

Arizona's Comment Letter on the USEPA Proposed WOTUS Rule

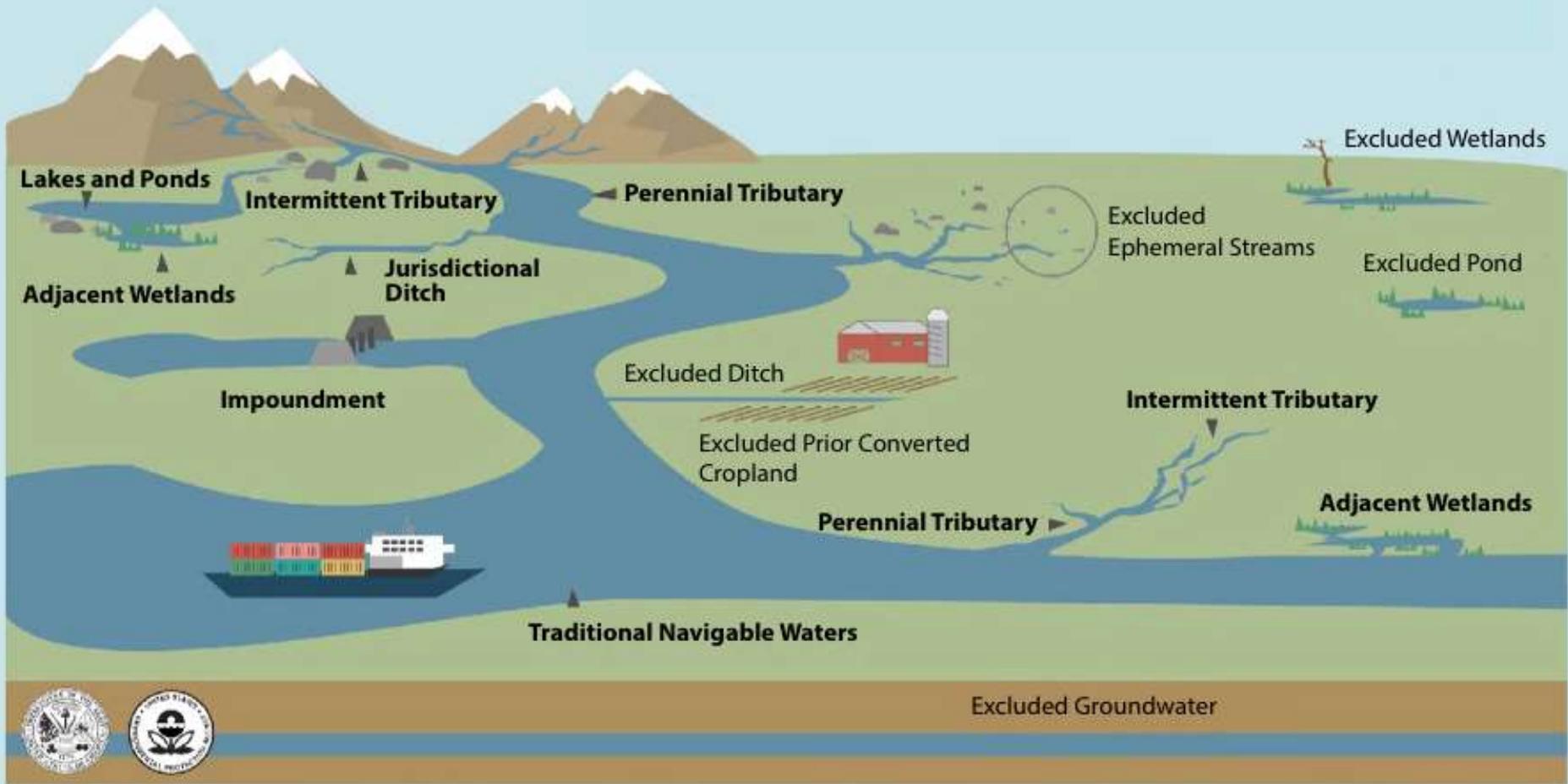
presented by

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