



August 24, 2021

Re: Definition of “Waters of the United States” Preproposal Outreach Comments; EPA–HQ–OW–2021–0328; FRL–6027.4–02OW; submitted via regulations.gov

We are APAC-Kansas, Inc. – Shears Division and write to oppose the plan by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to repeal the 2020 Navigable Waters Protection Rule (NWPR) and propose a new definition of the Waters of the United States (WOTUS). Our company is a member of the National Stone, Sand & Gravel Association and produces aggregates utilized for critical infrastructure projects. The 2020 NWPR strikes a balance between needed protection of federal waters and a clear rule. We fear the repeal of the NWPR and the promulgation (and likely litigation) of yet another WOTUS rule (the fourth in less than 10 years) will result in confusion and uncertainty for all stakeholders and increased time and effort that will impact our ability to provide materials needed for vital infrastructure.

The determination of Clean Water Act (CWA) jurisdiction is critical to this industry. The scope and reach of CWA jurisdiction have a direct impact on the costs of planning, financing, constructing, and operating our facilities.

APAC-Kansas, Inc. – Shears Division operates asphalt plants, ready-mix plants, construction operations, rock quarries, and sand plants at many locations throughout the state of Kansas. We currently have over 400 employees who work to provide these essential services to our state. Our company strives to comply with the CWA in all aspects of our industry and we have a department devoted to implementing environmental programs and policies.

We incorporate by reference NSSGA’s comments on this proposal. In particular, we oppose the withdrawal of the 2020 NWPR. We agree that WOTUS should be limited by flow and based on location and scientific criteria. We believe that ephemeral features, ditches, pits and water treatment systems (including settling ponds) should be exempt from federal WOTUS jurisdiction.

In closing, we oppose the repeal of the 2020 NWPR.

Sincerely,

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Environmental & Health Representative

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Safety First *Always*