



www.americanwhitewater.org

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Comments Submitted to: ow-docket@epa.gov

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RE: Support for EPA and Army Corps of Engineers Guidance Regarding Identification of Waters Protected by the Clean Water Act (Document ID EPA-HQ-OW-2011-0409-0001)

Dear EPA and Army Corps of Engineers,

American Whitewater is a member-based non-profit organization dedicated to protecting and restoring our nation's whitewater rivers and enhancing opportunities to enjoy them safely. Our members are primarily conservation-oriented kayakers, canoeists, and rafters that enjoy exploring whitewater rivers. The draft guidance regarding identification of waters protected by the Clean Water Act directly affects our membership, and we therefore appreciate the opportunity to comment on this document.

River paddling and clean water are directly related in a number of ways that are important to the draft guidance. River paddlers experience primary contact with river water as we splash through waves, punch through hydraulics, and roll our boats. We even take the occasional swim as an unintentional and unavoidable part of our activity. Because paddlers are directly and frequently exposed to river water and whatever pollutants may be in that water, paddlers have a vested interest in ensuring that direct contact with river water is safe and healthy.

American Whitewater's online National Whitewater River Inventory¹ describes over 5,000 whitewater river reaches in the United States. Since the passage of the Clean Water Act paddlers have watched, participated in, and enjoyed the protection and recovery of many of these cherished rivers and streams. Over the past decade river enthusiasts have watched with great concern as court cases have been interpreted to leave many of these streams unprotected from pollution and other impacts. It is clear that for public health and public-trust-based outdoor recreation to be maintained at the level the citizens of the US have come to expect, the Clean Water Act must be broadly applied as intended to protect our nation's rivers, streams, and other water bodies. To meet this goal American Whitewater has supported the Clean Water Restoration Act, and we now are pleased to support the draft guidance regarding identification of waters protected by the Clean Water Act.

¹ <http://www.americanwhitewater.org/content/River/view/>

Traditional Navigability

We would especially like to highlight our support for the concept of “traditionally navigable” rivers and streams. The draft guidance states that rivers capable of supporting recreational use should be considered traditionally navigable. This guidance is consistent with multiple state interpretations of navigability (North Carolina for example) that hinge on the ability of a river or stream to support kayaking or canoeing in at least some seasons and on at least some sections. The EPA and Army Corp of Engineers are correct that the capacity of a stream to support recreational paddling directly dictates the capacity of that stream to support commerce in the form of recreational guiding services, fee-based stream access (similar in case-law to a port or marina), transportation of people or goods, and other commercial ventures.

Furthermore, river paddling is protected as a beneficial use under the Clean Water Act and thus the Act itself has a statutory link between the recreational use of a river and the quality of its water. The right to float rivers and streams is a well-established public trust right, and one that the Clean Water Act is explicitly intended to protect and enhance. It is only natural then that the Clean Water Act should apply to rivers and streams that are capable of supporting recreational navigation, and waters that affect those rivers and streams.

Lastly, we hope that the EPA and Army Corp of Engineers will appreciate the value of our online National Whitewater River Inventory in documenting traditionally navigable streams. Our inventory includes paddler-generated river descriptions, maps, and photographs of the majority of rivers in the inventory. This public database should serve as a valuable resource for staff seeking documentation of recreational use.

Tributaries and Wetlands

The draft guidance clearly states that tributaries to traditionally navigable rivers and streams, as well as related wetlands, should be covered under the Clean Water Act. This is sound policy based on the simple fact that water flows downhill. Allowing pollution to occur without regulation in tributaries or wetlands that flow into traditionally navigable waters would without question pollute those traditionally navigable waters and threaten public health and outdoor recreation. We strongly support the regulation of tributaries to traditionally navigable rivers and streams as well as wetlands that are adjacent and/or have a significant nexus to traditionally navigable waters and/or their tributaries.

Benefit Analysis

The document titled “Potential Indirect Economic Impacts and Benefits Associated with Guidance Clarifying the Scope of Clean Water Act Jurisdiction” overlooks a valuable resource regarding the economic benefits of outdoor recreation. A recent report generated by the Outdoor Industry Association found that 24 billion Americans paddle kayaks, canoes, and rafts, resulting in 308,000 jobs and \$36 Billion of total economic

benefits.² A significant portion of this recreation occurs on headwater rivers and streams directly affected by the draft guidance. Water quality directly relates to these activities.

Conclusions

Thank you for considering the interests of kayakers, canoeists and rafters as you address the implementation of the Clean Water Act. Americans that explore rivers and streams by boat rely on the protections afforded by the Clean Water Act to protect our experiences and the places we cherish. The proposed guidance will ensure that the quality of the streams we paddle will be maintained for current and future generations. Thus, we fully support the draft guidance and encourage its prompt implementation.

Sincerely,



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American Whitewater

² http://www.outdoorindustry.org/national-economic-impact-reports.php?action=detail&research_id=26