



The WOTUS Rule and Impacts to your Permit An Update

June 15, 2020



- To provide an update on permit status post implementation of the federal rule change.
- Continue to communicate what we know, when we know it.





- 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

8

Lawsuits Challenging the Rule

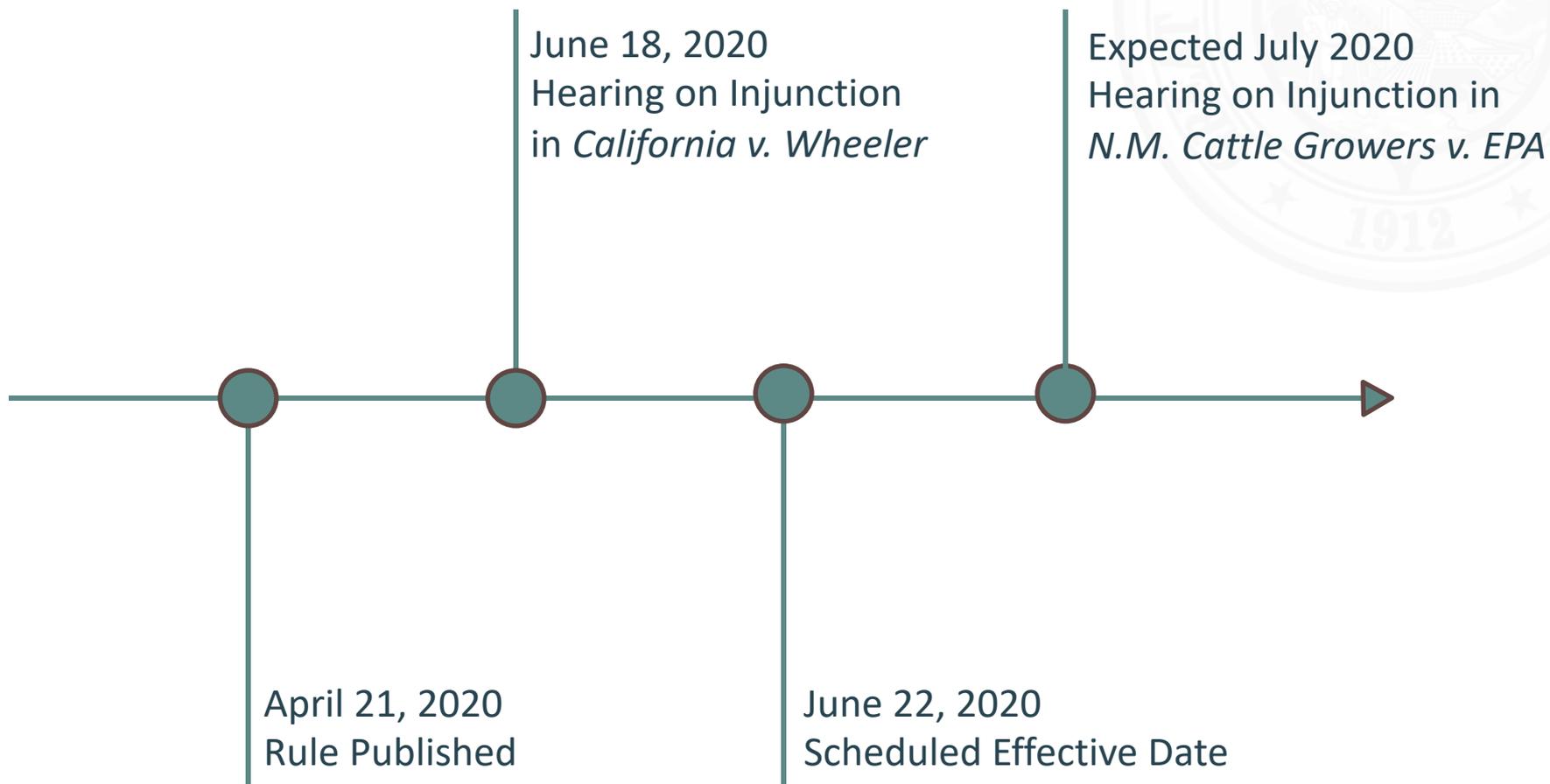
41

States Either Defending or
Opposing the Rule

3

Cases with Motions to Enjoin
the Rule

WHAT WE KNOW RIGHT NOW ABOUT THE RULE



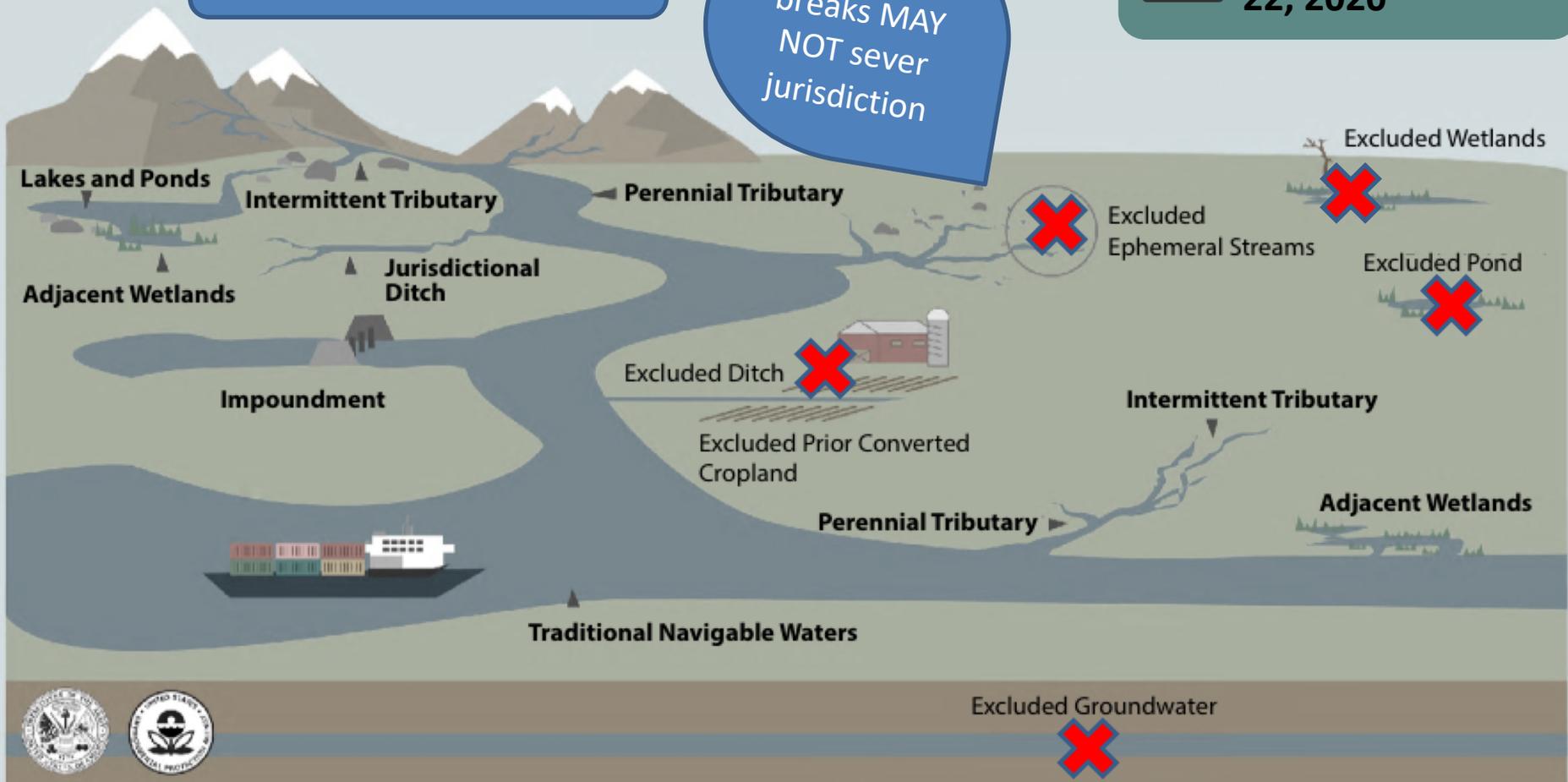
