



**American Water Works
Association**

Dedicated to the World's Most Important Resource®

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January 28, 2022

Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Radhika Fox
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

**RE: Development of Revised Definition of “Waters of the United States in
light of Sackett v. EPA.**

Dear Administrator Regan and Assistant Administrator Fox:

AWWA appreciates EPA’s efforts to develop a sustainable definition of Waters of the United States. Given the several different definitions proposed in recent years, stakeholders have been repeatedly disappointed at the lack of sustained clarity on what is and what is not jurisdictional and how those determinations will be made.

The definition of WOTUS is exceptionally important, as it drives applicability of many Clean Water Act programs. For the water sector, this considerably impacts both infrastructure programs and source water protection programs.

On January 24, the U.S. Supreme Court announced that it will hear arguments in Michael Sackett, et ux., v. Environmental Protection Agency, et al. ([Case 19-35469](#)). This case has the potential to considerably impact the regulatory landscape on this issue. For this reason, we encourage EPA to adjust their work schedule as to not propose a new WOTUS definition until after an opinion has been issued on this case and EPA has had sufficient time to analyze it and incorporate it into the proposal. Although this may impact the regulatory timeline, it is likely to greatly reduce wasted and duplicated effort on the part of EPA and the entire stakeholder community, reduce regulatory whiplash, and to greatly increase the chances of the final definition being sustainable (whether that means remaining at the pre-2015 rules or a new definition).

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AWWA is grateful for the opportunity to comment on this important matter. Please feel free to contact Adam Carpenter (202-628-8303, acarpenter@awwa.org) if you have any questions regarding these comments.

Respectfully,

FOR THE AMERICAN WATER WORKS ASSOCIATION

A handwritten signature in black ink that reads "G. Tracy Mehan, III". The signature is written in a cursive style with a large, sweeping flourish at the end.

G. Tracy Mehan, III
Executive Director of Government Affairs
American Water Works Association

CC: Damaris Christensen, EPA OW
John Goodin, EPA OW/OWOW
Jennifer McLain, EPA OW/OGWDW
Andrew Sawyers, EPA OW/OWM

Who is AWWA?

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our membership includes more than 4,500 utilities that supply roughly 80 percent of the nation's drinking water and treat almost half of the nation's wastewater. Our 50,000-plus total membership represents the full spectrum of the water community: public water and wastewater systems, environmental advocates, scientists, academicians, and others who hold a genuine interest in water, our most important resource. AWWA unites the diverse water community to advance public health, safety, the economy, and the environment.