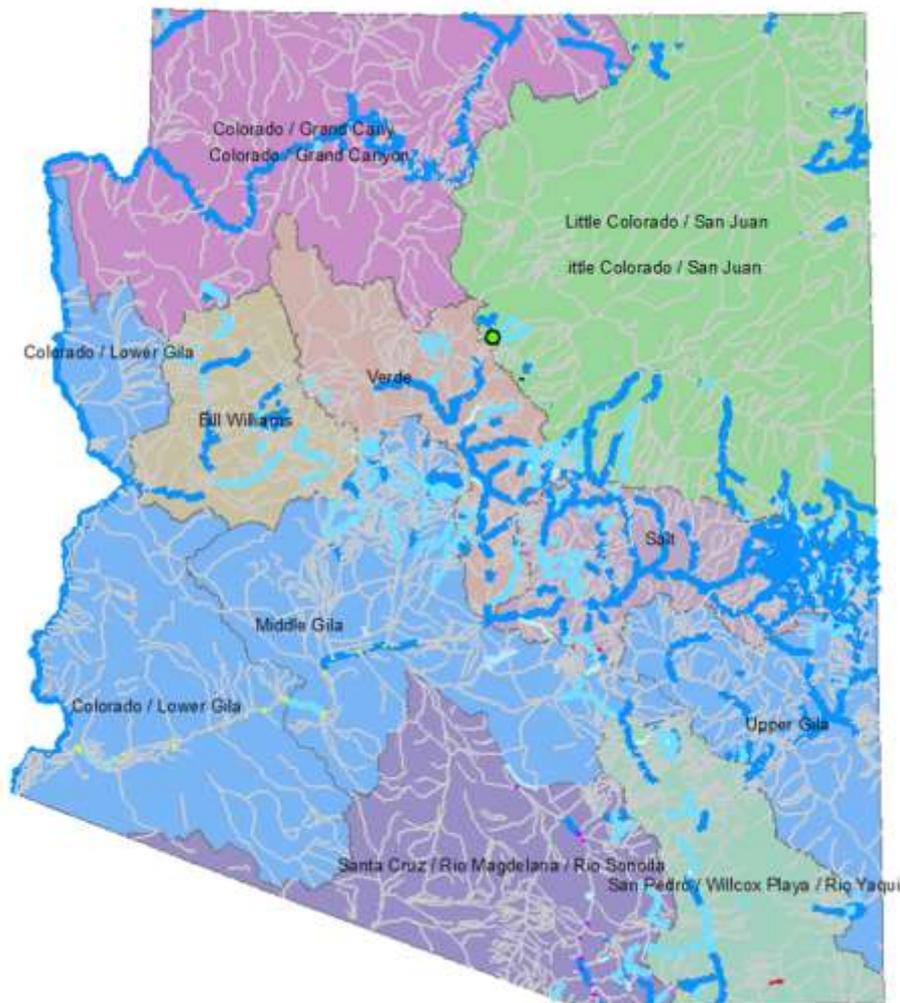
April 19, 2019

Proposed Revised WOTUS Definition



* For illustrative purposes only. Proposed jurisdictional waters in **bold**.

