



# *Chippewa Ottawa Resource Authority*

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April 10, 2019

United States Environmental Protection Agency  
EPA Docket Center, Office of Water Docket, Mail Code 28221T  
1200 Pennsylvania Avenue, NW  
Washington D.C. 20460

VIA ELECTRONIC SUBMISSION <http://www.regulations.gov>

**Re: CORA Comments on Proposed Revised Definition of “Waters of The United States”, 84 Fed. Reg. 4154 (Feb. 14, 2019) Docket ID No. EPA-HQ-OW-2018-0149.**

To Whom It May Concern:

On behalf of the Chippewa Ottawa Resource Authority (CORA), I am submitting the following comments regarding the proposed revised definition of “Waters of the United States” (WOTUS). The proposed changes to WOTUS would eliminate protection to our rivers’ headwaters (millions of stream miles) and millions of acres of wetlands therefore CORA urges the Environmental Protection Agency (USEPA) and the Army Corps of Engineers (USACE) to maintain the 2015 definition of WOTUS, which implements the intent of the Clean Water Act (CWA), incorporates scientific principles, and implicitly recognizes tribal views of water.

CORA represents five tribes in Michigan with regard to the tribes’ commercial and subsistence fisheries in the 1836 treaty-ceded waters of Lakes Huron, Michigan and Superior. The tribes which are party to the 1836 Treaty are the Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, Little Traverse Bay Bands of Odawa Indians and Sault Ste. Marie Tribe of Chippewa Indians.

The treaties signed by the Chippewa and Ottawa peoples and the United States government inherently recognize the importance of the Great Lakes fisheries to the cultural identity and economic well-being of our people. The United States has a trust responsibility to protect tribal lands, assets and resources, and these include the water that flows over and through tribal lands and the natural resources that depend on

that water. The United States, including USEPA and USACE, also has specific legal responsibilities to protect tribal treaty rights that are dependent on water. The courts have long recognized the federal trust responsibility, as has Congress and many federal agencies. To the extent that a revised WOTUS rule means that USEPA and USACE will no longer have jurisdiction over waters that are necessary to protect tribal lands, assets, resources and communities, this limitation of federal jurisdiction undermines the trust responsibility that the United States owes to the CORA tribes.

The proposed WOTUS definition will have adverse impacts to fish, fisheries and ecosystem services that are vital to tribes and their cultural values, practices and way of life. This has been established at length in a published study titled “*Headwater Streams and Wetlands are Critical for Sustaining Fish, Fisheries, and Ecosystem Services* (Fisheries Vol. 44, No. 2, February 2019). By removing CWA protections for a defined set of headwater streams and wetlands, implementation of the proposed rule will negatively impact tribes, tribal communities and tribal members and their cultural practices and lives by the inevitable accompanying degradation of water quantity and quality. The authors of the *Headwater Streams and Wetlands* article make the points that the proposed rule will have negative impacts on both native and non-native species fisheries and consequent negative impacts on Native American cultural uses of fish, fisheries, and headwater-dependent fluvial systems. CORA shares these concerns and has included a resolution unanimously approved by the five CORA tribes as an attachment to this letter.

The goal of the Clean Water Act is to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters”. Because the CWA grants protections to “waters of the United States”, limiting the definition of these waters has huge ramifications on the ability of federal, state and tribal agencies to limit pollution of our nation’s water resources. We therefore implore USEPA and USACE to maintain the 2015 definition of WOTUS.

Respectfully,

Jane A. TenEyck, Executive Director  
Chippewa Ottawa Resource Authority

Cc: CORA Board



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## **RESOLUTION 04-05-19**

### **SUPPORT FOR THE 2015 CLEAN WATER RULE DEFINING THE WATERS OF THE UNITED STATES (WOTUS)**

WHEREAS, The Chippewa Ottawa Resource Authority exists for the purpose of managing the natural resource reserved under Article XIII of the Treaty of 1836, 7 Stat. 491, and regulates the Great Lakes treaty fishing activity by members of the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little River Band of Ottawa Indians, the Little Traverse Bay Bands of Odawa Indians and the Sault Ste. Marie Tribe of Chippewa Indians; and

WHEREAS, the right to hunt, fish and gather in the forests, lakes, rivers and wetlands of the 1836 Treaty lands are dependent upon clean water and abundant wetlands, and

WHEREAS, the goal of the Clean Water Act of 1972 is to "restore and maintain the chemical, physical and biological integrity of the Nation's waters" and the 2015 ruling defining the Waters of the United States (WOTUS) clarified which wetlands and streams were protected; and

WHEREAS, the Trump administration through the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers, is currently proposing to repeal the 2015 rules and effectively eliminate protection for millions of stream miles and millions of acres of wetlands.

NOW, THEREFORE, BE IT RESOLVED, that the Chippewa Ottawa Resource Authority hereby supports the 2015 Clean Water Act rule for WOTUS and opposes the current proposal to remove protection for certain wetlands and streams.

AND, LET IT BE FURTHER RESOLVED, that CORA urges the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers to withdraw the new proposed rules and maintain the 2015 Clean Water Act rules.

### **CERTIFICATION**

I, the undersigned, as a Board Member of the Chippewa Ottawa Resource Authority, certify that the foregoing resolution was adopted and approved by telephone poll taken April 5 - 8, 2019 with a vote of 10 in favor, 0 opposed, 0 abstaining and 0 absent.

President Bryan T. Newland, Board Member  
Chippewa Ottawa Resource Authority