



April 15, 2019

Andrew Wheeler
EPA Administrator
William Jefferson Clinton Building North
Washington, D.C. 20004

Subject: Proposed Waters of the United States Rule

Dear Mr. Wheeler:

The Wisconsin Department of Natural Resources (WDNR) appreciates the opportunity to comment on the proposed waters of the United States (WOTUS) rule. The proposed rule would remove Clean Water Act protections from a significant number of waterways and wetlands nationwide, including those here in Wisconsin. The removal of protections from ephemeral streams, wetlands with no surface water connection to a jurisdictional water, and some ditches, lakes and ponds would have a significant effect on Wisconsin's water resources.

Under this proposal, at least half of the country's wetlands would no longer be protected by the Clean Water Act. The proposal restricts Clean Water Act protections to wetlands with a "continuous surface connection" to lakes, streams or rivers. But wetlands benefit all Americans by absorbing floodwaters, improving water quality and providing habitat for fish and wildlife. Under this rule, many wetlands could end up filled, paved over or plowed under every year.

The proposed rule would also strip protections from streams that flow only after a rainfall. These ephemeral streams absorb floods, provide important habitat for fish and wildlife, and affect water quality downstream. Ephemeral streams are particularly important in drier parts of the country. Ephemeral and intermittent streams provide important spawning habitat for pike and trout.

In Wisconsin, this rule could eliminate federal clean water protections for a large percentage of the state's 5+ million acres of wetlands. Many of the small and ephemeral wetlands that would no longer be federally protected are critical to providing food and habitat for migrating, breeding and brooding ducks. Small and ephemeral wetlands provide the best habitat and food sources for waterfowl migrating northward in the spring as they depend on these areas to rest and feed to obtain enough energy for flight and prepare for the breeding season. In addition, the new interpretation of federal waters may conflict with the implementation of the North American Waterfowl Management Plan and the North American Wetlands Conservation Act under which the United States, Canada and Mexico are jointly committing to improving wetland conditions for continental migratory birds.

Isolated and ephemeral wetlands contain some of our rarest plant communities. Many of these wetland types have already suffered significant losses, and in the future may not be sustainable in the face of additional losses without federal protection. The plants and animals associated with these wetlands may then be lost or further reduced leading to the additional loss of rare and threatened or endangered species, which may result in an increase in federally listed species.

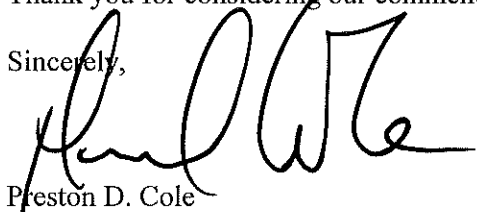
Half of our state's 84,000 of rivers and streams do not flow year-round and may also lose federal protections. Of primary concern is the loss of protection for "ordinarily dry channels through which water occasionally or intermittently flows". These types of intermittent waters in Wisconsin provide, during times of water flow, critical habitat for spawning fish. Of particular concern are the intermittent waters on the west shore of Green Bay which provide critical spawning habitat and nursery areas for Northern Pike and headwater areas in cold water streams which have intermittent flow that provide critical habitat for spawning and nursery areas for Brook Trout.

Wisconsin is known for its beautiful natural resources, and the Wisconsin Department of Tourism estimated that tourism was a \$20.6 billion industry in 2017. Many of these visitors come to fish and recreate on and near Wisconsin's waters. The rollback of federal Clean Water Act protections for waterways and wetlands impacts would take place at a time when our water quality threats are escalating and the need to have adequate protections is of paramount importance to our environment, quality of life and the state's economic vitality. The proposed WOTUS rule would impact more than our water resources-- it impacts our economy.

In short, we believe that this rule making would take our nation in the wrong direction at a time when, nearly fifty years after the passage of the Clean Water Act, we need to continue to work to improve the health of the nation's waterways.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Preston D. Cole". The signature is fluid and cursive, with a large initial "P" and "D".

Preston D. Cole

Secretary

Wisconsin Department of Natural Resources