

Recent Clean Water Act Developments You Should Know About

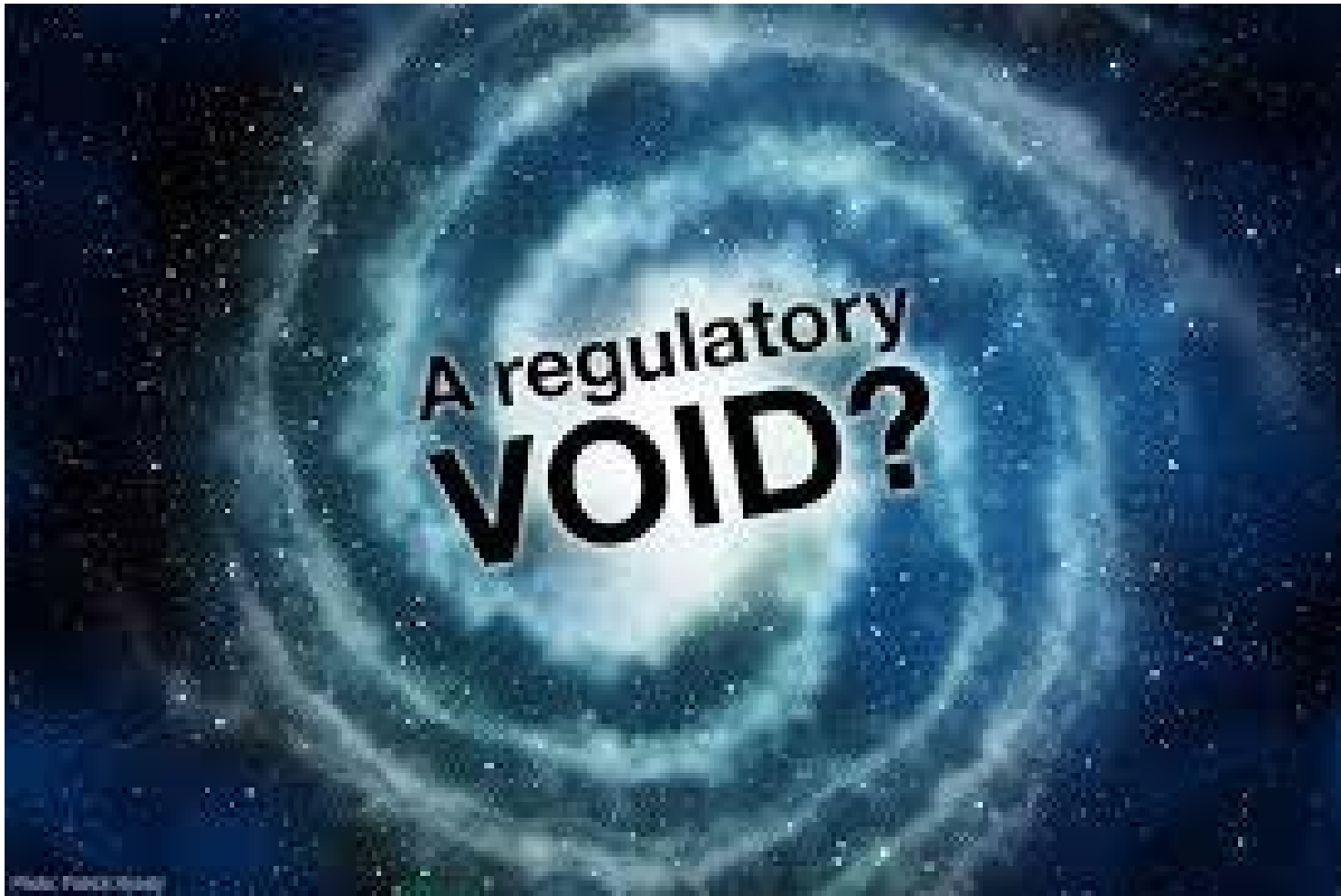
Presented by
Laura Kerr
October 2018

Key Trends

- 1. Absence of rulemaking at the federal level**
- 2. Environmental deregulation efforts at the federal level continue (and continue to hit roadblocks)**
- 3. A recalibration of cooperative federalism**
- 4. Citizen suits fill the regulatory void and test the boundaries of CWA**

