

organizations—are seeing destructive impacts to critical water bodies under the [NWPR],” and EPA Administrator Regan was quoted as saying that EPA had “determined that [the NWPR] is leading to significant environmental degradation.”<sup>37</sup> For example, EPA determined that the NWPR removals of jurisdiction were already causing harm to various sensitive ecosystems and that the definition removed Clean Water Act protections from nearly all waters in some arid states.<sup>38</sup> Waterkeeper Alliance had submitted extensive written comments to the administrative record during the public comment period for the NWPR, including a comment letter containing evidence and 12 watershed evaluations demonstrating that: (1) important water resources would lose Clean Water Act protections under NWPR without any sound legal or scientific basis, and (2) the NWPR would cause serious harm to waters, people, aquatic systems, and endangered and threatened species and their designated critical habitats.<sup>39</sup> For example, Waterkeeper Alliance’s NWPR Comments documented the expected loss of Clean Water Act jurisdiction from the rule to:

- Large numbers of rivers and streams protected by the Missouri Confluence Waterkeeper that briefly flow subsurface and then reemerge as surface waters, which would have significant adverse impacts on waters throughout Missouri, including large, important downstream waterways, such as the Missouri and Meramec Rivers.
- Texas coastal prairie wetlands crucial to the health of Lower Galveston Bay, which is protected on behalf of its members by Bayou City Waterkeeper.
- Streams, reservoirs, ditches, and canals that receive pollution discharges and flow into Boulder Creek—the primary drinking water supply for the Colorado cities of Boulder, Louisville, Lafayette, Erie, Superior, and Nederland—which were protected on behalf of its members by Boulder Waterkeeper.
- Between an estimated 500 and 1,000 miles of ephemeral and ditched streams that flow into the Niagara River—the channel that connects two Great Lakes, Erie and Ontario—which is protected on behalf of its members by Buffalo Niagara Waterkeeper.
- Pocosins, Carolina Bays, and ditched and ephemeral streams that receive animal waste and other pollution discharges in the Cape Fear Basin of North Carolina, which is protected on behalf of its members by Cape Fear Riverkeeper.

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<sup>37</sup> EPA, *Army Announce Intent to Revise Definition of WOTUS*, EPA (June 9, 2021), <https://www.epa.gov/newsreleases/epa-army-announce-intent-revise-definition-wotus>; see also *Request for Remand and Supporting Documentation*, EPA, <https://www.epa.gov/wotus/request-remand-and-supporting-documentation> (Feb. 21, 2025).

<sup>38</sup> See, e.g., Declaration of Radhika Fox ¶¶ 15, 17, *Conservation L. Found. v. EPA* (D. Mass. June 9, 2021) (No. 20-cv-10820-DPW), [https://www.epa.gov/sites/default/files/2021-06/documents/conservation\\_law\\_found.\\_d.\\_mass.\\_-radhika\\_fox\\_declaration\\_signed.pdf](https://www.epa.gov/sites/default/files/2021-06/documents/conservation_law_found._d._mass._-radhika_fox_declaration_signed.pdf); Declaration of Jaime A. Pinkham ¶ 15, *Conservation L. Found. v. EPA* (D. Mass. June 9, 2021) (No. 20-cv-10820-DPW), [https://www.epa.gov/sites/default/files/2021-06/documents/2\\_conservation\\_law\\_found.\\_d.\\_mass.\\_-jaime\\_pinkham\\_declaration\\_final\\_signed\\_508c.pdf](https://www.epa.gov/sites/default/files/2021-06/documents/2_conservation_law_found._d._mass._-jaime_pinkham_declaration_final_signed_508c.pdf).

<sup>39</sup> See WATERKEEPER ALLIANCE, COMMENTS ON REVISED DEFINITION OF WATERS OF THE UNITED STATES: DOCKET ID No. EPA-HQ-OW-2018-0149 (2019), <https://www.regulations.gov/comment/EPA-HQ-OW-2018-0149-11318> (“Waterkeeper NWPR Comments”).