



**Cahaba
River
Society**

Restoring and protecting the Cahaba River watershed and its rich diversity of life

September 27th, 2017

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Via www.regulations.gov

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Re: Proposed waters of the United States rulemaking (EPA-HQ-2017-0203)

Dear Ms. Downing and Ms. Jensen:

The Cahaba River Society is a 501c3 organization with a mission to restore and protect the Cahaba River watershed and its rich diversity of life. The diverse lives depending on the Cahaba include the people of central Alabama who rely on the river for drinking water as well as its globally-significant diversity of freshwater wildlife.

The 2015 Clean Water Rule is vitally important to the health of Alabama's rivers and coastal waters, drinking water sources, people, wildlife and economy. We oppose rescinding the 2015 Clean Water Rule and we oppose basing a new Clean Water Rule on the "Scalia test". Our comments are briefly summarized immediately below and each of those points are more fully described in the remainder of these comments.

~ The 2015 Clean Water Rule reestablished common sense Clean Water Act protections for the headwater streams and wetlands that are interconnected with and critical to the water quality and health of valuable rivers, such as the Cahaba, that provide drinking water and habitat; action to rescind the Rule puts our rivers and drinking water at risk.

~ The process to rescind and replace the Clean Water Rule is inadequate if it ignores the results of the in-depth, sound scientific review that supported the Rule.

~ Rescinding the Rule is a waste of the substantial time and resources that went into developing that rule and ignores the extensive and fair stakeholder

process that resulted in strong support for the Rule.

~ Replacing the 2015 Clean Water Rule appears to be an unacceptable and unwise effort to narrow the scope of the Clean Water Act (CWA).

~ Allowing only a 60-day comment period for such an important rule is grossly inadequate.

~ Good economies are not fueled by dirty water, unhealthy people, and degraded communities.

Rescinding the Clean Water Rule and weakening protections for small, seasonal and headwaters streams will allow uncontrolled pollution discharge that will eventually make its way into water resources that people and wildlife depend on. For example, In 2002 it was only because of the original scope of the CWA and implementing regulations that Cahaba River Society and others were able to stop horrendous chicken processing waste from a Gold Kist plant from being dumped into a small, seasonal creek, which eventually fouled our entire river above the drinking water intake for the Birmingham system. If the 2015 Clean Water Rule is rescinded, it would make it nearly impossible for citizens or state agencies to hold polluters accountable for even egregious and ongoing violation of the CWA like that one.

Implementation of the CWA depends on an accurate definition of those waters to be covered, which, in turn, must be based on sound science. Development of the 2015 Clean Water Rule considered the input of an independent Science Advisory Board. Also, EPA developed an extensively peer-reviewed report that examined the dependence of the physical, chemical, and biological integrity of our nation's waters on wetlands and continuously flowing, intermittent, and ephemeral streams.

Additionally, EPA met with over 400 stakeholders and shaped the 2015 Clean Water Rule with input from those important interests. Development of the 2015 Clean Water Rule considered over 1.1 million public comments. Over 80% of those comments were supportive of that rule.

Given the tremendous scientific and stakeholder information gathering effort made in developing the 2015 Clean Water Rule, it is astonishing that this administration is attempting to toss that effort aside. That the process to replace this crucially important element of clean water protection is being done with very limited opportunities for public or scientific input is alarming. Limiting public comment to a 60 day interval reflects the lack of importance this administration apparently attaches to this issue.

The emphasis placed by President Trump's February 28, 2017 Executive Order entitled "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule", seems to suggest that protection of water quality is somehow at odds with economic growth. To the contrary, a healthy economy is not possible without clean, safe water. The price of coping with polluted water is heavy. Other nations and the United States, in earlier times, have suffered terribly when water quality is not protected. The concept that the economy suffers when polluters are held accountable is misguided.

The perception that we need to repeal and replace the 2015 Clean Water Rule in a way that narrows the scope of wetlands and streams regulated under the CWA assumes that our nation has been successful in controlling pollution and that the 2015 Clean Water Rule has somehow over-

reached the goals of the CWA. Evidence shows that we are far from having ‘gone too far’ down the path of water quality protection. A recent USGS Circular entitled The Quality of our Nation’s Waters—Ecological Health in the Nation’s Streams, 1993-2005 ¹ found that 83% of the assessed streams had at least one biological community—algae, macroinvertebrates, or fishes—was altered in some significant way.

It might be easy to underestimate the economic value of clean water. Sportfishing in the United States generates an estimated annual economic output of \$125 billion. There are over 828,000 associated jobs associated with this industry ².

Weakening or repealing regulations merely reallocates the burdens of pollution from polluters to the public. One way or another, clean-up costs will be paid by the public in dollars. The impacts will be reflected in lost lives, declining health, decreased property values, increased water treatment costs, degraded fisheries and recreation opportunities, and stifled economic development. Most Americans agree that strong and effective safeguards are not holding us back but rather provide the foundation for access to clean and safe water. In many states, including Alabama, these federal safeguards provide a much-needed minimum safety net for communities and waterways.

Alabama’s economy relies on clean water. Tourism increased in Alabama in 2016 for the sixth year in a row ³. More than 25.8 million people visited Alabama, spending more than \$13.8 billion. Much of that tourism was beach-bound visitors to Baldwin County. A third of those visitors came to enjoy other wonderful places in Alabama. CRS and partners are developing a water trail system for the Cahaba, which will bring benefits of a stronger recreation and eco-tourism economy to communities along the River, including rural, economically disadvantaged areas in the Black Belt counties. We don’t want to risk the jobs nor risk the enjoyment of Alabama’s rich natural resources that could easily be compromised by a roll-back of clean water regulations. Jettisoning the Clean Water Rule will hurt Alabama’s people and economy.

We have also reviewed and signed onto comments from American Rivers and Southern Environmental Law Center. Thank you for this opportunity.

Sincerely,



Beth K. Stewart
Executive Director
Cahaba River Society

¹ D.M. Carlisle, *et al.* 2013. The quality of our Nation’s waters—Ecological health in the Nation’s streams, 1993-2005: U.S. Geological Survey Circular 1391, 120 p., <http://pubs.usgs.gov/circ/1391/>. Also available at <https://pubs.er.usgs.gov/publication/cir1391>

² American Sportfishing Association, 2008, Sportfishing in America—An economic engine and conservation powerhouse: Southwick Associates for the American Sportfishing Association. Available at <http://asafishing.org/facts-figures/>. Also see, National Research Council, 2004. Valuing ecosystem services—Toward better environmental decision-making. Washington, D.C., National Academic Press, 278 p. A pdf is available at <https://www.nap.edu/catalog/11139/valuing-ecosystem-services-toward-better-environmental-decision-making>

³ http://www.al.com/news/mobile/index.ssf/2017/05/alabamas_tourism_fueled_by_bea.html