

Feb. 7, 2020

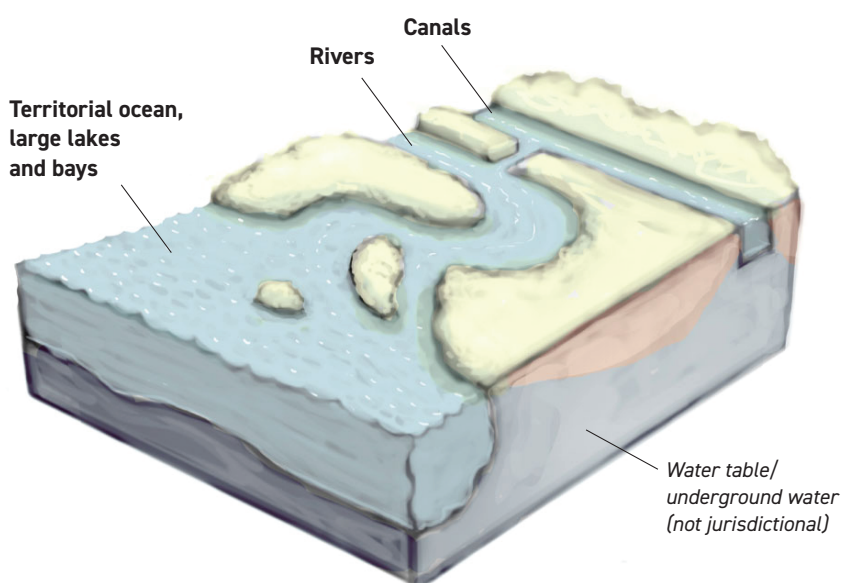
## Trump administration narrows definition of protected waters

In the latest move in a two-decadelong fight over which streams and wetlands should be protected under the Clean Water Act, the Trump administration in January 2020 finalized a new definition of “Waters of the United States” that created four categories of jurisdictional waters. The regulation removes thousands of miles of streams and acres of wetlands from federal protection, a change that prompted concern from EPA’s own Science Advisory Board, which said the rule “lacks a scientific justification, while potentially introducing new risks to human and environmental health.”

### Protected waters

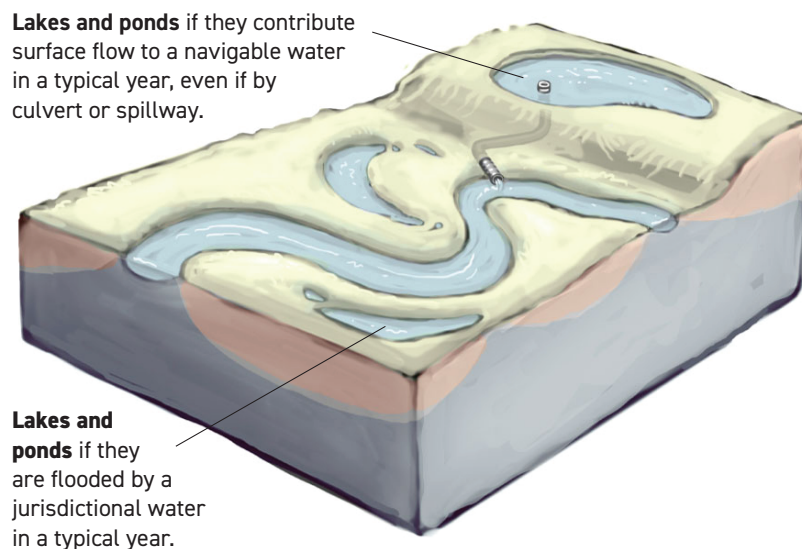
The Navigable Waters Protection Rule defines which streams and wetlands are subject to federal protection as “waters of the United States.”

