The WOTUS Rule and Impacts to your Permit
An Update

June 15, 2020
MEETING PURPOSE

- To provide an update on permit status post implementation of the federal rule change.

- Continue to communicate what we know, when we know it.
WEB CONFERENCE

- All callers will remain on mute
  - Expand menu bar

- If you have questions or comments
  - use the Question feature, or
  - send email to WOTUS@azdeq.gov
WHAT WE KNOW RIGHT NOW ABOUT THE RULE

8 Lawsuits Challenging the Rule

41 States Either Defending or Opposing the Rule

3 Cases with Motions to Enjoin the Rule
WHAT WE KNOW RIGHT NOW ABOUT THE RULE

April 21, 2020
Rule Published

June 18, 2020
Hearing on Injunction in *California v. Wheeler*

June 22, 2020
Scheduled Effective Date

Expected July 2020
Hearing on Injunction in *N.M. Cattle Growers v. EPA*
What We Don’t Know…

Is flow conveyed through the ephemeral break to a WOTUS in a "typical year"?
ONCE EFFECTIVE, WHAT SHOULD YOU DO?

- Continue to comply with the terms and conditions of your permit, including monitoring, reporting, recordkeeping, etc.

- Keep up to date with ADEQ communications

- Be aware of the potential legal risks before submitting a request to terminate your permit
ADEQ will not unilaterally terminate permits.
ADEQ will continue to enforce its CWA authorities by:

– Issuing permits, enforcing permit conditions and inspecting facilities
– Responding to complaints
– Collecting fees for permit coverage
UPDATES ON ADEQ PROJECTS

- Developing plans to determine:
  - Traditional Navigable Waters
  - Typical Year Analysis
- Revising flow regime map
- Executing the communications plan to update permittees
Only 4 “stand alone” TNW determinations have been conducted in Arizona by the Army Corps of Engineers; the other TNW determinations are a function of Jurisdictional Determinations. The “stand alone” TNW are;

- The designation of 2 reaches of the Santa Cruz River
  - Study Reach A: Tubac Gage Station downstream to Continental Gage Station
  - Study Reach B: Roger Road WWTP downstream to Pima/Pinal County line
- 2 Sections of the Lower Gila in Maricopa County
- 1 Section of the Gila River straddling Gila and Pinal Counties

Updated with a link to the Corps TNW

https://www.spl.usace.army.mil/Missions/Regulatory/Jurisdictional-Determination/Traditional-Navigable-Waters/
ADEQ will continue to enforce its CWA authorities
  - Enforcing permit conditions
  - Performing inspections
  - Issuing permits

If you decide to terminate your permit:
  - NOTs available in myDEQ
    • MSGP, CGP, DMGP
  - Paper NOTs
    • Phase II MS4s and PGP
  - Termination Paper Form
    • Individual Permits
MORE INFORMATION

- **Email:**
  - WOTUS@azdeq.gov

- **Subscribe:**
  - WOTUS

- **ADEQ Waters of the United States page:**
  - azdeq.gov/wotus
ADEQ will communicate with you when:

- Potential updates to the effective date, if any
- A legal stay of the Navigable Waters Protection Rule would impact Arizona
- Potential updates to the effective date, if any
- New stakeholder meetings are scheduled
- Process for determining Typical Year and Traditional Navigable Waters
- Additional information is available
STATE SURFACE WATER QUALITY PROTECTION PROGRAM

PROGRAM TIMELINE

- **2020**
  - **JUN**: Begin Program Outline
  - **APR**: Stakeholder Advisory Group

- **2021**
  - **AUG**: Initial Program Outline
  - **FALL**: Key Program Elements

- **2022**
  - **FALL**: Program Development
  - **JUL**: Statutory Authority (If Needed)
  - **Rule Drafting**

- **2023**
  - **Implementation**
Email:
watersofarizona@azdeq.gov

ADEQ Waters of Arizona Website:
https://azdeq.gov/woaz
Questions?