

**THE CLEAN WATER ACT UNDER ATTACK: THE ENVIRONMENTAL
PROTECTION AGENCY'S MULTI-PRONGED EFFORT TO UPEND FUNDAMENTAL
CLEAN WATER PROTECTIONS**

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In the more than forty years since the Clean Water Act passed, we have made significant progress in our national effort to rescue our rivers from their perilous state in the early 1970s. This administration threatens to reverse that progress, having proposed or implemented rules and taken policy positions that will substantially undermine federal, state, and citizen efforts to protect waters across the country.

As the leader of the Southern Environmental Law Center's Clean Water Program, I have had the privilege of working with attorneys across our six-state region to educate the public about the actions of this administration and to represent communities affected by degraded water quality protections. We have submitted comments to the Environmental Protection Agency on each phase of its efforts to re-write the waters of the United States definition to take protections from streams and wetlands, its efforts to increase toxic industrial discharges, and its recent proposal to strip states of their authority under Section 401 of the Clean Water Act. In each instance, we have asked this administration to do more to protect our waters; in each instance, it has done more to increase pollution.

Clean water has been a priority of the Southern Environmental Law Center since our founding in 1986. We represent clients from the smallest organizations or communities focused on a single watershed to national organizations looking to protect our varied water resources. In

our more than 30 years, we've stood for the unremarkable principle that our rivers should be safe places to swim, fish, and get our drinking water. We appreciate this committee's efforts uphold that principle. Thank you for the opportunity to submit this testimony.

I. More protection is necessary to achieve the Clean Water Act's objective.

As a nation, we have made progress towards meeting the Act's objective to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."¹ Compared to the conditions that prompted its passage, when rivers and streams were "little more than open sewers,"² we have had some success in most places. The massive algae blooms that choked the Great Lakes, killing millions of fish and tainting the water supplies of millions,³ are less frequent. The biologically "dead"⁴ Lake Erie has come back to life. Then, wetlands were disappearing at an alarming rate—depriving coastal areas and river valleys of critically important flood control protection and ecological benefits.⁵ Now, we have wetland protections and a "no net loss" policy that has slowed wetlands destruction while restoring many that were previously degraded.

That said, we have more work to do. Although we have slowed stream and wetland loss and degradation, we have not stopped or reversed it. Under existing law, more wetlands and streams are degraded or destroyed than are restored or replaced through mitigation.⁶ With that

¹ 33 U.S.C. § 1251(a).

² S. Rep. No. 111-361, at 1 (2010).

³ *Id.* (citing 138 CONG. REC. D612 (daily ed. Sept. 22, 1992) (Prepared Statement of LaJuana S. Wilcher, Assistant Administrator for Water, at EPA, Hearing Before the Committee on Environment and Public Works, United States Senate)).

⁴ S. Rep. No. 111-361, at 1 (2010).

⁵ *Id.*

⁶ *See, e.g.*, 2017-18 Annual Report, N.C. Division of Mitigation Services at 7, https://files.nc.gov/ncdeq/Mitigation%20Services/Administration/Reports/2017_2018ar/AR-2017-2018-FINAL-REPORT.pdf (describing impacts authorized compared to mitigation required).

destruction, we lose valuable habitat, pollution control, floodwater storage, and a host of other ecosystem services provided by those streams and wetlands.

Our rivers are still threatened by pollution. Some of that pollution is what motivated the passage of the Clean Water Act—more than 85 million gallons of raw sewage were spilled into North Carolina streams and rivers in the last year.⁷ In addition, coal ash stored in leaking, unlined pits continues to taint our waterways with arsenic, mercury, lead, and other toxic pollutants. New research is uncovering the breadth of pollution from per- and polyfluoroalkyl substances (PFAS); dangerous chemicals that persist in the environment, bioaccumulate, and are toxic to people. PFAS are just one of many chemicals of emerging concern that are slipping through the cracks of our regulatory system and into our waters.

In its most recent report to Congress, EPA reported that more than 50 percent of the rivers and streams it assessed are impaired.⁸ Nearly 80 percent of bays and estuaries assessed are impaired, as are 91 percent of ocean and near-coastal waters and 100 percent of the Great Lakes' open waters.⁹ These areas do not yet meet the Act's goal of making waters fishable and swimmable.¹⁰ They suffer from harmful bacteria, nutrient pollution, and sediment overload that suffocate fish and other aquatic wildlife.¹¹ Based on EPA's own assessment, we are far from reaching the objective of the Clean Water Act: "to restore and maintain the chemical, physical,

⁷ SELC analysis of N.C. Department of Environmental Quality statewide sanitary sewer overflow data from August 1, 2018 through July 31, 2019.

⁸ See EPA, National Summary of State Information: Water Quality Assessment and TMDL Information, http://ofmpub.epa.gov/waters10/attains_nation_cy.control; EPA, National Water Quality Inventory: 4 Report to Congress (Aug. 2017).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

and biological integrity of the Nation's waters." By all accounts, more protection for clean water is necessary if we are to achieve the Clean Water Act's objective.

This administration, however, is intent on making that objective impossible to reach. This administration has proposed to dramatically reduce the reach of the Act by narrowly defining the phrase "waters of the United States" so that it would eliminate federal jurisdiction over millions of acres of wetlands and thousands of miles of streams. In addition to gutting federal protections, the agency proposes to restrict states' abilities to protect their waters through the issuance of 401 certifications, stripping states of an essential tool used to ensure that federally approved projects comply with state law. The EPA has also threatened to eliminate one of the means that citizens have used to protect their drinking water from toxic pollution from industrial sites; this spring, the agency reversed decades of agency interpretation to conclude that indirect discharges of pollution through hydrologically connected groundwater are not covered by the Clean Water Act.

Still, the administration intends to go farther to pollute our waters. EPA has postponed requirements to clean up wastewater from coal-fired power plants, allowing more toxic pollution to flow into our rivers. Soon, the administration is expected to propose allowing sewage blending, or the dumping of partially treated sewage in our streams and rivers—choosing to make swimmers, anglers, and boaters sick rather than investing in essential infrastructure that is necessary to handle waste responsibly.

With each of these attacks on our streams, rivers, and wetlands, this administration shifts the burden of cleaning up pollution from those who create it to the families and communities

downstream—from those most responsible and best equipped to control the pollution to those most vulnerable to its harms and least able to defend against them.

Although these varied attacks arise separately, their effect on our rivers will be significant and cumulative. The Cape Fear River exemplifies this problem. The Cape Fear is the largest river basin in North Carolina. It drains more than 9,100 square miles as it flows from central North Carolina to the Atlantic Ocean near Wilmington. The headwaters of the Cape Fear begin in North Carolina's Piedmont region and flow into the Deep and Haw Rivers. Those rivers merge into the Cape Fear just below Jordan Lake—the drinking water supply for much of the Raleigh-Durham-Chapel Hill area. From there, the river flows past Fayetteville, the home of Fort Bragg, on to Wilmington and the beaches of southeastern North Carolina.

