

2019 DIRTY WATER RULE AND WHAT IT MEANS FOR NEW MEXICO



On February 14, 2019 the EPA released a draft rule that reduces the amount of waters that are protected under the Clean Water Act. The comment period on the draft rule is only 60-days and ends on April 15th, 2019.

This Dirty Water Rule has serious impacts for New Mexico's waters.

“Water is precious in New Mexico, without it our way of life is threatened and our communities suffer,” said Rachel Conn Projects Director for Amigos Bravos. “This dirty water move by the Trump Administration reverses years of work to ensure that New Mexicans have the clean water they need for drinking, irrigating, and recreating. It is only the same old polluting special interest groups that are in support this Dirty Water Rule”

Impacts of Proposed 2019 Dirty Water Rule

- **The proposed 2019 Dirty Water Rule would negatively impact New Mexico more than any other state in the nation.**
- **The proposed rule would REMOVE Clean Water Act protections for ephemeral and maybe intermittent waters.**
- **Many (93.6%!) of New Mexico streams are ephemeral or intermittent.** These water are important for many reasons, they flow into our main river systems; provide wildlife habitat; and are used for livestock watering and irrigation.
- **Wetlands that do not have direct surface connection to a jurisdiction water would also lose protections** (this is well over half of New Mexico's wetlands).
- **Important NM tributary streams such as the Santa Fe River, Gallinas, and Rio Fernando** provide water for our acequias, wildlife and recreation, but do not always flow year-round. These waters need protection from unregulated dumping and pollution!
- **20% of the state's vertebrate wildlife** depend upon ephemeral and intermittent waters.
- **At least 280,000 people in New Mexico receive drinking water from sources that rely at least in part on ephemeral or intermittent tributaries.**
- **New Mexico is a non-delegated state** meaning that EPA administers and issues NPDES permits in New Mexico. Unlike many other states we do not have a state program in place to control surface water discharges into state waters.

Overview of the 2015 Clean Water Rule

- **The 2015 Rule developed by EPA and the US Army Corps of Engineers to clarify what waters are protected by the Clean Water Act.** It was in response to confusion after Supreme Court rulings in 2001 and 2006.
- **There was more than 200 days of public comment on the Clean Water Rule (as opposed to only 60 for the proposed Dirty Water Rule).**
- **The Clean Water Rule restored prior protections that once existed for a variety of water bodies, including tributaries to traditionally navigable waters.** In New Mexico traditional navigable waters are only the mainstems of 5 river systems – Rio Grande, Canadian, Pecos, Gila, and San Juan. This rule ensures that the tributaries to these river systems are protected under the law.
- **The Rule provided clarity and reduces permitting delays.**

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, such as waters that flow intermittently or are isolated, 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 are indeed protected.
- **New Mexico, under Governor Martinez joined several other states and legally challenged the 2015 Clean Water Rule.** The Clean Water Rule does not currently apply in NM because of this ongoing legal challenge.
- **President Trump signed an executive order on February 28, 2017 rolling back EPA's 2015 Clean Water Rule.**
- **Trump's executive order reversed by the courts and as a result the Clean Water Rule is currently in effect in 22 states** (although it is still not in effect in New Mexico because of our 2015 lawsuit).
- **The proposed 2019 Dirty Water Rule would replace the Clean Water Rule** nation wide.



www.amigosbravos.org

For more information contact: Rachel Conn, Amigos Bravos 575.785.3874