Absence of rulemaking at the federal level

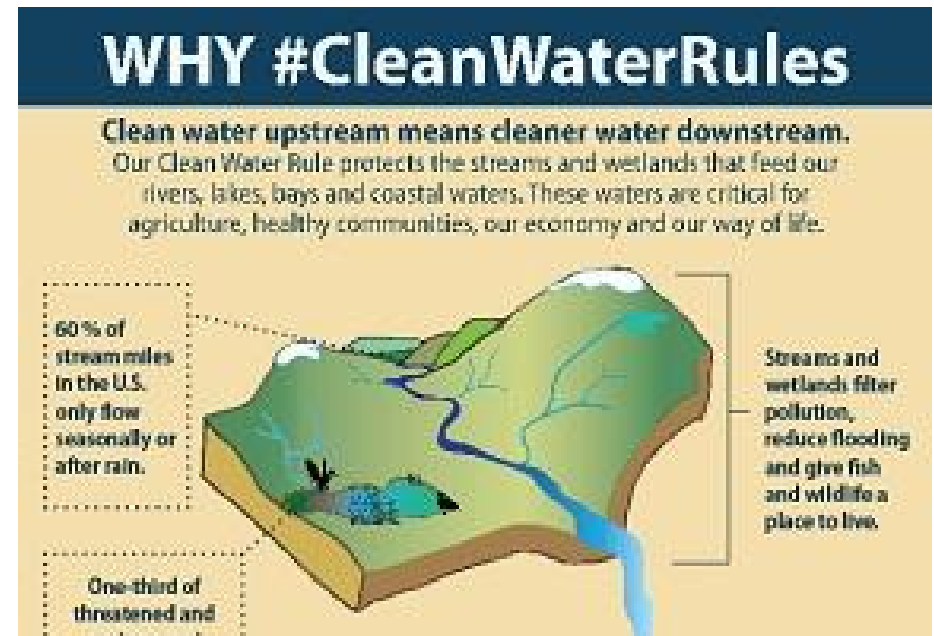
RULEMAKING AT THE FEDERAL LEVEL



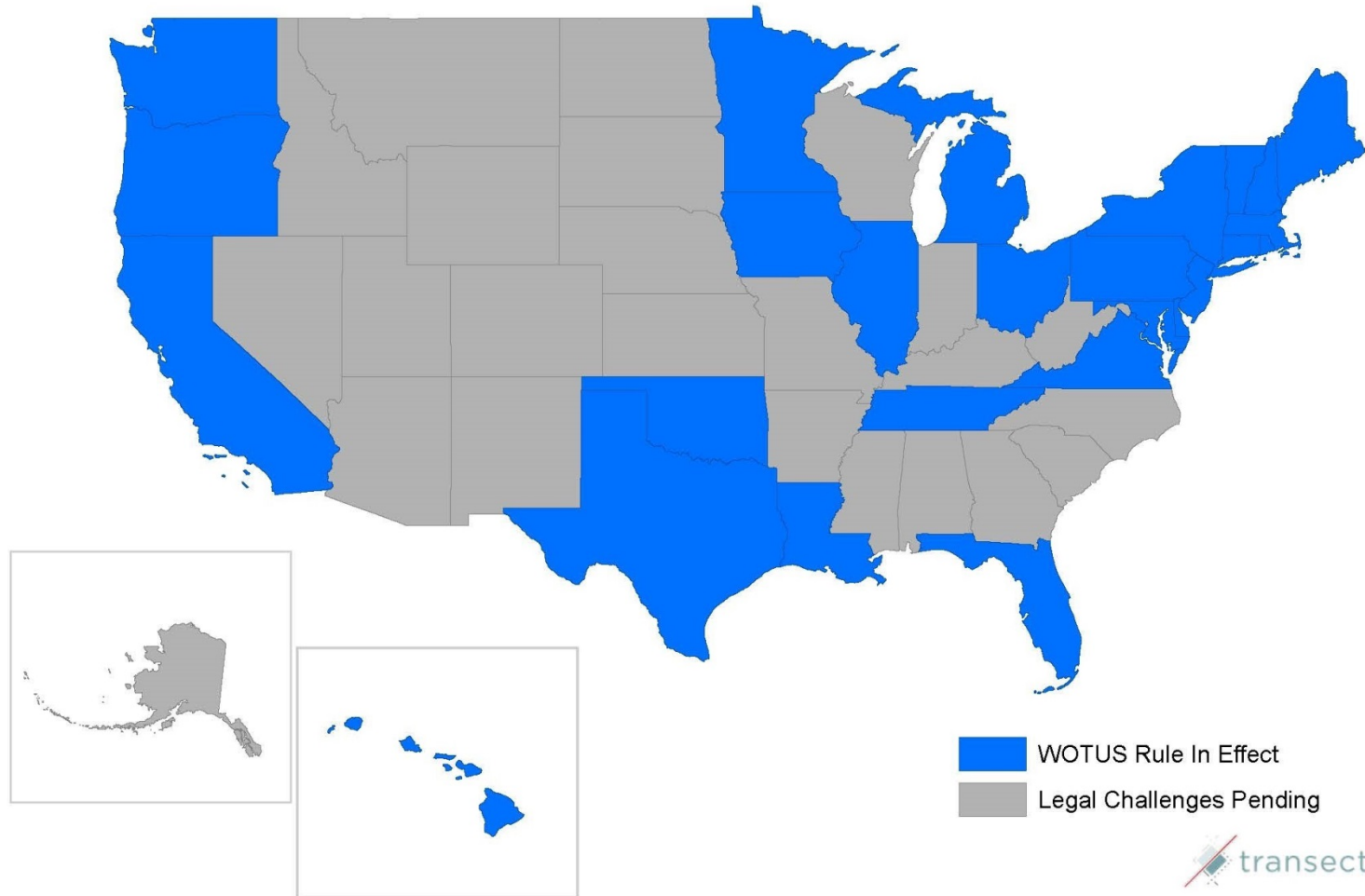
**Environmental deregulation efforts
at the federal level continue
(and continue to hit roadblocks)**

THE WATERS OF THE UNITED STATES RULE

- What is the WOTUS Rule and why does it matter?
- Status of the “Obama Era” WOTUS Rule
- Status of the “Trump Era” WOTUS Rule
- *S.C. Coastal Conservation League v. Pruitt*, 318 F. Supp. 3d 959 (D.S.C. 2018)



THE WATERS OF THE UNITED STATES RULE





A recalibration of cooperative federalism

ENVTL. LAW & POLICY CTR. v. U.S. ENVTL. PROT. AGENCY,
2018 WL 1740146 (N.D. OHIO 2018)



**Citizen suits fill the regulatory void
and test the boundaries of CWA**

ARE DISCHARGES FROM A POINT SOURCE TO GROUNDWATER SUBJECT TO THE CLEAN WATER ACT?



The U.S. Supreme Court may have the final word.

- *Hawai'i Wildlife Fund v. County of Maui*, 886 F.3d 737 (9th Cir. 2018).
- EPA request for comments (83 Fed. Reg. 7,126 (Feb. 20, 2018)).
- *Upstate Forever v. Kinder Morgan Energy Partners, L.P.*, 887 F.3d 637 (4th Cir. 2018).
- *Ky. Waterways All. v. Kentucky Utilities Co.*, 2018 WL 4559315 (6th Cir. Sept. 24, 2018).
- *Tenn. Clean Water Network v. TVA*, 2018 WL 4559103 (6th Cir. Sept. 24, 2018).

Questions?

Laura Kerr
(503) 294-9176
laura.kerr@stoel.com