

# United States House of Representatives Committee on Transportation & Infrastructure: May 16th Subcommittee Hearing



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The United States House of Representatives Committee on Transportation & Infrastructure Subcommittee on Water Resources and Environment held a May 16th hearing entitled:

*The Next Fifty Years of the Clean Water Act: Examining the Law and Infrastructure Project Completion ("Hearing")*

Subcommittee Chairman David Rouzer in his opening remarks noted that the Clean Water Act has the function to approve the quality of our nation's rivers, lakes, and streams. He expressed pride in the progress that has been made to:

. . . restore and maintain the chemical, physical, and biological integrity of United States waters.

However, Chairman Rouzer expressed the point that 50 years after the Clean Water Act's enactment, it is not only appropriate but necessary to reflect on how the Clean Water Act works and what parts of it might need an update.

A focus of Chairman Rouzer's remarks was his view that the United States has scored poorly on infrastructure reports and other nations may be superseding our country. In addition, his focus is on a concern that regulation should be:

. . . simple to understand and easy to follow, which coincidentally makes them so much easier to enforce.

Similarly, Chairman Rouzer opines that regulations should be transparent and that the various entities subject to them should not be hindered by bureaucratic uncertainty.

The stated purpose of the Subcommittee hearing is to:

. . . hear perspectives on how the Clean Water Act could be modernized, so that its rules and regulations fit the current times, while still accomplishing the goal of making waters of the United States "fishable and swimmable."

The four witnesses testifying included:

[Dr. Andrea J. Travnicek, Director, Department of Water Resources, State of North Dakota](#)

- States North Dakota has resisted “federal intrusion into the management of its state waters, including the recent rule defining waters of the United States (“WOTUS”) for purposes of the Clean Water Act.
- Expresses concern that North Dakota manages numerous large water infrastructure projects and, therefore, often applies for dredge and fill permits and the WOTUS rule would force it to undertake expensive jurisdictional analysis for such projects.
- Cites Clean Water Act Section 404 permitting delays as being especially harmful in North Dakota because of the short construction season.
- Advocates adopting state regional conditions in 404 nationwide permits
- States despite major progress accomplished by the Clean Water Act, work remains to be done to ensure all United States waters are fishable and swimmable.
- Notes concern about emerging contaminants such as PFAS.
- States that clean water is good for health and the economy and is not a binary choice between clean water and economic growth.

The Honorable Serena Coleman McIlwain, Secretary of the Environment, State of Maryland

- Believes that while the Clean Water Act has resulted in progress there is still additional work to do to ensure that all United States waters are fishable and swimmable.
- An additional issue is the need to focus on emerging contaminants such as PFAS
- Cites EPA data which indicates:
  - 30% of United States rivers and streams are healthy
  - 40% of the lakes have excess nutrients
  - 71% of the estuaries have healthy aquatic communities
  - 30% of the Great Lakes have healthy aquatic communities
  - 48% of the wetlands have healthy biology
- The Bipartisan Infrastructure Law is providing needed funding to the state revolving funds for additional projects related to the Clean Water Act
- All jurisdictions represented on the Subcommittee are downstream from another jurisdiction

Mr. Mickey Conway, CEO, Metro Water Recovery, Denver, Colorado on behalf of the National Association of Clean Water Agencies

- States that clean water utilities face an unprecedented number of challenges such as:
  - Aging infrastructure,
  - Increasing system resiliency in the face of climate change,
  - Addressing emerging contaminants.
  - Developing and maintaining a strong work force.
  - Protecting against threats to cyber-security.
- Addressing challenges is difficult because utilities attempt to keep rates affordable for everyone.
- Discusses the importance of the Clean Water Act Section 402(k) “Permit Shield,” noting that some parties are increasingly challenging the scope of this provision as applied to pollutants not expressly listed in NPDES permits (referencing a public utility in Georgia being sued for allegedly unlawfully discharging PFAS that is passively received from upstream dischargers).
- Believes EPA should undergo Notice and Comment Rulemaking when developing recommended water quality criteria and be subjected to a limited judicial review under Section 501(b) of the Clean Water Act

Mr. Brandon Farris, Vice President, Energy and Resources Policy, National Association of Manufacturers

- States that the United States must update its permitting laws and procedures for continued growth of the economy, creation of jobs, and development of the best products.
- Identified areas where he argues the current permitting processes are disruptive:

- Transportation infrastructure (obtaining permit approvals is stated to take years and timeline magnified if the review process is not streamlined)
- Energy infrastructure and environmental reviews (permitting challenges are slow in the development of energy projects [including renewables])
- Resource Development (noting mining operations typically require two Clean Water Act permits)
- New Environmental Standards (expresses concern that EPA is taking an aggressive approach toward tightening regulations in several environmental statutes but such changes are not based on best available science)
- Congressional Intent (states that establishing strict permit review timelines and eliminating duplicative efforts across various federal agencies would assist in reducing unnecessary delays.

A link to the witnesses' written testimony can be downloaded below:

[Dr. Andrea Travnicek](#)

[The Honorable Serena Coleman McIlwain](#)

[Mr. Mickey Conway](#)

[Mr. Brandon Farris](#)