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December 21, 2018

Lead NEPA Story: BLM's long-awaited revisions emphasize state 'flexibility'

(Greenwire, 12/6/2018) **Scott Streater, E&E News Reporter**

The Bureau of Land Management released final drafts today of proposed revisions to Obama-era greater sage grouse conservation plans that suggest removing hundreds of thousands of acres of federally protected habitat in Utah, and easing restrictions on energy development and other activities in Colorado, Idaho and Wyoming.

Conservation groups and other critics immediately bashed the revisions, saying they're unnecessary and will ultimately drive the bird toward extinction to benefit a few states and special interest groups.

But the six final environmental impact statements (EISs), like the draft versions BLM unveiled in May, do not automatically gut protections for the iconic bird, such as "no surface occupancy" requirements preventing bird-disturbing activities in priority habitat and buffers around grouse breeding grounds, called leks.

Instead, the proposed changes to the original plans finalized in September 2015 give the bureau and individual states "flexibility" to allow for increased activity in grouse habitat management areas encompassing parts of Colorado, Idaho, Nevada/Northern California, Oregon, Utah and Wyoming.

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Clean Water Act: How does Trump compare to Obama on Waters of the U.S.?

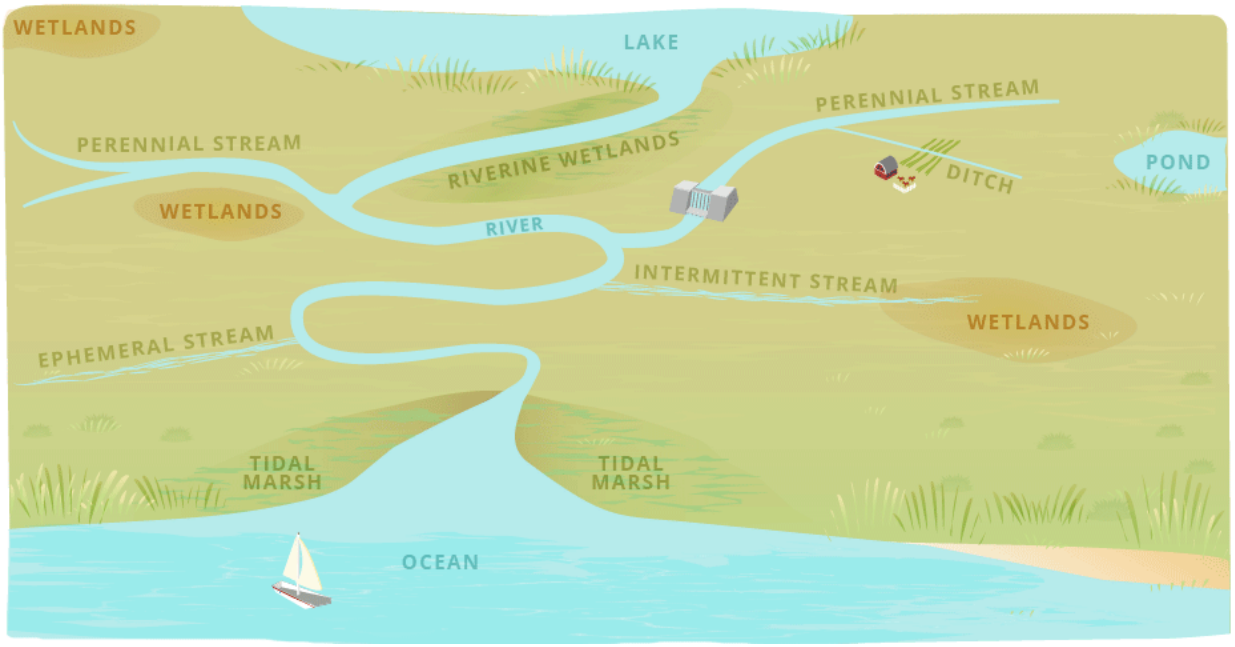
(Greenwire, 12/12/2018) **Ariel Wittenberg, E&E News Reporter**

The Trump administration proposed a "waters of the U.S." rule yesterday, restricting Clean Water Act protection for a range of wetlands and waterways.

The proposal would pull back federal oversight of at least 51 percent of wetlands and 18 percent of streams — many of which had been protected since the Reagan administration.

Supporters of the proposal say it would simplify Clean Water Act permitting for development in and near swamps, bogs, marshes and isolated waterways. Critics say it would hamstring federal oversight of resources that cleanse pollution, buffer storms and provide wildlife habitat.

