



## New Mexico Cattle Growers' Association

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February 7, 2022

### VIA ELECTRONIC DELIVERY

The Hon. Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Mr. Jaime A. Pinkham  
Acting Assistant Secretary of the Army for  
Civil Works  
Department of the Army  
108 Army Pentagon  
Washington, DC 20310-0104;

Mr. Damaris Christensen  
Oceans, Wetlands and Communities  
Division, Office of Water  
Environmental Protection Agency,  
1200 Pennsylvania Avenue NW

Washington, DC 20460

Ms. Stacey Jensen  
Office of the Assistant Secretary of the Army  
for Civil Works  
Department of the Army  
108 Army Pentagon  
Washington, DC 20310-0104;

Federal eRulemaking Portal  
<http://www.regulations.gov>  
Docket ID No. EPA-HQ-OW-2021-0602  
FRL-6027.4-03-OW

OW-Docket@epa.gov.  
Docket ID No. EPA-HQ-OW-2021-0602

Re: Docket ID No. EPA-HQ-OW-2021-0602  
Revised Definition of "Waters of the United States"

Dear Administrator Regan, Mr. Pinkham, Mr. Christensen, and Ms. Jensen:

On behalf of New Mexico Cattle Growers' Association and its members we request that the Agencies suspend their proposed rulemaking until the Supreme Court of the United States has issued an opinion in *Sackett v. EPA*, Docket No. 21-454 (*Sackett II*).

New Mexico Cattle Growers' Association has also signed on to comments regarding this proposed rule with Pacific Legal Foundation and National Cattlemen's Beef Association. We are also party to pending litigation over the Agencies' prior attempts to expand regulatory control.

In this new Proposed Rule the agencies seek to expand the scope of the Agencies' authority to regulate "navigable waters" under the Clean Water Act. *Sackett II* before the Supreme Court we believe will clarify and limit the Agencies' authority. The Agencies' should wait for that

**LOREN PATTERSON**, President, Corona; **BRONSON CORN**, President-Elect, Roswell **JOE CULBERTSON**, Vice-President At Large Amistad, **ROY FARR**, SW Vice-President Datil; **DAVE KENNEKE**, NW Vice-President, Cimarron; **JEFF DECKER**, SE Vice-President, Lovington; **CLIFF COPELAND**, NE Vice-President, Nara Visa; **SHACEY SULLIVAN**, Secretary-Treasurer, Bosque Farms; **RANDELL MAJOR**, Past President, Magdalena **TOM SIDWELL**, Past President, Quay

determination by the Supreme Court. To continue rulemaking and possible implementation will only create additional cost, subjective regulatory burden, uncertainty and confusion regarding regulatory authority and impose unwarranted liability and significant costs on local government, private landowners, farmers, ranchers and all of the regulated public.

New Mexico Cattle Growers' Association is a nonprofit trade association that represents cattle ranchers, businesses that serve the cattle ranches and their communities, and property owners. The associations primary purpose has been to serve as an advocate for cattle ranchers and landowners, and to protect the livestock industry from a variety of threats, including overreaching environmental regulation. Many members have been, and continue to be, burdened by the Agencies' frequently shifting and unlawfully expansive approach to regulating and limiting the use of their land.

*The Proposed Rule*

On December 7, 2021, the Agencies issued the Proposed Rule—their fourth attempt to greatly expand the regulation of private land, ranches and farms since 2015. To require comments in two months is unreasonable and burdensome. Especially knowing that Sackett II is pending before the Supreme Court.

We understand oral argument will be heard during the Court's upcoming October 2022, term. We believe there was inadequate time allowed to review and develop more extensive comments on the proposed rule. We believe to do so in advance of a pending Supreme Court review would impose burdensome costs on our Association.

Sincerely,

A handwritten signature in black ink, appearing to read "Loren N. Patterson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Loren Patterson, President  
New Mexico Cattle Growers' Association  
PO Box 7517  
Albuquerque, NM 87194