

# WOTUS, SCOTUS, POTUS And some Hocus Pocus

Mohammad O. Jazil  
Florida Stormwater Association's 2018 Annual Conference

Sanibel Harbour Marriott, Ft. Myers, Florida  
June 15, 2018

Hopping Green & Sams

# WHY CARE ABOUT WOTUS?

A reminder of why FSA challenged 2015 WOTUS Rule:



**Figure 2:** Dade City Canal in Florida is a man-made, mostly dry conveyance for flood control. Dade City Canal is not currently a water of the United States but would likely be deemed a “tributary” under the Rule. Fla. Stormwater Ass’n Comments 10, ID-7965



# WHY CARE ABOUT WOTUS?



**Figure 6:** Ditch #5 in Pinellas County, Florida, is a manmade stormwater conveyance that discharges through a wetland into a navigable creek. It is already regulated as a point source. Under the Rule, it will be *additionally* regulated as a “water of the United States.”  
Fla. Stormwater Ass’n Comments 13

# WHERE TO SUE?

- Circuit Courts of Appeal vs. Federal District Courts
- U.S. Supreme Court resolves the matter (FSA a successful Respondent).
- Complications and confusion about Sixth Circuit's nationwide stay.

# A NEW POTUS?

- New position (we think) about WOTUS.
- Executive Order and Reconsideration of 2015 WOTUS Rule.
- 2018 Applicability Rule – (Pending Lawsuits?)
- 2015 WOTUS Lawsuits – (Are we still fighting about this?)

# A NEW WOTUS

- 2018? Replacement Rule: confusing motion with progress

# 404 ASSUMPTION & WOTUS

- Two different things.



# Thank you! Questions?



Mohammad O. Jazil

[MJazil@HGSLaw.com](mailto:MJazil@HGSLaw.com)

HOPPING GREEN & SAMS, P.A.

119 South Monroe Street, Suite 300

Tallahassee, FL 32301

(850) 222-7500

[www.HGSLaw.com](http://www.HGSLaw.com)