

March 19, 2015

Myths vs. Facts: EPA and Corps' Clean Water Rule Myth # 1 – Expanded Regulation of Ditches

Dear Colleague:

Last April, the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) proposed a Clean Water rule to clarify the jurisdictional scope of the Clean Water Act. This proposal was intended to simplify and improve the process for determining what waters (and wetlands) are, and are not, protected by the Act, consistent with the decisions of the U.S. Supreme Court.

Since that time, a number of questions or misconceptions about this proposal have been raised. This is the first in a series of Dear Colleagues to address these questions or misconceptions.

MYTH #1

- The proposed rule expands Federal Clean Water Act authority over ditches.

FACT

- The proposed rule ***reduces federal authority over ditches*** by specifically excluding ditches (including roadside ditches) that are constructed in dry lands and either (1) contain water less than year-round, or (2) do not flow into another waterbody subject to the Act.
- The proposed rule ***retains existing authority*** over certain ditches that once were, and continue to function as, natural streams.

Recently, the agencies testified that they are reviewing over one million public comments submitted on the proposed rule and will make revisions to further clarify the regulation (*including its application to ditches*) in order to make it more effective in implementing the Clean Water Act, consistent with the science and the law.

If you have any questions or would like to learn more about the proposal, please see (<http://democrats.transportation.house.gov/legislation/waters-united-states>) or call the Subcommittee on Water Resources and Environment at 202-225-0060.

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