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February 4, 2022

Re: Revised Definition of “Waters of the United States”; *EPA-HQ-OW-2021-0602*; submitted via regulations.gov

The Virginia Transportation Construction Alliance (VTCA) represents almost 300 organizations that make up the Transportation Construction Industry in Virginia. VTCA’s Aggregate Producers Members represent over 90% of all the metal/nonmetal mineral production in the Commonwealth

VTCA writes regarding the proposal 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 organization is aligned with the National Stone, Sand & Gravel Association (NSSGA) and represents producers of aggregates utilized for critical infrastructure projects. As supporters of the *Infrastructure Investment & Jobs Act (IIJA)*, we are concerned that this rule runs counter to this Administration’s infrastructure priorities. The scope and reach of WOTUS jurisdiction have a direct impact on the costs of planning, financing, constructing, and operating our facilities. We fear the repeal of the NWPR and the expansion of federal jurisdiction under this proposal will result in increased time, costs and effort that will impact our ability to provide materials needed for vital infrastructure.

We incorporate by reference NSSGA’s comments on this proposal. We believe that ephemeral features, ditches, quarry and sand pits and water treatment systems (including settling ponds) should be exempt from federal WOTUS jurisdiction. Requiring our operations to return to the lengthy, flawed and inconsistent significant nexus process will impact our ability to provide aggregates in a timely manner. Should the agencies decide to adopt the significant nexus test, the proposed rule’s criteria for determining significant nexus is much more expansive than previously implemented under the 2008 Rapanos Guidance, would impose a severe evidentiary burden and impede our ability to provide aggregate needed for every infrastructure project under the IIJA.

Sincerely,

*Rob Lanham*

Aggregate Program Manager