



President
Craig Lichty
Black & Veatch, CA

Vice President
Bart Weiss
Hillsborough County Public
Utilities, FL

Treasurer
Karen Pallansch
Alexandria Renew
Enterprises, VA

Secretary
Deven Upadhyay
Metropolitan Water District
of Southern California, CA

Past President
Gilbert Trejo
El Paso Water, TX

February 7, 2022

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency

Lieutenant General Scott A. Spellmon
Chief of Engineers and Commanding General
U.S. Army Corps of Engineers

Re: Docket ID No. EPA-HQ-OW-2021-0602; FRL-6027.4-03-OW

Dear Administrator Regan and Lieutenant General Spellmon:

On behalf of the WateReuse Association (WateReuse), I am pleased to submit our comments to the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) regarding the proposed rule on the Revised Definition of "Waters of the United States."

The WateReuse Association is a not-for-profit trade association for water utilities, businesses, non-profit organizations, and research entities that advocate for policies and programs to advance water recycling. WateReuse and its state and regional sections represent nearly 250 water utilities serving over 60 million customers, and over 200 businesses and organizations across the country.

In 2019 and 2014, we provided comments on the Waters of the United States rulemakings under previous administrations. During both rulemakings, we urged EPA and the Corps to exclude all constructed or managed water reuse and recycling facilities and infrastructure and stormwater control features. Our proposed changes were largely adopted in both final rules; however, under this Administration's rulemaking the exclusion for water recycling facilities and infrastructure and stormwater control features has not been included. **We strongly urge you to reincorporate the exclusion for water recycling and reuse facilities and infrastructure, such as percolation, detention, retention, storage and recharge basins, and conveyance features into the definition of Waters of the United States. We further urge you to reincorporate the exclusion for stormwater control features constructed to convey, treat, or store stormwater.**

WateReuse asks the agencies to recognize the growing importance of water reuse and recycling to communities' water security across the nation. With climate change

accelerating, and its associated adverse impacts on water resources on the increase, it is vitally important that the nation and federal government support water recycling to build resilience, manage energy demands, support public and environmental health, and ensure America's economic prosperity.

The Administration's effort to broadly remove jurisdictional exclusions to more "quickly and durably" protect the quality of the nation's waters, could have unintended consequences of both restricting opportunities for ecological enhancement and severely hampering water recycling activities across the country.

Removing the jurisdictional exclusion for wastewater recycling increases the uncertainty for wastewater utilities that maintain recycled water storage ponds, spreading grounds/recharge basins, stormwater control features, and those planning sites for future recycled water recharge basins. At wastewater facilities practicing reuse, detention and retention basins are utilized for storing the water prior to beneficial reuse, and groundwater recharge basins and infiltration ponds are used to collect and store water, which then infiltrates into the groundwater through permeable soils. These systems are designed to produce sustainable water supplies while meeting either Clean Water Act (CWA), Safe Drinking Water Act (SDWA), or groundwater protection requirements to protect public and environmental health.

Without an exemption for these essential tools in water reuse and recycling, utilities face uncertainty in the application of the proposed definition and case-by-case implementation. Recycling facilities could be forced to obtain additional permits for discharges into existing recycled water storage ponds and spreading grounds, systems designed to meet the CWA, SDWA, or state groundwater requirements. This would result in a layering of requirements in a manner that does not accomplish additional protection to the public or environment as intended under this proposed rule.

While the proposed rule does not include the exclusions for wastewater recycling systems or stormwater control features, it does repromulgate the existing exclusion for waste treatment systems. The preamble explains that the Administration is retaining the waste treatment system exemption because it provides important clarity regarding implementation. WateReuse supports this and seeks the same clarity of implementation for wastewater recycling system infrastructure and stormwater control features through the codification of the following proposed exemptions.

We therefore urge that the following language be incorporated into the rule:

"Waters of the United States do not include wastewater recycling structures; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water conveyance structures built for wastewater recycling."

"Waters of the United States do not include stormwater control features constructed to convey, treat, or store stormwater."

Water reuse and recycling is an essential tool in improving water quality and securing the water resiliency of communities across the nation. As the proposed rule stands without the wastewater recycling exemption, facilities employing recycling practices utilizing detention and retention basins, groundwater recharge basins, and percolation ponds designed to meet applicable CWA, SDWA, and



state groundwater protection requirements face uncertainty about whether their treatment systems are included in the definition of WOTUS. Thank you for considering our views.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Patricia Sinicropi', with a stylized flourish at the end.

Patricia Sinicropi
Executive Director

