

CURRENTS

The Newsletter of SOUND RIVERS
THE VOICE FOR THE NEUSE & TAR- PAMLICO RIVERS



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Winter 2019/2020

Clean Water In Peril

By Matthew Starr and Jill Howell

The Clean Water Act (CWA), enacted in 1972, grants EPA and the Army Corps of Engineers the authority to regulate the discharge of pollutants into the nation's surface waters, including lakes, rivers, streams, wetlands, and coastal areas. This landmark legislation made cleaning up the nation's waterways a federal priority, and set ambitious goals to improve water quality and limit the destruction of wetlands. The Clean Water Act, though, only affords protections to waterways defined as "waters of the United States" (WOTUS). The intent of this landmark law was to define WOTUS very broadly. Several rules have been written since 1972 to define the bodies of water that EPA and Army Corps of Engineers must oversee, with new rules being promulgated in response to court decisions. Most recently, in 2015, the Obama administration amended the WOTUS rule, via the "Clean Water Rule," and attempted to better define what type of waters are protected by the law. The Clean Water Rule did recognize the science showing the underground hydrological connections between ephemeral or intermittent streams with larger bodies of water, and acknowledged the ecological value of isolated wetlands in providing flood control and wildlife habitat. It did not apply to most farm ditches, farm ponds, and stormwater retention ponds. Sound Rivers, along with many other environmental groups, were



concerned the Clean Water Rule might actually reduce protections for waterways, especially in eastern North Carolina. The Clean Water rule faced several legal challenges, and because of this, was only implemented in 26 states.

In the early days of his administration, President Trump signed an executive order directing federal agencies to begin the work of repealing and replacing the 2015 Clean Water Rule. The administration and those that support the rollback and replacement argue that the Clean Water Act is burdensome to farmers, industry, and developers, and a narrowing of the definition of "water" would mean less red tape and hardship for these interests. Most of the public arguments stemming from industry and corporate ag were misleading or outright false (See Fishing For Facts on page 4). Since early 2017, the administration has taken a number of steps to replace and repeal the Clean Water Rule.

This past February, EPA and the Army Corps of Engineers proposed a new WOTUS rule, redefining "waters of the United States," significantly narrowing waters under the jurisdiction of the CWA. In September, the Trump administration announced the repeal of the 2015 rule, and replaced it, temporarily, with a version from

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As I reflect over the past decade, I know that Sound Rivers is in the best position it can be to take on the serious challenges ahead. That has been made possible because of you, our members and supporters. Your gifts, your action, and your willingness to engage

and educate your communities on tough issues makes me hopeful we can be successful in our mission for a clean water future.

One of the most important jobs our Riverkeepers do is to serve as a resource to local communities faced with the threat of a harmful project, a negligent government, or a polluting industry. Everyone deserves clean water - *everyone*. No person, industry, or government has the right to take that away. With you, through your financial gifts, your action, and your voice, we will continue to work toward a healthy future.

At Sound Rivers, we have big goals and we need your support to reach them. With your gifts, we will:

- Protect and defend clean water laws
- Promote and implement green stormwater infrastructure in our communities
- Promote the environmental, economic, and cultural assets of the rivers
- Increase public access to our waterways
- Educate the public and decision makers to create positive change

With you, Sound Rivers has become a powerful and respected voice in the Neuse and Tar-Pamlico River region. We thank you and look forward to working with you and for you to face the challenges ahead.

May you all have the happiest of holidays.

Heather Beck

the Bush era.

Here in eastern North Carolina, a lot is at stake. While North Carolina was not one of the 26 states to adopt the 2015 Clean Water Rule, the proposed revisions by the Trump administration will likely severely limit the State's ability to protect waters by dramatically reducing the "scope" of State water quality certification review and limiting the types of activities, discharges, and impacts to waters that State's may review when they consider permits for projects harming streams or wetlands. Additionally, coastal wetlands and smaller streams are at risk of being excluded from "waters of the United States," and losing federal protections altogether. Science has established that the protection of small, headwater streams is critical in protecting downstream waters.

