

## **Memo: Trump to Trample States' Authority to Protect Their Water**

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According to recent [news reports](#), President Donald Trump is set to issue an executive order in the next few days that would undercut environmental protections in order to ram through approvals for oil and gas pipelines.

This is a disastrous idea, one that exposes the hypocrisy of the Trump administration and threatens to undercut the ability of state leaders to determine how best to protect their rivers, lakes, streams and wetlands.

But don't take our word for it.

The Western Governors' Association, which represents all [19 states](#) west of the Mississippi River, [sent a letter](#) to the White House early this year, arguing against this idea.

"We urge you to direct federal agencies to reject any changes to agency rules, guidance, or policy that may diminish, impair, or subordinate states' well-established sovereign and statutory authorities to protect water quality within their boundaries," they wrote.

**Unfortunately, it appears the White House is set to reject this bipartisan plea. We urge you to write about this important issue.**

### **Background**

After years of toxic pollution and growing distress in our majestic rivers, lakes and estuaries, Congress passed the Clean Water Act in 1972. Section 401 of the law gave state leaders the ability to review how federally approved projects would impact waterways within their borders and establish conditions on, or even prevent the development of, such projects. Under the Act, states have up to one year to act on a request for a water quality certification for a federally-permitted project, such as a dam or a pipeline.

Because of the local nature of water impacts, state agencies with local expertise are often best suited to analyze them. But developers don't like that oversight and have tried for decades to curtail it. [They have failed](#). Supreme Court decisions in 1994 and 2006 upheld state reviews.

Separately, legislation from Sen. John Barrasso (R-Wyo.) to change the law and preempt state authority went nowhere in Congress.

This is a solution in search of a problem. States review hundreds of certification requests annually, and, as the Western Governors' Association said: "States have exercised their authority under Section 401 efficiently, effectively and equitably."

It's clear that states have specific interests in protecting their waterways. Federal agencies may not adequately account for inadequate river flow, low oxygen levels or harm to fish and other wildlife, or simply may tolerate risks from oil spills or other contamination that state authorities will not.

The hypocrisy here is clear: When it comes to weakening protections in any number of areas, Republicans in Washington often use the excuse that state leaders should have the broadest authority possible. However, once states take action to protect their environment, these so-called federalists balk.

**Developers of pipelines or dams or coal-export terminals don't want state leaders to weigh the risks of their projects, but that just demonstrates why states' authority to do so is so important.**

If you would like to talk with one of the experts at NRDC on this issue, please contact me at (202) 297-5444 or [mdrajem@nrdc.org](mailto:mdrajem@nrdc.org).