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January 5, 2026

The Honorable Lee Zeldin
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20004

The Honorable Adam R. Telle
Assistant Secretary of the Army for Civil Works
Department of the Army
108 Army Pentagon
Washington, DC 20310

RE: Docket ID No. EPA-HQ-OW-2025-0322

Dear Administrator Zeldin and Assistant Secretary Telle:

On behalf of the Union of Concerned Scientists (UCS) and its more than 500,000 supporters nationwide, we submit the following comments on the definition of “Waters of the United States” following the Supreme Court's 2023 decision in *Sackett v. Environmental Protection Agency* (Docket ID No. EPA-HQ-OW-2025-0322).

UCS is a national science-based non-profit organization working for a healthy environment and a safer world. We combine independent scientific research and citizen action to develop innovative, practical solutions to secure responsible changes in government policy, corporate practices, and consumer choices.

I. Introduction

Many wetlands and streams lost federal protections following the Supreme Court decision in *Sackett v. EPA*ⁱ. Further narrowing the definition of “Waters of the United States” means that even more wetlands and streams lose protections under the Clean Water Act (CWA). A narrowed interpretation ignores the interconnected nature of our waters and jeopardizes resources that reduce flooding, improve water quality, sequester carbon, and support fish, wildlife, and local economies. Therefore, we strongly urge the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers to safeguard as many wetlands and streams as legally allowed following the *Sackett* decision.

II. Wetlands, relatively permanent waters, continuous surface connections, jurisdictional ditches, interstate waters, and groundwater

The EPA's Report on the Environment notes that wetlands are "key links in the global water cycleⁱⁱ." As part of this cycle, water flows between wetlands and other waterbodies in ways that are often difficult to observe, such as underground, through soil, and in seasonal or temporary surface flows.

The interconnectedness of wetlands with other waterbodies through the water cycle means that wetlands significantly influence the quality of downstream watersⁱⁱⁱ. This relationship persists even when that connection is not visible to the naked eye from the surface: scientific research has demonstrated that even wetlands that appear geographically isolated maintain important hydrological connections to other waters^{iv}.

Narrowing the definition and scope of "relatively permanent" waters, "continuous surface connection," and jurisdictional ditches would disregard critical hydrological linkages within the water cycle, as ephemeral streams, subsurface connections, ditches, and other ancillary waters frequently function as conduits between wetlands and other waterbodies. Furthermore, the elimination of interstate waters as an independent basis for jurisdiction and the exclusion of groundwater would ignore well-established scientific evidence of hydrological connectivity and would further limit the capacity of the CWA to protect US waters^v.

Regulatory changes that leave wetlands more vulnerable to pollution from industrial agriculture, development, and other sectors increase pollution risks for major rivers and lakes downstream. As a result, local water treatment facilities will face higher demands and associated costs to convert surface and groundwater into clean, usable water, including safe drinking water. For example, Cheng et al. (2020) estimates US wetlands remove between 700 and 1,020 kilotons of nitrogen from waterways every year^{vi}. Nitrogen pollution in water contributes to harmful algal blooms and coastal hypoxia, which degrades ecosystem function, reduces biodiversity, and has negative economic impacts. Nitrate contamination in drinking water has been linked to adverse human health outcomes including colorectal cancer, thyroid disease, and dangerously low oxygen levels in infants^{vii}. If wetlands are left unprotected and are degraded or destroyed, their role in removing nitrogen from water supplies would fall to local treatment systems at considerable cost. For example, a nitrate removal facility operated by Des Moines Water Works in Iowa costs approximately \$16,000 per day to operate^{viii}.

The CWA seeks to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C. 1251). To meet this objective, the CWA must protect wetlands, which play a critical role in maintaining the quality of other waterbodies, benefiting both the environment and communities. Preserving definitions of "relatively permanent" waters, "continuous surface connections," and jurisdictional ditches, interstate, and ground waters that are as expansive as legally permissible—consistent with the final rule issued in August 2023—would help safeguard wetlands and streams that significantly affect the integrity of the Nation's waters.

III. Economic impacts

Americans benefit significantly from the services wetlands provide. For example, UCS scientists found that in the Upper Midwest alone, 30 million acres of wetlands offer nearly \$23 billion in residential flood protection each year^{ix}. Over the long term, protecting these wetlands could prevent between \$323 billion and \$754 billion in residential flood damages in this region.

While this figure is substantial, it represents only a fraction of the overall value of wetlands. Accounting for benefits to commercial fishing, water supply, water quality, and recreation in addition to flood

control, wetlands contribute about \$7.7 trillion in benefits to Americans every year, according to the U.S. Fish & Wildlife Service^x.