Five examples from the Cape Fear illustrate the harm from this administration's actions:

1. *Flooding in Fayetteville, North Carolina.* In 2016, Fayetteville was devastated by a 1-in-500+ year flooding event during Hurricane Matthew.¹² Two years later, flooding from Hurricane Florence surpassed the records set by Matthew.¹³ Under the administration's proposed replacement for the Clean Water Rule, nearly half of small streams in and around Fayetteville could lose protections; wetland losses could be even more extreme. Loss of these streams and wetlands would expose the city to increased flood risk.

¹² Hurricane Matthew Annual Exceedance Probabilities, National Oceanic and Atmospheric Administration (Oct. 18, 2016), https://www.nws.noaa.gov/ohd/hdsc/aep_storm_analysis/AEP_HurricaneMatthew_October2016.pdf.

¹³ Flooding: Fayetteville residents flee catastrophic flooding as waters rise, Asheville Citizen Times (Sept. 16, 2018), <https://www.citizen-times.com/story/news/nation/2018/09/16/florence-fayetteville-residents-flee-catastrophic-flooding-waters-rise/1328023002/>.

2. *Construction and operation impacts from Mountain Valley Pipeline-Southgate.*

The Federal Energy Regulatory Commission recently released the draft environmental impact statement for a 70-mile gas pipeline that would cross more than 200 streams and wetlands that flow into the Haw River, one of the main tributaries to the Cape Fear River. The project will require a 401 certification from the state of North Carolina before a federal permit approving the project can be issued. The administration's recently proposed restrictions on 401 certifications could significantly limit North Carolina's ability to enforce its state laws during that process.

3. *PFAS contamination from The Chemours Company—Fayetteville Works Facility.*

In June 2017, residents of southeastern North Carolina learned that, for decades, DuPont and The Chemours Company had released toxic GenX and other PFAS into the Cape Fear River without disclosing it to state regulators or the public. More alarmingly, residents learned that their new drinking water treatment plant could not filter out the chemicals. The administration has failed to take meaningful action respond this crisis or to prevent further PFAS contamination.

4. *Coal ash contamination from the Sutton Steam Plant.* For decades, Duke Energy polluted Sutton Lake with coal ash wastewater, contaminating the lake, the Cape Fear, and its neighbors' drinking water. The utility viewed it as a waste dump and polluted the lake both directly from its coal ash lagoons and indirectly through hydrologically connected groundwater. While these discharges were occurring, the public was told that it was a fishing lake, and the state promoted the fishery.

That would have continued had citizen groups not intervened to enforce protection for the lake. EPA has now taken two actions to increase pollution from coal plants: it has reversed its longstanding position that the Clean Water Act prohibits contaminating streams and rivers through hydrologically connected groundwater and postponed restrictions on toxic pollutants in coal plant discharges.

5. *Sewage spills in the Cape Fear watershed.* Last year, wastewater treatment plants spilled more than 37 million gallons of untreated sewage into the river. As with many systems across the country, the dozens of wastewater treatment plants in the Cape Fear watershed need to be upgraded. The administration's sewage blending proposal would make dumping partially treated sewage an accepted practice—threatening the health of people who use the Cape Fear and putting off essential improvements.

II. The Clean Water Act of 1972 responded to a crisis.

The consequences of the EPA's efforts to gut the Clean Water Act are best understood through the context that spurred its creation. By the late 1960s, the Nation's rivers, lakes, wetlands, and streams suffered mightily as a result of industrial pollution, municipal waste, and indiscriminate filling.¹⁴ The Cuyahoga River was so polluted with industrial waste, it caught on fire.¹⁵ Massive algae blooms choked the Great Lakes, killing millions of fish and tainting the

¹⁴ See, e.g., H.R. Rep. No. 92-911, at 1 (1972); S. Rep. No. 92-414, at 7 (1971).

¹⁵ *Id.*

water supplies of millions.¹⁶ Biologically, Lake Erie was “dead.”¹⁷ Wetlands were disappearing at an alarming rate, depriving coastal areas and river valleys of critically important flood control protection and ecological benefits.¹⁸ Of the estimated 221 million acres of wetlands that were originally present in the coterminous states, more than half had been lost to dredging, filling, draining, and flooding.¹⁹

The proverbial race to the bottom was underway, and the public was losing. Many of the states tasked with addressing water pollution had shirked their responsibility. To remedy the national crisis, Congress passed the Federal Water Pollution Control Act Amendments of 1972, commonly known as the Clean Water Act. The Act marked a major turning point.

Congress replaced the prior system—“a patchwork of ineffective state laws, and the Federal Water Pollution Control Act that dated to 1948,”²⁰—with comprehensive legislation “to restore and maintain the . . . integrity of the Nation’s waters.”²¹ “[T]o achieve this objective,”²² Congress listed seven broad goals, including “protection and propagation of fish, shellfish, and wildlife,” “recreation in and on the water,” elimination of “the discharge of toxic pollutants in toxic amounts,” and “the control of nonpoint sources of pollution.”²³ Congress also required the states or federal government to adopt water quality standards for all waters covered by the Act “taking into consideration their use and value for public water supplies, propagation of fish and

¹⁶ *Id.* (citing 138 CONG. REC. D612 (daily ed. Sept. 22, 1992) (Prepared Statement of LaJuana S. Wilcher, Assistant Administrator for Water, at EPA, Hearing Before the Committee on Environment and Public Works, United States Senate)).

¹⁷ S. Rep. No. 111-361, at 1 (2010).

¹⁸ *Id.*

¹⁹ U.S. Fish & Wildlife Service, *Wetlands: Status and Trends of Wetlands in the Coterminous United States, Mid-1970s to the Mid-1980s* (1991).

²⁰ S. Rep. No. 111-361, at 1 (2010).

²¹ Pub. L. No. 92-500, § 101(a), 86 Stat. 816 (1972) (codified at 33 U.S.C. § 1251(a)).

²² 33 U.S.C. § 1251(a).

²³ *Id.* § 1251(a)(1)-(6).

wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.”²⁴

III. The EPA’s proposal to exclude streams and wetlands from federal protection will harm our rivers, communities, and economy.

