



American Water Works
Association

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AWWA WEBINAR

JUNE 18, 2020 | 11:00 A.M. - 12:30 P.M. MT

WOTUS and Maui

Parallel Developments Impact the Clean Water Act and Source Water Protection

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WEBINAR MODERATOR



Adam Carpenter
Manager of Energy and
Environmental Policy
AWWA

Adam Carpenter is the Manager of Energy and Environmental Policy at AWWA's Water Policy and Leadership department in Washington, DC and has been with AWWA since 2011. He serves as an expert and advocate on a diverse set of drinking water issues including source water protection, the energy-water nexus, cyanotoxins, climate change, consumer confidence reports, and other environmental policy concerns. Along with his colleagues, he works to further AWWA's mission of supporting clean, affordable drinking water through sound application of science into policy, sensible regulation, public awareness, and building stakeholder consensus. He holds a Ph.D. in environmental science and public policy from George Mason University.

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AGENDA

- | | |
|---|------------------|
| I. WOTUS: What Is It, and Why Does It Matter? | Carolyn McIntosh |
| II. A Regulatory Morass: Hydrological Connections and the Supreme Court's Maui Decision | Hilary Meltzer |
| III. Colorado Headwaters: Where are we headed under the new WOTUS rule and County of Maui | Nick DiMascio |

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ASK THE EXPERTS

Carolyn McIntosh
Partner
Squire Patton Boggs
(US) LLP

Hilary Meltzer
Chief, Environmental
Law Division
New York City Law
Department

Nick DiMascio
Senior Attorney
Denver Water

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WATERS OF THE UNITED STATES AND COUNTY OF MAUI V. HAWAI'I WILDLIFE FUND

Waters of the United States (WOTUS)

- Impacts surface water jurisdictional determinations for the Clean Water Act (CWA)
- Overarching impacts to numerous CWA programs
- Jointly administered by Environmental Protection Agency and U.S. Army Corps of Engineers
- Latest iteration known as the "Navigable Waters Protection Rule" (NWPR)

Maui Decision

- Recent Supreme Court decision
- Applies to discharges to groundwater that impact surface waters
- Inconsistent past practice, some discharges may need new CWA permits



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SQUIRE
PATTON BOGGS



WOTUS, WHAT IS IT, AND WHY DOES IT MATTER?

Carolyn McIntosh
Partner
Squire Patton Boggs (US) LLP

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AGENDA

The Definition answers the legal question where to draw the line between Federal and State waters, based on the overall framework and construct of the CWA.

EPA: 85 Fed. Reg. 22261 (April 21, 2020)



- Navigable Waters Protection Rule (“New” WOTUS Rule)
 - Purpose
 - History
 - Definition Changes
 - What are the implications?
- Clean Water Act § 401 Certification
- Clean Water Act § 404/Nationwide Permit 12



THREE KEY U.S. SUPREME COURT DECISIONS

- *United States v. Riverside Bayview Homes*, 474 U.S. 121, 131–35 & n.9 (1985).
 - Wetlands abutting traditional navigable waters may be regulated as waters of the United States because they are “inseparably bound up” with navigable waters and “in the majority of cases” have “significant effects on water quality and the aquatic ecosystem” in those waters.
- *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159, 172 (2001) (SWANCC).
 - Rejecting jurisdiction over non-navigable, isolated, intrastate ponds that lack a sufficient connection to traditional navigable waters because that would invoke the outer limits of Congress’ power under the Commerce Clause without any clear Congressional expression of that intent.
 - The Corps applied the decision narrowly to eliminate federal jurisdiction solely based on the “Migratory Bird Rule”
- *Rapanos v. United States*, 547 U.S. 715, 739 (2006).
 - The Justice Scalia four-Justice plurality held WOTUS “includes only those relatively permanent, standing or continuously flowing bodies of water ‘forming geographic features’ that are described in ordinary parlance as ‘streams[,] . . . oceans, rivers, [and] lakes,’ [and] ‘wetlands with a continuous surface connection’ to a “relatively permanent body of water connected to traditional interstate navigable waters.”
 - Justice Kennedy concluded that to be a WOTUS a “wetland must possess a ‘significant nexus’ to waters that are or were navigable in fact or that could reasonably be so made.” *Rapanos*, 547 U.S. at 759.



