



FOR IMMEDIATE RELEASE
Friday, September 13, 2019

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EPA Rule Change Threatens New Mexico's Waters

SANTA FE – The US Environmental Protection Agency (EPA) and the Army Corps of Engineers repealed the 2015 Rule that clarified the definition of “Waters of the United States” (WOTUS) under the Clean Water Act. While the threat had been that the agencies would “repeal and replace” the 2015 Rule, a new definition of WOTUS is not expected until the winter.

“The 2015 Clean Water Rule was a step in the right direction to protect the many rivers, streams, lakes, and bodies of water still not safe for swimming or fishing. Repealing this rule is a reckless and radical action that ignores science and sets us back nearly half a century since Congress passed the Clean Water Act,” said Rachel Conn, Projects Director at Amigos Bravos.

EPA Administrator Andrew Wheeler, a former corporate lobbyist, announced the repeal of the Obama-era Rule at the headquarters of a corporate lobbyist, the National Association of Manufacturers. Administrator Ken McQueen of EPA’s Region 6, which includes New Mexico, made his announcement at the Dallas Builders Association.

“EPA is not even trying to pretend that it's not making decisions to make life easier for corporate special interests,” said Conn.

“The agencies claim that they are taking this radical action to bring ‘certainty’ to corporate polluters. However, without a replacement definition of WOTUS, enforcement of the Clean Water Act has been set back to the rules in effect in 1986, with a new definition coming at some unknown point in the future. There is no certainty in that,” said Charles de Saillan, Staff Attorney at the New Mexico Environmental Law Center.

Unlike federal rollbacks in areas of environmental protection that affect other natural resources, New Mexico’s waters do not have state protections to fall back on. New Mexico is one of just

four states that does not have full delegated authority from the EPA to regulate discharges of pollution into rivers, streams, and lakes.

The New Mexico Environment Department has estimated that as much as 96% of the surface waters in the state could lose protection under the new rules.

“We rely on the EPA to protect our surface waters. Everything we have seen so far from Wheeler’s EPA indicates that he is protecting the interests of the polluters over the interests of the public who rely on clean water for drinking, agriculture, recreation, and cultural values,” said Conn.

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Amigos Bravos and the New Mexico Environmental Law Center [submitted comments on the proposed rule change](#) in April