

November 28, 2017

U.S Environmental Protection Agency  
Office of Water  
1200 Pennsylvania Avenue, NW  
Mail Code 4504-T

U.S. Army Corps of Engineers  
Office of Civil Works  
441 G Street, NW  
Washington, D.C. 20314-1000

Re: Comments on Docket ID No. EPA-HQ-OW-2017-0480

Dear Sir or Madam:

On August 28, 2017 the Environmental Protection Agency (EPA) and the Department of the Army, Corps of Engineers (the Corps) issued an opportunity for comments to revise the definition of the Waters of the United States (WOTUS) Clean Water Rule: Definition of “Waters of the U.S.”; Final Rule 80 FR 37.054; June 29, 2015. The American Phytopathological Society (APS) appreciates the opportunity to comment on the revision of the definition of Waters of the United States (WOTUS) (82 FR, No. 165, page 40742) (40 CFR Parts 110, 112, 116, 117, 122, 232, 300, 302, and 40) [EPA-HQ-OW- 2017-4880; FRL-9966-99-OW] on the Clean Water Rule (CWR) as it applies to interpretation of the Clean Water Act (CWA).

As a non-profit, professional scientific organization representing nearly 5,000 scientists and practitioners of plant pathology, the APS **urges** the EPA and the Corps to rescind the CWR and develop a rule to include specific definitions for similar interpretations of a WOTUS and to adhere to the Supreme Court Ruling in the *Rapanos v. United States* decision as well as Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule”.

The APS believes that the proposed CWR expands the intent of the CWA, lacks clarity in interpretation, and unnecessarily adds ditches, gullies, potholes, ephemeral areas, and wetlands to the defined area of regulation. This provision directly harms American farmers and agricultural businesses and the respective production systems that provide food, feed, and fiber to the rapidly growing world population.

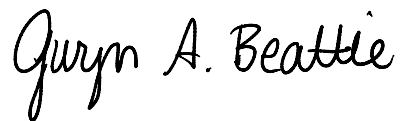
In the past, the CWA has applied to “navigable waters” of the United States. However, the APS recognizes that in 2009, the Sixth Circuit Court of Appeals ruled that pesticides sprayed near WOTUS required permitting under the National Pollutant Discharge Elimination System (NPDES). Operating within the NPDES framework, many states have developed water quality standards and regulatory processes to enhance the protection of water resources taking into account the state’s particular geological/soil, hydrological, environmental and agricultural diversity. Depending on the interpretation of the current CWR, production of food, feed, and fiber may be negatively impacted by limiting the use of effective crop production tools.

As the premier society dedicated to high quality, innovative plant disease research and management, the APS is driven by a distinctive community of scientists who come from academia,

industry, government and private practice whose commitment is to the judicious use of sound science to shape public policy as it relates to management of plant diseases. Our society works with a variety of stakeholders on agricultural, food safety, and food security issues.

The APS supports the development of a rule that includes specific definitions of the WOTUS that adheres to the Supreme Court Ruling in the *Rapanos v. United States* decision as well as the Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule”.

Sincerely,

A handwritten signature in black ink that reads "Gwyn A. Beattie". The signature is written in a cursive, flowing style.

Gwyn A. Beattie  
Chair, APS Public Policy Board