

October 21, 2021

VIA EMAIL

The Honorable Radhika Fox
Assistant Administrator
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Mr. Jaime Pinkham
Acting Assistant Secretary of the Army
for Civil Works
Department of the Army
108 Army Pentagon
Washington, DC 20310-0104

Re: Request for Thirty Day Extension of Time to Submit Panels for the Regional Roundtables

On October 13, 2021, the U.S. Environmental Protection Agency (“EPA”) and the Department of the Army (“Army”) (or, collectively, “agencies”) publicly released details about the process the agencies intend to use to organize a series of regional roundtables across the country to obtain input into the development of a new regulatory definition of the term “Waters of the United States” (“WOTUS”). Agricultural organizations across the country will take advantage of this opportunity to bring together diverse stakeholders’ and region-specific perspectives on the challenges with the definition of WOTUS. We respectfully ask that you provide thirty more days to do that important work as we anticipate it will take more than the three weeks allowed between the press release announcing this initiative and the current deadline.

We request the additional time for practical reasons. We understand you wish stakeholders be assembled to offer their differing perspectives on how certain drainage features and waters may or may not warrant being considered WOTUS. We understand the utility of this approach, but in the WOTUS rulemaking context having the stakeholders propose panels to accomplish this is novel to say the least. This task requires considerable internal and external planning, coordination, and discussions among numerous parties from different sectors that certainly know each other and may have collaborated or constructively engaged on environmental matters in the past, but not on WOTUS. Agriculture is not monolithic, and at the state and local level farmers and ranchers are commonly organized under differing agricultural banners based on the issues, concerns or opportunities to be addressed. The coordination across the agricultural groups at the state and local level to make this work is not simple and takes some time. Furthermore, these regional roundtables involve dozens of states where each can or do have substantially different geographies, weather, and hydrological systems and therefore quite unique perspectives on WOTUS policy. Coordination, communications, and frankly negotiations among differing stakeholder groups across state lines and state groups therefore must also take place.

In addition, important questions about the roundtables and what they entail have and inevitably will come up in this process, and stakeholders considering participation rightly need to have answers before making decisions. For example, we assume but wonder if the agencies plan to actually conduct the roundtables for which the stakeholders have done the work of assembling the panels. What is the format of the roundtables, what kind of speaking roles will panelists have, will the panelists be given specific questions to guide their comments, and will the meeting be recorded, a transcript developed, and this otherwise inserted into the rulemaking docket? We

have forwarded these questions to agency staff and expect they will be answered in a timely manner. But others are likely to come up, and even should come up to ensure that the roundtables work and provide value. Time must be allowed for these questions to arise, be answered, and the answers processed and taken into account if the agencies want the roundtables to be a success.

It is for these reasons that we urge you to provide thirty more days for the submittal of proposed panels. We recognize, given the end of the year holidays, that this means the roundtables can't take place until the start of 2022. We believe the quality of the information the agency will garner from the roundtables will be far greater if this modest delay is allowed.

Agriculture looks forward to providing you with high quality proposed panels, and to the roundtables where our and other perspectives on the important WOTUS questions before us can be meaningfully voiced. We appreciate your consideration of our request for more time to ensure this is done well and look forward to your response. If you wish to discuss any of these concerns, please contact Tom Hebert at 202-441-0570 or tom.hebert@bayardridge.com.

Sincerely,

Alabama Pork Producers
American Dairy Association
American Farm Bureau Federation
Agricultural Retailers Association
American Soybean Association
Colorado Pork Producers Council
Illinois Corn growers Association
Illinois Farm Bureau
Illinois Pork Producers Association
Indiana Pork Producers Association
Iowa Farm Bureau Federation
Iowa Pork Producers Association
Kansas Pork Association
Kentucky Pork Producers Association
Louisiana Pork Producers Association
Minnesota Agricultural Water Resource Center
Missouri Corn Growers Association
Missouri Pork Association
Michigan Pork Producers Association
Minnesota Pork Producers Association
Missouri Soybean Association
National Association of Wheat Growers
National Cattlemen's Beef Association

National Cotton Council
National Council of Farmer Cooperatives
National Corn Growers Association
North Carolina Pork Council
North Dakota Pork Council
National Milk Producers Federation
Nebraska Pork Producers Association, Inc.
National Pork Producers Council
Ohio AgriBusiness Association
Oregon Cattlemen's Association
Oregon Dairy Farmers Association
Ohio Pork Council
Oklahoma Pork Council
Professional Dairy Managers of Pennsylvania
PennAg Industries
Pennsylvania Pork Producers Council
Public Lands Council
South East Dairy Farmers Association
The Fertilizer Institute
Texas Pork Producers
United Egg Producers
U.S. Poultry & Egg Association
Wisconsin Pork Association