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Environmental Responsibility

IMPACT OF PROPOSED WATERS OF THE U.S. (WOTUS) REDEFINITION ON WETLANDS AND WATERS IN NEW MEXICO

Wetlands and Waters in New Mexico



Santa Fe River, July, 2019

Summer in New Mexico is known as the monsoon season, and half of the state's annual precipitation falls during this time.

already resulted in a 1 degree F temperature increase in New Mexico, and will likely decrease river flows while simultaneously increasing water demand. Currently, New Mexico loses roughly 7% of its water to evaporation. Rising temperatures will increase this evaporation, droughts will be longer, and there will be a decline in snowpack. As it becomes hotter and drier, more streams will only flow after precipitation events, resulting in more ephemeral waterways and fewer perennial rivers. To make matters worse, competition for water - necessary for irrigation, recreation, drinking water, industry, and environmental reasons - will increase.

Wetlands cover approximately 0.6%, or 482,000 acres, of New Mexico. New Mexico's wetlands include forested wetlands, shrublands, marshes, riparian wetlands, fens, alpine snow glades, wet meadows, shallow ponds, and playa lakes. New Mexico has lost one-third of its wetlands due to agricultural conversion, irrigation, grazing, development, and mining.

There are five major ecological zones in New Mexico: desert, alpine, scrub, plains/mesa, and riparian. New Mexico is arid, with an average annual precipitation of fewer than 20 inches, and its capital, Santa Fe, has an average annual precipitation of 14.21 inches. Riparian habitats are critical to New Mexico's fish and wildlife, and for drinking water and irrigation. Eighty percent of New Mexico's vertebrates depend on riparian habitat for migration, food, water, and cover, and 70% of the state's birds rely on riparian habitats for feeding, breeding, or migration.

New Mexico rivers also irrigate crops, provide clean drinking water, and create the basis of a \$9.9 billion outdoor recreation economy. An estimated 93% of New Mexico's streams and rivers are ephemeral or intermittent. According to the U.S. Environmental Protection Agency (U.S. EPA), climate change has

Streams in New Mexico are critical for drinking water. Public drinking water systems are supplied by surface water intakes from 2,974 miles of streams; 67% of these streams used for drinking water are intermittent, ephemeral, or headwater streams. As an example, Santa Fe county gets 57% to 69% of its drinking water from ephemeral, intermittent, or headwater streams.

Which New Mexico wetlands and waters are currently protected under the federal Clean Water Act?

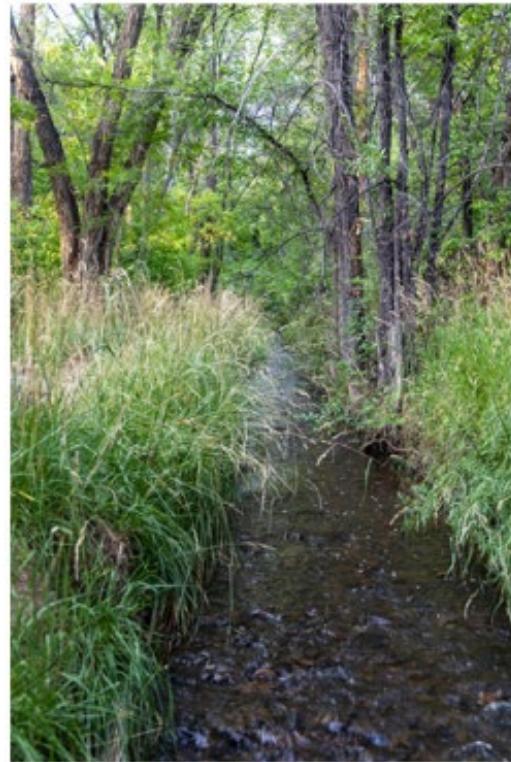
Currently, the vast majority of New Mexico's streams and wetlands are jurisdictional under the Clean Water Act by virtue of their significant nexus to traditionally navigable waterways. Under the Clean Water Act, anyone wishing to discharge pollutants - such as sewage or waste water - into these waters is required to get a permit from the U.S. EPA. Anyone wishing to fill in these waters is required to get a permit from the U.S. Army Corps of Engineers.

Which New Mexico wetlands will no longer be protected under the federal Clean Water Act after the proposed WOTUS redefinition takes effect?

