



"Working for Nebraska beef producers - pasture to plate."

August 24, 2021

Department of the Army, Corps of Engineers, Department of Defense; and Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

RE: Docket ID No. EPA-HQ-OW-2021-0328

To Whom it May Concern:

Nebraska Cattlemen members appreciate the opportunity to provide comments regarding the Administration's intent to revise the definition of "waters of the United States." (WOTUS)

Nebraska Cattlemen members support the current Navigable Waters Protection Rule (NWPR) because it provides for an individual state to maintain control over their own ephemeral and isolated features, while providing much-needed clarity and certainty to adjacent agricultural operations. The current NWPR correctly limits jurisdiction over adjacent wetlands to those that are abutting or have a direct hydrological surface connection to a navigable water.

If the Agencies are looking for ways to ensure that landowners and regulators have clear guidelines for jurisdictional tributaries, we ask that they combine the typical year standard and the significant nexus standard - ensuring that only features with both physical indicators and a flow metric are federally jurisdictional. The significant nexus standard utilizes physical indicators to determine jurisdiction, while the typical year standard uses a flow metric. Nebraska Cattlemen prefer the typical year standard to the significant nexus standard, but also believe neither as a stand alone provision provide a clear standard for farmers, ranchers, and landowners to follow.

The scope of the 2015 WOTUS rule expanded far beyond any prior interpretation of the Clean Water Act and thus, resulted in multiple negative federal court rulings. Specifically, the expansion of federal jurisdiction to include ephemeral features and ditches directly contradicts all existing Supreme Court precedent—including Justice Kennedy's significant nexus standard. As the Agencies advance in crafting yet another "foundational rule" or definition for WOTUS, we ask they rely on the precedent set in these Supreme Court cases pertaining to WOTUS.

Thank-you for the opportunity to share the thoughts and concerns of Nebraska Cattlemen members.

Best,

A handwritten signature in black ink that reads "William H. Rhea III". The signature is written in a cursive, flowing style.

William H. Rhea III
President - Nebraska Cattlemen