THE “OBAMA ERA” WOTUS DEFINITION 2015

- **Pre-2015 Definition**
 - Navigable waters
 - Perennial streams
 - Adjacent wetlands
 - Intermittent Streams
- **2015 Definition**
 - Three categories
 - Categorically jurisdictional (including neighboring waters)
 - Case-by-case
 - Categorically excluded
 - Isolated wetlands, prairie potholes
 - Seasonal flows
 - Waters (ephemeral streams, wetlands) with significant nexus to navigable waters
 - Case-by-case inclusion of cooling ponds, construction ponds, ditches, storm drain systems
 - Excluded puddles, swimming pools, waste treatment systems

EPA's New Proposed Rule Greatly Expands Their Jurisdiction over Water and Land Use

The Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) have proposed a new rule that greatly expands the definition of "waters of the United States," (WOTUS) and by extension the agency's jurisdiction over private and public lands and their uses. The proposed rule's stated purpose is to provide greater clarity as to what waters are considered waters of the United States. Instead, this proposed rule creates confusion and expands the federal government's jurisdiction well beyond the intent of Congress and the Supreme Court ruling of SWANCO and Riparian. Under the newly proposed rule the agencies would be able require manufacturers to obtain clean water permits for activities not previously required for things like storm water run-off and drainage ponds, ditches, cooling ponds, ephemeral or seasonal streams, isolated mosaic wetlands, snow melt, prairie potholes, etc. The result would be costly delays, expensive mitigation actions and denial of permits needed to build, expand and conduct day to day operations, and significant impact on the local stream. In essence, the EPA and the Corps would be able to claim virtually all waters within the United States have a connection to navigable waters tributaries, floodplains, riparian areas or by virtue of being adjacent or neighboring.

"The EPA interprets the Clean Water Act to apply to non-navigable tributaries and their adjacent wetlands that have a "significant nexus" to navigable waters. The EPA defines significant nexus as watersheds that "either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of traditional navigable or interstate waters."

Under the 2015 Rule the vast majority of water features in the United States may have come within the jurisdictional purview of the Federal government. EPA Economic Analysis



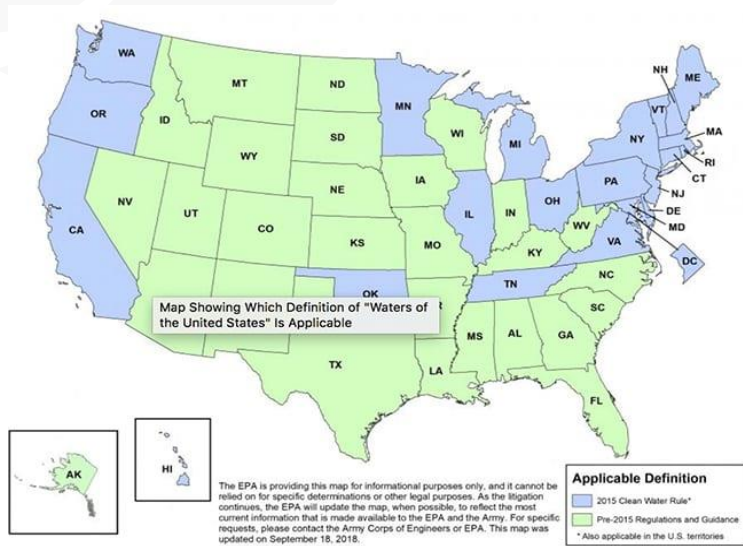
THE TIMELINE

- May 22, 1973: EPA issued first regulations to define “navigable waters”
- June 29, 2015: 2015 Rule is issued, with delayed effective date (9/28/2015)
- August 27, 2015: U.S. District Court North Dakota enjoins 2015 Rule (13 states)
- August 28, 2015: 2015 Rule Definition became effective (37 states)
- October 9, 2015: Sixth Circuit stays 2015 Rule nationwide
- February 28, 2017, President Trump issues Executive Order 13778
- New WOTUS Rulemaking Process
 - Step One – Repeal of the 2015 Rule, notice of repeal issued July 27, 2017
 - Step Two – Revised Definition of “Water of the United States” issued February 14, 2019
- February 6, 2018: 2015 Rule Applicability Date established as February 6, 2020
- February 28, 2018: Sixth Circuit lifts nationwide injunction
- October 22, 2019: EPA and the Department of the Army finalize the repeal rule
- December 23, 2019: Final repeal rule effective, temporarily restoring pre-2015 regulations
- April 21, 2020: Final Navigable Water Protection Rule: Definition of “WOTUS” issued
- June 22, 2020: The WOTUS Rule became effective



STATES WHERE 2105 WOTUS RULE APPLIED

- Green states: Pre-2015 regulations and guidance applied
- Blue states: 2015 WOTUS Rule applied
- Created a chaotic patch-work
- Relevant still because these conditions are likely to return with litigation under the new rule



WHAT'S INCLUDED?