#### Territorial seas and traditional navigable waters



#### Lakes, ponds and impoundments of jurisdictional waters

Must contribute surface flow to navigable water or sea in a typical year

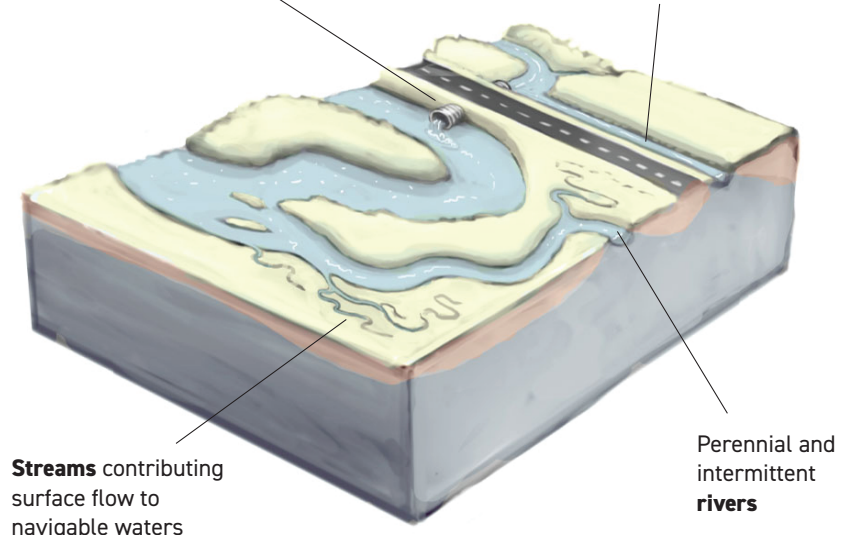


#### Tributaries

Must flow more often than only after a single precipitation event

**Tributaries** connected to navigable waters through culverts or spillways

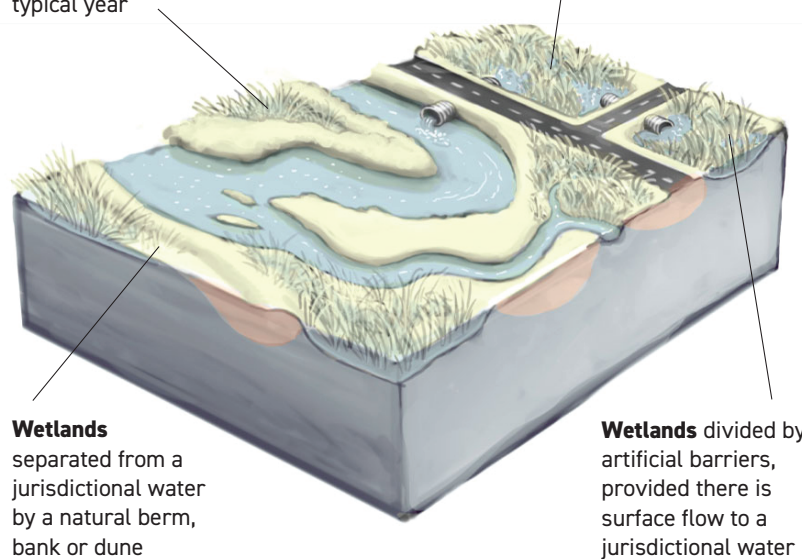
**Ditches** with intermittent or perennial flow, which replaced a tributary or run through an adjacent wetland



#### Adjacent wetlands

**Wetlands** flooded by a jurisdictional water during a typical year

**Wetlands** separated from a jurisdictional water by artificial barriers, provided they have a surface connection to that water



### Unprotected waters

The Trump administration considers some waters — many of which were previously protected — as not jurisdictional under the new rule. EPA’s outside scientific advisers — the majority of whom were handpicked by the Trump administration — raised concerns about rule, saying it was “in conflict with established science ... and the objectives of the Clean Water Act.” *Arguments from EPA’s Science Advisory Board are in italics.*

#### Artificially irrigated areas

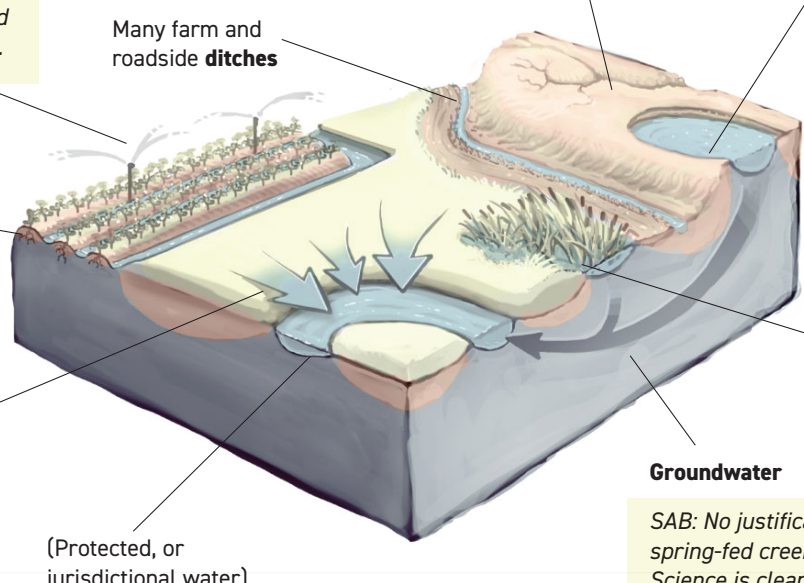
*SAB: Contamination of irrigation canals presents a well-documented risk to public health. E. coli on leafy vegetables has been traced to irrigation water contaminated by animals in adjacent pastures or feed lots, which can also contaminate water with steroids.*

#### Ephemeral streams, swales, gullies, rills and pools

*SAB: Ephemeral streams can connect to navigable waters below the surface.*

**Artificial lakes and ponds**, mining pits, stormwater control and groundwater recharge impoundments, and waste treatment systems.

**Cropland** previously converted from wetland, unless it has been abandoned for 5 years and converts back to wetland



**Wetlands with no clear surface connection** to jurisdictional waters

*SAB: Previous reviews by SAB justified scientifically the inclusion of such wetlands. “No new body of peer-reviewed scientific evidence has been presented to support an alternative conclusion.”*

*SAB: No justification for this exclusion if spring-fed creeks are considered jurisdictional. Science is clear that groundwater can connect wetlands to major water bodies, groundwater can contribute to flow of tributaries and contaminated groundwater can pollute surface water.*