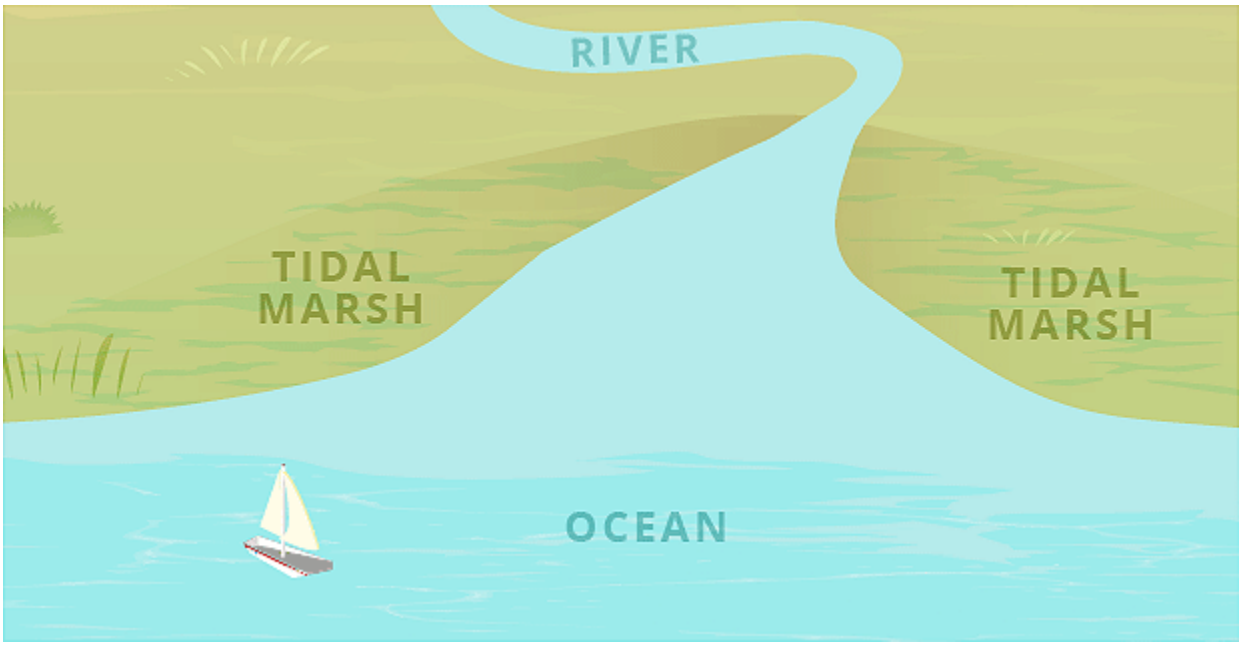
How does President Trump's WOTUS definition compare to the Obama administration's equally controversial Clean Water Rule? *E&E News* created a sample watershed to illustrate how the two differ.



The above graphic shows which wetlands and waterways the Trump and Obama administrations would protect in a sample watershed. The Trump administration yesterday proposed its new definitions for which aquatic resources are protected under the Clean Water Act. Claudine Hellmuth/E&E News

Inside This Issue…

'Traditionally navigable waters'



Claudine Hellmuth/E&E News

Both regulations would cover these "traditionally navigable waters," a legal term for waterways that could be traveled by boat or could be made navigable with some adjustments. Included are rivers, streams, large lakes and oceans.

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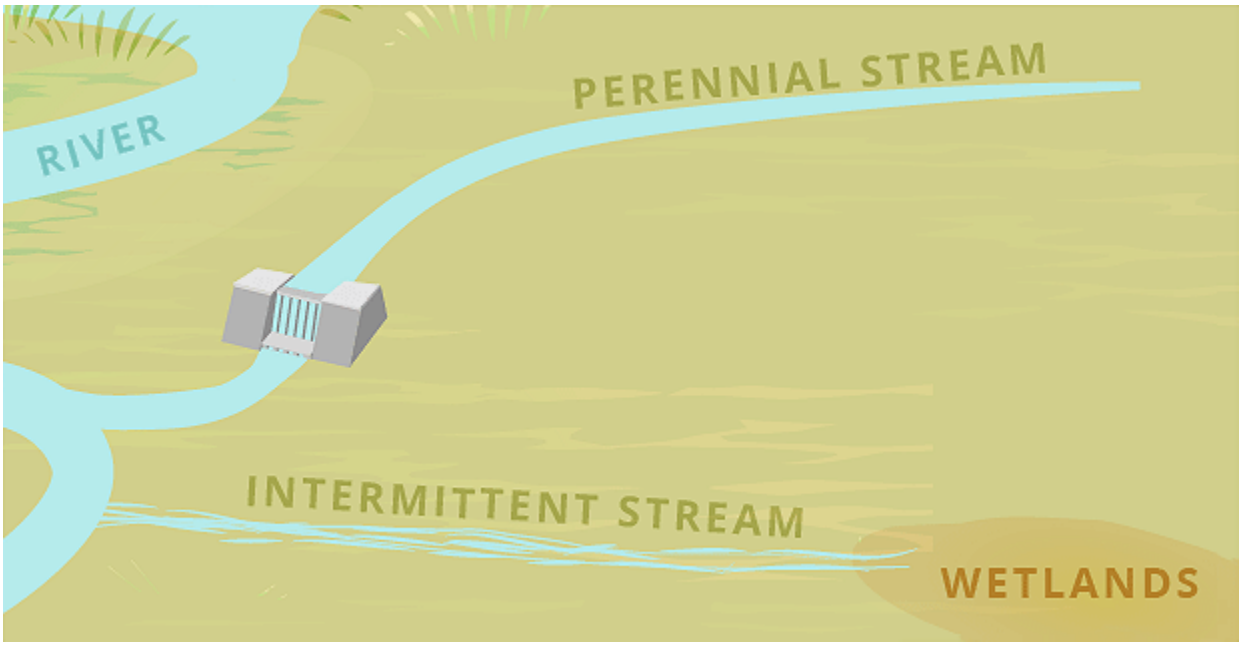
Perennial and intermittent tributaries