Congress' authority to regulate navigable waters under the CWA derives from its power to regulate the "channels of interstate commerce"

EPA: 85 Fed. Reg. 22262 (April 21, 2020)



- Relatively permanent waterbodies that are traditional navigable waters
- Territorial seas and traditional navigable waters
- Tributaries to the territorial seas and traditional navigable waters
 - Must be perennial or intermittent tributaries that contribute surface water flow to a territorial sea and a traditional navigable water either directly or indirectly through other jurisdictional waters
 - *Ephemeral streams are not included*
- Lakes, ponds and impoundments
 - Standing bodies of water
 - Contribute surface water flow in a typical year to a territorial sea or a traditional navigable water either directly or indirectly through another jurisdictional water



WHAT'S INCLUDED? (CONT'D)

“Typical year”

“when precipitation and other climatic variables are within normal periodic range (e.g. seasonally, annually) for the geographic area based on a rolling thirty-year period.”



- Wetlands that abut a territorial sea or traditional navigable water or other jurisdictional water
 - Inundated by flooding by a jurisdictional water in a typical year
 - Physically separated from a jurisdictional water by a natural berm, dune or other similar feature
 - Physically separated from a jurisdictional water by an artificial structure so long as that artificial structure allows for a direct hydrologic surface connection between the wetland and a jurisdictional water in a typical year

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WHAT'S EXCLUDED

Also Excluded:

Groundwater recharge, water reuse, and wastewater recycling structures, including detention, retention, and infiltration basins and ponds, constructed or excavated in upland or in non-jurisdictional waters



- All waters that do not fall within one of the four (4) categories outlined above are not jurisdictional.
- Notable specific exclusions include:
 - Groundwater, including groundwater drained through subsurface drainage systems
 - Prior converted cropland
 - Artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease
 - Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for the purpose of obtaining fill, sand or gravel
 - Stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off

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NAVIGABLE WATERS PROTECTION RULE SUMMARY



- Furthers the Congressional objectives of the CWA to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters”
- Consistent with Constitutional and statutory authority
- Strikes the proper balance between federal and state and Tribal regulatory authority
- Establishes clear categories of jurisdictional waters
- Applies to traditional navigable waters used for interstate commerce and related waters that contribute flow in a typical year to traditional navigable waters
- Isolated, remote waters are not subject to federal jurisdiction
- Clear exclusions: artificial lakes and ponds constructed in upland, groundwater, ditches, pits excavated to obtain fill, stormwater control features, wastewater recycling structures
- May require more field work/data to establish “typical year”



PRACTICAL IMPLICATIONS

The litigation will continue



- Narrows the scope of CWA federal jurisdiction from the 2015 Rule
 - Particularly with respect to adjacent wetlands and ephemeral streams
 - Somewhat broader than pre-2015 Rule
- Abandons the “significant nexus” test of the 2015 Rule for more certainty and reduced case-by-case
- Reduction of federal jurisdiction likely means more state jurisdiction
 - For example, Arizona estimates that the new WOTUS Rule will reduce federal waters by 90+ % and is pursuing a “replacement” state system
 - Many states already have more stringent programs
- Water and wastewater utility activities will require careful evaluation of which jurisdiction applies





CWA § 401 CERTIFICATION

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CLEAN WATER ACT § 401 CERTIFICATION

