Bloomberg News reports this morning that the Justice Department has now done in California what it did in Massachusetts a few weeks ago, asking a Federal Court to end litigation challenging the Trump Administration EPA's regulations determining the reach of the Federal Clean Water Act. In what may be the most hopeful statement I've ever seen, the Justice Department told the California Court that the Biden Administration EPA might do what prior administrations, including the Obama and Trump administrations, have failed to do -- resolve the longest-running controversy in environmental law.

The best lawyer I've ever met has said hope is not a strategy. While I agree with the Justice Department that the courts are not the right place to resolve the reach of the Clean Water Act, I don't see how anyone could possibly think that the eighth regulatory attempt to determine the reach of the Clean Water Act is going to do anything but result in more litigation.
In the meantime, if the Justice Department's wishes are granted, the Trump Administration's regulations will remain the law for many months if not years before the Biden Administration takes its turn. Confusion will continue to reign as will litigation around the country, even if the California and Massachusetts cases are paused.

Of course Congress could fix all of this but now who is being hopeful.

The new rule may resolve or moot the claims in the lawsuit brought by conservation groups, the Justice Department says. And if it doesn’t, then the groups can challenge the new rule, according to Tuesday’s filing.

Click [here](https://www.natlawreview.com/article/hope-not-strategy-when-it-comes-to-fixing-clean-water-act) for the full report.

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