February 7, 2022

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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
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The Honorable Michael L. Connor
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SUBMITTED VIA FEDERAL ERULEMAKING PORTAL

Re: Comments on Revised Definition of "Waters of the United States"
Docket ID No. EPA-HQ-OW-2021-0602 (December 7, 2021)

Dear Asst. Administrator Fox, Asst. Secretary Connor, and Mses. Christensen and Jensen:

The undersigned organizations thank you for this opportunity to comment on the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Army Corps) Revised Definition of "waters of the United States" (WOTUS) published in the Federal Register on December 7, 2021.[1]

In North Dakota and Minnesota, farmers and landowners encounter regulatory restrictions on water management practices that require coordination with agencies implementing the Clean Water Act (CWA), the wetland conservation compliance provisions for farm program participants and federal crop insurance policyholders under the Food Security Act of 1985,[2] property rights issues related to the federal government's ownership of waterfowl production area easements managed by the U.S. Fish and Wildlife Service,[3] and state and local regulations pertaining to the construction of surface and subsurface water management systems.

[1] 86 Fed. Reg. 69,372.
[2] *See* 16 U.S.C. §§ 3801 et seq. (commonly known as "Swampbuster").
[3] National Wildlife Refuge System Administration Act, Pub. L. No. 89-669, §§ 4 and 5, 80 Stat. 927 (codified at 17 U.S.C. §§ 668d-668ee, *as amended* Pub. L. No. 105-57).

Determining whether CWA jurisdiction applies is critical to the agricultural industry. The scope and reach of CWA jurisdiction is particularly impactful on the agricultural industry operating within the prairie pothole region of the United States, including North Dakota and Minnesota. Expansions to the definition of WOTUS impact farmers' ability to produce food, fiber, and fuel to the country confidently and manage water on cropland effectively. Fluctuations in precipitation cycles further exacerbate the confusion and uncertainty over jurisdictional boundaries and application of the CWA to water management activities.

Property owners, small and large businesses, land improvement contractors, and farmers in North Dakota and Minnesota have long sought certainty from Congress, the courts, and the agencies on the scope of "navigable waters" subject to federal jurisdiction. The agencies have provided mostly incomprehensible, complex guidance to the field on what constitutes WOTUS and the way in which jurisdiction is determined. This concern is aggravated by the administrative penalties and civil and criminal enforcement authority granted to the agencies.[4] The threat of administrative compliance orders coupled with penalties that can total $75,000 or more per day instills fear in landowners, small businesses, and farmers. It deters those individuals from exercising otherwise lawful property rights due to a lack of clarity in the regulation.

I. COMMENTS ON PREVIOUS WOTUS RULES

The agencies' final rule defining WOTUS should be clear, concise, and objective. We believe the 2019 NWPR was a step in the right direction of eliminating many of the time-consuming, subjective, and uncertain processes necessitated by interpreting the 2015 Rule. Some of the improvements from previous agency guidance and the 2015 CWR that we supported include:

1. Elimination of the case-by-case application of Justice Kennedy's significant nexus test, which created a time-consuming, uncertain, cost-prohibitive, and unpredictable process of determining whether a water or area of occasionally wet land constituted WOTUS.

2. Elimination of ephemeral tributaries from the definition of WOTUS.

3. Elimination of interstate waters, including interstate wetlands, as an independent category of jurisdictional waters within the definition of WOTUS.

4. Elimination of the entire Prairie pothole region as potentially jurisdictional on a case-by-case basis under the similarly situated status assumptions.

5. Elimination of man-made, non-navigable ditches with less than intermittent flow that are not constructed in (or to relocate) a tributary or in an adjacent wetland.

[4] *See, e.g.*, 33 C.F.R. § 326.6 (providing for administrative penalties that include accrued per-day penalties for violations, which in some instances can total $75,000 per day of violation) & 33 C.F.R. § 326.6 (providing for civil or criminal enforcement).

The proposed rule published in 2021 for the revised definition of "waters of the United States" eliminates many of the positive aspects of the 2019 NWPR. It lacks clarity needed for effective interpretation and administration of the CWA in the prairie pothole region.

We make the following comments and recommendations for consideration in issuance of the agencies' final rule for the revised definition of "waters of the United States":

II. REQUEST TO DELAY FINAL RULE IMPLEMENTATION

We request the agencies delay implementation of the final "waters of the United States" rule.