While we wait, Sound Rivers and other environmental groups in the state and across the country are preparing for what comes next. EPA and the Army Corps of Engineers are expected to issue a new, weaker replacement rule in January, 2020. We expect to see a new rule that will maintain federal protections for larger bodies of water, the rivers that drain into them, and wetlands directly adjacent to those waters, and the loss of protections for smaller streams, and for wetlands that are not directly adjacent to major bodies of water or connected to them by a surface water channel. We know firsthand that North Carolina's waters are still polluted from unlined and leaking coal ash pits, industrial discharge, PFAS, hog waste, raw sewage, and more. We stand ready to challenge any additional rollbacks to clean water protections and will continue to work towards swimmable, fishable, drinkable waters. But we'll need your help! Be ready to take action in January to ensure that North Carolina's elected leaders place a priority on clean water protections.

Upcoming Events

March 10, 2020 - Taste of Coastal Carolina
NC History Center, New Bern, NC

Visit soundrivers.org for more info

Sound Rivers Happenings

2019 Oyster Roast a Success!



The Oyster Roast this year was a wonderful event, raising over \$45,000 to fund the programs of the Pamlico-Tar Riverkeeper! This event is a critical fundraiser for Sound Rivers, providing nearly 2/3 of the funding needed to keep your Riverkeeper on the Tar-Pam. The best part is, it's also an incredibly fun time! With the temperatures dipping into true oyster eating weather for Saturday, 450 attendees had a chilly but delicious time, chowing down on nearly 70 bushels of oysters, dancing to music from the Adam Lee Decker Trio, and enjoying beer from Duck Rabbit, Brewery Bhavana, and Billy Beer.

It was another sellout year - tickets for the past three Oyster Roasts have sold out at least one week ahead. **Hope you can join us next year - save the date for November 14, 2020, with tickets going on sale on September 15, 2020!**

Thanks so much to our 2019 sponsors, and our dedicated volunteers - you make the Oyster Roast happen, and your commitment to clean water is inspiring. We are so grateful!

Thank You to Our 2019 Oyster Roast Sponsors. Caring for water, caring for you!



Taste of Coastal Carolina Back in 2020



Join us for the 17th Annual Taste of Coastal Carolina on March 10th, 2020 at the NC History Center! Taste signature dishes from 20+ local restaurants, sample beer and wine, and celebrate clean water. Tickets are \$100 per person, \$60 of which is tax deductible, and all proceeds support Sound Rivers and the important work of your Riverkeepers. **Visit soundrivers.org to get your tickets on January 10th** – only 250 are available this year – and stay tuned for an early-bird discount if you get tickets before February 15!

2019: A Year In Clean Water

10 RIVER IN CLEANUPS	550 WATER SAMPLES
8 Communities	
500 Volunteers	30 EDUCATIONAL EVENTS
8 TONS of trash removed	Reaching 2,500 people
60 POLLUTION INVESTIGATIONS	

SWIM GUIDE

Monitored **34 LOCATIONS**
for 14 WEEKS

GROUNDBREAKING DOT SETTLEMENT =

The agreement will double the amount of stream mitigation provided to offset impacts for the project—adding an additional **47,000** linear feet of mitigation.

Advocacy Updates

Fishing for Facts: Clean Water Act



As we head into 2020, we are going to be hearing more about the Clean Water Act (CWA) and Waters of the United States (WOTUS), the rule that defines which bodies of water are protected under the CWA. So, we need to start with some basic understanding of what the CWA, as currently written, does and what it clearly does not do. The Clean Water Act establishes that all “waters of the United States” would be federally protected. However, attacks by industry and developers over which waters should be covered has led to numerous and confusing court rulings. That is why a rule that actually defines what waters are protected is needed.

In 2015, the Obama administration attempted to do that by issuing the Clean Water Rule. But it didn’t take long for industry and big corporate agriculture to attack the rule, mainly by perpetuating myths and false narratives. The Farm Bureau and other factories of misinformation spread myths such as, “EPA would now regulate puddles,” and a farmer could not even mow without obtaining a Clean Water Act permit. Not to be outdone, then NC Department of Environmental Quality Secretary Donald van der Vaart, speaking at the 2015 NC Farm Bureau annual meeting, perpetuated these myths by suggesting that almost all of North Carolina’s land would now be regulated under the law and farmers could no longer farm or use their land as they had. All of this was false.