NAVIGABLE WATERS PROTECTION RULE

Analysis of Typical Year

Ephemeral
breaks MAY
NOT sever
jurisdiction

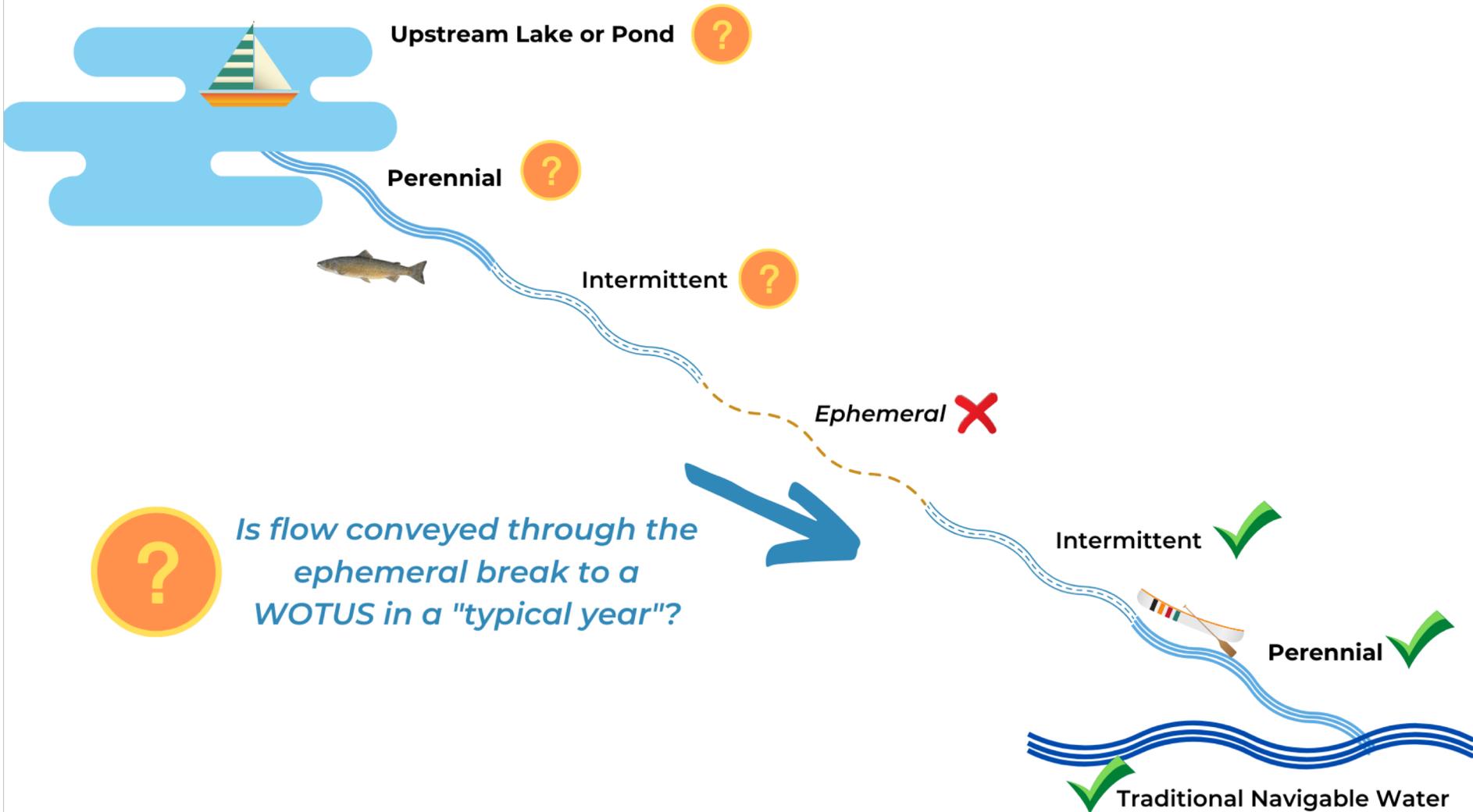


Effective: on June
22, 2020



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

What We Don't Know...





