues that are located either in the preamble to the Clean Water Rule, the Technical Support Document, or elsewhere in the Response to Comments Document. All issues on which the agencies are taking final action in the Clean Water Rule are addressed in the Clean Water Rule rulemaking record.

Accordingly, the Response to Comments Document, together with the preamble to the Clean Water Rule and the information contained in the Technical Support Document, the Science Report, and the rest of the administrative record should be considered collectively as the agencies' response to all of the significant comments submitted on the proposed rule. The Response to Comments Document incorporates directly or by reference the significant public comments addressed in the preamble to the Clean Water Rule as well as other significant public comments that were submitted on the proposed rule.

This compendium, as part of the Response to Comments Document, provides a compendium of the technical comments submitted by commenters as part of mass mailing campaigns. Comments have been copied into this document "as is" with no editing or summarizing. Footnotes in regular font are taken directly from the comments.

Summary

The mass-mailing and petition letter campaigns made up the majority of the over one million comment letters received by the Docket. These letters addressed many of the major issue areas, often overlapping each other both in terms of content as well as specific wording. Almost all of the mass mailing campaign letters were brief and followed a similar format. The letters provided a clear statement of support or opposition to the proposed rule, citing one or more issues as reasons to support the position taken and to advocate for a particular direction for the final rule. Those that expressed support for the rule generally also supported a broader scope of jurisdiction, while those who expressed opposition to the rule supported a narrower scope of jurisdiction.

The overwhelming majority (90%) of the mass mailing campaign commenters expressed support for the proposed rule. The most common issues raised in the mass mailing campaign letters that expressed support for the rule were their desire to see the final rule protect all streams and wetlands, concerns about the loss of the functions and services those waters provide, particularly about protecting our supply of clean drinking water, and concerns about vulnerability to pollution and destruction of waters that are not protected. The most common issues raised in the mass mailing campaign letters that expressed opposition to the rule were concerns about an expansion of the scope of the Clean Water Act, concerns about various burdens that might be imposed on them as a result, concerns about regulating small or dry waters, concerns about the adequacy of the exemptions, and concerns about regulation of ditches. The majority of the mass mailing campaign letters that expressed opposition to the rule were written by commenters concerned about farming or direct management or use of the land. The mass mailing campaigns varied widely in the number of identical copies or signatures, from under ten to over two hundred thousand.

This topical compendium follows a different format from the other topical compendiums because of the nature of the mass mailing campaigns and petition letters. While the other topical compendiums are a collection of comments excerpted from letters to facilitate topical summaries and responses, the mass mailing campaigns have been copied into this document in their entirety and “as is” with no editing or summarizing. This is because the mass mailing campaign letters were brief and generally addressed a number of issues with less detail than the comments included in the topical compendium. The agencies have thus provided responses at a summary level, building on the agency responses in the topical comment compendiums which are more detailed and more technical in nature.

Doc. #0091 [33 on-time duplicates, sponsored by Organization Unknown (web) - Identified as the American Farm Bureau Federation-a]

To Whom It May Concern:

I am a farmer and I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters - many of which are not even wet or considered waters under any common understanding of that word.

By increasing federal jurisdiction over lands by calling them "waters of the U.S." the rule would allow the federal government veto power over farming and other land uses. It would negatively impact North Dakota's two biggest industries: agriculture and energy.

Farmers and ranchers like me will face huge roadblocks to ordinary land-use activities, like building fences and spraying for or pulling weeds, not to mention insect control.

Since there is no legal right to a Clean Water Act discharge permit, EPA will have ultimate control to deny a permit and restrict a farmer's ability to farm. The proposed rule is nothing short of a license for EPA to dictate all land-use across the country.

The exemptions EPA claims will protect farmers already exist. In fact, the proposed rule would narrow them.

The exemptions are part of an interpretive rule or guidance document, not the proposed rule itself, so they can change at the drop of a hat. Farmers can't depend on them.

Congress did not intend to allow EPA and the U.S. Army Corps of Engineers to regulate farmland just because water occasionally flows across it. EPA should respect the limits set by Congress

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm and ranch, or make changes to the land - even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer or rancher.

Farmers and ranchers like me will be severely impacted. Therefore, I ask you to withdraw the proposed rule.

Agency Response:

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to

minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

The agencies reiterate that nothing in this rule changes the exemptions that Congress has provided for certain discharges from CWA permitting associated with farming, ranching, and forestry practices. The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service

(NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The maintenance exemption provided within the Clean Water Act remains unchanged by this definition. The agencies' longstanding policy was summarized in a joint memorandum issued on May 3, 1990 entitled "Clean Water Act Section 404 Regulatory Program and Agricultural Activities" states "[m]inor drainage that is exempt under Section 404(f) is limited to discharges associated with the continuation of established wetland crop production (e.g., building rice levees) or the connection of upland crop drainage facilities to waters of the United States. Minor drainage also refers to the emergency removal of blockages that close or constrict existing drainage ways used as part of an established crop production. Minor drainage is defined such that it does not include discharges associated with the construction of ditches which drain or significantly modify any wetlands or aquatic areas considered as waters of the United States."

The final rule includes a provision that waters subject to established, "normal" farming, silviculture, and ranching activities are not "adjacent" waters. Given this provision, the agencies recognize the utility in providing further clarification on these terms as reflected in the agencies' implementing regulations (40 C.F.R § 232.3(c)(1)) to mean established and ongoing activities to distinguish from activities needed to convert an area to farming, silviculture, or ranching and activities that convert a water to a non-water. The rule reflects this framework by clarifying the waters subject to the activities Congress exempted under Section 404(f)(1) are not jurisdictional by rule as "adjacent." It is important to recognize that "tributaries," including those ditches that meet the tributary definition, are not "adjacent waters" and are jurisdictional by rule.

There is no statutory definition of "ongoing." However, the regulations do highlight the types of activities that are considered with regard to "established" operations. 40 CFR 232.3(c)(1)(ii)(A) provides clarity on what is considered an "established" or ongoing farming, silviculture, or ranching operation: "To fall under this exemption, the activities specified in paragraph (c)(1) of this section must be part of an established (i.e., ongoing) farming, silviculture, or ranching operation, and must be in accordance with definitions in paragraph (d) of this section. Activities on areas lying fallow as part of a conventional rotational cycle are part of an established operation."

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #0092 [108,072 on-time duplicates, sponsored by the Natural Resources Defense Council]

Dear Environmental Protection Agency, I just signed Natural Resources Defense Council (NRDC)'s petition "Ohio: don't let polluters poison our water" on Change.org. I urge you to finalize the Army Corps of Engineers' and Environmental Protection Agency's proposed Clean Water Act Waters of the U.S. rule as soon as possible, follow the science that shows how water

bodies are interconnected, and fully protect all of the waterways that have important connections to one another.

Basic clean water protections for headwater streams and wetlands have been in question for too long. I strongly support protecting the nation's streams, ponds, wetlands and other waters from pollution. The proposed rule is an important step towards achieving this goal. Preserving our sources of clean drinking water is of the utmost importance. Finalizing a strong rule will secure Clean Water Act protections for countless streams and wetlands, which help supply the drinking water of more than 117 million Americans.

The rule as proposed is a major improvement. I urge you to further strengthen the final rule to fully protect wetlands and other waters found outside of the floodplain of covered waterways. Science shows that the health of these waters influences stream flow, water quality and wildlife in waters downstream.

I urge you to continue to stand up to special interests that oppose these important -- and popular -- clean water protections. EPA has already received more than 100,000 letters in support of moving forward with this rule to protect streams, wetlands, rivers and other waters from pollution or destruction. Hunting and angling organizations, public health professionals and hundreds more local elected officials, farmers, citizens, brewers and other business leaders have spoken out in support of enhanced protections.

As one of the many supporters of this critical initiative to protect our waters from pollution, I thank you and urge you to finalize a strong Waters of the U.S. rule that includes full protection for the nation's waters as soon as possible.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #0093 [7,140 on-time duplicates, sponsored by the American Rivers]

Dear Environmental Protection Agency,

As a supporter of American Rivers, I urge you to move forward to finalize the rulemaking proposed by the U.S. Environmental Protection Agency and the Army Corps of Engineers to clarify the scope of the Clean Water Act. This rulemaking effort is critical to restoring protections for the small streams and wetlands that contribute to our drinking water supplies, filter out pollutants, and help to protect us from flooding.

Despite thirty years of historically comprehensive protections under the Act, small streams and wetlands are no longer guaranteed to be covered by the Clean Water Act. These waters may now be vulnerable to pollution and degradation following two Supreme Court decisions in 2001 and 2006. The legal chaos that resulted from these decisions has caused significant declines in Clean Water Act implementation and enforcement. It puts significant burdens on the Agencies to repeatedly prove what we already know scientifically – that small streams and wetlands are integrally linked to the health of downstream waters.

I strongly support efforts to better protect small streams and wetlands. The proposed rule is an important step forward to restoring protections for streams, ponds, wetlands, and other waters. As part of this effort, I urge you to strengthen the proposed rule by more fully restoring protections to other waters, such as prairie potholes and vernal pools.

What happens upstream, in small streams and wetlands, affects downstream rivers, lakes, and beaches where we swim and fish. From the smallest headwater streams to the Mississippi River, science proves that these waters are connected – physically, chemically, and biologically.

I thank you for your efforts to better protect clean water and urge you to finalize a strong rule that more fully restores protections for our nation's waters.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands

are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands, are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #0571 [31,139 on-time duplicates, sponsored by Organization Unknown (email) - Identified as the Clean Water Action - A]

I urge EPA to finalize a strong rule to clarify that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.

Clean water is vital to me and my family - we rely on clean places to swim and play, and sources of safe water to drink. For too long there has been confusion about which streams and wetlands are protected, even though it is clear that Congress intended for all water to be safeguarded when the Clean Water Act passed in 1972.

Please keep the Clean Water Act strong and effective and finalize a rule that will improve the health of our nation's rivers, lakes and bays by protecting the small streams and wetlands they depend on.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of

acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

Doc. #0659 [4,887 on-time duplicates, sponsored by the PennEnvironment (email)]

Dear Administrator McCarthy,

All our waterways should be clean enough to drink from, fish from and swim in without risk of pollution -- from our local rivers and streams, to iconic waters they feed into like Delaware River and Susquehanna.

Unfortunately, loopholes in the Clean Water Act have left many of our smaller waters unprotected, including those that feed and filter the drinking water for 8 million Pennsylvanians.

Please move forward as quickly as possible to finalize a strong rule that will restore Clean Water Act protections to all Pennsylvania's waterways and protect our environment and health.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the

country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

Doc. #0660 [3,550 on-time duplicates, sponsored by the National Audubon Society (email)]

To Environmental Protection Agency,

As a strong advocate for bird conservation, I support the proposed Waters of the United States rule to clarify the Clean Water Act's protection of our nation's critical wetlands and streams, and I urge you to promptly finalize the rule.

Wetlands and streams are indispensable habitat for hundreds of species of birds and other wildlife, including Northern Pintail, American Bittern, Semipalmated Plover, Prothonotary Warbler, and many more. These waters also filter pollution, provide drinking water for over 100 million people, and safeguard our communities from storms.

Yet these waters have remained in legal limbo for years, even though the science is clear that streams and their adjacent wetlands should be covered under the Clean Water Act. Streams and wetlands significantly affect the quality of other covered waters, such as rivers and lakes.

Other wetlands, such as prairie potholes, which are vital breeding habitat for ducks, also have a significant impact on the quality of downstream waters, and I urge you to cover these waters as well.

Thank you for your work to fulfill the goals of the Clean Water Act. Please finalize this rule as soon as possible so that birds, other wildlife, and our communities can thrive with the security of clean and abundant water.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #0661 [1,935 on-time duplicates, sponsored by the Environment Colorado (email)]

Dear Administrator McCarthy,

All our waterways should be clean enough to drink from, fish from and swim in without risk of pollution--from our local rivers and streams, to iconic rivers like the Colorado. Unfortunately, loopholes in the Clean Water Act have left many of our smaller waters unprotected, including those that feed and filter the drinking water for 3.7 million Coloradans.

It makes sense that pollution in streams and wetlands affects larger waterways downstream.

Please move forward to protect our environment and our health by restoring Clean Water Act protections to all America's waterways, including all our streams and wetlands.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #0662 [379 on-time duplicates, sponsored by the Environment Washington (email)]

Dear EPA Administrator, EPA Administrator McCarthy,

All our waterways should be clean enough to drink from, fish from and swim in without risk of pollution--from our local rivers and streams, to iconic waters like Puget Sound, the Columbia River and Lake Chelan. Unfortunately, loopholes in the Clean Water Act have left many of our smaller waters unprotected, including those that feed and filter the drinking water for 117 million Americans.

It makes sense that pollution in streams and wetlands affects larger waterways downstream. Please move forward to protect our environment and our health by restoring Clean Water Act protections to all America's waterways, including all our streams and wetlands.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #0663 [486 on-time duplicates, sponsored by Organization Unknown (email) – [Creation Justice Ministries – a]

Dear Administrator McCarthy -

As a Christian, water is central to my spiritual life and sacred to all of God's creation. I am writing to thank for your recent proposal addressing waters of the United States that would clarify what waterways can be protected under the Clean Water Act.

Water is the cradle of all life and an expression of God's grace. And we are polluting and using our water in an unsustainable manner. We must use all the tools available to us to care for God's gift of water here in the United States. Water knows no bounds and this clarification will allow us to protect sources of water that we all depend on from streams and wetlands to rivers, bays, and lakes. I am grateful for this proposed rule that ensures protection for God's waters and our communities.

Finally, I urge you to finalize this rule as proposed in a timely fashion so that we can protect headwater streams, ponds, and wetlands from pollution. By doing so, not only can we help protect all of Creation, but we can also help protect the supply of drinking water, so essential for human life.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #0664 [224 on-time duplicates, sponsored by Organization Unknown (email) – [Creation Justice Ministries – b]

Dear Administrator McCarthy –

As a Presbyterian Christian, water is central to my spiritual life and sacred to all of God's creation. I am writing to thank for your recent proposal addressing waters of the United States that would clarify what waterways can be protected under the Clean Water Act.

Water is the cradle of all life and an expression of God's grace. We are polluting and using our water in an unsustainable manner. We must use all the tools available to us to care for God's gift of water here in the United States. Water knows no bounds and this clarification will allow us to protect sources of water that we all depend on, from streams and wetlands, to rivers, bays, and lakes. I am grateful for this proposed rule that ensures protection for God's waters and our communities.

Also, you should know that the most recent Presbyterian Church (U.S.A.) General Assembly (2012) acknowledged protection of the environment as vital to the Christian faith, supported a strong and proactive EPA, and affirmed a statement urging strong oversight authority over waters of the U.S. In particular, I am very concerned about "fracking" and its devastation to the environment. We should be working on improving renewable energy. I add to that concern, mountain top removal, a harmful and terrible way of extracting coal while dumping poisonous residue into the valleys poisoning streams and atmosphere.

So, once again, I thank you for taking a stand for waters of the U.S. and I urge you to finalize this rule as proposed in a timely fashion, so that we can protect headwater streams, ponds, and wetlands from pollution. By doing so, not only can we help protect all of Creation, but we can also help protect the supply of drinking water, so essential for human existence and all other life.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #0665 [119 on-time duplicates, sponsored by Organization Unknown (email) – [Trout Unlimited - a]

Comments Clean Water Docket:

The Clean Water Act is one of the most important tools for protecting trout and salmon habitat and providing good fishing opportunities. As an angler, I am writing to thank the Environmental Protection Agency and Army Corps of Engineers for their draft rule on the jurisdiction of the Clean Water Act. Protecting wetlands and headwater streams means protecting important fish habitat, and protecting habitat means more fishing opportunities for America's anglers, who contribute $48 billion every year to the economy.

America's sportsmen and women strongly support this rule, and ask the EPA and Corps of Engineers to restore robust protections for certain headwater streams as the rule moves forward.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that

flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

To keep our lakes, rivers, and coastal waters clean, and provide important habitat for fish and wildlife, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #0666 [6,166 on-time duplicates, sponsored by Organization Unknown (email) – [Livestock Water Quality]

Dear EPA/Corps,

As a landowner who must use the land to make a living and feed the world, I am disappointed by your proposed Clean Water Act (CWA) rule redefining "waters of the U.S." As a cattle rancher I am proud to be the primary steward of the natural resources on my property. I strive to care for the air and the water because the well-being of my cattle, and my family, depend upon it. That care does NOT and should NOT require a federal permit each time my cattle walk through a damp spot, or I drive my tractor across the pasture. The net effect of such a regulation will not be an improvement to the environment, but will place an enormous burden on landowners like myself. Please consider the following comments in evaluating the need for rule.

First, the definition as proposed is illegal based on the Commerce Clause of the U.S. Constitution, the framework and goals of the CWA, Congressional intent and Supreme Court rulings. Each places a limit on federal jurisdiction over the nation's waters. Currently, your proposed rule has practically no limit whatsoever. As an example, you now have included my agricultural ditches into the category of "tributaries?" This is inappropriate. The two exclusions you have provided for ditches are not adequate to alleviate the enormous burden you just placed on the entire agriculture community. "Ditches" should not be waters of the U.S. Farm ponds should not be waters of the U.S. Dry washes, dry streambeds, and ephemeral streams should not be waters of the U.S. Second, the proposed definition annihilates the federalist system that underpins the CWA. There is a line at which point the states must be allowed to take over. This proposal has obliterated that important and fundament line. By expanding the definition of tributary, expanding the definition of "adjacent", and expanding the category of "adjacent wetlands" to "adjacent waters," you have delivered a devastating blow to my cattle ranch. Administrator McCarthy has told farmers and ranchers to "just read the proposal;" well I have. I am not only concerned about the ability of agency regulators being able to apply vague terms and phrases to wrap every wet depression on my place into the definition of WOTUS, but I am left in an even more confused state than under the status quo. You have failed, miserably in fact, at providing the "clarity" you purport to want to achieve.

Third, the agencies are wrong to imply that the proposal will not have an impact on a substantial number of small entities. Almost the entire cattle industry is composed of small businesses. Most, like mine, are family-run, and the families that run them are not millionaires. We work hard every day to keep our cattle and our families in good health. Regulations, like your proposal, make it hard to keep our small businesses financially viable. More red tape is the last thing my ranch needs, because it gets in the way of me putting environmentally friendly practices on the ground, many of which are not included in your list of 56. This proposal will have a negative impact on my small business and hundreds of thousands like it across the country.

In sum, I believe the EPA and the Corps should not finalize their proposed definition for "waters of the U.S." and should scrap the entire rule. There are too many fundamental problems with the proposal. By starting fresh, the agencies could potentially have meaningful dialogue and outreach with the cattle industry. As proposed it violates the law, will not benefit the environment, and will have a negative impact on small businesses like mine.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact. Peer-reviewed science and practical experience demonstrate that upstream waters, including headwaters and wetlands, can significantly impact the chemical, physical, and biological integrity of downstream waters – playing a crucial role in controlling sediment, filtering pollutants, reducing flooding, providing habitat for fish and other aquatic wildlife, and many other vital chemical, physical, and biological processes.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. The final rule clarifies and will simplify implementation of the CWA consistent with its purposes through clearer definitions and increased use of bright-line rules. The agencies emphasize that, while the CWA establishes permitting requirements for covered waters to ensure protection of water quality, these requirements are only triggered when a person discharges a pollutant to the covered water. In the absence of a pollutant discharge, the CWA does not impose permitting restrictions on the use of such water. The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The agencies recognize the vital role of the agricultural community in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The following types of ditches are excluded in the final rule: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch.

Normal farming, ranching and silviculture will continue to enjoy exemptions from most CWA permitting whether or not the activity is in a "Waters of the U.S.". The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, EPA and the Army determined to seek wide input from representatives of small entities; such outreach, although voluntary, is also consistent with the President's January 18, 2011 Memorandum on Regulatory Flexibility, Small Business, and Job Creation, which emphasizes the important role small businesses play in the American economy. This process enabled the agencies to hear directly from these representatives, throughout the

rule development, about how they should approach this complex question of statutory interpretation, together with related issues that such representatives of small entities may identify for possible consideration in separate proceedings. The agencies prepared a report summarizing their small entity outreach, the results of this outreach, and how these results have informed the development of this rule. This report, Final Summary of the Discretionary Small Entity Outreach for the Revised Definition of Waters of the United States (Docket Id. No. EPA-HQ-OW-2011-0880-1927), is available in the docket.

Doc. #0853 [38 on-time duplicates, sponsored by Organization Unknown (web) -

Dear Ms. Downing and Ms. Jensen:

I am a concerned citizen, one who feeds his family from helping pond and lake owners manage their liquid assets and having clean water is very important to me. Your proposed rule is a significant expansion of the Clean Water Act that will affect every American, and have significant impact on my business and community due to the proposed increased jurisdiction over all waters. Due to the proposed rule's complexity, additional time is needed for me to review and respond to the rule and all its implications for my business, community and state.

I am respectfully requesting an extension of the public comment period, for an additional 90 days, on the Environmental Protection Agency and U.S. Army Corps of Engineers' Proposed Rule Defining "Waters of the United States" Under the Clean Water Act. 76 Fed. Reg. 22,188 (Apr. 21, 2014).

Agency Response

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries.

The agencies believe that sufficient time has been provided for review of the rule, with the public comment period running for over 200 days.

Doc. #1953 [424 on-time duplicates, sponsored by Organization Unknown (web) – [American Farm Bureau Federation - b]

To Whom it May Concern:

I am a farmer and I am writing to submit comments to the Environmental Protection Agency and

the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters - many of which are not even wet or considered waters under any common understanding of that word.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm and ranch, or make changes to the land - even if those changes would benefit the environment. Protecting water quality is already a priority to my family and our farm and does not need to be legally required by the EPA for me to do so. It is one of the values I hold as a farmer or rancher.

Farmers and ranchers like me will be severely impacted. Therefore, I ask you to withdraw the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.
The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or

maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Doc. #1954 [826 on-time duplicates, sponsored by Pennsylvania Farmers (web)]

I am a farmer and I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of "waters of the U.S." under the Clean Water Act.

Clean water is important to me and my family, but this proposal seeks to control my land, not improve water quality. The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters-many of which are not even wet or considered waters under any common understanding of that word.

Pennsylvania farmers do not believe that the proposed rule provides clarity or certainty, as EPA has stated, nor do we believe it is necessary to better protect water quality. Pennsylvania already has a very strong set of laws, regulations and programs in place to keep our water clean. Our Clean Streams Law, Dirt and Gravel Road Program, and Flood Plain Management Act, as well as our mandated state standards for the land application and storage of manure are just a few parts of the strong framework we have in place to protect our water. And even more important is the value that I, as a farmer, place on being a good steward of the land-something that reaches far deeper than any law or regulation.

Farmers like me will be severely impacted by the proposed rule, and I ask that you withdraw it.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Doc. #1955 [296 on-time duplicates, sponsored by members of The Wildlife Society (web)]

As a member of The Wildlife Society, I commend the Agency's endeavors to restore protections under the Clean Water Act (CWA). Founded in 1937, The Wildlife Society is a non-profit scientific and educational association of nearly 10,000 professional wildlife biologists and managers, dedicated to excellence in wildlife stewardship through science and education. I appreciate the time and effort the agency has made in conducting a comprehensive internal, interagency, and public process to clarify the reach of the Clean Water Act that is both legally and scientifically sound.

I urge you to complete the rule-making process in a timely fashion and reinstate protections for all tributaries, wetlands, adjacent waters, and those with a significant nexus to waters defined as navigable under the CWA.

Without this rule, our water quality will suffer, fish and wildlife populations will diminish, and economic benefits from recreation will plummet. By some estimates, 76 percent of prairie pothole wetlands and 90 percent of the remaining wetlands in the Great Lakes could go unprotected, resulting in up to $30 billion in annual flooding damages and the loss of $122 billion in fish and wildlife recreation.

The continental U.S. has already lost over half its original wetlands and there has been an alarming 140 percent increase in the rate of wetland loss between 2004 and 2009. Millions of ducks, geese, and other waterfowl utilize the prairie pothole region in the Midwest alone - for breeding and migratory stopover habitat. Mainly because of agricultural practices, the pothole region is the most threatened wetland system in North America. Under current CWA guidance, prairie potholes are considered 'isolated' because they do not have direct overland connections to navigable waters. However, it has been shown that prairie potholes provide important surface water storage and flood attenuation functions and are connected to navigable waters via groundwater flow. In this case, as in others, it is vitally important that the proposed rule allow the prairie pothole region to be considered an ecoregion of similarly situated waters when evaluating for a significant nexus.

In addition to prairie potholes, many other waters such as tributaries and ephemeral and intermittent streams and wetlands are extremely important to maintaining the biological integrity of all waters in their proximity. Many wildlife species, including certain ducks, gulls, freshwater turtles, fish, and amphibians regularly move between permanent and temporary waters during their life cycle - they need both in order to survive. If the inland wetlands, streams and tributaries wildlife depend on are not afforded protection under the CWA, they may be adversely impacted and disrupt the biological integrity of the entire landscape.

Further, a clear understanding of the Clean Water Act's reach and application is essential to the regulated community and the American public. Farmers and other landowners cannot confidently proceed with planned projects without knowing which waters on their land are under jurisdiction of the CWA. The public relies on the ecological services provided by rivers, lakes and bays, which are fed by smaller wetlands, lakes, and streams. If some of these smaller bodies of water remain unprotected, ecological services such as flood and storm surge protection and pollution filtration will be lost.

Please consider the enormous value of all bodies of water in this country to wildlife, their habitats, and ourselves as you move forward in the rule making process.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands

are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #1956 [90 on-time duplicates, sponsored by Organization Unknown (web) – [American Farm Bureau Federation – c]

I am writing today to comment on your proposed rule which significantly expands the scope of "navigable waters" subject to Clean Water Act jurisdiction. I am also writing to urge you to extend the comment period for an additional 90 days as farmers and ranchers need additional time to make their voices heard on this important rule. As I read the proposal, it would allow the federal government to regulate most ditches, small and remote "waters" and ephemeral drains where water flows only when it rains. Many of these areas are not even wet most of the time and look more like land than like "waters."

Because of the proposed rule, farmers, ranchers and other landowners will face roadblocks to ordinary land-use activities-like fencing, spraying for weeds or insects, or even pulling weeds. The need to establish buffer zones around grassed waterways, ephemeral washes and farm ditches could make farmlands a maze of intersecting "no farm zones" that could make farming impractical.

The farming and ranching exemptions in current law are important, but they have been very narrowly applied by the agencies-and they will not protect farmers and ranchers from the proposed "waters" rule. EPA's so-called exemptions will not protect farmers and ranchers from the proposed "waters" rule. If farmlands are regulated as "waters," farming and ranching will be difficult, if not impossible.

Thank you for the opportunity to comment on this important issue. I would also again urge you to extend the public comment period for an additional 90 days in order to ensure adequate time for farmers and ranchers to comment on this issue.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The agencies believe that sufficient time has been provided for review of the rule, with the public comment period running for over 200 days.

Doc. #2481 [12,221 on-time duplicates, sponsored by Sierra Club (email) - Identified as Sierra Club - a]

Dear WOTUS Docket McCarthy,

Thank you for your effort to clarify which waters of the United States are protected under the Clean Water Act and for restoring a common sense approach to protecting our nation's lakes, rivers, and streams. Clean water is an undeniable necessity for the health of our families, our environment, and our economy-- not to mention our enjoyment. And as your agencies have recognized with this rule, ensuring the protection of bodies of water upstream is vital to keeping pollution out of our waters downstream.

I strongly support the effort of the Environmental Protection Agency and Army Corps of Engineers and urge them to finalize a rule that is protective of all streams and wetlands -- including wetlands outside of floodplains -- that directly influence the physical, chemical and biological integrity of the nation's rivers, lakes and bays.

For the past decade, there has been confusion over which streams and wetlands are covered by the Clean Water Act because of polluter-friendly court decisions and subsequent Bush administration policies. This confusion has put the drinking water of over 117 million people at risk. One in three Americans relies on public drinking water supplies that are fed by polluted headwater or seasonally-flowing streams.

To protect Americans' drinking water, health, and recreation opportunities, we must protect all of America's wetlands and waterways. Today's rule will help make that possible. I applaud the efforts of the EPA and USACE and urge them to finalize a strong rule as quickly as possible.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #2482 [53,294 on-time duplicates, sponsored by Sierra Club (email) - Identified as Sierra Club - b]

EPA:

Our wetlands, lakes, and streams provide essential and economically valuable services, including flood protection and control, surface water filtration, groundwater recharge, and support for economic activity that depends on clean water and healthy populations of fish and wildlife.

I applaud the Environmental Protection Agency (EPA) for using peer-reviewed scientific studies to document how wetlands and headwater streams impact the integrity of our rivers, lakes, and bays. Furthermore, I strongly support the Obama Administration relying on science to inform and advance a transparent rule-making process to protect these streams and wetlands.

I ask that the EPA build on the science of their report, "Connectivity of Streams and Wetlands to Downstream Waters" and quickly move to a rule making process to protect our smaller streams and wetlands. The strength of the report's science and conclusions are key to restoring Clean Water Act protections to smaller waters that influence the health of our nation's rivers, estuaries, and drinking water supplies.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters. The rule is based on the law and the latest science, and has been informed and refined by public input. The rule reflects the judgment of the agencies when balancing the science, the statute, the Supreme Court opinions, the agencies' expertise, and the regulatory goals of providing clarity to the public while protecting the environment and public health.

Doc. #2483 [2,014 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Trout Unlimited - b]

Comments Clean Water Docket:

The Clean Water Act is one of the most important laws for protecting trout and salmon habitat and providing good fishing opportunities. As an angler, I am writing to thank the Environmental Protection Agency and Army Corps of Engineers for their draft rule on the jurisdiction of the Clean Water Act. Protecting isolated wetlands, and seasonally flowing intermittent, ephemeral and headwater streams means protecting important fish habitat. At the end of the day, protected habitat means more and better fishing opportunities for America's anglers, who contribute $48 billion every year to the economy.

America's anglers and hunters strongly support this rule, and ask the EPA and Corps of Engineers to maintain robust protections for these important streams and wetlands as the rule moves forward.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #2484 [99,793 on-time duplicates, sponsored by Earthjustice]

Dear Environmental Protection Agency,

Thank you for reading my letter.

Clean water is essential to our everyday lives. Restoring important Clean Water Act (CWA) protections to our nation's streams, wetlands, and other important waters will provide us with the certainty that we need as Americans to know that our water is safe.

The Environmental Protection Agency (EPA) should strengthen the proposed "Waters of the United States" rule by incorporating the scientifically-supported inclusion of certain "other waters," like vernal pools, or playa lakes for example, and finalize this rule quickly.

I urge EPA to ensure that this proposed rulemaking accurately captures the important functions of streams, wetlands, and other important waterways, and finalize this important rulemaking quickly. As the science clearly indicates, smaller waters influence the health of ALL of our nation's water sources and drinking water supplies. Those waters, many of which are treasured community assets, must be protected so that we can ensure that waters falling under the Clean Water Act are indeed clean and safe.

I strongly support the "Waters of the United States" rulemaking, and encourage EPA to strengthen the proposed rule by including "other waters" categorically under Clean Water Act jurisdiction. The science makes clear that protections for streams, wetlands, and other water bodies, left vulnerable by previous administration policies, must be restored as quickly as possible.

Clean water is essential to the health of my family, friends, community, and to me personally. I urge you withstand dirty water politics and to move forward on finalizing this rule immediately.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #2485 [13,432 on-time duplicates, sponsored by National Wildlife Action Fund (email)]

Dear Protection Agency,

I am writing in support of the administration's proposed rule restoring and clarifying Clean Water Act protections for wetlands and streams.

Restoring Clean Water Act protections for streams and wetlands is essential to fish and wildlife, flood protection, and the health of the more than 117 million Americans who get their drinking water from public supplies fed in whole or in part by streams vulnerable to pollution.

I urge you to strengthen, not weaken, the Clean Water Act by further clarifying and restoring clean water protections through the rulemaking process. I urge you to clearly restore protections for all streams, all adjacent wetlands, and the many other waters important to fish and wildlife, such as prairie potholes, Carolina bays, vernal pools, and playa lakes, where the science shows their importance to healthy watersheds.

Please issue a final clean water rule this year that once again protects the millions of wetland acres and stream miles that are at high risk of pollution and destruction.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #2486 [450 on-time duplicates, sponsored by Theodore Roosevelt Conservation Partnership (email)

To whom it may concern, and Environmental Protection Agency,

Thank you for proposing a rule that will clarify Clean Water Act protections for the waters I rely on for hunting and fishing. This action is critically important to the conservation of aquatic habitat, especially wetlands and headwater streams.

Many of the waters currently at risk of pollution and destruction are smaller streams that, though they may only flow for part of the year, are spawning grounds for trout, salmon and other fish. The wetlands at risk provide nesting habitat for most of the waterfowl in America. Taken together, these waters form the building blocks of a $200 billion a year sportsmen's economy and are necessary for me to enjoy quality time in the field hunting and fishing.

In addition, wetlands and headwater streams are integral parts of our watersheds. They help supply drinking water to more than 117 million Americans and are important to the overall health of downstream aquatic resources. We must protect these waters to protect the quality of our larger waters downstream.

