



# Agenda

**Santa Fe River Commission Agenda**  
**Thursday, March 14, 2019 (Round House Room), 6 pm to 8 pm**  
**City Offices at the Market Station Building at the Railyard**  
**500 Market Street, Suite 200, Santa Fe, NM**  
**505-955-6840**

1. ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF MINUTES FROM JANUARY 10, 2019 & JANUARY 23, 2019
4. COMMUNICATION FROM OTHER AGENCIES /COMMITTEES
  - a. SF Watershed Report (Andy Otto, [andy@santafewatershed.org](mailto:andy@santafewatershed.org) )
5. INFORMATION/DISCUSSION/ACTION:
  - a. Action Item: A Resolution in Opposition to a Proposed Rule Change by the Environmental Protection Agency and the Department of the Army Revising the Definition of "Waters of the United States"; Submitting this Resolution to the Environmental Protection Agency; and Encouraging City of Santa Fe Residents to Submit Their Comments During the Public Comment Period Ending April 15, 2019. (Melissa McDonald, [mamcdonald@santafenm.gov](mailto:mamcdonald@santafenm.gov), 955-6840; Alex Puglisi, [aapuglisi@santafenm.gov](mailto:aapuglisi@santafenm.gov), 955-4232)  
Committee Review:

Santa Fe River Commission	03/14/19
Finance Committee	03/18/19
Public Works Committee	03/25/19
City Council	03/27/19
  - b. Discussion Item: WOTUS, Amigos Bravos, Joe Zupan, Executive Director, ([jzupan@amigosbravos.org](mailto:jzupan@amigosbravos.org)), [www.amigosbravos.org](http://www.amigosbravos.org)
  - c. Discussion Item: River & Watershed Educational Series (Zoe Isaacson, [zoe.isaacson@gmail.com](mailto:zoe.isaacson@gmail.com) )
6. MATTERS FROM STAFF
  - a. Informational Item: River Commission membership (M. McDonald, [mamcdonald@santafenm.gov](mailto:mamcdonald@santafenm.gov))
  - b. SF River Watershed Yield & Forecasted SF River Flows (Alan Hook, [aghook@santafenm.gov](mailto:aghook@santafenm.gov))
  - c. A RESOLUTION ADOPTING THE STORMWATER MANAGEMENT STRATEGIC PLAN AS CITY POLICY  
Committee Schedule:

Finance Committee	03/18/19
City Council	03/27/19
7. CITIZENS' COMMUNICATION FROM THE FLOOR
8. MATTERS FROM COMMISSIONERS
9. ADJOURN

Next Scheduled River Commission Meeting is April 11<sup>th</sup>, 2019  
Captions & Packet Material are due by 10 am on April 2<sup>nd</sup>, 2019  
*Persons with disabilities in need of accommodations,*  
*Contact the City Clerk's office at*  
*(505) 955-6521 five (5) working days prior to the meeting date.*

**RECEIVED AT THE CITY CLERK'S OFFICE**

**DATE: March 6, 2019**

**TIME: 9:34 AM**

Santa Fe River Commission  
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March 14, 2019

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Approval of Minutes, January 10, 2019 and January 23, 2019	<p>Corrections: Thompson is correct spelling – vs. Tompson</p> <p>FM Patorni does not support giving fines to homeless people.</p> <p><i>Ms. Hansen moved to the minutes of January 10, 2019 as amended, second by Mr. Jacobi, motion carried by unanimous voice vote.</i></p> <p><i>Ms. Hansen moved to approve the minutes of January 23, 2019 as presented, second by Mr. Patorni, motion carried by unanimous voice vote.</i></p>	Page 2-3
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Information/Discussion/Action a. <b>Discussion Item: A Resolution in Opposition to a Proposed Rule Change by the Environmental Protection Agency and the Department of the Army Revising the Definition of “Waters of the United States”; submitting this Resolution to the Environmental Protection Agency; and encouraging City of Santa Fe</b>	<p><i>Mr. Jacobi moved to support the Resolution in Opposition to a Proposed Rule Change by the Environmental Protection Agency and the Department of the Army Revising the Definition of “Waters of the United States”; submitting this Resolution to the Environmental Protection Agency; and encouraging City of Santa Fe residents to submit their comments during the public comment period ending April 15, 2019, second by Ms. Hansen, motion carried by unanimous voice vote.</i></p> <p><i>Informational no formal action</i></p>	Page 3 -7

