



Ventura County Coalition of
Labor, Agriculture and Business
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Department of Defense – Department of the Army, Corps of Engineers
Environmental Protection Agency
Transmitted via email to: ow-docket@epa.gov with subject EPA-HQ-OW-2011-0880

Comments: Change in Definition of “Waters of the United States” Under the Clean Water Act

CoLAB, Ventura County appreciates the additional time allowed for comments from farmers, ranchers and rural property owners on the EPA proposed water rules. We represent 350 members, primarily agricultural owners and business in Ventura County. Agricultural businesses here are generally small and privately owned. Land for farming is high quality with abundant prime agricultural soils and a Mediterranean climate. Ventura County has some of the most expensive and productive farmland in the world. Farm operations are costly and the threats to agriculture are ever increasing. Costs have been escalating for water, pest control, labor, energy and regulatory compliance. Our goal is to keep farming and ranching economically viable here which may become impossible with the change in rules being contemplated by the Environmental Protection Agency (EPA) and the Army Corp of Engineers (ACOE).

We agree with American Farm Bureau Federation President, Bob Stallman, when he said “This latest rule broadly expands federal jurisdiction and threatens local land-use and zoning authority. Simply put, it is an end-run around Congress and the Supreme Court.” We believe that the extent of the rule changes as described in the Federal Register change the intent of the Clean Water Act and should be subject to a Congressional vote.

If adopted, the EPA proposed rule defining Waters of the U.S. will greatly expand the jurisdictional reach of the Clean Water Act. Under these new rules, EPA is expanding the definition of “Waters of the U.S.” (WOTUS) to include man-made waters such as agricultural drains and irrigation ditches that flow into WOTUS. In addition the rules expand the definition of WOTUS to include adjacent waters such as ponds and oxbow lakes that could provide irrigation to cropland. This broadly expands federal jurisdiction and threatens local land-use and zoning authority.

The proposed rule exceeds the EPA’s authority under the Clean Water Act as it violates the plain language of the statute and impinges on the State’s traditional and primary authority over land and water use. These waters are already within the jurisdiction of state and local Water Quality Control Boards that regulate runoff under a Total Maximum Daily Load (TMDL). This duplication and overlap of jurisdictions is unnecessary and harmful, causing another layer of regulatory time and expense for no apparent gain.

The proposed rule will also significantly expand the geographical reach of WOTUS to include floodplains that represent much of the agricultural land in Ventura County with prime soils that support crop production. These areas are critical to our ability to feed our growing national population. This unnecessary federal overreach will further shrink the amount of cultivated land in California which will lead to the diminished quality of our food supply as exports replace home-grown produce, ultimately threatening the quality of our food and our security.

An unintended consequence of this expanded EPA authority will be to discourage projects that could benefit the environment. Private property owners that engage in farming and ranching have many innovative ways to better steward their land with sustainable practices that will not be explored under the new rules. The expanded authority would discourage projects that would improve water quality as the required level of treatment would be too high. The increased standards of fishable and swimmable, cannot be reasonably applied to concrete ditches and storm drains with no habitat for fish.

The increase in federal jurisdiction creates an additional layer of bureaucracy and will encourage more environmental lawsuits that lead to a waste of tax dollars to defend against suits that generate no environmental benefit. These proposed rules will place an unnecessary burden on farmers who are already stretched with state and local rules.

VC CoLAB proposes that if these rules are adopted, the State of California, and other States with such strong environmental laws as the California Environmental Quality Act, should be exempt from such an expansion of federal jurisdiction as it is clearly unnecessary and duplicative. California grows more than half of the country's vegetables, fruits and nuts. The California Farm Water Coalition estimates that over 800,000 acres of farmland will be fallowed this year due to the current drought. The State is already overwhelmed with environmental decisions that threaten the continuing economic viability of agriculture in California.

We believe that the EPA and the ACOE have a responsibility to respect States' authority over land use and therefore should rework the proposed rules and come back with an alternative approach that will insure the success of agriculture across our Country within a reasonable environmental framework.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Gray Jensen". The signature is fluid and cursive, with the first name "Lynn" being the most prominent.

Lynn Gray Jensen

Executive Director