One-Two Punch Against Clean Water Rules Lands
Direct Hit to the Niagara River Watershed

For anyone who is not aware of how federal water policy and environmental laws protect local water quality, the actions over the last two years should be a wake-up call for our region.

The Trump Administration, under the pretense of trying to “clarify rules” or “regulatory certainty” is systematically weakening rules and regulations for industrial benefit that have protected and improved our nation’s waterways for over 40 years.

Understanding that rulemaking and policies can be improved, this approach is using a hatchet when a scalpel is needed.

In the last few weeks, the Environmental Protection Agency (EPA) completed the repeal of the Clean Water Rule, as well as started to re-write and weaken the 401 Water Quality Certification Program. These two policies have afforded states and citizens the tools and the rights to protect local waters under the Clean Water Act (CWA).

To proclaim that repealing the Clean Water Rule is intended to give states more rights, while simultaneously attempting to deny those states’ rights under the 401 Program, is disingenuous.

The upper Niagara River Watershed and the many communities that comprise the beautiful headwaters, like Concord, Orchard Park, Elma, and Pendleton, are at greatest risk.

This is why: the proposed Rule could remove up to 1,000 miles of local waterways and 433,000 acres of undeveloped natural lands (i.e.: wetlands) from the list of “defined waters” under the Clean Water Act. The misleading statement by the EPA that this will “give states authority to protect local waters” is undermined by its own actions that follow.

Under the 401 Program, individual states are currently empowered to decide whether to support or oppose projects based on water quality impacts. The EPA wants to eliminate this specific state authority and allow federal agencies to override a state’s objections to projects.

Why is this wonky jargon about rules and policy important?

Because, the proposed roll-back of the authority of states under the 401 Program is a direct federal response to New York using the 401 Program to stop the Northern Access Pipeline from cutting through the headwaters of the Niagara River Watershed on its way to Canadian markets.

In summary, the repeal of the Clean Water Rule will remove federal protections for up to one third of our local waters. The weakening of the 401 Program will limit New York’s authority to act to protect the very waterways that are already losing protection under the new Rule. This one-two punch will have long lasting, damaging effects on our community and our water quality.

To learn more about this issue and for information on how to let your voice be heard, go to our website at bnwaterkeeper.org/wotus.

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