- CWA § 401 requires an applicant for a federal permit for any activity that “may result in a discharge to waters of the US” to provide the federal permitting agency a certification from the state where the discharge originates.
- Certification means the state has determined that the discharge will comply with applicable provisions of the CWA, including water quality standards.
- CWA § 401(a)(1) says if the state “fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application.”
- CWA § 401 has been abused by some states. *Hoopa Valley Tribe v. FERC*, 913 F.3d 1099, 1105 (D.C. Cir. 2019) (repeated resubmittals over 10 years)
- August 7, 2019: Corps Guidance Letter, “Timeframes for Clean Water Act § 401 Water Quality Certifications and Clarification of Waiver Responsibility”
- August 8, 2019: EPA issues proposed rule, “Updating Regulations on Water Quality Certification”
- June 1, 2020: EPA Administrator signed “Clean Water Act Section 401 Certification Rule”

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SUMMARY OF 401 RULE

Only Four Options

- Grant
- Grant with conditions
- Deny, or
- Waiver



- First “holistic analysis” of § 401
- The potential discharge
 - Must be into WOTUS
 - Must be from a point source
- Analysis limited to water quality impacts
- Project proponent to request a pre-filing meeting with state officials before formally seeking a 401 certification
- Certifying authority must act “within a reasonable time... **which shall not exceed one year** and there is no tolling provision to stop the clock at any time.”
- Trigger is receipt of request, not “complete” request or NEPA review
- Finite contents of request listed
- Conditions must be incorporated and are enforceable by federal permit

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CWA § 404 NATIONWIDE PERMIT 12

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NATIONWIDE PERMIT 12

Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project



- Nationwide Permits
 - Apply to discharge categories with minimal adverse effects (33 CFR Part 330)
 - If the proposed discharge activities are not within the nationwide permit categories, an individual permit is required (33 CFR 323.3(a)).
- In challenge to the Keystone XL oil pipeline, Montana Chief U.S. District Judge Morris vacated and enjoined the use of this permit **nationwide** for the Corps failure to conduct Endangered Species Act consultation with US Fish & Wildlife
- Judge Morris subsequently amended and narrowed the invalidation to only new oil and gas pipelines
- How will this effect other NWP's renewals?

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THANK YOU QUESTIONS?

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ASK THE EXPERTS



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Department

Nick DiMascio
Senior Attorney
Denver Water

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AWWA – June 18, 2020
WOTUS and *Maui* – Parallel Developments Impact the Clean
Water Act and Source Water Protection

A Regulatory Morass: Hydrological Connections and the Supreme Court's *Maui* Decision

Hilary Meltzer
Chief, Environmental Law Division
New York City Law Department

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A Regulatory Morass

How do the WOTUS rule and the *Maui* decision affect municipal infrastructure operations?

Morass:

(1) an area of muddy or boggy ground;

(2) a complicated or confused situation.

-- Oxford Dictionary

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Outline

- Why did NYC join litigation challenging the WOTUS rule?
- *County of Maui v. Hawai'i Wildlife Fund*
Spoiler: A CWA NPDES permit is required if an addition of pollutants to navigable waters via groundwater is the “functional equivalent” of a direct discharge
- What does this mean for water management?

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NYC's Concerns about Federal Regulation of Wetlands

60% of the wetlands affecting the City's water supply are under New York State's 12.4 acre regulatory threshold for freshwater wetlands



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NYC's Concerns about Federal Regulation of Wetlands



- NYC has over 520 miles of coastline
- Coastal areas are heavily populated
- Coastal marshland can reduce wave height by 72%
- "Nor'easter" storms can have wave heights up to 21 feet

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Relationship between WOTUS and *Maui*

WOTUS: is a feature subject to federal CWA jurisdiction?

Maui: does a discharge from a point source that reaches a WOTUS only indirectly require a CWA NPDES permit?

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Clean Water Act NPDES Permit Program

Except with a National Pollutant Discharge Elimination System (NPDES) permit, “the discharge of any pollutant by any person shall be unlawful.” CWA § 301(a)

Discharge of a pollutant means “any addition of any pollutant to navigable waters from any point source.” CWA § 502(12)

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County of Maui v. Hawai'i Wildlife Fund, No. 18-260, Decided April 23, 2020

Does the CWA NPDES permit program apply when treated wastewater is injected into permitted UIC wells and eventually reaches the ocean?



Kahului Wastewater Reclamation Facility

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Poll

What potential indirect discharges are of concern to your organization?