With cleaner water comes better access to hunting and fishing opportunities. I urge you to finalize this rule so we can better preserve my sporting heritage for generations to come.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters and ensure that we protect vital services such as providing drinking water, recreational opportunities, and fish and wildlife habitat.

Doc. #2487 [66 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 2]

Dear Ms. Downing and Ms. Jensen:

I am a Golf Course Superintendent and a land owner and clean water is very important to me. Your proposed rule is a significant expansion of the Clean Water Act that will affect every American, and have significant impact on my employer and community due to the proposed increased jurisdiction over all waters. Due to the proposed rule's complexity, additional time is needed for me to review and respond to the rule and all its implications for my business, personal land, community and state.

I am respectfully requesting an extension of the public comment period, for an additional 90 days, on the Environmental Protection Agency and U.S. Army Corps of Engineers' Proposed Rule Defining "Waters of the United States" Under the Clean Water Act. 76 Fed. Reg. 22,188 (Apr. 21, 2014).

Agency Response

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

The agencies believe that sufficient time has been provided for review of the rule, with the public comment period running for over 200 days.

Doc. #2488 [38 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Theodore Roosevelt Conservation Partnership – b]

To whom it may concern,

Thank you for proposing a rule that will clarify Clean Water Act protections for the waters we rely on for hunting and fishing. This action is critically important to the conservation of aquatic habitat, especially wetlands and headwater streams.

Many of the waters currently at risk of pollution and destruction are smaller streams that, though they may only flow for part of the year, are spawning grounds for trout, salmon and other fish. The wetlands at risk provide nesting habitat for most of the waterfowl in America. Taken together, these waters form the building blocks of a $200 billion a year sportsmen's economy and are necessary for outdoor enjoyment and quality time in the field hunting and fishing.

In addition, wetlands and headwater streams are integral parts of our watersheds. They help supply drinking water to more than 117 million Americans and are important to the overall health of downstream aquatic resources. We must protect these waters to protect the quality of our larger waters downstream.

With cleaner water comes better access to hunting and fishing opportunities. Sportsmen like me urge you to finalize this rule so we can better preserve our sporting heritage for generations to come.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #2489 [35 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 3]

I am writing in support of the administration's proposed rule restoring and clarifying Clean Water Act protections for wetlands and streams.

Restoring Clean Water Act protections for streams and wetlands is essential to fish and wildlife, flood protection, and drinking water supplies.

I urge you to adopt these rules that clarify the protections under the Clean Water Act. In addition, please do not weaken them in any ways. It would be good to support the Clean Water by clearly restoring protections for all streams, all adjacent wetlands, and the many other waters important to fish and wildlife, such as prairie potholes, Carolina bays, vernal pools, and playa lakes, where the science shows their importance to healthy watersheds.

I am asking you to issue a final clean water rule this year that once again protects the millions of wetland acres and stream miles that are at high risk of pollution and destruction.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and

extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #2490 [37 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 4]

Dear EPA Administrator McCarthy:

I am writing to oppose the Environmental Protection Agency's implementation of its proposed rule on the Definition of the Waters of the United States under the Clean Water Act, Docket No. EPA–HQ–OW- 2011–0880. While EPA has stated this rule will offer clarity, simplify the regulatory process, and improve protection of water resources in the United States, I believe the proposed rule does none of those things. Instead, this rule will hurt the agriculture industry as well as many other businesses, and damage the American economy that depends on the services agriculture and other industries provide. Further, it will interfere with states' efforts to develop water protection programs that really work and which do not depend on such burdensome regulation, so the rule doesn't even benefit the environment like EPA says it will.

Here is what this rule will do to our farms in Michigan:

- The rule would make man-made ditches, tiny broken streams, and wet areas in fields subject to EPA regulation as "waters of the U.S." even though they hardly ever have water in them. This was not Congress' intention when it wrote the Clean Water Act.
- Agricultural exemptions do not cover all normal farming practices and do not apply to new lands. We would need permits for nutrient application, pest control, and earth moving in any location the new rule says could impact a newly expanded "water of the U.S.," meaning farming can't operate or expand without a lot of delay and cost.
- EPA can take months or years to answer a permit application, and can deny permits wherever it wants. This puts farmers into situations of uncertainty, rather than clarity.
- Mitigating wet areas that would now be considered "waters of the U.S." just to farm our existing fields could cost tens of thousands of dollars per acre. This only adds to the burden and cost for farmers, for little or no environmental benefit, given the weak

evidence for connection of those wet areas to the navigable waters the Clean Water Act was intended to protect.

- The rule limits private property rights by telling us where and how we can farm. This clearly goes beyond Congressional intent for the Clean Water Act, and beyond the limits set on EPA jurisdiction through multiple Supreme Court decisions.
- If farming gets harder and more expensive, food gets more expensive. This hurts the American consumer even if they don't know what their tax dollars now pay to regulate. The assumption that Americans value protecting the water that flows through a man-made agricultural ditch only after a heavy rain the same as they value the Florida Everglades is absurd.
- EPA's economic analysis doesn't show the true cost for farmers, landowners, and businesses, and those people can be hurt badly by the expanded regulations.
- This rule would put Michigan's Wetlands Law in violation of the Clean Water Act. We would lose our delegated authority which Michigan has used to provide valuable protection of wetlands with agencies that have local contact with us as farmers.
- Michigan has the Michigan Ag Environmental Assurance Program—MAEAP—that helps farmers protect water quality in our state. This voluntary program works, and is better for farmers than more government regulation. Congress intended states to have the authority to make their own land use and water quality decisions, and for the EPA to ride roughshod over state programs is a gross overreach of the agency's authority.

In summary, this rule so wrongfully changes the definition of a "water of the United States" that I request that EPA rescind the proposed rule entirely. Implementing this rule would put a heavy burden on farmers, driving some out of business, will force an increase in prices for vital American-grown food, and will take away states' ability to manage their own programs with real environmental benefit. The rule must be rescinded to fix these problems. Thank you for your time and attention.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. In fact, providing greater clarity regarding what waters are subject to CWA jurisdiction will reduce the need for permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #2491 [80 on-time duplicates, sponsored by Environment Virginia (email)]

All our waterways should be clean enough to drink from, fish from and swim in without risk of pollution--from our local rivers and streams, to iconic waters like the Potomac River and the Chesapeake Bay. Unfortunately, loopholes in the Clean Water Act have left many of our smaller waters unprotected, including those that feed and filter the drinking water for more than 2 million Virginians.

It makes sense that pollution in streams and wetlands affects larger waterways downstream like the Chesapeake. Thank you for taking the initial step to protect all of our waterways from pollution.

Please move forward to protect our environment and our health by restoring Clean Water Act protections to all America's waterways, including all our streams and wetlands.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #2492 [101 on-time duplicates, sponsored by Organization Unknown (email) - Identified as National Write Your Congressman]

Regarding the Definition of "Waters of the United States" Under the Clean Water Act,

I am opposed to the EPA's proposed rule (EPA-HQ-OW-2011-0880).

This is nothing more than another federal government land grab.

This proposal would open the door for more environmental groups suing private property owners.

The EPA is "picking and choosing" its science while trying to take another step toward outright permitting authority over virtually any wet area in the country.

As a constituent of yours, I would like to know your thoughts on this issue.

A proud member of National Write Your Congressman.

Agency Response

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #2493 [357 on-time duplicates, sponsored by the Supporters of the Izaak Walton League of America (email)]

Dear Water Docket, EPA:

As a supporter of the Izaak Walton League of America, I value clean water and support this rule proposed by the U.S. Army Corp of Engineers and Environmental Protection Agency to restore protections under the Clean Water Act to more of our headwater streams and wetlands.

Upstream waters are the source of rivers, lakes, and drinking water. Headwater streams and wetlands filter pollutants from drinking water, reduce flooding, and provide important habitat for fish, waterfowl, and other wildlife. They provide drinking water to many millions of Americans and support good fishing, hunting, boating, and other water-based recreation. A healthy network of waters benefits the economy and local communities and creates jobs.

Most waters in this country are connected. In order to maintain clean water, we need to ensure all of our waters are well managed. No one should be able to destroy or pollute waterways just because they live or work farther upstream than other people and businesses.

Please issue a final rule that protects our headwater streams and wetlands. All tributaries and all wetlands adjacent to them should be protected. Please include protections for other important waters such as prairie pothole wetlands, playa lakes, and vernal pools. These waters provide vital

habitat for waterfowl and other wildlife and are an important part of our country's network of waters.

Thank you for issuing this important rule.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #2494 [2,112 on-time duplicates, sponsored by American Farm Bureau Federation (email) - Identified as American Farm Bureau Federation - d]

To Whom it May Concern:

I am a farmer and I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word.

The proposed rule significantly expands the scope of "navigable waters" subject to Clean Water Act jurisdiction. As I read the proposal it would allow the federal government to regulate most ditches, small and remote "waters" and ephemeral drains where water flows only when it rains. Many of these areas are not even wet most of the time and look more like land than like "waters."

Because of the proposed rule, farmers, ranchers and other landowners will face roadblocks to ordinary land-use activities—like fencing, spraying for weeds or insects, discing or even pulling weeds. The need to establish buffer zones around grassed waterways, ephemeral washes and farm ditches could make farmlands a maze of intersecting "no farm zones" that could make farming impractical.

The farming and ranching exemptions in current law are important, but they have been very narrowly applied by the agencies—and they will not protect farmers and ranchers from the proposed "waters" rule.

EPA's so-called exemptions will not protect farmers and ranchers from the proposed "waters" rule. If farmlands are regulated as "waters," farming and ranching will be difficult, if not impossible

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm and ranch, or make changes to the land – even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer or rancher.

Farmers and ranchers like me will be severely impacted. Therefore, I ask you to withdraw the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule

than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The final rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.
Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #2495 [194 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Alabama Farmers Federation]

I am writing to offer comments on the U.S. Environmental Protection Agency and the Army Corps of Engineers rule regarding the definition of waters of the United States. I respectfully request the agencies withdraw this rule.

This rule will have dire implications for farms and businesses. By significantly expanding the scope of navigable waters subject to Clean Water Act jurisdiction, previously unregulated areas such as ponds, ditches and puddles could easily fall under federal regulation and scrutiny. The potential for increased costs and time delays related to obtaining permits for simple, everyday

farm activities would place undue burdens on farmers who already deal with countless federal rules.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm or make changes to the land. Farmers were the first stewards of the land and continue to take great pride in ensuring our nation's land and water resources are cared for properly. This rule simply goes too far.

Alabama farmers will be severely impacted by this bad rule. Therefore, I ask you to withdraw the proposal.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

The final rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint

Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #2911 [939 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Citizen Letter[1]]

Dear Administrator McCarthy,

CitizenLetter®
An urgent message from a concerned citizen.

The EPA has proposed a rule that would close loopholes in the Clean Water Act and reinstate much-needed protections for wetlands and streams in Washington state and across the U.S.

I'm writing to urge you to finalize this rule and ensure it protects valuable and irreplaceable waterways from development and pollution.

We all need clean water-for drinking, for recreation, for the health of our wildlife and ecosystems. But in the past decade the Bush administration and Supreme Court dismantled many Clean Water Act protections and exposed more than half of America's and Washington's streams and 20 million acres of wetlands to unchecked development and pollution. These are places where we get our drinking water, where Americans fish, swim and play every day.

The rule proposed by the EPA is a vital step in reversing damage to our wetlands and waterways. It would protect critical fish and wildlife habitats, vast recreation areas and drinking water sources for many Americans, including 2 million Washingtonians. I urge you to finalize a rule protecting all waterways.

Please let me know how you intend to address this issue.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the

[1] *This letter is one example submitted under the sponsoring agency.*

process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #3162 [20,248 on-time duplicates, sponsored by National Parks Conservation Association (email)]

Dear Administrator of the EPA McCarthy,

I strongly support the recently released EPA and Army Corps' Clean Water Protection Rule (EPA-HQ-OW-2011-0880) as an important step towards protecting the waters in and around our national parks.

For years the Clean Water Act protected all wetlands and tributaries in and around parks. However, many of these wetlands, small streams, and lakes have been at increased risk of pollution and destruction following Supreme Court decisions in 2001 (SWANCC) and 2006 (Rapanos). These rulings and subsequent agency guidance have created a confusing, time-consuming, and frustrating process for determining what waters are protected under the Clean Water Act and state laws.

This lack of protection has taken its toll, especially for wetlands and intermittent and headwater streams, slowing permitting decisions for responsible development and reducing protections for drinking water supplies and critical habitat. More than half of our 401 national parks have waterways that are impaired and polluted. Over 117 million Americans, including many visitors to national parks, get their drinking water from surface waters.

Protecting and restoring wetlands and streams is critical to protecting the waters in our national parks. Healthy wetlands improve water quality by filtering polluted runoff from farm fields and city streets that otherwise would flow into rivers, streams, and great water bodies across the country. Wetlands and tributaries provide vital habitat to wildlife, waterfowl, and fish, reduce flooding and provide clean water for drinking, fishing, swimming, and paddling in national parks.

I support the Clean Water Protection Rule and so should you.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the

best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #3163 [36,651 on-time duplicates, sponsored by League of Conservation Voters (email)]

Dear Office of Water,

I strongly support the Environmental Protection Agency and U.S. Army Corps of Engineers' efforts to restore Clean Water Act protections to our nation's valuable streams and wetlands under the proposed Clean Water Rule. I urge you to quickly finalize this commonsense approach and ensure that all of our waters-- from our local rivers and streams, to iconic waters like the Chesapeake Bay and the Great Lakes—are protected from dangerous pollution.

Right now, many of our streams, wetlands, headwaters, and tributaries, including those that provide at least part of the drinking water for 117 million Americans, are unprotected. Our wetlands filter pollution and protect against floods while our many waterways serve as critical habitat for wildlife. These waterways are also important economic drivers in our communities, supporting businesses as varied as farmers to craft brewers to clean technology, all of whom need clean water to thrive.

This rule has received strong support from a vast variety of stakeholders, including farmers, small businesses, hunters and anglers, public health professionals, and elected officials.

I appreciate the EPA and Army Corps' use of sound science in crafting this important rule, and encourage the agencies to make it even stronger by protecting certain classes of other waters, such as prairie potholes, that the science demonstrates are clearly connected to the health of downstream waters.

I urge the EPA and the Army Corps of Engineers to stand up against big polluters and special interests who want to keep their free pass to pollute our waterways. Please quickly finalize these commonsense safeguards for our streams, wetlands, tributaries, headwaters, and other waters to ensure that all Americans have access to clean, healthy water.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #3164 [56 on-time duplicates, sponsored by Board Members and Stock Holders of Blue Hills Gulf Corporation (email)]

Dear Ms. Downing and Ms. Jenson[2]:

As Board Members and Staff of Blue Hills Golf Corporation clean water is very important to us. The proposal is a significant expansion of the "Clean Water Act" that will affect every American, and will have significant impact on our business and community due to the proposed increase jurisdiction over all waters. Due to the proposal's complexity, additional time is needed for us to review and respond to the proposal and all its implications for our business, community, and state.

We are respectfully requesting an extension of the public comment period, for an additional 90 days, on the Environmental Protection Agency and U.S. Army Corps of Engineers Proposed Rule Defining "Waters of the United States" under the Clean Waters Act. 76 Fed. Reg. 22, 188 (April 21, 2014)

As members of the Board of Directors and staff of Blue Hills Golf Corporation we are submitting our names along with the other stock holders of Blue Hills Golf Corporation.

Dear Ms. Downing and Ms. Jensen[3]:

We the stock holders of Blue Hills Golf Corporation are very interested in clean water and it is very important to us. Your proposed rule is a significant expansion of the Clean Water Act that

[2] *First letter example submitted under sponsoring agency.*
[3] *Second letter example submitted under sponsoring agency.*

will affect every American, and have significant impact on our business and community due to the proposed increased jurisdiction over all waters. Due to the proposed rule's complexity, additional time is needed for us to review and respond to the rule and all its implications for our business, community and state.

We are respectfully requesting and extension of the public comment period, for an additional 90 days, on the Environmental Protection Agency and U.S. Army Corps of Engineers' Proposed Rule Defining "Waters of the United States" Under the Clean Water Act. 76 Fed. 22,188 (Apr. 21, 2014).

Agency Response

The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The agencies believe that sufficient time has been provided for review of the rule, with the public comment period running for over 200 days.

Doc. #3726 [39 on-time duplicates, sponsored by members of the Indiana Association of County Highway Engineers and Supervisors (paper)]

Dear Sir or Madam,

As members of the Indiana Association of County Highway Engineers and Supervisors, we are writing in response to the U.S. Environmental Protection Agency (EPA) and U.S. Corps of Engineers (Corps) release of their proposed rule which would expand federal jurisdiction under the Clean Water Act (CWA). The county highway system accounts for 68%[4] of all public roads in Indiana. Based on the amount of roadways under county jurisdiction and our preliminarily review of the proposed rulemaking, we believe the expanded definition which includes small waters that are purported to have a "significant nexus" will have a substantial impact on the maintenance, construction, and management of our county highway system .in Indiana.

The broadened definition of small waters to include "significant nexus" will likely expand the number of county owned facilities affected by the Corps jurisdiction. Increasing jurisdictions and

[4] Calculated percentage based on INDOT Certified Mileage Publication (March 2012).

requirements will directly impact county budgets by delaying projects, increasing permitting and mitigation costs, and increasing construction costs. With limited funding resources, counties will likely reduce the number of projects or base project decisions on permitting and mitigation costs rather than safety. Indiana county highways have a rate of 34.3 serious injuries per 1000 collisions[5], which is the highest rate of serious injuries on any roadway system in Indiana. We cannot afford to let the higher costs associated with this definition affect the choices we make on our roads.

Based on our preliminary review of the rule, we would request that the proposed rule as written be abandoned. If new criteria are needed in order to satisfy recent court rulings, we suggest that you involve local government and industry stakeholders in order to redefine the jurisdictional boundaries for which the Corps and EPA should be responsible for. If you believe we have not provided enough information to base your decision on, we would request that the time frame for comment be extended to allow us to assemble additional information for your review.

Agency Response

The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs. The rule reflects the judgment of the agencies when balancing the science, the statute, the Supreme Court opinions, the agencies' expertise, and the regulatory goals of providing clarity to the public while protecting the environment and public health. The rule is based on the law and the latest science, and has been informed and refined by public input.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. The rule will clarify and simplify implementation of the CWA consistent with its purposes through clearer definitions and increased use of bright-line rules. The agencies emphasize that, while the CWA establishes permitting requirements for covered waters to ensure protection of water quality, these requirements are only triggered when a person

[5] Indiana Crash Facts 2012, Indiana Criminal Justice Institute Publication.

discharges a pollutant to the covered water. In the absence of a pollutant discharge, the CWA does not impose permitting restrictions on the use of such water.

The rule does not affect or modify in any way the many existing statutory exemptions under the CWA, including maintenance of ditches, nor does it change the availability of general permits and emergency permits for highway construction and maintenance activities. In response to comments, the agencies have revised the exclusions for ditches themselves to provide greater clarity and consistency, to exclude from the definition of waters of the United States : "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch. Where a ditch is excavated in or relocates a covered tributary, only the segment of the ditch actually excavated in or relocating the covered tributary would be considered jurisdictional. For example, an entire roadside ditch does not become subject to jurisdiction because a portion of it is excavated in or relocates a tributary.

Doc. #3728 [236 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as American Farm Bureau Federation – e]

To Whom It May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. under the Clean Water Act. The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm and ranch, or make changes to the land -- even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer or rancher.

Water Act jurisdiction by regulating small and remote waters-- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. The rule has also expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #4154 [31 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 5]

I think this proposed rule is a very bad idea and I am encouraging the EPA to ditch the rule immediately. It has been asked, "What's the problem with requiring farmers to obtain federal permits"" Well, first of all, Congressional action and the Supreme Court rulings don't authorize this broadening of the Clean Water Act (CWA). The other big problem is that permits would likely be required for every typical farming activity, such as building a fence, applying fertilizer or spraying weeds. Some of these permits could take months, or even years, to obtain and there is no guarantee the permit would be granted. This jeopardizes important conservation projects and can hinder a farmer's efforts to improve our soil and water resources. And if a farmer is found to be out of compliance" Fines of $37,500 per day can be assessed, and farmers could be subjected to citizen lawsuits from activists who want to expand CWA jurisdiction.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and

peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. The rule has also expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #4720 [202 on-time duplicates, sponsored by Cattle Producers (paper)]

I am a Kansas cattle producer and want to address the Environmental Protection Agency's (EPA) and the U.S. Army Corps of Engineers' (Corps) recently proposed expansion of their federal authority over "waters of the U.S."

The EPA and Corps continue to give themself authority which they do not have. As a producer, I share my concerns that the agencies are overreaching and attempting to control private property which they have no authority to do. The EPA has made comments that long standing exemptions for agriculture will remain unchanged, but that is not true. This rule would require me, as a cattle producer, to get permission to move cattle, to run my tractor, to build a pond, or to do any daily task and chore. Therefore, misleading the public to believe that it is also protecting family farmers and ranchers is absurd. Still, the agencies continue to patrol the properties of good Americans in attempts to control private property.

Under this proposal, I may be required to get permits for my own land, develop and get approval for plans of action for what the EPA considers "spills". The unwarranted fines of more than $35,000 a day could easily drive me out of business and destroy what my family has worked so hard to accomplish.

I am a steward of the environment. My animals require clean water to be healthy. I take care of my resources so that it is there for generations to come. Yet, the EPA and Corps have created a

burdensome rule that only causes harm and in the process, these agencies are taking away my rights.

This is an extreme overreach by the government, and I stress that this rule should be immediately withdrawn.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. The rule will clarify and simplify implementation of the CWA consistent with its purposes through clearer definitions and increased use of bright-line rules. The agencies emphasize that, while the CWA establishes permitting requirements for covered waters to ensure protection of water quality, these requirements are only triggered when a person discharges a pollutant to the covered water. In the absence of a pollutant discharge, the CWA does not impose permitting restrictions on the use of such water.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. The rule has also expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #4765 [48 on-time duplicates, sponsored by Park Slope United Methodist Church (paper)]

Dear Administrator McCarthy –

As a Christian, water is central to my spiritual life and sacred to all of God's creation. I am writing to thank for your recent proposal addressing waters of the United States that will clarify what waterways can be protected under the Clean Water Act. We are polluting and exploiting our water in an unsustainable manner, and must use all the tools available to us to care for God's gift of water.

I urge you to finalize this rule as soon as possible, and protect our upstream waters and wetlands. By doing so we help protect all of Creation, and protect our supply of drinking water, so essential for human life.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #4908 [21 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 28]

I stand adamantly opposed to this rule and am begging you to use common sense and ditch it, immediately. Meaningful progress from voluntary water quality programs that are run by states are far better than a one-size-fits-all mandatory federal program like the one being proposed. Congress, not federal agencies, writes the laws of the land. When Congress wrote the Clean Water Act, it clearly wrote that the law applied to navigable waters. Is a small ditch navigable" Is a stock pond navigable" Is a puddle in your back yard navigable" I don't believe so. Just another power grab. How does that improve water quality" The principles of private property and land ownership instill in an individual the responsibility and the desire to improve property for an owner's good and the rest of society (Pride in ownership). We've seen the past decades' conservation work beginning to show results with improved fisheries and improved water quality. It's always better when farmers and landowners install conservation work out of a self-

desire to make the property the best it can be, rather than being dictated by bureaucrats in Washington who don't understand Iowa farming. DITCH THIS RULE!

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #4987 [13 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 6]

I am strongly opposed to this rule and believe it should be ditched! There has likely never been a greater threat to our ability to farm than this proposed rule. It is a tremendous regulatory expansion from where we are today, and I don't think that we can really understand all of the problems or the level of control that the federal government could have over farmers if it is enacted. The EPA has really launched a major rewrite of existing law and changed long-held definitions and practices. Any inch of land that contains water, even for a very short time, would be under federal regulatory control. It goes way beyond streams, rivers, wetlands and other things we usually think of as wet areas, and really covers an entire state like Iowa. It means the

federal government can regulate things like ditches and puddles, and even areas where puddles once existed. I don't think that's what Congress intended when they wrote the Clean Water Act.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

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Doc. #4988 [39 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 7]

I am urging you to immediately ditch this rule. Under the proposal, government regulations would be extended to ditches, gullies, wet spots, adjacent non-wetlands, and other areas that are away from navigable waters. The rule would also extend federal jurisdiction to areas that may hold water for only a short period of time after a rain storm, which we have had a lot of in Iowa this summer. The expansive language in the proposed rule would mean that farmers could be

forced to apply for federal permits and work through government red tape to do normal activities, such as building a terrace, constructing a waterway, applying fertilizer or even planting a tree. The rule proposed by the two regulatory agencies goes well beyond the navigable waters that Congress cited when it passed the CWA in 1972. And it also appears to be an end run around two U.S. Supreme Court decisions that decided the Clean Water Act does not give the federal government control over all water.

This proposed rule would present a clear intrusion on property rights of landowners.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community.
In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

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Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #4989 [13 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 8]

I am becoming ever more concerned about the EPA and the rules and regulations that it wishes to impose upon the American People.

The proposed rule Docket ID No. EPA-HQ-OW-2011-0880 is of great concern as it is impossible for the EPA to control every ounce of water on the planet. This is just another attempt at controlling the rights of citizens to own real property and the water rights that go hand in hand with the rights of ownership.

Since the EPA cannot control or regulate waters outside of the United States of America, it is only common sense to know that the agency cannot watch every drop of water entering the USA.

It is my belief that the EPA is overreaching its authority by trying to redefine regulated water and water ways.

I believe that the EPA needs to withdraw this proposed rule. The continued attempts to control the rights of the people through Unconstitutional regulations by an agency with No Constitutional Authority will only force the people to demand that Congress defund the EPA.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #4990 [1,091 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 9]

I am opposed to rule proposed by the Environmental Protection Agency (EPA) and the US Army Corps of Engineers (Corps) to clarify the definition of "waters of the United States" under the Clean Water Act (CWA).

The proposed rule greatly expands the jurisdiction of the EPA and Corps beyond the scope of the CWA. The proposed definition could be interpreted to include every place where water collects and runs off, regardless of the significance of the connection to downstream waters, frequency of flow, or even presence of water.

This rule would be inclusive of water features that have never been considered "waters of the United States" before such as ditches, waterways, farm ponds, and other areas where water only flows after heavy rainfall. The proposed rule also includes non-water features such as flood plains and areas adjacent to "waters of the United States."

The expanded interpretation of "waters of the United States" moves federal jurisdiction into fields and pastures in a way that was never contemplated by Congress. Rather than creating clarity, the rule blurs the line between agricultural storm water runoff and point source pollution.

Implementation of this rule will result in farmers and ranchers having to apply for water quality and/or dredge and fill permits for normal farming practices. This would add unnecessary costs and delays detrimental to farming activities. It exposes my farm to more regulatory uncertainty, excessive fines, and threat of litigation through CWA lawsuits.

While EPA claims that agricultural exemptions have been maintained, the exemptions offered in the proposed rule do not extend to activities such as pest control, fertilizer applications, or a number of other normal farming practices that need to be implemented as part of responsible land stewardship.

The proposed rule provides no clarity. In fact, it creates unneeded regulatory burdens and legal uncertainties. I implore EPA and the Corps to withdraw this damaging piece of rule making as soon as possible.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

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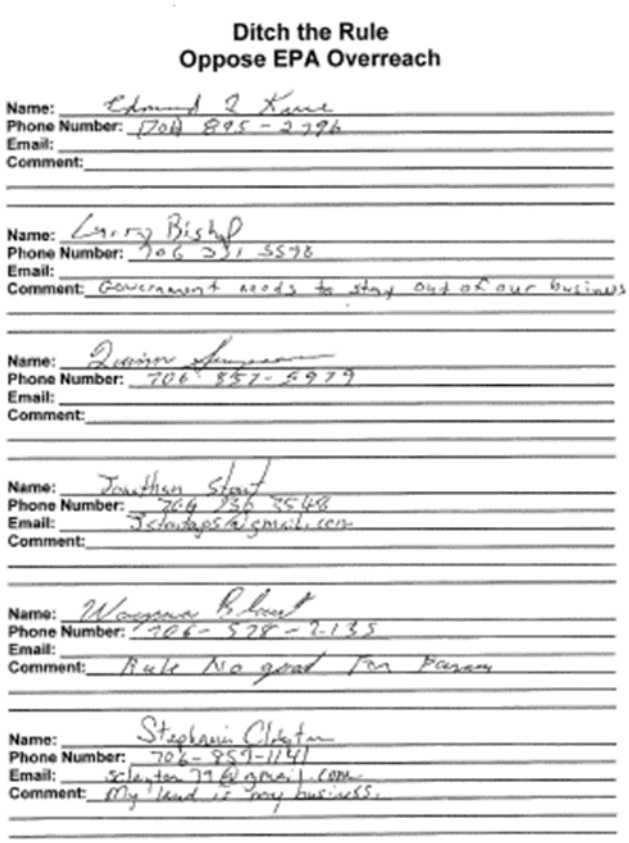
The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Doc. #4991 [167 on-time duplicates, sponsored by Georgia Farm Bureau (email) - Identified as Georgia Farm Bureau – a[6]]



Ditch the Rule
Oppose EPA Overreach

Name: Edward L Kane
Phone Number: (706) 895-2796
Email:
Comment:

Name: Larry Bishop
Phone Number: 706 331 3598
Email:
Comment: Government needs to stay out of our business

Name: Dennis Simmons
Phone Number: 706 857-5979
Email:
Comment:

Name: Jonathan Stapf
Phone Number: 706 936 3548
Email: Jstapps@gmail.com
Comment:

Name: Wayne R Hunt
Phone Number: 706-578-7135
Email:
Comment: Rule No good for Farmers

Name: Stephanie Clayton
Phone Number: 706-859-1141
Email: sclayton796@gmail.com
Comment: My land is my business.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which

[6] *This letter is one example submitted under the sponsoring agency.*

permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #4992 [41 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 10]

Please ditch this rule. I am very opposed to its adoption. The EPA and Army Corps of Engineers have said they have made exemptions to protect farmers. I do not believe them. The new exemptions that the agencies have cited narrow current exemptions, and they only apply to one aspect of the CWA, the dredge and fill permit program. Many farming activities would come under their proposal if they are done on land that holds rainwater or contributes flow to a stream. The exemptions are available only to farmers who have been farming that particular farm continuously since 1977. In addition, the exemptions require mandatory compliance with (NRCS) standards, which have been voluntary when cost-share is provided. Additionally, the NRCS has authority to change the standards at any time they deem necessary.

Finally, there is nothing stopping the EPA and the Corps from changing or removing some or all of the "so-called" exemptions without public notice. EPA and the Army Corps say they don't intend to expand their jurisdiction, it is easy to see that this will dramatically expand their reach into Iowa agriculture.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

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CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The agencies note that all comments on the Interpretive Rule which is referenced in this comment are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #5085 [963 on-time duplicates, sponsored by Missouri Farm Bureau (paper)

This proposal will be a serious threat to farming and ranching, homebuilding, energy production and other land uses. The "Waters of U.S." proposed rule lets EPA regulate small ponds, ditches, rainwater flowing through low spots and isolated wet spots, the same as if they were a river or other navigable waterways. The proposed rule would let EPA tell farmers how to farm, or even keep them from farming. EPA has claimed to exempt 56 specific conservation practices, but countless routine farming activities like applying fertilizer or manure, or even pulling weeds would need a permit. Congress never meant or directed the EPA to require permits for ordinary farming and ranching.

IT'S TIME TO DITCH THE RULE

I OPPOSE the U. S. EPA and U.S. Army Corps of Engineers' proposed rule "Definition of 'Waters of the U.S.' under the Clean Water Act," Docket No. EPA-HQ-OW-2011-0880.

Sincerely, _____
County, State _____

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and

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The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

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Doc. #5215 [15 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 11]

Defining Waters of the United States has been difficult. To declare all water interconnected and all water to be, "Waters of the United States" will damage my ability to farm and impact the value of my property.

Our fragile economy will not benefit from this over-reaching potential to regulate virtually all activities in the name of protecting water quality.

Waters of the United States must be navigable, as defined by Congress. This proposed rule could ultimately lead to the unlawful expansion of federal regulations to cover routine farming and ranching practices, as well as other common private land uses, such as building homes.

The exemptions allowed for agriculture are inadequate to protect farms from this burdensome rule.

The proposed exemptions will only apply to farming that has been ongoing since the 1970s, not new or expanding farms. Even for those farms, the exemptions do not cover weed control, fertilizer use or other common farming practices. The narrow exemptions offer no meaningful protection for the hundreds of thousands of farmers and ranchers whose operations and livelihoods are threatened by this expansion of EPA's regulatory reach.

I and my family opposed this rule and encourage the EPA to withdraw it to meet the intent of Congress and the Supreme Court's rulings.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

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Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Doc. #5216 [44 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 12]

To Whom It May Concern:

This letter is in reference to the proposed rule identified above regarding the "Definition of 'Waters of the United States' Under the Clean Water Act." This proposed rule was published in the Federal Register on April21, 2014, Vol. 79, No. 76.

I am a landowner, and I urge EPA and the Corps of Engineers to withdraw this proposed rule. This rule will expand federal regulatory authority under the Clean Water Act by defining tributaries so broadly as to include areas that only have water flow during periods of heavy rainfall.