In what would be the biggest rollback in clean water protections in the 47 years since the Clean Water Act became law, this administration has proposed to redefine “waters of the United States” to drastically restrict Clean Water Act jurisdiction, particularly over smaller streams and wetlands. The administration’s own analysis shows that mining, energy, and development interests would be the greatest beneficiaries of the proposal,²⁵ while those downstream would suffer.²⁶ “Waters of the United States” is the jurisdictional linchpin for virtually every one of the Act’s critical safeguards, including the Act’s core prohibition established by section 301 against the discharge of pollutants without a permit, the requirements regarding dredge and fill material in section 404 of the Act, the obligation that states develop water quality standards, and several other key statutory provisions.²⁷

In proposing a drastic reduction in federal jurisdiction, the EPA and U.S. Army Corps of Engineers diagrammed the numerous negative consequences of their action.

²⁴ *Id.* § 1313(c).

²⁵ See U.S. Environmental Protection Agency and Department of the Army, Economic Analysis for the Proposed Revised Definition of “Waters of the United States” at 96-97 (Dec. 14, 2018) (quantifying permit requirements by industry) (EPA WOTUS Econ. Analysis).

²⁶ *Id.* at 133.

²⁷ See 33 U.S.C. § 1311; see also 43 Op. Att’y Gen. 197, at 200-201 (Sept. 5, 1979) (“The term navigable waters . . . is a linchpin of the Act . . . Its definition is not specific to § 404, but is included among the Act’s general provisions.”).

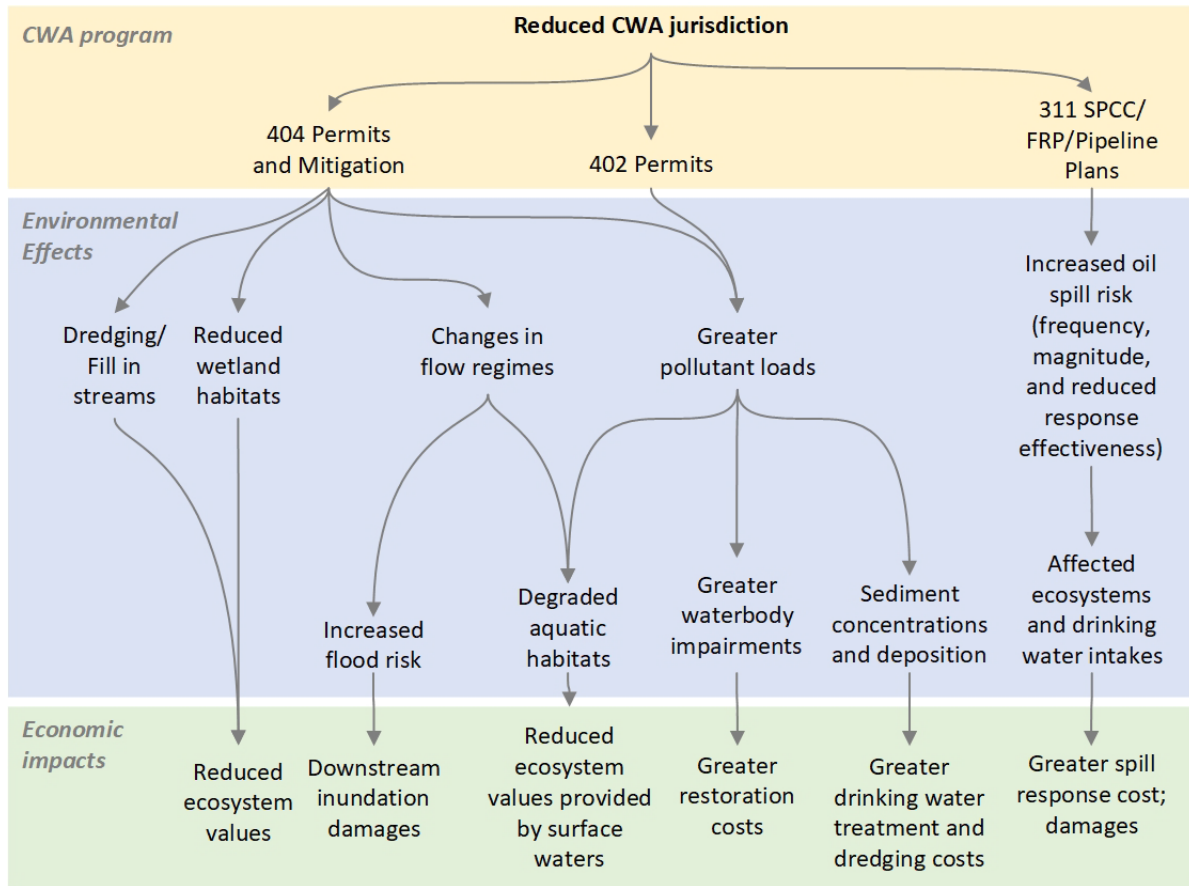


Figure 1: Overview of potential environmental impacts to selected CWA programs from proposed changes in CWA jurisdiction for certain waters.²⁸

Despite these substantial, widespread harms, the agencies continue forward with the proposed new definition, frequently relying on the hope that previously regulated entities will voluntarily continue more protective practices.²⁹

A. The proposed rule is based on a misreading of case law and legislative history.

Two fundamental legal errors underlie this rulemaking. First is the agencies' dependence on Justice Antonin Scalia's plurality opinion in *Rapanos v. United States*³⁰ as controlling—even

²⁸ EPA WOTUS Econ. Analysis at 133 (Table IV-9).

²⁹ See *id.* at 46, 88, 90, 92, 93, 107, 109, 113, 114, 115, 211 (relying on voluntary continuation of current requirements to avoid harms allowed by the proposal).

³⁰ *Rapanos v. United States*, 547 U.S. 715 (2006).

though the opinion was rejected by the majority of the Supreme Court. The agencies treat it as binding even though, in the 13 years since *Rapanos*, no court has found Justice Scalia’s opinion to control. Instead, Justice Anthony Kennedy’s opinion sets forth the science-backed analysis that previous Supreme Court case law requires. The approach outlined in the proposed rule reverses decades of law and agency practice, but lacks any meaningful, valid explanation for the agencies’ departure.