The 2021 proposed rule revising the definition of WOTUS requests feedback on over one-hundred specific questions and potential alternatives. In addition, the agencies' docket includes 105 supporting documents, including a 250-page Technical Support document and a 177-page Economic Analysis. While the agencies have touted this rule as a mere return to a familiar pre-2015 regulatory regime, a careful review of the proposed rule reveals the agencies are again attempting to expand CWA jurisdiction, particularly to wetlands and other waters, similar in scope to the impermissible and rejected expansions used in the 2015 Clean Water Rule. When the 2015 Clean Water Rule was developed, however, the administration afforded the public 90 days to comment on the proposed WOTUS definition and then extended the deadline multiple times. Ultimately, the administration afforded the public almost seven months to comment on the agencies' proposal.[5]

Although the agencies posted a pre-publication copy of the proposed rule on its website prior to formal publication in the Federal Register, the 60 days for comments after formal publication has not afforded enough opportunity for our organizations to engage with members to review the agencies' docket, the proposed rule, and fully analyze its implications for the agricultural community. This is a complex legal and scientific matter, that deserves thoughtful review and deliberation. This takes far more time than the agencies are allocating here.

Even if the rule is based on prior agency rule and guidance, application of the pre-2015 rules and guidance within the agencies has been vastly inconsistent across local field offices. For the public to have an opportunity to meaningfully comment on these proposed rules, additional time is needed.

Moreover, any potential risks associated with further delay are mitigated by the fact that the agencies have already announced the repeal of the 2019 NWPR and implementation of the pre-2015 rules and guidance upon which the proposed rule is purportedly based. Further delay should only have the potential to affect those waters that the agencies are proposing to expand jurisdiction over from the pre-2015 rules and guidance.

Importantly, the U.S. Supreme Court decision to grant Michael & Chantel Sackett's petition for writ of certiorari on appeal from the adverse ruling against them in the Ninth Circuit means that

[5] *See* 79 Fed. Reg. 61,590 (Oct. 14, 2014).

the Court is likely to provide the agencies and the regulated community with further precedence on the scope of "waters of the United States" in the near future. The Supreme Court's review has a direct impact on the rule currently proposed. It is likely that implementation of the agency's final rule will have only just commenced when the Court will issue its opinion squarely impacting the final rule. The regulated community should have the advantage of receiving and contemplating the Supreme Court's decision, and to incorporate the impact of that decision into its comments to the agencies before a revised "waters of the United States" rule is finalized and implemented. Similarly, the agencies should await guidance from the Supreme Court before finalizing its rule. Otherwise, another round of rulemaking to comply with new Court precedence may be required.

We urge the EPA and Army Corps to delay further implementation of the proposed rule defining WOTUS until after the U.S. Supreme Court issues its decision in *Sackett v. U.S. EPA* and to, thereafter, allow further comment from the regulated community on the implications of the Court's ruling on the agencies' proposed rule.

III. SIGNIFICANT NEXUS STANDARD

As an initial matter, we offer that the significant nexus standard articulated by a single justice, Justice Kennedy, in the *Rapanos* case is not a mandatory component of any future definition of "waters of the United States." In that case, not a single opinion was fully supported by the majority of Justices needed to establish clear legal precedent. In such circumstances, the holding of the Court is the "position taken by those Members who concurred in the judgments on the narrowest grounds."[6] Justice Kennedy's significant nexus standard fails to represent the narrowest grounds used to reach the holding in *Rapanos*.

In issuing its *SWANCC* decision, the Supreme Court provided important guidance which the EPA and Army Corps must consider in finalizing the 2021 Proposed Rule. The Court highlighted two important statutory texts of the Act:

1. 33 U.S.C. § 1251(b): "It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate

[6] *Marks v. U.S.*, 430 U.S. 188, 193 (1977). We acknowledge that application of the "narrowest grounds doctrine" articulated in *Marks* has proven difficult as evidenced by numerous lower court decisions since *Marks* commenting on the challenge of applying the doctrine to definitively determine the appellate court's holding. Most of these cases state that plurality opinions, such as those in *Rapanos*, should be treated as persuasive (rather than controlling) authority, and the focus should be on the reasoning and analysis used in the opinion rather than the Court's ultimate holding. *See, e.g.*, *Hoak v. Idaho*, 2013 WL 5410108, at *8, FN7 (D. Idaho Sept. 25, 2013) (noting the standard in the 9th Circuit of treating plurality opinions as persuasive, not binding and its instruction to district courts to focus on the reasoning and analysis used in support of a holding to determine whether the cases are clearly irreconcilable (citing *Lair v. Bullock*, 697 F.3d 1200, 1202 (9th Cir. 2012) & *Rodriguez v. AT & T Mobility Servs., LLC*, 2013 WL 4516757 (9th Cir. 2013))).

pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter."[7]

2. The inclusion of the term "navigable" defined as "waters of the United States."[8]

After highlighting these provisions in its analysis, the Court ultimately held that the Clean Water Act cannot extend to isolated bodies of water that are not adjacent to open water.[9] The Court explained that exerting jurisdiction over these types of waters would eviscerate any meaning behind the CWA's use of the word "navigable."[10]

Although it appeared that *Riverside Bayview Homes* and *SWANCC* provided good, contrasting precedent on the outer boundaries of CWA jurisdiction, the limits of that precedent were tested in the *Rapanos* decision. Unfortunately, Justice Kennedy invited ambiguity and uncertainty into the true reach of the CWA with his "significant nexus" test articulated in that opinion. After *Rapanos,* Justice Kennedy's concurring opinion in *U.S. Army Corps of Engineers v. Hawkes Co.* (2016) arguably hints at regret for the ambiguous interpretations his *Rapanos* opinion invited. Justice Kennedy remarked: "The [Clean Water] Act, especially without the [jurisdictional determination] procedure were the Government permitted to foreclose it, continues to raise troubling questions regarding the Government's power to cast doubt on the full use and enjoyment of private property throughout the Nation."[11]

We support a reading of *Riverside Bayview Homes*, *SWANCC*, *Rapanos*, and other cases recognizing nonnavigable waters must be so close, or so potentially close, to other navigable waters that it is difficult to determine where the boundaries of the navigable water end and where the boundaries of the nonnavigable water begin. We believe that expanding CWA jurisdiction to waters that contradict the CWA use of the word "navigable" should come after debate and amendment by Congress, and not from the courts or agencies. We oppose any attempts to bootstrap jurisdiction over waters that are only adjacent to other non-navigable waters that rely on their own adjacency in order to be considered WOTUS.

IV. DITCHES

A ditch is a "discernible, confined, and discrete conveyance" of water.[12] In North Dakota, Minnesota, and many other states, development of the agricultural economy depended on water management. Due to the nature of the landscape, very few surface or subsurface water

[7] 531 U.S. at 166.
[8] 531 U.S. at 167.
[9] 531 U.S. at 168.
[10] 531 U.S. at 171-72.
[11] 136 S. Ct. 1807, 1817 (2016).
[12] 33 U.S.C. § 1362(14) ("The term 'point source' means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit . . . .").

management systems solely traverse upland. Many were built in wetlands, not always for the purpose of draining the wetland, but to allow for the efficient passage of water through the watershed. Many of these ditches do not have perennial flow and should not be considered jurisdictional, especially if their inclusion will extend jurisdiction to a wetland adjacent to such ditches.

Further, we do not support lessening the flow standard to intermittent flow or anything less than perennial flow for any constructed ditch.

We oppose the current 2021 proposed rule's inclusion of certain ditches within the WOTUS definition. We support revision of the definition to include as WOTUS only those waters in a ditch that are capable of navigation in interstate or foreign commerce or are part of the territorial seas, were constructed in a tributary, or otherwise satisfy the conditions of the tributary definition and either relocated or altered a tributary or were constructed in an adjacent wetland.

We support adding a temporal component to exclude from the definition of WOTUS all ditches constructed prior to adoption of the 1972 Clean Water Act Amendments.

V. WETLANDS

The preamble asserts that wetlands inside and outside of the floodplains are well-known to store large volumes of floodwaters, thereby protecting downstream watersheds from potential flooding.[13] Wetlands storing stormwaters are akin to a sponge – when there is capacity for storage in the sponge, stormwaters can be stored and reserved. When the sponge is full, however, the stormwater runs off the sponge, causing soil erosion and transfer of sedimentation downstream. We are concerned by the proposed rule's expansion of WOTUS jurisdiction to wetlands located on cropland and the impact such jurisdictional expansion has on the ability of landowners, farmers, and land improvement contractors to install and utilize subsurface water management technology.

