

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

FOOD & WATER WATCH, IOWA
ENVIRONMENTAL COUNCIL, and
ENVIRONMENTAL LAW & POLICY
CENTER,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

LEE ZELDIN, in his official capacity as
Administrator, United States
Environmental Protection Agency, and

JAMES MACY, in his official capacity as
Region 7 Administrator, United States
Environmental Protection Agency,

Defendants.

No. 4:26-cv-00211

COMPLAINT

INTRODUCTION

1. Iowa has a water quality problem. Every year, manure and synthetic fertilizers from Iowa's massive industrial agriculture sector wash into surface water and groundwater, contaminating drinking water sources with dangerous concentrations of nitrate and nitrite pollution. A growing body of scientific research links nitrate pollution to a variety of adverse health conditions, including thyroid disorders and colorectal cancer.

2. To protect water quality and safeguard public health and the environment, Section 303(d) of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., also known as the Clean Water Act, requires that States submit water quality data and a list of impaired waters to the U.S. Environmental Protection Agency (EPA) every two years. EPA must review these submissions in order to approve or disapprove each State's list within 30 days of receipt.

3. In 2024, the Iowa Department of Natural Resources (IDNR) submitted a proposed list of impaired waters and supporting water quality data to EPA. Based on its review of IDNR's submission, EPA determined that segments of the Cedar River, Des Moines River, Iowa River, Raccoon River, and South Skunk River are impaired with harmful levels of nitrate and nitrite that exceed state water quality standards. For this reason, EPA partially disapproved of IDNR's 303(d) submission for failing to list these impaired waters. The additional impairment listings directed by EPA obligated IDNR to create and implement plans to control the pollution and return the rivers to unimpaired status.

4. Just months later, EPA sent IDNR a two-page letter rescinding its decision to list the waters as impaired. This unreasoned decision relieves IDNR of the obligation to develop and implement much-needed interventions to protect the river segments that supply drinking water to hundreds of thousands of Iowans, including members of Food & Water Watch (FWW), Iowa

Environmental Council (IEC), and Environmental Law & Policy Center (ELPC) (collectively, Plaintiffs). Though at the time of rescission, EPA asserted its intent to reevaluate in light of so-called additional information provided by IDNR, as of the filing of this Complaint—nearly one year later—EPA has taken no further action on Iowa’s 2024 303(d) List.

5. EPA’s failure to provide any valid justification for rescinding its decision on Iowa’s impaired waters list is arbitrary, capricious, and unlawful under the Administrative Procedure Act. *See* 5 U.S.C. § 706(2). Alternatively, EPA’s rescission pending reconsideration violates the Clean Water Act’s mandatory 30-day deadline to issue a final decision approving or disapproving Iowa’s impaired waters list. *See* 33 U.S.C. § 1313(d)(2).

6. Plaintiffs therefore submit this case seeking an order declaring EPA’s rescission unlawful.

JURISDICTION & VENUE

7. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 33 U.S.C. § 1365(a).

8. In compliance with Section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), and its implementing regulations, 40 C.F.R. §135.2(a)(1) & (b), on February 10, 2026, Food & Water Watch and Iowa Environmental Council served notice of the violation and the intent to file suit in letters (addressed to the Defendant, the U.S. Environmental Protection Agency, the Regional Administrator for EPA Region 7, the Attorney General of the United States, and the Director of Iowa’s water pollution control agency, the Iowa Department of Natural Resources). Service was accomplished by Certified Mail, return receipt requested.

9. On March 10, 2026, Environmental Law & Policy Center served notice of the violation and the intent to file suit in letters addressed to the Defendant, the EPA, the Regional

Administrator for EPA Region 7, the Attorney General of the United States, and the Director of the IDNR. Service was accomplished by Certified Mail, return receipt requested.

10. Copies of FWW and IEC's Notice of Intent to Sue and ELPC's Notice of Intent to Sue are attached hereto as EXHIBIT A (Notice Letters).

11. More than sixty (60) days have passed since the Notice Letters were sent. EPA has not taken action to redress the violation identified in the Notice Letters.

