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U.S. Environmental Protection Agency
EPA Docket Center, Office of Water Docket
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Washington, DC 20460
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Docket ID No. EPA-HQ-OW-2018-0149

To Whom It May Concern:

The Alaska Miners Association (AMA) writes to provide comments in support of the U.S. Environmental Protection Agency's (EPA) and Army Corps of Engineers' (Corps) revised definition of "Waters of the United States" (WOTUS). 84 Fed. Reg. 4154 (Feb. 14, 2019). In addition to the comments included in this letter, AMA wishes to endorse the comments filed by the National Mining Association, as well as the comments filed by the Waters Advocacy Coalition (WAC) that largely endorse the proposal.

AMA is a professional membership trade organization established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,400 members that come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Our members include individual prospectors, geologists, engineers, suction dredge miners, small family mines, junior mining companies, and major mining companies, Alaska Native Corporations, and the contracting sector that supports Alaska's mining industry.

AMA has provided comments on behalf of Alaska's miners to agencies on federal Clean Water Act (CWA) jurisdiction for decades. Specifically for the 2015 WOTUS Rule, AMA provided technical comments during the draft and final Rule periods outlining the overreach and unlawful provisions, as well as the overall lack of clarity within the Rule.

The revised definition of WOTUS proposal provides that long-overdue clarity regarding the scope of CWA jurisdiction while upholding the principle of cooperative federalism embodied in the Act. In contrast to the 2015 WOTUS definition, the proposed definition is appropriately tailored to meet the policy goals of ensuring environmental protection, promoting economic growth, minimizing regulatory uncertainty and solidifying the role of the states in protecting water quality as Congress intended. Simply put, the revised WOTUS definition is protective of water quality, administrable, lawful, and generally clear.

However, AMA has some general suggestions specific to Alaska's waters, which provide a unique aspect to the CWA:

Alaska is the only state in the union to contain permafrost, a permanently frozen layer at variable subsurface depths. Permafrost does not contribute flow to definable waters and does not have a



continuous surface connection to WOTUS waterbodies. Therefore, we request that permafrost not be interpreted as wetlands and ask that permafrost specifically be excluded from the definition of WOTUS. The Alaska State Senate Majority letter submitted March 27, 2019, provides an excellent legal and technical outline on permafrost and its lack of applicability to a definition of WOTUS.

AMA appreciates the specific exclusions the agencies have proposed, as they are vital to providing regulatory clarity with respect to the CWA. Exclusion of waste treatment systems, groundwater, ephemeral features and stormwater runoff, and ditches are in clear alignment with the intent of the CWA.

Overall, the proposed redefinition recognizes and preserves the primary responsibility of the states to manage their water resources, consistent with the Congressional intent of the CWA. This will result in clear, science-based decisions by local experts and provide the regulatory certainty that Alaska's miners need to continue operating in the best interests of Alaskans, and that of the nation.

Thank you for the opportunity to provide comments on the revised definition of WOTUS.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Crockett", is written over the typed name.

Deantha Crockett
Executive Director