IV. Policy retreat despite public support

The Supreme Court ruling in *Sackett v. EPA* removed federal protections from wetlands and streams across the country. In response, the Biden Administration finalized a rule to align the CWA with that decision in August 2023^{xi}. Therefore, it is not necessary to further narrow the definition of “Waters of the United States.” Furthermore, placing additional restrictions on CWA protections disregards the public’s strong support for clean, safe water: national polling shows that 94% of Americans support protections for our nation’s waters^{xii}.

V. Conclusion

Given the economic and environmental impacts of wetlands on other waterbodies—including the vital role wetlands play in maintaining clean and safe water supplies—the EPA must include wetlands and other waterbodies in the definition of “Waters of the United States” under the CWA to the fullest extent permitted following *Sackett v. EPA*. Further restricting CWA protections would increase risks to the health of our waters and jeopardize the wellbeing of communities across the country. We strongly urge the Agency to reject additional efforts to narrow these safeguards and instead uphold its mission to protect human health and the environment.

We thank the EPA and Agency staff for considering these comments.

Respectfully,



Stacy E. Woods, MPH, PhD
Research Director, Food and Environment, Union of Concerned Scientists
On behalf of the Union of Concerned Scientists and its supporters

ⁱ “Depending on whether wetlands must be flooded permanently, seasonally, or temporarily, between 19 and 91% of nontidal wetlands are predicted to lose protections.” In Gold, A. C. (2024). How wet must a wetland be to have federal protections in post-Sackett US?. *Science*, 385(6716), 1450-1453.

ⁱⁱ US EPA (2025). Report on the Environment: Water: Wetlands. <https://www.epa.gov/report-environment/wetlands> (accessed 4/8/25)

ⁱⁱⁱ Fritz, K. M., Schofield, K. A., Alexander, L. C., McManus, M. G., Golden, H. E., Lane, C. R., ... & Pollard, A. I. (2018). Physical and chemical connectivity of streams and riparian wetlands to downstream waters: a synthesis. *JAWRA Journal of the American Water Resources Association*, 54(2), 323-345.

^{iv} Ameli, A. A., & Creed, I. F. (2017). Quantifying hydrologic connectivity of wetlands to surface water systems. *Hydrology and Earth System Sciences*, 21(3), 1791-1808.

^v Lewandowski, J., Meinikmann, K., & Krause, S. (2020). Groundwater–surface water interactions: Recent advances and interdisciplinary challenges. *Water*, 12(1), 296.

^{vi} Cheng, F. Y., Van Meter, K. J., Byrnes, D. K., & Basu, N. B. (2020). Maximizing US nitrate removal through wetland protection and restoration. *Nature*, 588(7839), 625-630.

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- ^{vii} See Ward, M. H., Jones, R. R., Brender, J. D., De Kok, T. M., Weyer, P. J., Nolan, B. T., ... & Van Breda, S. G. (2018). Drinking water nitrate and human health: an updated review. *International journal of environmental research and public health*, 15(7), 1557.; also see Stayner, L. T., Jensen, A. S., Schullehner, J., Coffman, V. R., Trabjerg, B. B., Olsen, J., ... & Sigsgaard, T. (2022). Nitrate in drinking water and risk of birth defects: Findings from a cohort study of over one million births in Denmark. *The Lancet Regional Health–Europe*, 14.
- ^{viii} Cramer, Rachel (June 25, 2025). Nitrate levels remain high in central Iowa rivers. Here's a look at how water is tested and treated before the tap. Iowa Public Radio. <https://www.iowapublicradio.org/ipr-news/2025-06-25/nitrate-levels-central-iowa-water-des-moines> (accessed 1/5/2025).
- ^{ix} Woods, S. E. (2024). Wetlands in Peril. Union of Concerned Scientists. <https://www.ucs.org/sites/default/files/2024-12/wetlands-full-report.pdf>
- ^x Lang, M.W., Ingebritsen, J.C., Griffin, R.K. (2024). Status and Trends of Wetlands in the Conterminous United States 2009 to 2019. U.S. Department of the Interior; Fish and Wildlife Service, Washington, D.C.
- ^{xi} US EPA (August 29, 2023). To Conform with Recent Supreme Court Decision, EPA and Army Amend “Waters of the United States” Rule. EPA Press Office. <https://www.epa.gov/newsreleases/conform-recent-supreme-court-decision-epa-and-army-amend-waters-united-states-rule> (accessed 4/21/2025)
- ^{xii} Walton Family Foundation (November 2023). Clean Water Act. <https://8ce82b94a8c4fdc3ea6d-b1d233e3bc3cb10858bea65ff05e18f2.ssl.cf2.rackcdn.com/5e/2b/780176044698ae7535c6941c90b2/2310214-wff-clean-water-act-national-deck-2.pdf>