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DAVID B. MILLER
ATTORNEY

BETTY CARLISLE
COUNTY ADMINISTRATOR

June 19, 2017

CWAwotus@epa.gov

Re: WOTUS comments

Dear Sir or Madam:

The following comments reflect my perspective as a sitting county supervisor, an educated and trained geologist, a former environmental regulator, and a former environmental business owner subject to a wetlands delineation in the early 90's:

According to information provided by EPA to our National Association of Counties, both EPA and the Corps, "...plan to propose a new definition that would replace the approach in the 2015 Clean Water Rule with one that reflects the principles that Justice Scalia outlined in the *Rapanos* plurality opinion." While I find it comforting to know that we have the opportunity to avoid the burdensome regulations that are/were WOTUS, it also bears noting that even Justice Scalia was confined by both the CWA and the regulations promulgated into the CFR prior to *Rapanos*.

In 1993, when I left the MDEQ to start a business subject to wetlands regulations, I was able to make the determination of the scope of wetlands on the property without the aid of an engineering firm due to the simplicity of the regulations and the Corps' willingness to make an onsite visit. Today, an individual is unable to make such a determination without hiring an engineering firm. Please gut WOTUS and return the CWA regulations to the point that an individual with no previous knowledge of the regulations can manage the burden with a simple phone call to your staff. People do not go into business for the sake of complying with an environmental regulation rather to render a service or a product.

More recently, I found it extremely difficult to believe that, "bridges and culverts" that the County had been maintaining for 60 to 80 years would now be classified as wetlands subject to us having to seek out EPA/Corps approval to return them to their prior condition following any flood event that damaged them, potentially leaving them closed to school buses, emergency vehicles and the general public while awaiting Federal Bureaucrats to give us the nod to reconstruct them. We also find ourselves fighting the repeated regulatory threats of designating logging and timber roads as point sources of stormwater runoff. In fact, it's virtually impossible

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for us to regulate and stop the runoff from the approximately 60' of rain we get each year in the Temperate Rainforest in which we live. Perennial water was once defined as that with a flow above 200 cfs. Now, that was something that we could hang our hat on, but under WOTUS, we must leave it to the legal profession to define what a "nexus" to a stream channel is.

During the last several years, our major municipality, Hattiesburg, was sued by the Gulf Restoration Network (NGO) and the MDEQ in Federal court in order to comply with CWA regulations and the threat of not being able to comply with impending CWA nitrogen and phosphorous limit decreases. The City came dangerously close to having to construct either a land application system or a mechanical treatment system for its wastewater disposal, both of which carried construction price tags greater than \$130,000,000 to service a population of approximately 60,000, or about \$6,500/household. That doesn't even begin to address the maintenance of those systems or the aging distribution system that collects that wastewater. An investment of around \$6,000,000 has brought the existing lagoons into compliance, but the Federal court order has not gone away. Why? Because EPA has been sued into oblivion by the Sierra Club et al. in order to comply with the CWA, forcing the State DEQ to implement TMDL's on an artificial quota of water bodies. I know of no entity in our State, be it municipality or county, that has the wherewithal to refute an EPA/DEQ established TMDL. The fact is, few people outside the environmental community even have a concept of what a TMDL is.

I'd like to finish by reiterating segments from the letter that NACo submitted in November as comment on WOTUS: in sum, a) the EPA and Corps should generate a national map that delineates all waters that are jurisdictional wetlands; b) WOTUS should exclude regulation of ditches and infrastructure intended for public safety, and c) any property an individual or entity asks the Federal Government to make a determination upon is subject to a decision within sixty (60) days.

Thank you in advance for your attention to this matter.



Chris Bowen, MS Registered Professional Geologist 0365
Supervisor, Forrest County, Mississippi

cc: The Hon. Thad Cochran, United States Senate
The Hon. Roger Wicker, United States Senate
The Hon. Steven Palazzo, United States Representative
Mr. Andrew Hanson, Environmental Protection Agency
Ms. Julie Ufner, National Association of County Officials