



Board of Commissioners

County Administration Building
207 Fourth Avenue North, Rom 305
Kelso, WA 98626
TEL (360) 577-3020
FAX (360) 423-9987
www.co.cowlitz.wa.us

September 21, 2021

COMMISSIONERS

Arne Mortensen
District 1

Dennis P. Weber
District 2

Vacant
District 3

Damaris Christensen
Oceans, Wetlands and Communities Division
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Stacey Jensen
Office of the Assistant Secretary of the
for Civil Works
Department of the Army
108 Army Pentagon
Washington, DC 20310-01014

CLERK OF THE BOARD

Tiffany Ostreim

RE: Docket ID No. EPA-HQ-OW-2021-0328

Dear Ms. Christensen and Ms. Jensen:

Thank you for this opportunity to comment on the U.S. Environmental Protection Agency's (EPA) and the U.S. Army Corps of Engineers (Army Corps) proposed rule on the "Intention to Revise the Definition of Waters of the United States (WOTUS)," aiming to clarify which water bodies are federally regulated under the Clean Water Act (CWA). Cowlitz County appreciates the role of local government as a partner in ensuring clean water and the health and safety of our citizens. Therefore, we feel it is essential to express some considerations for the rulemaking process.

Regulatory certainty is critical for economic growth and prosperity in Cowlitz County. We must have the ability to permit both public and private development activity within a framework that remains consistent. In addition, the permitting process needs to be efficient and easily understood.

Regulatory certainty requires the precise definition of terms so that they are not subject to future interpretation. For example, the terms "Intermittent" and "ephemeral" as they relate to tributaries and other waters needs to be clearly defined. If these definitions are to be established at the regional level, counties need to be involved in that discussion early in the process.

Cowlitz County appreciated the twelve exemptions included in the 2020 Navigable Waters Protection Rule. For example, artificial lakes and ponds, stormwater features, prior converted cropland, etc. We would also like to see WOTUS jurisdiction limited to navigable tributaries and wetlands that abut other WOTUS. We understand this to be the original intent of the CWA, based on the 1899 Rivers and Harbors Act, which used the term 'navigable waters' to mean lake, river or ocean.

Once rulemaking is completed, we request that a nationwide map be developed that clearly depicts which waters are considered jurisdictional and which waters are not jurisdictional. This will not only take pressure off our already limited staff, but will make identification transparent and predictable for constituents. We do not want to see economic development and infrastructure projects delayed by unnecessary jurisdictional disputes.

Again, Cowlitz County appreciates the opportunity to comment on the proposed revisions to the WOTUS definition and implementation. We look forward to working with the EPA and Army Corps as the process moves forward.

Sincerely,
**Board of County Commissioners
of Cowlitz County, Washington**

Dennis P. Weber, Commissioner

Arne Mortensen, Commissioner