The second foundational fallacy is the agencies’ assertion that Congress intended for states to have sole jurisdiction over streams and wetlands essential to achieving the Act’s objective. That is not so. Congress did the opposite. Faced with two competing proposals to define the role of federal and state governments in implementing the Act, Congress rejected an approach like the one proposed by this administration—the abandonment of federal jurisdiction to give states exclusive control when it comes to protections for smaller streams and wetlands. Instead, Congress carefully defined the role of states by giving states the authority to implement sections 402 and 404 of the Act if their state programs meet federal minimum requirements, as well as empowering states under section 401 of the statute. As our Supreme Court has long recognized, when Congress speaks so clearly, “that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.”³¹

With the Clean Water Act of 1972, Congress replaced the state-led, risk-based regulatory scheme that only addressed pollution if it caused “unreasonable harm” with a framework based

³¹ *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 842-43 (1984).

on regulating pollution before it was discharged.³² At the time, Congress knew the states could not be relied on to “develop sufficiently tough regulatory controls on water pollution to make real progress on cleaning up the nation’s rivers and lakes.”³³ Because the Clean Water Act of 1972 was intended as a “total restructuring,”³⁴ to put the federal government in the primary role for implementing the new water pollution control system, Congress added section 101(a). “Section [101](b) was trumped by new § [101](a), announcing a national goal to ‘restore and maintain’ the nations waters.”³⁵

Still, questions arose regarding the states’ role under the new act—the same questions that are raised by the EPA and U.S. Army Corps of Engineers in the ongoing waters of the United States rulemaking. Leading up to the 1977 amendments, the House of Representatives and Senate took different approaches to resolving concerns about the role of states under the Clean Water Act. The House bill dramatically limited federal jurisdiction, leaving states complete discretion as this administration has proposed in its waters of the United States definition. The administration’s proposal mirrors the 1977 House bill. Much like the agencies, the House Committee on Public Works and Transportation argued that “[t]he activities addressed

³² N. William Hines, History of the 1972 Clean Water Act: *The Story Behind the 1972 Act Became the Capstone on a Decade of Extraordinary Environmental Reform*, JOURNAL OF ENERGY & ENVIRONMENTAL LAW 80 (Summer 2013).

³³ *Id.* at 82.

³⁴ See *City of Milwaukee v. Illinois*, 451 U.S. 304, 317 (1981) (explaining that explained that the CWA was “not merely another law ‘touching interstate waters’” but was “viewed by Congress as a ‘total restructuring’ and ‘complete rewriting of the existing water pollution legislation.’”); see also *id.* at 318 (“Congress’ intent in enacting the [CWA] was clearly to establish an all-encompassing program of water pollution regulation.”); see also *Middlesex Cnty. Sewerage Auth. v. Nat’l Sea Clammers Ass’n*, 453 U.S. 1, 22 (1981) (existing statutory scheme “was completely revised” by the enactment of the Clean Water Act).

³⁵ Oliver Houck, *Cooperative Federalism, Nutrients, and the Clean Water Act: Three Cases Revisited*, ENVIRONMENTAL LAW REPORTER, 44 ELR 10,426, 10,428 (2014), https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwi46Ivc9NHhAhXJrFkKHe5jBK YQFjABegQIBhAC&url=http%3A%2F%2Fudel.edu%2F~inamdar%2Fnps2007%2FHouck2014.pdf&usg=AOvVaw1tAf6gLse2StebbO4VgkU_.

by section 404, to the extent they occur in waters other than navigable waters . . . are more appropriately and more effectively subject to regulation [by] the States.”³⁶ To address these concerns, the House defined navigable waters to significantly reduce federal jurisdiction.

The Senate described the states’ role within the statute with more specificity. The underlying premise of the Senate’s approach was that “the discharge of waste directly into the Nation’s waters and oceans is permitted . . . only where ecological balance can be assured.”³⁷ The Senate bill did three things. First, it made clear that “[t]o limit the jurisdiction of the [act] with reference to discharges of the pollutants of dredged or fill material would cripple efforts to achieve the act’s objectives.”³⁸ Second, it added the extensive exclusions included in section 404(f).³⁹ Third, it adopted an amendment to implement the “stated policy of Public Law 92-500 of ‘preserving and protecting the primary responsibilities and rights of States [to] prevent, reduce, and eliminate pollution.’”⁴⁰ That amendment did so by providing “for assumption of the permit authority by States with approved programs for control of discharges for dredged and fill material in accord with the criteria and with guidelines comparable to those contained in 402(b) and 404(b)(1).”⁴¹

The Senate bill prevailed. In amending the Act, Congress created “a State program . . . which is established under State law and which functions in lieu of the Federal program” as long

³⁶ H.R. 95-139 at 22 (1977).

³⁷ S. Rep. 95-370 at 4 (1977).

³⁸ *Id.* at 75.

³⁹ *Id.* at 76.

⁴⁰ *Id.* at 77.

⁴¹ *Id.*

as the program complied with minimum federal standards.⁴² This was Congress's plain intent for implementing section 101(b)—an intent that the administration's proposal violates.

B. The loss of federal protections for streams and wetlands would be devastating.

The importance of those minimum federal standards is magnified in the South. Our streams, rivers, lakes, estuaries, and oceans are central to our region's history, culture, and economy. Those resources, combined with the South's underfunded state water-quality programs, make the region especially vulnerable to the loss of federal clean water protections. North Carolina, South Carolina, and Georgia alone have approximately 18 million acres of wetlands, many of which are pocosins, Carolina bays, cypress domes, or other unique wetland types that are only found in the South. These distinct regional wetlands were appropriately granted clearer protection by the 2015 Clean Water Rule, and are now at risk of destruction under the agencies' short-sighted proposal.

The southeastern United States is a hotspot for vital species of plants and animals, containing some of the most species-rich amphibian, reptilian, and freshwater fish communities in North America.⁴³ Our fisheries and recreation industry benefit when small streams and wetlands, which are integral for fish and wildlife habitat, are protected. In 2011, in the six states where the Southern Environmental Law Center works—Virginia, North Carolina, South Carolina, Georgia, Alabama, and Tennessee—the U.S. Fish and Wildlife Service reported that a total of \$19 billion was spent on wildlife recreation, including \$5.7 billion on fishing; more than

⁴² *Id.* at 104.

⁴³ Clinton N. Jenkins et al., U.S. Protected Lands Mismatch Biodiversity Priorities, PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES, 5081 (2015); *See* Letter from K. Moser, SELC, to A. Wheeler, EPA (April 15, 2019), Exhibit A: Guinessey et al., A Literature Review: The Chemical, Physical and Biological Significance of Geographically Isolated Wetlands and Non-Perennial Streams in the Southeast 11, 12, 28 (Apr. 12, 2019) (Literature Review), <https://www.regulations.gov/document?D=EPA-HQ-OW-2018-0149-9717> (last visited Sept. 12, 2019).

15.9 million people participated in recreational activities throughout the six-state region.⁴⁴ The Ecological Economics Journal estimates the Clean Water Act has been responsible for adding as much as \$15.8 billion in economic benefits for the Commonwealth of Virginia, alone.⁴⁵ And a host of Virginia industries rely on access to clean water—including tourism, which employs 350,000 Virginians and generates \$18 billion for the economy.⁴⁶ In 2016 alone, tourism around our beaches generated nearly \$8 billion in gross domestic product and over 190,000 jobs.⁴⁷ Recreational fishermen catch trout in our mountain streams, bass in our piedmont lakes and streams, and any number of saltwater fish in our extensive estuaries and beaches.⁴⁸ Commercial fishermen fish our estuaries and ocean waters, landing more than \$300 million worth of catch in 2017.⁴⁹ Each of these parts of the southern economy depends on clean water.

