



PHIL BRYANT
GOVERNOR

June 16, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

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

Dear Mr. Pruitt and Mr. Lamont:

I am writing to give you input about the proposal to revise the definition of waters of the United States (Clean Water Rule: Definition of "Waters of the United States") as you requested in your letter of May 8, 2017. You specifically asked for suggestions about what a new federal definition of "Waters of the United States (WOTUS)" might include. Mississippi, like the other states, has its own specific issues and concerns, but we think a new rule can be written that is anchored in standards that provide clarity, consistency, and environmental protection.

As a new definition is developed within the framework of Justice Scalia's opinion and offered for public comment, Mississippi makes the following recommendations:

Federal jurisdiction can extend to certain non-navigable water bodies and wetlands, but the determination of jurisdiction should be based on objective characteristics that are consistent the Congressional intent behind the Clean Water Act, including not only the distance from navigable waters but also the quantity and frequency of the flows.

Wetlands should only be "Waters of the United States" when there is some degree of connectivity. A measure of the connectivity may include the distance to traditional navigable waters and also the value of the wetlands to other metrics such as flood water capacity.

States' statutory authority should be considered in a new rule. For example, Mississippi has statutory authority to establish the minimum flow requirements in waters of the state and is solely responsible for determining the appropriate flow regimes in streams. The federal definition of "Waters of the United States" should not infringe on that authority.

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The impact of the new rule on both local and regional economies should be considered, including consistent interpretation of wetlands mitigation policies.

Finally, we applaud your commitment to federalism. It is in the national interest to protect the water quality of navigable streams, but there is important work to be done before a final rule is promulgated. I encourage you to continue consultation with both the regulatory agencies and the regulated community on the state and regional levels as you move forward.

Thank you for the opportunity to offer comments about a proposed definition. Mississippi will work with your agencies to revise the Waters of the United States definition to make it protective of the environment and workable for our citizens.

Sincerely,

A handwritten signature in blue ink that reads "Phil Bryant". The signature is fluid and cursive, with a large initial "P" and "B".

Phil Bryant
GOVERNOR

PB:dhc