



CITY OF MANTECA

MANTECA CITY COUNCIL

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June 6, 2017

Andrew Hanson
Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20004

RE: Definition of Waters of the United States under the Clean Water Act

Dear Mr. Hanson:

The City of Manteca, California appreciates this opportunity to provide comments and additional information regarding the Environmental Protection Agency's (EPA) review of the definition of Waters of the United States (WOTUS) under the Clean Water Act. The City is very pleased to learn that the EPA seeks to revisit the definitions in the current WOTUS rule and reexamine the approach taken to draft the rule.

Manteca is a city of over 74,000 residents located in San Joaquin County. With significant growth over the past two decades and more forecasted for the future, nearly every development or project within the City involves a federal permit. This makes the future of the WOTUS rule extremely important to Manteca.

The WOTUS rule was intended to provide greater clarity and ensure consistent implementation of the Clean Water Act throughout the country. Unfortunately, the previous rule does not achieve these goals. Thus, we believe it is imperative that EPA ensure the new WOTUS rule provides bright jurisdictional lines and clear exemptions.

The City of Manteca supports the decision by the President in his Executive Order entitled Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" Rule to direct the EPA to reexamine the WOTUS rule using the narrower definition of Waters of the U.S. as expressed by Justice Antonin Scalia in 2006 during the *Rapanos v. United States* case. The City agrees with Justice Scalia that federal protection under the Clean Water Act should only apply to relatively permanent waters, such as those waters that carry flow throughout the year, as well as wetlands with a continuous surface connection or direct contact with jurisdictional waters.

The definition and language regarding agricultural irrigation ditches and drainage facilities is of concern to the City. The current standard used by the Army Corps of Engineers is "measurable infiltration." We believe that this standard is too subjective; instead we encourage the EPA to determine a clear standard by which agricultural irrigation ditches are designated as drainage

facilities when they are impacted by urban runoff, specifically, a standard that contains tighter numeric metrics.

The City also urges the EPA to reexamine the language in the current WOTUS rule regarding floodplains. The existing rule would regulate any water within the floodplain. The City believes this broad definition is another example of a lack of clarity. With shifting definitions of what a floodplain is or may be in the future, this uncertainty of the rule will require entities like ours to seek interpretation and likely a permit for any activity that affects waters in the floodplain.

The City greatly appreciates EPA's engagement of state and local governments and Clean Water Act stakeholders. Communication with state and local government was not a part of the process to develop the previous WOTUS rule, and we are hopeful this engagement will ensure greater clarity and the most feasible application. As the EPA moves forward with rewriting the WOTUS rule, we strongly encourage you to continue to engage with local stakeholders in crafting a more reasonable rule.

We appreciate your thoughtful consideration of these comments and look forward to continuing to work with the EPA.

Thank you,

A handwritten signature in blue ink, appearing to read "Stephen F. DeBrum". The signature is fluid and cursive, with the first name "Stephen" and last name "DeBrum" clearly legible.

Stephen F. DeBrum
Mayor