

Clarifying “Muddy Waters:” EPA and Army Corps Propose Revisions to the Scope of CWA Jurisdiction

December 13, 2018 – Cross-Border Counselor
by Gage Hart Zobell

Canadian companies interested in cross-border natural resource projects should be aware of a regulatory development in the United States that significantly revises the jurisdictional scope of the Clean Water Act. On December 11, 2018, two federal agencies, the Environmental Protection Agency and the U.S. Army Corps of Engineers, proposed a new rule dramatically altering federal regulatory authority under the Clean Water Act (CWA) by redefining what constitutes a “water of the United States.” If enacted, the new rule proposes to limit and simplify the CWA’s jurisdictional analysis and provide regulatory certainty for resource development projects. Canadian companies with, or interested in, a cross-border project should follow, and consider participating, in the rule’s 60-day notice and comment period to ensure their interests are communicated to the agencies prior to the drafting of the final regulation.

To learn more, see Dorsey’s recent eUpdate here:

www.dorsey.com/newsresources/publications/client-alerts/2018/12/clarifying-muddy-waters-epa.

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