12. Venue is proper in the Southern District of Iowa pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims occurred there and Plaintiff Iowa Environmental Council resides within the Southern District of Iowa.

PARTIES

13. Plaintiff Food & Water Watch (FWW) fights for the safe and healthy food, clean water, and livable climate we all deserve. We empower people to take on destructive corporations and the policy makers who enable them, in order to stop pollution, defend democracy, and protect the planet—now and for future generations. Fighting the harmful impacts of factory farm pollution, including nitrate and nitrite, is a priority issue for FWW. FWW has more than 15,000 members who live, work, and recreate in Iowa. Many of these members depend on clean water from the Cedar, Des Moines, Iowa, Raccoon, and South Skunk Rivers as a source of drinking water, and they use and enjoy these waters for their aesthetic and recreational value.

14. Plaintiff Iowa Environmental Council (IEC) is an alliance of nearly 100 organizations, over 500 individual members, and an at-large board of farmers, business owners, and conservationists. IEC works to build a safe, healthy environment and sustainable future for Iowa. Our members care about air and water quality across the state, and they hike, recreate, and

enjoy the outdoors in Iowa and beyond. IEC members worry that high nitrate levels will affect their family's health and that they will have to pay more to remove nitrate from drinking water, including water from the Cedar River and South Skunk River. They face greater risks of cancer due to nitrate contamination in the Cedar River and other rivers.

15. Plaintiff Environmental Law and Policy Center (ELPC) is a Midwest-based public interest environmental legal advocacy organization. We develop and lead successful strategic environmental advocacy campaigns to protect our natural resources and improve environmental quality. We protect the Midwest's wild and natural places, and we fight for safe, clean water and healthy clean air for all. ELPC has worked to provide clean water in Iowa, and ELPC members rely on clean water from the Des Moines, Raccoon, Cedar, Iowa, and South Skunk Rivers as a source of their drinking water.

16. Defendant U.S. Environmental Protection Agency (EPA) is the federal agency responsible for implementing the Clean Water Act, 33 U.S.C. § 1251 et seq.

17. Defendant Lee Zeldin is the Administrator of the U.S. EPA.

18. Defendant James Macy is the Region 7 Administrator of the U.S. EPA.

STANDING

19. Plaintiffs have standing because: (i) they have been injured by ongoing and unaddressed water quality impairments in Iowa; (ii) their injuries are fairly traceable to Defendants' acts and omissions as alleged in this Complaint; and (iii) those injuries can be redressed by the relief sought in this complaint.

LEGAL BACKGROUND

Clean Water Act

20. Congress enacted the Clean Water Act to maintain and, where necessary, restore the integrity of U.S. waters. 33 U.S.C. § 1251. States like Iowa that are authorized to implement the Clean Water Act must comply with minimum federal standards established by the Act. Ultimately, the law anticipates that State and Federal regulators will work together to eliminate all pollutant discharges to navigable waterways. *Id.* at. § 1251(a)(1). To help achieve this goal and ensure the preservation of healthy waters for future generations, the Clean Water Act requires States to develop water quality standards and implement regulatory programs that ensure waters attain those standards.

21. States must adopt water quality standards that “protect the public health or welfare, enhance the quality of water and serve the purposes of [the Clean Water Act].” 33 U.S.C. § 1313(c)(2)(A). Water quality standards also “serve as the regulatory basis for the establishment of water-quality-based treatment controls and strategies beyond the technology-based levels of treatment required by [the National Pollutant Discharge Elimination System].” 40 C.F.R. § 131.2.

22. State water quality standards consist of designated uses (e.g., drinking water source, recreational water, habitat for fish and other aquatic species), as well as numeric and narrative criteria deemed necessary to protect those uses. 33 U.S.C. § 1313(c)(2)(A); 40 C.F.R. §§ 131.2, 131.10–11.

23. The National Pollutant Discharge Elimination System (NPDES) is the permitting system state and federal regulators use to control pollution from point sources. 33 U.S.C. § 1342. A “point source” is “any discernable, confined, and discrete conveyance . . . from which

pollutants may be discharged. 40 C.F.R. § 122.2. The Clean Water Act prohibits point sources from discharging pollutants to waterways unless such discharge is authorized by a valid NPDES permit. 33 U.S.C. § 1311(a).