Claudine Hellmuth/E&E News

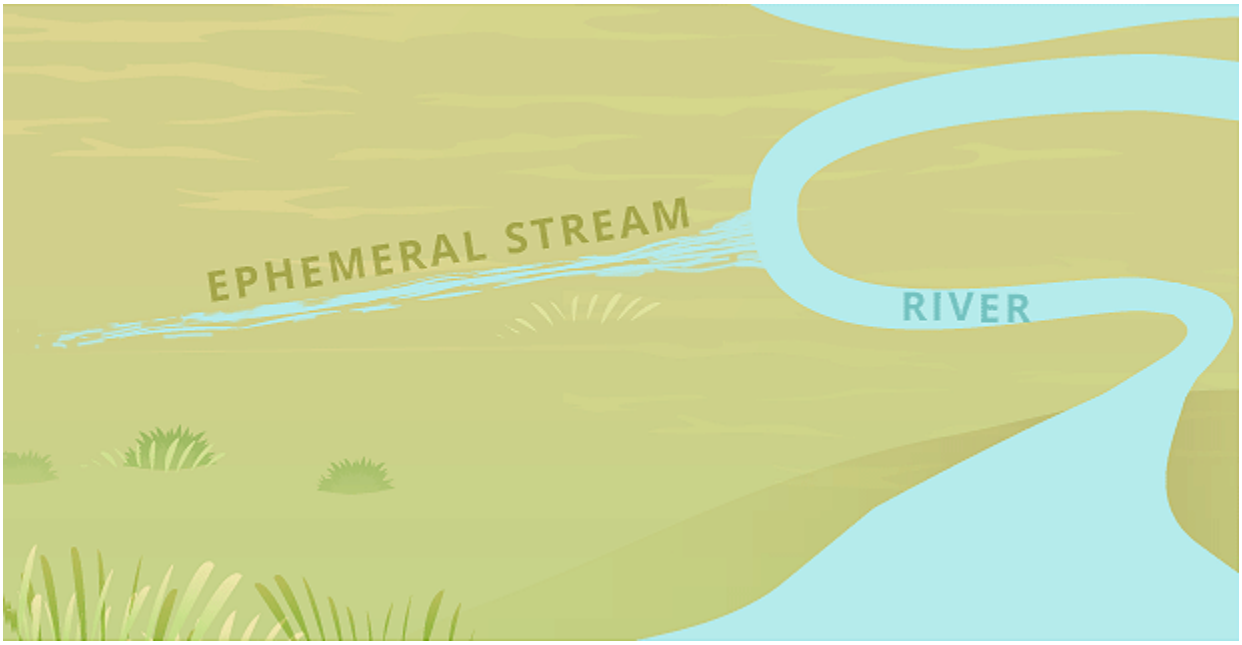
The Trump administration would protect streams that contribute "extended periods of predictable, continuous, seasonal surface flow occurring in the same geographic feature year after year" to

traditionally navigable waters. The proposal doesn't specify how often those streams have to flow in order to be included or how much water they hold but would look at a rolling 30-year average of precipitation for a geographic area to determine whether a stream flows independent of rainfall.

That means the Trump definition would include streams that flow constantly, or those that only flow for weeks or months at a time, as long as the flows are predictable and continuous. That would include streams that only flow in the spring as snowpack melts or the groundwater table rises to intersect with a streambed.

The Obama rule would cover all waterways that have a streambed, two banks and an ordinary high-water mark — features that would indicate that the stream flows to a larger water body. That would include all perennial and most intermittent streams.

Ephemeral streams

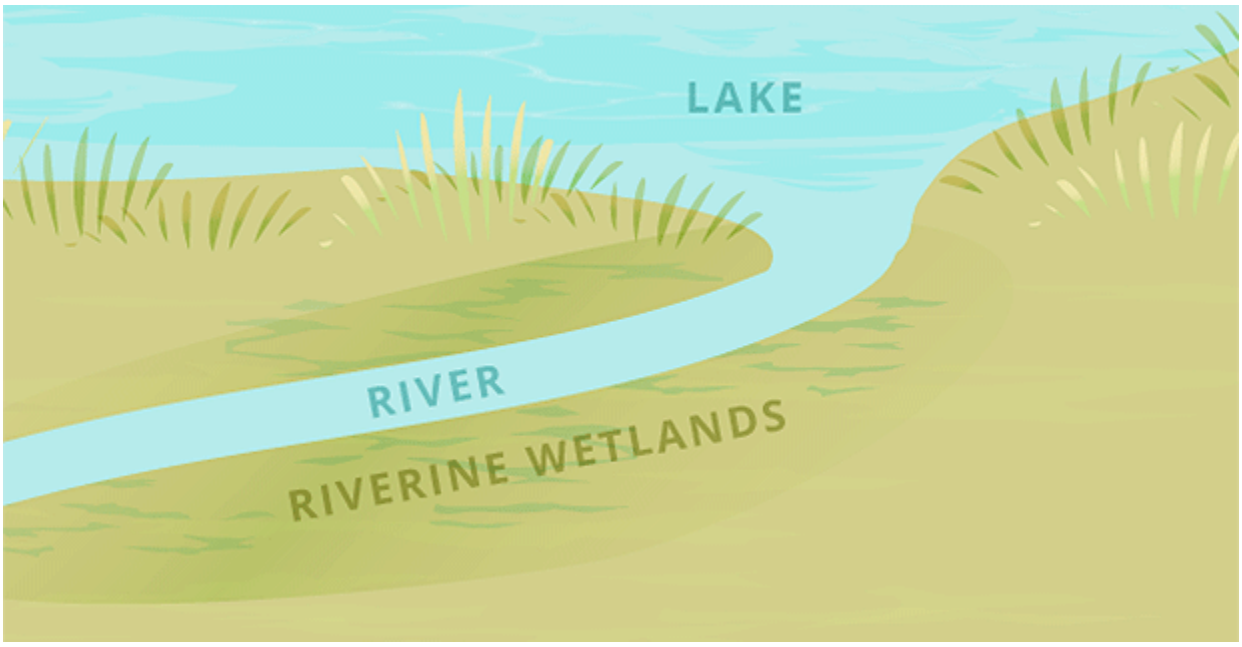


Claudine Hellmuth/E&E News

The Trump rule would exclude all waterways that flow after only rain or during a snow melt.

The Obama-era Clean Water Rule would protect significantly more streams. It would protect all waters — including ephemeral streams — if they have an identifiable bed and bank and high-water mark. Those features indicate that the waterways contribute significant flows to larger water bodies.

Wetlands with physical surface water connections to waterways



Claudine Hellmuth/E&E News

The Trump rule would protect these wetlands if they are connected to streams with intermittent or perennial flows. The newly proposed regulation wouldn't cover these wetlands if they are intersected by ephemeral streams. But wetlands that touch waterways but consist of muddy or soggy dirt — rather than holding standing water — would not be included.