<p><b>residents to submit their comments during the public comment period ending April 15, 2019. Melissa McDonald</b></p> <p><b>b. WOTUS Amigos Bravos</b></p> <p><b>c. River and Watershed Educational Series</b></p>		
<p>Matters from Staff</p> <p>a. River Commission membership</p> <p>b. Santa Fe Watershed Yield and Forecasted Santa Fe River Flows</p> <p>c. A resolution adopting the Stormwater Management Strategic Plan as City Policy</p>	<i>Informational</i>	Page 7
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<p>Adjourn/Signature Page</p>	<p>There being no further business to come before the Santa Fe River Commission the Chair called for adjournment at 7:40 pm</p>	Page 8

**Santa Fe River Commission  
MINUTES  
Thursday, March 14, 2019  
6:00 pm to 7:40 pm**

**1. CALL TO ORDER**

Ms. McDonald called the Santa Fe River Commission meeting to order at 6:00 pm in the Roundhouse Meeting Room, Market Station Building at the Railyard, 500 Market Street, Santa Fe, NM. Roll call reflects lack of quorum.

**ROLL CALL**

**PRESENT:**

Jerry Jacobi  
Anna Hansen  
F.M. Patorni  
Phil Bove

**NOT PRESENT/EXCUSED**

Zoe Isaacson, Chair  
Emile Sawyer  
Luke Pierpont  
John Buchser  
Dale Doremus

**OTHERS PREENT:**

Melissa McDonald, River and Watershed - Staff Liaison  
Andy Otto, Executive Director, Santa Fe Watershed Association  
Joe Zupan, Executive Director  
Alan Hook, Water Resources for City of Santa Fe  
Fran Lucero, Stenographer

Ms. McDonald proceeded to introduce new applicants for the River Commission.  
Vanessa Springer (Moved to Santa Fe from California 6 months ago, she is the Environmental Scientist for the State Air Quality Division, NMED))  
Heidi Klinger (Hydrologist and Watershed specialist with Forest Service and grew up in Santa Fe, she works nationally with forests in the US)  
Susan Coulter (Retired from LANL)  
Elise Arena (Homeowner in Santa Fe for over 40 years, active in water legislation)

**2. APPROVAL OF AGENDA**

*Ms. Hansen moved to approve the agenda as presented, second by Mr. Patorni, motion carried by unanimous voice vote.*

**3. APPROVAL OF MINUTES FROM JANUARY 10 AND JANUARY 23, 2019**

Corrections: Thompson is correct spelling – vs. Tompson  
FM Patorni does not support giving fines to homeless people.

*Ms. Hansen moved to the minutes of January 10, 2019 as amended, second by Mr. Jacobi, motion carried by unanimous voice vote.*

*Ms. Hansen moved to approve the minutes of January 23, 2019 as presented, second by Mr. Patorni, motion carried by unanimous voice vote.*

#### **4. COMMUNICATIONS FROM OTHER AGENCIES/COMMITTEES**

##### **a) Santa Fe Watershed Report (Andy Otto, Executive Director)**

Ms. McDonald stated that the Santa Fe Watershed runs our Adopt a River Program and Adopt an Arroyo Program, they do a lot of educational outreach and are invaluable to our city in terms of outreach. They give us a monthly report on what is happening.

Report included in February packet. He reported that Love Your River Day was held in February and was a success there were about 150 volunteers and about 200 bags of garbage gathered. Mr. Otto has spoken with the representatives of the Homeless Camp and these are real issues in winter in Santa Fe. He noted that the volunteers are intimidated by the homeless. The volunteers were able to go in and do a cleaning.

Ms. McDonald stated that the city is developing a Homeless Action Plan for the future and the ultimate goal is to move people in to a better situation. The reason we are asking for them to move, water quality concerns there are a lot of pollution issues in the camps.

#### **5. INFORMATION/DISCUSSION/ACTION:**

**Note: Recommendation was to hear 5-b before item 5-a.**

##### **a) Discussion Item: A Resolution in Opposition to a Proposed Rule Change by the Environmental Protection Agency and the Department of the Army Revising the Definition of “Waters of the United States”; submitting this Resolution to the Environmental Protection Agency; and encouraging City of Santa Fe residents to submit their comments during the public comment period ending April 15, 2019. Melissa McDonald**

We are being asked to weigh in as it goes to the council, it has changed since we reviewed a few meeting back.