24. NPDES permits control pollution by establishing effluent limitations—provisions that require point sources to achieve certain pollutant reductions before discharging effluent to a waterway. *Id.* §§ 1311(a), 1342. These effluent limitations must be stringent enough to ensure the quality of any receiving water is in accordance with water quality standards. *Id.* §§ 1311(b)(1)(C), 1311(m)(2), 1342(o)(3); 40 C.F.R. § 122.44(d)(1). NPDES permits do not address non-point source pollution such as agricultural runoff. *See* 40 C.F.R. § 122.2 (excluding agricultural storm water runoff from the definition of point source).

25. The Clean Water Act separates pollutants into several classes. Conventional pollutants include, but are not limited to, “pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH.” 33 U.S.C. § 1314(a)(4). Pollutants may also fall into the “toxic” category. *Id.* § 1317(a). “All other pollutants that have not been classified as conventional or toxic are generally referred to as ‘non-conventional [and/or] non-toxic’ pollutants.” *American Petroleum Institute v. EPA*, 787 F.2d 965, 970 n.3–5 (5th Cir. 1986); *see also* 40 C.F.R. § 122.44(d)(1)(i) (requiring that NPDES permits contain limits sufficient to control all “conventional, nonconventional, or toxic” pollutants that have “the reasonable potential to cause or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.”).

26. The Clean Water Act authorizes—but does not require—EPA to denote toxic pollutants by including them on a list published at 40 C.F.R. § 401.15. *See* 33 U.S.C. § 1317(a)(1) (“[T]he Administrator *may* revise such list and the Administrator is authorized to add to or

remove from such list any pollutant.”) (emphasis added). States must adopt water quality standards that include criteria for listed toxic pollutants that are at least as stringent as those developed by EPA. *Id.* § 1313(c)(2). However, EPA has not updated its toxic pollutant list since 1982 and states retain authority to develop their own water quality standards for unlisted pollutants.

27. To receive federal appropriations and grants intended to help States implement their clean water programs, States must conduct monitoring necessary to assess water quality. *Id.* § 1256(e); 40 C.F.R. § 130.4. Pursuant to Section 303(d) of the Clean Water Act, when a waterway does not meet an applicable water quality standard, a State must identify that water on what is commonly referred to as a “303(d) list.” 33 U.S.C. § 1313(d). Waters listed on a State’s 303(d) list are known as “water quality-limited segments.” 40 C.F.R. § 130.7(b).

28. When a water quality-limited segment is added to a State’s 303(d) list, the listing triggers the State’s duty to develop a total maximum daily load (TMDL). 33 U.S.C. §§ 1313(d)(1)(C)–(D). TMDLs are essentially pollution diets for water quality-limited segments. When regulators develop a TMDL, they identify the maximum quantity of a pollutant a water can receive while still attaining applicable water quality standards. *Id.*; 40 C.F.R. § 130.7(c); *see also Anacostia Riverkeeper, Inc. v. Jackson*, 798 F. Supp. 2d 210, 216 (2011) (“[I]nclusion of a water body on a State’s 303(d) list triggers a statutory obligation to develop total maximum daily loads, or TMDLs, which specify the absolute amount of particular pollutants the entire water body can take on while still satisfying all water quality standards.”). In this manner, TMDLs provide permitting authorities with information critical to developing NPDES permit effluent limitations stringent enough to ensure cumulative pollutant loads do not exceed the TMDL’s maximum load. TMDLs also provide information about the extent to which non-point sources

are contributing to pollutant loads. 33 U.S.C. § 1313(d)(1)(A); *see Anacostia Riverkeeper*, 798 F. Supp. 2d at 216 (“TMDLs are central to the Clean Water Act’s water-quality scheme because . . . they tie together point source and non-point source pollution issues in a manner that addresses the whole health of the water.”).

