

# Comments on the EPA and DA 2021 Economic Analysis for the Proposed “Revised Definition of ‘Waters of the United States’” Rule

Prepared by David Sunding, PhD, and Gina Waterfield, PhD

For the Waters Advocacy Coalition

October 6, 2022

# Inconsistency with Prior Analysis

- 2021 Economic Analysis (EA) of a repeal of the Navigable Waters Protection Rule (NWPR) estimates benefits of more expansive jurisdiction at \$376-\$590M, costs at \$109 to \$276 million
  - Unquantified costs and benefits are “not expected to negate the positive net benefits”
- 2020 EA of the NWPR found the reverse: foregone benefits of \$55-\$173M, avoided costs of \$109-\$513M
  - “...cost savings from avoided permit applications and mitigation generally exceed forgone benefits of wetlands”
- Minimal explanation of large differences or justification for methodological changes
- Case studies for states with better available data presented in 2020 EA are omitted from 2021 EA

# Understatement of Costs

- The agencies consider only a subset of fiscal costs associated with the Section 404 program: permitting costs and compensatory mitigation costs
  - Narrow focus ignores the true economic costs of more expansive jurisdictional scope; these include:
    - Costs of avoidance measures
    - Costs of minimization measures
    - Costs of transfers
    - Costs of delay and uncertainty
    - Costs of jurisdictional determinations
- Potential foregone economic activity
- Permitting and compensatory mitigation costs are outdated, based on lowest available estimates, and/or not reported transparently

# Overestimation of Benefits Studied

- The agencies estimate ecosystem service benefits associated with incremental compensatory mitigation requirements
- Benefits are monetized using a meta-analysis of 17 contingent valuation studies for wetlands “that support a variety of ecosystem services including wildlife support, recreational uses (such as waterfowl hunting), flood risk, and nonuse values”
  - Wetlands protected by proposed rule change likely differ significantly from those that were the subjects of these studies
  - Without justification, benefits of a restored or protected wetland are assumed to accrue to all households within the same state
  - No characterization of uncertainty despite highly imprecise nature of estimates and substantial variation in per acre benefits across the original studies