This change will authorize the federal government to regulate land use around these "tributaries." The eventual result of this overreach is that landowners will be required to obtain federal permits to change the use of their land. This rule will infringe on my private property rights.

Our nation's economy is based on the responsible use of private property by property owners. I take that responsibility seriously. I do not believe there is a need for additional protection for my property provided by the federal government.

I urge the EPA and the Corps of Engineers to withdraw this proposed rule.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

Doc. #5432 [11 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 30]

To Whom It May Concern:

I am a farmer, and I am writing to submit comments to the United States Environmental Protection Agency and the United States Army Corps of Engineers proposed rule regarding the definition of Waters of the U.S. under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters many of which are not even wet or considered waters under any common understanding of that word.

I am extremely concerned that I will now have to comply with rules for normal farming practices. Farmers have never had to seek pre-approval from any federal agency to conduct

normal farming practices. The difference is that now farmers are more likely to be sued by the government or citizens groups claiming they did not fully comply with NRCS standards or that their practices are not all listed in the statute and in the interpretive rule.

The rule will require me to get a permit if there are jurisdictional wetlands (low spots) or ephemerals (drainage areas) within farm fields or ditches beside or within my farm field. If a tiny amount of pesticide or fertilizer fall into those features (intentionally or not), this would be an unlawful discharge of pollutant that would trigger liability of up to $37,500 per discharge per day without an NPDES permit.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm, or make changes to the land even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer.

Farmers like me will be severely impacted; therefore, I ask you to withdraw the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations. For added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section

404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The agencies note that all comments on the Interpretive Rule which is referenced in this comment are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #5456 [19 on-time duplicates, sponsored by Residents of Pennington County, SD (paper)]

Dear Environmental Protection Agency:

I, _____ am in strong opposition to the expansion of the Clean Water Act as currently proposed. It is impractical for the federal government to regulate every ditch, pond and puddle that may or may not have some tenuous connection to a body of water currently defined as "navigable". The EPA is far exceeding their applicable regulatory, statutory and constitutional limits.

I live in Pennington County, SD which consists of 2, 784 square miles of land area that 100,948 people call home. We are proud to have Mount Rushmore and the beautiful Black Hills in our county with nearly 3 million tourists visiting annually. Tourism is vital to our economy and the impacts of having impaired waters would be devastating to our region. Pennington County also has 972,225 acres of agricultural land that is equally vital to our economy who also depend on clean water resources.

This proposal would cause significant hardships to local farmers and ranchers by taking away local control of the land uses. The costs to the local agricultural community would be enormous. This would lead to food and cattle prices increasing significantly. The effects will continue to magnify from there. The overall costs to the counties, municipalities and ultimately the taxpayers will be detrimental.

Let our local governments regulate themselves. We know what our needs are better than the Federal Government does. They acknowledge that being proactive in protecting water quality is

far more cost-effective than remediation. My County has taken a proactive approach to protecting our water resources and they are committed to continuing to do so into the future, without the need for additional federal regulation. My County would experience a major impact as more waters would become federally protected and subject to the new rules or standards. Additional taxes would then be essential to meet the new standards and the taxpayers of this Country have had enough!

I am strongly opposed to further regulations as proposed in the Clean Water Act expansion. Thank you for considering my comments and position on this critical issue.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs. Further, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture and does not control agricultural land use.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries.

Doc. #6080 [37 on-time duplicates, sponsored by Organization Unknown (web) - Identified as American Farm Bureau Federation – G]

To Whom It May Concern:

I am a farmer, and I am writing to submit comments to the United States Environmental Protection Agency and the United States Army Corps of Engineers proposed rule regarding the definition of Waters of the U.S. under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters many of which are not even wet or considered waters under any common understanding of that word.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm, or make changes to the land even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer.

The proposed rule would subject private land conservation projects to added regulatory burdens and costs therefore creating a disincentive to landowners pursuing important and needed conservation projects that benefit watersheds, waterfowl, and riparian habitats.

The majority of wildlife habitat in the continental United States is on private land and there should be no disincentives to their improved conservation and management. Requiring landowners to obtain Corps permits for routine erosion control and soil stabilization work, including improving and protecting riparian areas, would reduce the number of those projects on private lands and habitat and wildlife may suffer.

Farmers like me will be severely impacted; therefore, I ask you to withdraw the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. The rule does not contain disincentives to conservation and management of wildlife habitat, and in fact proposes no changes to requirements for such practices.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the

country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Doc. #6876 [224 on-time duplicates, sponsored by Nebraska Beef Producers (postcard)

I am a beef producer from Nebraska. I work hard every day to provide the best care for my cattle and be a steward of natural resources.

The "Waters of the U.S." rule illegally expands EPA jurisdiction. Will hurt farmers and ranchers. And will not protect the environment.

Quit regulating from a cubicle and come spend a day with me on my land. I would love to give you a tour.

Agency Response

The agencies recognize the vital role of the agriculture community in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations. Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #6877 [241 on-time duplicates, sponsored by Conservation Federation of Missouri (postcard)]

Dear Administrator McCarthy,

Thank you for proposing the Clean Water Rule that will restore and clarify the "Waters of the United States" safeguarded by the Clean Water Act**. I support the proposed rule's protections for headwater streams and wetlands, and urge you to take additional steps in the final rule to restore protections for prairie potholes and other important waters.**

These protections are vital for the survival of many fish and wildlife species that depend on wetlands and pure, clean streams tor their habitat. They are also essential to protecting the drinking water for 117 million Americans.

Thank you again tor taking this important first step to protect America's waters.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #6878 [3,885 on-time duplicates, sponsored by Pennsylvania Farm Bureau (postcard)]

FACT:	**It's time to Ditch the Rule**
The Waters of the U.S. proposed rule lets EPA regulate small ponds, ditches, rainwater flowing through low spots and isolated wet spots - as if they were navigable waterways. The proposal is a serious threat to farming and ranching, homebuilding, energy production and other land use.	I oppose the U.S. EPA and U.S. Army Corps of Engineers Proposed Rule Regarding Definition of "Waters of U.S." Under the Clean Water Act, Docket No. EPA-HQ-OW-20 ll-0880

FACT:	
The proposed rule would let EPA tell farmers how to farm - or even keep them from farming. EPA has claimed to exempt 56 specific conservation practices, but countless routine farming activities like applying fertilizer or manure, or even pulling weeds would need a permit. Congress never meant to require federal permits for ordinary farming and ranching.	Name:

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which

permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule. Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Regarding the reference to the conservation practices contained in the Interpretive Rule, the agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #6879 [77 on-time duplicates, sponsored by Organization Unknown (postcard) - Identified as Unknown 13]

Docket No. EPA-HQ-OW-2011-0880

I am writing today to comment on your proposed rule which significantly expands the scope of "navigable waters" subject to the Clean Water Act jurisdiction by the EPA. I am in opposition to this expansion and feel it would be detrimental to my agricultural community.

Agency Response

Protecting the long-term health of our nation's waters is essential. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on

some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #6924 [352 on-time duplicates, sponsored by Harvest Co-Op Markets (paper)

Administrator McCarthy[7],

For over 10 years, Harvest Co-op Markets has had the One Minute Activist letter writing program. We produce a letter monthly in our stores and online on an issue concerning food, food safety, health, the environment or community issues. In that time, we have mailed over 100 different issue letters. If you wish to respond to the enclosed letter to our over 4,000 members en mass, you can send an email to me at cdurkin@harvest.coop for posting on our website www.harvest.coop.

Thank you for your attention.

Administrator McCarthy[8],

I urge you to finalize the Army Corps of Engineers' and Environmental Protection Agency's proposed Clean Water Act Waters of the U.S. rule as soon as possible, follow the science that shows how water bodies are interconnected, and fully protect all of the waterways that have important connections to one another.

Basic clean water protections for headwater streams and wetlands have been in question for too long. I strongly support protecting the nation's streams, ponds, wetlands and other waters from pollution. The proposed rule is an important step towards achieving this goal. Preserving our sources of clean drinking water is of the utmost importance. Finalizing a strong rule will secure Clean Water Act protections for countless streams and wetlands, which help supply the drinking water of more than 117 million Americans.

The rule as proposed is a major improvement. I urge you to further strengthen the final rule to fully protect wetlands and other waters found outside of the floodplain of covered waterways.

[7] *First letter example submitted under sponsoring agency*
[8] *Second letter example submitted under sponsoring agency*

Science shows that the health of these waters influences stream flow, water quality and wildlife in waters downstream.

I urge you to continue to stand up to special Interests that oppose these important-and popular-clean water protections. EPA has already received more than 100,000 letters in support of moving forward with this rule to protect streams, wetlands, rivers and other waters from pollution or destruction. Hunting and angling organizations, public health professionals and hundreds more local elected officials, farmers, citizens, brewers and other business leaders have spoken out in support of enhanced protections.

As one of the many supporters of this critical initiative to protect our waters from pollution, I thank you and urge you to finalize a strong Waters of the U.S. rule that includes full protection for the nation's waters as soon as possible.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and

biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #6925 [4,089 on-time duplicates, sponsored by Georgia Farm Bureau (postcard)

Ditch the Rule
Waters of the U.S.
(WOTUS)
EPA DOCKET #:
EPA-HO-OW-2011-0880
Definition of Waters of the United States Under the Clean Water Act
I urge EPA to withdraw the proposed rule because it:

- **Expands federal authority**
- **Is against the will of Congress**
- **Ignores the Supreme Court**
- **Infringes on private property rights**

Name & Address

_____
_____
_____

Additional Comments:
(Optional)

_____
_____
_____
_____
_____

FARM BUREAU GEORGIA

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable,

and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #6926 [1,796 on-time duplicates, sponsored by American Farm Bureau Federation (postcard)]

FACT:
The Waters of the U.S. proposed rule lets EPA regulate small ponds, ditches, rainwater flowing through low spots and isolated wet spots - as if they were navigable waterways. The proposal is a serious threat to farming and ranching, homebuilding, energy production and other land use.

FACT:
The proposed rule would let EPA tell formers how to farm -or even keep them from forming. EPA has claimed to exempt 56 specific conservation practices, but countless routine forming activities like applying fertilizer or manure, or even pulling weeds would need a permit. Congress never meant to require federal permits for ordinary farming and ranching.

It's Time to Ditch the Rule

I oppose the U.S. EPA and U.S. Army Corps of Engineers Proposed Rule Regarding Definition of "Waters of U.S." Under the Clean Water Act, Docket No. EPA-HQ-OW-2011-0880

Name:
_____
_____
_____

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which

ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.
Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Regarding the reference to the conservation practices contained in the Interpretive Rule, the agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #6940 [82 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Mineral Owners – a]

As a mineral owner I oppose the proposed U.S. Environmental Protection Agency-U.S. Army Corps of Engineers rule to clarify the definition of Waters of the United States Under the Clean Water Act. This ridiculous proposal would grant the EPA authority over most ditches, ponds, isolated low-lying wet areas, and dry gulches that carry water only after heavy rain. It is one of the most egregious examples of federal regulatory overreach. It will cost the U.S. economy billions of dollars and add several thousand dollars in surface compliance costs to every oil and gas well drilled to develop our private property. It will reduce the economic viability of my private minerals and will decrease not only our family income. It will also reduce the tax revenue flowing to the U.S. Treasury, states and communities nationwide. This rule is fatally flawed and must be rejected.

Agency Response

The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule

than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #7190 [394 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 14]

Dear Administrator McCarthy,

I urge you to finalize the Army Corps of Engineers and Environmental Protection Agency's proposed Clean Water Act Waters, Waters of the U.S. rule, as soon as possible, follow the science that shows how water bodies are interconnected, and fully protect all of the waterways that have important connections to one another.

Basic clean water protections for headwater streams and wetlands have been in question for too long. I strongly support protecting the nation's streams, ponds, wetlands, and other waters from pollution. The proposed rule is an important step toward achieving this goal. Preserving our sources of clean drinking water is of the utmost importance. Finalizing a strong rule will secure Clean Water Act protections for countless streams and wetlands, which help supply the drinking water of more than 117 million Americans.

The rule as proposed is a major improvement. I urge you to further strengthen the final rule to fully protect wetlands and other waters found outside the floodplain of covered waterways. Science shows that the health of these waters influences stream flow, water quality, and wildlife in waters downstream.

I urge you to continue to stand up to special interests that oppose these important—and popular—clean water protections.

EPA has already received more than 100,000 letters in support of moving forward with this rule to protect streams, wetlands, rivers, and other waters from pollution or destruction. Hunting and

angling organizations, public health professionals, and hundreds more local elected officials, farmers, citizens, brewers, and other business leaders have spoken out in support of enhanced protections. As one of the many supporters of this critical initiative to protect our waters from pollution, I thank you and urge you to finalize a strong Waters of the U.S. rule that includes full protection for the nation's waters as soon as possible.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #7191 [35 on-time duplicates, sponsored by North Como Presbyterian Church, Roseville, MN (email)]

Dear Administrator McCarthy -

As a Presbyterian Christian, water is central to my spiritual life and sacred to all of God's creation. I am writing to thank for your recent proposal addressing waters of the United States that would clarify what waterways can be protected under the Clean Water Act.

Water is the cradle of all life and an expression of God's grace. We are polluting and using our water in an unsustainable manner. We must use all the tools available to us to care for God's gift of water here in the United States. Water knows no bounds and this clarification will allow us to protect sources of water that we all depend on, from streams and wetlands, to rivers, bays, and lakes. I am grateful for this proposed rule that improves protection for God's waters and our communities.

Also, you should know that the most recent Presbyterian Church (U.S.A.) General Assembly (2012) acknowledged protection of the environment as vital to the Christian faith, supported a strong and proactive EPA, and affirmed a statement urging strong oversight authority over waters of the U.S.

So, once again, I thank you for taking a stand for waters of the U.S. and I urge you to finalize this rule as proposed in a timely fashion, so that we can protect headwater streams, ponds, and wetlands from pollution. By doing so, not only can we help protect all of Creation, but we can also help protect the supply of drinking water, so essential for human existence and all other life.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #10635 [2,189 on-time duplicates, sponsored by Clean Water Action (postcard)]

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so we can continue to protect clean water.

U. S. Environmental Protection Agency
Definition of
"Waters of the United States"
Under the Clean Water Act

NAME_____
ADDRESS_____
_____

Signature_____

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #10636 [104 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 15]

I farm in the hills of middle Tennessee. The water quality in our streams has improved over the last several decades, partly because of the efforts of farmers like me. The proposed water rule

will make it harder, not easier, to continue making progress in improving water quality. We typically experience 50 inches of precipitation, some of it in rather intense storms. Almost every square foot of my farm is "wet" at some time during the year. I simply cannot do what I need to do to protect my farmland and water quality if I have to get a permit, or try to find out if **I** need a permit, every time I need to repair a ditch, build a terrace, stop a gully, move a fence, protect an eroding stream bank, or drain a new mudhole. The things that need to be done just *will* not get done, *and* water quality will suffer.

Please withdraw the proposed rule. It is bad for water quality and bad for farmers like me.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. This final rule does not expand jurisdiction over the existing regulations nor does it reduce any of the exemptions for farming and ranching already contained in the Clean Water Act.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #10637 [155 on-time duplicates, sponsored by grower-members of Delmarva Poultry Industry, Inc. (paper)]

Dear Administrator McCarthy:

My name is_____and I have raised turkeys on my farm for the past _____ years. I'm writing to strongly oppose the EPA's and the Army Corps of Engineers' recently proposed "Definition of "Waters of the United States Under the Clean Water Act" rule. I have followed the proposal since its publication in April, and am firmly convinced it will dramatically expand

federal authority over ditches, ponds and other waters of nearly any size, flow and frequency that may be located on my property.

EPA has announced that the rule's intention is to clear up confusion over what is considered a "Water of the United States." and to reduce uncertainty for everyone. It has also argued it is not expanding its jurisdiction or adding to the scope of waters already protected under the Clean Water Act. However, reading the "fine print" buried in the actual language of the rule gives producers like me little confidence that this will actually be the case.

As an example, EPA has stretched the definitions of "tributary," "adjacent waters" and other terms and then linked them together in a way that allows the agency almost limitless authority over my property and the activities on my farm. Even the routine management of my family's operation could be subject to potential permitting, enforcement and penalties of up to $37,500 per day.

Given this potential impact on my own farm, it is simply impossible to believe EPA's claim that the proposed rule would increase by only 2.7 percent nationwide those waters currently subject to federal Clean Water Act jurisdiction. It is also impossible to believe that the compliance cost is not significantly higher than what the agency claims, since it appears that land uses in much of my community and the rest of rural America will be affected.

EPA has also issued a so-called "interpretive rule" in coordination with USDA to assure farmers that over 50 conservation practices that protect or improve water quality will be exempt from permitting requirements governing dredging and filling activities under Section 404 of the Clean Water Act. The new interpretive rule has many serious problems, not least of which is that it was issued as effective immediately without providing farmers an opportunity to submit comments on whether it works by providing the benefits EPA claims it does. It is clear at this point it does not.

EPA and the Corps have gone too far in this attempt to clarify which waters are the "waters of the U.S." — we strongly oppose this effort and request that the agency withdraw the rule and start over.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

The rule has increased the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

The agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #10638 [65 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Clean Water Action – B]

I urge the EPA to finalize a strong rule clarifying that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.

For too long there has been confusion about which streams and wetlands are protected, even though it is clear that Congress intended for all water to be safeguarded when Act passed was in 1972.

Our water supply, as well as wildlife, depends on a strong Clean Water Act that protects small streams and wetlands, as well as our rivers, lakes and bays. I also strongly urge that seasonal wetlands be recognized and protected as well.

Please keep the Clean Water Act strong and effective and finalize a rule that will improve the health of our nation's rivers, lakes and bays by protecting the small streams and wetlands they depend on.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #13109 [218,542 on-time duplicates, sponsored by Environment America – Identified as Environment America-F[9]]

Dear EPA Administrator McCarthy,

Our iconic waterways make America a great place to live.

Unfortunately, loopholes in the Clean Water Act have left our country's smaller waterways unprotected, putting the places we kayak, fish and boat at risk of toxic pollution.

To ensure all our waterways are protected, we urge you to close loopholes in the Clean Water Act now.

[9] *This letter is one example submitted under the sponsoring agency.*

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #13960 [995 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 17]

I support the efforts of the Environmental Protection Agency and the Army Corps of Engineers to restore Clean Water Act protections to safeguard our nation's water resources—including streams and wetlands that supply drinking water to approximately 117 million Americans.

The health of rivers, lakes, bays, and coastal waters depends on the streams and wetlands where they begin. These waterways provide many benefits to communities—they help avert floods, recharge groundwater supplies, remove pollution, and provide habitat for fish and wildlife. Streams and wetlands are also economic drivers because of their role in fishing, hunting, agriculture, recreation, energy, and manufacturing.

Since 1972, the Clean Water Act has protected our nation's water resources from unregulated pollution and disruption. I support EPA Docket ID No. EPA-HQ-OW-2011-0880, the proposed rule to clarify and restore Clean Water Act protections for streams and wetlands, which has undergone rigorous review and scientific analysis.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #13961 [942 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Sierra Club – c]

Dear Administrator McCarthy,

Thank you for your effort to clarify which waters of the United States are protected under the Clean Water Act and for restoring a common sense approach to protecting our nation's lakes, rivers, and streams. Clean water is an undeniable necessity for the health of our families, our environment, and our economy-- not to mention our enjoyment. And as your agencies have recognized with this rule, ensuring the protection of bodies of water upstream is vital to keeping pollution out of our waters downstream.

I strongly support the effort of the Environmental Protection Agency and Army Corps of Engineers and urge them to finalize a rule that is protective of all streams and wetlands -- including wetlands outside of floodplains -- that directly influence the physical, chemical and biological integrity of the nation's rivers, lakes and bays.

For the past decade, there has been confusion over which streams and wetlands are covered by the Clean Water Act because of polluter-friendly court decisions and subsequent Bush administration policies. This confusion has put the drinking water of over 117 million people at risk. One in three Americans relies on public drinking water supplies that are fed by polluted headwater or seasonally-flowing streams.

To protect Americans' drinking water, health, and recreation opportunities, we must protect all of America's wetlands and waterways. Today's rule will help make that possible. I applaud the efforts of the EPA and USACE and urge them to finalize a strong rule as quickly as possible.

Agency Response

Protecting the long-term health of our nation’s waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies’ technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #13962 [577 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 18]

Dear Administrator McCarthy,

I am writing you to express my serious concerns regarding the Environmental Protection Agency's (EPA) proposed rule defining what are waters of the U.S. under the Clean Water Act. The rule represents an unprecedented increase in jurisdiction and must not be finalized without first undergoing significant revision.

It is important that my concerns with the proposal not be interpreted as a lack of commitment to protect water quality. As a farmer, I know how important it is that I manage my land responsibly to minimize the amount of sediment and nutrients that flow into surface water systems that connect to downstream rivers, lakes, and beyond. My commitment to good stewardship practices will continue irrespective of this rule.

If the EPA is sincere in stating that the intent of the rule is to provide clarity while not imposing any new constraints on how I farm, then there is no reason for EPA to claim federal authority over drainage features and wet areas in or near my fields that only hold water after a heavy rain. These things never were and never will be fishable or swimmable, nor should they be. They do not need to be subject to federal jurisdiction for me to do my job and manage my soil and water resources. If good soil and water management and improved water quality is what EPA seeks to achieve, I implore you to have a conversation with me and my fellow farmers about how we responsibly pursue that goal. Making these features on my farm jurisdictional is simply not the way to do this.

My concerns with the proposed rule fall into four broad categories. First is the tremendous uncertainty that I face because of the way the rule defines what is a tributary and what is an adjacent water subject to the Clean Water Act. Second is how unmistakable it is that the proposed rule represents a significant expansion of federal Clean Water Act jurisdiction relative to anything that has ever been in rulemaking before. Third, relative to the scope of jurisdiction, while it may be true that some ditches are not waters of the U.S. under the proposed rule, the fact is that vast numbers of ditches are or could be subject to federal jurisdiction. Lastly, if these or other drainage features and waters like them that are located on my farm are made jurisdictional, I fear I would face serious risk of lawsuits challenging my use of fertilizers and pesticides that may come in contact with those features as a violation of the Clean Water Act unless I have a federal national pollution discharge permit.

On the issue of uncertainty, the rule's definitions create open, practical questions in my fields as to whether literally dozens of features are jurisdictional. Would a federal regulator look at my drainage features and see the so-called "bed, bank and ordinary high water mark" that defines a tributary and which would make them waters of the U.S.? Would a regulator look at some of my drainage features and decide they are located where former ephemeral streams used to flow, which would make them jurisdictional? The ditches in or at the edges of my fields and roadways that collect the drainage water from these in-field features, would they be found to be jurisdictional? Some of my ditches have standing water in portions of them, and have some marshy-type vegetation. Do these portions of the ditches meet the "wetlands" definition, and if so, does that make the entire ditch a water of the U.S.? These and many other questions regarding features on my farm are created by your proposed rule, which has done anything but made me more certain and more clear about how the Clean Water Act applies to my farm.

Relative to the scope of proposed jurisdiction under the rule, I find it simply breathtaking. I look around my community and I see drainage features, some in farm fields or next to them, that have a bed and bank and water mark but that only have water in them when it rains. If the EPA thinks that it has always has had federal control over these features and the water in them, I want you to know that is certainly news to me. After two U.S. Supreme Court rulings that have told the EPA that it has interpreted its jurisdiction too broadly, it is stunning to me that you would propose such a massive expanse of area as being under your authority.

On the matter of ditches, I am confused as to what is "upland" under the rule, and I am quite unsure what an upland ditch that is constructed wholly in uplands actually is. Assuming that I have some of these on my farm and that they flow less than permanently, then they would not be jurisdictional. You must understand, though, that there are large numbers of ditches in farm country that do not or very well may not meet that definition. As I discussed above, former ephemeral streams that have been modified to serve as ditches are common. So are ditches that drain farmland in floodplains. So are field-side and roadside ditches that collect that drainage water. Even ditches that I have excavated can develop, as I noted above, vegetation that looks marshy. Many if not all of these will be subject to federal jurisdiction under the rule.

Lastly, please understand that when these features in or next to farm fields are found to be waters of the U.S. how serious a threat it is that my use of pesticides and fertilizers will be challenged if I do not have a national pollution discharge permit. Every farmer in the country has heard of the National Cotton Council case that has led to permits for aquatic pesticides. If the features in my fields become waters of the U.S., I or my fellow farmers will face similar lawsuits. This is a very real risk created by the proposed rule which you must not ignore. I and other farmers like me want to do the right thing on our farms for water quality. Fortunately, there are many practices we are engaged in and will continue to pursue that are practical, affordable, and science based that have real, observable benefits. Let's fix the rule so that farmers like me can focus on that good work and not on the uncertainty created by this proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and

recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

Ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain

wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The rule would not change existing CWA permitting requirements regarding the application of pesticides or fertilizer on farm fields. A NPDES pesticides general permit is required only when there are discharges of pesticides into waters of the United States. The CWA provides NPDES permitting exemptions for runoff from agricultural fields and ditches. Discharges from the application of pesticides, which includes applications of herbicides, into irrigation ditches, canals, and other waterbodies that are themselves Waters of the United States, are <u>not exempt</u> as irrigation return flows or agricultural stormwater, and <u>do</u> require NPDES permit coverage. Some irrigation systems may not be Waters of the United States and thus discharges to those waters would not require NPDES permit coverage.

<u>Doc. #13963 [150 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 19]</u>

Dear EPA Docket,

As a Montanan with many neighbors who work on their property, the EPA's new proposal under the Clean Water Act is unacceptable. Expanding control under the Clean Water Act is part of the agency's troubling pattern of attempting to appropriate powers explicitly not granted by Congress under any plain-English meaning of current law. Pressing farmers and other business owners into a permitting process for nearly any waterway right down to a puddle is another regulatory burden

that would simply weigh down commerce. Does the EPA really expect a dairy farmer, for example, to get a special permit for milk that may run off into a ditch or puddle? Or for a bone-dry riverbed that may be on their property? These compliance costs are simply not something most small business owners can absorb. Please reconsider this proposal.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not

change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #13964 [39 on-time duplicates, sponsored by Cement Makers (email)]

The EPA and Army Corps of Engineers` joint proposal to redefine 'navigable waters' pursuant to the Clean Water Act (CWA) falls short of the Administration`s goal of clarifying state and federal jurisdiction over the nation`s water bodies. If federal regulators move forward with a final rule as proposed, the result will be a dramatic and unjustified expansion of federal jurisdiction over the nation`s `water bodies,` thereby increasing permitting costs and creating major delays of, and possibly preventing entirely, key construction and infrastructure projects.

As a cement maker, I have serious concerns about the impact of expanded CWA jurisdiction over limestone quarries. Cement makers site their plants adjacent to large geologic deposits of limestone and routinely make capital investments to access this raw material in the most efficient manner possible over the course of several decades. These investments can maximize production when expanding a facility that meets increased demand, thereby adding even more high-quality jobs to their payrolls. Additional CWA permitting requirements would not only provide disincentives to make these long-term investments, but jeopardize relatively recent investments in plant upgrades. Furthermore, EPA`s own Science Advisory Board (SAB) has not yet issued its analysis of the connectivity report which EPA indicated was to serve as the scientific basis to the proposal. EPA only recently sent the proposal to the SAB, contradicting agency claims that it would rely on the SAB analysis to develop the proposal, and raising concerns about the transparency of this particular rulemaking.

To establish a climate of regulatory certainty, which is the EPA`s stated intent for the CWA proposal, I urge you to withdraw the rule as soon as possible. Thank you very much for the opportunity to comment on this very important rule for my industry.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands

are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule

Finally the rule does not affect or modify in any way the many existing statutory exemptions under the CWA Sections 404, 402, and 502 for certain activity types.

Doc. #13965 [1,481 on-time duplicates, sponsored by Georgia Farm Bureau (GFB) (email) - Identified as Georgia Farm Bureau (GFB) – b[10]]

To Whom it May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act.

This rule negatively affects me as a farmer.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

[10] *This letter is one example submitted under the sponsoring agency.*

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. The agencies also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #13966 [499 on-time duplicates, sponsored by Environmental Law and Policy Center (email)

Dear Docket Center,

I support the "Waters of the U.S." rulemaking proposed by the U.S. EPA and U.S. Army Corps of Engineers because it restores the original intent of the Clean Water Act in protecting America's creeks, brooks, streams and wetlands.

The Clean Water Act was designed to protect our water from the Mighty Mississippi to my neighborhood creek but rollbacks over the past decade have eroded the law, leaving the drinking water sources for over 100 million people unprotected. Creeks, brooks and streams make up more than half the river-miles in the nation and flow into larger waterways like rivers and lakes. Along with wetlands, they also provide vital services, like filtering pollution, reducing the risk of flooding and providing important wildlife habitat.

This is a big deal. Anglers spend billions of dollars fishing all kinds of waters. Manufacturing companies use trillions gallons of fresh water every year. Farmers depend on freshwater for irrigation. Americans of all stripes visit coastal areas each year. A healthy economy very much depends on a healthy environment. Water resources are so interconnected that we cannot hope to protect our celebrated waterways the Mississippi River and the Great lakes without also protecting the backyard brooks, community creeks and steady streams that feed them.

Please approve the proposed "Waters of the U.S." rulemaking to better protect America's waters.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #13967 [525 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 20]

Dear U.S. EPA:

I write in support of the Administration's proposed rule affirming Clean Water Act protections for wetlands and streams.

Affirming Clean Water Act protections for streams and wetlands is essential to the health of more than 117 million Americans who get drinking water from streams vulnerable to pollution.

I urge you to affirm protections for all streams, adjacent wetlands, prairie potholes, Carolina bays, vernal pools, and playa lakes. All of these waters are critical for flood control and for fish and wildlife.

We need a final clean water rule this year that protects the millions of acres of wetlands and miles of streams that are at risk from pollution and destruction.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #13968 [385 on-time duplicates, sponsored by Citizens for Pennsylvania's Future (PennFuture) (email)]

I support the Environmental Protection Agency's proposed rule to restore Clean Water Act protections to 20 million acres of wetlands and 2 million miles of streams. These intermittent and headwaters streams serve as part of the drinking water supply for 117 million Americans and 8 million Pennsylvanians, and it's just common sense to keep them clean.

Wetlands and streams store water, serving as reserves during times of drought and reduce flood damage to downstream communities during storm events. Pennsylvania's streams and wetlands also support a strong outdoor economy. In 2011, 4.5 million people spent $2.8 billion on wildlife-related recreation in Pennsylvania with fishing generating $485 million.

The U.S. Supreme Court created considerable confusion with its rulings in SWANCC and Rapanos and for nearly a decade industry, agriculture, environmental groups, and elected officials have been asking for a rulemaking to clarify the muddied jurisdictional waters. Now is the time to restore the Clean Water Act and protect our precious water resources. I support the proposed standard and strongly oppose any attempts to weaken it.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #13969 [78 on-time duplicates, sponsored by Farmers from Indiana (email) - Identified as American Farm Bureau Federation – f]

To Whom It May Concern:

I own a farm in Indiana and I raise corn and soybeans. I farm land that drains into a ditch. Drainage is important in raising crops on my farm, which is important for feeding this country.

I want to thank you for considering my comments about the Environmental Protection Agency and the Army Corps of Engineers proposed rule defining regulated waters of the U.S. under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word.

I am concerned that this rule change will bring the ditches and erosion features on my farm under federal regulation. I also believe that this rule will likely reduce voluntary implementation of conservation practices which are important management practices for protecting water quality. I recognize that there are proposed exemptions in the rule, but they do not provide the assurances needed that ditches and other features on my property will be exempt. The exemptions really just raise concerns that it is more likely than not that my farm may fall under federal regulation. In fact, the proposed exemptions seem to significantly narrow the exemptions already provided by Congress in the Clean Water Act.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm or make changes to the land, even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer.

Farmers like me will be severely impacted. Therefore, I ask you to withdraw the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways, erosional features such as and non-wetland swales and rills, and stormwater and wastewater detention basins constructed in dry land.

Regarding ditches, ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Regarding the mention of conservation practice exemptions, the agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #13999 [284 on-time duplicates, sponsored by Organization Unknown (email) - Identified as River Citizen]

To Whom It May Concern:

I care deeply about clean water and support the Waters of the U.S. rulemaking that is underway by the US EPA and the Corps of Engineers. I believe this rulemaking will clear up confusion in how clean water programs are understood and implemented.

Because of this confusion, many previously protected waters lack adequate protection, leaving drinking water supplies for one-third of Americans at risk.

The rule clarifies the types of waters that are and are not covered under the Clean Water Act. In addition to traditionally navigable waters, interstate waters, the territorial seas and impoundments of "waters of the United States", the proposed rule clarifies that the tributaries to these covered waters as well as waters that are along the banks of, or in the floodplain of, covered waters (including tributaries) are categorically protected. Waters that lie outside of the floodplain, also known as "other waters," require a case-by-case analysis. The proposed Clean Water Rule keeps in place the exemptions for normal farming and ranching activities, such as plowing, seeding, harvesting, construction of stock ponds and irrigation ditches.