29. States must establish a priority ranking for each water quality-limited segment on their 303(d) list. 33 U.S.C. § 1313(d)(1)(A). Priority rankings are determined based on severity of pollution and designated uses. *Id.*

30. Federal regulations require States to submit 303(d) lists to EPA every two years. 40 C.F.R. § 130.7(d)(1); *see also* 33 U.S.C. § 1313(d)(2) (requiring submissions “from time to time”). EPA then has 30 days to approve or disapprove a State’s list. 33 U.S.C. § 1313(d)(2); 40 C.F.R. § 130.7(d)(2). If EPA disapproves the list, the agency has another 30 days to identify additional water quality-limited segments, establish load limits as necessary to attain applicable water quality standards, and notice the listings and loads for public comment. 33 U.S.C. § 1313(d)(2); 40 C.F.R. § 130.7(d)(2). Once EPA has finalized its additions to a State’s 303(d) list, “the State shall incorporate them” into its Clean Water Act implementation plans. 33 U.S.C. § 1313(d)(2); *see also* 40 C.F.R. § 130.5 (laying out rules for state continued planning processes under the Clean Water Act).

31. EPA “shall approve a [State-submitted] list . . . only if it meets the requirements of [40 C.F.R.] § 130.7(b).” 40 C.F.R. § 130.7(d). These requirements include identification of water quality-limited segments for which a State has not yet adopted a TMDL. *Id.* § 130.7(b)(1).

32. In reviewing 303(d) lists, EPA must ensure States have “assemble[d] and evaluate[d] all existing and readily available water quality-related data and information.” *Id.* § 130.7(b)(5). States must submit these data and information, along with a description of the

State’s methodology for developing its list to EPA along with the list itself. *Id.* § 130.7(b)(6). If a State fails to include all readily available data or information in its submission, it must provide EPA with a rationale for the omission. *Id.* § 130.7(b)(6)(iii). States are also obligated to comply with reasonable requests for additional information. *Id.* § 130.7(b)(6)(iv).

33. Upon EPA’s request, States must demonstrate “good cause” for not including a water on its 303(d) list. *Id.* § 130.7(b)(6). “Good cause includes, but is not limited to, more recent or accurate data; more sophisticated water quality modeling; flaws in the original analysis . . . or changes in conditions, e.g., new control equipment, or elimination of discharges.” *Id.* § 130.7(b)(6)(iv).

34. Lists must also include a priority ranking that indicates waters that will be prioritized for TMDL development over the next two years. *Id.* § 130.7(b)(4).

Iowa’s Water Quality Standards

35. In compliance with the Clean Water Act, Iowa law requires IDNR to establish water quality standards sufficient to protect designated uses. Iowa Code § 455B.176A(5). Chapter 61.3 of IDNR’s administrative regulations are Iowa’s water quality standards. IOWA ADMIN. CODE r. 567-61.3.

36. Class C waters are those designated for use as drinking water sources. *Id.* r. 567-61.3(11) (defining Class C waters as “[w]aters which are used as a raw water source of potable water supply”). To ensure Class C water quality is safe for drinking water use, IDNR adopted a criterion of 10 mg/L for both the “nitrate + nitrite as N” and “nitrate as N” parameters. *Id.* r. 567-61.3, Table 1. Iowa’s water quality standards explicitly state that these criteria are based on the maximum contaminant level (MCL) set by EPA pursuant to the Safe Drinking Water Act. *Id.* r. 567-61.3 (listing “MCL” next to the parameters and stating “[f]or Class C waters for which no

EPA human health criteria were available, the EPA MCL value was selected”). IDNR submitted these criteria to EPA for approval in 2001 and EPA approved them on February 6, 2002. Letter from U. Gale Hutton, U.S. EPA to Jack Riessen, IDNR (Feb. 6, 2002) (attached as EXHIBIT B).

37. MCLs represent “the maximum permissible level of a contaminant in water,” 40 C.F.R. § 142.2, and must be as close as possible to “the level at which no known or anticipated adverse effects on the health of persons occur.” 42 U.S.C. § 300g-1(b)(4)(A)–(B). One such health impact that EPA sought to protect against when it established the MCLs was blue baby syndrome, an acute condition that endangers babies who experience short-term exposure to nitrate or nitrite concentrations in excess of 10 mg/L. However, MCLs do not distinguish between chronic and acute health impacts—EPA simply sets them at levels that will prevent as many adverse health impacts as is feasible. *Id.* § 300g-1(b)(4)(B). Iowa’s water quality standards reflect this lack of distinction: whereas water quality standards for other pollutants include separate acute and chronic criteria, pollutants with standards based solely on an MCL lack this distinction. *See generally* IOWA ADMIN. CODE r. 567-61.3, Table 1.