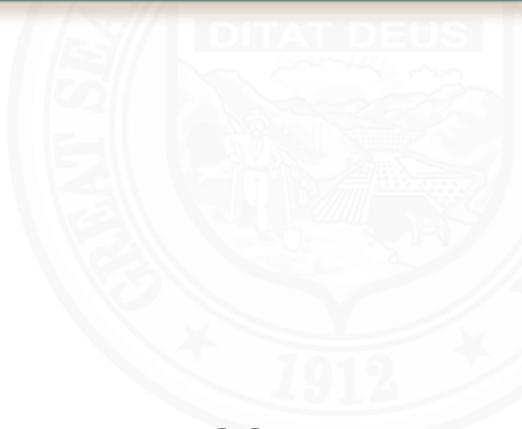
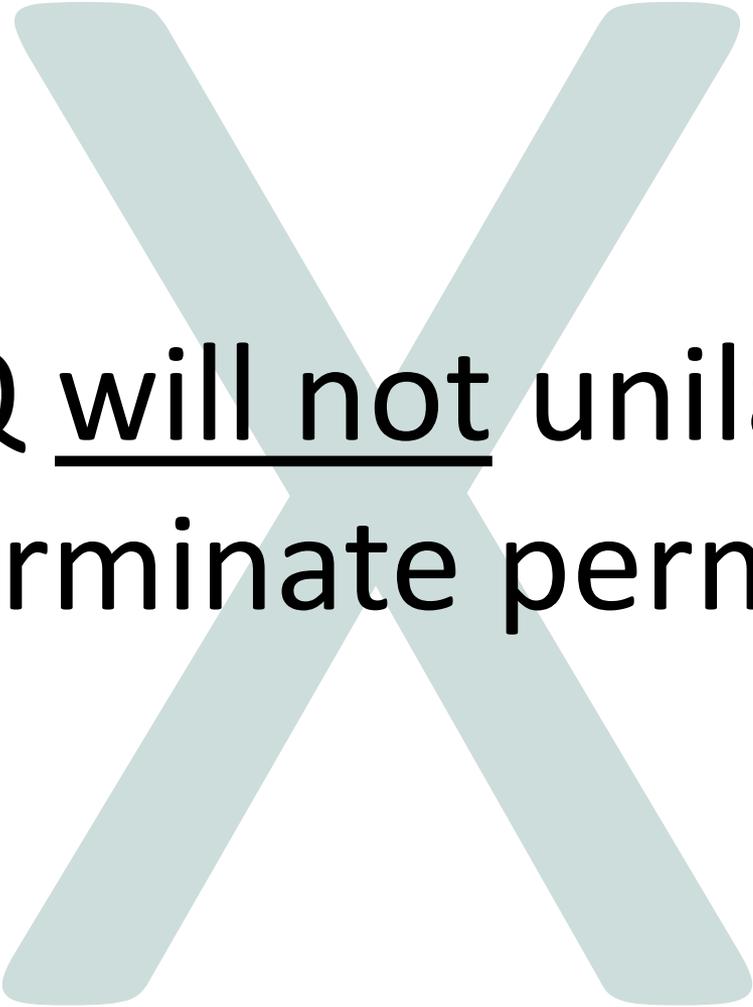
Continue to comply with the terms and conditions of your permit, including monitoring, reporting, recordkeeping, etc.