While the rule could go further in restoring historical protections, it puts back in place the ability to regulate headwater streams and intermittent streams—like those waters that feed into the drinking water supplies for 18 million people who live along the Mississippi River.

The Mississippi River is our nation's River. It supports a robust economy that depends on the River to be healthy and clean, provides habitat for fish and wildlife and is a rich part of our nation's history. But the Mississippi is only has healthy as the tributaries that feed into it.

As a River Citizen, I urge you to strengthen the proposed rule by more fully restoring protections to other waters, such as prairie potholes and vernal pools.

Thank you for considering my comments in support of the Waters of the U.S. rulemaking. I urge the US EPA and the Corps of Engineer to move forward as quickly as possible to finalize these rules clarifying the protections offered under the Clean Water Act.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #14000 [1,125 on-time duplicates, sponsored by Supporters of the Surfrider Foundation (email)]

As a supporter of the Surfrider Foundation, I urge you to finalize the Army Corps of Engineers' and Environmental Protection Agency's proposed Clean Water Act Waters of the U.S. rule as soon as possible. This rulemaking effort is critical to restoring protections for the small streams and wetlands that contribute to our drinking water supplies and impact the health of downstream coastal waters. Their protection has been uncertain for too long.

What happens upstream, in small streams and wetlands, affects downstream rivers, lakes, and beaches where we swim, surf and fish. Clean water is very important to me personally, as I spend a lot of time at the beach and recreating in coastal waters.

Besides the obvious recreational opportunities that upstream waters provide, they also provide critical ecosystem services such as flood protection and filtering out pollutants for water quality protection.

I strongly support the proposed rule for the clear protections it restores to headwaters, intermittent and ephemeral streams, and to wetlands and other waters located near or within the floodplain of currently protected waterways. I further urge you to strengthen the final rule by

clarifying that important wetlands and other waters located beyond floodplains are also categorically protected under the Clean Water Act.

Clean water is necessary to support both healthy communities and strong economies, and I urge you to finalize a strong rule that more fully restores protections for our nation's waters.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #14001 [457 on-time duplicates, sponsored by Sierra Club (email) - Identified as Sierra Club – d]

Dear Environmental Protection Agency,

Thank you for acting to protect our nation's -- and my state's -- precious water resources. Clean Water Act protections for Arizona's rivers and streams is critical. I urge you to finalize a strong rule regarding the Clean Water Act.

The Clean Water Act was enacted to protect "waters of the United States" and to prevent pollution of these waters. Unfortunately, there has been much confusion about what constitutes a water of the United States, which has put at risk our waters, our health, and our economy, not to mention the threats to our wild places and wildlife. By clarifying which waters are protected under the Clean Water Act, the Environmental Protection Agency and Army Corps of Engineers have recognized the importance of our waters and have put the overall welfare of our state and our nation ahead of the big polluter interests.

Here in Arizona, the Clean Water Act is truly essential for our rivers and streams. Many of the waters in Arizona do not flow consistently and are either ephemeral or intermittent. The Clean Water Act ensures that the biological, physical, and chemical integrity of these waters is restored and/or maintained and provides funding for restoration projects to occur. Our waters -- the San Pedro, Santa Cruz, and rivers and tributaries throughout our state -- would suffer without these protections.

Thank you again for working to protect our health, recreation, economy, and wild places. Please finalize a strong rule to continue and to enhance Clean Water Act protections for my state and for our nation.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14002 [14 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 21]

Dear Environmental Protection Agency,

I request an immediate withdrawal of Definition of "Waters United States" Under the Clean Water Act, Proposed Rule as published in the Federal Register on April 21, 2014. Though the rule as proposed was developed following U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers synthesis of hundreds of pages of U.S. Supreme Court opinions and thousands of pages of technical publications developed over a period reaching as far back as the U.S. Supreme Court's 2001 opinion in Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC) as influenced by the Court's 2006 decision in Rapanos v. United States, the rule fails to provide clarity to the Clean Water Act and in fact creates a vast amount of confusion that will highly restrict agricultural production in Florida as well as throughout the United States of America via increased regulation and potential 3rd party litigation in response to normal farming practices. The relatively flat topography of Florida and the abundant rainfall averaging 50 inches per year creates a landscape of numerous isolated

wetlands, ephemeral washes and needed ditches that will likely be considered "waters of the U.S." under the proposed rule. Increased jurisdiction could severely restrict farming and ranching activities and possibly prohibit activities near ditches, washes or isolated wetlands. Ordinary land-use activities such as fencing, spraying for weeds or insects, discing or even pulling weeds may be prohibited or require a Federal permit, increasing fiscal expense and adding an element of time that can create crop failure.

I fully support the EPA and the proposed rules.

The State of Florida has developed an extensive set of Best Management Practices (BMP) manuals for all of the major crop types grown throughout Florida. These manuals, developed by the University of Florida/Institute of Food and Agricultural Sciences in cooperation with the Florida Department of Agricultural and Consumer Services (FDACS) and approved by the Florida Department of Environmental Protection detail proactive measures that are implemented by farmers to protect water quality and conserve resources, thus protecting the environment. This approach to environmental protection is a positive approach that creates broad participation by farmers. Once BMP participation is verified by FDACS, Florida Farm Bureau Federation provides the County Alliance for Responsible Environmental Stewardship (CARES) program to recognize farmers for their extensive environmental stewardship. The Definition of "Waters United States" Under the Clean Water Act, Proposed Rule as published in the Federal Register on April 21, 2014 creates a vast amount of confusion to the agricultural community that provides the food and fiber for our nation and the world. Water quality requirements as noted in the Clean Water Act are better addressed through a 'carrot' approach where good practices are encouraged and rewarded rather than the 'stick' approach that leads to increased costs and litigation. For these reasons, I encourage EPA to withdrawal the Definition of "Waters United States" Under the Clean Water Act, Proposed Rule as published in the Federal Register on April 21, 2014.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which

permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways, erosional features such as and non-wetland swales and rills, and stormwater and wastewater detention basins constructed in dry land.

Regarding ditches, ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

The agencies are not sure how to reconcile commenters' request that the rule be withdrawn with the statement they fully support the proposed rule.

Doc. #14003 [162 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 22]

Dear Staff at the EPA:

I'm writing to share my support for the EPA's work to clarify the Waters of the U.S. (WOTUS) rule. In Minnesota, we deeply value our clean water and work hard to clean up our impaired waters. While Minnesota laws protect our streams and wetlands, I understand that 36 other states do not have such protective laws and rely solely on the Clean Water Act to prevent pollution from entering their streams and wetlands.

As a "Land of 10,000 Lakes" resident, I understand that our streams and wetlands provide significant environmental and economic benefits. Each spring, we rely on our streams and wetlands to minimize flooding of the Mississippi River and the Red River. Despite our reputation for an abundance of water, we need streams and wetlands to recharge our quickly dwindling groundwater supplies. Streams and wetlands also function as filters to help remove pollutants. Our economy relies heavily on clean water for tourism, which includes fishing, hunting and water recreation. We also need safe water for the agriculture, energy and manufacturing portions of our economy.

I ask that the EPA continue to move forward with the rule clarification process to finalize a rule that protects all of our nation's streams and wetlands from pollution. Please do not allow 60 percent of our nation's streams miles to go unprotected!

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14004 [693 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Progressive Secretary]

To Whomever it May Concern:

Clean water is vital. Science has demonstrated the need to protect every body of water, including streams and wetlands. The Environmental Protection Agency (EPA) must act on that evidence.

Strengthen the proposed "Waters of the United States" rule by including "other waters" under Clean Water Act jurisdiction. Make sure that this rule accurately reflects the importance of streams, wetlands, and other waterways.

Clean water is essential for everyone's health and well-being. I urge you to ignore political pressure, embrace established scientific thought, and proceed to finalize this rule immediately.

Clean Water Act protections are a necessity in ensuring that all our water is safe.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

Doc. #14005 [1,976 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Trout Unlimited – c]

The Clean Water Act is one of the most important tools we have for protecting trout and salmon habitat to ensure great fishing. As an angler, I am writing to support the Environmental Protection Agency and Army Corps of Engineers draft rule on the jurisdiction of the Clean Water Act, and I strongly oppose legislative efforts to derail the proposal.

Protecting wetlands and headwater streams means protecting important fish habitat, and protecting habitat means more fishing opportunities for America's anglers, who contribute $48 billion every year to the economy.

America's sportsmen and women strongly support this rule, and urge to oppose legislative efforts to derail it.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14006 [453 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Colorado Trout Unlimited]

The Clean Water Act is one of the most important laws for protecting trout habitat and providing good fishing opportunities. As an angler, I am writing to thank the Environmental Protection Agency and Army Corps of Engineers for their draft rule on the jurisdiction of the Clean Water Act. Protecting seasonally flowing intermittent, ephemeral and headwater streams and their associated wetlands means protecting important fish habitat. At the end of the day, protected habitat means more and better fishing opportunities for America's anglers, who contribute $48 billion every year to the economy including $1.3 billion in Colorado alone.

Without this rule, regulatory uncertainty will continue and as many as 75% of Colorado's river and stream miles - and 60% nationwide - will remain in a limbo with uncertain (at best)

protection under the Clean Water Act. Our rivers are interconnected and if we fail to protect these 75% of headwater and tributary streams, we will also fail to protect the larger downstream rivers as well. The EPA and Corps are right to recognize the significant nexus these feeder streams have with downstream perennial waterways.

Colorado is a headwaters state, the birthplace of great western rivers - and our headwaters deserve Clean Water Act protection. As an angler I ask the EPA and Corps of Engineers to maintain robust protections for these important streams and wetlands as the rule moves forward.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14007 [295 on-time duplicates, sponsored by Organization Unknown (email) - Identified as California Farm Bureau Federation]

Dear Sir or Madam:

I have been following the EPA and the U.S. Army Corps of Engineers' Proposed Rule Redefining the Definition of "Waters of the United States" Under the Clean Water Act, and am concerned that farmers and ranchers will be negatively burdened by the Proposed Rule.

The Proposed Rule would modify existing regulations which have been in place for decades regarding which waters fall under federal jurisdiction under the Clean Water Act. In order to comply with these new regulations, farmers and ranchers will become more and more reliant on attorneys and consultants, making farming the land more difficult.

Farmers and ranchers are stewards of the land and care about the environment and water quality. But this rule is confusing. Regional offices would be left to interpret and apply the regulations to farms on an inconsistent basis. Farmers and ranchers know the ground they farm and should have clear guidance about how to comply with the law.

Third-party lawsuits have become the new norm for regulating farmers. Even if farmers protect water quality and comply with the law, they could be forced to defend themselves in court.

Under the Proposed Rule, farmers, ranchers, and other landowners would face a tremendous roadblock to ordinary land-use activities, from building a fence to treating for or pulling weeds to controlling insects. These "roadblocks" are both costly and time consuming.

Getting a permit to plant grapes, build a fence, or clear out brush is not a simple task. It could require consultation with state and federal agencies, hiring consultants, and waiting for approvals. If the permit is obtained, it often includes paperwork and reporting requirements in addition to any requirements aimed at protecting water quality. Violations of these paperwork or reporting obligations carry potential penalties up to $37,500 per violation per day—and may be enforced by EPA, the state, or even interested citizens groups. Farmers just want to continue to farm and be stewards of the land, leaving it in better shape for future generations.

In addition to the Proposed Rule's impacts, farmers and ranchers also have to now comply with the Interpretative Rule that requires compliance with previously voluntary NRCS standards for normal farming and ranching activities.

The Proposed Rule, along with the Interpretive Rule, will have material economic impacts on farms and ranches across the state. I believe that full consideration has not been given to the permitting costs, the farming delays that may be encountered to implement the federal rule, and the costs of new land use restrictions resulting from this federal rule. Therefore, due to the numerous flaws described within, I respectfully request the Environmental Protection Agency to withdraw the Proposed Rule redefining waters of the U.S. as well as the Interpretive Rule.

Thank you for considering my views.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity

regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and erosional features such as non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule. Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

The agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #14008 [268 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 23]

I support the Waters of the United States Proposed Rule to protect wetlands and streams, and urge the EPA to finalize and implement this rule as soon as possible. Healthy wetlands and streams provide many environmental and economic benefits to communities, including improving drinking water quality, preserving biodiversity, and preventing flooding. Wetlands serve as natural buffers, filtering out pollutants before they impact water sources and absorbing floodwaters before they hit land. As the climate changes and we begin to see more extreme weather events like Superstorm Sandy and Hurricane Irene, wetlands can serve as an invaluable protection against storm surges and flooding. In addition to filtering out pollutants, wetlands and streams serve as a critical habitat for bird, plant, and wildlife species, with half of all threatened and endangered species relying on wetlands at some point in their lifecycle. Protecting wetlands and steams prevents billions of dollars in property damage from flooding each year, supports multi-billion dollar fishing and tourism industries, and protects the drinking water sources of over 100 million Americans.

The Clean Water Act sought to protect these vital resources over 40 years ago, but Supreme Court decisions and federal guidance changes have rolled back these protections, allowing polluters to contaminate, fill, and destroy streams and wetlands. All wetlands and streams, even impermanent or isolated ones, protect downstream water sources and prevent flooding. It is

imperative that the EPA restores the protections promised in the Clean Water Act and prevents pollution in all headwaters, streams, and wetlands.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14009 [13 on-time duplicates, sponsored by employees of South Carolina's Titan Farms (email)]

To Whom it May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act. As an employee of South Carolina's largest peach, bell pepper and broccoli producer, Titan Farms manages over 9,000 acres of agricultural land within Edgefield, Aiken and Saluda Counties. Because of the proposed rule, my employers farming operation, area farmers, ranchers and other landowners will face roadblocks to ordinary land-use activities like fencing, spraying for weeds or insects, discing or even pulling weeds. The need to establish buffer zones around grassed waterways, ephemeral washes and farm ditches could make farmlands a maze of intersecting â€oeno farm zonesâ€ that could make farming impractical.

The farming and ranching exemptions in current law are important, but they have been very narrowly applied by the agencies and they will not protect farmers and ranchers from the proposed â€oewatersâ€ rule. Some individuals are claiming that farmers and ranchers should have no concerns because they are â€oeexemptedâ€ from the rule are wrong. They need to be educated that â€oenormal farming and ranchingâ€ exemption only applies to a specific type of Clean Water Act permit for â€oedredge and fillâ€ materials. There is no farm or ranch exemption from Clean Water Act permit requirements for â€oepollutantsâ€ like fertilizer, herbicide or pest control products. Under the proposed rule, many common and necessary practices like weed control and fertilizer spreading will be prohibited in or near so-called â€oewatersâ€ unless you have a Clean Water Act permit. Second, EPAâ€™s new guidance on the â€oedredge and fillâ€

exemption actually narrows an exemption that already existed, by tying it to mandatory compliance with what used to be voluntary NRCS standards. Third, EPA and the Corps of Engineers have interpreted the â€oenormalâ€ to mean only long-standing operations in place since the 1970sâ€"not newer or expanded farming or ranching.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including

emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The rule would not change existing CWA permitting requirements regarding the application of pesticides or fertilizer on farm fields. A NPDES pesticides general permit is required only when there are discharges of pesticides into waters of the United States. The CWA provides NPDES permitting exemptions for runoff from agricultural fields and ditches. Discharges from the application of pesticides, which includes applications of herbicides, into irrigation ditches, canals, and other waterbodies that are themselves Waters of the United States, are <u>not exempt</u> as irrigation return flows or agricultural stormwater, and <u>do</u> require NPDES permit coverage. Some irrigation systems may not be Waters of the United States and thus discharges to those waters would not require NPDES permit coverage.

<u>Doc. #14010 [42 on-time duplicates, sponsored by Organization Unknown (email) - Identified as American Businesses]</u>

Dear Policy Maker,

As a business leader, I support the Environmental Protection Agency's proposed rule on water safety because it will give the business community more confidence that vital sources of clean water will be protected and will provide a consistent regulatory system based on sound science.

American businesses have always depended on the availability of clean water for their processes, and historically, the EPA's regulation in this area has been a successful example of the vital partnership between business and government. Whether companies are food producers, high-tech manufacturers of silicon wafers, providers of outdoor recreation or beer manufacturers, businesses rely on clean water to produce safe, high-quality products.

I applaud the EPA for taking steps to clarify that small streams, wetlands and other tributaries are protected by the Act. Degradation and loss of wetlands and small streams can increase the risk of floods, seriously threatening businesses. Moreover, dirty, polluted water creates unnecessary and sometimes very difficult economic challenges for communities and businesses alike. This action by the EPA is good for the environment and good for business.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14011 [18,459 on-time duplicates, sponsored by Environment America (email) - Identified as Environment America – a]

All our waterways should be clean enough to drink from, fish from and swim in without risk of pollution -- from our local rivers and streams, to iconic waters like the Chesapeake Bay and the Great Lakes. Unfortunately, loopholes in the Clean Water Act have left many of our smaller waters unprotected, including those that feed and filter the drinking water for 117 million Americans.

Thank you for taking a major step forward to restore Clean Water Act protections to America's streams and wetlands and for your commitment to protecting our waterways.

Please move forward as quickly as possible to finalize a strong rule that will restore Clean Water Act protections to all America's waterways and protect our environment and health.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14012 [569 on-time duplicates, sponsored by Theodore Roosevelt Conservation Partnership (email) - Identified as Theodore Roosevelt Conservation Partnership – c]

To whom it may concern, and Environmental Protection Agency,

I am a sportsman who relies on healthy fisheries and vibrant, working wetlands to enjoy quality time in the field hunting and fishing. The Clean Water Act is the best tool we have to protect these waters, and I support current efforts to clarify this law.

Many of the waters at risk of pollution and destruction today are smaller streams that are critical fish habitat and spawning grounds and wetlands that provide nesting habitat for most of the waterfowl in America. In addition, wetlands and headwater streams are integral parts of our watersheds: They supply drinking water to more than 117 million Americans and are important to the overall health of downstream aquatic resources.

We must protect these waters to support our outdoor heritage and promote public health for generations to come. I urge you to restore Clean Water Act protections to these waters.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, and to provide important habitat for fish and wildlife, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14013 [1,960 on-time duplicates, sponsored by Environment California and Wisconsin Environment (email)]

Dear McCarthy,

Our waterways should be clean enough to drink from, fish from, and swim in without risk of pollution. Unfortunately, loopholes in the Clean Water Act have left many of our waters unprotected, including those that feed and filter the drinking water for 117 million Americans.

Thank you for taking a major step forward to restore Clean Water Act protections to America's streams and wetlands and for your commitment to protecting our waterways.

Please move forward as quickly as possible to finalize a strong rule that will restore Clean Water Act protections to America's waterways and protect our environment and health.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14014 [116 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Amigos Bravos]

Dear EPA,

As someone who is concerned about clean water in New Mexico's rivers, streams and lakes I am writing to urge you to finalize the proposed Clean Water Act Waters of the U.S. rule.
Clean water protections for many of New Mexico's waters have been in question for more than a decade. This rule would clarify that tributary streams, including those that are intermittent and ephemeral, are protected. This is critically important here in the arid southwest because over 90% of our rivers and streams are not perennial.

Water is precious in New Mexico. Every drop is used to nourish our communities, wildlife, and landscape. Preserving our sources of clean water is essential for protecting our way of life. I urge you to further strengthen the final rule to fully protect wetlands and other waters found outside of the floodplain of covered waterways. Science shows that the health of these waters influences stream flow, water quality and wildlife in waters downstream. I am especially concerned about ensuring that waters in closed basins and playa lakes are again protected as they once were. I urge you to explore avenues for restoring these protections.
As one of the many supporters of this critical initiative to protect our waters from pollution, I thank you and urge you to finalize a strong Waters of the U.S. rule that includes full protection for the nation's waters as soon as possible.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #14015 [102 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Audubon Naturalist Society]

Dear EPA:

The Clean Water Act of 1972 intended to protect ALL small streams and wetlands in the United States from pollution.

I care about clean water and the health of our local streams, wetlands and our drinking water supply. My family and friends hike along these streams and recognize the importance of them to our neighborhoods and the quality of our lives. Our drinking water supply in the DC metro area depends on the small streams that drain into the Potomac River and other nearby rivers or reservoirs.

Please finalize this rule to increase protection for our streams and wetlands.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14016 [2,386 on-time duplicates, sponsored by Physicians for Social Responsibility (email)

Dear McCarthy,

Clean water is essential to all communities. Safe drinking water is a public health issue.

Thousands of U.S. residents become ill each year from drinking water contaminated with human and animal waste, pesticides, and heavy metals such as arsenic and lead. Bacteria or parasites in drinking water pose health risks of waterborne diseases, which some studies estimate to affect 7 million or more people each year.

We need the Clean Water Act to be as strong as possible and protect the streams and wetlands that are the headwaters for the drinking water supplies for thousands of Americans.

Science demonstrates that upstream sources -- wetlands, lakes, and other waters -- act together to significantly influence the quality of downstream waters by contributing clean water for drinking, irrigation, and recreation, filtering pollution, and reducing downstream treatment costs.

Also, as the climate changes and we see more extreme weather events, wetlands can serve as an invaluable protection against flooding with its resultant accidents and spread of disease, as well as high-turbidity episodes of silt-laden water that cannot be treated to drinking water quality.

I support a strong science-based, health-protective Waters of the U.S. regulation. I urge you to finalize the rule as soon as possible and reinstate public health protections for our water sources that were taken away years ago.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14017 [740 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Rogue Riverkeeper]

To Whom It May Concern:

I support the EPA's work implementing the Clean Water Act that protects clean water that all American's depend on for healthy swimming, drinking and fishing. I am writing today regarding the proposed Waters of the United States rule. A strong, clear definition is essential to protecting our nation's waters. The definition of "waters of the United States" must protect all streams, wetlands, tributaries, lakes, reservoirs, rivers, and coastal waters from pollution to the fullest extent allowed by law as intended by Congress.

Not only does this rulemaking effort need to proceed, but EPA needs to strengthen the definition of "waters of the U.S." and remove certain limitations and exemptions that will undermine important Clean Water Act protections.

All tributaries, including headwater streams, intermittent/ephemeral streams and ditched or channelized streams, should be protected. Protection of headwater streams is essential to maintaining downstream water quality in watersheds throughout the country.

Furthermore, ditches should not be categorically exempt because pollution from ditches harm our rivers, lakes and streams. For example, huge farms currently discharge animal waste into ditches that directly discharge to streams and rivers, and EPA is currently proposing to exempt those ditches under the current draft rule. Exemption of waters that have long been protected by the Clean Water Act would endanger public health and the environment, including drinking water supplies, recreational users and fisheries. If EPA exempts waters from clean water protections to accommodate agribusiness advocates, it would affect Clean Water Act protections for a broad range of other pollution sources.

Please improve the proposed rule to increase protections for our critically important waterways and all tributary streams from pollution.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Regarding ditches, in response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom

of the ditch. However, if a ditch is excavated in or relocates a covered tributary, it would be considered jurisdictional.

Doc. #14018 [199 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 24]

I support the clean water rule because I care about quality of life where I live - clean drinking water, healthy creeks, and seafood that is safe to eat.

This rule is a common sense solution to the uncertainty created by several court decisions regarding the Clean Water Act. By clarifying which waters are protected, and which are not, we are protecting both business and important drinking water sources.

Please support the rule as written - for all of our families.

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14019 [105 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 25]

Dear Administrator McCarthy & Assistant Secretary Darcy:

As a citizen that cares about clean water and the value it provides to our communities, I support the new Clean Water Act rules proposed by the U.S. EPA and U.S. Army Corps of Engineers. The Clean Water Act has been one of our most important tools for cleaning up polluted waters and preventing new pollution. However, court rulings in recent years have resulted in confusion over which streams and wetlands are protected. Now, clarification on what waterways are and

are not protected under the Clean Water Act is needed. This rule makes it clear that Clean Water Act protections apply to small headwater streams that flow into larger rivers and to wetlands adjacent to these rivers.

These small streams and wetlands help reduce flooding, supply drinking water, filter pollution and provide critical support and habitat for fish and wildlife in downstream waters.

Please approve the proposed Clean Water Act rules, and help ensure cleaner water that benefits our communities, businesses, public health and quality of life.

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14020 [53 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Mineral Owners – b]

As a mineral owner I oppose the proposed U.S. Environmental Protection Agency-U.S. Army Corps of Engineers rule to clarify the definition of "Waters of the United States" Under the Clean Water Act. This proposal presumes EPA Clean Water Act authority over most ditches, ponds, isolated low-lying wet areas, and dry gulches that carry water only after heavy rain. It is one of the most egregious examples of federal regulatory overreach in memory. It will cost the U.S. economy billions of dollars and add several thousand dollars in surface compliance costs to every oil and gas well drilled to develop my private property. It will reduce the economic viability of my private minerals and will decrease not only my family income, but also the tax revenue flowing to the U.S. Treasury, states and communities nationwide. This rule is fatally flawed and must be rejected.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways, erosional features such as and non-wetland swales and rills, and stormwater and wastewater detention basins constructed in dry land.

Regarding ditches, ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

Doc. #14021 [16 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 26]

Dear OW-Docket,

I just signed Caleb Laieski's petition "Keep Factories Away From Our Waterways" on Change.org.
Dear Honorable Leadership, I am writing to urge your administration to enact a policy that would require polluters to be at least one mile away from any waterway or body of water. I would encourage this ban to prohibit Mining and Fracking Projects, Sewage Treatment Plants, Coal/Power Plants and all major factories and polluters from being within one mile of any body of water. We have had several recent incidents with companies dumping large amounts of sewage, garbage and waste into our waterways and it is not acceptable. This policy would help prevent companies from dumping waste and pollution into our waterways. Thank you for your time and I look forward to your agency considering this suggestion. Keep up the important fight. Regards,

Agency Response

Your comment is outside of the scope of this rulemaking.

Doc. #14147 [102 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 29]

I have significant concerns regarding how the proposed rule redefining `waters of the United States,` published by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (the agencies) for public comment will impact my company. The proposed rule contains a complicated set of new regulatory definitions and ambiguous exclusions, as described below. The proposal asserts federal control over waters that were previously under the sole jurisdiction of the states, including many ditches, conveyances, isolated waters, and other wet features.

The EPA and the Corps` proposed rule would overhaul the fundamental term `waters of the United States` for all sections of the Clean Water Act (CWA). The new definitions would apply to many CWA programs administered by EPA, the Corps and the states, including Section 303 state water quality standards, Section 311 oil spill prevention control and countermeasures, Section 401 state water quality certifications, Section 402 National Pollutant Discharge Elimination System (NPDES) discharge permits, and the Section 404 dredge and fill permit program - as well as various reporting requirements under the National Contingency Plan for CERCLA and the Oil Pollution Act (OPA). These programs regulate many types of construction activities across the nation and will therefore have a direct and significant impact on our

operations. The EPA has not provided any meaningful analysis of the potential for impact on CWA programs other than the Section 404 program.

Looking at just the CWA Section 404 program, under current conditions, securing individual permit coverage typically takes more than a year, costs hundreds of thousands of dollars, and requires the support of expert technical consultants, and often lawyers. The current program also imposes certain avoidance, minimization, and mitigation requirements. In addition, the act of applying for permit coverage triggers mandatory consultation with multiple state and federal agencies under, for example, the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act. In light of the scope of the proposed jurisdictional expansion, it will be nearly impossible for my company to develop public or private land containing drainage ditches, stormwater control basins, ponds or other water features that are arguably subject to the rule`s expansive jurisdictional reach without first obtaining a costly federal CWA permit.

Specifically, I have serious objections to the regulatory language that would, for the first time, categorically claim ditches as `waters of the United States.` Notwithstanding the exclusions in the proposal, CWA jurisdiction would reach many ephemeral ditches (e.g., roadside, irrigation, stormwater) that serve limited aquatic functions and values, and may flow only intermittently and indirectly over a great distance to reach navigable water. The proposal would trigger additional CWA requirements (e.g., Section 404 dredge and fill permits) before any construction work could be performed in the frequently dry channels that run along the 3.9 million miles of roads in our U.S. highway system. (Roadside ditches that make up a `Municipal Separate Storm Sewer System` and drain runoff already are covered by the CWA`s NPDES program.) This would slow economic growth by delaying and increasing the cost of vital public and private infrastructure repairs currently underway in every state and major city across the nation. It would also put more motorists at risk and cause harm to downstream receiving waters. Permit authorization and compensatory mitigation would likely be required just to maintain the important functions of ditches that serve to convey, re-distribute and filter out the pollutants in stormwater runoff.

I also oppose any regulatory language that would extend CWA jurisdiction to stormwater control basins and ponds of any size or function that ultimately drain to an otherwise regulated `water of the United States.` It is unclear whether or not such stormwater controls would qualify for any of the exclusions in the proposal. On a majority of regulated construction sites, current NPDES permit requirements have led contractors to build temporary basins to hold rainwater that has `run off` the surrounding jobsite and slowly release it to receiving waters via an outlet control structure and/or under-drainage system. EPA is now pushing cities to require that contractors build permanent structural controls to treat, store, and infiltrate runoff onsite before it enters the municipal storm sewer system. These stormwater control systems would, under this proposed regulation, become `waters of the United States,` forcing construction site operators to create federally jurisdictional waters on their property to meet other requirements of the CWA.

Moreover, with this proposed rule, the agencies are effectively shifting the burden to the regulated community to prove the application of the limited and ambiguous exclusions on a caseby-case basis. This point is particularly prominent with regard to the exclusions for `water-

filled depressions incidental to construction activity` and `water-filled depressions excavated on dry land for the purposes of obtaining sand and gravel.` Old maps and aerial photos may be the only sources available to identify historic conditions in order to resolve third-party allegations of violations of federal CWA laws; however, these tools often lack the level of resolution required to make a proper determination. It will ultimately be up to the regulated community to provide compelling evidence that an uneven surface area on the land (i.e., man-made wet area) first came about during construction activity, or face complicated and layered reviews, costly penalties or even citizen suits.

Another troubling aspect of this proposed rule is that the EPA chose not to wait for a final peer review of their `Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence` study. This study has been touted as the basis of the proposed rule, but has not yet been peer reviewed by the EPA`s own Science Advisory Board (SAB). Additionally, EPA`s economic analysis seriously underestimates impacted acreage and completely ignores impacts to non-404 programs. Recognizing that state and local governments are managing water resources that are not under federal control, it is unclear why the agencies rushed through these and other important procedural steps designed to ensure that businesses like mine are protected.

In the preamble to the proposed rule, EPA and the Corps state that key U.S. Supreme Court decisions `resulted in the agencies evaluating the jurisdiction of waters on a case-specific basis far more frequently than is best for clear and efficient implementation of the CWA` and that, through this rulemaking, the `agencies are providing clarity to regulated entities as to whether individual water bodies` are or are not jurisdictional and discharges are or are not subject to permitting.` I respectfully disagree with this finding. The proposal leaves many key concepts unclear, undefined, or subject to agency discretion, resulting in more confusion for contractors in the field, not less.

Agency Response

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river

networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

Regarding ditches, ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a

water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch.

Where a ditch is excavated in or relocates a covered tributary, only the segment of the ditch actually excavated in or relocating the covered tributary would be considered jurisdictional. For example, an entire roadside ditch does not become subject to jurisdiction because a portion of it is excavated in or relocates a tributary.

As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502. Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a CWA permit.

Doc. #14435 [10,813 on-time duplicates, sponsored by TakePart.com (web) - Identified as TakePart.com – a]

To: Environmental Protection Agency

I urge you to finalize the Army Corps of Engineers and Environmental Protection Agency's proposed Clean Water Act, Waters of the U.S. rule, as soon as possible, follow the science that shows how water bodies are interconnected, and fully protect all of the waterways that have important connections to one another.

Basic clean water protections for headwater streams and wetlands have been in question for too long. I strongly support protecting the nation's streams, ponds, wetlands, and other waters from pollution. The proposed rule is an important step toward achieving this goal. Preserving our sources of clean drinking water is of the utmost importance. Finalizing a strong rule will secure Clean Water Act protections for countless streams and wetlands, which help supply the drinking water of more than 117 million Americans.

The rule as proposed is a major improvement. I urge you to further strengthen the final rule to fully protect wetlands and other waters found outside the floodplain of covered waterways. Science shows that the health of these waters influences stream flow, water quality, and wildlife in waters downstream.

I urge you to continue to stand up to special interests that oppose these important and popular clean water protections.

EPA has already received more than 100,000 letters in support of moving forward with this rule to protect streams, wetlands, rivers, and other waters from pollution or destruction. Hunting and angling organizations, public health professionals, and hundreds more local elected officials, farmers, citizens, brewers, and other business leaders have spoken out in support of enhanced protections. As one of the many supporters of this critical initiative to protect our waters from pollution, I thank you and urge you to finalize a strong Waters of the U.S. rule that includes full protection for the nation's waters as soon as possible.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #14436 [47 late duplicates, sponsored by Choose Clean Water Coalition (DVD)]

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Washington, DC. 20004
Telephone:
202-566-1744
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202-566- 9744
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docket-customerservice@epa.gov

Agency Response

There is no comment contained in this docket number.

Doc. #14437 [106 on-time duplicates, sponsored by Rural Coalition et al. (web)]

Dear Administrator McCarthy,

We, the 106 undersigned organizations, who use and depend on our rivers systems from the headwaters, wetlands and tributaries to floodplains and bays, call on you to put the Clean Water Act (CWA) back to work on all U.S. waters. We join our diverse voices with the farmers, ranchers, and other rural leaders quoted herein and undersigned, in a joint call to EPA to restore clarity by approving a final Waters of the USA rule.

