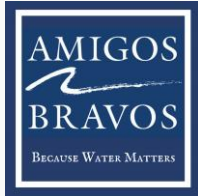


LOSS OF FEDERAL CLEAN WATER PROTECTIONS HAVE PUT NEW MEXICO'S SURFACE WATERS AT RISK

Water Leaders Conference

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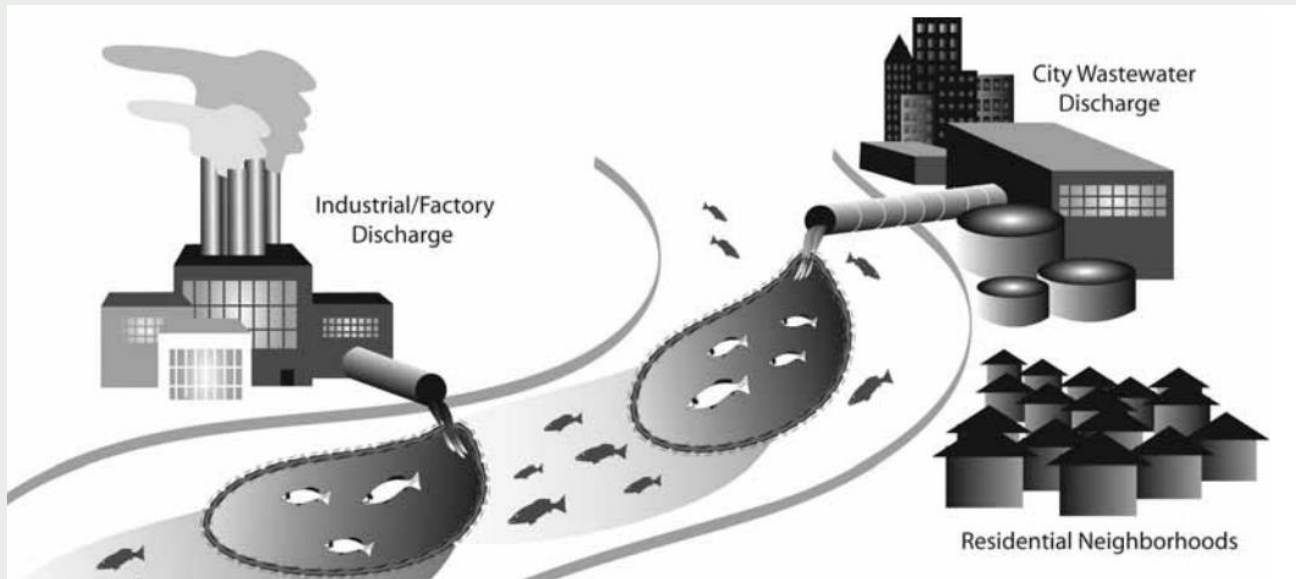
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THE CLEAN WATER ACT



- The federal Clean Water Act, passed in 1972, has guided the transition from rivers that literally burned to healthy watersheds where species like the bald eagle and river otter once again thrive.
- Objective: To restore and maintain the chemical, physical and biological integrity of the nation's waters (rivers, streams, lakes, and wetlands).



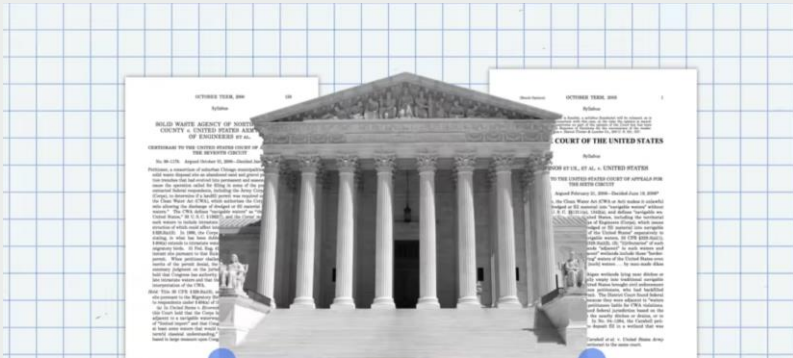
The Clean Water Act requires wastewater and industrial facilities to clean water before discharging into the nation's rivers.

Clean Water Act Permits:

1. End of pipe discharges (wastewater facilities, industrial sites - 402/NPDES Permits)
2. Dredge and fill permits (404 Permits) – important for protecting wetlands

The assumption for 30 years was that all waterways were federally protected from pollution through these permitting processes.

