

[Pacific Legal Foundation Donate](#)

- [Cases](#)
- [Blog](#)
- [About Us](#)
- [Get Involved](#)

[Newsroom](#)

- [Facebook](#)
- [Twitter](#)
- [Instagram](#)
- [YouTube](#)

[Search](#)

[Waters of the United States](#) Press Release
[Press Release](#) October 5, 2017

U.S. Supreme Court to decide whether the EPA can evade judicial review

PLF's latest case at the High Court asks: Can EPA block lawsuits against its 'Waters of the United States' land grab?

Washington, D.C.; October 5, 2017: Can federal bureaucrats insulate their regulations from review by arbitrarily restricting their victims' ability to sue? Can they distort statutory guidelines in a way that limits the public's access to justice?

These questions will be before the Supreme Court on Wednesday, October 11, when it hears [*National Association of Manufacturers v. U.S. Department of Defense.*](#)

The case deals with the Environmental Protection Agency's (EPA) attempt to curtail review of its "Waters of the United States" (WOTUS) regulation—the sweeping rule that would vastly expand the reach of the Clean Water Act, threatening millions of property owners with unjustified federal oversight.

Pacific Legal Foundation represents a number of farmers, ranchers, and other landowners from across the country who have challenged the WOTUS rule—and who, in this litigation, seek to stop the EPA from unlawfully limiting their right to do so.

“We are asking the justices to reject the EPA's contortion of the law to shield its land grab from judicial scrutiny,” said PLF Senior Attorney M. Reed Hopper.

Under the terms of the Clean Water Act, people who are harmed by EPA rules like the WOTUS regulation can sue in any federal district court, within six years of the rule's issuance. But the EPA is trying to require that lawsuits only be filed in federal courts of appeal. Landowners would have just six months to file their challenges and all cases would be concentrated in a single appellate court.

"The EPA cannot be allowed to rewrite the law to limit access to the courts," said Hopper. "Americans who are affected by overzealous bureaucrats must have full freedom to seek the protection of the judiciary.

"Although the WOTUS rule is being revised by the Trump Administration, the outcome of this case is still an urgent matter," he continued. "Who knows whether revisions will go far enough? Moreover, if the EPA succeeds in blocking lawsuits over the WOTUS rule, other government agencies could use the same ploy to shield their regulations from judicial review."

"Pacific Legal Foundation fights to defend individual liberty against overreach by the administrative state," said PLF President and CEO Steven D. Anderson. "As shown by this case, keeping unelected bureaucracies in check requires keeping courts open to their victims."

More information can be found at: pacificlegal.org/WOTUSvenue.

About Pacific Legal Foundation

PLF litigates nationwide to secure all Americans' inalienable rights to live responsibly and productively in their pursuit of happiness. PLF combines strategic and principled litigation, communications, and research to achieve landmark court victories enforcing the Constitution's guarantee of individual liberty.

Case Attorneys



M. Reed Hopper

Senior Attorneys

Reed Hopper is a Senior Attorney in PLF's Environmental Law Practice Group. He oversees the Foundation's Endangered Species Act Program that is designed to ensure that species protections are balanced ... >

[View profile](#)

Share this:

- [Click to share on Facebook \(Opens in new window\)](#)
- [Click to share on Twitter \(Opens in new window\)](#)
- [Click to email this to a friend \(Opens in new window\)](#)
-

Case timeline

[Press Release](#)

[U.S. Supreme Court to decide whether the EPA can evade judicial review](#)

[Read more](#)

[Press Release](#)

January 13, 2017

[PLF applauds High Court accepting WOTUS jurisdictional case](#)

[Read more](#)

[See All Updates](#)

For the media

If you are member of the media and need immediate assistance, please call 202-465-8733 or email our media team at media@pacificlegal.org.

Track this case

-
- Send me updates on all PLF cases
-

Case Commentary

[See all posts](#)

[Post](#)

July 25, 2017

By [M. Reed Hopper](#)

[White House WOTUS update](#)

We reported [here](#) that the Administration had proposed withdrawing the 2015 WOTUS rule as directed by [Executive Order](#). And, that EPA would soon be issuing a new rule defining “waters of the United States” under the Clean Water Act. According to a [recent statement](#) by the Office of Information and Regulatory Affairs, the EPA will issue a Notice of Proposed Rule-making in December, 2017, along the lines of Justice Scalia’s opinion in [Rapanos v United States](#). A formal draft will follow and a final rule adopted, probably in 2018. Under the [Congressional Review Act](#), Congress will have an opportunity to accept or reject the

[Read more](#)

[Post](#)

July 21, 2017

By [Mark Miller](#)

[PLF files amicus brief in Clean Water Act case](#)

The Treasure State

Today Pacific Legal Foundation [asked](#) the Ninth Circuit to accept an [amicus brief](#), written on behalf of [Mike and Chantell Sackett](#), as well as [John Duarte and Duarte Nursery](#), supporting the defendant in [United States v Joseph David Robertson](#). The issue we comment upon involves how the courts should apply the Supreme Court’s *Rapanos* decision. Since PLF argued and won [Rapanos](#), it makes eminent sense for PLF to explain why the government unfairly applied

[Read more](#)

[Post](#)

June 30, 2017

By [M. Reed Hopper](#)

[The Nation's WOTUS problem!](#)

In response to the President’s [Executive Order](#) directing the EPA to revise the controversial rule redefining “waters of the United States” issued in 2015, [EPA proposes](#) to withdraw the rule,

codify preexisting rules and guidance, and then issue a new WOTUS rule in keeping with Justice Scalia's opinion in [Rapanos v United States](#) PLF has a vested interest in the outcome of this rule, not only because PLF is dedicated to safeguarding property rights and fighting government overreaching that threatens individual liberties, but also because PLF argued and won the *Rapanos* case in 2006 That case set long-overdue limits on the scope of the Clean Water

[Read more](#)

Help PLF defend liberty and justice for all.

The fight to protect liberty and justice never ends. Since 1973, donor-supported PLF has successfully litigated for limited government, private property rights, and free enterprise in the nation's highest courts. Your support is what keeps us going.

[Support PLF](#)

- [Cases](#)
 - [All Cases](#)
 - [Blog](#)
- [About Us](#)
 - [Staff](#)
 - [Board](#)
 - [Financials](#)
 - [Contact Us](#)
- [Get Involved](#)
 - [Donate](#)
 - [Careers](#)
 - [Submit A Case](#)
 - [Events](#)
 - [Law Student Writing Competition](#)

The Morning Docket

Stay up to date with the Morning Docket, a weekly highlight of PLF's best articles, videos, and podcasts.

-

Pacific Legal Foundation is a 501(c)(3) nonprofit organization. © Pacific Legal Foundation, 2017.