Rejecting the Dirty Water Rule: State agencies

The public responded to the Trump administration's proposal to radically redefine the Clean Water Act to strip protections from streams and wetlands with a resounding "No". The Environmental Protection Agency (EPA) only provided 60 days for public comment, but more than 525,000 Americans demanded that the Administration dump this Dirty Water Rule. Comments came from across the country from a diverse range of constituents — water-dependent businesses, community leaders and representatives from underserved communities, people of faith, scientists, wetland experts and mitigation professionals, environmental and conservation groups, tribal nations, hunters and anglers. They talked about personal and spiritual connections to water and the need to do more — not less — to protect these vital resources. They discussed the established science that EPA ignored in its proposal, and the shaky legal ground it was on. **The comments implored EPA to drop this proposal and begin to defend and enforce the laws that keep our water clean and safe.**

State agencies also weighed in. State Attorneys General commented on the legal deficiencies of the proposal. Wetlands and floodplains managers discussed the importance of protecting and preserving wetlands for flood protection and groundwater recharge. The bottom line: pollution doesn't respect state borders. States rely on the federal government to provide strong safeguards and clear guidance to protect their lakes, rivers, and streams.

Here is a snapshot of what state officials are saying about the Dirty Water Rule.

Colorado - Joint comments from the Governor and Attorney General: "Colorado objects to the Proposed Rule because it would remove from federal jurisdiction many Colorado waters that are currently within federal jurisdiction under the 2008 guidance. These waters are highly important to the quality of Colorado's water. They should continue to be protected under the CWA."

New Jersey State legislators: "As state legislators, we believe broad federal protections are critical to protecting our local waters. Water flows downhill, and each of the lower 48 states have water bodies that are downstream of one or more other states. Maintaining consistency among water pollution programs throughout these states is essential. Since the passage of the Clean Water Act, states have come to rely on the Act's core provisions and have structured our own water pollution programs accordingly."

Association of State Floodplain Managers: "The loss of natural flood storage areas such as the wetlands and ephemeral streams that will be excluded from regulation under the proposed rule will increase flood frequency and higher flood elevations downstream. These increases in potential flooding will be a drag on the economy with a large share of major disaster costs picked up by the federal taxpayers...The removal of federal protection for half of the tributary streams in the U.S. would have a devastating impact on flood risk in the U.S...and accelerate already increasing trends in flood damage costs and associated expenditures for flood recovery and management."

Arkansas Game & Fish Commission: "By omitting ephemeral streams the agencies are actually eliminating an opportunity for the state of Arkansas to make decisions about the discharge of pollutants into their waters through the Clean Water Act Section 401 water quality certification process."

Louisiana Dept of Wildlife & Fisheries: "Many of our state's streams do not flow year round, yet they drain a large portion of our landscape. Many vitally important wetlands do not have a continuous surface connection to navigable waters; however, they are indeed hydrologically connected to navigable waters by flood flows, subsurface flows, and/or intermittent overland drainage. We believe that the CWA should apply to any and all waterways and wetlands which significantly affect the chemical, physical, and biological integrity of other covered waters."

Oregon Governor, Kate Brown: "The proposed rule will result in an impractical and inefficient patchwork of state and federal authorities to address protections formerly covered by state and federal implementation of the Clean Water Act...The proposed scope of the Waters of the United States is overly narrow and does not reflect the science supporting the ecological importance of the excluded waters to overall watershed health and function."

New Mexico Environment Department: "As currently written, the proposed rule is not sufficiently protective of waters in New Mexico and will require the State to expend significant and currently unallocated resources to ensure waters of the state are sufficiently protective of human health and the environment."

Arizona state legislators: "It is equally concerning that Arizona's precious cienegas, which do not have a 'continuous surface connection' to larger waters, would be unprotected by the Clean Water Act."

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