We support reasonable, subsurface management of water on cropland in order to increase the storage of floodwaters in the soil profile, thereby reducing surface run-off, reducing soil erosion, reducing sediment transfer, and reducing peak-flow discharges downstream. Subsurface water management systems, like drain tile, reduce erosion in cropland by about 40 to 60 percent and flooding by about 15 to 30 percent.[14] Research has shown that subsurface drainage has little to

[13] 86 Fed. Reg. at 69,383.

[14] *See* Environmental Benefits of Tile Drainage by Heather Fraser & Ron Fleming (Oct. 2001) (citing Baker J.L. and Johnson, H.P. 1976. Impact of subsurface drainage on water quality. Proceedings from the 3rd National Drainage Symposium, Chicago, Ill.; Hill, A.R. 1976. The environmental impacts of agricultural land drainage. Journal of Environmental Management. 4:251-274; Irwin, R.W. and Whiteley, H.R. 1983. Effects of land drainage on stream flow. Canadian Water Resources Journal. 8(2):88-103; Belcher, H.W. and Fogiel, A. 1991. Research literature review of water table management impacts on water quality. Agricultural Engineering Department, Michigan State

no effect on the stream flow in a watershed.[15] Filtering stormwater runoff through the soil profile reduces phosphorus and turbidity dramatically. The promotion of subsurface water management increases production on current farmland, allowing non-cropland to be reserved for other uses such as hunting and recreation.

In stormwater events on cropland, subsurface drainage increases storage capacity in the soil by continually removing excess, or "loose" water, from the soil profile. This loose water is not available for use by plant roots. It fills the soil pore normally occupied by air and leads to drowning of crops. Plant roots use "capillary" water, which is held to soil particles by surface tension. Soils with tile drainage have a greater storage capacity than naturally well-draining soils that did not have tile drainage. Under drained conditions, it should take the water table three to four days to fall to drainage depth. In contrast, undrained fields may take several weeks for evaporation alone to lower the water table to a similar depth. If there is an intervening rain, it will take longer. Further, some soils drained with tiles may actually have a higher capacity to store water because tile drainage improves soil structure. Better soil structure means that the soils is more porous, and is therefore better able to store water.[16]

A. WETLAND DEFINITION

We support a unified approach by all federal agencies to wetland delineations, determinations, and mitigation requirements.

The largest generator of distrust by property owners, farmers, and the regulated community is the failure of each federal agency to recognize and support each other's wetland determinations and mitigation requirements. In North Dakota and Minnesota landowners and farmers deal frequently with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) under the provisions of the Food Security Act of 1985, the U.S. Department of Interior's U.S. Fish and Wildlife Service under the National Wildlife Refuge System Administration and Duck Stamp Acts on lands burdened by waterfowl production area easements, and the EPA and Army Corps under the Clean Water Act. While the laws administered by each agency are different, each with varying objectives, all agencies use or have used the *Corps of Engineers Wetlands Delineation Manual* of 1987.[17]

University; and Thomas et al. Agricultural drainage effects on water quality in Southeastern U.S. Journal of Irrigation and Drainage Engineering. 121(4):277-282. 1995).

[15] *See* Fraser & Fleming (citing Serrano et al. 1985. Effects of agricultural drainage on streamflows in the middle Thames River, Ontario, 1949-1980. Report. Dept. of Civil Engineering, University of Waterloo, Waterloo and School of Engineering, University of Guelph, Ontario; Eddie, J.D. 1982. Temporal variations of southwestern Ontario streamflows. Ontario Ministry of the Environment, Water Resources Branch, Paper 15).

[16] *See* Fraser & Fleming at Section 4.0.

[17] Prior to 1986, no manual existed for government agency reference to delineate wetlands. In 1987, the Army Corps and in 1988, the EPA, released their own versions of delineation manuals,

The lack of communication, understanding, and agreement between the federal agencies on wetland delineations adds time, cost, confusion, and undue burdens to the permitting process of each project. In addition, it seems that in North Dakota and Minnesota the internal policy of our federal agencies is to "wait and see" what the other agencies do before issuing their own determinations, thus resulting in further delay while neither agency is willing to act first. Each agency then issues a different mitigation requirement which makes it difficult for proponents of water management projects to plan and keep projects on schedule.