The Obama Clean Water Rule would cover all wetlands connected to tributaries covered by the rule. Those could include surface-water connections or shallow subsurface water connections.

Wetlands lacking a surface connection to waterways

Claudine Hellmuth/E&E News

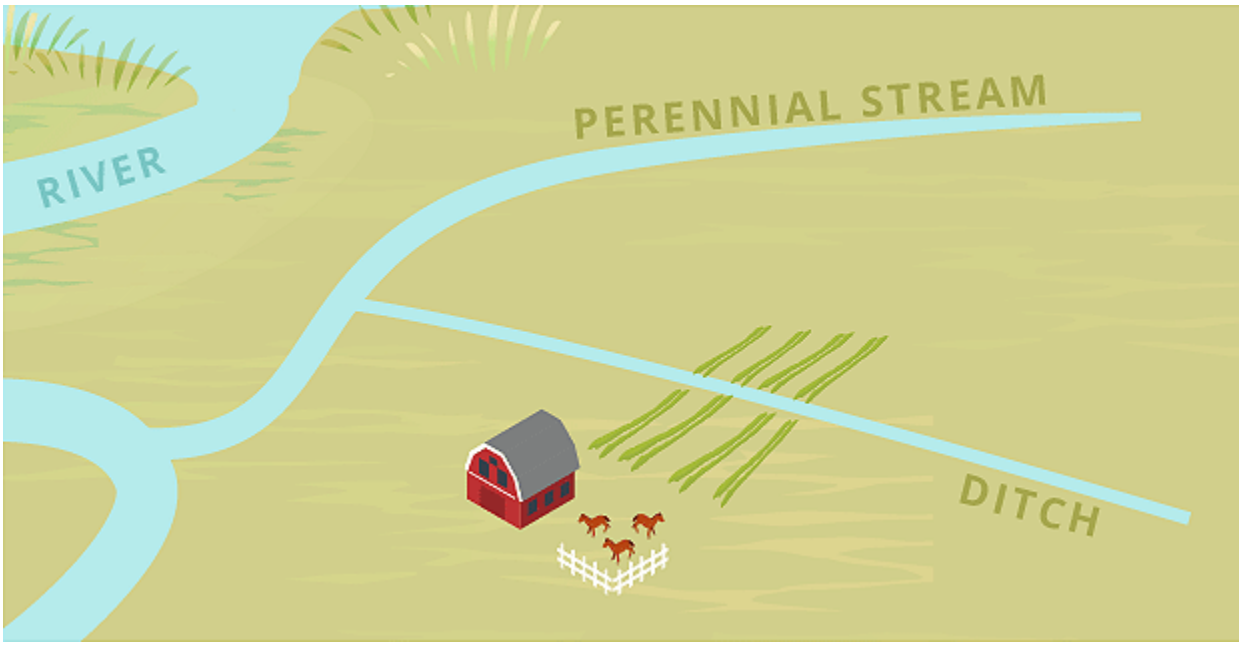
The Trump administration would completely exclude such wetlands — which make up the majority in the country.

The Obama rule would protect far more wetlands. It includes any wetlands if they were either located within either the 100-year floodplain or 4,000 feet of a navigable water or tributary. It would also cover wetlands with a significant hydrologic or ecological "nexus" to protected tributaries.

President Obama also opened the door for certain so-called "isolated wetlands" not near larger waterways to be included.

Prairie potholes, western vernal pools, Carolina and Delmarva bays, Texas coastal prairie wetlands, and pocosins would be considered on a case-by-case basis but also as a system. For example, regulators would assess the importance of an individual pothole on its own and as part of a larger ecosystem, determining the impact on downstream waters in combination with other potholes in the watershed.

Ditches



Claudine Hellmuth/E&E News

The Trump rule would exclude most ditches. It would exempt ditches connected to ephemeral waterways or built in uplands. But, it would protect others that are dug within the banks of an intermittent or perennial tributary, or that would relocate an intermittent or perennial tributary. It would also include ditches built through wetlands with surface water connections to intermittent or perennial tributaries.

The Obama Clean Water Rule included more ditches, because it included more waterways. The regulation exempted ditches that only have intermittent or ephemeral flows, as long as they had not relocated a natural tributary. Ditches dug in natural tributaries, or rerouting tributaries, would be included, regardless of how often water flowed from them. The regulation would also include ditches through wetlands it deemed jurisdictional, which included many wetlands without surface water connections to streams.

