

Damaris Christensen
Oceans, Wetlands and Communities Division
Office of Water (4504-T)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Stacey Jensen
Office of the Assistant Secretary of the Army for
Civil Works
Department of the Army
108 Army Pentagon
Washington, DC 20310-0104

Attention: Docket ID No. EPA-HQ-OW-2021-0328

Re: Recommendations on the Definition of “Waters of the United States” 86 Fed. Reg. 41911 (Aug. 4, 2021)

Dear Ms. Christensen and Ms. Jensen:

On August 4, 2021, the U.S. Environmental Protection Agency (EPA) and the Department of the Army (Army) published a notice in the Federal Register providing information about their plans to revise the definition of the term “waters of the United States” under the Clean Water Act and seeking feedback from the public on several topics, including implementation of the definition; regional, state and tribal interests; environmental justice interests; and the jurisdictional tributaries and ditches. 86 Fed. Reg. 41911. The Kansas Corn Growers Association (KCGA) appreciates the opportunity to provide these comments. KCGA represents more than 1,100 Kansas members on state and national levels on legislative and regulatory issues and actively works with other organizations to maximize the voice of Kansas corn producers. Additionally, KCGA fully endorses comments submitted on behalf of the National Corn Growers Association (NCGA) by President Jon Linder and those by the Waters Advisory Coalition (WAC).

Kansas corn farmers fully support protecting water resources in Kansas and across the nation. Farmers’ entire livelihood is derived from the land, therefore it is instinctive of them to strive to protect all land and water resources, whether subject to federal jurisdiction or not. Kansas corn farmers commitment to preserving their land and water resources is evident by the growing amount of soil and water conservation practices adopted by farmers each growing season.

We feel it would be more beneficial to be partnering with the agencies to support additional programs instead of another drawn out rulemaking where artificial “jurisdictional lines” will be drawn. Kansas corn farmers have a long history of working side-by-side with the primary state agency with jurisdiction on water quality, the Kansas Department of Health and Environment (KDHE). We urge the agencies to preserve KDHE’s primary responsibility over pollution control and land and water use. Kansas water law is most suited to managing Kansas water resources, not a blanket, one size fits all approach. Moreover, KDHE staff are intimately familiar with the landscape in Kansas, so are best suited to exercise this authority.

Additionally, we have seen no evidence in Kansas that the current definition has led to the degradation of any water resources in the state or region. Kansas is a diverse landscape with arid regions to the west receiving less than 12 inches of rain per year to regions in the east receiving more than 50 inches of rain. Its long been accepted that there is no one size fits all or silver bullet approach to improving water quality in the state. Therefore, a





general definition of what constitutes a navigable water is inappropriate in Kansas. Therefore, if this method is inappropriate in Kansas, it's hard to imagine its applicability in a broader landscape of the United States.

In closing, we believe that with respect to the considerations discussed above that the 2020 Navigable Waters Protection Rule (NWPR) is sound and carried the support of the agricultural community and KDHE. The NWPR respected and observed the fact that the Clean Water Act's federal jurisdiction is constrained. We strongly encourage the agencies to move beyond drawing imaginary lines, and work towards actual partnerships with Kansas farmers, the original stewards of the land.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Rogers".

Brent Rogers
President, Kansas Corn Growers Association