- Water supply: *recycling, recharge, leaking pipes*
- Wastewater collection: *exfiltration / sewer back-ups*
- Wastewater treatment: *septic systems, disposal wells*
- Stormwater management: *green infrastructure*
- Industrial uses: *UIC wells, waste ponds, pipelines*

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Water infrastructure that may discharge to groundwater

- Green infrastructure
- Exfiltration from sewer collection systems
- Exfiltration from water distribution systems
- Groundwater recharge and water recycling projects



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Many Courts; Many Standards

District Court in *Maui* – “clearly ascertainable” path or conduit created liability

9th Circuit in *Maui* – “fairly traceable” pollutants sufficient

4th Circuit in *Kinder Morgan* – “direct hydrological connection”

6th Circuit in *Kentucky Utility Co.* – discharges to groundwater always excluded

District Court in *26 Crown Associates* – passive migration through groundwater insufficient to establish CWA jurisdiction



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County of Maui v. Hawai'i Wildlife Fund,

No. 18-260, Decided April 23, 2020

A CWA NPDES permit is required “when there is a direct discharge from a point source into navigable waters *or when there is the functional equivalent of a direct discharge.*”

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Supreme Court Factors in *Maui*

- **Transit time***
- **Distance traveled***
- Nature of the material traveled through
- Extent of changes/dilution of pollutant
- Proportion of pollutant entering navigable waters
- How and where pollutant enters navigable waters
- Degree to which pollutant at that point has maintained “its specific identify”



*First two will be the “most important factors in most cases”

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What's Next? A Legal Morass

- Further litigation in *Maui*, *Kinder Morgan*, and other pending / new cases
- Guidance?
- Rulemaking?
- Permitting?



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ASK THE EXPERTS



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COLORADO HEADWATERS: WHERE ARE WE HEADED UNDER THE NEW WOTUS RULE AND *COUNTY OF MAUI*

- Nick DiMascio
- Senior Attorney



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THE FEDERAL RULES ARE CHANGING.

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AGAIN!



Evaluate how new federal rules may affect our permitting obligations



Assess how our states may react to “fill the gap”

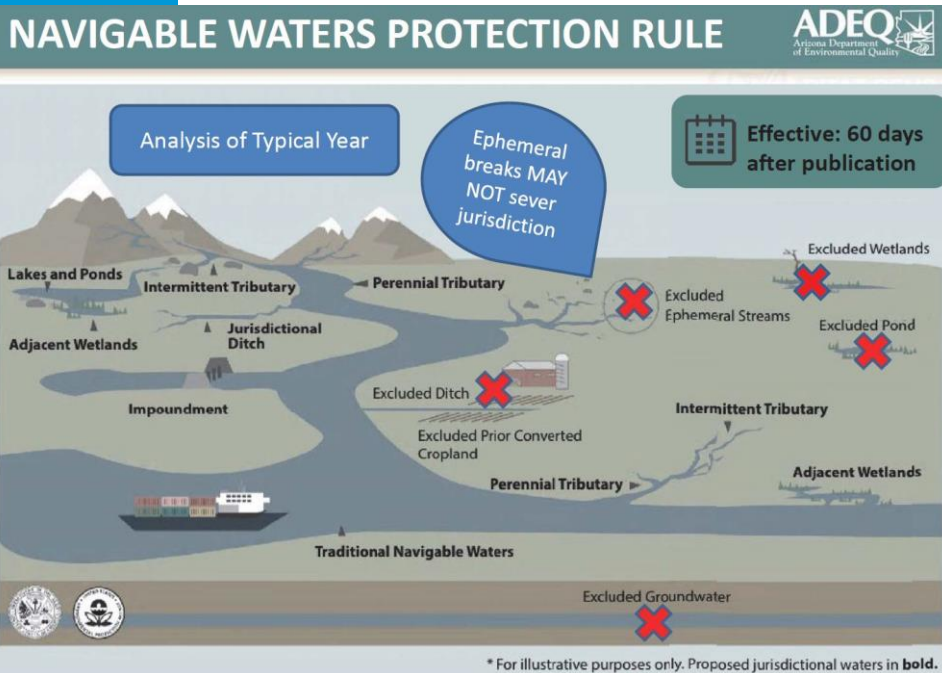


Strategically plan projects and compliance efforts

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For all the X's do County of Maui "Functional Equivalent" Analysis

Analysis of Typical Year

Ephemeral breaks MAY NOT sever jurisdiction

Time
Distance
Filtering Materials
Dilution
Chemical Transformation
Volume in / Volume Out
Entry point to CWA Water
Mixing