New Mexico in the Crosshairs



US Supreme Court decisions have put New Mexico's waters at risk.

- For the past 20 years Clean Water Act regulations have swung back and forth creating regulatory uncertainty.
- The May 2023 US Supreme Court ruling in *Sackett vs. EPA* decisively stripped federal protections for most of New Mexico's waters.

Sackett v. EPA Supreme Court Decision



- **For Rivers and Streams:** Limits federal clean water protections to only waters that are “**relatively permanent, standing, or continuously flowing**”
- **For Wetlands:** Only protects wetlands that have a “**continuous surface connection**” to waters described above. Where the wetland is “**indistinguishable**” from those relatively permanent waters.

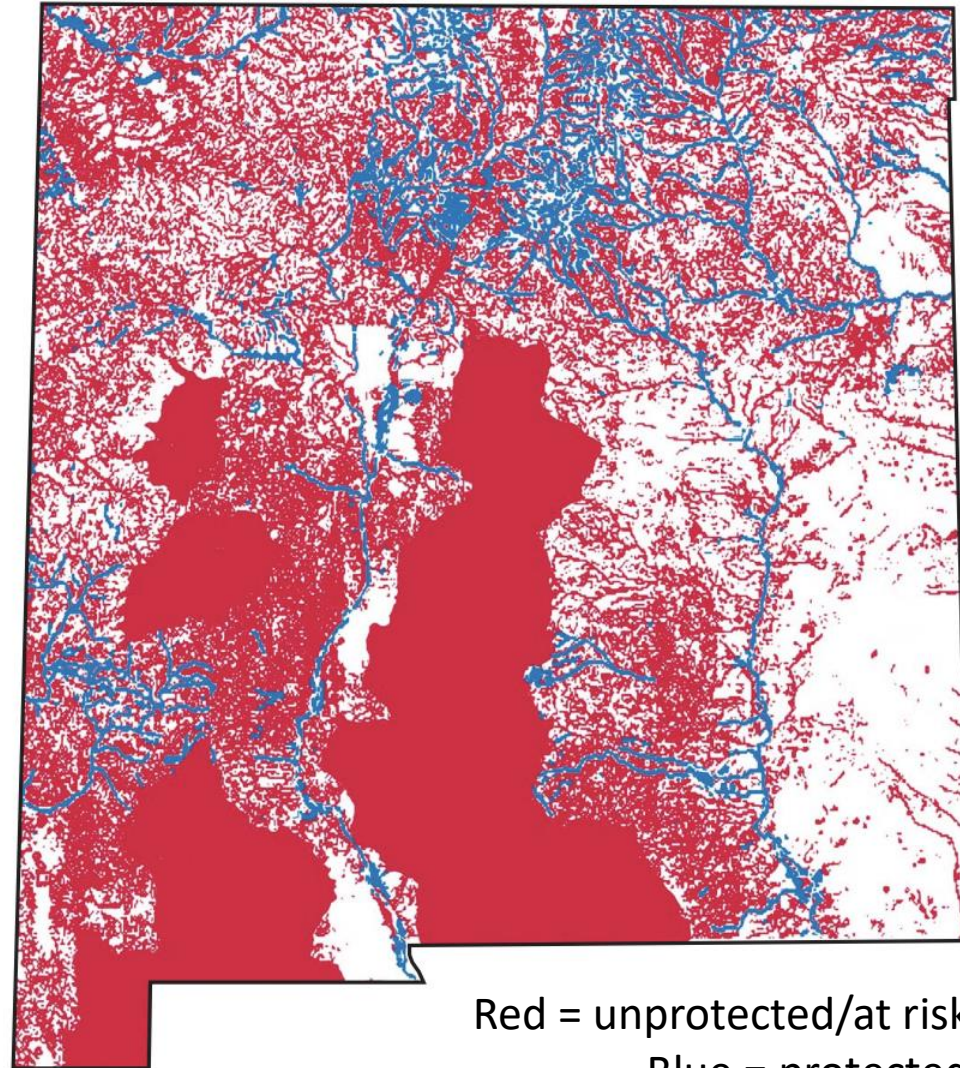
What Waters in NM Have Lost Protections?

- 96% of our rivers and streams here in New Mexico don't flow year-round and are at risk.
- Majority of our wetlands in the state are no longer federally protected.

