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Scott Pruitt
Administrator, Environmental Protection Agency
Douglas Lamont
Deputy Assistant Secretary, Army Corps of Engineers
EPA Docket Center
Docket: EPA-HQ-OW-2017-0203
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Submitted electronically at regulations.gov on Docket EPA-HQ-OW-2017-0203

September 25, 2017

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' proposed rule to rescind, review and revise the codified definition of the "waters of the United States" relative to President Trump's February 28, 2017 Executive Order 13,778. The proposed rule takes our nation further away from the Clean Water Act's goal of making our waterways fishable, swimmable and drinkable, and we urge the agencies to implement the 2015 Clean Water Rule.

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.

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.

The 2015 Clean Water Rule is an important piece of supporting this 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 Clean Water Rule of 2015 brought clarity to which headwater streams and wetlands are protected under the Clean Water Act, bringing hope for an end to the jurisdictional uncertainties created by the 2001 *SWANCC* and 2005 *Rapanos* Supreme Court decisions. The proposed rule continues this uncertainty for these waterways that, in addition to recreation, provide drinking water for 117 million Americans and habitat for fish and wildlife, and also serve to filter pollution from contaminated runoff, recharge groundwater supplies and provide important flood control functions.

The proposed rule ignores the robust scientific process that formed the basis of the 2015 Clean Water Rule. 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*. The review 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. It confirmed the importance of continuing to protect the hydrologically connected headwater streams and wetlands that were historically protected under the Clean Water Act.

The proposed rule also ignores the 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.

The proposed rule, and any future actions relating to water quality rules and regulations, should be based on the history, purpose and text of the Clean Water Act, using the best scientific evidence available. Rescinding the 2015 Clean Water Rule fails to do this. American Whitewater urges the EPA and Army Corps to keep the existing codified definition of "waters of the United States."

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. Repealing the Clean Water Rule of 2015 will further compromise our ability to protect

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).

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,



Kevin Colburn
National Stewardship Director



Megan Hooker
Associate Stewardship Director