



## AMERICAN AGRI-WOMEN 2022

### CLEAN WATER ACT (CWA) WATERS OF THE US (WOTUS)

**ISSUE:** Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) Proposed Rule and revising the definition of “Waters of the United States” (WOTUS). On December 7, 2021, the EPA and Corps proposed to restore the pre-2015 definition of “waters of the United States,” nullifying the strides made to eliminate government regulation excess.

Before the 2015 WOTUS regulation, the 1972 Clean Water Act applied primarily to “navigable” bodies of water. With the 2015 WOTUS rulemaking, the Obama administration expanded the permitting requirements of the Clean Water Act to ditches, streams, and many additional non-navigable waters, outside the original scope of the Clean Water Act.

**AMERICAN AGRI-WOMEN REQUEST:** Congress to hold federal agencies accountable and to follow the law as written and intended by Congress and stop the overreach by the EPA. We do not support the efforts by the current Administration to reinstate the pre-2015 definition that will have severe limitations on agriculture practices and eliminate the flexibility needed for farmers and ranchers to grow and to supply food, fiber and energy across the range of weather and geologic conditions that span all 50 states.

**BACKGROUND:** The Clean Water Act of 1972 limits jurisdiction of the Federal Government to “Navigable Waters.” It directs the Federal Government to work with the states to better manage our waters. The Supreme Court has, on two separate occasions, upheld this limit of jurisdiction on the Federal Government to “Navigable Waters.” EPA, environmental groups and their lobbyists failed to get legislation passed to change the Clean Water Act. They have attempted to circumvent Congress and the courts to gain expanded jurisdiction through the rulemaking process.

- WOTUS infringes on the state’s rights relating to land use and planning, will be costly, and hurt our economic growth. Doesn’t give insight on the resources for permitting, oversight, and enforcement.



## AMERICAN AGRI-WOMEN 2022

### CLEAN WATER ACT (CWA) WATERS OF THE US (WOTUS)

- WOTUS expands EPA and Army Corps jurisdiction to groundwater, ditches, culverts, pipes, erosional features, farm and stock ponds and prior converted cropland affecting many acres of private property. The effects are giving them essentially no limits under the CWA.
- WOTUS infringes on states' rights related to land use and planning.
- WOTUS rule doesn't give resources for permitting oversight and enforcement.
- The rule fails to clarify as it leaves many determinations to the agencies "best professional judgement" which could result in many perceived definitions.
- Due to the room for ambiguity in interpretation and enforcement, the WOTUS rule would lead to costly litigation tying up our courts and burdening our farmers, ranchers, timber industry, businesses and local government entities.
- By reinstating this rule and guidance the EPA and Army Corps bypass Congress to accomplish their agenda that they could not do through legislation. The federal agencies need to be held accountable to Congress so Congress can fulfill its duty to oversee the Executive Branch.