

COMMITTEE ON
**SCIENCE, SPACE, AND
TECHNOLOGY**
CHAIRMAN LAMAR SMITH



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**Statement of Chairman Lamar Smith (R-Texas)
Hearing on Navigating the Clean Water Act: Is Water Wet?**

Chairman Smith: A year ago, this Committee issued its first subpoena in over two-decades because the Environmental Protection Agency (EPA) refused to make public the data it claims justifies its costly air regulations. The EPA finally admitted that in many cases it never even had the data it uses to support its billion-dollar mandates.

Now, once again, the EPA has avoided open debate in its rush to implement the President's radical agenda. The EPA wrote its new "waters of the U.S." rule without even waiting for the expert advice of the Agency's own Science Advisory Board.

The Science Advisory Board exists to provide independent advice to the EPA and to Congress. It is the job of these experts to review the underlying science. Not only did the EPA publish its rule before the Board had an opportunity to review the report, but when this Committee sent official questions to the Board as its review began, the EPA stepped in to prevent the experts from responding. The Obama administration continues to undermine scientific inquiry in order to fast-track its partisan agenda.

Even though Clean Water Act jurisdiction is ultimately a legal question, the Agency's refusal to wait for the science undercuts the opportunity for informed policy decisions.

The EPA's rule is so vague that it does little more than extend an open invitation to trial lawyers and government drones. Meanwhile, the EPA has offered empty assurances. Last week the Agency released a fact-sheet that ended with a disclaimer saying that its statements are not binding. The American people are tired of an Administration that makes promises with its fingers crossed behind its back.

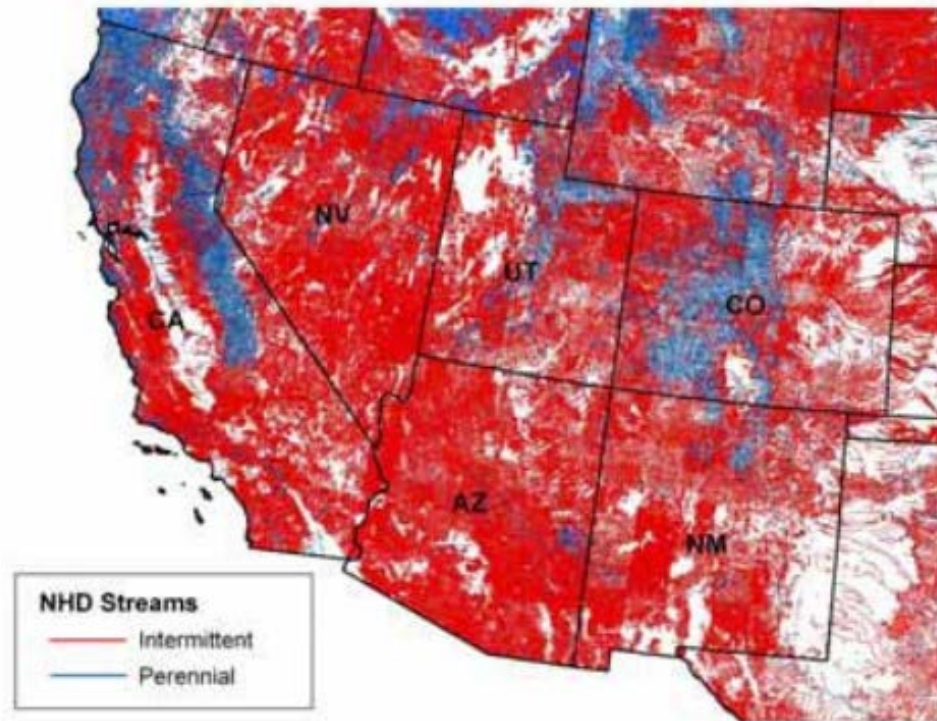
The EPA does not provide real clarity about what is or isn't "water." Instead, the Agency gives itself extraordinary power to pick and choose on a case-by-case basis. In fact, the proposed rule is 370 pages but it never actually defines "water."

According to the EPA, 59% of the "streams" they may claim to regulate aren't always wet. The EPA states that these places often only become wet after rain events and in some cases are so tiny or temporary that they don't even appear on maps.

The Agency's website says, "They could be a drizzle of snowmelt that runs down a mountainside crease, a small spring-fed pond, or a depression in the ground that fills with water after every rain and overflows into the creek below."

The practical implications of this new rule are troubling for private property owners. How do we even know when and where these tiny “drizzles” of water might appear? Americans deserve to know what is punishable so they can live without fear of arbitrary prosecutions.

Take a look at a map from the EPA’s draft report. The image shows tributaries in red and larger streams in blue that the EPA could consider claiming in the western part of the U.S.



Before the EPA invades the back yards of Americans, they should tell them what they are really doing. When Congress enacted the Clean Water Act, it was about water, not land. But the EPA’s re-writing of the law is a terrifying expansion of federal control over the lands owned by the American people.

The EPA is on a regulation rampage, and this new water rule proves it.

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