We support the rule for the reasons Mr. Alfonzo Abeyta, a fifth generation Colorado rancher, highlights in a new video on why restoring CWA protection is important for agriculture and rural communities: [11] *"Farmers know that everything is connected. Snow from the mountains feeds the streams. The streams feed the rivers. The rivers feed us. You can't grow food without water without water nothing survives it is our job to protect it." (http://www.rmfu.org/colorado-farmer-r-e-m-featured-in-waters-of-the-u-s-video/)*

We support the Clean Water Act because it has worked in every state improving water quality, stemming the loss of wetlands and safeguarding streams, lakes and wetlands. That is, it worked until two Supreme Court decisions Solid Waste Agency of Northern Cook County (SWANCC) v. Army Corps of Engineers (2001) and Rapanos v. United States (2006) created uncertainty regarding what waters are protected, and curtailed CWAs scope.

Water is the lifeblood for agriculture, small businesses and recreation. We don't want to go back to the day when two-thirds of our waterways were too polluted for fishing, swimming or drinking. Therefore those of us in rural communities, agriculture and other small business need the full protection of the Clean Water Act restored to the countless miles of tributary and seasonal streams, wetlands and rivers that sustain our communities.

Communities need a strong CWA to address severe and continuing threats like chemicals from mining operations that leaked arsenic into the Alamosa River in Colorado, killing all the fish and compromising the water supply; the arsenic, boron, chromium, and manganese from coal ash, dumped for years into the Dan River by Duke Energy, exceeding the facility's "compliance boundary and polluting rural water supplies; as well as the tides of phosphorus washed from fertilized farms, cattle feedlots and leaky septic systems upstream that contributed to an algae bloom in Lake Erie which compromised water sources for the cities. We are concerned about the growing contamination in many areas that leaves waterways still too polluted to sustain agriculture, recreation and many other uses.

[11] Video clip (1:10 – 1:22): "Farmers know that everything is connected. Snow from the mountains feed the streams. The streams feed the rivers. The rivers feed us. You can't grow food without water…it is our job to protect it." (http://www.rmfu.org/colorado-farmer-r-e-m-featured-in-waters-of-the-u-s-video/)

As producers and others who depend on clean water, we know well that how water is cared for upstream affects river systems downstream. Small streams feed our local sources of drinking water and support traditional irrigation systems and agriculture for tribal, acequia, historic land grant and our diverse farming communities. Wetlands protect our communities from flooding, and support fish, wildlife, livestock and recreation. The entire river system provides drinking water sources in rural areas and cities alike, and is vital to small businesses[12] as well.

We support the rule because we recognize our shared responsibility to protect our entire river systems including the streams and wetlands that nourish the rivers for fishing, boating, recreation, flood control, local water systems and to meet the needs of our com-munities, our farmers, ranches and fishers, our businesses, and protect these bioregions for future generations.

Many of the undersigned groups have submitted their own comments supporting the completion of the rulemaking process while proposing specific and beneficial improvements. We believe EPA should take these views into account in issuing the final rule.

As farmers and small businesses that share the water, we need a regulatory scheme that is clear, predictable, timely, and focused on protecting aquatic resources. We support the rules exemptions for commonplace farm and ranch operations and incentives for voluntary conservation practices. We also urge EPA and NRCS to review and retain all of the exemptions and exclusions from the Clean Water Act for the farming and agriculture community including exempting them from the need to obtain a 404 permit when using any of 56 conservation practices - practices that are good for farmers, ranchers, and for clean water.

We further urge the EPA, the Army Corps of Engineers and the USDA Natural Resources and Conservation Service to strengthen protections and include resources in the rule to protect the rights of Tribal nations and traditional acequia and land grant communities, to uphold requirements for tribal consultation and action, and to help acequia and land grant communities and all diverse farmers and ranchers comply with the rule.

We all—in the agriculture, rural, environmental, conservation, sports men and women and business communities—support this rule and accept our shared responsibility to protect the water that one in three people in this nation depend upon to live. Final approval of the "Waters of the U.S." rule – with improvements proposed in the comment process – would provide clarity that we as a society depend up clean water and the essential benefits that it brings to communities, residents, fish, wildlife, and plants. We urge you to finalize this rule expeditiously to restore protections to many of the waters originally protected by the Clean Water Act and ensure the health of our waterways. We don’t want to go backwards.

[12] A national scientific poll conducted for the American Sustainable Business Council found 80% of small business owners favor federal protection of upstream headwaters and wetlands as proposed in the new “Waters of the U.S.” rule. Support for clean water was broad and deep regardless of political affiliation—78% of Republicans and 73% of independents, joined 91% of Democrats in supporting the clarifying of federal rules to apply to head--- land waters and wetlands. 71% of small business owners said that clean water is necessary for jobs and a healthy economy, 67% are concerned that water pollution could hurt their business in the future and 62% say that government regulation is needed to prevent water pollution. (Poll conducted by Lake Research Partners, on June 4--- 10, 2014, of small business owners (2 to 99 employees), with a margin of error of +/--- 4.2%, is available online here: http://bit.ly/CleanWaterReport

Agency Response

Protecting the long-term health of our nation's waters is essential. The final Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The agencies recognize the vital role of farmers and producers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture.

We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. In fact, providing greater clarity regarding what waters are subject to CWA jurisdiction will reduce the need for permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

Doc. #14438 [478 on-time duplicates, sponsored by North Carolina Cattlemen's Association (email)

Dear EPA/Corps,

As a landowner who must use the land to make a living and fee the world, I am disappointed at your proposed Clean Water Act (CWA) rule redefining "waters of the United States." As a cattle farmer, I am proud to be the primary steward of the natural resources on my property. I strive to care for the air and the water because the well-being of my cattle, and my family, depend upon it. That care does NOT and should NOT require a federal permit each time my cattle walk through a damp spot, or I drive my tractor across the pasture. The new effect of such a regulation will not be an improvement to the environment, but will place an enormous burden on landowners like myself. Please consider the following comments in evaluating the need for the rule.

First, the definition as proposed is illegal based on the Commerce Clause of the U.S. Constitution, the framework and goals of the CWA, Congressional intent and Supreme Court rulings. Each places a limit on federal jurisdiction over the nation's waters. Currently, your proposed rule has practically no limit whatsoever. As an example, you now have included my agricultural ditches into the category of "tributaries?" This is inappropriate. The two exclusions you have provided for ditches are not adequate to alleviate the enormous burden you just placed on the entire agriculture community. "Ditches" should not be waters of the United States. Farm ponds should not be waters of the United States. Dry washes, dry streambeds, and ephemeral streams should not be water of the United States.

Second, the proposed definition annihilates the federalist system that underpins the CWA. There is a line at which point the states must be allowed to take over. This proposal has obliterated that important and fundamental line. By expanding the definition of tributary, expanding the definition of "adjacent" and expanding the category of "adjacent wetlands" to "adjacent waters," you have delive3red a devastating blow to my family farm. Administrator McCarthy has told farmers and ranchers to "just read the proposal"; well I have. I am not only concerned about the ability of agency regulators being able to apply vague terms and phrases to wrap every wet depression on my place into the definition of WOTUS, but I am left in an even more confused state than under the status quo. You have filed, miserable in fact, at providing the "clarity" you purport to want to achieve.

Third, the agencies are wrong that the proposal will not have an impact on a substantial number of small entities. Almost the entire cattle industry is composed of small businesses. Most, like mine, are family-run and the families that run them are not millionaires. We work hard every day to keep our cattle and our families in good health. Regulations, like this one your propose, make it hard to keep our small businesses financially viable. More red tape is the last thing my farm needs, because it gets in the way of me putting environmentally-friendly practices on the ground, many of which are not included in your list of 56. This proposal will have a negative impact on my small business and hundreds of thousands like it across the country.

In sum, I believe the EPA and the Corps should not finalize their proposed definition for "waters of the U.S.," and should scrap the entire rule. There are too many fundamental problems with the proposal. By starting fresh, the agencies could potentially have meaningful dialogue and

outreach with the cattle industry. As proposed it violates the law, will not benefit the environment, and will have a negative impact on our family farm and on other small businesses like mine.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. In fact, providing greater clarity regarding what waters are subject to CWA jurisdiction will reduce the need for permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

Ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics (e.g. hydric soils, hydrophytic plant communities, etc.) developed in the bottom of the ditch.

Where a ditch is excavated in or relocates a covered tributary, only the segment of the ditch actually excavated in or relocating the covered tributary would be considered jurisdictional. For example, an entire roadside ditch does not become subject to jurisdiction because a portion of it is excavated in or relocates a tributary.

The rule has also expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Regarding impacts to small entities, the EPA and the Corps determined to seek wide input from representatives of small entities while formulating the proposed and final definition of this term that reflects the intent of Congress consistent with the mandate of the Supreme Court's decisions. Such outreach, although voluntary, is also consistent with the President's January 18, 2011 Memorandum on Regulatory Flexibility, Small Business, and Job Creation, which emphasizes the important role small businesses play in the American economy. This process enabled the agencies to hear directly from these representatives, throughout the rule development, about how they should approach this complex question of statutory interpretation, together with related issues that such representatives of small entities may identify for possible consideration in separate proceedings. The agencies prepared a report summarizing their small entity outreach, the results of this outreach, and how these results have informed the development of this rule. This report, Final Summary of the Discretionary Small Entity Outreach for the Revised Definition of Waters of the United States (Docket Id. No. EPA-HQ-OW-2011-0880-1927), is available in the docket.

Doc. #14439 [52,083 on-time duplicates, sponsored by Evangelical Environmental Network (email)]

Please find our over 109,000 comments from 52,083 unique individuals. I am attaching the number of comments (who signed the petition), the petition language, the unique individuals and comments from our website through November 14 2014.

As pro-life Christians, we believe that it is essential that the water we give our children is clean and pure. We urge the EPA and Congress to do everything you can to make sure that all of our waters, especially our headwaters, are protected.

Keep Our Water Safe

One Mom Shares What Clean Water Means to Her Family

"Could I have some water?" It's a question nearly every parent hears before bedtime or after an afternoon playing outside.

Keep Our Water Safe for Our Kids:Click here to Sign the Petition Below

Parents need to be able to trust that the
water we give our kids is clean and healthy.
That's why the Reagan administration put
protections in place to keep pollutants out of the headwaters that serve as the source
for our local water supplies.

Unfortunately, in recent years special interests have pushed to dismantle many of these protections that have kept our families safe for decades.

Join pro-life Christians across the country urging our leaders to keep our waterways clean and pure. Sign the petition below by clicking here. Then share why this is important to you on Facebook and Twitter.

In Christ,
Rev. Mitch Hescox

PETITION

As pro-life Christians, we believe that it is essential that the water we give our children is clean and pure. We urge the EPA and Congress to do everything you can to make sure that all of our waters, especially our headwaters, are protected.

Click Here To Sign Your Name

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14662 [24 on-time duplicates, sponsored by Environment America (email) - Identified as Environment America – b]

Dear EPA Administrator McCarthy,

As a small business owner who relies on clean water, I urge you to finalize your rule to restore critical Clean Water Act protections to waterways nationwide.

From recreational business owners to restaurateurs, we all know that clean water is critical to our economy and the vitality of our communities. In addition, I personally depend on clean water for my business. The health of our iconic waterways and stewardship of America's water resources are integral to our economic success as well as our quality of life.

Shortsighted Supreme Court decisions opened up loopholes in the Clean Water Act, leaving the smaller waterways that feed into the larger rivers we love and the drinking water for 117 million Americans at risk of unchecked pollution. Our major waterways are only as clean as the streams

and wetlands that feed into them, and more than half of streams across the country currently are inadequately protected.

To protect our waters, I urge you to move forward to finalize a rule to restore critical protections to all these waters under the Clean Water Act.

By restoring the Clean Water Act, your administration will help ensure that our communities are healthy and our local economies are strong.

I appreciate your commitment to protecting America's waterways, and I hope you will move swiftly to ensure they are protected for years to come.

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14715 [1,073 on-time duplicates, sponsored by Environment America (email) - Identified as Environment America – c[13]]

Dear EPA Administrator McCarthy,

Our iconic rivers are part of what make Oregon such a great place to live.

Unfortunately loopholes in the Clean Water Act have left more than 61,000 miles of Oregon's streams at risk - the same streams that feed our rives, such as the Rogue and the Deschutes.

[13]*This letter is one example submitted under the sponsoring agency.*

To ensure all our waterways are protected, we urge you to close loopholes in the Clean Water Act now.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14716 [97 on-time duplicates, sponsored by American Sustainable Business Council (email)]

Dear policymaker,

As a business leader, I support the Environmental Protection Agency's (EPA) proposed rule on water safety because it will give the business community more confidence that vital sources of clean water will be protected and will provide a consistent regulatory system based on sound science.

American businesses have always depended on the availability of clean water for their processes, and historically, the EPA's regulation in this area has been a successful example of the vital partnership between business and government. Whether companies are food producers, high-tech manufacturers of silicon wafers, providers of outdoor recreation or beer manufacturers, businesses rely on clean water to produce safe, high-quality products.

I applaud the EPA for taking steps to clarify that small streams, wetlands and other tributaries are protected by the Act. Degradation and loss of wetlands and small streams can increase the risk of floods, seriously threatening businesses. Moreover, dirty, polluted water creates unnecessary and sometimes very difficult economic challenges for communities and businesses alike. This action by the EPA is good for the environment and good for business.

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and

our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14717 [13 on-time duplicates, sponsored by Environment America (email) - Identified as Environment America – d[14]]

Dear EPA Administrator McCarthy:

As a farmer, I write to thank you for proposing a rule to restore critical Clean Water Act protections to waterways nationwide. I urge you to finalize the rule quickly to ensure our waterways get the protection they deserve.

From cattle-ranchers to blueberry farmers, all farmers know how critically important clean water is to our livelihoods and the vitality of our communities. Across the country, farmers depend on clean water for crops, livestock, drinking water, and the wellbeing of our families.

Beginning in 1972, the Clean Water Act protected all of the nation's waters, from small, unnamed streams to our greatest waterways coast to coast. But now, because of two bitterly divided Supreme Court decisions, uncertainty threatens countless critical resources with unchecked pollution, including headwater streams, tributaries, and wetlands.

The threat is enormous. According to EPA data, the drinking water sources of 117 million Americans may no longer be protected. Our major waterways are only as clean as the streams and wetlands that feed into them, and more than half our country's streams are now inadequately protected from pollution.

Another major concern for farmers is protecting our wetlands. Wetlands are crucial to lessen the severity of flooding. An acre of wetlands can typically hold at least 1 million gallons of flood water. Over the last few years, severe floods have struck farmers and rural communities across

[14] *This letter is one example submitted under the sponsoring agency.*

the heartland and in New England, devastating crops and families' homes. These floods could become more severe unless our wetlands are clearly protected by the Clean Water Act.

To protect our cherished waters, I urge you to move forward with a rulemaking to restore critical protections to these waters under the Clean Water Act and reaffirm the scope of the Clean Water Act that existed for more than three decades.

By restoring the Clean Water Act, that your administration can put us back on track to be a country where all farmers can depend on clean water for their crops and livestock, and all Americans will have access to water that is safe for swimming, fishing, and drinking.

I appreciate your commitment to protecting America's waterways, and I hope you will move quickly to ensure they are protected for years to come.

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

Doc. #14718 [3,567 on-time duplicates, sponsored by Environment America - Identified as Environment America – e[15]]

**This letter is one example of the Mass Mailer submitted with this campaign.*

[15] *This letter is one example submitted under the sponsoring agency.*

Dear EPA Administrator McCarthy,

Our iconic waterways make California a great place to live.

Unfortunately, loopholes in the Clean Water Act have left California's smaller waterways unprotected, putting the places we swim, fish and boat at risk of toxic pollution.

To ensure all our waterways are protected, we urge you to close loopholes in the Clean Water Act now.

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #14719 [4,572 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Takepart.com – b]

Dear Administrator McCarthy,

I urge you to finalize the Army Corps of Engineers and Environmental Protection Agency's proposed Clean Water Act Waters, Waters of the U.S. rule, as soon as possible, follow the science that shows how water bodies are interconnected, and fully protect all of the waterways that have important connections to one another.

Basic clean water protections for headwater streams and wetlands have been in question for too long. I strongly support protecting the nation's streams, ponds, wetlands, and other waters from pollution. The proposed rule is an important step toward achieving this goal. Preserving our sources of clean drinking water is of the utmost importance. Finalizing a strong rule will secure

Clean Water Act protections for countless streams and wetlands, which help supply the drinking water of more than 117 million Americans.

The rule as proposed is a major improvement. I urge you to further strengthen the final rule to fully protect wetlands and other waters found outside the floodplain of covered waterways. Science shows that the health of these waters influences stream flow, water quality, and wildlife in waters downstream.

I urge you to continue to stand up to special interests that oppose these important—and popular—clean water protections.

EPA has already received more than 100,000 letters in support of moving forward with this rule to protect streams, wetlands, rivers, and other waters from pollution or destruction. Hunting and angling organizations, public health professionals, and hundreds more local elected officials, farmers, citizens, brewers, and other business leaders have spoken out in support of enhanced protections. As one of the many supporters of this critical initiative to protect our waters from pollution, I thank you and urge you to finalize a strong Waters of the U.S. rule that includes full protection for the nation's waters as soon as possible.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #16478 [14 on-time duplicates, sponsored by Hutchens Construction Company]

To Whom It May Concern:

We are representatives of Hutchens Construction Company located in Southwest Missouri and Northwest Arkansas and write to raise major concerns over the U.S. Army Corps of Engineers and EPA's proposed rule to revise their definition of "Waters of the United States" under the Clean Water Act. Our company, like many others in the industry, produces aggregates utilized for critical infrastructure projects including highways, bridges and mass transit, as well as environmental applications such as wastewater treatment, sewage control and drinking water facilities.

Hutchens Construction Company owns and operates 4 Limestone Quarries located in Barry County, MO and routinely obtains aggregate materials from a number of other producers located throughout Southwest Missouri and Northwest Arkansas. These combined operations support approximately 100 employees annually.

Quality aggregates are formed in specific areas, often in floodplains and dry stream beds that do not have a discernible surface hydrologic connection to flowing streams and rivers. Determination of the CWA's scope is critical to our company, impacting the costs of planning, financing, constructing and operating aggregate facilities. Our major concerns with the proposed rule are as follows:

- The proposed rule would sweep in many marginally aquatic areas that only have a remote and insubstantial impact on traditional navigable waters. In effect, the rule removes "significant nexus" and replaces it with "any nexus."
- The proposed rule allows the Corps field staff to make jurisdictional determinations based on "desktop" studies without gathering site-specific information which will likely lead to arbitrary and inconsistent determinations by Corps field staff.
- Contrary to the claims of the EPA and the Corps, the proposed rule will actually cause more confusion than clarity. The agencies "categorical" inclusion of all tributaries defined by an observed "mark" on the landscape and its regulation of wetlands and waters adjacent to tributaries based on vague "neighboring," "riparian," "floodplain" and "shallow subsurface" connection criteria makes it virtually impossible to know what areas are regulated and what areas are not.
- The proposed rule's "watershed aggregation" approach in defining "significant nexus" will lead to increased regulation of remote and ephemeral areas and increased mining costs without providing any discernible ecological benefit.
- The exclusions in the proposed rule (particularly for ditches) **do not provide any real clarity.** While the proposed rule purports to exclude "drainage ditches," such ditches can be regulated if they perform as intended by conveying water away from a site even indirectly to a navigable water. Many existing drainage ditches would become subject to onerous permitting and costly mitigation requirements.
- The agency's reliance on its "connectivity study" essentially transforms a handpicked aggyegation of scientific studies into the controlling legal interpretation of "waters of the United States." The legal interpretation should start with the limits set out by Justice Kennedy in his *Rapanos* opinion and determine how scientific evidence should be interpreted to define a "bright line" between "any nexus" and "significant nexus."
- EPA's economic analysis does not take into account the real costs of permitting and mitigation and must be redone. EPA and the Corps must also convene a Small Business

Regulatory Flexibility Act panel as required by law to assess the impacts on small businesses that make up 70 % of NSSGA's membership.

- The proposed rule is so expansive that it will trigger numerous additional environmental reviews to address such issues as endangered species and historic preservation, which will make it even more difficult and costly for our company to ensure timely supply of aggregates for public works projects essential to economic recovery.
- The proposed rule lacks any "grandfathering" provision. Our mine plans often call for long-term, phased mining which depend on regulatory certainty to make sound business decisions. Without clear grandfathering language, our mine plans are now at risk of being subject to new and expansive jurisdictional determinations.

While we pride ourselves as being environmentally responsible, the broadened scope of the rule would directly impact our operations, with little environmental benefit. These impacts would increase costs on public works projects, so these increased costs are borne by the taxpayer. **The ability of our company to efficiently provide needed materials for critical infrastructure such a roads, bridges and flood control projects essential to protect public health and safely will be greatly impaired.**

In closing, we urge EPA and the Corps to withdraw this proposed rule and work with our industry and other stakeholders to craft a rule that is clear and that does not impose an undue economic burden on our industry or the economic prosperity of America.

Agency Response

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis. There will be no change in the methods used by the agencies, i.e. a combination of desk top studies and site specific information as appropriate, to make jurisdictional determinations

under this final rule compared to current practices.

The rule establishes a definition of significant nexus, based on Supreme Court opinions and the science, to use when making these case-specific determinations. Significant nexus is not a purely a scientific determination and neither is the agencies' interpretation of the scope of "waters of the United States." Further, the opinions of the Supreme Court have noted that as the agencies charged with interpreting the statute, EPA and the Corps must develop the outer bounds of the scope of the CWA, while science does not provide bright lines with respect to where "water ends" for purposes of the CWA. Therefore, the agencies' interpretation of the CWA is informed by the Science Report and the review and comments of the SAB, but not dictated by them.

The final rule recognizes that not all waters have a significant nexus to a traditional navigable waters, an interstate water, or a territorial sea. In order to improve clarity, the final rule expands the discussion of excluded waters and other features not regulated. In response to comments, the final rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.
The proposed rule included a broad provision (paragraph (a)(7) of the proposal) that allowed for a case-specific determination of significant nexus for any water that was not categorically jurisdictional or excluded. In consideration of comments expressing concern over the proposed approach, the agencies made changes to provide for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable water, interstate waters, and the territorial seas address concerns in the approach to "other waters."

The final rule provides a more detailed definition of significant nexus which includes a list of nine specific functions that can be analyzed. When a significant nexus exists between a water(s) and (a)(1) through (a)(3) water, that nexus exists even in absence of a positive jurisdictional determination on the site. When a site specific jurisdictional determination has been done it serves to identify the boundaries of the "waters of the United States." Within a single point of entry watershed, over a period of time there will likely be multiple jurisdictional determinations. For (a)(7) waters, if a case-specific significant nexus determination has been made in the point of entry watershed, all waters in the subcategory in the point of entry watershed are jurisdictional. For (a)(8) waters, the case-specific significant nexus analyses must use information used in previous jurisdictional determinations, and if a significant nexus has been established for one water in the watershed, then other similarly situated waters in the watershed would also be found to have a significant nexus. This is because under Justice Kennedy's test, similarly situated waters in the region should be evaluated together. A positive significant nexus determination would then apply to all similarly

situated waters within the point of the watershed. A negative case-specific significant nexus evaluation under (a)(7) or (a)(8) of all similarly situated waters in the point of entry watershed applies to all similarly situated waters in that watershed. However, as noted above, a conclusion that significant nexus is lacking may not be based on consideration of a subset of similarly situated waters, because under the significant nexus standard the inquiry is how the similarly situated waters in combination affect the integrity of the downstream water. The documentation for each case should be complete enough to support the specific jurisdictional determination, including an explanation of which waters were considered together as similarly situated and in the same region.

Many commenters expressed concern that such a broad opportunity for case-specific "waters of the United States" determinations would lead to too much uncertainty about the jurisdictional status of waters in broad areas throughout the country. The rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. The agencies have also determined that the single point of entry watershed is a more reasonable and technically appropriate scale for identifying "in the region" for purposes of the significant nexus standard than ecoregions. Additionally, the agencies may amend the rule as part of the rule-making process if evolving science and the agencies' experience lead to a need for action to alter the jurisdictional categories.

Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

By clarifying the definition of "tributary," the agencies intend to make the determination of jurisdictional waters independent of local nomenclature, such as "dry wash" and "arroyo." Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular

intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. The rule definition of "tributary" requires that flow must be of sufficient volume, frequency, and duration to create the physical characteristics of bed and banks and an ordinary high water mark. If a water lacks sufficient flow to create such characteristics, it is not considered "tributary" under this rule. While some commenters expressed concern that a feature that flowed very infrequently could meet the proposed definition of "tributary," it is the agencies' judgment that such a feature is not a tributary under the rule because it would not form the physical indicators required under the definitions of "ordinary high water mark" and "tributary." To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

The rule also clarifies that a water meets the definition of tributary if the water contributes flow through an excluded feature such as an ephemeral ditch. While the water above and below the excluded feature is jurisdictional if it meets the definition of tributary, the excluded feature does not become jurisdictional.

Doc. #18968 [99,307 on-time duplicates, sponsored by Clean Water Action (paper)]

I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so we can continue to protect clean water.

Definition of
"Waters of the United States"
Under the Clean Water Act

NAME_____
ADDRESS_____
_____

Signature_____

Dear Sir /Madam:

Clean water is vital to my family and me. We rely on clean water for drinking, swimming and other activities.

For too long there has been confusion about which streams and wetlands are protected, even though it is clear that Congress intended for all water to be safeguarded when the Clean Water Act passed in 1972.

Please keep the Clean Water Act strong and effective and finalize a rule that will improve the health of all our nation's rivers, lakes, and bays by protecting the small streams and wetlands on which they depend.

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that

flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters

Doc. #19244 [50 on-time duplicates, sponsored by Clean Water Action Denver (web) - Identified as Clean Water Action Denver– a]

RE: **Docket ID EPA-HQ-OW-2011-0880**
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so we can continue to protect clean water.

U.S. Environmental Protection Agency

Definition of
"Waters of the United States"
Under the Clean Water Act

NAME_____
ADDRESS _____
_____

SIGNATURE _____

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands

are important to the long-term health of the water downstream so our Clean Water Rule protects these waters

Doc. #19265 [195 on-time duplicates, sponsored by Employees of Martin Marietta (paper)]

To Whom It May Concern:

As an employee of Martin Marietta, I am writing this letter to oppose the U.S. Army Corps of Engineers (Corps) and EPA's proposed rule to revise their definition of "Waters of the United States" under the Clean Water Act (CWA). Martin Marietta is engaged in the production and sale of crushed stone, sand and gravel, ready mix and cement with over 400 operations across the United States, Canada, and the Bahamas. Our facilities produce aggregates that are utilized for critical infrastructure projects, such as highways, bridges, transit, and water and wastewater treatment plants.

EPA's proposed revisions of the CWA's jurisdiction will dramatically impact aggregate operations in the nation with an increase in costs associated with expanding our operations, with the potential to be barred from mining future reserves that will be needed as our economy grows and our population continues to increase. Our major concerns with the proposed rule are as follows:

- The proposed rule disregards congressional intent and is not consistent with three rulings by the Supreme Court regarding the limits of federal jurisdiction.
- The proposed rule would sweep in many marginally aquatic areas that only have a remote and insubstantial impact on traditional navigable waters - the rule removes "significant nexus".
- The proposed rule provides no limit to federal jurisdiction and establishes new definitions for tributary, neighboring, floodplain, and riparian area.
- The proposed rule leaves many key concepts unclear, undefined, and subject to the agency's discretion. This vagueness will not provide the intended regulatory certainty that the agency is professing and will require the regulated community to unnecessarily spend resources in the courts to clarify the vagueness of the rule.
- The proposed rule allows the Corps field staff to make jurisdictional determinations based on "desktop" studies without gathering site-specific information which will likely lead to subjective and inconsistent determinations by Corps field staff.
- The proposed rule's "watershed aggregation" approach in defining "significant nexus" will lead to increased regulation of remote and ephemeral areas, thus increased mining costs without providing any apparent ecological benefit.
- The exclusion for ditches in the proposed rule does not provide any real clarity. While the proposed rule contends to exclude "drainage ditches," such ditches can be regulated if they convey water away from a site even indirectly to a navigable water. Thus, many existing drainage ditches would become subject to onerous permitting and costly mitigation requirements.
- The proposed rule will subject more activities to CWA permitting requirements, NEPA analysis, mitigation requirements, and citizen lawsuits challenging local actions based on the expanded jurisdiction by EPA and the Corps.

- EPA's economic analysis is flawed, because it does not take into account the real costs of permitting and mitigation. The economic analysis relies on cost data that is almost 20-year's old and is not adjusted for inflation. EPA and the Corps must also convene a Small Business Regulatory Flexibility Act panel as required by law to assess the impacts on small businesses.
- The proposed rule lacks any "grandfathering" provision. Our mine plans often call for long-term, phased mining which depend on regulatory certainty to make sound business decisions. Without clear grandfathering language, our mine plans are now at risk of being subject to new and expansive jurisdictional determinations.

While our company prides itself as being environmentally responsible, the broadened scope of the rule would directly impact our operations, with little environmental benefit. In turn, these proposed changes to the "Waters of the US" will increase the costs of public works projects across our nation.

In closing, we urge EPA and the Corps to withdraw this proposed rule and work with our industry and other stakeholders to craft a rule that is clear and that does not impose an undue economic burden on our industry or the economic prosperity of America.

Agency Response

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis. There will be no change in the methods used by the agencies, i.e. a combination of desk top studies and site specific information as appropriate, to make jurisdictional determinations under this final rule compared to current practices.

The rule establishes a definition of significant nexus, based on Supreme Court opinions and the science, to use when making these case-specific determinations. Significant nexus is not

a purely a scientific determination and neither is the agencies' interpretation of the scope of "waters of the United States." Further, the opinions of the Supreme Court have noted that as the agencies charged with interpreting the statute, EPA and the Corps must develop the outer bounds of the scope of the CWA, while science does not provide bright lines with respect to where "water ends" for purposes of the CWA. Therefore, the agencies' interpretation of the CWA is informed by the Science Report and the review and comments of the SAB, but not dictated by them.

The final rule recognizes that not all waters have a significant nexus to a traditional navigable waters, an interstate water, or a territorial sea. In order to improve clarity, the final rule expands the discussion of excluded waters and other features not regulated. In response to comments, the final rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The proposed rule included a broad provision (paragraph (a)(7) of the proposal) that allowed for a case-specific determination of significant nexus for any water that was not categorically jurisdictional or excluded. In consideration of comments expressing concern over the proposed approach, the agencies made changes to provide for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable water, interstate waters, and the territorial seas address concerns in the approach to "other waters."

The final rule provides a more detailed definition of significant nexus which includes a list of nine specific functions that can be analyzed. When a significant nexus exists between a water(s) and (a)(1) through (a)(3) water, that nexus exists even in absence of a positive jurisdictional determination on the site. When a site specific jurisdictional determination has been done it serves to identify the boundaries of the "waters of the United States." Within a single point of entry watershed, over a period of time there will likely be multiple jurisdictional determinations. For (a)(7) waters, if a case-specific significant nexus determination has been made in the point of entry watershed, all waters in the subcategory in the point of entry watershed are jurisdictional. For (a)(8) waters, the case-specific significant nexus analyses must use information used in previous jurisdictional determinations, and if a significant nexus has been established for one water in the watershed, then other similarly situated waters in the watershed would also be found to have a significant nexus. This is because under Justice Kennedy's test, similarly situated waters in the region should be evaluated together. A positive significant nexus determination would then apply to all similarly situated waters within the point of the watershed. A negative case-specific significant nexus evaluation under (a)(7) or (a)(8) of all similarly situated waters in the point of entry watershed applies to all similarly situated waters in that watershed. However, as noted above, a conclusion

that significant nexus is lacking may not be based on consideration of a subset of similarly situated waters, because under the significant nexus standard the inquiry is how the similarly situated waters in combination affect the integrity of the downstream water. The documentation for each case should be complete enough to support the specific jurisdictional determination, including an explanation of which waters were considered together as similarly situated and in the same region.

Many commenters expressed concern that such a broad opportunity for case-specific "waters of the United States" determinations would lead to too much uncertainty about the jurisdictional status of waters in broad areas throughout the country. The rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. The agencies have also determined that the single point of entry watershed is a more reasonable and technically appropriate scale for identifying "in the region" for purposes of the significant nexus standard than ecoregions. Additionally, the agencies may amend the rule as part of the rule-making process if evolving science and the agencies' experience lead to a need for action to alter the jurisdictional categories.

Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).

By clarifying the definition of "tributary," the agencies intend to make the determination of jurisdictional waters independent of local nomenclature, such as "dry wash" and "arroyo." Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries.

The rule definition of "tributary" requires that flow must be of sufficient volume, frequency, and duration to create the physical characteristics of bed and banks and an ordinary high water mark. If a water lacks sufficient flow to create such characteristics, it is not considered "tributary" under this rule. While some commenters expressed concern that a feature that flowed very infrequently could meet the proposed definition of "tributary," it is the agencies' judgment that such a feature is not a tributary under the rule because it would not form the physical indicators required under the definitions of "ordinary high water mark" and "tributary." To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

The rule also clarifies that a water meets the definition of tributary if the water contributes flow through an excluded feature such as an ephemeral ditch. While the water above and below the excluded feature is jurisdictional if it meets the definition of tributary, the excluded feature does not become jurisdictional.