Projects are often delayed years by this process. A unified approach by all agencies of the federal government to wetland identification, delineation, and mitigation would decrease the burden on regulatory agencies, save administrative costs to the agencies and the regulated community, and help bring clarity and trust back to the administrative process.

We recommend the agencies amend the definition of "wetlands" to include acceptance of wetland delineations conducted by the U.S. Department of Agriculture. We further encourage the EPA and the Army Corps to enter into a Memorandum of Agreement with the U.S. Department of Agriculture and the Department of Interior concerning delineation of wetlands for purposes of the Clean Water Act, Food Security Act, and management of waterfowl production area easements under the National Wildlife Refuge System Act.

B. WETLANDS ADJACENT TO OTHER JURISDICTIONAL WATERS

In the preamble to the 2021 proposed rule, the agencies assert it was held in *Riverside Bayview Homes* that it was appropriate for the Army Corps to regulate all wetlands, even though some might not have any impacts on traditional navigable waters.[18] It is worth noting, however, that the Supreme Court opinion stated a definition that includes wetlands that are not significantly intertwined with the ecosystem of adjacent waterways is of little importance where the Corps allows development of the wetland for other uses simply by issuing a permit. Viewing the scope of the CWA's WOTUS definition in a vacuum, including wetlands that are not intertwined with the ecosystem of navigable water is, clearly, problematic. In *Rapanos*, Justice Kennedy noted that

each relying on the presently used parameters of (1) hydrophytic vegetation; (2) hydric soils; and (3) sufficient periods of hydrology to establish wetland boundaries. After several years of field-testing, a 1989 revised manual was released and agreed to by all four federal agencies: the NRCS; the Corps; the EPA; and U.S. Fish and Wildlife Service. In 1991, public concerns that the 1989 manual resulted in over-delineation of wetlands led to review of the 1989 manual, with revisions proposed in August of 1991. In response to comments received during the public comment period, the EPA responded by withdrawing the proposed manual. In 1992, Congress appropriated funds to commission the National Academy of Science to study wetland delineation. Congress prohibited the Army Corps from using the 1989 manual during the interim study period. The Army Corps returned to use of the 1987 manual.

[18] 86 Fed. Reg. 69,379 (citing *Riverside Bayview*, 474 U.S. at 135, n.9.

to be jurisdictional, the relationship with traditional navigable waters must be more than "speculative or insubstantial."

C. OTHER WATER WETLANDS

The preamble to the proposed rule acknowledges that for "non-floodplain wetlands and open waters lacking a channelized surface or regular shallow subsurface connection, generalizations from the available literature about their specific effects on downstream waters are difficult because information on both function and connectivity is needed . . . ."[19] The proposed rule resolves the lack of understanding about specific effects by requiring a case-by-case specific analysis to determine jurisdiction.

We oppose the proposition that non-adjacent wetlands, referred to in the proposed rule as "other waters" fit within the legally defensible definition of "waters of the United States."

The preamble to the proposed rule supposes that sometimes, the isolation of non-adjacent wetlands from the stream network, lacking any hydrological connection at all, is what "contributes to the important effect that they have downstream."[20] The preamble states: "for example, depressional non-floodplain wetlands lacking surface outlets can function individually and cumulatively to retain and transform nutrients, retain sediment, provide habitat, and reduce or attenuate downstream flooding, depending on site-specific conditions such as landscape characteristics." These statements directly contradict the Court's ruling in *SWANCC* which expressly prohibits the CWA from applying to such wetlands. Including such wetlands within the WOTUS definition also eviscerates the importance of the word "significant" from the Court's nexus standard.

D. PRIOR-CONVERTED CROPLAND EXEMPTIONS

We strongly support the alignment of the CWA's implementation with the wetland conservation compliance provisions of the Food Security Act (Swampbuster) implemented by the U.S. Department of Agriculture. We strongly support the exclusion of prior-converted cropland, as defined and determined by the Natural Resources Conservation Service (NRCS), from the definition of WOTUS.

NRCS regulations define "prior-converted cropland" as "a converted wetland where the conversion occurred prior to December 23, 1985, an agricultural commodity had been produced at least once before December 23, 1985, and as of December 23, 1985, the converted wetland did not support woody vegetation and did not meet the hydrologic criteria for farmed wetland."[21]

[19] 86 Fed. Reg. at 69,393.