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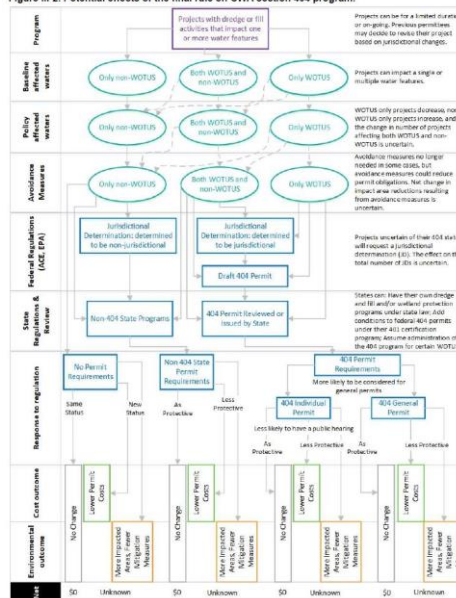
A CHANGE IN CLEAN WATER ACT JURISDICTION MAY AFFECT:

- Discharge Permitting – Section 402
- Impaired Waters List – Section 303(d)
- Dredge & Fill Permits – Section 404
- Water Quality Certifications – Section 401
- Oil Spill Reporting and Response – Section 311
- Spill Prevention Control and Countermeasure Plans
• Facility Response Plans

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HOW WILL STATES RESPOND?

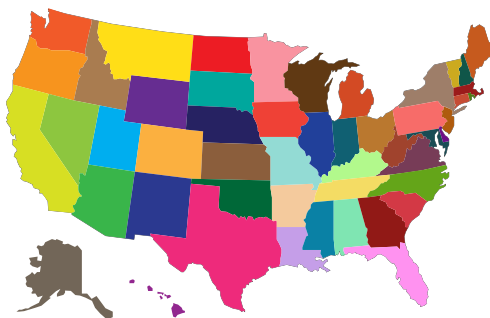
Figure III-2. Potential effects of the final rule on CWA section 404 program.



CHANGING STATE LAWS

EPA & the Corps predict:

- Discharge Permits
 - Likely to continue: **39**
 - Likely to reduce: **11**
- Dredge & Fill Permits
 - Likely continue: **23**
 - May increase: **9**
 - Unlikely to regulate: **18**



Resource and Programmatic Assessment for the Navigable Waters Protection Rule, Appendix A: State by State Program Descriptions



COLORADO

- How will new federal rules affect Colorado waters?
- Will permitting obligations change?
- How might the State of Colorado react?
- How should we plan projects and compliance activities?



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ACCORDING TO USGS, IN COLORADO:

- 10,510 miles of intermittent & ephemeral streams provide water for surface drinking water intakes
- 44% of streams are intermittent
- 24% of streams are ephemeral

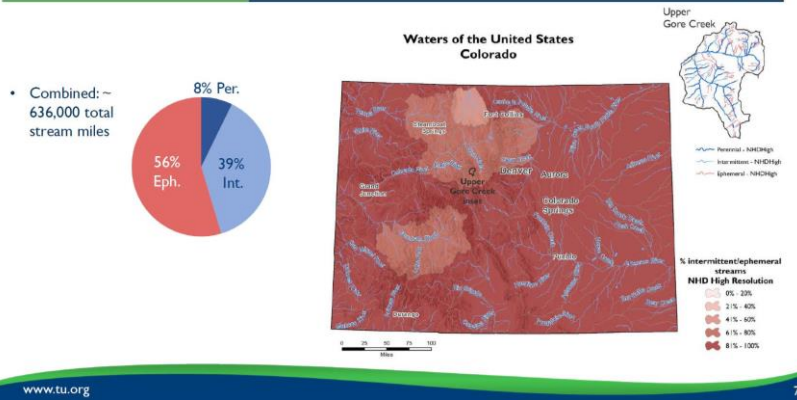
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BUT . . .