Doc. #19374 [126 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 31[16]]

Administrator McCarthy:

I write to submit these comments in opposition to the EPA's proposed rule regarding "Waters of the United States" under the Clean Water Act. This proposed regulation represents the largest expansion of authority in the history of the Clean Water Act and would greatly impact the lignite industry and private property rights.

Despite claims by the EPA that this rule will only clarify the federal government's jurisdiction over waters of the U.S. — traditionally navigable waterways used for interstate commerce — it will significantly expand what are considered waters of the U.S. and subject to permitting under the Clean Water Act. Under the broad language and definitions proposed in the rule for anything ranging from tributaries, ditches, adjacent wetlands, intrastate, and even "other" waters could be regulated by the federal government.

This proposed rule is in direct contradiction to recent Supreme Court decisions that found that the Clean Water Act does not support such an expansive meaning of waters of the U.S. In the Rapanos decision, the Supreme Court went so far as to say that including "ephemeral streams, wet meadows, storm sewers...within the meaning of 'waters of the U.S.' has stretched the term beyond parody." Yet these are precisely the types of water that could be regulated under the proposed rule.

The proposed rule will have numerous impacts and greatly increase regulation on the lignite industry without having any benefit on waters of the U.S. In the course of coal mining, companies encounter many hydrological connections. For example, such language in the proposed rule as "unbroken subsurface hydrological connection to jurisdictional waters," makes

[16] *This letter is one example submitted under the sponsoring agency.*

it extremely likely that the federal government would be further involved in regulating mining operations despite existing regulations to protect water quality and impacts to navigable waterways.

The lignite industry has a proven track record of success in mitigating the environmental impacts of its mining operations and reclaiming the land to a condition as good, or better, than it was prior to mining, as well as taking special care with respect to impacts on waterways and water quality. Given these facts, this proposed rule is a solution seeking a problem at best, and at worst an overreaching, unprecedented, and unconstitutional expansion of federal authority. I request that the EPA withdraw this rule.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #19375 [65 on-time duplicates, sponsored by National Association of Royalty Owners and Southwest Kansas Royalty Owners Association (paper)]

RE: Docket No. EPA-HQ-OW-2011-0880

Definition of "Waters of the United States" Under the Clean Water Act

As a mineral owner I oppose the proposed U.S. Environmental Protection Agency-U.S. Army Corps of Engineers rule to clarify the definition of "Waters of the United States" Under the Clean Water Act. This proposal presumes EPA Clean Water Act authority over most ditches, ponds, isolated low-lying wet areas, and dry gulches that carry water only after heavy rain. It is one of the most egregious examples of federal regulatory overreach in memory. It will cost the U.S. economy billions of dollars and add several thousand dollars in surface compliance costs to every oil and gas well drilled to develop my private property. It will reduce the economic viability of my private minerals and will decrease not only my family income, but also the tax revenue flowing to the U.S. Treasury, states and communities nationwide. This rule is fatally flawed and must be rejected.

Sincerely,

_____

(Signature Line)

I am a mineral owner and member of Southwest Royalty Owners Association (SWKROA) and I oppose the proposed U.S. Environmental Protection Agency-U.S. Army Corps of Engineers rule to clarify the definition of "Waters of the United States" under the Clean Water Act. This proposal presumes EPA Clean Water Act authority most ditches, ponds, isolated low lying wet areas, and dry gulches that carry water only after heavy rain. It is one of the most egregious examples of federal regulatory overreach in memory. It will cost the U.S. economy billions of dollars and add several thousand dollars in surface compliance costs to every oil and gas well drilled to develop my private property. It will reduce the economic viability of my private minerals and will decrease not only my family income, but also the tax revenue flowing to the U.S. Treasury, states and communities nationwide. This rule is flawed and must be rejected.

Agency Response

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #19376 [12 on-time duplicates, sponsored by Kentucky Farm Bureau (paper) - Identified as Kentucky Farm Bureau – a]

I write in strong opposition to the rule changes proposed by EPA and the U.S. Army Corps of Engineers that would essentially redefine how a water of the United States is determined under the Clean Water Act guidelines. This clearly appears to me to be a huge expansion of federal oversight into areas best left to the states.

Reading through the proposed rule, I am more confused than ever about what exemptions farmers like me would have. It bothers me that for a document that is supposed to add clarity to the Clean Water Act will probably result in my having to meet more regulatory guidelines, face more restrictions on how I can farm my land, and probably spend a lot of hard earned dollars just to be able to continue farming! Livestock on my farm are fenced out of streams and ponds, but I wonder if my practices will be considered normal, or if I will have to redo, at my expense, many of the practices I have installed that are currently protecting the environment. This is truly frustrating!

I work hard to protect the water and soil on my farm because some day I want to pass it on to my children. The proposed rule is supposed to make it clearer about how my farming practices would be exempt, but the way I look at it, it really narrows the exemptions the Clean Water Act already provides. This is a poorly thought out rule, and I ask the EPA and the U.S. Army Corps of Engineers to completely withdraw this proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Corps clarify the

scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Doc. #19377 [30 on-time duplicates, sponsored by Kentucky Farm Bureau (paper) - Identified as Kentucky Farm Bureau – b]

Dear EPA and U.S. Army Corps of Engineers,

Thank you for the opportunity to submit comments in response to proposed rules from EPA and the U.S. Army Corps of Engineers to define "waters of the United States" under the Clean Water Act. This proposed rule is deeply flawed. While the proposed rule says it seeks to provide clarity in actuality it creates more ambiguity and confusion that will most likely result in an increased chance of many farmers, including me, facing frivolous litigation, spending long hours seeking unnecessary permits or having to maintain mountains of documentation rather than producing the food Americans want and need.

Replacing the term "navigable" in the definition of the Clean Water Act, and replacing it with a "significant nexus" concept will open the proposed rule to increased confusion. Terms used to determine the significant nexus are often vague, and are definitely not always based on sound science. Many times the terms are undefined relying on the best professional judgment of an observer. The Connectivity Report that is referenced in the proposed rule uses some troubling language, that while not always specifically mentioned in the proposed rule, are rooted in sound science, and if used would result in a huge expansion of Federal jurisdictional oversight.

If imposed, this would impact the way I farm, and because of the lack of clarity contained in the proposed rule it could also create a huge economic burden for me and my family. I feel this rule has the potential to expand your jurisdiction to virtually any area of my farm including my ponds, ditches and occasionally wet areas, even if they are isolated and protected. This is wrong! Because of the confusion this proposed rule will generate, I call on EPA and the U.S. Army Corps of Engineers to withdraw this rule completely!

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #19378 [29 late duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 32]

To Whom It May Concern:

I am writing to submit comments to the United States Environmental Protection Agency and the United States Army Corps of Engineers proposed rule regarding the definition of "Waters of the U.S." under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters many of which are not even wet or considered waters under any common understanding of that word.

Under the rule, Section 402 permits would be necessary for common farming activities like applying fertilizer or pesticide or moving cattle if materials (fertilizer, pesticide, or manure) would fall into low spots or ditches. Section 404 permits would be required for earthmoving activity, such as plowing, planting or fencing, except as part of established farming operation that has been ongoing at the same site since 1977 which in and of itself makes no sense.

Implementation of the rule would impose direct costs, delays, and uncertainty in planning. Illinois' municipal governments and other jurisdictions such as towns, villages, counties, townships, drainage districts, water districts, irrigation systems, transportation departments, and municipal utilities will be profoundly impacted by the shift from state and local control of water-related land uses to federal control.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm, or make changes to the land; even if those changes would benefit the environment. Farmers work to protect water quality regardless of whether it is legally required by EPA.

As agriculture, business, and local governments will be severely impacted, I ask you to **DITCH THE RULE.**

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The rule would not change existing CWA permitting requirements regarding the application of pesticides or fertilizer on farm fields. A NPDES pesticides general permit is required only when there are discharges of pesticides into waters of the United States. The CWA provides NPDES permitting exemptions for runoff from agricultural fields and ditches. Discharges from the application of pesticides, which includes applications of herbicides, into irrigation ditches, canals, and other waterbodies that are themselves Waters of the United States, are <u>not exempt</u> as irrigation return flows or agricultural stormwater, and <u>do</u> require NPDES permit coverage. Some irrigation systems may not be Waters of the United States and thus discharges to those waters would not require NPDES permit coverage.

Doc. #19379 [1,360 on-time duplicates, sponsored by Idaho Farm Bureau and American Farm Bureau (paper)]

I am writing to provide you with my concerns and comments regarding the proposed "Waters of the U.S." regulation. Please note my objections to the implantation of this rule and I urge you to withdraw it for the good of agriculture and our country's economic well-being.

This rulemaking was stimulated by two U.S. Supreme Court decisions that explicitly said that there are limits to Federal jurisdiction regarding the Clean Water Act. This proposed rule ignores the decision of the U.S. Supreme Court and the intent of the Clean Water Act, as authorized by the U.S. Congress.

There must be site-specific understanding to determine if and when a water body should be classified as "navigable waters" and when surface water has a "significant nexus" to impact potential "navigable waters."

This proposed rule seems to have little or no practical scientific basis for expanding regulatory actions. Ditches, canals, surface runoff and puddles should not be considered Navigable or classified as Waters of the United States.

EPA must not eliminate the exemptions granted by Congress for normal activities at ongoing operations, including agriculture.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United

States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19380 [106 on-time duplicates, sponsored by Georgia Farm Bureau Federation (paper) – Identified as Georgia Farm Bureau – c]

DITCH THE RULE

Prefix, Mr. Mrs. Miss	
First Name	

Last Name	
Street Address	
City	
State	
Zip Code	
e-mail address	
Phone Number	
Comment to EPA	The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this proposed rule, it will be more difficult to farm and ranch, or make changes to the land, even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by the EPA. It is one of the values I hold as someone who is involved in agriculture. Farmers and Ranchers, like me will be severely impacted if this rule is accepted. Therefore I ask that this proposed rule be withdrawn.
Please add any additional Comments	
Authorization	By my signature below I give ___ County Farm Bureau permission to submit my "NO" vote to the EPA to stop the proposed rule change. Signed: Date:

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19381 [57 on-time duplicates, sponsored by Organization Unknown (paper) – Identified as Unknown 33]

I am opposed to rule proposed by the Environmental Protection Agency (EPA) and the US Army Corps of Engineers (Corps of Engineers) to clarify the definition of "waters of the United States" under the Clean Water Act.

The proposed rule greatly expands the jurisdiction of the EPA and Corps beyond the scope of the Clean Water Act. The proposed definition could be interpreted to include every place where water collects and runs off, regardless of the significance of the connection to downstream waters, frequency of flow, or even presence of water.

This rule would be inclusive of water features that have never been considered "waters of the United States" before such as ditches, waterways, farm ponds, and other areas where water only flows after heavy rainfall. The proposed rule also includes non-water features such as flood plains and areas adjacent to "waters of the United States."

The expanded interpretation of "waters of the United States" moves federal jurisdiction into fields and pastures in a way that was never contemplated by Congress. Rather than creating clarity, the rule blurs the line between agricultural storm water runoff and point source pollution.

Implementation of this rule would add unnecessary costs and delays detrimental to normal land management practices. It exposes landowners to more regulatory uncertainty, excessive fines, and threat of litigation through Clean Water Act citizen lawsuits.

I encourage EPA and the Corps of Engineers to withdraw this rulemaking.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19382 [52 late duplicates, sponsored by Organization Unknown (paper) – Identified as Unknown 34]

TO WHOM IT MAY CONCERN;

I am strongly opposed to the rule proposed by the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers to clarify the definition of "waters of the United States under the Clean Water Act."

The proposed rule expands the jurisdiction of the EPA and Corps far beyond the intended scope of the Clean Water Act. The proposed definition could be interpreted to include every place where water collects and runs off, regardless Of the significance of the connection to down-stream waters, frequency of flow or even presence of water.

The rule would be inclusive of water features that have never been considered "waters of the U. S." before, such as ditches, waterways, farm ponds and other areas where water only flows after heavy rainfall. The proposed rule also includes non-water features such as flood plains and areas adjacent to "waters of the U.S."

The expanded interpretation of "waters of the U.S." moves federal jurisdiction into fields and pastures in a way that was never contemplated by Congress. Rather than creating clarity, the rule blurs the line between agricultural storm water runoff and point source pollution. Implementation of this rule would add unnecessary costs and delays that would be detrimental to normal land management practices. It also exposes landowners to more regulatory uncertainty, excessive fines and the threat of litigation through Clean Water Act citizen lawsuits.

I strongly encourage the EPA and Corps of Engineers to withdraw this rulemaking.

Thank you for your attention to this matter.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19383 [53 on-time duplicates, sponsored by Organization Unknown (paper) – Identified as Unknown 35]

To Whom It May Concern:

I am a concerned citizen interested in environmental regulations, and write to raise major concerns over the U.S. Army Corps of Engineers and EPA's proposed rule to revise their definition of "Waters of the United States" under the Clean Water Act. After a thorough review

of the proposed regulations on the definition of Waters of the US, I have grave concerns with regard to the impact of this new regulation.

I urge EPA and the Corps to withdraw this proposed rule and work with industry and other stakeholders to craft a rule that is clear and that does not impose an undue economic burden for the prosperity of America. The proposed rule overreaches federal authority by regulating streams and ditches that have marginal environmental benefit, offers too many confusing and contradictory definitions, and connects all waters, including subsurface flows.

These impacts would increase costs on public works projects, so these increased costs are borne by the taxpayer. **Our nation needs materials for critical infrastructure such a roads, bridges and flood control projects essential to protect public health and safety.**

In closing, I urge EPA and the Corps to withdraw this proposed rule and work with industry and other stakeholders to craft a rule that is clear and that does not impose an undue economic burden on the taxpayers of America.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #19384 [39 on-time duplicates, sponsored by North Dakota Stockmen's Association (paper)]

To Whom It May Concern:

I am writing to submit comments about the Environmental Protection Agency's and the U.S. Army Corps of Engineers' proposed rule regarding the Definition of Waters of the United States (WOTUS) under the Clean Water Act (CWA).

I am a cattle rancher and landowner, and I am deeply concerned about the proposed rule that would significantly and inappropriately expand the scope of waters subject to CWA regulation and federal jurisdiction over my property. The net effect of such a regulation will not be an improvement to the environment, but an enormous burden on cattle ranchers like me.

These are some of my concerns:

The proposed definition is counter to the Commerce Clause of the U.S. Constitution, the framework and goals of the CWA, Congressional intent and Supreme Court rulings. Each places a limit on the federal jurisdiction over the nation's waters. The proposed rule has practically no limit, regulating even small and remote waters, many of which are not even wet or considered water under the common understanding of the word. As an example, the definition includes agricultural ditches in the category of "tributaries."

By expanding the definition of "tributary," expanding the definition of "adjacent:' and expanding the category of "adjacent wetlands" to "adjacent waters," this rule would deliver a devastating blow to my cattle ranch, making me subject to expensive permits just to go about my business. I am not only concerned about the ability of agency regulators being able to apply vague terms and phrases to wrap every wet depression on my place into the definition of WOTUS, but I am left more uncertain than I was before. The proposed rule fails to provide the clarity or certainty the agencies said they aimed to achieve.

The agencies are wrong that the proposal will not have an impact on a substantial number of small entities. Almost the entire cattle industry is composed of small, family-run businesses like mine. Regulations, like this proposal, make it hard to keep our small businesses financially viable. More red tape and costly, unnecessary permits are the last things my ranch need, because they get in the way of me putting environmentally friendly practices on the ground, many of which are not included in the list of 56 that are supposedly exempted through the Interpretive Rule.

In summary, the proposed rule has many fundamental problems. It inappropriately expands the federal government's jurisdiction, will not benefit the environment and will make it difficult to farm and ranch. I urge you to abandon the proposed rule.

Thank you for the consideration of my comments.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways, erosional features such as and non-wetland swales and rills, and stormwater and wastewater detention basins constructed in dry land.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

Doc. #19385 [633 on-time duplicates, sponsored by American Farm Bureau and Idaho Farm Bureau (paper)]

Thank you for allowing me to comment on this EPA proposed rule and please note my opposition to this rule being implemented.

While water is truly the life blood of our nation and I support the effort to protect both its quality and quantity, I do not agree that the USEPA should assert that more federal regulation is needed. Every state has its own environmental protection agency and each is working to comply with the federally mandated Clean Water Act.

Each water body, from spring to river to ditch to field has individual and site-specific qualities. The EPA's assumption that all waters must be regulated as "water of the United States" is a pure example of overregulation. Such a declaration will create more problems than it will solve. Let local jurisdictions manage their water. USEPA has been hard pressed for many years to even define or clarify what are the waters of the U.S.

Such broad assumptions to designate all waters as, "as water of the United States," will only make protection of all waters more difficult, arbitrary and capricious.

Agency Response

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence

downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The agencies note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters.

Doc. #19386 [68 on-time duplicates, sponsored by Kentucky Farm Bureau Insurance Companies (paper)[17]]

I write today in opposition of the proposed rule changes to the Clean Water Act guidelines. I believe the proposed rule changes would greatly expand the scope of "navigable water" giving Clean Water Act jurisdiction to areas Congress never intended.

I am greatly concerned with the expanding regulatory oversight these changes would create and how this will affect the American Landowner's ability to manage their own land. I believe that the American Farmer is the true environmentalist and that the vast majority take water quality very seriously. After all they live and raise families on these lands and plan for the next generation will be able to do the same. Water quality is important to them because it is the life blood of who they are and what they have worked for all their lives, it does not have to be legally required by the EPA.

I am a second generation beef cattle farmer. I have a degree from the University of Kentucky in Agriculture Economics. Throughout the years we have work with NRCS and our local Extension Office to insure that we are using the most current practices to preserve our natural resources. I

[17] *This letter is one example submitted under the sponsoring agency.*

am very proud of the product we produce and the positive impact we have on our environment. I fear that the proposed rule could affect my ability to continue my farming operation.

In closing I would like to strongly urge the EPA and the Corps to withdraw this proposed rule change. I fear this rule change would expand the EPA and Corp jurisdiction to areas of privately owned land that were not intended by Congress to be included in The Clean Water Act. Due to the vast issues that will be unique to each state I feel that areas mentioned in the proposed rule change would be better served by state agencies than by federal agencies. Thank you for allowing me the opportunity to voice my opinion on this very important issue.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. The agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19387 [26 late duplicates, sponsored by Oklahoma Farm Bureau (paper)]

Dear Administrator McCarthy,

The Oklahoma Farm Bureau (OKFB) is a general farm organization and the voice of agriculture in Oklahoma. OKFB represents farmers and ranchers with operations of all sizes and who raise a wide variety of crops and livestock. OKFB is a true grassroots organization, with members in all of Oklahoma's 77 counties. OKFB derives its policy positions directly from its members.

The OKFB Public Policy Department is in constant contact with members across Oklahoma. Our members believe this is potentially the largest government overreach they've ever seen. They have strong concerns about not only how the proposed rule will impact their operations, but also future generations. Many OKFB members submitted comments online, however, a few members preferred we submit hard copies of their comments. Please accept the following written comments on behalf of OKFB members.

If you have any questions or concerns, please don't hesitate to contact me. Thank you for your consideration in this matter.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

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land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

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Doc. #19388 [18 late duplicates, sponsored by Organization Unknown (postcard) - Identified as Unknown 36]

Dear Administrator McCarthy,
As a person of faith, water is central to my
Spiritual life and sacred to all of God's creation.
I am writing to thank for your recent proposal
Addressing waters of the United States that would
Clarify what waterways can be protected under the
Clean Water Act.

The clarification that EPA is providing will allow us to
Protect sources of water-streams, wetlands, and rivers-
That we and the rest of God's creation depend on.

Finally, I urge you to finalize this rule as proposed in a
Timely fashion so that we can help protect the supply
Of drinking water, so essential for human life.

Sincerely,

_____

_____
Name

_____
Address

_____
Address (line 2)

_____
City, State, Zip

Agency Response

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19389 [2,172 on-time duplicates, sponsored by Southern Farm Bureau Casualty Insurance (postcard)]

I oppose Docket ID No. EPA-HQ-OW-201 1-0880 that expands the jurisdiction of Waters of the U.S.

This proposed rule:

- Expands federal authority to include small and remote waters; including those which are dry most of the year.

- Effectively redefines navigable waters and is a misinterpretation of congressional intent. The EPA is acting outside the scope of their authority.
- Ignores the Supreme Court which has upheld limits to the federal water jurisdiction.
- Infringes on private property rights by empowering the EPA and the U.S. Army Corps of Engineers to regulate activities in and around virtually all water on private land.
- Needs to be withdrawn from consideration.

Comments:_____

_____

_____

NAME_____
ADDRESS_____ ZIP CODE_____
PHONE NUMBER_____

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable

waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #19390 [9 on-time duplicates, sponsored by Organization Unknown (postcard) - Identified as Unknown 37]

It's Time to Ditch the Rule

I oppose the U.S. EPA and U.S. Army Corps of Engineers proposed Rule regarding the definition of Waters of the United States. Establishment of this rule will impose a risk to and a burden on my farming operation. The expansion of jurisdiction over more small, isolated wetlands and land features like ditches and ephemeral drains will lead to control of land beyond the scope of the Clean Water Act.

The proposed rule does not provide clarity or certainly as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm, or make changes to the land — even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer.

Sincerely,

_____

_____

_____

Comments on the U.S. EPA and U.S. Army Corps of Engineers Proposed Rule Regarding Definition of "Waters of the U.S." Under the Clean Water Act Docket No. EPA-HQ-OW-2011-0880

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and

peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19391 [447 on-time duplicates, sponsored by Organization Unknown (postcard) - Identified as Unknown 38]

Dear Administrator McCarthy:

I am a poultry farmer. I'm writing to strongly oppose the EPA's and the Army Corps of Engineers' recently proposed **"DEFINITION OF "WATERS OF THE UNITED STATES UNDER THE CLEAN WATER ACT"** rule. I am convinced this rule will dramatically expand federal authority over ditches, ponds and other waters of nearly any size, flow and frequency that may be located on my property. This could cause the routine management of my family's operation to be subject to potential permitting, enforcement and penalties of up to $37,500 per day.

EPA has also issued a so-called "interpretive rule" in coordination with USDA to assure farmers that over 50 conservation practices that protect or improve water quality will be exempt from permitting requirements governing dredging and filling activities. The new interpretive rule has many serious problems, not least of which is that it was issued as effective immediately without providing farmers an opportunity to submit comments on whether it truly provides the benefits EPA claims it does. It is clear at this point it does not.

EPA and the Corps have gone too far in this attempt to clarify which waters are the "waters of the U.S." — we strongly oppose this effort and request that the agency withdraw the rule and start over.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

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Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

The agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25,

2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #19392 [40 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 39]

Enclosed: Original Letter and three copies

No one federal agency should have that much control or the lands of this great country! Let the states manage their own land and water rights.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. In fact, providing greater clarity regarding what waters are subject to CWA jurisdiction will reduce the need for permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

Doc. #19393 [14 on-time duplicates, sponsored by Organization Unknown (paper) - Identified as Unknown 40]

To Whom It May Concern

I strongly OPPOSE the proposed regulation, Waters of the United States (WOTUS) which the EPA is pushing through. This regulation will vastly increase the jurisdiction of the EPA over ponds, ditches, isolated wetlands, ephemeral streams or intermittent streams. In other words, the EPA and Army Corps of Engineers would have jurisdiction over ALL types of waters! In fact, the only thing definitely excluded from jurisdiction are swimming pools and koi ponds!

With the EPA redefining the WOTUS, this would require ranchers/farmers to obtain permission of the federal government anytime they needed to expand, do maintenance, or perform routine

activities like driving a tractor acrossed a field. Almost all ranching/farming activities would now touch a "water of the U.S." as proposed in the expanded and vague definition.

This is an overreach of the EPA federal agency. They cannot regulate what Congress refused to legislate. Congress has twice refused to pass the Clean Water Restoration Act that would have removed the word "navigable" from the Clean Water Act. Navigable is the key word. If the EPA can remove that word from the CWA, then they have control of all water and OUR private property rights.

A limit to federal jurisdiction is essential to maintaining the appropriate federal-state balance, which should be the hallmark of the Clean Water Act. Congressmen and Senators should not allow EPA and the corps to trample on our Constitutional rights. Please put a stop to this WOTUS regulation NOW.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

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Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19394 [81 on-time duplicates, sponsored by Kentucky Farm Bureau (paper) - Identified as Kentucky Farm Bureau – c]

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. under the Clean Water Act.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm, or make changes to the land -- even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It is one of the values I hold as a farmer.

Farmers like me will be severely impacted. This proposed rule could affect the way I build fences, fertilize my crops or control weeds on my farm. Therefore, I ask you to withdraw the proposed rule.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and

peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19395 [481 late duplicates, sponsored by Missouri Coalition for the Environment (paper)]

Petition asking the EPA to promulgate Default Water Quality Standards for Missouri, so that we can finally see the Clean Water Act framework fully implemented to protect our waters.

Protect All Waters of the U.S. in Missouri: Establish effective use protections for all of our streams, lakes, rivers and wetlands. In early 2014 the State of Missouri submitted a proposed modification to the extent of protected waters in Missouri, a long overdue improvement that should have been completed in the 1980's. Unfortunately, this new rule still falls far short of the default protections required by the Clean Water Act, and it also continues to defy the rebuttable presumption by arbitrarily excluding thousands of lakes, tens of thousands of stream miles, and hundreds of thousands of acres of vital wetlands. In light of the recent proposed rulemaking by the Corps of Engineers and the EPA, clarifying the extent of the Waters of the U.S. , we implore the EPA to promulgate a rule in Missouri that will finally bring us into compliance with the basic terms of the Clean Water Act. By assigning default fishable/swimmable uses to All Waters of the United States in Missouri, we may finally catch up with the rest of the country in terms of protecting Missouri's extraordinary water resources. This petition will be submitted to the

USEPA Headquarters, USEPA Region 7, MO Department of Natural Resources, the MO Clean Water Commission & the U.S. Federal Register.

Agency Response

This comment is outside of the scope of the Clean Water Rule as it deals with a petition for EPA to promulgate water quality standards for Missouri waters.

Doc. #19396 [515 on-time duplicates, sponsored by Texas Farm Bureau (paper)]

EPA- Clean Water Act

First Name: _____
Last Name: _____
Address: _____
_____
City: _____ State: _____ Zip: _____
Email Address: _____
Phone Number: _____

RE: Comments on the U.S. EPA and U.S. Army Corps of Engineers Guidance Regarding Definition of "Waters of the U.S." Under the Clean Water Act, Docket No. EPA-HQ-OW-2011-0880

To Whom It May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act

*Write Comments in Space Provided

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

EPA proposal threatens private property rights

(Coleman, Texas)—Time is running out for Texans to let the Environmental Protection Agency know it's time to ditch the rule. The deadline to comment on the EPA's proposed changes to the Clean Water Act is Oct. 20.

"The EPA wants to take the word 'navigable' out of the Waters of the U.S. definition," Keith Philips, Coleman County Farm Bureau President, said. "Allowing the agency to expand their regulatory will give them unlimited power over all waters— including ditches, ponds and areas that occasionally flood."

After the EPA released its proposal, the American Farm Bureau Federation (AFBF) launched the "Ditch the Rule" campaign to bring awareness to EPA's action.

"If the EPA is allowed to regulate all bodies of water, including ditches and ponds, they can tell people how to use and work their land," Keith said. "They'll be able to require permits for things people do every day. If a permit isn't granted, we'll be unable to work our own land or face fines for doing so anyway."

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which

ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19399 [795 on-time duplicates, Miscellanea mass comment items (email) - Identified as Unknown 41[18]]

Dear EPA/Corps,

This proposed rule would be the worst thing to ever happen to American agriculture. The states are very capable of protecting our water resources. This proposal has the potential tomato the U.S. food-dependent instead of having a food surplus. It will not help our water, it will just be about government control of land.

As a landowner who must use the land to make a living and feed the world, I am disappointed by your proposed Clean Water Act (CWA) rule redefining "waters of the U.S." As a cattle rancher I am proud to be the primary steward of the natural resources on my property. I strive to care for the air and the water because the well-being of my cattle, and my family, depend upon it. That care does NOT and should NOT require a federal permit each time my cattle walk through a damp spot, or I drive my tractor across the pasture. The net effect of such a regulation will not be an improvement to the environment, but will place an enormous burden on landowners like myself. Please consider the following comments in evaluating the need for rule.

First, the definition as proposed is illegal based on the Commerce Clause of the U.S. Constitution, the framework and goals of the CWA, Congressional intent and Supreme Court rulings. Each places a limit on federal jurisdiction over the nation's waters. Currently, your proposed rule has practically no limit whatsoever. As an example, you now have included my agricultural ditches into the category of "tributaries?" This is inappropriate. The two exclusions you have provided for ditches are not adequate to alleviate the enormous burden you just placed on the entire agriculture community. "Ditches" should not be waters of the U.S. Farm ponds should not be waters of the U.S. Dry washes, dry streambeds, and ephemeral streams should not be waters of the U.S. Second, the proposed definition annihilates the federalist system that underpins the CWA. There is a line at which point the states must be allowed to take over. This proposal has obliterated that important and fundament line. By expanding the definition of tributary, expanding the definition of "adjacent", and expanding the category of "adjacent wetlands" to "adjacent waters," you have delivered a devastating blow to my cattle ranch. Administrator McCarthy has told farmers and ranchers to "just read the proposal;" well I have. I am not only concerned about the ability of agency regulators being able to apply vague terms and phrases to wrap every wet depression on my place into the definition of WOTUS, but I am left in

[18] *This letter is one example submitted under the sponsoring agency.*

an even more confused state than under the status quo. You have failed, miserably in fact, at providing the "clarity" you purport to want to achieve.

Third, the agencies are wrong to imply that the proposal will not have an impact on a substantial number of small entities. Almost the entire cattle industry is composed of small businesses. Most, like mine, are family-run, and the families that run them are not millionaires. We work hard every day to keep our cattle and our families in good health. Regulations, like your proposal, make it hard to keep our small businesses financially viable. More red tape is the last thing my ranch needs, because it gets in the way of me putting environmentally friendly practices on the ground, many of which are not included in your list of 56. This proposal will have a negative impact on my small business and hundreds of thousands like it across the country.

In sum, I believe the EPA and the Corps should not finalize their proposed definition for "waters of the U.S." and should scrap the entire rule. There are too many fundamental problems with the proposal. By starting fresh, the agencies could potentially have meaningful dialogue and outreach with the cattle industry. As proposed it violates the law, will not benefit the environment, and will have a negative impact on small businesses like mine.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and

recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. In fact, providing greater clarity regarding what waters are subject to CWA jurisdiction will reduce the need for permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States." In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule

created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics (e.g. hydric soils, hydrophytic plant communities, etc.) developed in the bottom of the ditch.

Where a ditch is excavated in or relocates a covered tributary, only the segment of the ditch actually excavated in or relocating the covered tributary would be considered jurisdictional. For example, an entire roadside ditch does not become subject to jurisdiction because a portion of it is excavated in or relocates a tributary.

The rule has also expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Regarding impacts to small entities, the EPA and the Corps determined to seek wide input from representatives of small entities while formulating the proposed and final definition of

this term that reflects the intent of Congress consistent with the mandate of the Supreme Court's decisions. Such outreach, although voluntary, is also consistent with the President's January 18, 2011 Memorandum on Regulatory Flexibility, Small Business, and Job Creation, which emphasizes the important role small businesses play in the American economy. This process enabled the agencies to hear directly from these representatives, throughout the rule development, about how they should approach this complex question of statutory interpretation, together with related issues that such representatives of small entities may identify for possible consideration in separate proceedings. The agencies prepared a report summarizing their small entity outreach, the results of this outreach, and how these results have informed the development of this rule. This report, Final Summary of the Discretionary Small Entity Outreach for the Revised Definition of Waters of the United States (Docket Id. No. EPA-HQ-OW-2011-0880-1927), is available in the docket.

Doc. #19400 [28 on-time duplicates, sponsored by Montana Conservation Voters Educatoin Fund (email)]

Dear EPA,

I strongly support the Environmental Protection Agency and U.S. Army Corps of Engineers' efforts to restore Clean Water Act protections to our nation's valuable streams and wetlands under the proposed Clean Water Rule. I urge you to quickly finalize this commonsense approach and ensure that all of our waters from our local rivers and streams, to iconic waters like the Missouri River and Flathead Lake are protected from dangerous pollution.

Right now, many of our streams, wetlands, headwaters, and tributaries, including those that provide at least part of the drinking water for 117 million Americans, are unprotected. In fact, nearly a quarter of Montanans get their drinking water from sources that could be no longer protected without action. Our wetlands filter pollution and protect against floods while our many waterways serve as critical habitat for wildlife. These waterways are also important economic drivers in our communities, supporting businesses as varied as farmers, craft brewers, clean technology, all of which need clean water to thrive.

