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Executive Director & General Counsel
Julia Anastasio

September 21, 2017

Scott Pruitt
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, DC 20460

Mr. Douglas W. Lamont, P.E.
Senior Official Performing the Duties of the
Assistant Secretary of the Army for Civil Works
108 Army Pentagon
Washington, DC 20310-0108

Dear Administrator Pruitt and Mr. Lamont:

As you continue to work to implement the Executive Order “*Restoring The Rule Of Law, Federalism, And Economic Growth By Reviewing The "Waters Of The United States" Rule*”, the members of the Association of Clean Water Administrators (ACWA) urge you to work directly with state water quality program directors as you develop the new rule. You have emphasized a desire to craft a final rule which avoids common regulatory pitfalls such as lack of clarity, inflexibility, and inadequate consideration of state level implementation concerns, and for that we are deeply appreciative. Our members, the directors of state surface water quality programs, possess unique knowledge and insight into these areas and therefore we encourage you to complement your work with state political leadership by consulting with ACWA members as you develop the framework and text of a new waters of the U.S. rule.

ACWA stands ready to assist you and your staff as you begin to develop the outlines of a new rule. We have established a geographically diverse workgroup made up of representatives from several state water quality programs. Since consulting with EPA as part of EPA’s “federalism outreach”, we have continued preparing to assist EPA with the imminent development of the proposed rule by compiling key background information on both state water resource management authority and state program flexibility. We have shared this information with the EPA program staff working to develop the new rule, to better inform EPA on what authority exists in individual states to adjust state law after EPA promulgates a rule narrowing the definition of waters of the US. This is one example of how ACWA member knowledge, expertise and experience implementing the Clean Water Act will be invaluable as your staff considers a new approach to defining waters of the U.S.

When commissioners and elected officials need to discern how to implement this new rule and what effects it will have on state government, local landowners, and other stakeholders, on permitting efficiency, and on water quality our members are the experts they will turn to. ACWA urges EPA to continue to take advantage of this expertise and experience by working directly with ACWA and its members as the proposed rule is drafted. Specifically, we ask that EPA provide at least an early draft of regulatory text, or options with sufficient detail for our workgroup members to give EPA useful and specific feedback on the new rule. Providing this information to state surface water program directors would be tremendously beneficial for EPA, as our members are uniquely qualified to evaluate the regulatory text in terms of technical details, implementation challenges and barriers, and unintended consequences. This type of dialogue is much better suited to the Administration's stated goals than a perfunctory exchange shortly before a proposed rule is published, due to the opportunity to have actual substantive dialogue with states over the course of several meetings allowing for thorough consideration of the mechanics of the rule by co-regulators working together. Undertaking such a series need not be a drawn-out process, as our workgroup is ready and able to have thorough discussions in a short period of time to meet your schedule.

We thank you for continually emphasizing to both us and the general public the importance of an EPA who espouses cooperative federalism for protecting our country's resources, including and especially our surface waters. We look forward to working with your staff as they work to fulfill the goals outlined in the executive order on Waters of the US by developing a new rule, as well working with your staff to eventually implement the rule across the country as we continue our mission of protecting and improving state water quality. Should you wish to discuss the role ACWA can play in informing the development of a new rule, please contact Julia Anastasio, Executive Director and General Counsel, at janastasio@acwa-us.org or 202.756.0600.

Sincerely,



Jennifer Wigal
Water Quality Program Manager
Oregon Department of Environmental Quality
ACWA President

Cc: Mike Shapiro, Acting Assistant Administrator, Office of Water
Lee Forsgren, Deputy Assistant Administrator, Office of Water
John Goodin, Acting Director, Office of Wetlands, Oceans and Waterways