Mr. Bove asked if the City Council has issued their document? Ms. McDonald said they have gone through legal and provided that information for review. Mr. Bove would also like to put something together in a timely manner. Ms. Hansen will share the comments from Santa Fe County with Mr. Bove. Ms. McDonald said any individual can comment as well.

Ms. McDonald stated that they have 6 sponsors, the City will be supporting this resolution. Thank you to the River Commission for the letter.

*Mr. Jacobi moved to support the Resolution in Opposition to a Proposed Rule Change by the Environmental Protection Agency and the Department of the Army Revising the Definition of “Waters of the United States”; submitting this Resolution to the Environmental Protection Agency; and encouraging City of Santa Fe residents to*

*submit their comments during the public comment period ending April 15, 2019, second by Ms. Hansen, motion carried by unanimous voice vote.*

***Moving Forward: Going to Finance on Monday, Public Works on 3/25 and City Council on 3/27/19. Everyone is invited to attend.***

Comments:

Ms. Hansen stated that it is not as detailed as the one done by Santa Fe County and she hopes that the City will provide more detail.

Mr. Puglisi stated that the decision was to shorten the Resolution, attorney's felt that the comments could be included under Comments.

Ms. McDonald reiterated that the River Commission and the public can comment. It was also noted that the River Commission agenda's and packets are on the website.

**6. Discussion Item: WOTUS, Amigos Bravos, Joe Zupan, Executive Director**

Mr. Zupan is also concerned about the Waters of the United States, they are from Taos, NM. Amigos Bravos are a watershed protection agency out of Taos but they work across the state, but only in New Mexico. Our goal and mission is to project and protect the Waters of New Mexico. That is our 30-year mission. We work in watershed restoration up in the high country. One of our big multi-year projects is called Wetland Jewels. We are working with the Carson National Forest and Santa Fe National Forest to make sure that these high country wetlands are protected. We think that is so important because these wetlands serve as a sponge when the spring snow melts and releases throughout the year so you get a steady feed into your rivers and watersheds. Mr. Zupan stated he has been at the legislature watching the water bills. Concerning the waters of the US, this is basically terrible, this administrations intent to undermine the 2015 Clear Water Act Rule from the Obama Administration, we call it the Dirty Water Rule which is what it really is, it ceased to remove protection from a bunch of rivers across the State. We think New Mexico particularly is impacted more than any other state. It has been assessed that over 90% of New Mexico's river and streams are classified as \_\_\_\_\_ or intermittent which means they don't flow all the time. The Dirty Water Rules says, "we don't need to protect those they aren't really rivers, just take them off the list". That would be very bad to take 90+% of our rivers out of the Clean Water Act. Another quirk in New Mexico is one of only three states that don't have PDS delegation or privacy, that means the Clean Water Act is administered in New Mexico by the EPA Region VI. We don't have a state body of regulations to fall back on. We see the Wetland Jewels Project so important to mitigate against climate change and keep those wetlands functioning. This Dirty Water Rule would say, wetlands that don't have a direct service connection to jurisdiction waters will lose protection. All the side country wetlands aren't affected by the Clean Water Act anymore, so that is a strike 1,2 and 3. When the Obama Administration proposed the Clean Water Rule in 2015 it had 200 days of public comments and public meetings throughout the nation, they tried to involve public participation. This Dirty Water Rule has 60 days of comment and they are holding one meeting in Kansas City, there's your chance. The comment period will be over on April 15<sup>th</sup>. Thank you for the letter drafted to Mayor Weber to provide comments on the Dirty Water Rule. We are working with other entities to help work with us, one is Cabinet Secretary from NMED, James Kenney. The integrated water rule is horrible and we will work with anyone to make this not happen. We are asking Secretary's Kenney and Probst and Governor Lujan Grisham to join us in making an announcement.

Ms. Hansen, Santa Fe County Commissioner said she heard in Washington that they are thinking of defining intermittent by water shed. The way they have outlined the waters of the US is quite complicated the EPA has redefined what waters are covered in watersheds and the way people look at watersheds. It is no longer by state, it is by watersheds within states and sometimes includes another state, the whole thing they are doing at the EPA is convoluted. Santa Fe County is writing comments that will be sent. While in Washington I heard that Congresswoman Deb Haaland has asked for the comment period to be extended. Mr. Zupan said they also have met with her as well.

