

A definition in a law can result in dirty water

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SANTA FE - Attorney General Hector Balderas joined a multistate coalition May 19 in filing a motion for a preliminary injunction in a lawsuit challenging the Trump Administration’s final rule redefining the “waters of the United States” under the Clean Water Act. The coalition argues that the rule should be enjoined pending the court’s decision on the coalition’s lawsuit in order to prevent widespread harm to national water quality and to avoid disruption to state and local water pollution control programs.

“New Mexico’s heritage, economy, and family safety relies on access to clean water in our State,” Balderas said. “This attack on one of our most valuable and vulnerable resources is

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unacceptable, and I will continue to fight to protect New Mexican families.”

The definition of “waters of the United States” under the Clean Water Act is critical to maintaining a strong federal foundation for water pollution control and water quality protection that preserves the integrity of our waters. While the Clean Water Act has resulted in dramatic improvements to water quality in the United States, its overriding objective has not yet been achieved.

Many of the nation’s waters fail to meet water quality standards. The 2015 Clean Water Rule enacted during the Obama Administration provided much-needed clarity and consistency in federal Clean Water Act protections. It specifically includes the headwaters of rivers and creeks as well as other non-traditionally navigable waters, such as wetlands and ephemeral streams, within the scope of protected waters. Together, those waters significantly impact downstream water quality.

Balderas and the multistate coalition filed a lawsuit May 1 challenging a Trump Administration final rule narrowing the definition of “waters of the United States” to remove protections for all ephemeral streams, many wetlands, and other waters that were previously covered under the Clean Water Act. Under the new rule, more than half of all wetlands and at least 18 percent of all streams would be left without federal protections.

Western states like New Mexico would be even harder hit, with 89 percent of all streams deprived of federal protections as a result of the region’s dry climate.

In the filing May 19, the coalition argued that a preliminary injunction is necessary to prevent significant and irreparable harm to waterways across New Mexico and the rest of the country. The Trump Administration’s “dirty water rule” weakens water quality protections for numerous waterways, allowing pollution into formerly protected streams and wetlands.

In doing so, the rule threatens the habitat of many fish, birds, and other animal species, and paves the way for the filling of wetlands, hamstringing a critical instrument for flood mitigation. In order to protect the integrity of the Nation’s waters and maintain programs that advance the Clean Water Act’s water quality objectives, it is essential that this damaging final rule does not go into effect.

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In filing the preliminary injunction, Balderas joined the attorneys general of California, Connecticut, Illinois, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, Washington and Wisconsin, and the District of Columbia. The California State Water Resources Control Board, the North Carolina Department of Environmental Quality, and the City of New York also joined the coalition in filing the lawsuit.