



Attorney General Doug Peterson

# News Release

FOR IMMEDIATE RELEASE

October 19, 2015

There have been two very recent decisions in the federal court system that significantly strengthen Nebraska's challenge to the EPA expanding the definition of Waters of the United States (WOTUS). On August 27, 2015, a North Dakota Federal District Court judge ruled that Nebraska and 12 other states should be granted a preliminary injunction preventing the EPA from implementing its overreaching definition. In that decision, Judge Erickson stated; "the states are likely to succeed on the merits of the claim that the EPA has violated its grant of authority and it's promulgation of the rule."

In response, the EPA requested that the federal court system consolidate all the cases filed in this matter to one district court located in the District of Columbia. On October 13, 2015, the Federal Court ruled that the cases should not be consolidated, which means Nebraska can continue to litigate it's matter in the North Dakota District Court. Furthermore, on October 9<sup>th</sup>, another federal court, the Six Circuit Court of Appeals, ruled that the EPA's attempt to change the definition of WOTUS should be put on hold nation wide. The court noted that based upon the evidence presented, the states; "...have demonstrated a substantial possibility of success on the merits of their claims."

These two court's favorable rulings for the States were largely based on the view maintained by Nebraska, and the other plaintiff states, that the EPA is acting outside of its authority and in violation of the Clean Water Act passed by Congress.

When the Clear Water Act was passed, the Senate specifically intended to defer to the states to best manage these environmental issues. Recent decisions by the Court uphold that principally, states are in the best position to protect their water.

###

Suzanne Gage  
Director of Communications  
Nebraska Attorney General  
Office: 402-471-2656  
Mobile: 402-560-3518  
[Suzanne.gage@nebraska.gov](mailto:Suzanne.gage@nebraska.gov)