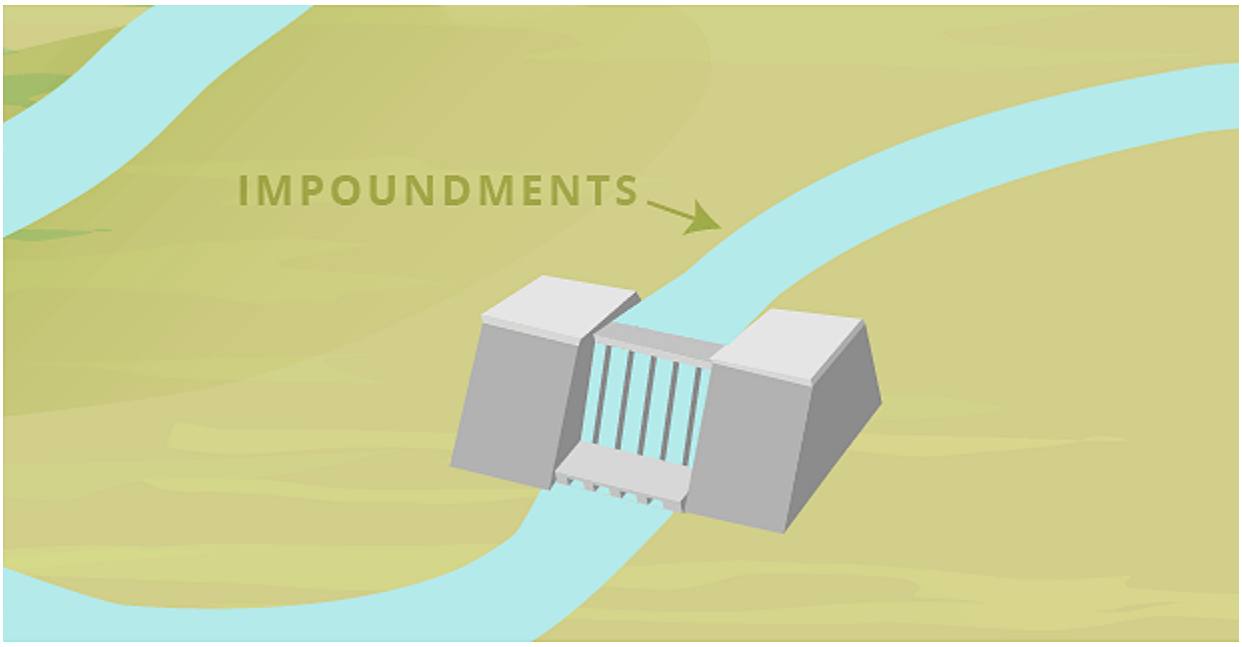
Lakes and ponds

Claudine Hellmuth/E&E News

The Trump administration would include lakes considered "traditionally navigable waters." It would also include lakes or ponds that contribute intermittent or perennial flow to downstream waters, and lakes and ponds that typically become flooded by other waters of the United States on a rolling 30-year average. That would include many oxbow lakes, which form when a meandering stream is disconnected from a larger waterway.

The Obama-era rule would cover naturally occurring lakes and ponds that are located within 100 feet of a jurisdictional waterway, or located both within the 100-year floodplain of a jurisdictional waterway and within 1,500 feet of its ordinary high-water mark. Ponds would also be covered if they contribute water downstream to traditionally navigable waters. Artificial ponds built on dry land would be excluded.

Impoundments



Claudine Hellmuth/E&E News

Both the Trump and Obama administrations would cover waterways that are interrupted by dams, debris or boulders. Both also would cover the water impounded behind such blockages

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NEPA: Court deals another blow to Atlantic Coast project

(Greenwire, 12/13/2018) **Pamela King, E&E News reporter**

Federal officials improperly granted forest-crossing permits to developers of the Atlantic Coast pipeline, a panel of appellate court judges found today.

The Forest Service violated the National Forest Management Act and the National Environmental Policy Act when it authorized construction of the 600-mile natural gas pipeline through two national forests and across parts of the Appalachian Trail, Judge Stephanie Thacker for the 4th U.S. Circuit Court of Appeals wrote in a 60-page opinion issued this morning.

"Despite the Forest Service's clearly stated concerns regarding the adverse impacts of the [Atlantic Coast pipeline] project, as Atlantic's deadlines for the agency's decisions drew closer, its tenor began to change," she wrote.

Thacker, an Obama appointee, noted an "about-face" in the approval process in which, despite a biologic evaluation finding that the pipeline would likely cause a "loss of viability" for three species, the Forest Service later determined that the project would not have that effect.

During oral arguments in September, the court asked for clarification on how the Forest Service defines "substantial adverse effects." Thacker found the federal government's response lacking.

"It is nothing short of remarkable that the Forest Service — the federal agency tasked with maintaining and preserving the nation's forest land — takes the position that as a bright-line rule, a project-specific amendment, no matter how large, will rarely, if ever, cause a substantial adverse effect on a national forest," she wrote.

"And it is even more remarkable that the agency is unable to say what would constitute a substantial adverse effect on the forest."

Chief Judge Roger Gregory, a Clinton and George W. Bush appointee, and Judge James Wynn, another Obama appointee, joined in the opinion. They ordered the Forest Service to revisit the special-use permit and record of decision allowing the forest crossings.

"The George Washington National Forest, Monongahela National Forest and the Appalachian Trail are national treasures," said Patrick Hunter, an attorney for the Southern Environmental Law Center, which represented plaintiffs in the case.

"The administration was far too eager to trade them away for a pipeline conceived to deliver profit to its developers, not gas to consumers," he added. "This pipeline is unnecessary and asking natural gas customers to pay developers to blast this boondoggle through our public lands only adding insult to injury."

Last week, the 4th Circuit also froze a biological opinion and incidental take statement for the Atlantic Coast project. Developers promptly halted all construction on the pipeline, saying that the court's ruling was far too broad.

The companies are awaiting a response to their emergency motion for clarification of last week's stay.

Dominion Energy Inc. spokesman Aaron Ruby said the developers are still reviewing today's ruling.

Clean Water Act: Groundwater's muddy legal history under the Clean Water Act

(Greenwire, 12/4/2018) **Ellen M. Gilmer, E&E News reporter**

The Supreme Court has signaled its interest in a potentially game-changing debate over the scope of the Clean Water Act.

The justices yesterday invited the Trump administration to weigh in on whether the law applies to pollutants that travel through groundwater before reaching surface water.

If ultimately accepted for review, the litigation will pose the biggest environmental law question on the Supreme Court's docket this term. It's a wonky but consequential issue with nationwide implications for how the Clean Water Act is applied.

Before the court are two cases raising similar issues. *County of Maui v. Hawai'i Wildlife Fund* involves wastewater injection wells on the Hawaiian island, where pollutants from the waste seeped through groundwater and ultimately reached the Pacific Ocean.

In *Kinder Morgan Energy Partners LP v. Upstate Forever*, a South Carolina pipeline rupture leaked gasoline into groundwater, which eventually spread contaminants into nearby streams.

Federal appellate courts concluded that Clean Water Act violations had occurred in both cases, with the groundwater serving as a conduit for pollutants.