First let’s explore the myth that puddles would be regulated under the Clean Water rule. So does the CWA regulate puddles? NO! In fact, section 230.3(s)(2)(iv)(G) of the law states, “The following are not ‘waters of the United States... puddles.” The EPA went one step further for the folks who still don’t get it; they added it to the Preamble on page 176: “The final rule adds an exclusion for puddles...”

Let’s take the rest of the Farm Bureau’s untruths and break them down. The CWA does not add any additional regulation or permits to farms. It does not regulate most ditches (you can’t turn a stream into a ditch, that’s

already against the law) and does not regulate groundwater or tile drains (type of drainage system on farms that removes excess water from soil below its surface).

The preamble of the Clean Water rule expressly stated that the rule did not CHANGE EXEMPTIONS FOR AGRICULTURE! Preamble page 8: “Congress has exempted certain discharges, and the rule does not affect any of the exemptions from CWA section 404 permitting requirements provided by CWA section 404(f), including those for normal farming, ranching, and silviculture activities. CWA section 404(f); 40 CFR 232.3; 33 CFR 323.4. This rule not only maintains current statutory exemptions, it expands regulatory exclusions from the definition of “waters of the United States” to make it clear that this rule does not add any additional permitting requirements on agriculture.”

But facts did not matter. The myths perpetuated by industry and polluters worked and the Trump administration repealed the Clean Water Rule. As noted in our lead article, a new, “dirty water rule” is set to be released in early 2020. A rule that will most certainly reduce protections for North Carolina’s streams and wetlands. This is a big fight and we’re ready to tackle it.

We’ll be back with more Fishing for Facts, and Fighting for Clean Water, in 2020!

Blounts Creek, Still Waiting



Blounts Creek residents, area fisherman, and supporters rallied for Blounts Creek in 2017. We continue to await the NC Court of Appeals Decision, expected any day.

Advocacy Updates

Havelock Update



Photo from the 2019 sewer spill on Oakwood Drive in Havelock

The City of Havelock has experienced recurring raw sewage spills at the same manhole,, for several years. Since 2015, there have been 25 spills at this location with a total of approximately 660,000 gallons of sewage. Every spill from this manhole flows to Caps Branch which connects with Slocum Creek, a popular locations for kayakers and paddleboarders. We have just passed the four year anniversary of the beginning of this issue and there still seems to be no end in sight. It has been four years of untreated waste entering our waters, with little to no enforcement from the state and no signs of improvement from the City of Havelock. Beyond the Notices of Violation after nearly every spill, until now, there have been very few fines issued and even fewer other enforcement actions. After years of insisting that they had fixed the problem only to have another spill, the City of Havelock has finally applied for a Special Order by Consent (SOC).

An SOC is an agreement between the municipality and the state that outlines the steps that need to be taken to successfully fix the problem and a timeline in which to complete these actions. Typically, one of the benefits of a SOC is that it puts in place strict timelines for the municipality to complete the necessary upgrades to fix the problem. While under an SOC, the municipality may have an easier time applying for grants to complete the required work . The SOC is expected to be finalized in early December. Once the SOC is agreed to by the city, the public will have a chance to review and provide comments. We are keeping a close eye on Havelock and will do all that we can to ensure a resolution to this major issue. Stay tuned for opportunities to provide comment on this important issue.

Status of Atlantic Coast Pipeline Uncertain



ACP construction route- Nash County near the Tar River in 2018

In addition, the Federal Energy and Regulatory Commission (FERC) allowed the completion of horizontal directional drilling under the Tar River in Nash County.