Proposed WOTUS waters in Arizona

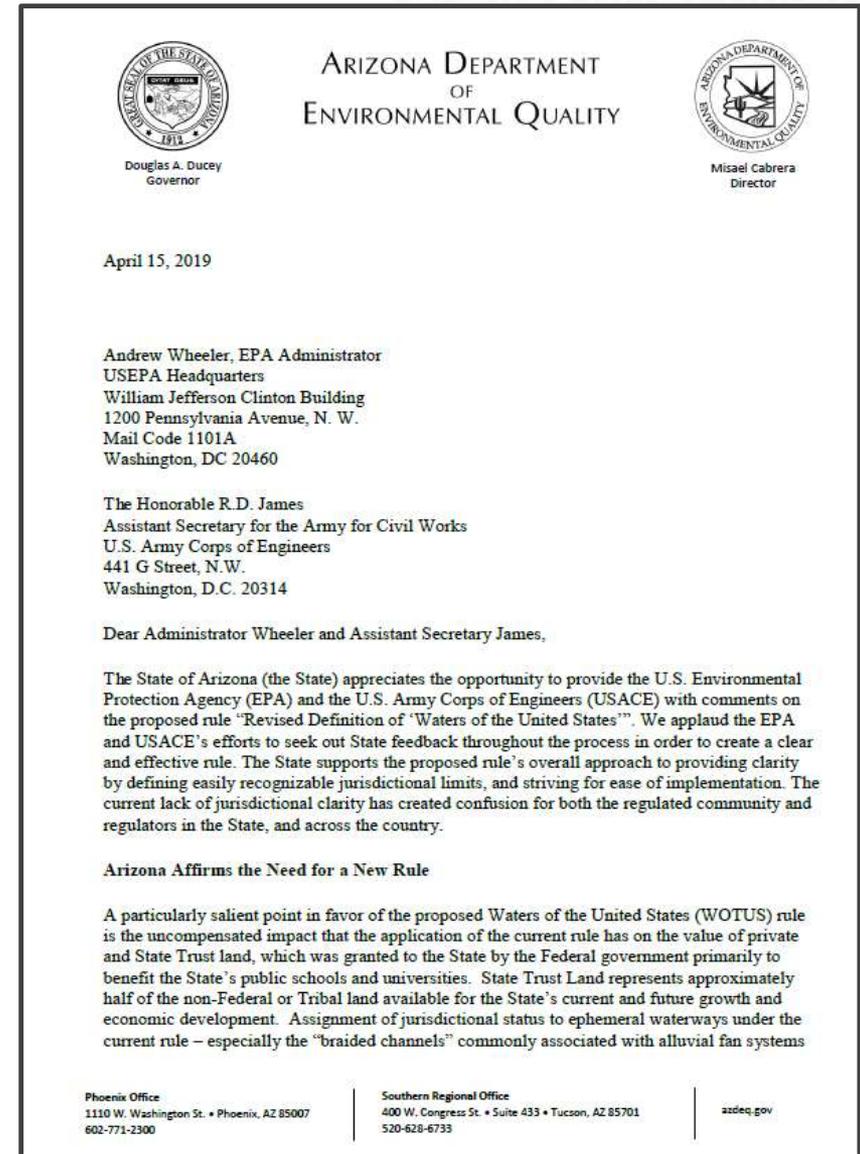


- Three public meetings
- Overview of proposed WOTUS rule
- Four questions to the public:
 - Benefits
 - Risks
 - Issues not addressed or not clear
 - Other comments?
- 370 Comments received in person, comment form, online, 3 submitted written letters
- ADEQ presentation, meeting notes & official comment letters on website at www.azdeq.gov/wotus

