

Protect the Clean Water Rule

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(Photo: The news Journal)

Surrounded by water as one of just three states that sit on a peninsula, coastal Delaware is fortuitously situated on the beautiful Eastern Seaboard of the United States.

Although the second smallest state, the First State is rich in water resources, with 25 miles of ocean coastline, 840 square miles of bay, 4,500 miles of rivers and streams, 500 square miles of wetlands and 2,900 acres of lakes and ponds.

Delaware's freshwater and saltwater resources are a substantial economic engine that contributes \$7 billion to the regional economy and supports 70,000 jobs with over \$2 billion in wages.

Recently, the Environmental Protection Agency and the Army Corps of Engineers proposed a rule that would rescind the Clean Water Rule to redefine the Waters of the United States (WOTUS) as protected by the Clean Water Act. This action would leave unprotected the small intermittent streams and isolated freshwater wetlands in watersheds that provide drinking water to over 100 million people, or a third of the population of the U.S.

In Delaware, this Clean Water Rule rollback would leave 1,100 miles (25 percent) of streams and 193,500 acres (32 percent) of freshwater wetlands, vulnerable to fill and pollution. These are the same waters in the Diamond State that support an \$8 billion agricultural economy, with the most productive lima bean-growing county in the U.S. and a \$2 billion tourism economy with the cleanest beaches in the nation.

This debate has been played out in the Supreme Court and it hinges on the definition of WOTUS as navigable streams.

Large navigable waters such as the Delaware River, the Brandywine and Inland Bays have always been protected by the Clean Water Act. And, of course, it's not appropriate for the WOTUS rule to regulate about 200 miles of manmade ditches, swales and ponds that flow through Delaware.

But what about the smaller navigable streams, the tributaries that flow from the headwaters down into the larger streams? These are the small intermittent or ephemeral streams, the creeks that dry up late in the summer, the creeks so small you can jump across, that would be left unprotected under the repeal. How will the large interstate rivers such as the Brandywine be protected in Delaware if the small headwater streams upstream in Pennsylvania are left unprotected by the federal government?

Or how will the Inland Bays be protected if the isolated wetlands that supply groundwater to the coast are vulnerable to discharge of fill? This violates a fundamental law of hydrology – that water always runs downhill from small streams to the big streams.

Since Richard Nixon created the EPA in 1970 and Congress overrode his veto in 1972 and passed the Water Pollution Control Act Amendments by a 4:1 majority in the Senate, the Clean Water Act has always been about federalism, or shared power between the federal government and the states, to protect our precious water resources as the basis of the economy and environment.

The repeal of the WOTUS rule would leave 1,000 miles of the most beautiful small streams and 30 percent of our productive freshwater wetlands unprotected in Delaware, the same waterways that feed the First State's \$500 million drinking water supply.

Based on the principles of science, policy and economics, this is an inadvisable move. Because even in small streams, water is clear, it's neither red or blue.

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