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EPA Enjoined From Enforcing New WOTUS Rules

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Last week, the United States Circuit Court of Appeals for the *Sixth* Circuit pushed aside jurisdictional questions and issued a stay, effective nationwide, blocking implementation of the “***Waters of the United States***” (***WOTUS***) rule by ***USEPA*** and the ***Army Corps of Engineers***. The rule must await a final decision by the court before it can become effective.

The case brought together a series of substantive challenges to the rule by different industry groups and eighteen states.

The rule was estimated by the agency to expand its jurisdiction over more waterways and wetlands. With this expansion, more permits would be required to allow for construction and development activities, such as the building of roads and bridges in and around these small, and often temporarily, flowing waters, and could grow the potential number of sites subject to the Spill Prevention, Control, and Countermeasure (SPCC) program to list just two immediate impacts.

The court will now move forward to address two issues – first whether it has jurisdiction to make a final ruling in the matter and second whether a permanent injunction against implementation of the rule is warranted. If the court finds the case is properly before it, it will determine whether the federal definition of WOTUS is consistent with the Clean Water Act, and whether USEPA acted arbitrarily in the development of the rule.

Click here to read a full text of the ruling: <http://www.ca6.uscourts.gov/opinions.pdf/15a0246p-06.pdf>.

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