State Patterns of Stream Type: Colorado



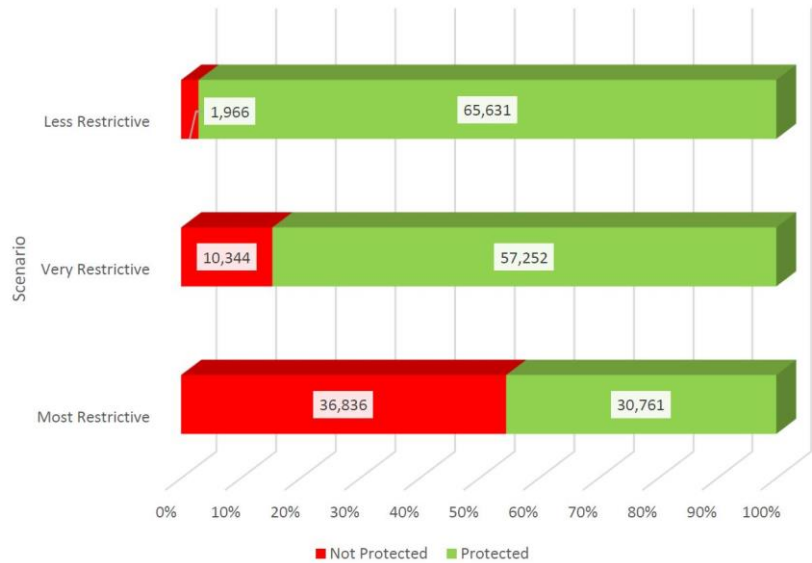
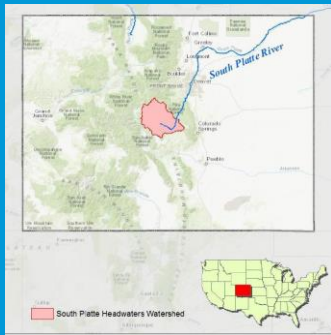
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SOUTH PLATTE HEADWATERS WATERSHED

- 46% INTERMITTENT
- 33% EPHEMERAL



ST. MARY'S UNIVERSITY: Clean Water Rule Spatial Analysis
January 16, 2019

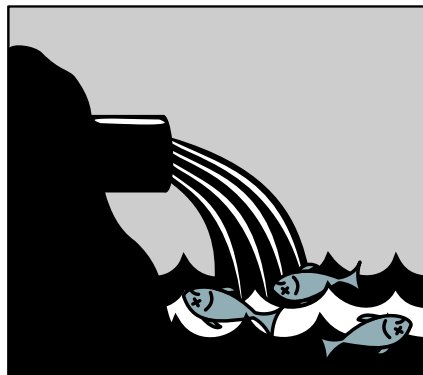
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COLORADO DISCHARGES

“No person shall discharge any pollutant into any **state water** from a point source without first having obtained a permit from the division for such discharge . . .” C.R.S. § 25-8-501.



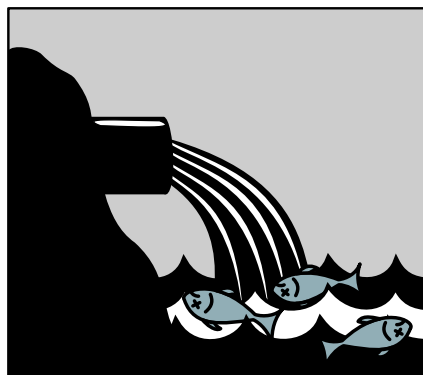
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COLORADO DISCHARGES

“Pollutant” means **dredged spoil, dirt, . . . rock, sand**, or any industrial, municipal, or agricultural waste.”



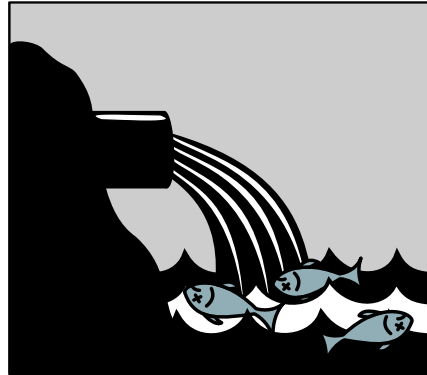
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COLORADO DISCHARGES

Colorado does not have a State dredge & fill permitting program.