FM Patorni: Is there a way that NM could make its own rules?

Mr. Zupan: There is but that would be a long and convoluted process. Let's hope we can make some changes through the state now that our budget is better. If you asked the state it would be a long process.

Ms. Hansen: How long?

Mr. Puglisi: It could take years, 5 years or more. In some states it has been prolonged longer and it is based on EPA process. Environmental Department would like to prepare themselves first. Funding is a big issues, NM does not get enough money under the Section 106 grants to run the program and some cities are opposed. There needs to be a commitment from the legislature to fund the Environmental Department for this program.

Mr. Puglisi asked; you said high country wetlands would be eliminated, but it is our interpretation that they are not only wetlands but also have a high stretch like the Santa Fe River before they reach the perennial stretch that gets to the Rio Grande which by the way the perennial stretch is fed by the Waste Water Treatment Plant but also lose protection in the upper most perennial stretch because of no direct flowing to the Rio Grande.

Mr. Zupan: That is our interpretation as well, if you saw what happened to the Rio Grande last year you could make cases for sections of it. There is going to be a fact sheet provide by Mr. Zupan which will be on the website and distributed to the members at the meeting. (Exhibit A)

Most of the wetland jewels that we have made reference to are not in the designated wilderness of the National Forest, they are in the national forest. There are thirteen sketches of the national forest.

Mr. Puglisi: Most of our watershed is in the wilderness designation and is somewhat protected by that, we are protecting ourselves from ourselves in one. There are 4 permits issued, if we were to have a discharge of chemical that we use in the water treatment process we would be regulated right now but we would not be in the future. Mostly it's the city or a city contractor doing the work but also we need to show that the contractor is in compliance with the Clean Water Act.

Mr. Zupan said there is also the ONRW (Outstanding Natural Resource Waters) which is helpful as a state level of protection for even non-point source that only pertains to certain stretches.

Mr. Puglisi stated that if ONRW loses classification and protection or quality standards protection because they would no longer be the Waters of the United States, you would not have any clean water act that would apply to them. That is a main concern of ours. If they lose classification as Waters of the United States and Sec. 106 of the Clean Water Act no longer applies and that is the water quality standards.

Mr. Zupan said thank you for this comment.

**7. Discussion Item: River & Watershed Educational Series (Zoe Isaacson, Absent)**

Ms. McDonald provided the update; River Commission would like to do a series talks and presentations about the River and this is a way to get people more engaged in what we are doing and supporting the river. The Chair has reached out to various individuals in the community and members of this board to set the series. We are looking to doing approximately 6. Mr. Jacobi will talk about what lives in the Rivers and reach out to the kids. (Mr. Jacobi will talk to the Chair about timeframe) Mr. Bove will talk about the history past and present of the Acequias. Mr. Otto will invite Albuquerque to talk about what they are doing, i.e., their stormwater plan. Mr. Puglisi and Mr. Hook will coordinate a tour of the Wastewater Plant and the BDD, Mr. Kaufman who is the owner of SW Urban Hydrology will do a talk on Watershed Management. These are being formulated and intention is to publicize in the community for education and interest.

Mr. Jacobi asked how far up they would be going on the Watershed? Mr. Puglisi said probably up to McClure; Mr. Jacobi would definitely like to be involved.

There is also an option to change the BDD tour date to accommodate everyone's presentation. We want to educate the community on the Santa Fe River Fund, which is one of the objectives of this committee. This is a project that we want to educate our community as it generates dollar for dollar to do projects on the river and water gardens. We will also provide information on how to educate how it all works for example on the recent flooding and cleaning. Another initiative and Commissioner Hansen is supporting, is the scoop the poop issue. Ms. McDonald and Mr. Hook met with David Silver from the Emergency Management Office and Councilor Ives has talked about the priority of gathering precipitation data. During that meeting it came to our attention that there is an organization that works with volunteers and takes that data and start cataloging it in a way that the Weather Service start to utilize. Ms. McDonald said that her department is purchasing high quality rain gauges so they can start to distribute at different community groups. She could see the River Commission taking on that initiative. The more people we can get to create the feedback loop is going to help us deal with stormwater gauging. Community data is very important globally. Mr. Hook suggested that the group log on to the cocorahs.com website. This will allow you to submit your own rain water collection. It is very user friendly and informational.

