

Date: April 9, 2019

To: The Environmental Protection Agency and the Department of the Army

Re: Docket ID No. EPA-HQ-OW-2018-0149

The San Francisco Bay Area Chapter of The Wildlife Society (TWS) represents 250 professional wildlife biologists and managers in the greater Bay Area of California. TWS is an international non-profit scientific and educational association, dedicated to excellence in wildlife stewardship through science and education. Our mission is to ensure that wildlife and habitats are conserved through management actions that take into careful consideration relevant scientific information. We are writing to express our concern over the 2018 proposed changes to the Clean Water Act. These changes overlook scientific knowledge and ecological research that supports the Clean Water Act's goal of protecting the physical, chemical, and biological integrity of our nation's waters. These waters provide essential function for commerce and support the nation's wildlife that are held in the public trust.

We strongly oppose the proposed revisions to the definition of the Waters of the United States (WOTUS). The Federal Register Filing regarding the proposed changes to the definition of WOTUS (84 FR 4154) focuses on impacts to commerce, however the purpose of the Clean Water Act is to "restore and maintain the quality of the nation's waters" which includes "the physical, chemical, and biological integrity".

To maintain the health of our nation's waters, protection of ephemeral features is essential. Ephemeral streams are particularly common in the Arid West, where waters often flow only in direct response to precipitation. Though these features may be short-lived, they provide significant connection to downstream waters that contribute directly into traditional navigable waters. Desert arroyos, or dry washes, are common in the Arid West, with as much as 39% of the streams being ephemeral, and flash floods in these systems carry large amounts of water and sediment to downstream traditional navigable waters during flood events. In addition to contributing to the integrity of our nations' navigable waters, these ephemeral systems also provide essential habitat for western wildlife adapted to short-term flows. The western United States and countless wildlife species would be impacted should the proposed changes to the definition of WOTUS be adopted

We are also concerned that the EPA is still seeking comment on the definition of intermittent waters and we recommend that the definition is not limited to a set number of months of flow. Like ephemeral streams, intermittent waters are also important contributors to traditional navigable waters, even though their connection may be limited to very short periods of flow, particularly in the Arid West. The loss of protections for ephemeral and intermittent features would have negative impacts on the health of our nation's waters.

Lastly, adjacent waters that do not touch at a point or share surface flows ignores scientific knowledge and ecological research that shows the connectivity of waters and wetland habitats through groundwater and sub-surface flows. Isolated wetlands in California, particularly vernal pools, provide important habitat for threatened and endangered wildlife species. Over 90% of CA's vernal pools have already been lost to development. Among the listed wildlife species inhabiting vernal pools are California tiger salamander (federal endangered/threatened and state threatened), conservancy fairy shrimp (federal endangered), vernal pool tadpole shrimp (federal endangered), and the vernal pool fairy shrimp (federal threatened). Among other listed and rare plant species, the following plants depend on vernal pools and wetlands, and all are both federal and state endangered, including Burke's goldfields, many-flowered navarretia, succulent owl's-clover, Sebastopol meadowfoam, Sonoma sunshine, and San Diego button-celery. Removal of isolated wetlands would result in significant impacts to federal endangered and threatened species. Wetlands and waters that do not "abut" traditional navigable waters due to separation by a levee are still connected through groundwater and sub-surface flow.

In addition, headwater streams source all the water that flows downstream to navigable waters. Maintaining water quality and flows in navigable waters relies on protecting headwater streams. Removing protections to headwaters streams would likely negatively impact downstream flows and water quality with changed flows, increased sedimentation, increased temperature and other water quality constituents. Headwaters source the surface and sub-surface waters to other downstream waterways and adjacent floodplain areas that are occasionally inundated, and vitally important to aquatic species and riparian wetland ecosystems.

The health of the nation's waters, especially in the Arid West, depend on ephemeral aquatic features and aquatic features that share connections other than direct surface flow. We urge the Environmental Protection Agency and the Department of the Army to include ephemeral features and to Not Limit the definition of "adjacent" features in this proposed rule. These aquatic features need to be retained in the Clean Water Act, to maintain the economic and ecological value of our nation's waters.

Sincerely,

San Francisco Bay Chapter of The Wildlife Society  
Natalie Washburn, and Jeanne Wetzel Chinn, Chair, Conservation Affairs Committee