In addition to the impacts on tourism and industry, the agencies' proposal threatens drinking water sources for seven out of ten southerners, over 32 million people.⁵⁰

In the aftermath of hurricanes Matthew, Irma, Maria, Florence, Michael, and Dorian—six major hurricanes that have hit the southeast in the last four years—we have never depended more on our wetlands for flood control and storm surge protection. With abundant coastlines, lakes,

⁴⁴ See U.S. Department of the Interior, U.S. Fish and Wildlife Service, U.S. Department of Commerce, and U.S. Census Bureau. 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, 95-97 (Feb. 2014); see also Ex. A, Literature Review at 22.

⁴⁵ Jim Epstein, *Clean Water Is Vital for Success of Virginia Business*, The Daily Progress, https://www.dailyprogress.com/opinion/opinion-column-clean-water-is-vital-for-success-of-virginia/article_54a3fad0-71c6-11e4-ab71-23593a302e82.html.

⁴⁶ *Id.*

⁴⁷ National Ocean Economics Program, *Ocean Economy Data* (GA, NC, SC, VA) (2016).

⁴⁸ See Pete Flood, *Top 10 Fishing Spots in the Southeast*, Folding Boat Co. Blog, <https://www.foldingboatco.com/blog/2017/4/11/top-10-fishing-spots-in-the-southeast> (last visited Sept. 11, 2019).

⁴⁹ See NATIONAL MARINE FISHERIES SERVICE, ANNUAL COMMERCIAL LANDINGS STATISTICS (AL, GA, NC, SC, VA) (2017), https://www.st.nmfs.noaa.gov/st1/commercial/landings/annual_landings.html (last visited Sept. 12, 2019).

⁵⁰ SELC GIS, Population Served by Drinking Water in the Southeast – Methodology and SELC GIS, Drinking Water Analysis Data (collectively, “SELC GIS Analysis”).

marshes, and rivers, our communities and states stand to lose the most if industries are allowed to dodge the basic protections that keep our water clean and safe from pollution. We depend on consistent minimum federal standards to safeguard clean water and protect our communities, families and everyday life.

It is unacceptable and unrealistic to pretend that states will fill the gap in protections that the administration proposes to create—Southern states simply do not have the resources to protect the waters at risk under the agencies’ proposal. Our states have some of the largest budget shortfalls in the country.⁵¹ Even when Southern states are able to take action, they cannot address water quality issues on their own. Virginia regulators, for example, have worked hard to clean up the Chesapeake Bay. But without a strong, consistent level of nationwide protections for clean water, that effort stands to be undone. A patchwork of state laws would not maintain water quality in the many tributaries feeding the Chesapeake Bay from multiple states, and weaker protections imposed by other states would both unfairly add to Virginia’s burden and prevent progress in the Bay.

C. The Cape Fear Region will be significantly affected by the redefined waters of the United States.

The Cape Fear River is particularly vulnerable to the administration’s efforts to drastically reduce federal jurisdiction over streams and wetlands. It is the largest watershed in North Carolina, draining more than 9,100 square miles,⁵² and is home to several larger municipalities (Greensboro, Burlington, Chapel Hill, Sanford, Fayetteville, and Wilmington) and many larger rural communities (Dunn, Clinton, Warsaw, and Burgaw). Along its 200 miles, it

⁵¹ Truth in Accounting, *Financial State of the States* (September 2018).

⁵² N.C. Dept. of Environmental Quality, Cape Fear River Basin, <https://deq.nc.gov/cape-fear-river-basin> (last visited Sept. 11, 2019).

travels through 26 of North Carolina's 100 counties. In total, the Cape Fear watershed includes approximately 23,100 miles of streams and rivers.

Many of those waters are threatened by the EPA's proposal to redefine waters of the United States. According to data collected by the North Carolina Department of Environmental Quality, 35 to 54 percent of streams in the Cape Fear watershed are small streams that have no tributaries.⁵³ Similarly, 20 to 46 percent of streams in the watershed do not flow all year.⁵⁴ These are the types of streams that not only provide essential ecosystem services, they are most vulnerable to being destroyed or polluted under the EPA's proposal. In addition, the agency's proposal threatens many wetlands within the Cape Fear watershed. The EPA estimates that there are more than four million acres of wetlands in North Carolina,⁵⁵ a significant portion of which are in the Cape Fear watershed.

The communities along the Cape Fear cannot stand to lose the floodwater storage and other ecosystem services provided by these small streams and wetlands. From Fayetteville to Wilmington, residents have experienced 500- to 1000-year flood events twice in the last three years. In 2016, Hurricane Matthew caused record flooding in Fayetteville. Less than two years later Hurricane Florence exceeded those records in Fayetteville and caused such extensive flooding in the Wilmington area that supplies had to be airlifted into the city. The communities in this watershed cannot withstand the rampant stream and wetland destruction that would occur under EPA's proposal.

⁵³ See Letter from K. Moser, SELC, to A. Wheeler, EPA (April 15, 2019), Exhibit B, Appendix 2 at 10 <https://www.regulations.gov/document?D=EPA-HQ-OW-2018-0149-9717> (last visited Sept. 12, 2019).

⁵⁴ *Id.*

⁵⁵ EPA WOTUS Econ Analysis at 220.

IV. The EPA’s proposed 401 certification regulations restrict states’ ability to protect their waters.

In re-writing the waters of the United States definition, the administration claims to defer to states’ ability to protect their waters. With EPA’s proposed 401 certification rules, it proposes to take away the states’ best tool for doing so. Section 401 of the Clean Water Act ensures that states have a voice in federal decisions that affect our rivers, streams, and wetlands. For those activities that require a federal permit or license, the state where the project is proposed has the opportunity to ensure that the project complies with state laws.⁵⁶ On August 22, 2019, EPA proposed a rule that would limit states’ authority to only those state laws that are part of a federally approved program, would force states to make certification decisions on compressed timelines even if they do not have adequate information, and would grant federal agencies broad authority to reject conditions on state-issued certifications that states have determined to be essential.⁵⁷

The faults in EPA’s proposal are plain when looking at a recent example: the Atlantic Coast Pipeline’s 401 certification issued by the state of North Carolina. The application for the certification was submitted to the North Carolina Department of Environmental Quality on May 9, 2017. That application was woefully inadequate. The Department of Environmental Quality made five requests for more information between September 14 and December 14, 2017.⁵⁸ According to the state agency, that information was “necessary to continue to process” the

⁵⁶ 33 U.S.C. §1341(d).