But critics say the rulings represent a radical expansion of the landmark environmental law, stretching it to cover groundwater pollution that's traditionally in the states' domain.

The solicitor general now has the chance to outline the Trump administration's views on the cases, and the Supreme Court will then decide whether to get involved.

Here's a breakdown of the issues:

Why the disagreement over whether the Clean Water Act applies?

The debate centers on cornerstone language of the 1972 law describing the types of discharges that are prohibited without a permit: "any addition of any pollutant to navigable waters from any point source."

Groundwater isn't considered a navigable water subject to the Clean Water Act. Instead, underground pollution tends to fall under state law or, in some instances, more targeted federal laws like the Resource Conservation and Recovery Act.

In the *Maui* and *Kinder Morgan* cases, the injection wells and the pipeline at issue fit neatly within the statute's definition of point source — a "discernible, confined and discrete conveyance" — but the litigants disagree over whether they are adding pollutants to navigable waters.

The two courts applied different variations of the so-called conduit theory for Clean Water Act applicability. In the *Hawaii* case, the 9th U.S. Circuit Court of Appeals concluded that the pollutants in the Pacific Ocean, a navigable water, had "fairly traceable" connection to a point source, the injection wells, and were therefore subject to the law.

The 4th U.S. Circuit Court of Appeals applied a different standard in the *Kinder Morgan* case but arrived at a similar result, finding the pollutants were covered by the Clean Water Act because they reached a U.S. water through a "direct hydrological connection."

Proponents of the rulings argue that placing pollution-via-groundwater outside the scope of the Clean Water Act would amount to a massive loophole in the law, allowing businesses and individuals to avoid liability by funneling pollutants underground.

"Just the mere fact that the contaminated water passed through the groundwater on the way to the surface water should not take it out of the coverage of the Clean Water Act," said Earthjustice attorney Thomas Cmar, who represents environmental groups in similar litigation in Kentucky.

Opponents note that Congress specifically rejected a proposal to include groundwater discharges in the original law. And many states argue that state regulators are well-equipped to oversee that realm of pollution and have long exercised their authority over it.

"Just because there's a pollution problem doesn't mean that we have to contort a particular statute in order to reach it," Pacific Legal Foundation attorney Damien Schiff said in a recent Federalist Society call.

What have courts said?

Federal courts have taken divergent approaches to the issue of pollution that migrates through groundwater, with some concluding it falls under the Clean Water Act and others concluding it doesn't.

Some court precedent dates back decades. In 1994, for example, the 7th U.S. Circuit Court of Appeals rejected the argument that a retention pond required a Clean Water Act permit because pollutants could seep from the pond into groundwater and then into "hydrologically connected" surface waters.

In 2001, the 5th U.S. Circuit Court of Appeals emphasized state oversight of groundwater when it rejected arguments relating to oil and gas well pollution traveling through groundwater en route to surface waters.

The 9th Circuit's *Maui* decision and the subsequent 4th Circuit ruling in the *Kinder Morgan* case drew swift attention in the environmental law community. While district courts have come down on both sides of the issue through the years, the two appellate rulings marked the highest-profile adoptions of the broader interpretation of the Clean Water Act.

Since then, however, several court opinions have gone in the other direction. The 6th U.S. Circuit Court of Appeals and, interestingly, the 4th Circuit have issued decisions rejecting the approach in the context of pollution tied to coal ash disposal sites.

Opponents of the conduit theory say it's a classic circuit split that must be resolved by the Supreme Court. Environmentalists note that a rehearing request is still pending in the 6th Circuit and argue that the court should allow the law to continue developing in the circuits.

Supreme Court opinions also play an important role in the debate. Proponents of the groundwater conduit theory point to the late Justice Antonin Scalia's opinion in the infamously messy *Rapanos v. United States* ruling, which splintered the court into several opinions.

The plurality opinion noted that the Clean Water Act doesn't address the "addition of a pollutant directly to navigable waters," but simply the "addition of a pollutant to navigable waters." The 9th Circuit relied on Scalia's opinion in its Maui ruling.

Critics say the appeals court read too much into Scalia's comment, which lacked a majority of support on the court anyway.

The more relevant Supreme Court case, they say, is the 2004 *South Florida Water Management District v. Miccosukee Tribe of Indians*, in which the majority emphasized that the key feature of a point source is that it can "transport" or "convey" a pollutant to navigable waters.

What's the deal with coal ash?

The conduit theory has arisen repeatedly in the coal ash context, recently yielding several big decisions.

Some district courts have sided with environmental litigants who argue that pollution from coal ash ponds is covered by the Clean Water Act because the ponds qualify as point sources and the groundwater connects to navigable waters. Another theory contends that groundwater channels themselves are a point source.

In the past three months, however, the arguments have hit dead ends in appellate courts. The 6th Circuit issued two opinions in September rejecting arguments that the Clean Water Act should apply to coal ash pollution in Kentucky and Tennessee. A rehearing request in the Tennessee decision is still pending.

Earlier that month, the 4th Circuit issued a similar ruling involving a coal ash facility in southern Virginia. It differentiated the case from its recent *Kinder Morgan* precedent, finding that the coal ash site, unlike the pipeline, fell short of the "discrete conveyance" standard for point sources under the Clean Water Act.

Does EPA have a role?

EPA has been involved in the groundwater debate for years.

The agency filed a brief in 2016 supporting the environmentalists in the *Maui* case at the 9th Circuit. Government lawyers recommended that the court adopt the "direct hydrological connection" test for pollution that travels through groundwater before reaching a waterway. In fact, they argued, that's been EPA's position for years.

"EPA's longstanding position has been that point-source discharges of pollutants moving through groundwater to a jurisdictional surface water are subject to CWA permitting requirements if there is a 'direct hydrological connection' between the groundwater and the surface water," it said in the 9th Circuit brief, pointing to several examples of earlier regulatory language applying the interpretation.

