

Challenges & Mitigation Post-Sackett

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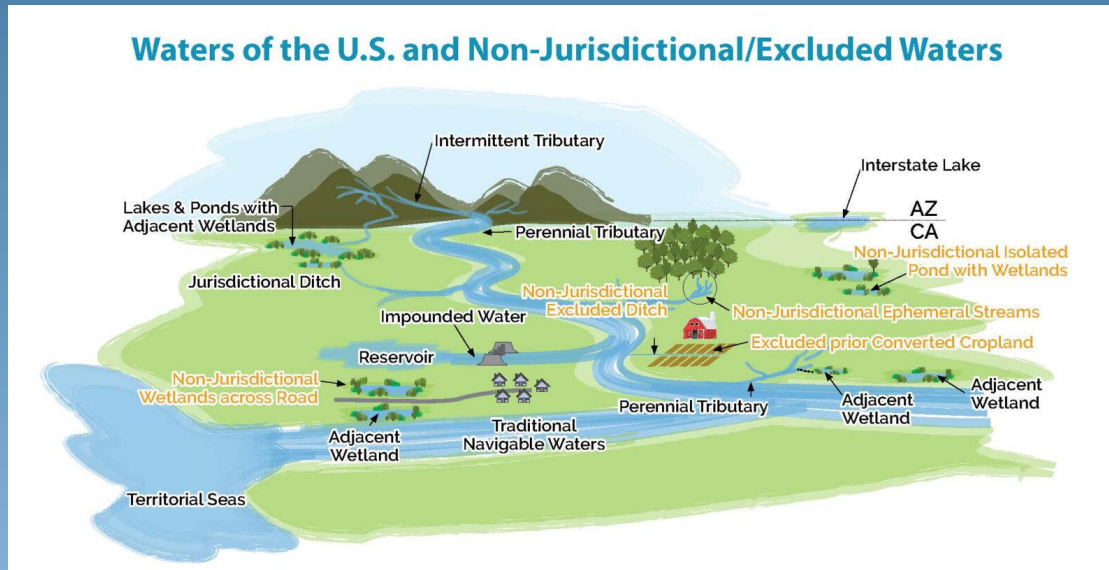
Design Challenges

Intermittent (WOTUS) vs. Ephemeral (SWOTS)

- Who Decides?
- Beta SDAM (Streamflow Duration Assessment Methods); 3 different SDAM Regions in NM

Unclear USACE Interpretation

- Continuous Surface Connection to jurisdictional waters (Doesn't have to be wet?)
- Relatively Permanent (Relative to what?)
- Wetland complexes (instead of adjacent?)



Environmental Stewardship Challenges

NMDOT Mission Statement

Provide a safe and efficient transportation system for the traveling public, while promoting economic development and preserving the environment of New Mexico.

How to protect ephemeral channels without regulatory oversight?

- Environmental Commitments to specify restrictions
- “Non-Notifying” NMED 401 (i.e. because we said so)



Non-Jurisdictional Wetlands



Mitigation Challenges

- National Wetlands Mitigation Action Plan (2002) Affirming Bush and Clinton Policies of “No Net Loss” of wetlands for Section 404
- FHWA Strategic Plan adopts “no net loss” for federally-funded projects, which remains in effect despite Sackett
- How would the FHWA/NMDOT mitigate wetland loss if not USACE jurisdictional and is it not required?
 - Other states have separate federal and state wetland mitigation programs
 - Project-specific mitigation projects, in lieu fee program, wetland banking