38. Iowa’s water quality standards also include a narrative provision mandating that “[a]ll substances toxic or detrimental to humans or detrimental to treatment process shall be limited to nontoxic or nondetrimental concentrations in surface water.” *Id.* r. 567-61.3(c)(2); *see also* 40 C.F.R. § 130.7(b)(3) (defining applicable water quality standards for identifying water quality-limited segments to include “numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements”).

FACTUAL BACKGROUND

Submission and Review of Iowa’s 2024 Impaired Waters List

39. In March of 2024, the IDNR published a draft 303(d) list for public comment.

40. IDNR's accompanying methodology document explained how it evaluated nitrate for segments classified for Class C, drinking water supply. IOWA ADMIN. CODE r. 567-61.3(1)(b)(11). IDNR's assessment treated nitrate as a conventional pollutant, relying on a binomial calculation method developed by EPA for assessing conventional pollutants with few samples. IDNR, METHODOLOGY FOR IOWA'S 2024 WATER QUALITY ASSESSMENT, LISTING, AND REPORTING PURSUANT TO SECTIONS 305(B), 303(D), AND 314 OF THE FEDERAL CLEAN WATER ACT 20-21 (SEPT. 29, 2023). The method determines whether the water body is likely to exceed a water quality criterion more than ten percent of the time. This is colloquially called the "10% rule." IDNR used this method to evaluate whether waters with limited sampling data would exceed the nitrate plus nitrite as N and nitrate as N water quality criteria. *Id.* at 18-20. In its 2024 assessment methodology, IDNR expanded its use of the 10% rule to use a modified approach for waters with seven to nine samples. *Id.* at 11.

41. EPA reviewed Iowa's draft documents and submitted comments calling for several changes. EPA's comment stated that although the 10% rule is appropriate for evaluating impairment by conventional pollutants, it should not be used to evaluate nitrate impairments. IDNR, PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY FOR IOWA'S 2024 CLEAN WATER ACT SECTION 303(D) LIST 6 (May 3, 2024). EPA explained that using the 10% rule in this context was inappropriate because nitrate is not listed as a conventional pollutant. *Id.* at 5-6. Further, EPA reasoned that because nitrate has known toxicity, allowing exceedances without listing the water as impaired pursuant to the 10% rule does not align with the designated use. *Id.* EPA's comment noted that it had raised the concern in the past. *Id.* at 6.

42. IDNR issued a response to comments on May 3, 2024, in which it declined to change its approach. *Id.* at 7-10 (May 3, 2024). IDNR then submitted the list to EPA for approval.

43. On November 12, 2025, EPA issued a partial disapproval of Iowa's 2024 303(d) list. EPA, Iowa's Clean Water Act Section 303(d) List of Water Quality Limited Segments Still Requiring TMDLs (Nov. 12, 2024). The disapproval applied to seven river segments with excess nitrogen, each of which had multiple samples exceeding the nitrate plus nitrite as N and/or the nitrate as N water quality criteria. *Id.* at 14. EPA proposed adding these seven water quality-limited segments to Iowa's 303(d) list.

44. EPA provided the required public notice seeking comment for a proposed partial disapproval of Iowa's list. *Id.* at 15; 40 C.F.R. § 130.7(d)(2). EPA received 83 public comments. EPA, 2024 RESPONSE TO PUBLIC COMMENTS FOR EPA'S PARTIAL APPROVAL/PARTIAL DISAPPROVAL OF IOWA'S CLEAN WATER ACT SECTION 303(D) LIST 4 (Dec. 30, 2024). The vast majority of the comments supported EPA's additions. *Id.* at 5.