David Silver offered to send someone to the next meeting to do a training and provide more information. The River Commission members said yes, they are open to this request.

Ms. McDonald said it is important to lock in the dates in order to have the funding to do the advertisements.

Ms. McDonald continues to work with the Water Department to put inserts in to the bills. She continues to work with the specifics on the piece itself. Mr. Hook said he could also help with the specs on cost.



Ms. McDonald also shared that the Stormwater Department also wants to provide information on how rain in the drain, how to keep storm waters clean. Other ideas were mentioned about Water Conservation staff and a cooperative effort will be researched.

## 8. MATTERS FROM STAFF

### a) **Informational Item: River Commission Membership**

Good news is there are 10 possibly 11 who have applied to the River Commission. Mayor's office will make the decision; thank you to the candidates who attended the meeting today. Ultimate approvals are made by the City Council. Everyone on the Commission presently has applied, other than F.M. Patorni. 7 voting members, and 2 alternate members. Ms. Hansen and Mr. Patorni are alternate members and Mayor will designate who is Alternate. The other person who applied, Rachel Coleman.

### b) **Santa Fe Watershed Yield & Forecasted SF River Flows (Alan Hook**

Works with Ms. McDonald on the hydrograph. He provided an update on his report and included in the packet for the Public Utilities Committee.

He spoke about the NRCS, Natural Resource Conservation Service who run the snow tail gauges and we have two snow tail gauges in our upper watershed and the highest one is 11,500 feet – Santa Fe Snow Tail Gauge and we have one called Elk Cabin which is about 2 miles up McClure, lower elevation about 8500 feet. There is a middle category called Middle Sangre de Cristo Mountains in NM, it has all the different rivers and streams in NM. They look at how much streamflow yield the Santa Fe River should be if you didn't have McClure Reservoir in the way, it coordinates with the USGS stream flow gauge which is between McClure and Nichols. Real key is to see what is the right average which he indicated on the far right would be the 30-year average. That would be now much flow in acre feet and it says 4.3 and you are supposed to multiply it by 1000 so 4300 acre feet would occur between the months of March thru July and that reflects the time they track from 1981 to 2010. Their projection as of March 1<sup>st</sup> for 2019 is we would have 100% of that 30 year yield at 4300 acre feet. That will change April 1<sup>st</sup> or maybe it won't, it depends on forecasters. Mr. Hook suspects that it won't, it might be a little higher than that. Why this is relevant is because in the Living River Administrative Procedures that support the ordinance this is the projector or the forecaster if we would do 1000 ac. ft. of bypass flow or less. If it is 76-100% projected we would still do 1000 ac. ft, if it was only 50% then we would multiply the 50% by 1000 ac. ft which would mean we would only by-pass 500 ac. ft. for the living river. If it was projected that the watershed would only yield like last year when it was supposed to be 26%, you would then say that is 260 ac. ft. but the living river administrative procedure said that there is a floor and at a minimum even if it is bone dry we will still allow 300 ac. ft. to go by and we won't capture that water in our reservoir.

Next slide: Visual Map at end of February. Mr. Hook continued to explain each slide as presented.

### c) **A Resolution adopting the Stormwater Management Strategic Plan as city policy**

Ms. McDonald reported that the document is on the website. Unfortunately, it has been delayed for the fourth time. The Stormwater Management Strategic Plan has gotten so complex.

**9. CITIZENS' COMMUNICATION FROM THE FLOOR**

None

**10. MATTERS FROM COMMISSIONERS**

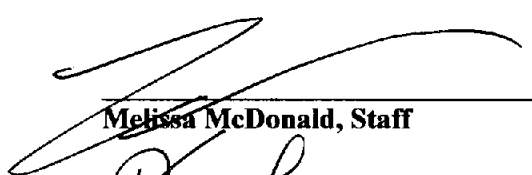
Next Meeting Date: April 11, 2019

Mr. Jacobi extended a complement to Ms. Dale Doremus for her work.


**11. ADJOURN**

There being no further business to come before the River Commission, the meeting was adjourned at 7:40 pm.