EPA did not weigh in on the *Kinder Morgan* case, which was litigated in the 4th Circuit after President Trump took office.

In February, the agency announced plans to take a closer look at whether permits should be required for discharges into groundwater that migrate to surface water.

It noted the "mixed case law" on the issue and asked the public to weigh in on whether EPA should clarify or revise its statements supporting the hydrological connection approach. More than 50,000 comments rolled in by May.

Industry advocates, environmentalists and policymakers are anxiously awaiting the outcome, though they're likely to stick to their positions regardless of EPA's conclusions.

"Ultimately our argument is based on the text of the statute itself, so even if EPA were to change its position, that would not change our view of how the statute itself should be read," said Cmar, the Earthjustice attorney.

What happens now?

The solicitor general has until January 4 to submit its brief to the Supreme Court.

That might mean a rapid conclusion to EPA's review of its interpretation of the groundwater question. It's possible the agency will announce its conclusion before the brief is due or that the solicitor general will announce it in the filing, University of Maryland law professor Robert Percival said.

Schiff, the Pacific Legal Foundation attorney, noted that the government could also carefully avoid taking a stance on the merits while recommending that the Supreme Court grant review of the cases.

"Despite the ongoing consideration of a policy change, I think that the government can still support cert without fear of seeming to decide that question," he told *E&E News* in an email, "given the existing circuit split and the government's desire to have a uniform rule throughout the country (whatever rule the government may ultimately support)."

David Henkin, an Earthjustice lawyer representing environmentalists in the Maui case, countered that EPA's unresolved policy review is a key reason the Trump administration should advocate against the high court granting review at this time.

"The fact that EPA is looking into the issue is one of many reasons that the Solicitor General should conclude that it would be premature for the Supreme Court to take up this issue," Henkin said.

Once the government's brief is filed next month, the justices will decide whether they actually want to wade into the issue. They could decide to take one case, both cases or neither.

NEPA: Judge rules against enviros in Naval Petroleum Reserve-Alaska leasing lawsuits

(Greenwire, 12/7/2018) **Pamela King, E&E News reporter**

A federal judge last night struck a blow to environmental groups challenging the Trump administration's offering of millions of acres of Alaska lands.

Judge Sharon Gleason for the U.S. District Court for the District of Alaska denied green groups' motions for summary judgment in a pair of lawsuits filed in February. The plaintiffs said the Interior Department fell short of its responsibilities under the National Environmental Policy Act and other guiding statutes when it offered to sell more than 10 million acres in the National Petroleum Reserve-Alaska (NPR-A).

Environmental groups involved in the cases today expressed disappointment in the rulings.

"The current management plan for the National Petroleum Reserve-Alaska was built on a foundation of broad public input that recognized special areas of critical importance that must be protected," said Kristen Miller, conservation director at Alaska Wilderness League. "The Trump administration's decision to offer every inch of available land in the western Arctic for lease without regard to wildlife or wildlife habitat was incredibly reckless.

"Despite today's ruling, we'll continue to fight actions like this every step of the way," she continued. "The Trump war on public lands in the name of 'energy dominance' is destroying our natural heritage."

Gleason, an Obama appointee, disagreed with the environmental groups that the Bureau of Land Management should have conducted an entirely new environmental impact statement to support the 2017 sale.

A 2006 decision by the 9th U.S. Circuit Court of Appeals found that "when an agency complies in good faith with the requirements of NEPA and issues an EIS indicating that the agency has taken a hard look at the pertinent environmental questions, its decision should be afforded great deference," Gleason wrote in her order on the lawsuit brought by the Northern Alaska Environmental Center, Alaska Wilderness League and other groups.

She wrote that a supplemental review would have been more appropriate, but plaintiffs did

not request that course of action. Gleason referenced that finding in her separate order on the second lawsuit from the Natural Resources Defense Council, the Center for Biological Diversity, Greenpeace and Friends of the Earth.

Gleason determined that the second challenge was time-barred because the groups had attempted to raise deficiencies with BLM's 2012 integrated activity plan and EIS for the NPR-A. Such disputes are time-limited by the Naval Petroleum Reserves Production Act, she wrote.

Earthjustice, which represents plaintiffs in the second case, said they are evaluating their options in light of the order.

Lead NEPA Story (*continued from page 1)*

For example:

- In Colorado, where BLM manages 1.7 million acres of grouse habitat, the current ban on oil and gas leasing within a mile of an active lek would be lifted, allowing such areas to be open to leasing subject to no-surface-occupancy requirements.
- In Idaho and Wyoming — which is home to a third of the bird's remaining population, and where BLM manages nearly 18 million acres of grouse habitat — no-surface-occupancy requirements in priority habitat management areas would be amended "to include the flexibility of an exception, waiver or modification process."
- In Nevada/Northern California, a system would be put in place allowing for the boundaries of priority habitat management areas and other designated grouse habitat to be revised without a lengthy resource management plan amendment process.

It's not certain that any of these states would move on these proposals if allowed to do so. Furthermore, the true impacts of the changes are not likely to be known for years after the revisions requiring amendments to dozens of resource management plans (RMPs) are implemented.

Still, the revised plans would remove almost all of the 10 million acres of so-called sagebrush focal areas, identified in the Obama plans as habitat critical to the bird's survival. The proposed final plans would leave 1.8 million acres of SFAs in Oregon and Montana.

That is consistent with what Deputy Interior Secretary David Bernhardt told E&E News in May when the draft plans were released. The draft plans proposed to remove all 10 million acres of SFAs, but Bernhardt said there was a possibility some would be retained.

BLM says the final EISs and RMP amendments propose sensible tweaks to the Obama-era plans — most recommended by the individual states — that maintain strong protections for the bird while allowing other activities, such as responsible oil and gas development.