45. IDNR submitted a comment in opposition to the proposed partial disapproval on December 19, 2024. *See* Letter from Kayla Lyon, IDNR to Jeffrey Robichaud (Dec. 19, 2024). Among other complaints, IDNR asserted that the proposal was flawed because it effectively treated nitrate, nitrite, and nitrate plus nitrite as toxic pollutants even though they are not formally listed as toxic pollutants in 40 C.F.R. § 401.15. *Id.*

46. On December 30, 2024, EPA added the seven waters as impaired for nitrate plus nitrite as N and designated one of the seven (a segment of the Iowa River) as impaired for nitrate as N as well. No party appealed EPA's decision.

EPA's Rescission and Subsequent Action

47. Months later, IDNR had a conversation with EPA, after which IDNR emailed documents to EPA.¹ The documents included the rulemaking package created by IDNR and submitted to EPA when adopting water quality standards in 2001, as well as EPA's 2002 approval letter and associated decision document. EPA had not requested this information under the procedures in 40 C.F.R. § 130.7. EPA had no reason to request these documents because EPA received the 2001 rulemaking package decades ago and was the author of the approval letter and decision document. IDNR's email to EPA did not articulate any arguments for changing the impaired waters list. This information exchange occurred outside the process contemplated by the Clean Water Act and its implementing regulations for doing so. *See* 33 U.S.C. § 1313(d)(2); 40 C.F.R. § 130.7(d)(2).

48. On July 1, 2025, EPA met with state-level Farm Bureau entities, including Iowa Farm Bureau Federation. The agenda for the meeting included "Iowa impaired waters list." EPA, MULTI-STATE FARM BUREAU LISTENING SESSION WITH EPA REGION 7 (July 1, 2025) (attached as EXHIBIT C). Iowa Farm Bureau Federation was one of the only commenters during the public comment process to oppose listing of the nitrate-impaired waters. EPA, 2024 RESPONSE TO PUBLIC COMMENTS FOR EPA'S PARTIAL APPROVAL/PARTIAL DISAPPROVAL OF IOWA'S CLEAN WATER ACT SECTION 303(D) LIST 5 (Dec. 30, 2024).

49. On July 11, 2025, EPA reversed course and rescinded its disapproval of Iowa's EPA, 2024 303(d) list via two-page letter to IDNR (Rescission Letter). Letter from James Macy, EPA to Ed Tormey, IDNR (July 11, 2025). EPA's rationale was brief: (1) IDNR provided

¹ The text of the email from IDNR contains, in full, "Jeff, Jaime, I've attached the documents mentioned in last week's meeting regarding Iowa's WQS packages from 2001/2002. Hope you have a great weekend. Lori," followed by a signature block.

information “that was not previously submitted to or considered by the EPA in its prior actions regarding the 2024 Section 303(d) List,” and (2) IDNR applies “the nitrate, nitrite and nitrate plus nitrite criteria as numeric criteria that solely protect against chronic effects.” *Id.* at 1.

50. Sometime after July 11, 2025, IDNR posted the July 11 letter on its website.² Neither IDNR nor EPA provided any public notification via email or other method about EPA’s reversal, despite EPA’s creation and maintenance of a web page about the December 2024 disapproval. A news story covered the change on August 12, 2025.³

51. IEC submitted a public records request to IDNR for communications between EPA and IDNR regarding the change. IDNR provided the documents sent on May 2, 2025, and the email transmitting the documents. No other documents provided any rationale for IDNR’s request or EPA’s subsequent action.

52. Plaintiffs sent a letter to EPA Region 7 on October 9, 2025. The letter requested clarification of whether the EPA letter dated July 11 was a final agency action. It also explained why Iowa’s nitrate plus nitrate as N and nitrate as N water quality criteria apply on a short-term basis like toxic pollutants, rather than on a chronic basis like conventional pollutants. EPA did not respond to the letter.

² 2024 305(b) Assessment Summary, Internet Archive WayBack Machine (captured July 21, 2025), <https://web.archive.org/web/20250721113854/https://programs.iowadnr.gov/adbnnet/Assessments/Summary/2024>.