⁵⁷ Updating Regulations on Water Quality Certification, 84 Fed. Reg. 44,080, 44,081-82 (Aug. 22, 2019).

⁵⁸ See Letter from J. Poupart, NCDEQ, to L. Hartz, ACP, at 1 (Sept. 14, 2017), <https://deq.nc.gov/news/key-issues/atlantic-coast-pipeline> (under heading “Division of Water Resources”) (last visited Sept. 11, 2019).

application.⁵⁹ Even with the five information requests, the agency failed to collect adequate information on trenching methods, long-term effects of construction, wetland standards, minimization efforts, or restoration plans.⁶⁰

Over the objections of many organizations, DEQ issued the certification on January 26, 2018.⁶¹ The certification authorized impacts to more than 450 acres of wetlands and nearly 7 miles of streams.⁶² The certification also authorized significant impacts to riparian buffers that are protected by North Carolina laws designed to safeguard the Albemarle-Pamlico and Neuse estuaries from nonpoint source nutrient pollution and harmful algal growth.⁶³

The certification includes many conditions related to the project's effects on streams and wetlands as well as state laws governing nonpoint source pollution and drinking water wells. Two stream crossings were eliminated.⁶⁴ Conditions were added to reduce the effect of other crossings.⁶⁵ The certification required compliance with North Carolina laws related to wildlife, sediment and erosion control, and drinking water well protection.⁶⁶

Had EPA's proposed 401 restrictions been in place, the ACP 401 certification would have gone down a very different path. First, EPA's proposal suggests that state agencies may be limited in how long they have to request information, potentially to as little as 60 days, and

⁵⁹ *Id.*

⁶⁰ *See, generally* Letter from G. Gisler, SELC, to J. Poupart, NCDEQ (Nov. 22, 2017), <https://deq.nc.gov/news/key-issues/atlantic-coast-pipeline> (under heading "Comments Submitted") (last visited Sept. 11, 2019).

⁶¹ Letter from L. Culpepper, NCDEQ, to L. Hartz, ACP (Jan. 26, 2018), <https://edocs.deq.nc.gov/WaterResources/DocView.aspx?dbid=0&id=623752&page=1&cr=1> (last visited Sept. 11, 2019).

⁶² *Id.* at 3.

⁶³ *See id.* (describing riparian buffer impacts).

⁶⁴ *Id.* at 4.

⁶⁵ *Id.* at 7.

⁶⁶ *Id.* at 6-8, 10-13.

limited in the types of information they can seek through those requests.⁶⁷ Second, the proposed rule would prevent DEQ from evaluating the full breadth of impacts to water quality—excluding important considerations for wildlife, riparian buffers, and well owners.⁶⁸ And although inadequate information and no certainty that water quality standards will be met should be a sufficient basis for denial of a certification, the proposal also gives federal agencies significant authority to override a 401 certification denial.⁶⁹

The ACP is not an isolated instance. DEQ will soon evaluate a 401 certification for the Mountain Valley Pipeline Southgate project. This 70-mile pipeline in the Cape Fear River's headwaters would cross more than 200 streams or wetlands. DEQ's ability to meet state laws will depend on the agency being able to collect adequate information and impose conditions that fulfill the state agency's obligations. The EPA's 401 proposal would prevent the agency from doing so.

V. The administration has failed to take meaningful action to address existing and future PFAS contamination.

In the last several years, the list of states with extensive PFAS contamination has grown. Perhaps the earliest and most notorious case arose at DuPont's, and now Chemours', Washington Works Facility in Parkersburg, West Virginia. In Colorado, Peterson Air Force Base has been the focus. In Michigan, PFAS have been found in 10 percent of drinking water systems.⁷⁰ In

⁶⁷ 84 Fed. Reg. 44,080, 44,115 (Aug. 22, 2019).

⁶⁸ *See id.* at 44,105 (describing limitations on conditions).

⁶⁹ EPA's proposed rule would, however, give federal agencies extensive authority to override a 401 certification denial. 84 Fed. Reg. 44,080, 44,110 (Aug. 22, 2019).

⁷⁰ Michigan PFAS Action Response Team, Michigan publishes first state study of PFAS in water supplies (Aug. 16, 2019), <https://www.michigan.gov/som/0,4669,7-192-47796-504965--,00.html> (last visited Sept. 11, 2019).

Minnesota, 3M contaminated drinking water in the Twin Cities.⁷¹ Drinking water in Vermont was contaminated by Saint-Gobain Performance Plastics.⁷² In North Carolina, the areas surrounding Wilmington and Fayetteville have been the center of attention because of contamination from Chemours' Fayetteville Works Facility.⁷³

In early 2019, the Environmental Protection Agency announced its “Per-and Polyfluoroalkyl Substances (PFAS) Action Plan.” The plan is purportedly designed to respond to the ongoing crisis of public drinking water contamination with these persistent, toxic, and bioaccumulative chemicals, but fails in that task for at least two reasons. First, it focuses primarily on only two of the thousands of PFAS in existence. Second, it lacks any action that would prevent PFAS or other emerging contaminants from being released into the environment.

The primary focus of the potential regulatory aspects of EPA's PFAS Plan center on perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS)⁷⁴—a scope that is too limited to benefit families and communities that are often exposed to broad PFAS contamination. Sampling data from the Cape Fear Public Utility Authority—a utility serving more than 200,000 citizens in and around Wilmington, North Carolina—demonstrate why such a limited focus is inadequate. According to the utility's 2018 Annual Water Quality Report, sampling has detected

⁷¹ See, generally Minnesota 3M PFC Settlement website, <https://3msettlement.state.mn.us/> (describing nature of 3M litigation and settlement) (last visited Sept. 11, 2019).

⁷² Vermont Environmental Division, State Reaches Settlement With Saint-Gobain: Company Agrees to Fund Waterline Extensions and Other Remediation Measures on Bennington's East Side (April 10, 2019), <https://ago.vermont.gov/blog/2019/04/10/state-reaches-agreement-with-saint-gobain-company-agrees-to-fund-waterline-extensions-and-other-remediation-measures-on-benningtons-east-side/> (last visited Sept. 11, 2019).

⁷³ Toxin taints CFPWA water supply, Vaughn Hagerty, Wilmington Star News (June 7, 2017), <https://www.starnewsonline.com/news/20170607/toxin-taints-cfpua-drinking-water/1> (last visited Sept. 11, 2019).

⁷⁴ See Environmental Protection Agency, EPA's Per- and Polyfluoroalkyl Substances (PFAS) Action Plan at 3 (Feb. 2019), <https://www.epa.gov/pfas/epas-pfas-action-plan> (last visited Sept. 11, 2019).