**SIGNATURE PAGE:**

  
\_\_\_\_\_  
Melissa McDonald, Staff

*5/25/19*

  
\_\_\_\_\_  
Fran Lucero, Stenographer

## 2019 DIRTY WATER RULE AND WHAT IT MEANS FOR NEW MEXICO



On February 14, 2019 the EPA released a draft rule that reduces the amount of waters that are protected under the Clean Water Act. The comment period on the draft rule is only 60-days and ends on April 15<sup>th</sup>, 2019.

**This Dirty Water Rule has serious impacts for New Mexico's waters.**

“Water is precious in New Mexico, without it our way of life is threatened and our communities suffer,” said Rachel Conn Projects Director for Amigos Bravos. “This dirty water move by the Trump Administration reverses years of work to ensure that New Mexicans have the clean water they need for drinking, irrigating, and recreating. It is only the same old polluting special interest groups that are in support this Dirty Water Rule”

### **Impacts of Proposed 2019 Dirty Water Rule**

- **The proposed 2019 Dirty Water Rule would negatively impact New Mexico more than any other state in the nation.**
- **The proposed rule would REMOVE Clean Water Act protections for ephemeral and maybe intermittent waters.**
- **Many (93.6%!) of New Mexico streams are ephemeral or intermittent.** These water are important for many reasons, they flow into our main river systems; provide wildlife habitat; and are used for livestock watering and irrigation.
- **Wetlands that do not have direct surface connection to a jurisdiction water would also lose protections** (this is well over half of New Mexico's wetlands).
- **Important NM tributary streams such as the Santa Fe River, Gallinas, and Rio Fernando** provide water for our acequias, wildlife and recreation, but do not always flow year-round. These waters need protection from unregulated dumping and pollution!
- **20% of the state's vertebrate wildlife** depend upon ephemeral and intermittent waters.
- **At least 280,000 people in New Mexico receive drinking water from sources that rely at least in part on ephemeral or intermittent tributaries.**
- **New Mexico is a non-delegated state** meaning that EPA administers and issues NPDES permits in New Mexico. Unlike many other states we do not have a state program in place to control surface water discharges into state waters.

*Exhibit A*

## Overview of the 2015 Clean Water Rule

- **The 2015 Rule developed by EPA and the US Army Corps of Engineers to clarify what waters are protected by the Clean Water Act.** It was in response to confusion after Supreme Court rulings in 2001 and 2006.
- **There was more than 200 days of public comment on the Clean Water Rule (as opposed to only 60 for the proposed Dirty Water Rule).**
- **The Clean Water Rule restored prior protections that once existed for a variety of water bodies, including tributaries to traditionally navigable waters.** In New Mexico traditional navigable waters are only the mainstems of 5 river systems – Rio Grande, Canadian, Pecos, Gila, and San Juan. This rule ensures that the tributaries to these river systems are protected under the law.
- **The Rule provided clarity and reduces permitting delays.**

## History of the Clean Water Act

- The federal Clean Water Act, passed in 1972, **has guided the transition from rivers that literally caught on fire to healthy watersheds** where species like the bald eagle and river otter once again thrive.
- **The Clean Water Act requires wastewater and industrial facilities to clean water before discharging into the nation's rivers.**
- **After Supreme Court decisions in 2001 and 2006, which waters were protected by the Clean Water Act was called into question.** These Supreme Court rulings made Clean Water Act protections for some waters that historically had been covered under the law, such as waters that flow intermittently or are isolated, uncertain.
- **The Obama Administration finalized a Clean Water Rule in 2015** that clarifies that some of the rivers, streams, and wetlands that fell through the cracks in the post-2001 confusion are indeed protected.
- **New Mexico, under Governor Martinez joined several other states and legally challenged the 2015 Clean Water Rule.** The Clean Water Rule does not currently apply in NM because of this ongoing legal challenge.
- **President Trump signed an executive order on February 28, 2017 rolling back EPA's 2015 Clean Water Rule.**
- **Trump's executive order reversed by the courts and a result the Clean Water Rule is currently in effect in 22 states** (although it is still not in effect in New Mexico because of our 2015 lawsuit).
- **The proposed 2019 Dirty Water Rule would replace the Clean Water Rule** nation wide.



[www.amigosbravos.org](http://www.amigosbravos.org)

For more information contact: Rachel Conn, Amigos Bravos 575.785.3874