³ Donnelle Eller, *Trump’s EPA Rescinds Impaired Listing for Des Moines, Raccoon Rivers Amidst Water Crisis*, Des Moines Register (Aug. 12, 2025), <https://www.desmoinesregister.com/story/news/health/2025/08/12/epa-rescinds-impairment-listing-for-raccoon-des-moines-other-rivers/85566132007/>.

53. An EPA spokesperson referred to the rescission letter as final agency action in a news story published December 19, 2025.⁴ EPA has not taken other action on the 2024 Impaired Waters List since its July 11, 2025 letter.

CLAIMS

COUNT 1

Administrative Procedure Act - Arbitrary and Capricious Rescission

54. Plaintiffs re-allege and incorporate the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

55. The Administrative Procedure Act authorizes citizens aggrieved by a final agency action to obtain judicial review to determine whether that action is arbitrary, capricious, contrary to law. 5 U.S.C. §§ 704, 706.

56. EPA's action in rescinding its partial disapproval of Iowa's 2024 303(d) list is arbitrary and capricious.

EPA Received No New Information Prior to its Reversal.

57. EPA's Rescission Letter claimed the documents IDNR provided "were not previously submitted," so EPA needed to rescind its prior action. In reality, the documents IDNR provided only include items previously sent to EPA for approval, along with EPA's own response approving the documents. EPA has no basis to claim that the documents were "not previously submitted" or were somehow new to the agency.

58. Further, IDNR sending these documents to EPA in no way remedies the errors identified by EPA in its partial disapproval of Iowa's 303(d) list, including the IDNR's failure to

⁴ Miranda Willson, *EPA Executes U-turn on Iowa Water Pollution*, Greenwire (Dec. 19, 2025), <https://www.eenews.net/articles/epa-executes-u-turn-on-iowa-water-pollution/>.

“assemble and evaluate publicly available data from the Iowa Water Quality Information System.” EPA, IOWA’S CLEAN WATER ACT SECTION 303(D) LIST OF WATER QUALITY LIMITED SEGMENTS STILL REQUIRING TMDLS 10-11 (Nov. 12, 2024). The record before EPA remained the same before and after IDNR’s email and conversation.

The Standards Apply on an Acute Basis.

59. EPA’s rescission of the stream segments from Iowa’s 303(d) list is also arbitrary and capricious because it is founded on a misunderstanding of Iowa’s water quality standards. EPA’s Rescission Letter states that the rescission was necessary to give EPA an opportunity to evaluate differences in how IDNR and EPA interpret Iowa’s water quality standards. Specifically, IDNR claims its decision not to list the water quality-limited segments at issue was “informed by an application of the nitrate, nitrite, and nitrate plus nitrite criteria as numeric criteria that solely protect against chronic effects.” *Id.* at 1. EPA alleges its decision to list the same segments was founded on an understanding that the criteria applied to both chronic and acute effects. *Id.* This professed disagreement does not justify EPA’s rescission because Iowa’s nitrate, nitrite, and nitrate plus nitrite criteria plainly apply on both chronic and acute bases, just as EPA initially assumed. *Id.*

60. Iowa’s current water quality standards unequivocally state that the nitrate, nitrite, and nitrate plus nitrite criteria for Class C waters are the same as the MCL established by EPA under the Safe Drinking Water Act. IOWA ADMIN. CODE r. 567-61.3, Table 1.⁵ Neither standard distinguishes between chronic or acute health impacts. And, even if acute versus chronic impacts were relevant to interpreting the water quality standards at issue, EPA established the MCLs for

⁵ IDNR changed the criteria from “acute” to “MCL” in 2001. IDNR, 1999 TRIENNIAL REVIEW: IOWA’S WATER QUALITY STANDARDS ISSUE PAPER – CLASS C CRITERIA & ITS IMPLEMENTATION 11 (2001 IDNR rulemaking package at 75) (citing U.S. EPA, Water Quality Standards Handbook (1994 ed.) at 3-4) (attached as EXHIBIT D).

nitrate and nitrite to protect against blue baby syndrome, an acute condition that occurs with short-term exposure to nitrate or nitrite concentrations in excess of 10 mg/L.⁶ Thus, the MCL used as a basis for Iowa's standard applies to *every single sample* of drinking water taken by public water suppliers.

