



November 12, 2014

Donna Downing
Office of Water (4502– T)
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Ms. Stacey Jensen
Regulatory Community of Practice
(CECW–CO–R)
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314

Re: 40 CFR Parts 110, 112, 116, *et al.* Definition of “Waters of the United States” Under the Clean Water Act; Proposed Rule

Dear Ms. Downing and Ms. Jensen:

Outdoor Alliance and Outdoor Industry Association (OIA) write this letter in support of efforts to define “Waters of the United States” and clarify Clean Water Act protections. Together, OIA and Outdoor Alliance represent the vast majority of the recreation industry and the active outdoor recreation community in America.¹

On April 21, 2014, the Environmental Protection Agency and Army Corps of Engineers released a proposed rule—*Definition of “Waters of the United States” Under the Clean Water Act*. Outdoor Alliance and OIA have long supported efforts to define “Waters of the United States” and clarify Clean Water Act protections since Supreme Court cases in 2001 and 2006 created ambiguity about the Act’s jurisdiction. Since this time, too

¹ Outdoor Alliance is a coalition of five national, member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, and Winter Wildlands Alliance and represents the interests of the millions of Americans who paddle, climb, mountain bike, and backcountry ski and snowshoe on our nation’s public lands, waters, and snowscapes.

Outdoor Industry Association (OIA) is the leading trade association and voice serving more than 4,000 manufacturers, distributors, suppliers, sales representatives and retailers in the active outdoor lifestyle. OIA supports the growth and success of the outdoor industry through its focus on government affairs, sustainability, outdoor consumer insights, industry trends and youth participation.

many wetlands and headwater streams have been compromised or lost, in turn harming downstream waters. Water quality and quantity are vital not only for clean drinking water, healthy people and ecosystems, and local economies but also to the quality of life in this country. Clean water and healthy headwater areas are particularly important for the outdoor industry and user community, who represent half of the American public, 6.1 million jobs and \$646 billion in direct consumer spending each year.

142.6 million Americans participated in outdoor recreation last year according to the Outdoor Foundation's most recent study, and many of the people who recreate on our nation's lakes, rivers, and coasts experience primary contact with water and have a vested interest in the safety and quality of our public waters. Our members spend time in the mountains—swimming in mountain lakes, drinking from small streams, and paddling wild rivers. Through our outdoor adventures, we know that our nation is blessed with sparkling clean water at its source, and unfortunately witness firsthand its degradation by humans as rivulets become streams and streams become rivers.

Outdoor Alliance and OIA encourage the Environmental Protection Agency and U.S. Army Corps of Engineers to continue to focus on the best available science as you consider feedback from the public and make decisions about implementing about the proposed rule. Specifically, we support:

- Using a watershed approach, recognizing the connection between and importance of an aggregation of waters within a basin;
- Following the best available science when considering whether “other waters” are connected to jurisdictional waters. These waters provide important functions, including filtering pollution and preventing flooding, and they deserve protection under the Act; and
- As our scientific understanding of our nation's waters continues to evolve, allowing new information to inform whether “other waters” are jurisdictional and have a “significant nexus” to waters covered by the Act.

The headwater streams and wetlands that are addressed by the proposed rule are both the rivers and streams where our members recreate, or are directly connected to those waters. Few groups of people come into direct contact with untreated river water more frequently than kayakers, canoeists, and rafters. These activities take place in seasonal and rain-dependent streams and tributaries. When it rains and when snow melts, many small intermittent streams begin to flow. Although these streams may not look like much when flows are low, at high flows though they carry whatever sediment or pollution is in them downstream. These times of high flow are the exact times our members are on the

water, and more to the point, in the water. As a result, it is vitally important to our membership to ensure that these waters are protected under the Act.

Many of our members are also introducing river recreation to their children. We have an obligation to ensure the next generation of Americans enjoys the basic rights of a healthy environment and safe access to river recreation. Americans have come to expect that water quality will be protected for public health and outdoor recreation. In order to continue to meet this expectation, and to meet the goal of protecting and restoring our waters for recreating, drinking water, quality habitat and more, the Clean Water Act must be clarified to protect our nation's rivers, streams, and other water bodies.

Protecting the quality of traditionally navigable waters is not only important to us as outdoor recreation enthusiasts; activities on these waters also provide substantial economic benefits through recreational tourism.² Water is also the driver for customers to buy gear, footwear and apparel at their local retailer, plan a trip across the country to raft or kayak, and choose what community they live in. In order to protect and maintain these and other values, the proposed rule must protect the sensitive headwaters and wetlands that are important to all waters downstream.

Our members recreate on "traditional navigable waters," and we fully support protecting the quality of the waters that have a significant nexus to these waters. We also highlight our support for maintaining the definition of traditional navigable waters as those that include waters that currently, are susceptible to, or have historically been used for commercial recreational purposes. The capacity of a stream to support recreational paddling directly dictates the capacity of that stream to support commerce in the form of recreational guiding services, fee-based stream access, transportation of people or goods, and other commercial ventures.

² According to the Outdoor Industry Association, 24 million Americans paddle kayaks, canoes, and rafts, resulting in 308,000 jobs and \$36 Billion of total economic benefits (http://outdoorindustry.org/research/economicimpact.php?action=detail&research_id=26).

We appreciate the Environmental Protection Agency and Army Corps of Engineers' efforts to clarify Clean Water Act Protections. Thank you for considering our comments.

Sincerely,

Adam Cramer
Executive Director
Outdoor Alliance

Steve Barker
Executive Director
Outdoor Industry Association

cc: Brady Robinson, Executive Director, Access Fund
Wade Blackwood, Executive Director, American Canoe Association
Mark Singleton, Executive Director, American Whitewater
Mike Van Abel, Executive Director, International Mountain Bicycling Association
Mark Menlove, Executive Director, Winter Wildlands Alliance
Lee Davis, Executive Director, The Mazamas
Martinique Grigg, Executive Director, The Mountaineers