Dear American Agri-Women Members:

For the last two years we have been dealing with a horrible issue named “The Clean Water Act.” The regulations stated has given all citizens cause for concern. American Agri-Women has written to the EPA and sent letters to you so that you are aware and need to tell your elected officials to stop this blatant overreach being pursued by the EPA. We have notified you each time a bill was being voted on in the House and Senate regarding this issue.

On August 28, EPA will have control over your land and require you to get a federal permit in order to conduct any activity on any land that causes any material to be deposited onto a regulated low spot, wetland, or ditch (applying fertilizer, applying pest control products, or even just moving dirt!) or face tens of thousands of dollars in fines. EPA is overreaching their authority and you need to stop them.

If a low spot or other “water” is regulated as a “water of the U.S.” under the rule, then any “discharge” of any “pollutant,” in any amount, into that feature—even if the feature is dry at the time—is illegal unless it is authorized under a Clean Water Act permit or some other provision of the Act. A “Pollutant” includes soil, biological materials, and rock, in addition to waste materials. Courts have interpreted “pollutant” broadly to include most any foreign substance, and even the disturbance and immediate redeposit of soil in the same spot. There is NO requirement of any actual environmental or water quality impact from the activity. Just the “discharge” of any amount of “pollutant” into the regulated area is enough to trigger permit requirements, plus potentially devastating penalties.

This rule has the potential to be devastating to farmers, ranchers, and landowners, and time is running out.

It is critical that the Senate passes the Federal Water Quality Protection Act. However, the recess is going on in DC and the EPA will take control before the Senate returns to vote on Senate Bill 1140.

Now is our chance to contact our Senators while they are home and tell them our concerns and ask them to vote for Senate Bill 1140 when it is brought forward.

American Agri-Women Position # 235: AAW opposes proposed changes to the Clean
• Failed to adequately recognize, preserve, and protect the primary responsibilities and rights of states to manage their own land and water resources.

• Approached the limits of the agencies’ constitutional and statutory authority absent a clear statement from Congress.

• Suffered from certain procedural errors and a lack of adequate record support as it relates to the 2015 Rule’s distance-based limitations.

With this final repeal, the agencies will implement the pre-2015 regulations, which are currently in place in more than half of the states, informed by applicable agency guidance documents and consistent with Supreme Court decisions and longstanding agency practice. The final rule takes effect 60 days after publication in the Federal Register.

In December 2018, EPA and the Army proposed a new definition—Step 2—that would clearly define where federal jurisdiction begins and ends in accordance with the Clean Water Act and Supreme Court precedent. In the proposal, the agencies provide a clear definition of the difference between federally regulated waterways and those waters that rightfully remain solely under state authority.

Additional information is available at: http://www.epa.gov/wotus-rule.

Background

The final Step 1 rule follows President Trump’s Executive Order 13778, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” Section 1 of the Executive Order states that “[i]t is in the national interest to ensure that the Nation’s navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the States under the Constitution.” The Executive Order also directs the EPA and the Department of the Army to review the 2015 Rule for consistency with the policy outlined in Section 1 of the order and to issue a proposed rule rescinding or revising the 2015 Rule as appropriate and consistent with law.

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