Map Details:

- **Red lines** = ephemeral and intermittent streams (96% of New Mexico's Streams)
- **Red blocks** = New Mexico's closed basins (20% of the land area of New Mexico)
- **Blue lines** = perennial streams (flow year-round)

Map of New Mexico Streams and Closed Basins Left Unprotected or at Risk in the Wake of Sackett



Red = unprotected/at risk
Blue = protected



What does this loss of Clean Water Act Coverage Mean for New Mexico?

- We are one of only 3 states that does not write point source discharge permits. Federal government (EPA) writes permits in NM.
- If waters aren't federally protected = no federal permit. Means many discharges go unregulated example: Silver City, LANL.
- Also, no wetland permitting program in the state.
- This means that there isn't a clean water permitting mechanism to control pollution discharges in the vast majority of our state's surface waters.



Impacts to New Mexico Waters

- New Mexico waters will experience changes in both **quality** and **quantity**.
- A **bulldoze and fill first, and ask questions later** mentality
- **Less community** input into development, **less checkpoints for safeguards on harmful projects**.



Solutions:

It's time for **New Mexico to protect its own waters** and remove the regulatory uncertainty created by unpredictable and unreliable federal protections.

NM people and communities who rely on these waters know best how to protect them.

We should be making those decisions here in New Mexico with the **best available data and mapping**.

We need a **comprehensive surface water permitting program** that protects both New Mexico's streams and wetlands as well as **near-term protections**.

NMED Appropriation Needs for FY 2025

(July 1, 2024 - June 30, 2025)



- **150k for mapping the waters and wetlands impacted by Sackett.*** Would allow NMED to work with a wetland mapping contractor to better identify and map which New Mexico's waters have lost federal protection.
- **\$690k for near-term Protections***
Necessary to implement and enforce current regulations to protect surface water quality from unauthorized discharges due to the loss of federal protections until a state permitting program can be implemented.
- **\$600k for surface water discharge permitting program development.**
Included in NMED's request and would go towards developing a permitting program database.

*The \$150k and \$690k special appropriations were not included in NMED's budget request.

WATER QUALITY THREATENED IN NEW MEXICO

Sackett Decision Removes Protections for the Majority of Wetlands and Streams in New Mexico

Support FY2025 Special Appropriations for NMED to address the impacts of the US Supreme Court's Sackett decision on New Mexico: **\$600,000 for surface water permitting development, \$150,000 for mapping, and \$690,000 to protect our waters while a permitting program is being developed.**

Photo: Jim O'Donnell

PROBLEM

The condition of New Mexico's water systems impacts every single legislative district – whether it is drinking water to irrigation for farmers, ranchers, and acequia stewards to the growth of our outdoor recreation economy.

NMWATERS.ORG

- New Mexico has been in the crosshairs of federal uncertainty; the recent Supreme Court Sackett decision has left us particularly vulnerable to pollution and other threats to water.
- New Mexico is one of only three states that does not have a state surface water permitting program to control the discharge of pollution into the state's surface waters.
- Sackett increases vulnerability for ephemeral and intermittent streams (96% of NM's streams according to NMED) and wetlands which combine to provide critical wildlife habitat as well as water sources for drinking water, irrigation, and recreation opportunities.



Photo: Garrett VeneKlasen

SOLUTIONS

- It's time for New Mexico to protect its own waters and remove the regulatory uncertainty created by unpredictable and unreliable federal protections.
- The people and communities who rely on these waters know best how to protect them—we should be making those decisions here in New Mexico with the best available data and mapping.
- We need a comprehensive surface water permitting program that protects both New Mexico's streams and wetlands as well as additional resources to protect them in the near-term



Photo: Jim O'Donnell

NMED Appropriation Needs for FY 2025 (July 1, 2024 - June 30, 2025)

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This funding would allow NMED to work with a wetland mapping contractor to better identify and map which New Mexico's waters have lost federal protection.
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This funding is necessary to implement and enforce current regulations to protect surface water quality from unauthorized discharges due to the loss of federal protections until a state permitting program can be implemented.
- **\$600k for surface water discharge permitting program development**
This is included in NMED's request and would go towards developing a permitting program database.

*The \$150k and \$690k special appropriations were not included in NMED's budget request because of the limitation on budget requests and NMED's leadership's recognition of the need to prioritize a pay equity line item that will better enable the agency to fill critical vacancies as well retain current employees. NMED has indicated that they would welcome these funds.

