



NEWS RELEASE

Attorney General Mike Hilgers

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Attorney General Hilgers Joins Multistate Lawsuit against EPA to Protect States' Sovereignty Over Water and Land

Nebraska Attorney General Mike Hilgers joined a coalition of more than 20 states in a lawsuit against the U.S. Environmental Protection Agency (EPA) and Army Corps of Engineers, asking a federal court to vacate the newly published final rule redefining Waters of the United States (WOTUS) and declare it unlawful.

The new final rule is the culmination of a decades-long rulemaking process to define the geographic reach of the EPA's and Army Corps of Engineers' authority in regulating streams, wetlands, and other water bodies under the Clean Water Act. It follows the Trump Administration's 2020 Navigable Waters Protection Rule, which offered a more restrained vision of federal jurisdiction under the CWA.

Most notably, the new rule redefines "navigable waters" to include ponds, certain streams, ditches, and other bodies of water under the CWA, as determined by the EPA and the Army Corps of Engineers.

According to the coalition, the flawed and unlawful rule will affect farmers who may need to get permission from the EPA and the Army Corps of Engineers to fill or dredge wetlands or waterways, depending on whether those features fall under the federal government's purview. Developers, miners, and other property owners wishing to use their land will also face implications.

The lawsuit noted that the EPA and Army Corps rushed to issue the final rule even though the Supreme Court is expected to issue a key decision on the scope of WOTUS in just a few weeks' time.

The U.S. Supreme Court heard arguments last October in *Sackett v. Environmental Protection Agency*, a years-long battle over the reach of the CWA. Nebraska joined a 26-state coalition in support of the petitioners, Michael and Chantell Sackett.

The coalition's lawsuit indicated that "if the final rule is left in place, then ranchers, farmers, miners, homebuilders, and other landowners across the country will struggle to undertake even the simplest of activities on their own property without fear of drawing the ire of the federal government."

"Landowning Americans of all stripes will thus be left with a choice: (a) fight their way through an expensive and lengthy administrative process to obtain complex jurisdictional determinations and permits or (b) face substantial civil and criminal penalties. The Final Rule's ambiguous environmental benefits do not justify any of this," according to the lawsuit.

Nebraska joined Alabama, Alaska, Arkansas, Florida, Georgia, Iowa, Indiana, Kansas, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia, and Wyoming in the lawsuit.

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