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December 24, 2025

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency

Lieutenant General William H. Graham, Jr.
Chief of Engineers and Commanding General
U.S. Army Corps of Engineers

Re: Docket ID No. EPA-HQ-OW-2025-0322; FRL 11132.1-01-OW

Dear Administrator Zeldin and Lieutenant General Graham:

On behalf of the WaterReuse Association, I am pleased to submit a comment on the Administration's Proposed Rule providing an updated definition of "Waters of the United States."

The WaterReuse Association is a nonprofit trade association for water utilities, businesses, and institutions that advocate for policies and programs to advance water recycling. WaterReuse and its state and regional sections represent 250 water utilities serving over 60 million customers, and over 250 businesses and organizations across the country. Water reuse is the process of intentionally capturing wastewater, stormwater, or graywater and cleaning it as needed for a designated beneficial freshwater purpose, such as industrial processes, groundwater replenishment, and irrigation.

In 2022, 2019, and 2014, we provided comments on previous rulemakings related to the definition of Waters of the United States. We also submitted a comment in response to EPA's solicitation for input earlier this year. In each set of comments, we urged EPA to exclude all constructed or managed water reuse and recycling facilities and infrastructure. Our proposed changes were largely adopted by the first-term Trump Administration in 2019; however, the Biden Administration subsequently removed the exclusion for water recycling facilities and infrastructure.

By removing the jurisdictional exclusion for wastewater recycling, the previous administration increased uncertainty for wastewater utilities that maintain or are planning recycled water storage ponds, spreading grounds and recharge basins.

While some water reuse features will be captured within the existing exclusion for wastewater facilities or the proposed exclusion for groundwater, others will not. For example, a water reuse facility may use detention and retention basins to store recycled water prior to beneficial reuse. The water reuse system may not qualify for the "waste treatment system" exemption because the water reuse system is designed to allow for the beneficial use of recycled water, not to meet the requirements of the Clean Water Act (CWA). Similarly, a water reuse system may use a groundwater recharge basin or infiltration pond to collect and store water, which then infiltrates into the groundwater through permeable soils. In this case, the water reuse system would not qualify for the newly proposed groundwater exclusion because the recycled water is not yet in the ground.

Without exclusion language for these essential tools, recycling facilities may be forced to obtain additional permits for discharges into existing recycled water storage ponds and spreading grounds. This would result in a layering of requirements in a manner that does not accomplish additional protection to the public or environment.

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."

Water reuse and recycling is an essential tool in improving water quality and securing long-term, reliable water supplies for communities and industry 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 face uncertainty about whether their treatment systems are included in the definition of WOTUS. Thank you for considering our views.

Sincerely,



Bruno Pigott
Executive Director
WateReuse Association

