



**American Water Works
Association**

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Water Docket
U.S. Environmental Protection Agency
Mail Code 4304T
1200 Pennsylvania Ave, NW
Washington, DC 20460

Re: Comments on "*Draft EPA-USGS Technical Report: Protecting Aquatic Life from Effects of Hydrologic Alteration*", Docket ID No. EPA-HQ-OW-2015-0335

Dear Sir or Madam:

The American Water Works Association (AWWA) appreciates the opportunity to comment on the Environmental Protection Agency's (EPA's) and United States Geological Survey's (USGS's) *Draft Technical Report for Protecting Aquatic Life from Effects of Hydrologic Alteration*. Retaining aquatic ecosystem integrity is an important consideration when evaluating how to undertake activities that impact stream flow. The assurance of reliable community water supplies and the management of community wastewater involves both engineering decisions and operational practices that alter water body hydrology, consequently AWWA's members have a strong interest in the draft report. AWWA advocates for careful consideration of both intentional impacts and unintended consequences when making decisions that will have impacts on stream hydrology. The comments below are intended to assist EPA and USGS in improving on the current report and to assure that all important factors are considered, as AWWA believes that the report as currently written could potentially cause widespread and profound unintended consequences.

In finalizing this document, the authors should recognize that a report by EPA and USGS on such an important topic will be deemed as federal policy even if the foreword contains warnings to drawing the distinction that it is not. The document discusses incorporating its recommendations into Clean Water Act processes in detail and the document's recommendations could have considerable impacts on the economy and on regulatory processes. Consequently, the final document must be carefully drafted and meet the reasonable expectations expected of a *significant*

federal guidance document under OMB Bulletin M-07-07 “Agency Good Guidance Practices” and to list this document as a significant guidance document and follow all the associated procedural requirements. Furthermore, implementing the recommendations within this document could easily exceed the \$100 million per year threshold required for the subset of significant guidance documents designated as *economically significant guidance documents*, and EPA/USGS should also follow the procedural requirements of this document type.

EPA and USGS must review the document to identify and remove leading statements and other biases that suggest to the reader that preventing any alteration in flow is the only acceptable way to address protecting aquatic life. At present, the document reads as if this were the case, which is unsound. When finalized the report must include a balanced perspective that recognizes the value of issues such as the provision of drinking water and other water services. Additionally, EPA and USGS should also include discussions of the following important considerations:

- *Flow alterations impact more than just biodiversity.* Consequently, any plan that impacts flow should also be assessed for its impacts to other areas such as (but not limited to) the provision of drinking water and providing other water services such as wastewater treatment, stormwater management, water reuse, and others. For example, alterations to flow can impact the levels of nutrients, can cause or alter algal blooms, and cause other treatment challenges. Alterations to address biodiversity may assist in the management of these issues but also may increase the challenges, hence the need for thorough evaluation.
- *Biodiversity can be impacted without alterations to flow.* Largely absent from the discussion in this document is a recognition that other factors unrelated to flow impact biodiversity. Jumping to plans to alter flow without examining other possible causes of biodiversity issues is inappropriate in that it may inadvertently cause or contribute to the concerns above.

The premise and purpose of the document is to inform action in the United States, consequently, the observations drawn should be pertinent to the U.S. On Page 10 the text describes discharge of contaminants as “a top threat” to aquatic biodiversity and several secondary concerns, including urbanization, agriculture practices, and engineered structures for water resource development. The reference cited for this statement, Vorosmarty (2010), is not relevant to conditions in the United States as it examines global conditions and the need for policy change in developing countries. As noted by Vorosmarty water policy abroad can vary dramatically from the situation in developed countries like the United States, in which discharge of contaminants from point sources is tightly controlled through permits and policies

are used to reduce contamination from non-point sources. AWWA recommends that the authors replace statements throughout the document to reflect information appropriate to actual conditions in the United States.

Although the impacts of this report are potentially broad, the scope of water uses and users examined and discussed in the report is inappropriately narrow. At present the report is written narrowly focusing on one important issue (biodiversity) while overlooking other important issues (such as the provision of drinking water and other water services). In doing so, the report does not provide a sustainable approach to balancing multiple, important water resource concerns. The phrase "... not discussed in this report ... are other designated uses such as ... drinking water" is particularly alarming, as it inappropriately implies a greater importance to the designated uses for aquatic life over the designated use of drinking water required for human life. AWWA recommends that the authors revise the document to address balancing multiple water resource concerns and reissue the document as a "significant guidance document" as discussed above. If the authors do not have adequate information or resources to accomplish this task, then AWWA recommends EPA and USGS withdraw the draft report until such revisions are possible.

The citations reflected in the report should contain the most up to date information and that all terms should be both fully explained and used in an appropriate context. For example, when discussing "dams and impoundments" on page 20, a report from 1990 is used to describe the number dams and the number of rivers not altered by structures. This report is 26 years old, we recommend that USGS and EPA find a newer reference or verify this information is still pertinent. If the 1990 report is still the most recent and the information within is still correct, we recommend including a note that this information was verified, as many readers will likely have these same thoughts.

Examples and issues discussed within the document address only the impacts on quality and flow and do not address options available to reduce these impacts or provide net improvements. Moreover, the manner in which the report presents information should be more carefully worded. The following two examples represent an important omission and a poorly worded example that should be corrected:

- Green infrastructure and other stormwater management tools to control surface runoff is not addressed in the document. Green infrastructure should be discussed at length in the final report and references to materials to assist in the incorporation of green infrastructure should be included. These solutions are low cost, low impact alternatives to reduce the impacts of development, and when

installed and operated correctly, can help to minimize unintended consequences.

- The title phrase of Box F on page 57 stating “South Carolina Board of Health and Environmental Control Denied Certification” is unnecessarily alarming and also misleading given the content of the example. We recommend that this should be changed to “South Carolina Board of Health and Environmental Control Negotiates New Commitments for Recertification”

The ultimate goal of AWWA’s recommendations is a thoughtful, comprehensive and organized report that informs a practitioners charged with carefully balancing multiple project objectives including avoiding harm to aquatic ecosystems when undertaking projects that affect stream flow. At present, the report implies “any change is bad” which inappropriately implies that the provision of drinking water is inherently at odds with maintaining stream conditions appropriate for aquatic life. To correct this situation, the authors should review and revise the report to carefully balance all issues and identify options to mitigate impacts of concern. The final report should communicate reasonable expectations for protection of aquatic life complementary with the EPA’s clean water quality protection programs. Designating this document as a significant guidance document and following the associated procedures of scientific review and public input should help to address these issues.

Please feel free to contact myself or Adam Carpenter at AWWA (202-628-8303, acarpenter@awwa.org) if you have any questions regarding this comment or would like to discuss mechanisms to more actively engage stakeholders in crafting a cohesive strategy to collect the complete suite of data needed to support aquatic life protection regulation development.

Respectfully,



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Executive Director of Government Affairs
American Water Works Association

cc: Peter Grevatt, EPA
Betsy Sutherland, EPA
Diana M. Eignor, EPA
Caryn Muellerleile, EPA
Jonathan G. Kennen, USGS