

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

ADAM TOMLINSON, REPUBLICAN STAFF DIRECTOR
DAN DUDIS, DEMOCRATIC STAFF DIRECTOR

January 9, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

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

Dear Administrator Zeldin and Assistant Secretary Telle:

We applaud the proposal to revise the definition of “waters of the United States” (WOTUS) issued by the Environmental Protection Agency (EPA) and the Army Corps of Engineers (Army Corps).¹ The Agencies’ proposed rule would establish a clearer definition of jurisdictional waters subject to the Clean Water Act (CWA) that complies with the legal boundaries articulated by the Supreme Court,² right-size federal and state jurisdiction over waters consistent with the CWA, and protect our nation’s waters. We appreciate the Agencies’ work during the development and consideration of the proposed rule to create meaningful opportunities for broad public input.

Farmers, energy producers, builders, and landowners need clear and predictable rules for when and where they are subject to the requirements of the CWA as well as achievable regulations to comply with those requirements. The Agencies’ proposed WOTUS definition would finally provide those regulated entities with a durable framework that both respects the rights of landowners and safeguards our nation’s waters. Furthermore, the proposed rule preserves the CWA’s cornerstone of cooperative federalism by recognizing states’ authority to responsibly regulate non-federal waters within their borders. We also believe that the Agencies’ proposed WOTUS rule would curtail federal overreach and finally end the persistent cycle of redefinition, litigation, and uncertainty.

In 2023, the U.S. Supreme Court (the Court) decided *Sackett v. EPA*, which interpreted the scope of the Agencies’ regulatory authority under the CWA.³ The Court found that federal jurisdiction over “waters” under the CWA extends to relatively permanent bodies of water that are connected to traditional interstate water bodies, such as oceans, rivers, and lakes,⁴ as well as adjacent wetlands that are “as a practical matter ‘indistinguishable’ from waters of the United States,” due to a continuous surface connection.⁵ Importantly, the proposed rule provides clear definitions on

¹ Updated Definition of “Waters of the United States,” 90 Fed. Reg. 52498 (Nov. 20, 2025).
<https://www.federalregister.gov/documents/2025/11/20/2025-20402/updated-definition-of-waters-of-the-united-states>.

² *Sackett v. Environmental Protection Agency*, 598 U.S. 651 (2023).

³ *Id.*

⁴ *Id.* at 671, 678.

⁵ *Id.* at 678.

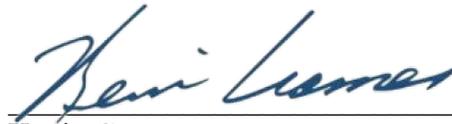
“relatively permanent” waters and adjacent wetlands with a “continuous surface connection” in response to the Court’s ruling.

The Agencies’ proposed rule faithfully adheres to the text of the CWA and the *Sackett* decision, a critical attribute that will ensure that the rule is legally durable. As the Agencies review public comments, we encourage the EPA and Army Corps to consider these comments and incorporate feedback to further improve the rule. We urge the Agencies to finalize a rule that, like the proposal, provides regulatory certainty, supports cooperative federalism, and follows the statutory text and the Supreme Court’s ruling. We look forward to the publication of the final WOTUS rule in the coming months.

Sincerely,



Shelley Moore Capito
Chairman
Environment & Public Works Committee



Kevin Cramer
United States Senator



Cynthia M. Lummis
United States Senator



John R. Curtis
United States Senator



Lindsey O. Graham
United States Senator



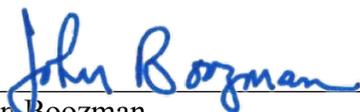
Dan Sullivan
United States Senator



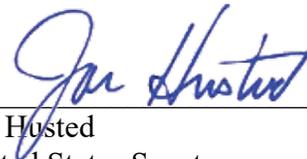
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United States Senator



Roger F. Wicker
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Jon Husted
United States Senator