This rule has received strong support from a vast variety of stakeholders, including farmers, small businesses, hunters and anglers, public health professionals, and elected officials.

I appreciate the EPA and Army Corps' use of sound science in crafting this important rule, and encourage the agencies to make it even stronger by protecting certain classes of other waters, such as prairie potholes, that the science demonstrates are clearly connected to the health of downstream waters.

I urge the EPA and the Army Corps of Engineers to stand up against big polluters and special interests who want to keep their free pass to pollute our waterways. Please quickly finalize these commonsense safeguards Montana's streams, wetlands, tributaries, headwaters, and other waters to ensure access to clean, healthy water.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19401 [24 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 42]

As a cattle rancher who works on the land to make a living and feed the world, I am disappointed with the proposed rule redefining "waters of the U.S." Every day, I strive to be a steward of the natural resources entrusted in my care because the well-being of my cattle – and my family – depend upon it. That care does not and should not require a federal permit each time my cattle walk through a damp spot, or I drive my tractor across the pasture. The net effect of such a regulation will not be an improvement to the environment, but an enormous burden on cattle ranchers like me.

These are some of my concerns:

First, the proposed definition is counter to the Commerce Clause of the U.S. Constitution, the framework and goals of the CWA, Congressional intent and Supreme Court rulings. Each places a limit on the federal jurisdiction over the nation's waters. The proposed rule has practically no limit and would significantly expand the scope of navigable waters by regulating even small and

remote waters, many of which are not even wet or considered water under the common understanding of the word. As an example, the definition includes agricultural ditches in the category of "tributaries." This is inappropriate. "Ditches" should not be waters of the United States. Farm ponds should not be waters of the United States. Dry washes, dry streambeds and ephemeral streams should not be waters of the United States.

Second, the proposed definition destroys the federalist system that is at the foundation of the CWA. There is a line at which point the states must be allowed to take over. This proposal has obliterated that important, fundamental line. By expanding the definition of tributary, expanding the definition of "adjacent," and expanding the category of "adjacent wetlands" to "adjacent waters," this rule would deliver a devastating blow to my cattle ranch. I am not only concerned about the ability of agency regulators being able to apply vague terms and phrases to wrap every wet depression on my place into the definition of WOTUS, but I am left in an even more confused state than under the status quo. The proposed rule fails to provide the clarity or certainty the agencies said they aimed to achieve.

Third, the agencies are wrong that the proposal will not have an impact on a substantial number of small entities. Almost the entire cattle industry is composed of small, family-run businesses like mine. Regulations, like this proposal, make it hard to keep our small businesses financially viable. More red tape and costly, unnecessary permits are the last things my ranch need, because they get in the way of me putting environmentally friendly practices on the ground, many of which are not included in the list of 56 in the rule.

In summary, the proposed rule has many fundamental problems. It inappropriately expands the federal government's jurisdiction over water, will not benefit the environment and will make it difficult to farm and ranch. I urge you to abandon the proposed rule.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable

waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands.

We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but which are outside the regulatory jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. In fact, providing greater clarity regarding what waters are subject to CWA jurisdiction will reduce the need for permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. Waters that flow in response to seasonal or individual precipitation events are jurisdictional tributaries only if they contribute flow, either directly or indirectly, to a traditional navigable water, an interstate water, or the territorial sea, and they possess the physical characteristics of a bed, banks, and ordinary high water mark, which may be spatially discontinuous. A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. Where such features do not contribute flow downstream and/or do not have a bed, banks, and ordinary high water mark, they are not jurisdictional tributaries. To further emphasize this point, the rule expressly indicates in paragraph (b) that ephemeral reaches that do not meet the definition of tributary are not "waters of the United States."

Ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA

jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics (e.g. hydric soils, hydrophytic plant communities, etc.) developed in the bottom of the ditch.

Where a ditch is excavated in or relocates a covered tributary, only the segment of the ditch actually excavated in or relocating the covered tributary would be considered jurisdictional. For example, an entire roadside ditch does not become subject to jurisdiction because a portion of it is excavated in or relocates a tributary.

The rule has also expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Regarding impacts to small entities, the EPA and the Corps determined to seek wide input from representatives of small entities while formulating the proposed and final definition of this term that reflects the intent of Congress consistent with the mandate of the Supreme Court's decisions. Such outreach, although voluntary, is also consistent with the President's January 18, 2011 Memorandum on Regulatory Flexibility, Small Business, and Job Creation, which emphasizes the important role small businesses play in the American economy. This process enabled the agencies to hear directly from these representatives, throughout the rule development, about how they should approach this complex question of statutory interpretation, together with related issues that such representatives of small entities may identify for possible consideration in separate proceedings. The agencies prepared a report summarizing their small entity outreach, the results of this outreach, and how these results have informed the development of this rule. This report, Final Summary of the Discretionary Small Entity Outreach for the Revised Definition of Waters of the United States (Docket Id. No. EPA-HQ-OW-2011-0880-1927), is available in the docket.

Doc. #19402 [151 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 43]

I respectfully urge EPA to finalize the proposed rule to restore protections under the Clean Water Act.

The proposed rule is needed to clarify State authority to protect local waterways and headwater streams while also offering more navigable permitting processes at the local and State level. Now more than ever, we are seeing the devastating effects of failing to protect our treasured networks of rivers and streams.

From Charleston, WV, to Toledo, Ohio, to the Elk River in North Carolina, water pollution is posing catastrophic threats. Citizens from across the Nation need enforceable and transparent regulations to protect their quality of life, their health, and the legacy that they leave behind for future generations.

We cannot delay the protection of our nation’s streams, adjacent wetlands, and other critical waters. For the sake of our local economies, our families’ health, and our community’s quality of life, I support this rule.

Thank you for your consideration and your work to protect and restore local waterways, the Potomac River, and the Chesapeake Bay.

Sincerely yours for clean water.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19403 [429 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 44]

Dear EPA:

I support the Environmental Protection Agency's (EPA) and the Army Corps of Engineer's "Definition of "Waters of the United States" Under the Clean Water Act Proposed Rule."

Water is vital to Colorado's economy and way of life. It supports our environment, agriculture, growing cities, outdoor recreation industry, tourism and so much more. But currently our rivers, streams and wetlands are not fully protected from pollution, waste materials, or destruction.

I support EPA's proposed rule because it brings much needed clarity to the Clean Water Act and will help protect our rivers, farms, ranches, and drinking water. As we face unprecedented population growth, and in turn development along wetlands and waterways, it is more important than ever that we support this important rulemaking by the EPA and Army Corps.

Please enact these common sense rules to protect our rivers and wetlands.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19404 [36 on-time duplicates, sponsored by Ohio Environmental Council (email)]

Dear EPA,

I am writing in support of the Administration's proposed rule restoring and clarifying Clean Water Act protections for wetlands and streams.

Restoring Clean Water Act protections for streams and wetlands is essential to fish and wildlife, flood protection, and the health of the more than 5.2 million Ohioans who get their drinking water from public supplies fed in whole or in part by streams vulnerable to pollution.

I urge you to strengthen, not weaken, the Clean Water Act by further clarifying and restoring clean water protections through the rulemaking process. I urge you to clearly restore protections for all streams, all adjacent wetlands, and the many other waters important to fish and wildlife; such as vernal pools, which are critical to healthy watersheds.

Please issue a final clean water rule this year that once again protects the numerous wetland acres and 69% of Ohio's stream miles that are at high risk of pollution and destruction.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #19405 [1,572 on-time duplicates, sponsored by Sierra Club PA Chapter (email)]

Dear EPA Administrator McCarthy,

I applaud the new Clean Water Rule, announced on March 25, written to restore protections to small streams and many wetlands and to urge protections for all waters. The Environmental Protection Agency and the Army Corps of Engineers have proposed to restore historic Clean Water Act protections to hundreds of thousands of miles of streams and millions of acres of wetlands. When this policy is finalized, we hope that streams and wetlands that directly influence the water quality of our nation's rivers, lakes and bays will once again be protected from pollution and destruction.

The proposed rule is long overdue and will benefit millions of people across the country and in Pennsylvania. Many of the headwater streams and wetlands in rural Pennsylvania are currently not receiving full Clean Water Act protection. The rule is a critical step toward protecting streams and wetlands that feed our drinking water supplies, filter pollutants and safeguard communities from flooding.

For the past decade, there has been confusion over which streams and wetlands are covered by the Clean Water Act because of poorly reasoned court decisions and past administration policies.

This confusion has put the drinking water of over 117 million people at risk. One in three Americans relies on public drinking water supplies that are fed by headwater or seasonally-flowing streams. For example, in Pennsylvania, 58 percent of streams are headwater or seasonal, feeding the drinking water supplies of 8.2 million residents of Pennsylvania.

While this rule would restore Clean Water Act protections to streams and most wetlands - it would actually compress, not expand, Clean Water Act protections compared to the historical scope of the Clean Water Act prior to a 2001 Supreme Court decision. The proposed rule also preserves existing exemptions for farming, mining, and other land use activities. We ask that you reconsider the exemptions that you propose to preserve.

I urge you to use this opportunity to finalize a strong rule to restore protections to all water, including seasonal wetlands and other waters. Every water body is important to our natural environment and a strong rule will improve the health of our nation's rivers, lakes, and bays, which depend on the smaller water bodies that feed into them.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #19406 [1,620 on-time duplicates, sponsored by Audubon Florida (email)]

Dear Docket,

I strongly support the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers immediately adopting and implementing their proposed Clean Water Act rule which clarifies what wetlands and waters are protected and which are not. I have seen the incredible

damage and public expense caused by historic and continuing wetland destruction in Florida. This rule will help stem wetland losses and impacts to our vital water resources and wildlife.

It makes no sense for us as taxpayers to invest billions of public dollars for restoring the Everglades, and other important places like the Great Lakes or Chesapeake Bay, when the wetland protection rules don't stop continuing wetland losses in the same places.

Thank you for considering my comments in support of this long overdue rule clarifying water and wetland protections.

Agency Response

In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19407 [2,330 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 45]

Dear Water Docket:

I write to express my concerns about the EPA and the U. S. Army Corps of Engineers' proposed rule on the definition of "Waters of the United States."

The proposed rule would expand Federal authority far beyond any common-sense interpretation of the term "navigable waters" in the original Clean Water Act, as it could now include dry stream beds, isolated farm ponds, lowland ditches, and any other water under a case-specific determination by the EPA.

Allowing EPA to extend its authority this way would be harmful for many sectors of the economy. Farmers, businesses large and small, as well as municipalities and counties, public utilities, and individual landowners have all spoken about the harmful economic impacts the rule would cause by blocking the creation jobs and growth.

The Small Business Administration recently offered comments strongly opposing the proposed new rule, stating that the rule would impose significant and direct economic costs.

In addition, several State governments indicate the EPA has not fully considered various stakeholder interests, and may be encroaching upon the role and powers of States in protecting their own waters.

While I fully support the protection of our nation's waters, I ask that the EPA withdraw this detrimental proposal. A more informed discussion needs to be conducted that would ensure the protection of America's waterways while balancing the need for economic growth and landowner rights.

Agency Response

In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #19408 [191 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 46]

To Whom it May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding "Definition of 'Waters of the U.S.' Under the Clean Water Act."

The proposed rule would significantly expand the scope of "navigable waters" subject to Clean Water Act jurisdiction by regulating small and remote "waters"--many of which are not even wet for most of the year.

Because of the proposed rule, farmers and other landowners will face roadblocks to ordinary land-use activities--like fencing, spraying for weeds or insects, spreading manure, discing and other normal farming activities. The need to establish buffer zones for crops and livestock around grassed waterways, ephemeral washes and farm ditches could make farmlands a maze of intersecting "no farm zones" that could make farming impractical. Farms in New York are often made up of smaller fields and this could take significant land out of production.

There is so much uncertainty in this rule that it will be difficult for any agency or official to certify that I am operating in compliance with the law. NRCS already has significant delays in making determinations and this rule change will require an exponential increase in the number of determinations that must be made on a feature-by-feature basis.

This rule will consider dry land on my farm as "waters of the U.S." and open my business up to third-party lawsuits from anyone who doesn't agree with my farming practices. Under this rule it's possible for farms to be subject to a "discharge" violation even if it is into a dry feature. This type of liability could cost money and time to defend myself, even if I'm doing everything right. The lack of clarity in this rule means that different interpretations could easily lead to legal problems for my family and my farm, which could threaten our business.

My state of New York already has an exemplary and comprehensive water quality strategy. Farmers work with the state departments of Environmental Conservation and Agriculture and Markets, along with Soil and Water Conservation Districts and Natural Resource Conservation Service (NRCS) professionals, to develop and implement thorough water quality plans and environmental stewardship programs. New York is already a leader in protecting our natural resources.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm or make changes to the land--even if those changes would benefit the environment. I work to protect water quality regardless of whether it is legally required by EPA. It's one of the values I hold as a farmer.

Farmers like me and my family will be severely impacted. Therefore, I ask you to withdraw the proposed rule and work with stakeholders and state regulators to develop something that makes sense and can be easily implemented on the ground.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

Finally, the agencies note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19409 [69,369 on-time duplicates, sponsored by Organizing For Action (email)]

For decades, the Clean Water Act has protected our natural resources, and kept drinking water safe. Right now uncertainty is allowing polluters and special interests threatening the upstream sources of the lakes, rivers, and reservoirs that 117 million Americans count on for their drinking water. This plan would protect more than 2 million miles of streams, and millions of acres of wetlands. I support the proposed common---sense protections for the Waters of the United States.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19410 [288 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 47]

Dear Administrator McCarthy and Assistant Secretary Darcy:

I support the proposed rule to clarify the definition of "Waters of the United States" under the Clean Water Act (CWA). The Environmental Protection Agency (EPA) should finalize the rule to provide strong and unambiguous protection to our nation's headwaters, intermittent and ephemeral streams, wetlands and other associated waters.

As a Wisconsin resident, I recognize the vital importance of such waters to water quality in my state. 62 percent of stream waters in Wisconsin are in headwater streams, contributing to larger water bodies and ultimately the Great Lakes and the Mississippi River. Protecting tributary waterways is vital to protect the larger waters that make Wisconsin an outstanding place to live, work and play. But over half of Wisconsin's streams do not flow year-round or do not have streams flowing into them, meaning that their protection is ambiguous under current rule.

In addition to feeding larger water bodies, tributaries and wetlands have important functions on their own. In Wisconsin, intermittent and ephemeral trout streams provide recreation for residents and tourists. Intermittent, ephemeral and headwater streams provide drinking water for roughly 400,000 Wisconsin residents. The state's five million acres of wetlands provide invaluable ecosystem services like flood protection, water pollutant filtering, and habitat for listed species.

The regulatory gray area currently surrounding such waters puts traditional navigable waters at risk of contamination from unprotected connected waterways. Moreover, the case-by-case determination of CWA protection is inefficient and time-consuming. The proposed rule provides much-needed certainty and clarity to the scope of the CWA.

I respectfully urge the EPA to finalize the proposed rule to ensure strong protections for the water bodies vital to the health of my family and my community.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies'

assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Doc. #19411 [494 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 48]

Dear Nancy Stoner,

As a hog farmer, I'm very concerned about the proposed rule from the Environmental Protective Agency and U.S. Army Corps of Engineers to define "water of the United States" (WOTUS) under the Clean Water Act.

Given the uncertainty the rule would create and the potential negative impact it would have on my farm, I request that EPA and the Corps withdraw the proposed WOTUS rule and work with farmers and others affected by this regulation to draft a rule that's workable, cost effective and provides clarity about what is and what is not "waters of the United States."

As it is proposed, the WOTUS rule would categorically grant to EPA and the Corps jurisdiction over millions of miles and millions of acres of farm land features that previously have not been lawfully regulated. While the agencies' previous WOTUS rules have been very broad, they never before defined these features as WOTUS. Furthermore, the Supreme Court twice found those previous rules and their broad interpretation to be unlawful, going far beyond what Congress intended. The proposed rule categorically would classify as waters of the United States ditches, ephemeral streams and even intermittent streams that may have minor flows for short periods of time, and any seasonally wet areas in the farm fields associated with these features. As a result, a host of normal farming practices, such as applying fertilizers and pesticides and, potentially, even planting crops, around these features would be illegal unless covered by a federal permit.

I am also very concerned that this rule will be used by activists to target my farm. Again, given the uncertainty created by the rule, "citizens lawsuits" could be filed against any farm that has a drainage feature – nearly all farms do – alleging that it is a "water of the United States" that must be regulated and that much of the surrounding land has a connection to that drainage feature and, therefore, also be regulated.

In short, the proposed WOTUS rule would fundamentally change agriculture in America, negatively affecting farmers, rural communities and, ultimately, the U.S. economy and food supply. This ill-advised regulation must be withdrawn.

Agency Response

In this final rule, EPA and the Corps clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and

wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways, erosional features such as and non-wetland swales and rills, and stormwater and wastewater detention basins constructed in dry land.

Regarding ditches, ditches have been regulated under the Clean Water Act (CWA) as "waters of the United States" since the late 1970s. In 1977, the United States Congress acknowledged that ditches could be covered under the CWA when it amended the Federal Water Pollution Control Act to exempt specific activities in ditches from the need to obtain a CWA section 404 permit, including "construction or maintenance of…irrigation ditches, or the maintenance of drainage ditches" (33 U.S.C. §1344). By these actions, Congress did not eliminate CWA jurisdiction of these ditches, but rather exempted specified activities taking place in them from the need for a CWA section 404 permit.

In response to comments, the agencies have revised the exclusions for ditches to provide greater clarity and consistency. The agencies recognize that the term "upland" in the rule created concern, because "upland" itself was not explicitly defined. In order to increase clarity, the term "upland" has been removed. The revised ditch exclusion language states: "(A) ephemeral ditches that are not a relocated tributary or excavated in a tributary; (B) intermittent ditches that are not a relocated tributary or excavated in a tributary or drain wetlands; (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (a)(3) of this [rule]." A ditch that meets any one of these three conditions is not a water of the United States. Further, the rule also clearly states that these exclusions apply even if the ditch otherwise meets the terms describing jurisdictional waters of the United States at paragraphs (a)(4) through (a)(8) of the rule. For example, an excluded ditch would not become a jurisdictional water of the United States if wetland characteristics developed in the bottom of the ditch.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19412 [13,946 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 49]

Dear Member of Congress,

All our waterways should be clean enough to drink from, fish from and swim in without risk of pollution--from our local rivers and streams, to iconic waters like the Chesapeake Bay and the Great Lakes. Unfortunately, loopholes in the Clean Water Act have left many of our smaller waters at risk, including those that feed and filter the drinking water for 117 million Americans.

Please oppose any dirty water riders that would keep the Environmental Protection Agency and Army Corps of Engineers from moving forward with their rulemaking to restore Clean Water Act protections to America's waterways.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19414 [633 on-time duplicates, sponsored by Michigan Farm Bureau (postcard)

Dear Administrator McCarthy,

I oppose the Environmental Protection Agency's implementation of its proposed rule on the Definition of the Waters of the United States under the Clean Water Act, Docket No. EPA—HQ—OW- 2011-0880. While EPA has stated this rule will offer clarity, simplify the regulatory process, and improve protection of water resources, "believe the proposed rule does none of those things.

Instead, this rule will hurt the agriculture industry, as well as many other businesses. It will damage the American economy that depends on the services agriculture and other industries provide. Further, it will interfere with states' efforts to develop water protection programs that really work and which do not depend on such burdensome regulation. The rule does not benefit the environment like EPA says it will. The rule must be rescinded to fix these problems. Thank you for your time and attention.

Agency Response

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The agencies note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA.

Doc. #19416 [19 on-time duplicates, sponsored by Kentucky Farm Bureau (paper) - Identified as Kentucky Farm Bureau – d]

I submit these comments in response to the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) proposed rule to define "Waters of the United States" under the Clean Water Act (CWA).

I strongly believe the proposed rule changes are unnecessary and an over reach by federal government and the Environmental Protection Agency. The proposed regulation broadens the scope of CWA jurisdiction beyond constitutional and statutory limits established by Congress

and recognized by the Supreme Court. In addition to raising serious legal issues, the proposed rule fails to provide clarity or predictability, and raises practical concerns with regard to how the rule will be implemented.

This proposed rule has many areas of concern. First and foremost, as mentioned this proposed rule would create confusion rather than clarity. It concerns me how this could lead to farmers facing increased frivolous litigation over what are considered "normal" agricultural practices. The proposed rule would change the role of the Natural Resources Conservation Service (NRCS) from that of providing assistance to producers wanting to install best management practices that would improve water health to a more regulatory role. I am also concerned with how the referenced "Connectivity Report" creates a significant nexus by utilizing stated factors that would create a connection to currently regulated waters based on proximity, or even biological connections that would, by EPA's own words and map examples, greatly expand regulatory oversight to areas that would only occasionally contain water. This again could lead to increased litigation, and most importantly reduce my ability to best manage my land resources unless I obtain costly, and time consuming permits.

The jurisdiction of Kentucky ditches, drainage areas, grass waterways, and other areas mentioned in the proposed rule changes would be better served by state agency more familiar with the issues unique to Kentucky, not federal agencies. I strongly urge the EPA and the Corps to withdraw this proposed rule. Thank you for the opportunity to submit comments on this very important issue.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. The agencies modified the ditch exclusion proposed and

the rule includes new ditch exclusions. Reference the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

The agencies note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state or tribe to establish more protective standards or limits than the Federal CWA.

Doc. #19417 [207 on-time duplicates, sponsored by Organization Unknown (email) - Identified as Unknown 50]

As a property owner, cattle producer, and American citizen, I am deeply concerned for my rights as the Environmental Protection Agency and the Army Corps of Engineers attempt to federalize more and more land across the country. The new Waters of the United States proposal subjects nearly all waters in the country to regulation, subsequently giving them control over all land near or connected to that water.

Despite the claims by EPA that their proposal does not expand the reach of the Clean Water Act, the way the proposal is written, there is no other interpretation. The vague and subjective wording gives regulators the authority and access to nearly any water, and with it, all land-use activities including ranching.

When passed in 1972, the CWA created a regulatory permitting system to control discharges, including dirt, manure, fertilizer, litter, pesticides into navigable waters. The term navigable is defined in the CWA as "waters of the United States" and nothing more. This vague definition has provided the implementing federal agencies with the enormous loophole to systematically gain more and more regulatory authority over smaller and less significant "bodies of water" — a term used loosely over the past 40 years.

Despite Supreme Court rulings striking down broad interpretations of their authority over isolated waters, the agencies keep trying to expand federal jurisdiction over ditches, ponds and puddles. Instead of providing the needed clarity that so many people have asked for, the agencies instead have put out a proposed rule that muddies the water even further. Their actions have only created more questions for farmers and ranchers. The agency's interpretive rule simply added

more layers of government bureaucracy on top of that created by the agency's proposed definition.

The vast overreach of this regulation is unprecedented and if it is not withdrawn, this expansion will hurt a number of industries and small businesses. I will not stand to have my rights taken from me in the land of the free. The EPA and the Army Corps of Engineers MUST withdraw this rule.

Through the years, I have found that people want to do a good job of preserving the environment and most will do much more of the right things when allowed to do it without being regulated. We already spend too much time filling out forms to verify our stewardship.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions

incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

The agencies note that all comments on the Interpretive Rule are outside the scope of this rule. However we also note that the IR was withdrawn on January 29, 2015, as directed by Congress in Section 112 of the Consolidated and Further Continuing Appropriation Act, 2015, Public Law No. 113-235. The memorandum of understanding signed on March 25, 2014 by the EPA, the Army, and the U.S. Department of Agriculture, concerning the interpretive rule was also withdrawn.

Doc. #19418 [887 on-time duplicates, sponsored by members of North Carolina Association of Realtors et al. (email and paper)]

As a member of the North Carolina Association of REALTORS® (NCAR), I write to urge you to withdraw the proposed rule that would expand jurisdiction over more waters of the U.S. NCAR is committed to the protection of America's water resources but if finalized, this rule will result in dramatic negative impacts on future economic development and growth.

Nearly every sector of the economy including housing, agriculture, utilities, energy production, and transportation needs permits required under the Clean Water Act (CWA) to conduct their daily operations. Just as importantly, private property owners who want to develop their own land must also frequently obtain these permits. Twice the Supreme Court has affirmed that both the U.S. Constitution and the CWA limits federal authority over intrastate waters, yet EPA and the Corps--through this proposed rule--are again attempting to expand the scope of federal jurisdiction beyond anything that ever existed under the CWA.

In fact, if this rule were to be finalized, my own business and the activities of my clients would be negatively impacted. Part of my business includes selling land for development and obtaining permits under the CWA is already time consuming and expensive. Any increase in the number of permits required to develop a property will hinder that development and impede economic growth in the Wilmington area.

While the water quality protections provided by the CWA are vital, so too is the ability of investors and private property owners to utilize the existing permitting process to spur economic development.

Only Congress can change the jurisdiction and authority of the CWA. I therefore respectfully request that you withdraw the proposed rule expanding authority over more waters of the U.S. until such time as Congress decides that a change should be made[19].

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

To Whom It May Concern[20]:

As a REALTOR® association that is concerned about clean water, property rights and economic development, we urge you to withdraw your proposed rule that would expand jurisdiction over more waters of the United States.

[19] *First letter example submitted under sponsoring agency.*
[20] *Second letter example submitted under sponsoring agency.*

REALTORS® are committed to the protection of America's water resources but if finalized, this rule will not have a measureable impact on water quality and will severely hinder future economic development and growth.

Nearly every sector of the economy – including agriculture, housing, and energy production – needs permits required under the Clean Water Act (CWA) to conduct their daily operations. Just as importantly, private property owners who want to develop their own land must also frequently obtain these permits. The Supreme Court has affirmed that both the U.S. Constitution and the CWA limits federal authority over intrastate waters, yet EPA and the Corps – through this proposed rule - are attempting to expand the scope of federal jurisdiction beyond anything that ever existed under the CWA. An expanded scope over more waters of the U.S. will mean more waters under EPA jurisdiction, more permits and loss of property rights.

In fact, if this rule were to be finalized, our economy would be negatively impacted. Commercial and residential construction virtually stopped during the recent economic downturn. These industries, which have close ties to our industry, are just beginning to recover. Increasing the permits needed to sell properties will impede growth and harm our local economy just as it is beginning to improve.

While the water quality protections provided by the CWA are vital, so too is the ability of private property owners to utilize their property to spur economic development.

Only Congress can change the jurisdiction and authority of the CWA. We respectfully request that you withdraw the proposed rule expanding authority over more waters of the U.S. until such time as Congress decides that a change should be made.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting,

agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

To Whom It May Concern[21]:

As a REALTOR® who is concerned about clean water, property rights and economic development, I urge you to withdraw your proposed rule that would expand jurisdiction over more waters of the U.S. REALTORS® are committed to the protection of America's water resources but if finalized, this rule will not have a measurable impact on water quality and will harm property rights and severely hinder future economic development and growth.

Nearly every sector of the economy including agriculture, housing, and energy production needs permits required under the Clean Water Act (CWA) to conduct their daily operations. Just as importantly, private property owners who want to develop their own land must also frequently obtain these permits. The Supreme Court has affirmed that both the U.S. Constitution and the CWA limits federal authority over intrastate waters, yet EPA and the Corps - through this proposed rule – are attempting to expand the scope of federal jurisdiction beyond anything that ever existed under the CWA. An expanded scope over more waters of the U.S. will mean more waters under EPA jurisdiction, more permits and loss of property rights.

While the water quality protections provided by the CWA are vital, so too is the ability of private property owners to utilize their property to spur economic development.

Only Congress can change the jurisdiction and authority of the CWA. I therefore request that you withdraw the proposed rule expanding authority over more waters of the U.S. until such time as Congress decides that a change should be made.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has

[21] *Third letter example submitted under sponsoring agency.*

consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

To Whom It May Concern[22]:

As a REALTOR® who is concerned about clean water, property rights and economic development, I urge you to withdraw your proposed rule that would expand jurisdiction over more waters of the U.S. REALTORS® are committed to the protection of America's water resources but if finalized, this rule will not have a measureable impact on water quality and will severely hinder future economic development and growth. This is not a good 'fix.'

The Supreme Court has affirmed that both the U.S. Constitution and the CWA limits federal authority over intrastate waters, yet EPA and the Corps - through this proposed rule - are attempting to expand the scope of federal jurisdiction beyond anything that ever existed under the CWA. This is nothing more than bureaucratic over reach with more permits and loss of property rights—with no commensurate benefit to water quality.

If this rule were to be finalized my own business and the activities of my clients would be negatively impacted. I assist my clients to buy and sell irrigated land in northern Arizona with water rights extending back to the early 1900s. Putting new regulation and permit requirements on them will be time-consuming and expensive with no environmental benefit. All you are bringing is increased costs and another impediment to economic growth.

[22] *Fourth letter example submitted under sponsoring agency.*

I request that you withdraw the proposed rule expanding authority over more waters of the U.S. until such time as
Congress decides that a change should be made.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #19433 [1,317 on-time duplicates, sponsored by Nebraska Corn Growers Association et al. (paper)]

To Whom It May Concern[23]:

The included letters have been signed by farmers, ranchers, business owners, landowners and other Nebraskan's who are deeply concerned with the proposed "waters of the U.S." rule. They know that if enacted as proposed, the rule would greatly expand the federal government's

[23] *First letter example submitted under sponsoring agency.*

jurisdiction over land that Congress never intended to be regulated under the federal Clean Water Act (CWA).

The attached letters were collected as part of a coalition of Nebraska organizations who came together to oppose the proposal. Common Sense Nebraska's purpose is to build awareness and understanding of the EPA/Army Corps of Engineers' proposal and the impacts it would have on Nebraska. As our respective coalition members have traveled the state over the past several months, it is clear that Nebraskans are deeply concerned with the proposed rule and believe that it should be withdrawn.

As always we appreciate the opportunity to comment on the proposed rule and would be happy to any questions you may have.

Dear President Obama and Administrator McCarthy[24]:

We are writing today to express our opposition to the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) proposed "Waters of the U.S." rule. This proposed rule represents a great expansion of federal authority and is of critical concern to farmers, ranchers, business owners and practically all of Nebraska's citizens. If the proposed rule is allowed to move forward, anyone who turns dirt with a shovel could be subject to greater regulatory burdens and could face more legal scrutiny.

Ever since this proposal was released, your administration has spent a lot of time talking about the "certainty" this new rule provides. To be frank, the only certainty provided is that every place where water flows or stands, including puddles, ponds, ditches, and areas where water runs or pools during or after heavy rain, could now fall under the full regulatory authority of the federal government. We urge you to withdraw the rule and work to provide "certainty" that doesn't include the regulation of virtually all water everywhere!

Agency Response

The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

[24] *Second letter example submitted under sponsoring agency.*

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Doc. #19434 [73 on-time duplicates, sponsored by Missouri Coalition for the Environment (postcard)]

I care deeply about clean water and support the Waters of the U.S. rulemaking that is underway by the US EPA and the Corps of Engineers. I believe this rulemaking will clear up confusion about how clean water programs are understood and implemented. In Missouri, tens of thousands of rivers and streams, thousands of lakes, and nearly all of our wetlands lack water quality standards. Clean water is vital for public health, our economy, and our agriculture. Over half of Missourians rely on surface waters for their drinking water supply. We also depend on wetlands to provide flood storage, habitat, and water filtration. All waters are connected and I urge you to adopt propos- le and ensure that these protections are extended to all waters in Missouri.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19435 [75 late duplicates, sponsored by Gulf Restoration Network (postcard)]

Our waterways should be clean enough to drink from, fish from, and swim in without risk of pollution. **I urge you to finalize EPA's proposed Clean Water Act Waters of the U.S. rule as soon as possible**, follow the science that shows how water bodies are interconnected, and fully protect all of the waterways that have important connections to one another.

Wetlands and clean water are vital for Gulf of Mexico communities, as they provide drinking water, fishing opportunities, and flood protection. Thank you for this major step towards protecting our waterways and wetlands.

Name
Email
Address
City, State
Zip
Phone

I'd Like to get more involved in protecting the Gulf Coast
I am a farmer, and I'm for Clean Water.
I am a member of the Farm Bureau and I'm for Clean Water.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19436 [62,882 on-time duplicates, sponsored by Committee For A Constructive Tomorrow (web)]

On proposed rule redefining the Waters of the United States pursuant to the Clean Water Act:

"Ditch the rule!"

Statement To President Barack Obama, EPA and the Army Corps of Engineers:

The proposed rule represents an expansion of federal regulatory authority beyond the language and intent adopted by Congress in the Clean Water Act.

The Supreme Court twice rejected attempts by regulators to assert authority over isolated waters ruling that waters must have a continuous surface connection" or significant nexus to navigable waters.

Congress repeatedly voted not to adopt policies similar to those in the proposed rule. If the rule is adopted it usurps congressional authority.

The proposed rule would bring vast amounts of land under federal control adding unnecessary and redundant red tape to areas currently adequately regulated by state and local governments.

EPA's cost-benefit analysis is deeply flawed, employing decades old cost estimates that were not adjusted for inflation, or current economic and market conditions.

We, the undersigned, declare that the proposed rule will place undue regulatory burdens and limitations on people attempting to responsibly use their land, adds new regulatory dead weight to the economy and would produce no meaningful gains for the environment or the nation and should not be promulgated.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly." Id. at 132-33 (citing Senate Report 92-414). The Court also recognized that "[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins."