Keep up to date with ADEQ communications



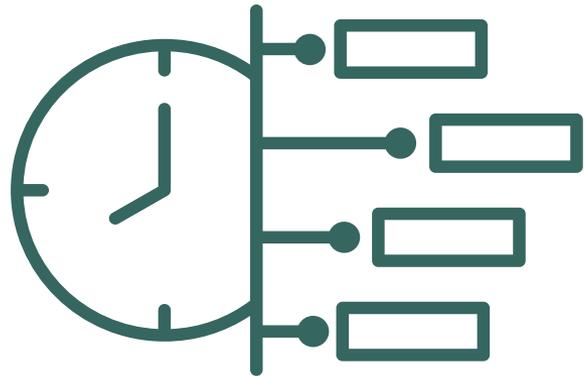
Be aware of the potential legal risks before submitting a request to terminate your permit



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



- Developing plans to determine:
 - Traditional Navigable Waters
 - Typical Year Analysis
- Revising flow regime map
- Executing the communications plan to update permittees

Traditional Navigable Waters

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/>

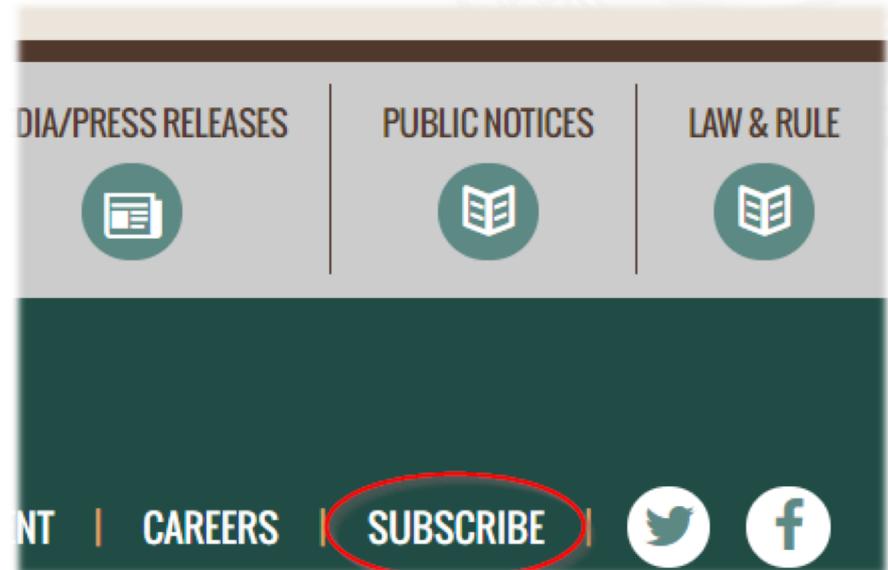


- ADEQ will continue to enforce its CWA authorities
 - Enforcing permit conditions
 - Performing inspections
 - Issuing permits

- 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



- **Email:**
 - WOTUS@azdeq.gov
- **Subscribe:**
 - WOTUS
- **ADEQ Waters of the United States page:**
 - azdeq.gov/wotus

