



May 27, 2014

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Acting Assistant Administrator for Water
U.S. Environmental Protection Agency
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Washington, DC 20460

Jo Ellen Darcy
Assistant Secretary of Army (Civil Works)
U.S. Army Corps of Engineers
108 Army Pentagon, Room 3E446
Washington, DC 20310-0108

Via email to: stoner.nancy@epa.gov; joellen.darcy@us.army.mil

Re: Proposed Rule regarding Definition of Waters of the United States under the Clean Water Act: Comment Deadline Extension Request

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

Dear Ms. Stoner and Ms. Darcy:

The Association of State Wetland Managers (ASWM), the Association of Clean Water Administrators (ACWA) and the Environmental Council of States (ECOS) are currently carefully evaluating the proposed rule, *Definition of "Waters of the United States" Under the Clean Water Act*¹. The proposed rule is of critical importance to the states, and will have a major impact on water resource management and protection for the foreseeable future. The proposed rule will affect multiple programs that are 1) implemented through the Clean Water Act, 2) operating parallel to the Act (i.e., states with their own independent dredge and fill programs), or 3) otherwise impacted by revisions to the scope of regulated waters (transportation, drinking water, etc.). As we prepare our comments regarding the proposed rule, state nonprofit organizations and their members need adequate time to thoughtfully evaluate the likely effect of the proposed rule on their aquatic resources and their stakeholders, and to assess the clarity, accuracy, ecological and economic impacts and benefits of the rule, and the manner in which it may impact and/or alter state programs and actions.

State review of this long anticipated rule has been partially diverted by issuance of an "Interpretive Rule," *Notice of Availability Regarding the Exemption From Permitting Under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices*², concurrent with the proposed rule on Definition of "Waters of the United States." The Interpretive Rule took immediate effect, and also has significant implications for the states. As the Interpretive Rule was unanticipated, is already in effect, and is being reviewed under a 45 day time period, states are focusing attention on the Interpretive Rule and those comments. Initial information from the states indicates that some of the newly exempt practices may trigger additional state or federal regulations, create the potential for exempt activities to result in

¹ 79 Fed. Reg. 22188-22274 (April 21, 2014)

² 79 Fed. Reg. 22276 (April 21, 2014)

state water quality violations or lead to other unforeseen consequences.

Given that we face two critical, overlapping, and complex issues that must be addressed simultaneously, we respectfully request a 60 day extension to the comment period on the proposed rule on Definition of "Waters of the United States" from July 21 to September 19, 2014. This extension will allow the states to fully evaluate and provide meaningful input regarding both of these important actions.

We look forward to the Agency's response to this request. Should you have questions regarding this request, please contact Jeanne Christie (jeanne.christie@aswm.org, 207-892-3399) or any of the signatories. Thank you.

Sincerely,



Alexandra Dapolito Dunn
Executive Director and General Counsel
ECOS



Jeanne Christie
Executive Director
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Julia Anastasio
Executive Director and General Counsel
ACWA

Cc: EPA - OWOW
Corps
NRCS