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water

resources. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. The agencies' economic analysis indicates that indirect incremental benefits exceed indirect incremental costs.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #19437 [11 on-time duplicates, sponsored by Clean Water Action (web) - Identified as Clean Water Action – D]

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so we can continue to protect clean water.

U. S. Environmental Protection Agency
Definition of
"Waters of the United States"
Under the Clean Water Act

NAME_____
ADDRESS_____
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Signature_____

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and

destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19438 [18 on-time duplicates, sponsored by Clean Water Action (web) - Identified as Clean Water Action – E

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so we can continue to protect clean water.

U. S. Environmental Protection Agency
Definition of
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NAME_____
ADDRESS_____
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Signature_____

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flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19439 [47 on-time duplicates, sponsored by Coleman County Farm Bureau (web) - Identified as Coleman County Farm Bureau – a]

To Whom It May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act

*Write Comments in Space Provided

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some

existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

Doc. #19440 [40 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 51]

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so

U. S. Environmental Protection Agency
Definition of
"Waters of the United States"
Under the Clean Water Act

NAME_____
ADDRESS_____
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Signature_____

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19441 [52 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 52]

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
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Definition of
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NAME_____
ADDRESS_____
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Signature_____

Agency Response

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To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19462 [3 on-time duplicates, sponsored by Coleman County Farm Bureau (web) - Identified as Coleman County Farm Bureau – b]

To Whom It May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act

*Write Comments in Space Provided

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land.

Doc. #19463 [5 on-time duplicates, sponsored by Coleman County Farm Bureau (web) - Identified as Coleman County Farm Bureau – c]

To Whom It May Concern:

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act

*Write Comments in Space Provided

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters -- many of which are not even wet or considered waters under any common understanding of that word. I write in opposition to the proposed rule.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

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Doc. #19467 [33 on-time duplicates, sponsored by Clean Water Action Denver Office (web) - Identified as Clean Water Action Denver – b

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so

U. S. Environmental Protection Agency
Definition of
"Waters of the United States"
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NAME_____
ADDRESS_____
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Signature_____

Agency Response

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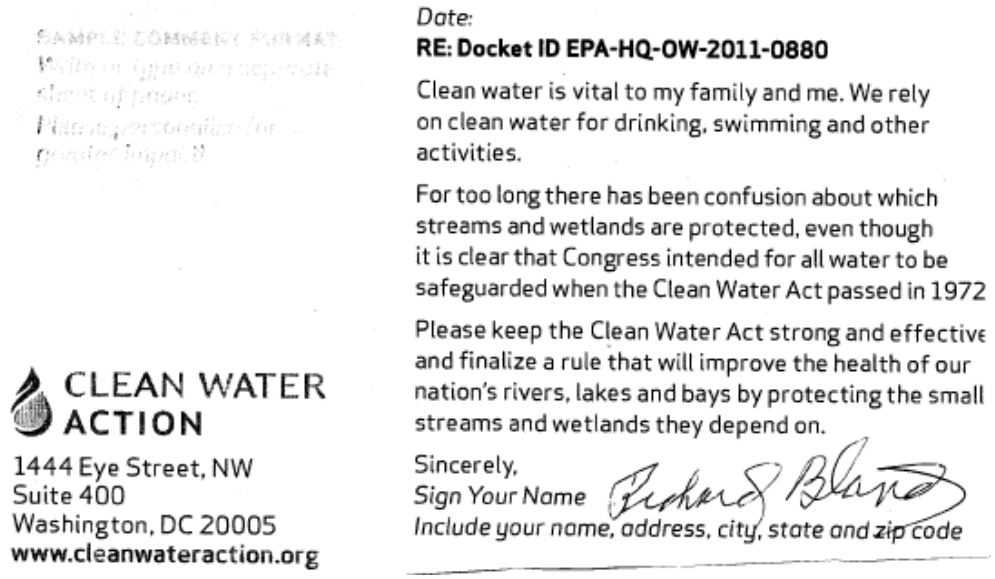
To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19494 [70 on-time duplicates, sponsored by Clean Water Action Denver (web) - Identified as Clean Water Action Denver – c]



CLEAN WATER ACTION

1444 Eye Street, NW
Suite 400
Washington, DC 20005
www.cleanwateraction.org

Date:

RE: Docket ID EPA-HQ-OW-2011-0880

Clean water is vital to my family and me. We rely on clean water for drinking, swimming and other activities.

For too long there has been confusion about which streams and wetlands are protected, even though it is clear that Congress intended for all water to be safeguarded when the Clean Water Act passed in 1972

Please keep the Clean Water Act strong and effective and finalize a rule that will improve the health of our nation's rivers, lakes and bays by protecting the small streams and wetlands they depend on.

Sincerely,
Sign Your Name Richard Blanco
Include your name, address, city, state and zip code

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and

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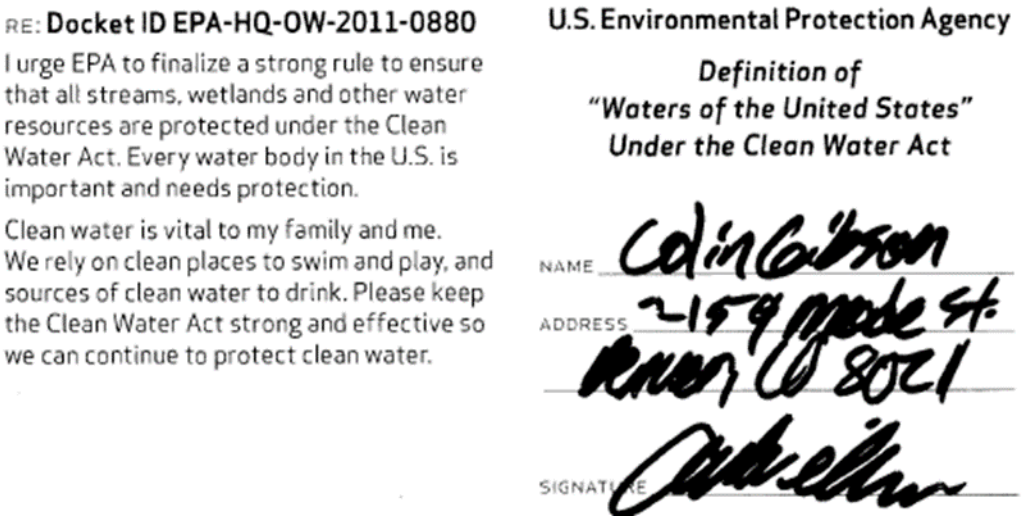

RE: **Docket ID EPA-HQ-OW-2011-0880**

I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.

Clean water is vital to my family and me. We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so we can continue to protect clean water.

U.S. Environmental Protection Agency

Definition of "Waters of the United States" Under the Clean Water Act

NAME Colin Gibson

ADDRESS ~159 Meade St.

Denver CO 80221

SIGNATURE

Agency Response

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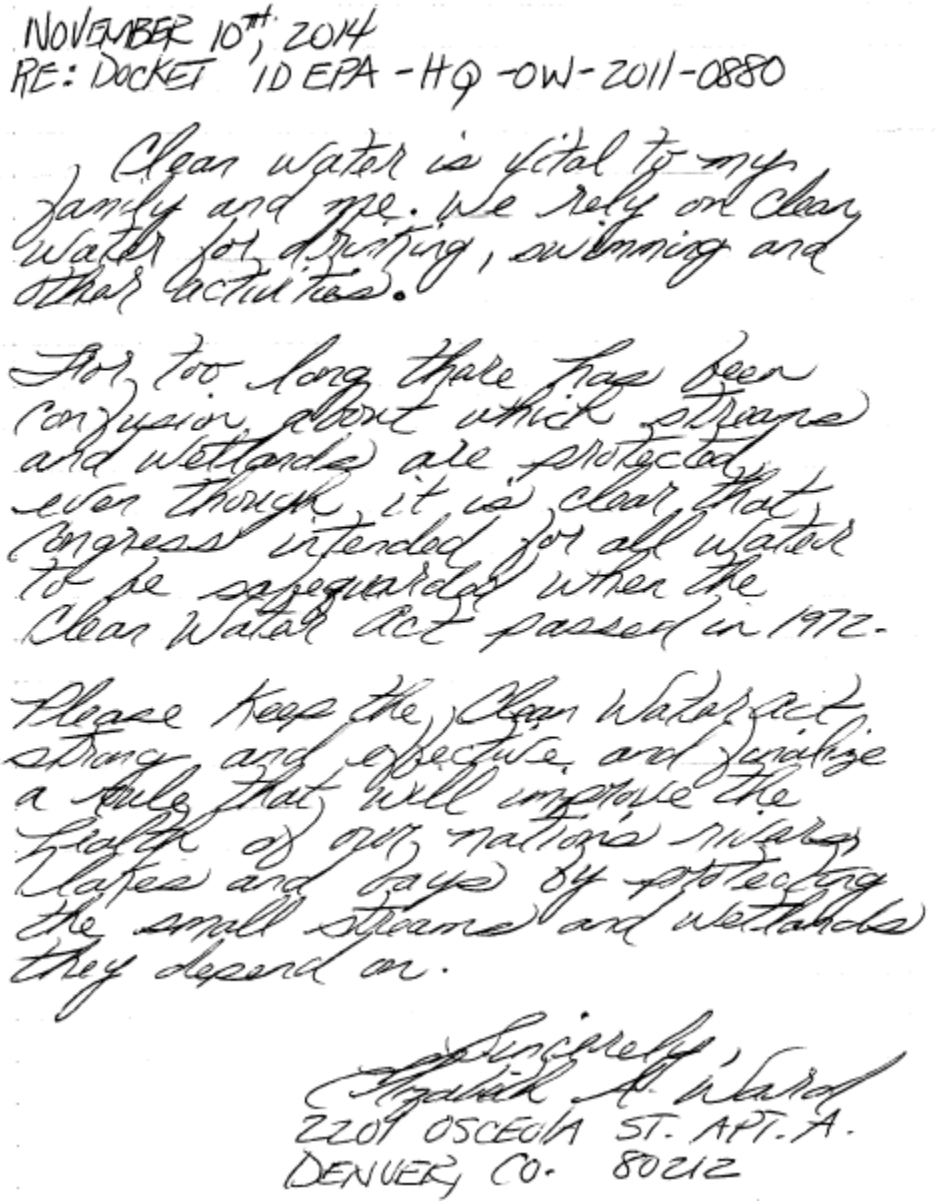

NOVEMBER 10th, 2014
RE: DOCKET ID EPA-HQ-OW-2011-0880

Clean water is vital to my family and me. We rely on clean water for drinking, swimming and other activities.

For too long there has been confusion about which streams and wetlands are protected, even though it is clear that Congress intended for all water to be safeguarded when the Clean Water Act passed in 1972.

Please keep the Clean Water Act strong and effective and finalize a rule that will improve the health of our nation's rivers, lakes and bays by protecting the small streams and wetlands they depend on.

Sincerely,
Hadrick A. Ward
2209 OSCEOLA ST. APT. A.
DENVER, CO. 80212

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and

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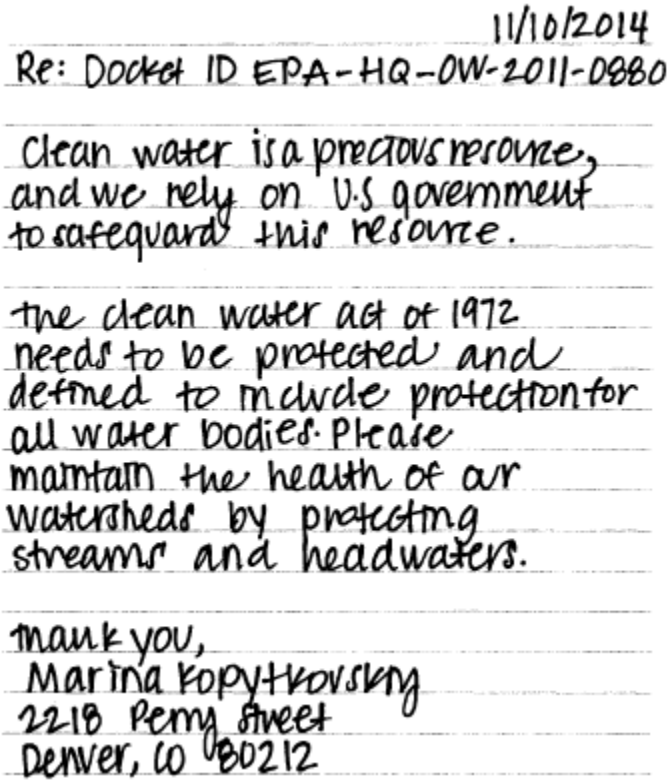

11/10/2014
Re: Docket ID EPA-HQ-OW-2011-0880

Clean water is a precious resource, and we rely on U.S government to safeguard this resource.

The clean water act of 1972 needs to be protected and defined to include protection for all water bodies. Please maintain the health of our watersheds by protecting streams and headwaters.

Thank you,
Marina Kopytkovskiy
2218 Perry Street
Denver, CO 80212

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

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wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19501 [17 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 53]

I am writing as a lawn care and landscape professional to encourage the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) to rescind its proposed Waters of the U.S. regulation.

My company helps homeowners and businesses maintain their lawns and landscapes and take pride in their communities. Pesticides and fertilizers are important tools in maintaining green spaces and protecting people and property from pests, such as ticks and rodents that can carry diseases. They are also used to control weeds that can exacerbate allergies. Unfortunately, the use of these beneficial products may be limited under the proposed Waters of the U.S. regulation. The rule could also impact my ability to install trees, grass, and other plants that play a vital role in reducing runoff and erosion, filtering groundwater, and sequestering carbon dioxide.

The proposed rule will expand the scope of waters subject to the Clean Water Act (CWA) regulation well beyond the laws' intent. Under the proposed rules definition of a tributary, many additional natural and man-made water bodies, including residential lakes, ponds, fountains, golf course water hazards, ditches, and areas that are only wet during rainfall events, could be subject to federal regulation. The new designations will create confusion for lawn care and landscape professionals like myself and make it more difficult to maintain my customers property.

Please withdraw this proposed rule.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process

of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

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The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule would not change existing CWA permitting requirements regarding the application of pesticides or fertilizer on farm fields. A NPDES pesticides general permit is required only when there are discharges of pesticides into waters of the United States. The CWA provides NPDES permitting exemptions for runoff from agricultural fields and ditches. Discharges from the application of pesticides, which includes applications of herbicides, into irrigation ditches, canals, and other waterbodies that are themselves Waters of the United States, are <u>not exempt</u> as irrigation return flows or agricultural stormwater, and <u>do</u> require NPDES permit coverage. Some irrigation systems may not be Waters of the United States and thus discharges to those waters would not require NPDES permit coverage.

<u>Doc. #19502 [583 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 54]</u>

Dear Administrator McCarthy:

As an employer in the construction industry, I am writing in response to the Environmental Protection Agency's (EPA) and U.S. Army Corps of Engineers' (Corps) above-referenced notice of proposed rulemaking to redefine "waters of the United States" under all Clean Water Act (CWA) programs, which was published on April 21, 2014, at 79 Fed. Reg. 22188.

The CWA imposes substantial permitting and regulatory requirements on projects near waters covered by the act. The proposed rule, however, does not adequately define "waters of the United States" and other key concepts under CWA programs. As a result, the regulations fail to provide the information I need to comply with the law. Inevitably, this will lead to a flood of

unnecessary and excessive permitting requests with associated and equally unnecessary project delays and increased costs.

The uncertainty surrounding what will actually be considered "waters of the United States" under this proposal, coupled with the EPA's and Corps' broad authority to make determinations, could chill any construction near waterways that could conceivably be covered by the rule. This will almost certainly lead to fewer projects overall and negatively impact job creation in the construction industry.

For the reasons outlined above, I urge EPA and the Corps to withdraw the proposed rule.

Thank you for the opportunity to submit comments on this matter.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Doc. #19503 [124 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 55]

To Whom It May Concern:

I am writing to submit comments to the United States Environmental Protection Agency and the United States Army Corps of Engineers proposed rule regarding the definition of Waters of the U.S. under the Clean Water Act.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act jurisdiction by regulating small and remote waters many of which are not even wet or considered waters under any common understanding of that word.

Under the rule, Section 402 permits would be necessary for common farming activities like applying fertilizer or pesticide or moving cattle if materials (fertilizer, pesticide, or manure) would fall into low spots or ditches. Section 404 permits would be required for earthmoving

activity, such as plowing, planting or fencing, except as part of established farming operation that has been ongoing at the same site since 1977which in and of itself makes no sense.

Implementation of the rule would impose direct costs, delays, and uncertainty in planning. Illinois municipal governments and other jurisdictions such as towns, villages, counties, townships, drainage districts, water districts, irrigation systems, transportation departments, and municipal utilities will be profoundly impacted by the shift from state and local control of water-related land uses to federal control.

The proposed rule does not provide clarity or certainty as EPA has stated. The only thing that is clear and certain is that, under this rule, it will be more difficult to farm, or make changes to the land; even if those changes would benefit the environment. Farmers work to protect water quality regardless of whether it is legally required by EPA.

As agriculture, business, and local governments will be severely impacted; therefore, I ask you to DITCH THE RULE.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters are defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

Also for added clarity, the rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified

which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. For instance, certain activities and discharges are exempt as part of established, ongoing farming, ranching, and silviculture operations under CWA 404(f)(1)(A), which has not changed as a result of the rule. Section 404(f)(1)(B) exempts dredge and fill activities "for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Additionally, the construction or maintenance of irrigation ditches, as well as the maintenance, but not construction, of drainage ditches are exempt activities under CWA 404(f)(1)(C). This rule has not changed these exemptions. There is no change in the treatment of NRCS determinations. The Joint Guidance from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (COE) Concerning Wetland Determinations for the Clean Water Act and the Food Security Act of 1985, (dated February 25, 2005) remains valid. The final rule does not change the definition of wetlands nor in any way change the tools used for delineating wetlands.

The rule would not change existing CWA permitting requirements regarding the application of pesticides or fertilizer on farm fields. A NPDES pesticides general permit is required only when there are discharges of pesticides into waters of the United States. The CWA provides NPDES permitting exemptions for runoff from agricultural fields and ditches. Discharges from the application of pesticides, which includes applications of herbicides, into irrigation ditches, canals, and other waterbodies that are themselves Waters of the United States, are <u>not exempt</u> as irrigation return flows or agricultural stormwater, and <u>do</u> require NPDES permit coverage. Some irrigation systems may not be Waters of the United States and thus discharges to those waters would not require NPDES permit coverage.

<u>Doc. #19508 [537 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 56]</u>

I am writing to submit comments to the Environmental Protection Agency and the Corps of Engineers proposed rule regarding Definition of Waters of the U.S. Under the Clean Water Act.

This is unconstitutional and a violation of my Rights.

The proposed rule would significantly expand the scope of navigable waters subject to Clean Water Act Jurisdiction by regulating small and remote waters many of which are not even wet or considered waters under any common understanding of the word. I write in opposition to the proposed rule.

Agency Response

Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways, erosional features such as and non-wetland swales and rills, and stormwater and wastewater detention basins constructed in dry land.

Doc. #19509 [338 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 57

I am very opposed to this proposed rule.

The proposed rule definitions extend federal jurisdiction broadly to croplands across Iowa, which will require federal permits for applicators of crop protection products widely across Iowa under the National Cotton Council v EPA court ruling. This results in duplicate federal bureaucracy and red tape as crop protection product use on croplands is already adequately regulated by EPA through pesticide registration.

Ag retailers, crop advisors and related agribusinesses are the primary sources of information and technologies to Iowa farmers, the proposed rule creates more confusion over how to advise farmers what areas and activities require complicated and time-consuming federal permits. EPA has made verbal statements about the proposed rule which vary greatly from the written rule text, which has added confusion to what is covered by the rule and how to comply.

The expansive language in the proposed rule would mean that farmers could be forced to apply for federal permits and work through red tape to do normal farming activities such as; building a terrace, constructing an in-field waterway, or even applying crop protection products and crop nutrients. This proposed rule is burdensome to farmers and goes beyond environmental protection to being a clear intrusion on the property rights of farmland owners.

The proposed rule will slow down the environmental progress by Iowa farmers, because of the federal bureaucracy and red tape of having to obtain unneeded federal permits. Iowa farmers need to be able to continue rapid adoption of environmental practices, rather than focus to staying legal under complicated and very slow bureaucracy of obtaining federal permits.

Upland waters which are upstream of navigable waters should continue to be the responsibility of the states, through state environmental programs such as the nationally recognized Iowa Nutrient Reduction Strategy.

Federal jurisdiction under the proposal would be extended to ditches, gullies, wet spots, adjacent non-wetlands, and other areas in or near cropped fields that are away from navigable waters. This will result in any future water quality nutrient standards being applied directly to cropped lands and which are above the possible locations for edge-of-field and off-field environmental practices that will be needed to meet those standards.

We need to let the nationally-recognized Iowa Nutrient Reduction Strategy work. I urge you to Ditch This Rule.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. We also note that States and tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404

CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

The rule would not change existing CWA permitting requirements regarding the application of pesticides or fertilizer on farm fields. A NPDES pesticides general permit is required only when there are discharges of pesticides into waters of the United States. The CWA provides NPDES permitting exemptions for runoff from agricultural fields and ditches. Discharges from the application of pesticides, which includes applications of herbicides, into irrigation ditches, canals, and other waterbodies that are themselves Waters of the United States, are <u>not exempt</u> as irrigation return flows or agricultural stormwater, and <u>do</u> require NPDES permit coverage. Some irrigation systems may not be Waters of the United States and thus discharges to those waters would not require NPDES permit coverage.

Doc. #19564 [282 late duplicates, sponsored by Oklahoma Cattlemen's Association (paper)]

RECEIVED
NOV 21 2014
EPA DOCKET CENTER

I Believe that all water rights Should Belong to the Land owner I am a 3rd gen rancher in Pawnee. & also raise cattle for the State of Oklahoma on a Historic ranch. I think that we are good Stewards of the Land and plan on continuing to do so.

Sincerly

POSTMARKED
NOV 17 2014
EPA DOCKET CENTER

Sender is a proud member of the Oklahoma Cattlemen's Association

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to

minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Dear Sir or Madam:

I am writing to offer you my comments on the "waters of the US" (WOTUS) proposed rulemaking that the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers published in the Federal Register on Apri121, 2014. I am seriously concerned about the scope of jurisdiction that the federal agencies are claiming under the Clean Water Act.

Most of the areas that are being categorically claimed as WOTUS are far too remote to merit that treatment. Moreover, many of the features are dry most of the time, and comparable numbers of these features have water in them at most only for short periods. It is inappropriate for the federal agencies to do this and unnecessary. Dry drainage features will never be fishable and swimmable and do not need to be made jurisdictional in order for us to work together to protect the quality of waterways that are clearly jurisdictional.

As a farmer and rancher in southwest Oklahoma, where we are in our 4th year of severe drought, we are very serious about water and water quality. I do not have any streams that run over a few days after a big rain. Most have not run in 3 to 4 years now.

I am just as concerned about clean water as anyone, but feel that we do not need the E.P .A. or the Corps of Engineers involved in our farming and ranching operations.

I work very closely with the NRCS in trying to conserve water and protecting the quality of it through conservations practices on my farm.

I urge you to NOT implement this rule as proposed.

Agency Response

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural

resources and water quality on agricultural lands. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

The final rule reflects that the scientific evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. However, the connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. The final rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

The scope of regulatory jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as "waters of the United States" under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, make jurisdictional determinations on a case-specific basis.

The rule has expanded the section on waters that are not considered waters of the United States, such as artificial lakes and ponds created in dry land, water-filled depressions incidental to mining or construction, constructed grassed waterways and non-wetland swales, and stormwater and wastewater detention basins constructed in dry land. As discussed in the Ditch Compendium, the agencies have explained that there is not an intent to regulate all ditches. In fact, in the final rule the agencies have further clarified which ditches are excluded from coverage under the Clean Water Act. Please refer to the Ditch Compendium for a full discussion on the treatment of ditches in the final rule.

Finally, the rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture. We also note that if an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it was part of an established farming, silviculture or ranching operation.

Doc. #19586 [53 on-time duplicates, sponsored by Environment Florida (web)]

Dear EPA Administrator McCarthy,

From Tampa Bay to the Everglades, our iconic waterways make Florida a great place to live.

Unfortunately, loopholes in the Clean Water Act have left Florida's smaller rivers, streams and wetlands unprotected, putting the places we kayak, fish and boat at risk of toxic pollution.

To ensure all our waters are protected, we urge you to close loopholes in the Clean Water Act now.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19601 [55 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 58]

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is

U. S. Environmental Protection Agency
Definition of
"Waters of the United States"
Under the Clean Water Act

important and needs protection.
Clean water is vital to my family and me.
We rely on clean places to swim and play, and sources of clean water to drink. Please keep the Clean Water Act strong and effective so

NAME_____
ADDRESS_____
_____

Signature_____

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19602 [15 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 59]

RE: Docket ID EPA-HQ-OW-2011-0880
I urge EPA to finalize a strong rule to ensure that all streams, wetlands and other water resources are protected under the Clean Water Act. Every water body in the U.S. is important and needs protection.
Clean water is vital to my family and me.
We rely on clean places to swim and play, and

U. S. Environmental Protection Agency
Definition of
"Waters of the United States"
Under the Clean Water Act

NAME_____
ADDRESS_____
_____

sources of clean water to drink. Please keep the Clean Water Act strong and effective so Signature_____

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19603 [52 on-time duplicates, sponsored by Organization Unknown (web) - Identified as Unknown 60]

Dear Administrator McCarthy,

I support the EPAs proposed definition of Waters for the United States. This rule will help restore your authority to protect all of the water in the United States, in exactly the way that Congress intended when it passed the Clean Water Act.

A strong Clean Water Act is necessary to address threats to the water that farmers, ranchers, and communities depend on -- from chemical spills from mining operations that have leaked arsenic into a Colorado river, to the heavy metals leached from coal ash at coal-fired power plants, to destructive saltwater spills, fracking fluids and other chemicals used in oil and gas drilling and production that have contaminated waters in states across the West.

Farmers, ranchers, and others who are potentially regulated by the Clean Water Act need clear, predictable regulations that are focused on protecting water quality, so exemptions for commonplace everyday farming and ranching practices that don't pollute the water are critical. I urge you to make sure those exemptions are clear and dependable.

Your approval of the Waters of the U.S. rule will provide the clarity and certainty we need that we will have clean water and all of the benefits that it provides to communities, farmers and ranchers, recreation, fish, wildlife and all of the environment. The Clean Water Act is one of the great success stories of public policy protecting our environment and our economy at the same time. This proposed definition, if adopted with the needed provisions for farmers and ranchers, will be an important part of carrying that success forward.

Agency Response

Protecting the long-term health of our nation's waters is essential. In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The agencies recognize the vital role of farmers in providing the nation with food and fiber and are sensitive to their concerns. The final rule reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the voluntary work of farmers and landowners to protect and conserve natural resources and water quality on agricultural lands. The rule does not affect or modify in any way the many existing statutory exemptions under CWA Sections 404, 402, and 502 for agriculture.

Doc. #19616 [12,294 on-time duplicates, sponsored by Organic Consumers Association (web)]

I am deeply concerned about protecting our drinking water. I support the Waters of the U.S. rulemaking currently underway by the US EPA and the Corps of Engineers. I believe this rulemaking will clear up confusion surrounding the implementation of clean water programs.

The longstanding confusion has allowed many previously protected waters from having adequate

protection, leaving drinking water supplies for one-third of Americans at risk.

The proposed rule addresses the massive growth of expansive factory farms while keeping in place the exemptions for normal farming and ranching activities, such as plowing, seeding, harvesting, construction of stock ponds and irrigation ditches.

Thank you for considering my comments in support of the Waters of the U.S. rulemaking. I urge the US EPA and the Corps of Engineer to move forward as quickly as possible to finalize these rules clarifying the protections offered under the Clean Water Act.

Agency Response

In this final rule, EPA and the Army clarify the scope of "waters of the United States" that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Protecting the long-term health of our nation's waters is essential. The Clean Water Rule strengthens the protection of waters for the health of our families, our communities, and our businesses. Our nation's businesses depend on clean water to operate. Streams and wetlands are economic drivers because they support fishing, hunting, agriculture, recreation, energy, and manufacturing. Pollution threatens these economic drivers and we all know the dangers of pollution upstream: water flows downstream and carries pollutants with it. Right now, many streams and wetlands lack clear protection from pollution and destruction. One in 3 Americans, 117 million of us, get our drinking water from streams that are vulnerable. Sixty percent of the nation's stream miles – the vital headwaters that flow downstream after rain or in certain seasons – aren't clearly protected. Millions of acres of wetlands that trap floodwaters, remove pollution, and provide habitat for fish and wildlife are at risk.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

Doc. #19661 [200 on-time duplicates, sponsored by Banning Ranch Conservancy (web)]

To the EPA and ACOE:

The Banning Ranch Conservancy urges you to move forward to finalize the rulemaking proposed by the U.S. Environmental Protection Agency and the Army Corps of Engineers to clarify the scope of the Clean Water Act. The Banning Ranch Conservancy and The Sierra Club

Angeles Chapter's Banning Ranch Park and Preserve Task Force aim to preserve and conserve Banning Ranch, which at 401 acres, is the last large parcel of unprotected coastal open space in Orange County, California. In addition, Banning Ranch includes wetlands and rare vernal pools. This rulemaking effort is critical to restoring protections for the vernal pools that make up sensitive habitat and enable biological diversity. It also serves the purpose of the Clean Water Act to maintain the chemical, physical, and biological integrity of the nation's waters. Despite thirty years of historically comprehensive protections under the Act, small streams, wetlands, and vernal pools are not guaranteed to be covered by the Clean Water Act. These waters may now be vulnerable to pollution and degradation following two Supreme Court decisions in 2001 and 2006. For example, after the *SWANCC* decision, the EPA concluded the following:

> "*SWANCC* squarely eliminates CWA jurisdiction over isolated waters that are intrastate and non-navigable, where the sole basis for asserting CWA jurisdiction is the actual or potential use of the waters as habitat for migratory birds that cross state lines in their migrations.... The EPA and the Corps are now precluded from asserting CWA jurisdiction in such situations, including over waters such as isolated, non-navigable, intrastate vernal pools, playa lakes and pocosins." (68 FR 1995 (2003))."

Currently, the reviewing agencies and Courts may be significantly burdened to repeatedly prove what we already know scientifically – that small streams, wetlands, and vernal pools are integrally linked to the health of downstream waters and biological integrity. The protection of vernal pools serves the purpose of the Act. For instance, the EPA itself states, "Vernal pools are a valuable and increasingly threatened ecosystem, often smaller than the bulldozer that threatens to destroy them. More than 90% of California's vernal pools have already been lost." (*See* http://water.epa.gov/type/wetlands/vernal.cfm). The remaining 10% of California vernal pools are at risk. This is exemplified by the case of the vernal pool complex at Banning Ranch.

This vernal pool complex, which is one of only two coastal vernal pool complexes in Orange County recognized by the USFWS, and the only vernal pool complex containing critical habitat for the endangered San Diego Fairy Shrimp (Branchinecta sandiegonensis), contains up to 50 separate vernal pools. Over 35 of these pools have been documented to contain either listed or non-listed branchiopods. During overflow periods, these vernal pools drain into arroyos on the property, which, in turn, drain into immediately adjacent coastal tidal marsh wetlands. Coveted by developers for its flat terrain and ocean views, the Banning Ranch vernal pool complex is under the very real threat of development. Clarification of rules on vernal pools is therefore urgently needed.

The agencies have specifically requested comment on expanding the list of waters that are jurisdictional by rule. It is my position that said list of waters should be expanded to include vernal pools that are established to be reservoirs of biodiversity, connected genetically to other locations, and aquatic habitats through wind and animal mediated dispersal. Such vernal pools include those found in Banning Ranch. By establishing that such vernal pools are waters jurisdictional by rule, protection of vernal pools will be more feasible and clear under the law. We strongly support efforts to better protect small streams and wetlands. The proposed rule is an important step forward to restoring protections for streams, ponds, wetlands, and other waters.

As part of this effort, I urge you to strengthen the proposed rule by more fully restoring protections to other waters, such vernal pools.

Agency Response

Protecting the long-term health of our nation's waters is essential. This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

To keep our lakes, rivers, and coastal waters clean, the smaller streams and wetlands that feed them have to be clean too. This is confirmed by the science; The Clean Water Rule is informed by a review of more than 1,200 pieces of peer-reviewed and published scientific literature. This well-established body of science tells us what kinds of streams and wetlands are important to the long-term health of the water downstream so our Clean Water Rule protects these waters.

The rule provides for case-specific determinations based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. The agencies have determined that categories of non-adjacent waters will not be defined as jurisdictional by rule, thereby recognizing that a gradient of connectivity exists and asserting jurisdiction only when the connection and the downstream effects are significant and more than speculative and insubstantial. Under paragraph (a)(7), prairie potholes, Carolina and Delmarva bays, pocosins western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are "similarly situated," the waters within the specified subcategories that are not otherwise jurisdictional under (a)(6) of the rule must be assessed in combination with all waters of a subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (point of entry watershed).