



The Association of State Wetland Managers, Inc.

“Dedicated to the Protection and Restoration of the Nation’s Wetlands”

November 28, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
Office of Policy Regulatory Reform
Mail Code 1803A
1200 Pennsylvania Avenue NW
Washington, DC 20460

The Honorable Douglas W. Lamont
Senior Official Performing the
Duties of the Assistant Secretary
of the Army for Civil Works
Office of the Assistant Secretary
of the Army for Civil Works
Department of the Army
104 Army Pentagon
Washington, DC 20310-0104

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Timothy Rach
FL Dept. of Environmental Protection

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

Dear Mr. Pruitt and Mr. Lamont:

The attached comments were prepared by the Association of State Wetland Managers (ASWM) in response to the August 28, 2017 *Federal Register* Notice regarding “Definition of Waters of the United States – Schedule of Public Meetings.” We are pleased to convey our comments to the Environmental Protection Agency and the Department of the Army.

ASWM represents states and tribes in promoting the sound management of wetlands and other waters. Our technical support for states and tribes includes: state and federal dredge and fill programs, including §404 of the Clean Water Act; consideration of water quality standards and §401 water quality certification; monitoring wetland conditions through the National Wetland Condition Assessment as well as other assessment tools; mapping and identification of wetlands and related aquatic resources; and wetland restoration, mitigation, and watershed management, among other issues.

Our comments in this letter focus primarily on wetlands and related aquatic resources and on the regulation of dredge and fill activities regulated by §404 of the Clean Water Act (CWA) and parallel state, tribal, and local authorities. However, we recognize that the question of jurisdiction over Waters of the United States is very broad and impacts other CWA programs, including §402 and nonpoint source programs, as well as other legislation that adopts CWA jurisdictional definitions by reference such as the Oil Pollution Control Act.

The primary concerns of ASWM regarding the definition of waters of the U.S., as discussed in the attached comments, include the following.

- Continued federal protection of public waters that meet invaluable public needs and provide multiple ecological services in all states. The American public is increasingly concerned about water pollution as well as the availability of safe drinking water. This year Chapman University's annual survey of "America's Top Fears" included pollution of oceans, rivers, and lakes, and pollution of drinking water as two of the top five fears of Americans, out of a wide array of social issues¹. This is the first year that an environmental issue was included in the top ten public fears. Other public opinion polls and surveys mirror this concern.
- Recognition of the degree to which cooperative federalism currently aligns state and federal dredge and fill programs, effectively serves to streamline the permitting process in many states, thereby avoiding duplication of effort and coordinating multiple necessary authorizations for a wide array of public and private construction projects. Disruption of existing programs could have the unintended consequence of complicating approval processes.
- Expediting the return to a scientific, stable, and practical regulatory process by acknowledging the need for consistency with both the CWA and with all U.S. Supreme Court decisions interpreting the CWA definition of Waters of the U.S.

ASWM greatly appreciates the opportunity to comment at this stage of the federal agencies' proposal for redefining jurisdiction over Waters of the United States. While these comments have been prepared with input from the ASWM Board of Directors and a technical workgroup, they do not necessarily represent the views of all individual states and tribes. We also encourage you to seriously consider the comments of individual states and tribes and other state associations. ASWM is prepared to continue to collaborate with the federal agencies, and to assist in informing the states of proposed actions throughout revision or redrafting of a CWA jurisdictional rule. Please do not hesitate to contact me should you wish to discuss these comments.

Sincerely,

A handwritten signature in black ink that reads "Jeanne Christie". The signature is written in a cursive, flowing style.

Jeanne Christie
Executive Director

ATTACHMENT

CC: Donna Downing, USEPA, OWOW
Stacey Jensen, USACE
ASWM Board

¹ <https://blogs.chapman.edu/wilkinson/2017/10/11/americas-top-fears-2017/>