

COLLIN COUNTY

Commissioners Court
2300 Bloomdale Road
Suite 4192
McKinney, Texas 75071
www.collincountytx.gov

October 6, 2014

Donna Downing
Jurisdiction Team Leader, Wetlands Division
U.S. Environmental Protection Agency
Water Docket, Room 2822T
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Stacey Jensen
Regulatory Community of Practice
U.S. Army Corps of Engineers
441 G Street N.W.
Washington, DC 20314

RE: Proposed Rule on "Definition of "Waters of the United States" Under the Clean Water Act," Docket No. EPA-HQ-OW-2011-0880

Dear Ms. Downing and Ms. Jensen:

Counties are tasked with the heavy responsibility to protect the health, welfare, and safety of their citizens, as well as maintain and improve their quality of life. This includes the protection of valuable water resources, whether as a regulated entity or regulator, to ensure that the nation's waters remain clean.

We are very concerned that the proposed rule would modify existing regulations which have been in place for over 25 years in a way that would expand the scope of the Clean Water Act (CWA) jurisdiction. This would inevitably lead to counties experiencing a major impact as more waters become federally protected and subject to new rules or standards.

The Collin County Road and Bridge department maintains approximately 765 miles of roads, over 1,500 miles of roadside drainage ditches and 44 flood prevention dams. **Although the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) have indicated the rule proposal is intended only to clarify existing CWA jurisdiction, Collin County is concerned that the proposed rule could have a major impact on county infrastructure and activities which would result in an expensive and time consuming permit or clearance process that has not historically been required. In addition, the delay that this extra regulation would have on repair, removal of vegetation and debris from drainage ditches or other flood control facilities, could bring about citizen suits should damage occur due to heavy rains while the county is waiting for federal action.**

In Addition, since stormwater management activities are not explicitly exempt under the proposed rule, we are concerned that man-made conveyances and facilities for stormwater management could now be classified as a "water of the U.S." Collin County owns Municipal Separate Storm Sewer System (MS4) infrastructure to include ditches, channels, pipes and gutters that flow into a "water of the U.S." and are therefore regulated under the CWA Section 402 stormwater permit program. **Under this proposed rule change, there is a significant potential threat for counties that own MS4 infrastructure, because they would be subject to additional water quality standards (including total maximum daily loads) if their stormwater ditches are considered a "water of the U.S."** Not only would the discharge leaving the system be regulated, but all flows entering the MS4 would be regulated as well. Even if the agencies do not initially plan to regulate an MS4 as a "water of the U.S.," they may be forced to do so through CWA citizen suits, unless MS4s are explicitly exempted from the requirements.

Furthermore, stormwater management is not funded as a water utility in Collin County, but rather through the county general fund. If stormwater costs significantly increase due to the proposed rule, not only will it potentially impact our ability to focus available resources on real, priority water quality issues, but it may also require that funds be diverted from other government services such as transportation, police, justice, etc. Collin County cannot assume additional unnecessary or unintended costs.

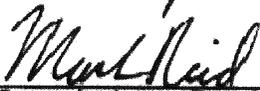
Contrary to the agencies' assertions, the proposed rule does not provide certainty for Collin County. I urge the Administration to remand the rule until our concerns are addressed and re-release a revised rule based on the concerns raised by Collin County and many others. We have provided an attached resolution of the Collin County Commissioners Court stating our concerns as I have addressed above.

Thank you for your attention in this matter. If you have any questions, please do not hesitate to contact the Commissioners Court at 972-424-1460 ext. 4631.

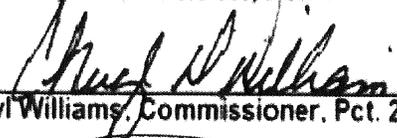
Sincerely,



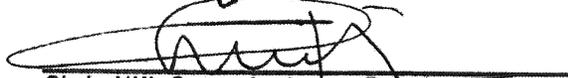
Keith Self, County Judge



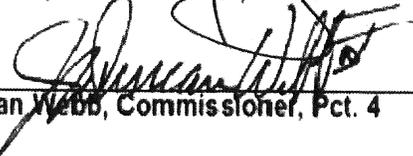
Mark Reid, Commissioner, Pct. 1



Cheryl Williams, Commissioner, Pct. 2



Chris Hill, Commissioner, Pct. 3



Duncan Webb, Commissioner, Pct. 4