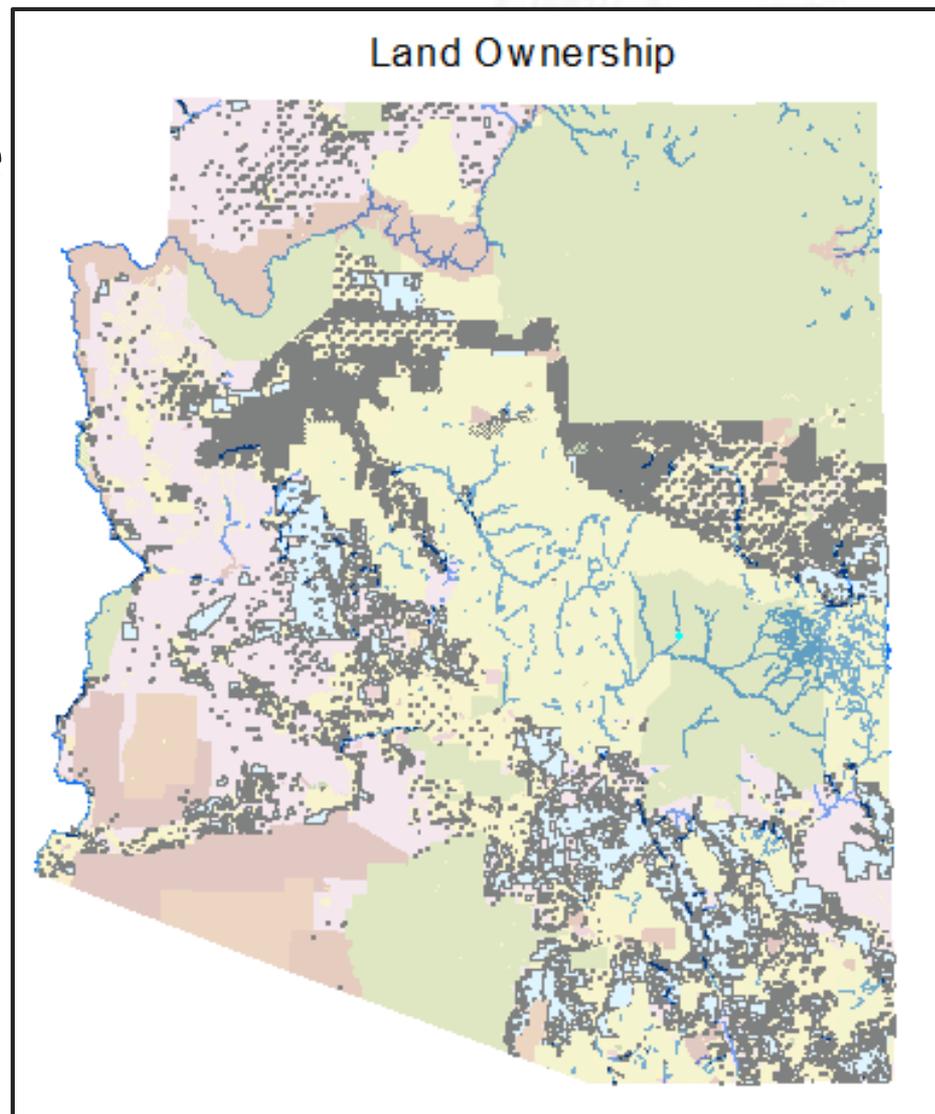


State of Arizona letter drafting process

- Meetings in February & March
- ADEQ staff analysis
- Compilation and review
- Final letter signed and submitted to EPA on 4-12-19



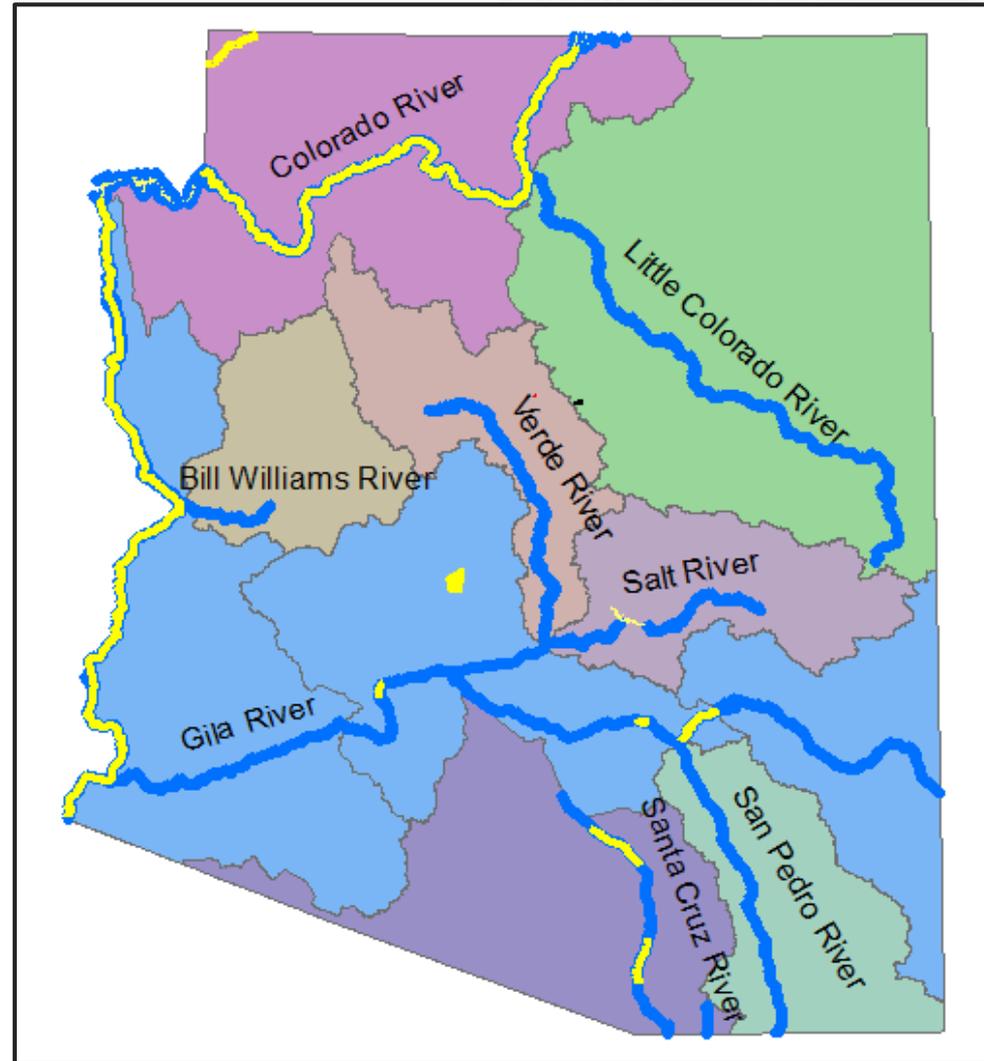
- Uncompensated impact of current rule on private and State Trust Land
- WOTUS determinations on ephemeral streams problematic