"With today's action we have leaned forward to address the various states' issues, while appropriately ensuring that we will continue to be focused on meaningfully addressing the threats to the greater sage grouse and making efforts to improve its habitat," Bernhardt said in a statement released today.

Governors are pleased

The six final EISs and proposed RMP amendments will be formally published in tomorrow's *Federal Register*, according to information on BLM's National Environmental Policy Act page.

That will kick off a 30-day protest period running through January 8 in which administrative challenges can be filed with BLM through a specific process outlined here.

The governors in the seven states covered by the revisions detailed in the final EISs also have 60 days to review the documents and submit comments related to the plans' consistency with state laws and regulations.

A final record of decision approving the revised plans is expected early next year.

The Obama-era blueprint amended 98 BLM and Forest Service land use plans to incorporate strong grouse protection measures across nearly 70 million acres in 10 Western states. The Forest Service is separately evaluating changes to the grouse plans on national forestlands and grasslands.

The overall plans were strong enough to convince the Fish and Wildlife Service in 2015 that the greater sage grouse did not warrant protections under the Endangered Species Act.

But the Trump administration and other critics say the original plans unnecessarily hamper energy development, recreation and other uses of federal lands.

BLM in October 2017 formally published a notice of intent in the *Federal Register* reopening the plans to public review, with the expected outcome that they would be significantly altered.

When the agency released the six draft EISs and proposed resource management plan amendments last spring, many feared they would gut fundamental protections for the bird.

For the most part, however, the proposed revisions do not simply dismantle the grouse conservation plans but do propose some significant revisions that, based on how they are implemented, could affect the grouse.

For example, in Utah, where BLM manages 2.5 million acres of grouse habitat, the final EIS calls for removing 448,600 acres of "general habitat management areas" and "reverting" back to what management criteria were in place before the Obama-era plans were adopted.

In Idaho, where BLM oversees 8.8 million acres of sage grouse habitat, the revisions call for modifying buffers around leks. Existing buffer requirements would be eliminated altogether for leks within general habitat management areas.

Overall, most of the governors in these states said they support the proposed revisions orchestrated by Interior Secretary Ryan Zinke and Bernhardt.

"This is a great example of federal leaders listening to state leaders, valuing their expertise, and changing their plans based on that input," Utah Gov. Gary Herbert (R), a vocal critic of the Obama plans, said in a statement.

"It is refreshing to have a federal agency willing to listen to the people in Idaho on an issue so important to our state and the West," Idaho Gov. Butch Otter (R) said in a statement.

Colorado Gov. John Hickenlooper, a Democrat, echoed Otter and Herbert.

"We worked with the Bureau of Land Management and our stakeholders to produce a plan that maintains protection for the sage grouse while balancing the potential impact on local economies," Hickenlooper said in a statement. "This is a significant step that closes out the planning phase and allows us to begin to see the true conservation efforts that safeguard the sage grouse in Colorado."

Wyoming Gov. Matt Mead (R) said the revisions in the final EISs establish "better alignment between state and federal management for the bird."

"I thank the Department of the Interior, both locally and nationally, for working with Wyoming throughout this plan amendment process," Mead added.

Revisions have 'no basis in science'

But to conservation groups and other critics that hailed the original plans finalized in 2015, the revisions are an unnecessary move that ultimately will weaken protections and eventually drive the bird toward an endangered listing.

The Obama administration spent years working with states, the oil and gas industry, ranching, and other stakeholders to develop a workable plan to save the grouse and avoid an ESA listing.

"This administration's goal has been clear from the start: expand oil and gas drilling in sage grouse habitat, regardless of the consequences to wildlife and wild lands," said Mark Salvo, vice president of landscape conservation with Defenders of Wildlife.

"None of the proposed amendments would actually improve sage grouse conservation, and most of them would undermine years of investment and progress in sage grouse

conservation at a time when the species is facing acute threats across its range," Salvo added.

Bobby McEnaney, senior director of the Natural Resources Defense Council's Western renewable energy project, agreed.

"This rolls back a conservation plan that was carefully crafted by states, ranchers, conservationists and public officials to protect this iconic western bird and the unique sagebrush landscape it inhabits," McEnaney said in a statement. "Zinke's move to unravel it is his single largest land use decision to date. It has no basis in science — it's a bald-faced giveaway to the oil and gas industry."

Nada Culver, senior counsel and director of the Wilderness Society's BLM Action Center in Denver, said the proposed changes send a "harsh message" to those who worked for years to craft the plans, "only to have much of it tossed aside by an administration that has made a habit of disregarding and even discarding public input."

Others took a more nuanced approach to reading the revised blueprint.

Among them is Whit Fosburgh, president and CEO of the Theodore Roosevelt Conservation Partnership.

"These new plans are a mixed bag, with some changes addressing legitimate requests from the states to help align with their conservation approaches and other changes stripping back protections for core sage grouse habitat and creating more uncertainty for the West," Fosburgh said in a statement.

His chief concern is mitigation for habitat damage and destruction, which BLM is proposing, for the most part, to have individual states handle.

"Unless the impacts of development are properly mitigated to avoid further habitat loss, sage grouse could easily become a candidate for the threatened and endangered species list yet again," he said.

Successful protection of the bird "will ultimately come down to implementing these new plans," he added.

That's what the National Audubon Society will focus on now, said Brian Rutledge, director of Audubon's Sagebrush Ecosystem Initiative.

"A fractured approach to sagebrush conservation will not work. The best chance to protect sage grouse and more than 350 other species is through a landscape-wide conservation strategy, which is what we achieved in 2015," Rutledge said.

He added, "Regardless of today's decision, Audubon and our partners remain committed to protecting this irreplaceable landscape and will remain at the table to ensure future generations can appreciate this truly special and underappreciated place."

The six EIS documents may be viewed at https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=134121.

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