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State of, New Mexico

November 19, 2018

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Honorable Andrew R. Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Acting Administrator Wheeler:

We are writing on behalf of your Local Government Advisory Committee (LGAC), which is composed of 30 elected and appointed officials of state, local and tribal government. We are writing in response to recent District Court decisions and the applicability of the 2015 Waters of the United States Rule.

We are writing in support of the agencies' direction to clear up the impact and uncertainty these decisions will have on local governments and the communities we represent in regard to 'Waters of the U.S.'

We also commend your leadership in working with your state and local partners in recognizing and resolving the regulatory confusion and unnecessary complexity of the 2015 Clean Water Rule. The LGAC continues to support the issuance of a new rule which is necessary to clarify and reduce the uncertainty of what is, and what is not, 'Waters of the U.S'.

We are concerned that the recent District Court decisions will have negative impacts on the current permitting process, possibly further delaying the permitting process, potentially hindering local water infrastructure projects, and complicating jurisdictional determinations.

On July 17, 2017, the LGAC sent forward a report entitled, *"The LGAC Waters of the U.S. 2017"* which puts forward our recommendations on a new WOTUS rule that takes a common-sense approach that works at the local level, especially in regard to small communities.

The approaches we put forward in our 2017 Report supports an enhanced state and local role in implementing Clean Water Act Section 404 and WOTUS. Local governments are very interested in being part of the solution, but

Frances Eargle, DFO

will need dedicated resources to fully assist through assumption of the Section 404 program and for greater utilization of state and regional general permits.

As local government officials, the availability and accessibility of clean and safe water is one of our highest priorities. The LGAC recommends that EPA continue to engage with us, along with state and local governments to put forward a more predictable framework to ease the regulatory burden that currently exists.

We are aware that a Draft 'Waters of the United States.' rule is currently being reviewed by the Office of Management and Budget. We urge EPA to work toward making this draft rule available for public review as soon as possible. We also urge you to consider the recommendations the LGAC put forward to Administrator Pruitt *in July 2017* which is a compilation of recommendations from a diverse group of local leaders. One of the most important themes we have heard (and experienced) is the lack of clarity in definitions and predictability in the current permitting process. ¹

The LGAC has been engaged in "Waters of the United States" since May 2014. Through a series of outreach meetings and conference calls, the LGAC has heard over 60 hours of comments and recommendations from our colleagues across the United States.

In summary, the LGAC appreciates your leadership and collaboration with local, tribal and state partners. We offer our continued assistance to you, Acting Administrator Wheeler, and your team at EPA as you move forward.

The opportunity exists in a new rule for a clear and predictable regulatory framework that will protect source water and provide clean, safe and affordable water for the American people while promoting sustainable economic development and public safety. Thank you for the opportunity to provide our perspectives and recommendations for your consideration in moving forward to provide the American people with a regulation that works for everyone.

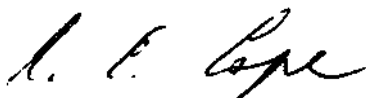
Sincerely,



Bob Dixon
Chair



Susan Hann, P.E.
Chair, Water Workgroup



Commissioner Dr. Robert Cope, DVM
Chair, Small Community Advisory
Subcommittee (SCAS)

¹ <https://www.epa.gov/sites/production/files/2017-07/documents/lgac-final-wotusreport-july2017.pdf>