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

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;

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

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

Re: Docket ID No. EPA–HQ–OW–2021–0602
Revised Definition of “Waters of the United States”

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

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 association’s 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,

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