21 PFAS in *treated* drinking water.⁷⁵ Seven of those 21 PFAS, on average, have greater concentrations than PFOA or PFOS. Under the best-case scenario in EPA's PFAS plan, the agency will do nothing to address the threat from 19 of the 21 PFAS in drinking water for more than 200,000 people in southeastern North Carolina.

Much of that contamination comes from The Chemours Company's Fayetteville Works Facility, which sits on the Cape Fear River approximately 55 miles upstream of the Cape Fear Public Utility Authority's drinking water intake. Due to decades of waste mismanagement, the Chemours site is thoroughly tainted with PFAS. Groundwater seeps flowing into the Cape Fear River have been found to be contaminated with at least 20 PFAS that exceed a combined concentration of 670,000 parts per trillion (ppt)—several thousand times higher than health advisory levels available for any PFAS.⁷⁶ Action focused solely on PFOA and PFOS, as EPA has proposed in its PFAS Plan, would do nothing to clean up Chemours' site.

Chemours is not, however, the only contributor of PFAS pollution to the Cape Fear. Samples in the Haw River, one of the major tributaries to the Cape Fear, have detected seven PFAS.⁷⁷ Many of those PFAS are found in greater concentrations than PFOA or PFOS and are ignored by the EPA's PFAS plan.

EPA's plan suffers an even more fundamental flaw—it fails to prevent releases of PFAS into our waters as mandated by the Clean Water Act. As made clear during the GenX crisis, state

⁷⁵ Cape Fear Public Utility Authority, 2018 Annual Water Quality Report at 14, <https://www.cfpua.org/Archive.aspx?ADID=777> (last visited Sept. 11, 2019).

⁷⁶ The Chemours Company, Chemours Submission Pursuant to Consent Order Paragraphs 12 and 11.1, Attachment 2: Seeps and Creeks Investigation, Figure 4A, <https://www.chemours.com/Fayetteville-Works/en-us/c3-dimer-acid/compliance-testing/index.html> (last visited Sept. 11, 2019).

⁷⁷ PFAS shows up in Haw River, Pittsboro water, but gets limited local attention, Greg Barnes, North Carolina Health News (July 30, 2019), <https://www.northcarolinahealthnews.org/2019/07/30/pfas-shows-up-in-haw-river-pittsboro-water-but-little-local-outcry/> (last visited Sept. 11, 2019).

regulators cannot implement the Act's pollution control standards if they do not know what companies are discharging. North Carolina's Department of Environmental Quality did not know Chemours was discharging GenX and other PFAS. Yet EPA's PFAS Plan fails to prioritize full disclosure of pollutants in industry wastewater.

Disclosure alone is not enough. EPA must reaffirm the technology-forcing elements of the Act. In setting the ambitious goal of eliminating all discharges by 1985, Congress made clear that the Act is designed to improve pollution controls rather than simply require use of commonly available methods. Technology-based effluent limits are the "minimum" level of pollution control required by the Act.⁷⁸ As the agency's regulations make clear in circumstances such as this, where there are no effluent limitation guidelines for the pollutants at issue, the permitting agency must conduct a case-by-case technology-based limit analysis.⁷⁹ As demonstrated in a study conducted at Chemours' facility, technology exists to reduce PFAS to very low levels.⁸⁰

EPA could, if it were serious about PFAS contamination, require full disclosure of pollutants in industrial discharges, and mandate that case-by-case technology limits must be imposed in each NPDES permit that authorizes the discharge of PFAS or other emerging contaminants. Instead, the agency's PFAS plan will allow PFAS pollution to continue as the agency primarily focuses on two of the dozens of chemicals that are known to contaminate drinking water in communities across the country.

⁷⁸ 33 U.S.C. § 1311(b).

⁷⁹ 40 C.F.R. § 125.3(c)(3).

⁸⁰ The Chemours Company, Old Outfall 002 GAC Pilot Study Interim Results Report at 4-5 (Aug. 5, 2019).

The cost of that inaction is significant. In response to the GenX crisis, the Cape Fear Public Utility Authority and Brunswick County have committed to spending more than \$140 million to upgrade their drinking water treatment plants.⁸¹ At least six cases have been filed against Chemours, initiating litigation that will likely extend for years, if not decades. And even though the facility has stopped directly discharging its manufacturing wastewater into the Cape Fear, PFAS continue to flow into the river through stormwater and groundwater.

None of this had to happen. Had Chemours disclosed what was in its wastewater, the North Carolina Department of Environmental Quality could have imposed pollution control requirements under the Act—technology exists to capture PFAS on site. The federal agency’s PFAS Plan fails to require industry to do so.

VI. EPA’s Interpretative Statement allowing pollution of waters through hydrologically connected groundwater puts communities in danger.

For decades, EPA took the position that the Clean Water Act’s strict prohibition of any discharge of any pollutant to waters of the United States without a permit⁸² prevented discharges of pollution through hydrologically connected groundwater.⁸³ In April, the agency reversed

⁸¹ See Brunswick County commissioners vote to immediately build RO plant (May 10, 2018), <https://www.brunswickcountync.gov/brunswick-county-commissioners-vote-to-immediately-construct-ro-plant/> (last visited Sept. 11, 2019); CFPUA Board OK’s steps to obtain construction bids, funding for long-term solution to PFAS (April 10, 2019), <https://www.cfpua.org/CivicAlerts.aspx?AID=1019&ARC=2084> (last visited Sept. 11, 2019).

⁸² 33 U.S.C. § 1311(a).

⁸³ See *Upstate Forever v. Kinder Morgan Energy Partners*, 887 F.3d 637, 651 (4th Cir. 2018).

course,⁸⁴ creating an exception that is not found anywhere in the Act or its legislative history and has been rejected by the overwhelming majority of courts.⁸⁵

The consequence of EPA's newly proposed exception, should it be implemented, is clearest with two examples. In recent years, the issue has most frequently arisen in situations where coal-fired power plants chose to store millions of tons of coal ash containing toxic pollutants in leaking, unlined pits next to major rivers. Predictably, the groundwater that the ash sits in is contaminated with toxic pollutants including arsenic, mercury, and selenium.⁸⁶ Duke Energy, one of the largest utilities in the country, chose to use these leaking pits despite EPA's warnings in the 1970s that this reckless storage of ash risked pollution of groundwater and surface water. As a result of citizen groups stepping in where state and federal agencies have failed to protect our rivers, energy companies have committed to excavating more than 250 millions of tons of coal ash in the Southeast, including ash at the Sutton Steam Plant on the Cape Fear River.⁸⁷ EPA's effort to insulate Duke Energy and other polluters who contaminate our rivers through groundwater would limit future progress in keeping toxic pollutants out of our waterways.