The proposed WOTUS definition removes jurisdiction from all ephemeral streams, some intermittent streams, and all wetlands adjacent to ephemeral (and some intermittent and perennial) streams. Therefore, virtually all streams and wetlands in New Mexico will no longer be protected under the federal Clean Water Act. The State of New Mexico said the proposed redefinition is "very troubling for New Mexico because it leaves the vast majority of New Mexico's surface waters federally unprotected."¹

Redefinition of Wetlands and Waters CASE STUDY: Santa Fe, New Mexico

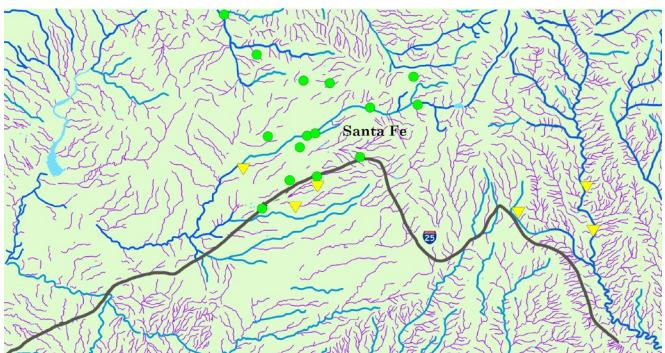
The Santa Fe River, a tributary to the Rio Grande, is 46 miles long. The Santa Fe River watershed is roughly 285 square miles, and the river provides about 40% of the City of Santa Fe's water supply. Santa Fe county gets 57% to 69% of its drinking water from ephemeral, intermittent, or headwater streams. Given the aridity of New Mexico, the Santa Fe River has always flowed intermittently in areas. However, impoundments for drinking water in the upper reaches and additional wells to satisfy water needs have resulted in a lower water table. Today, the Santa Fe River is perennial near the headwaters, but becomes intermittent and then ephemeral as it flows downstream. Finally, the river is dominated by effluent from National Pollutant Discharge Elimination System (NPDES) discharges. The U.S. EPA currently regulates these discharges under the Clean Water Act in order to protect the water quality of this river. Under the proposed redefinition of waters of the United States, U.S. EPA would no longer be able to regulate these discharges, imperiling the drinking water supply for the region.



Santa Fe River, July, 2019

This portion of the River will run dry in the fall.

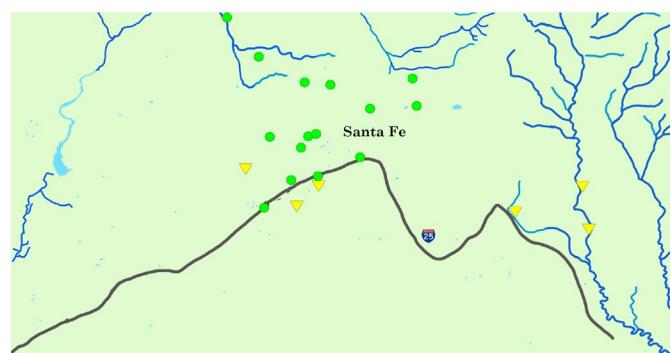
Santa Fe area rivers and streams:
jurisdictional wetlands and waters
TODAY²



Legend

- Individual NPDES Permits
- Intermittent Streams
- ▽ Surface Water Intake
- Perennial Stream
- Lakes and Reservoirs
- Ephemeral Streams
- Interstate 25

Santa Fe area rivers and streams:
jurisdictional wetlands and waters
POST-WOTUS REDEFINITION



Legend

- Individual NPDES Permits
- Intermittent Streams
- ▽ Surface Water Intake
- Perennial Stream
- Lakes and Reservoirs
- Ephemeral Streams
- Interstate 25

Conclusion

Virtually all of New Mexico's waters and wetlands will lose protection under the federal Clean Water Act if the proposed rule is finalized. This will impact not only fish and wildlife, and the tourism industry, but will drastically impact the availability of clean drinking water. Moreover, the last stretch of the Santa Fe River is on tribal lands, and destruction and pollution of the river and its tributaries upstream would have disastrous consequences for the tribe relying on the water for cultural purposes, drinking water, and irrigation.

¹ April 15, 2019 letter from New Mexico Environment Department commenting on proposed WOTUS redefinition.

² Maps derived from New Mexico Environment Department's "Surface Water Coverage for New Mexico under the Proposed 2019 Waters of the US Rule," April 15, 2019.