



# WHAT THE DIRTY WATER RULE MEANS FOR NEW MEXICO

On June 22, 2020, the Trump Administration's Dirty Water Rule, officially called the 'Navigable Protection Rule' went into effect. This rule negatively impacts New Mexico's waters and wetlands more than any other state in the nation.

## FAST FACTS:

- Up to 90% of NM Waters are left unprotected under the Rule.
- The Rule creates regulatory uncertainty as definitions of "ephemeral", "intermittent", "perennial", and "typical year" are subjective and not easily applied.
- The proposed rule would REMOVE Clean Water Act protections for ALL ephemeral waters and for any intermittent and perennial waters that do not flow consistently to a Traditionally Navigable Water (TNW).
- New Mexico is one of only 3 non-delegated states, meaning that EPA administers and issues NPDES permits in NM. Unlike most other states, NM does not have a state program in place to control surface water discharges into state waters – this means that there is now no program in place to control discharges to the majority of New Mexico waters!
- The Gila River and other interstate waters would lose Clean Water Act Protections.
- Important NM tributary streams such as the Santa Fe River, Gallinas, and Rio Costilla provide water for our acequias, wildlife and recreation, but do not always flow year-round. These waters need protection from unregulated dumping and pollution!
- Wetlands that do not have direct surface connection to a jurisdiction water are left unprotected (this is up to half of New Mexico's wetlands).
- 20% of the state's vertebrate wildlife depend upon ephemeral and intermittent waters.
- The drinking water of at least 280,000 people in New Mexico is threatened by this rule.



## History of the Clean Water Act

- The federal Clean Water Act, passed in 1972, has guided the transition from rivers that literally caught on fire to healthy watersheds where species like the bald eagle and river otter once again thrive.
- The Clean Water Act requires wastewater and industrial facilities to clean water before discharging into the nation's rivers.
- After Supreme Court decisions in 2001 and 2006, which waters were protected by the Clean Water Act was called into question. These Supreme Court rulings made Clean Water Act protections for some waters that historically had been covered under the law uncertain.
- The Obama Administration finalized a Clean Water Rule in 2015 that clarifies that some of the rivers, streams, and wetlands that fell through the cracks in the post-2001 confusion were indeed protected.
- On January 23, 2020, the Trump Administration finalized the "Navigable Waters Protection Rule," also known as the "Dirty Water Rule". This rule went into effect on 6/22/20.
- New Mexico, under Governor Lujan-Grisham, has appealed the Dirty Water Rule in court.
- Amigos Bravos, the New Mexico Acequia Association, and Gila Resources Information Project have also appealed the Dirty Water Rule.
- The Dirty Water Rule is now in effect in New Mexico, putting our sacred waters at risk.