



County Surveyors Association of Indiana

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To: CWAwotus@epa.gov
Cc: Hanson.Andrew@epa.gov

IN RE: Waters of the United States Rulemaking
Comments from State and Local Officials

The County Surveyors Association of Indiana is a non-profit organization whose purpose is the advancement, promotion and protection of County Surveyors in Indiana. All 92 county surveyors in Indiana are elected officials who voluntarily join CSAI to collectively advocate public policy having an impact on financing and public welfare associated with the many duties of their office; including but not limited to, stormwater drainage, infrastructure and water quality in Indiana.

The CSAI is thankful to the EPA and USACOE for the opportunity to provide comments, and supports clarification and predictability in the definition of Waters of the U.S. We do not believe, however, an immediate expansion of the definition from the previous guidance is necessary. If a new definition or clarification advances through the rule making process, it should only attempt to clarify any ambiguity in the current rule.

We believe the Justice Scalia opinion in *Rapanos vs. United States* (2006), should be the standard for defining Waters of the U. S. The definition of navigable waters should be interpreted in the Clean Water Act as "relatively permanent waters" and "wetlands with a continuous surface connection" to "relatively permanent waters". Waters without a hydrological or ecological connection to other navigable waters do not fall within the jurisdiction of the Clean Water Act.

We believe the definitions of "relatively permanent" and "continuous surface connection" should be limited to perennial streams that carry flow throughout the year, except during extreme drought or freezing temperatures. Diffused surface water flowing vagrantly over the surface of the ground should not be considered public water or under the jurisdiction of the Clean Water Act. This definition should minimize any expansion of the current rule and limit ambiguity in waters covered under the Clean Water Act.

In Indiana, County Surveyors and County Drainage Boards, in consultation with other officials, can determine if isolated wetlands or waters that do not meet the definition suggested above, should be included in the Clean Water Act. Local officials are best equipped to determine the connectivity through locally monitored metrics for the frequency and flow of non-permanent waters.

Again, we are thankful for this opportunity to provide comments, and we look forward to providing additional feedback as you proceed through the rule making process.

Sincerely,

Richard A. Vermillion, PS
Knox County Surveyor
President, County Surveyors Association of Indiana