The Atlantic Coast Pipeline (ACP) has continued their voluntary work stoppage, which has been ongoing since December 2018. The only exception to this work stoppage can be noted in areas, particularly in Northampton County, where pipe was already staged. In addition, the Federal Energy and Regulatory Commission (FERC) allowed the

Federal courts have tossed out seven separate permits for the ACP, the most recent of which was a U.S. Fish and Wildlife Services permit vacated by the Fourth Circuit on July 26 because it failed to protect endangered species along the path of the pipeline.

Both Dominion Energy and the Federal government asked the Supreme Court to review the 4th Circuit's ruling and in October, the Supreme Court accepted the appeals. The Supreme Court is expected to make its final decision by June 2020. If construction does start again, Sound Rivers will continue our work with partners to hold ACP accountable via our NC Pipeline Watch Initiative, developed by your Pamlico-Tar Riverkeeper

In other news, last month NC Attorney General Josh Stein joined 10 other Attorneys General and called on FERC to "advance, not impede" states' clean energy policies. This letter is in part due to FERC's actions on new gas pipelines, like the ACP and Mountain Valley Pipeline in the western part of the state. The Attorneys General noted that FERC's actions and decisions on pipelines affect States' ability to achieve clean energy and climate goals.

We would like to thank the Z. Smith Reynolds Foundation and the Eddie and Jo Allison Smith Family Foundation for their continued support of Sound Rivers and our mission to protect the Neuse and Tar-Pamlico Rivers.

Riffles & Runs

Water Trail Getting Ready for 2020!

We're excited to announce the completion of our three newest camping platforms along the Tar-Pamlico Water Trail: the McGhee Farm Platform in Franklinton, the Franklinton Center at Bricks Platform in Whitakers, and the River Farm Platform in Tarboro. We now have 14 platforms along the Tar-Pamlico river and its tributaries. They are welcome additions to a growing network of campsites and access points, and we can't thank our donors, sponsors, partners, and volunteers enough for helping make these a reality.

We're ready to take a breather from constructing platforms and shift our focus towards improving maintenance and use of our existing platforms. We're looking for outgoing people to help monitor and repair these unique places through our Water Trail Steward Program. The goal is to assemble a network of volunteers who agree to 'adopt' a camping platform. Stewards agree to inspect platforms, and perform basic maintenance and landscaping on a regular basis. Thankfully, we've had wonderful feedback and support so far, but if you or someone you know may be able to help, please email volunteer@soundrivers.org.

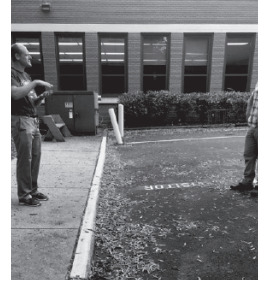
Our next project is constructing three ADA-compliant kayak/canoe launches, one in Greenville and two in Washington, each is alongside very popular motorboat access points. These launches will provide easier access for paddlers, as well as reduce user conflicts between paddlers and people in motor boats.

We'd like to sincerely thank a group of volunteers who handled the maintenance of the platforms and provided repairs after Hurricane Florence. We are grateful for all their hard work and dedication to the Water Trail. Check out our Tar-Pamlico River Camping Platforms Facebook page and Tar-Pamlico River Water Trail Instagram to keep up with what's happening along the river! If you would like to know more about the Tar-Pamlico Water Trail, please call 252-946-7211.



Stormwater Partnership at Partnership

Earlier this month, Sound Rivers joined a team of stormwater experts from North Carolina State University to conduct a stormwater assessment at Partnership Elementary, located in the heart of downtown Raleigh. Since the campus is almost entirely covered in impervious (hardened) surfaces like parking lots, buildings and sidewalks, polluted stormwater runoff is a major issue. Not only does it impact our local streams, but it results in problems for the school from the flooding of basements to the flooding of outside play areas.



A stormwater assessment is a great way to identify problem areas. Sound Rivers staff, along with engineers at NCSU, talked with the principal and other teachers to understand the problems they see. By documenting the existing storm drains and other infrastructure, and noting problem areas like erosion or frequent flooding, we can prepare a plan to begin to solve those issues and create a better and cleaner learning environment for students. Once the plan is complete, the fun begins. We work to secure grant funding, such as through programs via the City of Raleigh Stormwater Management Commission, to build the retrofits that will improve the campus for everyone.