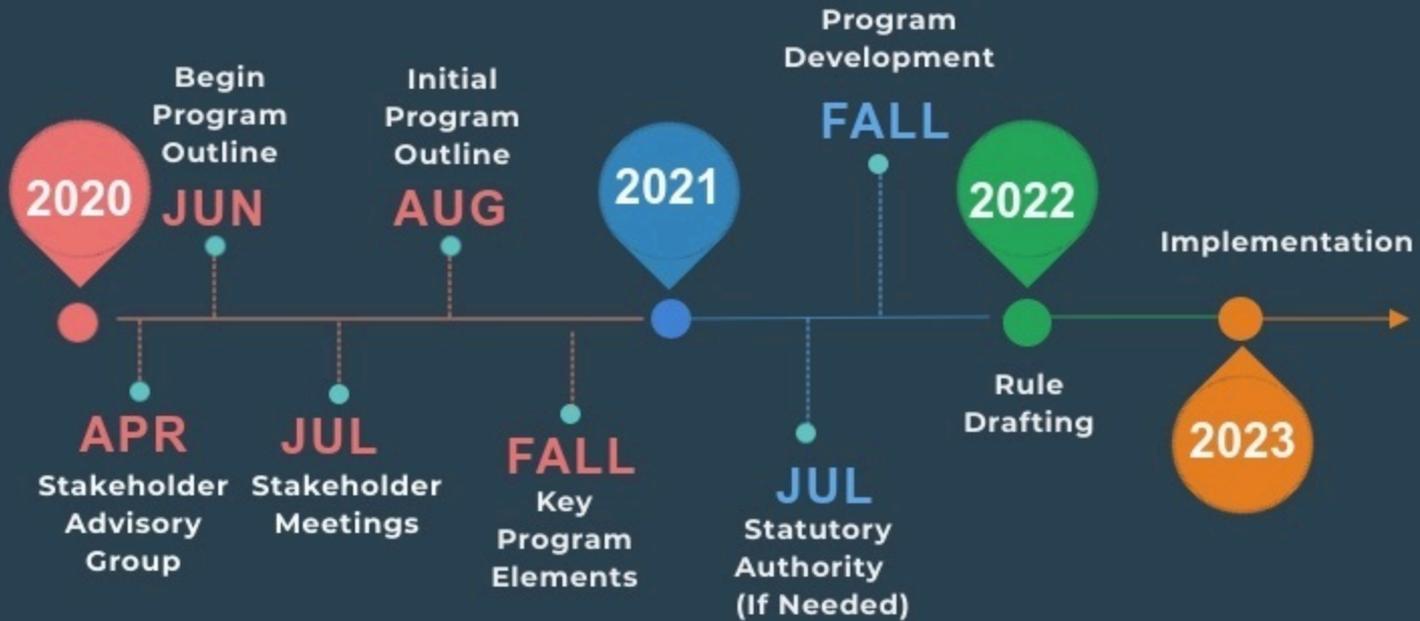


ADEQ will communicate with you when:

- 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



PROGRAM TIMELINE

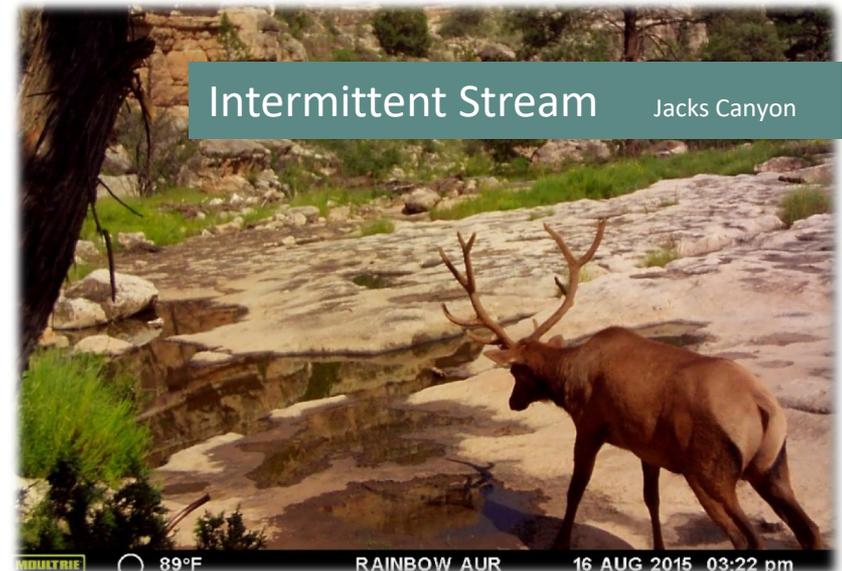


- **Email:**
watersofarizona@azdeq.gov
- **ADEQ Waters of Arizona Website:**
<https://azdeq.gov/woaz>



Urban Lake

Photo courtesy of AZGFD



Intermittent Stream

Jacks Canyon



Questions?