

Muddying Existing Clean Water Regulation

WATERS OF THE UNITED STATES (WOTUS)

Both the U.S. Constitution and the Clean Water Act place limits on federal authority over waters, and Congress has declined to alter the careful balance struck between federal and state water regulation.



The Clean Water Act was intended to provide both vital environmental protections for our nation's waterways, and the regulatory certainty necessary for investment and a thriving economy. By muddying the application of federal regulations, the new WOTUS rulemaking puts both key interests at risk.

Through the new Waters of the United States (WOTUS) rule, the EPA and the U.S. Army Corps of Engineers are now attempting to unlawfully expand the scope of federal Clean Water Act jurisdiction.

- **The rule creates confusion.** Contrary to the stated purpose of the rulemaking, the rule fails to provide much needed clarity as to which waters are federally regulated. Rather than provide clear delineations between state and federal waterways, the rule provides federal regulators with expanded authority to regulate marginal waters while calling into question the status of areas never before subject to federal jurisdiction. The result: increased confusion that will lead to additional costs, delays and financial risks for nearly every sector of the economy, including the mining industry.
- **The rule inhibits economic growth.** By federalizing our nation's waters and public and private lands, the rule will also have a dramatic impact on job creation and economic investment and growth. Many new projects will become cost-prohibitive, and existing lawful operations will be subjected to increased permitting requirements, delays, undue litigation threats and even potential closures.