- Support the rule's overall approach
 - clarity
 - defining jurisdictional limits
 - ease of implementation
- Consistent with congressional intent
- Limits federal jurisdiction over State waters
- Consistent with key principles in Arizona's 2017 letter to EPA
 - Clarity
 - Consistency
 - Flexibility
 - Maintained ability for states to protect water quality



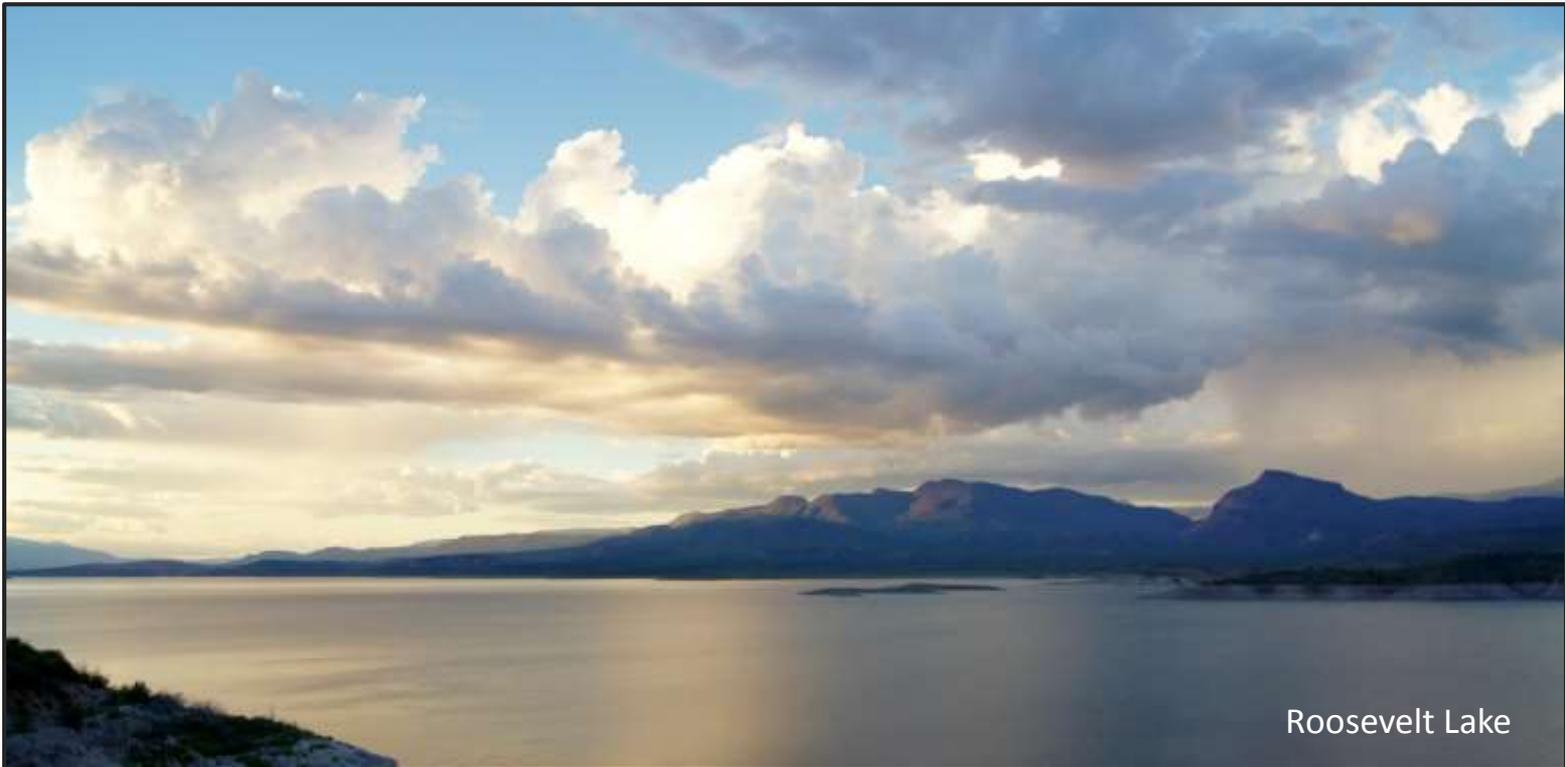
- Not all TNWs identified in Arizona
- Unclear status of 8 major rivers in Arizona
- Request specifics on federal approach for TNW determinations of AZ large rivers



