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November 21, 2017

Scott Pruitt
Administrator, Environmental Protection Agency
Douglas Lamont
Deputy Assistant Secretary, Army Corps of Engineers
EPA Docket Center - Docket ID No. EPA-HQ-OW-2017-0480
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Submitted electronically at regulations.gov on Docket EPA-HQ-OW-2017-0480

Dear Administrator Pruitt and Assistant Secretary Lamont,

American Whitewater writes to express our strong opposition to the U.S. EPA and Army Corps of Engineers' proposal to revise the codified definition of the "waters of the United States" relative to President Trump's February 28, 2017 Executive Order 13,778. The proposal takes our nation further away from the Clean Water Act's goal of making our waterways fishable, swimmable and drinkable.

American Whitewater is a national 501(c)(3) non-profit organization with a mission to protect and restore our nation's whitewater rivers and enhance opportunities to enjoy them safely. Our members are primarily conservation-oriented kayakers, canoeists and rafters that enjoy exploring whitewater rivers. As outdoor enthusiasts that spend time on and in the water, our members have a direct interest in the health and quality of our nation's waterways—with particular interest in headwater streams and wetlands. As whitewater enthusiasts, our members depend on the rivers and streams they enjoy being free from pollution, and we support strong Clean Water Act protections for these waters.

Most whitewater rivers and streams can only be descended during higher than normal flows caused by rainfall or during snowmelt. Surface runoff and pollution often spike during these times. Additionally, whitewater boating requires submersion as paddlers get splashed, flip over, and occasionally swim. It is part of the fun, but not if the water that gets in our mouths, ears, nose, and any cuts is polluted. Reducing regulatory protections for surface waters can and will make paddlers sick. The 2015 Clean Water Rule offered promise to protect citizens who recreate in rivers—from paddlers to kids playing in creeks—by keeping them safe from water pollution. Any change to the definition of "waters of the United States" should not hinge on whether a water is "relatively permanent," but instead on whether, when it flows, it will deliver pollution to a navigable waterway.

For the purposes of the Clean Water Act, all rivers, streams and wetlands that have a significant nexus to navigable waterways (i.e., the potential to carry pollutants into navigable waterways) should be jurisdictional. The EPA has already performed a comprehensive scientific review to answer the question of which waters fall into this category. In January 2015, the EPA's Office of Research and Development released the report entitled *Connectivity of Streams & Wetlands to Downstream Waters: A Review & Synthesis of the Scientific Evidence*. It included over 1,000 peer-reviewed studies that confirmed that the physical, chemical and biological integrity of water bodies is directly connected to upstream tributaries, wetlands, and other waters. Scientists in government, academia, non-profit and private industry organizations performed an extensive peer-review on the document, as did the EPA's Science Advisory Board. This process confirmed the importance of continuing to protect the hydrologically connected headwater streams and wetlands that were historically protected under the Clean Water Act.

Our members' direct experience paddling whitewater rivers confirms this. They are in rivers after it rains, and experience first-hand the way that riparian wetlands and intermittent streams—and the pollution within them—flow into rivers at high water. The 2015 Clean Water Rule offered assurance that paddlers could enjoy cleaner waters. Restricting Clean Water Act jurisdiction to include only “relatively permanent waters” and “wetlands with a continuous surface connection to relatively permanent waters” will put the health of the millions of Americans that enjoy recreating on and in rivers at risk. In order to protect this population, the definition of “waters of the United States” must be solidly grounded in wetland and stream science.

Further, American Whitewater urges that the agencies' economic analysis of changing the definition of “waters of the United States” consider the impact on the nation's recreation economy. Clean water is vital for rural communities that depend on recreation and tourism as the foundation for their economies, and is critical for those whose livelihoods are made through businesses that are connected to watersports. An economic analysis by the Outdoor Industry Association published in 2017 found that watersports result in approximately \$139 billion in retail spending and 1.2 million direct jobs, accounting for \$44 billion in salaries and wages, \$11 billion in federal taxes, and \$9 billion in state and local taxes.¹ These economic benefits will be severely compromised if the water quality of our waterways is allowed to decline.

The agencies have already undergone a comprehensive public process that informed the 2015 Clean Water Rule and ensured that it would provide businesses and developers with regulatory certainty, and river users with confidence that clean water will be protected and enhanced. The agencies received 1.1 million comments, with the majority in support of the rule. If the agencies proceed with a proposal to change the definition of “waters of the United States,” the process should be at least as rigorous, transparent, and inclusive of all clean water stakeholders as the 200+ day public process that formed the basis of the 2015 Clean Water Rule.

¹ Outdoor Industry Association, *The Outdoor Recreation Economy* (2017), p. 18. Available at: https://outdoorindustry.org/wp-content/uploads/2017/04/OIA_RecEconomy_FINAL_Single.pdf (Last visited September 20, 2017).

American Whitewater urges the agencies to keep the existing codified definition of “waters of the United States.” However, in the event that the agencies proceed with the proposal, it must be based on the history, purpose and text of the Clean Water Act, fit within the widely accepted legal standard for its jurisdiction, and be solidly grounded in wetland and stream science. It must ensure that the values and functions of our nation’s headwater streams and wetlands are protected. In addition to recreation as described above, these values include providing drinking water for 117 million Americans and habitat for fish and wildlife, as well as filtering pollution from contaminated runoff, recharging groundwater supplies and providing important flood control functions.

Since the Clean Water Act was enacted in 1972, our nation’s rivers have recovered in a remarkable way. However, we’re far from meeting the Act’s goal of making all of our waterways fishable, swimmable and drinkable. Many rivers and streams are far from thriving, and are very near critical thresholds for public health and ecological function. Reducing the jurisdiction of the Clean Water Act will further compromise our ability to protect and improve the health of our nation's rivers and will have a direct negative impact on our environment, human health, local economies, and our quality of life.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Colburn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kevin Colburn
National Stewardship Director

A handwritten signature in black ink, appearing to read "Megan Hooker". The signature is cursive and includes a long horizontal stroke at the end.

Megan Hooker
Associate Stewardship Director