[20] 86 Fed. Reg. at 69,393.

[21] 7 C.F.R. § 12.2, *wetland determination(8)*. The hydrologic criteria for "farmed wetland" are found at 7 C.F.R. § 12.2, *wetland determination(4)*.

We strongly oppose the notion that prior-converted cropland loses its exempt status if wetland characteristics return due to lack of maintenance of the drainage manipulation. We encourage the EPA and Army Corps to adopt the "once prior-converted cropland, always prior-converted cropland" exemption employed by the U.S. Department of Agriculture.

We encourage the EPA and Army Corps to clarify that prior-converted cropland which presently meets wetland criteria is only considered "abandoned" and potentially subject to inclusion within the definition of WOTUS if the area or field in which the prior-converted cropland is contained is no longer used for the production of an agricultural commodity, aquaculture, grasses, legumes, or pasture. Whether the prior-converted cropland itself has been used for production of an agricultural commodity should not be relevant. We believe this is the standard sought in the 2005 joint memorandum to the field issued by USDA and the Army, but not clearly articulated in the 2021 proposed rule and prefatory remarks.

We recommend the agencies adopt, in all circumstances, prior-converted cropland determinations issued by the Natural Resources Conservation Service. We also recommend the agencies adopt the U.S. Department of Agriculture's "once prior-converted cropland, always prior-converted cropland." Alternatively, we recommend the agencies clarify that prior-converted cropland which presently expresses wetland characteristics is not abandoned as long as the area, meaning the field in which the prior-converted cropland is located, has not been abandoned for agricultural purposes.

VI. IMPROVING CLEAN WATER ACT IMPLEMENTATION

The 2021 proposed rule sets out only to define "waters of the United States." It does not, and was not intended to, discuss types of "discharges" that are exempt or not exempt from those jurisdictional waters. However, we encourage the agencies, through further rulemaking and analysis, to evaluate the significance of the impact different types of discharges have on the integrity of the waters of the Unites States.

For example, under Section 404(e) of the CWA, the Army Corps is vested with authority to issue general permits authorizing activities in WOTUS that have minimal individual and cumulative adverse environmental effects on the integrity of navigable waters. Unfortunately, Nation Wide Permits can be eliminated within the Army Corps District by adoption of Regional General Permits, which can be more restrictive than Nation Wide Permits based on the unique characteristics deemed important to the District. The current threshold to authorize District level regulation is extremely low. We encourage and support heightened scrutiny on the regulatory procedure that permits Army Corps districts to depart from the Nation Wide Permitting rules.

VII. CONCLUSION

We encourage the EPA and the Army Corps to work cooperatively with local and state stakeholders to achieve the agencies' goals of practical, consistent, objective, and clear

application of these regulations. The U.S. Supreme Court has twice stated that the EPA and the Army Corps must find meaning in Congress's use of the word "navigable." A review of the bills proposed by Congress since the Clean Water Act's enactment shows that there is not congressional support for an expansion of the phrase "waters of the United States." Section 101(b) of the Clean Water Act states Congress's policy is to preserve the primary responsibility and rights of states to prevent, reduce, and eliminate pollution, to plan the development and use of land and water resources, and to consult with the Administrator with respect to exercise of the Administrator's authority under the Clean Water Act." We believe North Dakota and Minnesota are well-equipped to take on this requirement.

If you have any questions regarding these comments, please contact the Executive Director of the North Dakota Grain Growers Association, Dan Wogsland via email at danw@ndgga.com or via phone at (701) 282-9361.

We strongly encourage you to take our recommendations under consideration in your final publication of the proposed rule.

Sincerely,

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The Honorable John Hoeven, U.S. Senator
The Honorable Kelly Armstrong, U.S. Representative
The Honorable Tina Smith, U.S. Senator
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The Honorable Jim Hagedorn, U.S. Representative
The Honorable Angie Craig, U.S. Representative
The Honorable Dean Phillips, U.S. Representative
The Honorable Betty McCollum, U.S. Representative
The Honorable Ilhan Omar, U.S. Representative
The Honorable Tom Emmer, U.S. Representative
The Honorable Michelle Fischbach, U.S. Representative
The Honorable Pete Stauber, U.S. Representative