Chemours' Fayetteville Works Facility is another example that demonstrates the potential harm from EPA's reversal. Groundwater at the site is severely contaminated due to years of reckless handling of PFAS-laden wastewater. Contaminated water has leaked through failing

⁸⁴ Environmental Protection Agency, Interpretive Statement: Application of the Clean Water Act National Pollutant Discharge Elimination System Program to Releases of Pollutants from a Point Source to Groundwater (Apr. 12, 2019), <https://www.epa.gov/npdes/interpretative-statement-releases-pollutants-point-sources-groundwater> (last visited Sept. 12, 2019).

⁸⁵ See *Hawai'i Wildlife Fund v. County of Maui*, 886 F.3d 737, 746-47 (9th Cir. 2018).

⁸⁶ See *Cape Fear River Watch v. Duke Energy Progress*, 25 F.Supp.3d 798, 802 (E.D.N.C. 2014).

⁸⁷ See Southern Environmental Law Center, Coal Ash: Protecting Our Water and Health from Coal Ash, <https://www.southernenvironment.org/cases-and-projects/coal-waste> (last visited Sept. 12, 2019).

wastewater pipes and settling ponds among other sources. As a result, the groundwater at the site has been shown to have levels of GenX, one of the more prominent PFAS at the facility, of 640,000 parts per trillion. That groundwater flows directly into the Cape Fear River through seeps that have been found to have GenX concentrations of 150,000 ppt.⁸⁸ These levels of contamination far exceed North Carolina's health advisory limit for GenX of 140 ppt. The groundwater contamination is so extensive at Chemours' site that it continues to be the primary contributor to PFAS contamination in the intake water for several drinking water providers more than 50 miles downstream from the site.⁸⁹ The administration's PFAS action plan will not provide relief to these and other communities with drinking water tainted by PFAS.

VII. The administration's plan to allow partially treated sewage to be discharged will make an existing crisis worse.

As a country, we have a wastewater infrastructure problem. Our systems are old and failing. Small utilities, and some large utilities, cannot afford to install modern collection systems and treatment technology. One result of the infrastructure crisis is that wastewater treatment plants are often overwhelmed during heavy rains, causing untreated sewage to flow into our streams and rivers. Rather than address that problem head-on, EPA has indicated that it will propose a rule that will allow wastewater treatment plants to discharge partially treated sewage during rain events.⁹⁰ Blending, a practice in which wastewater treatment plants divert waste

⁸⁸ The Chemours Company, Chemours Submission Pursuant to Consent Order Paragraphs 12 and 11.1, Attachment 2: Seeps and Creeks Investigation, Figure 5B, <https://www.chemours.com/Fayetteville-Works/en-us/c3-dimer-acid/compliance-testing/index.html> (last visited Sept. 11, 2019).

⁸⁹ The Chemours Company, Cape Fear PFAS Loading Reduction Plan, Attachment 1: Cape Fear River PFAS Loading Model Assessment and Paragraph 11.1 Characterization of PFAS at Intakes at 24 (Aug. 26, 2019), <https://www.chemours.com/Fayetteville-Works/en-us/c3-dimer-acid/compliance-testing/index.html> (last visited Sept. 11, 2019).

⁹⁰ See Public Listening Session; Stakeholder Input on Peak Flows Management, 83 Fed. Reg. 44,623, 44,625 (Aug. 31, 2018).

streams around secondary treatment and discharge partially treated sewage during rain events, has the potential to create significant public health risks.

The agency has previously recognized that blending is not a solution to inadequately sized or maintained systems. “EPA anticipates that, over time, the need to undertake peak wet weather flow diversions at POTW treatment plants serving separate sanitary sewer conveyance systems can be eliminated from most systems in a variety of ways, such as by enhancing storage and treatment capacity and reducing sources of peak wet weather flow volume.”⁹¹

EPA has also recognized the risk of failing to properly address our failing wastewater infrastructure. A 2010 study by EPA contractor Tetra Tech found that, during blending, treatment plants are only able to remove 71% of *Cryptosporidium* parasites and 40% to 88% of *Giardia* parasites, while discharging very high levels of fecal coliform and Enterococcus bacteria.⁹² Another study found that the risk of people being exposed to adenovirus and *Giardia* when swimming, wading, and fishing in waters receiving blended sewage flows were about ten times greater than if the waste had received full secondary treatment.⁹³

Now is the time to deal with our wastewater infrastructure. From August 2018 through July 2019, more than 85 million gallons of sewage spilled from wastewater treatment plants in

⁹¹ National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Peak Wet Weather Discharges from Publicly Owned Treatment Works Treatment Plants Serving Separate Sanitary Sewer Collection Systems, 70 Fed. Reg. 76,013, 76,015 (Dec. 22, 2005).

⁹² EPA, Draft Summary of Blending Practices and the Discharge of Pollutants for Different Blending Scenarios at 9 (2014), https://www.epa.gov/sites/production/files/2015-10/documents/sso_lit_review_draft.pdf (last visited Sept. 12, 2019).

⁹³ Water Environment Research Foundation, *Characterizing the Quality of Effluent and Other Contributory Sources During Peak Wet Weather Events* (2009).

North Carolina.⁹⁴ In the Cape Fear basin alone, 37 million gallons of untreated sewage were released, much of it into waters classified as a public drinking water supply.⁹⁵

In the Cape Fear, that sewage combines with runoff from hundreds of industrial swine and poultry operations, causing the river to be listed as impaired under section 303(d) of the Clean Water Act because it cannot support its natural fish and invertebrate community. Approving regular discharges of partially treated sewage will only make this impairment worse while exposing the thousands of people who swim, fish, or boat in the Cape Fear River to unsafe levels of pathogens.

VIII. The nation cannot achieve the goal of the Clean Water Act if this administration's efforts are successful.

Protecting clean water requires everyone to do their part. The Clean Water Act was written to ensure that everyone does, from industrial dischargers to nonpoint sources. This approach has had great success, though we still have significant work to do if we are to achieve the Act's goal of fishable, swimmable waters nationwide. This administration's actions will make that goal unattainable. The combination of abandoning federal authority, limiting state authority, and creating vast loopholes in the Act will strip agencies of the tools they need to protect the places we swim, fish, and get our drinking water. By shifting the burden of pollution from those who create it to families and communities downstream, this administration would take us back to the era before the Clean Water Act. I ask this subcommittee to defend the Clean Water Act and stand against this administration's efforts to dismantle it.

⁹⁴ SELC analysis of N.C. Department of Environmental Quality statewide sanitary sewer overflow data from August 1, 2018 through July 31, 2019.

⁹⁵ SELC analysis of N.C. Department of Environmental Quality Cape Fear basin sanitary sewer overflow data from August 1, 2018 through July 31, 2019.