61. From a practical standpoint, excursions above the 10 mg/L nitrate or nitrate plus nitrite criterion create risk to drinking water suppliers who have designed systems that reasonably rely on Class C drinking water sources meeting the MCL. The stream segments at issue here regularly exceeded the 10 mg/L criteria. Typical drinking water treatment processes do not remove such high concentrations of nitrates and nitrites, impairing the water's use as a public water supply.

Nitrate/Nitrite Concentrations Violated Iowa's Narrative Criteria

62. EPA's rescission and delisting action is also arbitrary and capricious because concentrations of nitrate, nitrite, and nitrate plus nitrite in the identified stream segments violated Iowa's narrative water quality standard prohibiting toxic or detrimental substances in toxic or detrimental amounts. IOWA ADMIN. CODE r. 567-61.3(c)(2). Though not specifically mentioned in EPA's Rescission Letter, IDNR complains that EPA's partial disapproval of its 303(d) list was flawed because nitrate, nitrite, and nitrate plus nitrite are not formally listed as toxic pollutants in 40 C.F.R. § 401.15. But whether EPA has formally designated a pollutant as toxic under federal law—something EPA has not done in more than 40 years—is not relevant to the toxicity of a

⁶ EPA, National Primary Drinking Water Regulations (updated Dec. 1, 2025), <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations>.

substance under Iowa law. In fact, Iowa’s water quality standards use the term “toxic”⁷ interchangeably with “detrimental”; under Iowa law, toxic or detrimental substances must be limited to nontoxic or nondetrimental concentrations in surface waters. *Id.* r. 567-61.3(c)(2). Because concentrations of nitrate, nitrite, and nitrate plus nitrite were not limited to non-toxic or non-detrimental amounts in the seven stream segments EPA originally added to the 303(d) list, removing those segments from the list was unlawful.

COUNT 2

Clean Water Act - Failure to Perform a Nondiscretionary Duty

63. Plaintiffs re-allege and incorporate the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

64. In the event EPA’s rescission letter was not “final agency action” under the Administrative Procedure Act, EPA has failed to meet the deadline for approving or disapproving Iowa’s 2024 303(d) list. Federal regulation requires EPA to decide on impairment listings within 30 days: “If the Regional Administrator disapproves such listing and loadings, he shall, not later than 30 days after the date of such disapproval, identify such waters in such State . . .” 40 C.F.R. § 130.7(d)(2). In this case, EPA took action on July 11, 2025, and claimed the action would “allow EPA to evaluate additional information” submitted by IDNR. Letter from James Macy, EPA to Ed Tormey, IDNR 1 (July 11, 2025). EPA further stated the “EPA is rescinding its partial disapproval and identification of the referenced seven waters so that it can further evaluate this rationale and reconsider its decision on the state’s Section 303(d) List.” *Id.* at 1-2.

⁷ Notably, Iowa’s water quality standards also recognize that toxicity can refer to acute or chronic effects. *Compare* IOWA ADMIN. CODE r. 567-61.3(3)(B)(3)(1) *with* IOWA ADMIN. CODE r. 567-61.3(3)(B)(3)(2).

65. EPA took no action in the following 30 days. EPA has taken no action on Iowa's 2024 303(d) list since July 11, 2025. Thus, EPA has unlawfully failed to perform a nondiscretionary duty required by the Clean Water Act. 33 U.S.C. § 1365(a)(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

- (1) Declare that EPA acted arbitrarily and capriciously, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2), by failing to provide a rational justification for rescinding its partial disapproval of Iowa's 2024 303(d) list; or in the alternative,
- (2) Declare that EPA violated the Clean Water Act, 33 U.S.C. § 1313(d)(2), by failing to approve or disapprove IDNR's 2024 303(d) list within 30 days of receipt;
- (3) Award Plaintiffs their reasonable costs, fees, and expenses, including attorneys' fees; and
- (4) Grant Plaintiffs such further and additional relief as the Court deems just and proper.

Dated: May 14, 2026

Respectfully submitted,

/s/ Dani Replogle

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