This assessment is an important first step in reducing stormwater impacts while also improving the school campus to prevent basement flooding and provide a unique learning environment for students and staff. Sound Rivers will continue to reach out to other Wake County schools, so if you know of a campus that has stormwater problems please contact Clay Barber at (252) 946-7211.

Upper Neuse Riverkeeper Makes Stormwater Progress on SMAC

Your Upper Neuse Riverkeeper, Matthew Starr, has been the chair of the Stormwater Management Advisory Commission for the City of Raleigh for almost six years. During that time, Matthew worked to implement new policies regarding stormwater management. He helped to achieve greater investment in green stormwater infrastructure and is currently advocating for a policy to prohibit any further development in floodplains. **Learn more about what Matthew accomplished on SMAC on our website, soundrivers.org!**

Riffles & Runs

Environmental Justice Summit

North Carolina Environmental Justice Network (NCEJN), a grassroots, people of color-led coalition of community organizations and their supporters working on issues of climate, environmental, racial, and social injustice, holds its annual, two-day summit each fall. It is a time for environmental justice advocates, affected community members, scientists, lawyers, and researchers to gather and share their work, stories, and strategies. This year's summit, the 21st annual, was held in October at the Franklinton Center at Bricks in Whitakers, North Carolina. Your Pamlico-Tar Riverkeeper, Jill Howell, and Sound River's Executive Director, Heather Deck, were in attendance.

Over the course of two days, we heard presentations about housing instability in Durham, structural injustice and lead-exposed workers in Bahia, Brazil, and pipeline spills on native land in North Dakota. We listened to panelists from North Carolina - community leaders fighting against coal ash, advocates working on energy justice, and lawyers addressing infringement of civil rights in the industrial animal agriculture industry. During the community speak-out and government listening session, state representatives and officials heard concerns and fielded questions about delays in dispersal of disaster relief. There was a spirited call to action from a student to address climate change, echoing the urgency of the youth climate movement. Meanwhile, amongst attendees, an activist from Rocky Mount circulated a petition against the Atlantic Coast Pipeline.

To close out the summit, all of the attendees gathered around the perimeter of the room. With linked hands, and one by one we went around the room and said aloud, "I am a link in the chain, and the link in the chain will not break here." It was a statement of intention towards each other, a reminder of the role we all play in addressing environmental injustices through our own work, and the power of having all of us fighting together.

Thank You Oyster Roast Volunteers Past & Present!

By Heather Deck

Last month I enjoyed my 17th Pamlico-Tar Oyster Roast (the 34th Annual!). I am amazed at how this event has grown through the years; we now serve 450 people 70-80 bushels of oysters. It has become a wonderful tradition for the City of Washington. The event also serves a very important purpose for Sound Rivers, as one of our major sources of funding to keep our Riverkeepers on the water, in the air, and on the ground working for you!



None of this would be possible without the help and support of countless volunteers. Set-up for the event starts on Friday, when volunteers load, unload, and construct all of the outdoor tables and cookers. On Saturday, volunteers wash oysters, set-up the inside of the civic center, including the popular silent auction, and prepare for the mad rush of attendees that evening. At the end of the night, most of us have walked 20,000 steps or more! But the dedication of these volunteers doesn't end there. They return early Sunday morning to de-construct, load, and unload again the oyster tables and cookers; storing them until next year.

To all of our oyster roast volunteers, past and present, thank you! You make this event happen and you make it a success year after 34 years!

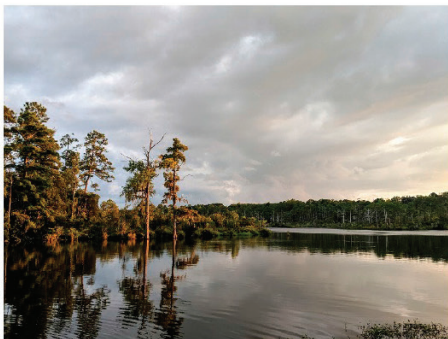


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