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FILLING THE GAP

Second Regular Session
Seventy-second General Assembly
STATE OF Colorado

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DRAFT

LLS NO. 20-1262.01 Thomas Morris v4218 **HOUSE BILL**

HOUSE SPONSORSHIP

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(None),

BILL TOPIC: "Establish State Dredge & Fill Water Permit Program"
DEADLINES: File by: 6/1/2020

A BILL FOR AN ACT

101 CONCERNING A PERMIT REQUIREMENT FOR THE DISCHARGE OF
102 POLLUTANTS INTO STATE WATERS, AND, IN CONNECTION
103 THEREWITH, ESTABLISHING A STATE DREDGE AND FILL PERMIT
104 PROGRAM TO ADDRESS CHANGES IN FEDERAL LAW.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

On June 22, 2020, a new federal rule will take effect that will decrease the jurisdictional scope of water that is considered to be waters of the United States and subject to federal permits for the discharge of

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IN THE MEANTIME

25 (e) NOTHING IN THIS SECTION LIMITS OR EXTINGUISHES A PERSON'S
26 ABILITY TO APPLY FOR AND OBTAIN A PERMIT UNDER SECTION 404 OF THE
27 FEDERAL ACT FOR THE DISCHARGE OF DREDGE OR FILL MATERIAL INTO
1 WATERS OF THE UNITED STATES, INCLUSIVE OF STATE WATERS
2 REGULATED UNDER THIS SECTION. A PERMIT ISSUED PURSUANT TO THE
3 FEDERAL ACT FOR THE DISCHARGE OF DREDGE OR FILL MATERIAL INTO
4 STATE WATERS REGULATED UNDER THIS SECTION SHALL BE DEEMED TO BE
5 A TEMPORARY PERMIT ISSUED UNDER THIS SECTION THAT EXPIRES UPON
6 EXPIRATION OF THE FEDERAL PERMIT.

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QUESTIONS TO CONSIDER:

- Do you hold discharge or dredge and fill permits for any:
 - Intermittent or ephemeral streams?
 - Non-adjacent wetlands?
 - Ditches?
 - Isolated lakes, ponds, or impoundments?
 - Interstate waters?
- Would a discharge reach a TNW/perennial/intermittent tributary in a short time/distance?
- Does state statute prohibit point-source discharges to state waters?
- Does that prohibition extend to dredge & fill activities? (check definition of "pollutant")
- What is the expiration date of any existing Corps jurisdictional determination?
- Does your state have its own dredge & fill permit program?
- How might your state act legislatively to "fill the gap"?
- Is it worth seeking a Corps Preliminary Jurisdictional Determination to avoid uncertainty?



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ASK THE EXPERTS



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Hilary Meltzer
Chief, Environmental
Law Division
New York City Law
Department

Nick DiMascio
Senior Attorney
Denver Water

Enter your **question** into the **question pane** at the lower right hand side of the screen.

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ADDITIONAL RESOURCES



- [Appendix A to the Resource and Programmatic Assessment for the Navigable Waters Protection Rule](#)
 - provides a description of each state's Clean Water Act program and any state-law limitations on exceeding federal Clean Water Act requirements
- [County of Maui v. Hawaii Wildlife Fund \(04/23/2020\)](#)

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UPCOMING WEBINARS

June 24 - Current and Emerging Technologies for PFAS Treatment and Lessons Learned Webinar

June 30 - FREE Webinar from Hach: Log Reduction For Drinking Water Production: What's In It For You?

July 22 - PFAS: Messaging, Managing Risk, and Testing for Unregulated Compounds

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- Until next time, keep the water safe and secure.

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PRESENTER BIOGRAPHY INFORMATION

Carolyn McIntosh is a partner of Squire Patton Boggs in its Environmental, Safety and Health practice resident in Denver. She has extensive environmental permitting experience including state and federal permitting under the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act and numerous state counterpart permitting and compliance programs.

Hilary Meltzer became Chief of the Environmental Law Division of the New York City Law Department in 2019 after serving as Deputy Chief for nine years, and has been a member of that Division since 1992. Hilary received a JD from Yale Law School and a Bachelor's degree with distinction in mathematics from Swarthmore College. She teaches a clinic, "Representing the City," at New York University Law School, and serves as Co-Chair of the National Association of Clean Water Agencies' Legal Affairs Committee.

Nick DiMascio is Denver Water's Senior Environmental Attorney. Nick started his career as an Honors Attorney in the Appellate Section of the U.S. Department of Justice's Environment & Natural Resources Division. He later entered private practice, where he represented state and local governments in environmental litigation and permitting matters for major infrastructure projects. Nick currently serves as Vice Chair of the Colorado Bar Association's Environmental Law Section.

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