



November 21, 2017

Letter to be submitted electronically to:

<http://www.regulations.gov>

Regarding:

Docket ID No. EPA-HQ-OW-2017-0480

Public input to the EPA/COE process to define Jurisdictional Waters of the US

Dear Sir/Madam:

The National Association of State Foresters (NASF) appreciates the opportunity to provide comment on proposed rule-making to define jurisdictional Waters of the United States (WOTUS). NASF represents the heads of the state forestry agencies for all fifty states, the US territories and the District of Columbia. Our members are responsible for the promotion of sustainable forest management on nearly 300 million acres of family-owned or state/locally-owned forest land. State forestry agencies also provide, or assist in providing, forest health and fire protection on those lands plus another 130 million acres owned by corporations, and are frequent cooperators on the remaining 250 million acres of forest land owned by the federal government.

Over half of the nation's drinking water supply comes from forested landscapes. We know that among all land uses, forested land uses are clearly the most protective of water quality and are key to the seasonal metering of water quantity. For these reasons, NASF members play a key role in achieving the goals of the federal Clean Water Act. We offer the following thoughts as a new WOTUS rule is developed.

Each state has published a set of "Forestry Best Management Practices" (BMPs) for the protection of water quality and quantity, and state foresters promote their use, through various means, in the execution of forest management operations. The NASF website (<http://stateforesters.org/current-issues-and-policy/current-issues/water-quality>) houses a comprehensive data set and interactive map providing significant detail on each state's forest water quality protection program that is updated annually. This data shows that nationwide compliance with BMPs is high. Accordingly, any rule-making activity should reaffirm the long standing, now codified, exemption of normal silvicultural activities from dredge, fill and stormwater permitting requirements.

Given the current performance of forest land in protecting water quality and quantity, rulemaking should continue to apply the exceptions and definitions that have worked effectively in the past. These would include things like the exemption of ditches and the present, federally-applied definition of wetlands. In addition, when considering issues of connectivity and the cumulative impacts of upstream waters on the chemical, physical and biological integrity of downstream systems the principle of "risk" must be applied to ensure that any expansion of jurisdictional waters has more than a marginal impact on beneficial uses. It is one thing to acknowledge that there are connections, but before expanding the application of rules onto additional features there needs to be scientific support for the fact that beneficial uses would be otherwise subject to substantial risk.

Executive Director
Jay Farrell

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Finally, one of the conclusions we have drawn from our nationwide survey of BMP programs is that one size does not fit all. In fact, allowing the level of diversity that exists among these program is, no doubt, why they have achieved such a high level of success. Similarly, WOTUS rule-making needs to recognize that there is tremendous variation in watershed characteristics across the country. The role of man-made conveyances, the chemical, biological and geomorphological conditions that impact the level of risk to beneficial uses and land cover types can be vastly different from one region to the next, and sometimes even within the same state. The definition of WOTUS needs to acknowledge this variability and program administration needs to be tailored to what achieves the best result in any given locale.

Thank you for this opportunity to comment. We look forward to working closely with you as this process continues.

Sincerely Yours,

George Geissler
NASF President
Oklahoma State Forester

Executive Director
Jay Farrell

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