- Support that Interstate waters can be determined within proposed categories of jurisdictional waters
- Could be loss of interstate data sharing and water quality assessments
- Request whether the federal agencies would still facilitate data collection, storage, mitigation and management of interstate water quality issues

- Support the approach that a tributary doesn't lose jurisdictional status if it flows thru a natural/man-made break, as long as there is perennial/intermittent flow to a jurisdictional water at downstream end, and
- Agree with not proposing a specific flow duration for intermittent streams in rule; varies widely

- Support the retention of impoundments as a jurisdictional category
- Proposed definitions for lake and pond are sufficient



Roosevelt Lake

- Support proposed exclusion of upland ditches
- Support inclusion of ditches that convey perennial/intermittent flow to jurisdictional tributaries at downstream end



- Support groundwater exclusion
- Requesting clarification on “diffuse or shallow subsurface flow” proposed in the exclusion
- Shallow subsurface flows are an important source of water for intermittent streams

- Maps of jurisdictional waters should be developed
- Need for scientifically defensible tools and approaches
 - Identify one National Hydrography Dataset (NHD) version for consistency
 - Mapping tools & procedures flexible
 - National Wetland Inventory (NWI) maps need improvement

- Opportunity for Arizona to respond to decreased federal regulation
- Develop a state-level program to protect surface water quality for non-WOTUS waters
- Time and resources needed to create new statute and rules
- Suggest delayed implementation of proposed WOTUS rule

- Request for continued USEPA grants and technical assistance
 - Address non-point source pollution control
 - Improve water quality for WOTUS waters

- Support the proposed WOTUS rule overall approach
 - Clarity
 - Jurisdictional limits
 - Ease of implementation
- Continue to meet CWA objective
 - Restore & maintain the nation's water quality
 - Respect state & tribal authority

“In regard to a reduced scope of federal regulation under the CWA, **Arizona recognizes and welcomes the need to protect non-WOTUS state surface waters.**”

*Governor Doug Ducey
Letter to EPA
June 16, 2017*

- Final signed letter & compilation of all stakeholder comments are now available on ADEQ's WOTUS website at:
<http://azdeq.gov/wotus>

