December 29, 2025

Lee Zeldin, Administrator
US Environmental Protection Agency
EPA Docket Center
Water Docket
Mail code 2822IT
1200 Pennsylvania Ave NW
Washington DC 20460

Dear Administrator Zeldin:

The League of Women Voters Upper Mississippi River Region (LWV UMRR) represents more than sixty local Leagues throughout the five states of the Upper Mississippi Basin – Minnesota (MN), Wisconsin (WI), Iowa (IA), Illinois (IL), and Missouri (MO). We work through education and advocacy to ensure sound policies that protect water quality and quantity in the Mississippi River Basin. The proposed narrower definition for Waters of the US will have a significant impact on water quality in the Upper Mississippi. This letter is to provide comments on the proposed 2025 Environmental Protection Agency (EPA) WOTUS rule.

One of the main purposes of the Clean Water Act (CWA) is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters". This involves setting water quality standards and regulating the discharge of pollutants into the U.S. waters. While the proposed re-definition of WOTUS aims to streamline regulations, its potential impact on the future of freshwater resources in the Upper Mississippi River region and across the United States remains a serious concern.

LWV UMRR testified at the listening session dated May 29, 2025, in Utah, providing information on the role and significance of EPA and the Army Corps of Engineers (ACE) in safeguarding US Waters, the strong public support for clean water protections, and the need for stronger wetlands protections. Please refer to this previous testimony, which continues to stand and is a part of the comments on the proposed 2025 EPA WOTUS rule we are submitting here.

Abstract: sections and comments on the proposed EPA rule change regarding wetlands:

1. **Failure to Rely on the Significance of Connectivity and Ecosystem Function**

The proposed 2025 USEPA WOTUS Rule fails to fully recognize that hydrological systems are interconnected, failing to include water bodies that assist with the health of larger navigable waterbodies, and how one part can negatively affect the whole system. The important roles of UMMR waters and wetlands in water purification, flood control, habitat and diversity, and groundwater recharge are impacted. Intermittently connected wetlands and streams, now excluded, continue to play a crucial role in the filtering of pollutants and improving water quality before the water reaches larger bodies of water. Both intermittent and ephemeral streams function as natural buffers to prevent flooding by absorbing and slowly releasing stormwater (Sullivan, 2019; Sullivan et al., 2025).

Physical connection focusing on water permanence is the only type of connectivity considered in the proposed 2025 WOTUS Rule, which does not conform to the mandate of the CWA to protect the physical, chemical, and biological integrity of US waters.

2. **Consequences of Narrowing the Definition of WOTUS on the Upper Mississippi River Region**

Losses and impacts due to the implementation of the amended WOTUS definition in the UMMR are discussed in this section. These include wetland quantity, water quality, drinking water, habitats and biota, extreme weather, geological complexity, agricultural concerns, increased mining pressure, increasing number of data centers, and impacts to states that rely on federal protection for waters in their states, Iowa and Missouri.

3. Alternatives Regarding the Proposed 2025 WOTUS Rule

Rather than promulgate a new rule**,** Congress could amend the CWA and provide a statutory definition of WOTUS that explicitly includes wetlands and streams based on their physical, chemical, and biological connection to navigable waters, regardless of continuous surface connection. Secondly, legislation could clarify that EPA and ACE have discretion to use the best available science, including connectivity of waters that are not permanent, when specifying jurisdiction, and at the same time recognize state authority over land and water resources. Some other alternatives include various ways to amend the CWA, including adding definitions of the significant nexus standard and continuous surface connection, and including, rather than excluding, ephemeral and intermittent waters. All of these alternatives would address the clarity of scope and specificity of authority found lacking by the Supreme Court in the Sackett decision. Use of a more integrated method with scientific data to confirm the hydrologic connection and state legislation that accounts for all aspects of connectivity to support water and wetlands functions are two other alternative methods.

4. Recommendations

On behalf of our members, we urge you to reconsider the proposed narrow definition of WOTUS for the interpretation of waters and wetlands under the CWA and expand protections to preserve more of these precious resources. The continuous surface connection standard ignores the scientific reality of how water moves and that even seemingly isolated wetlands provide critical ecological functions.

1. Failure to Rely on the Significance of Connectivity and Ecosystem Function

The proposed 2025 EPA WOTUS Rule is more restricted than previous definitions, increasing the risk that more wetlands and streams will be negatively affected by pollution and development, impacting their roles in water purification, flood control, habitat and diversity, groundwater recharge, and the interconnectedness of water. Intermittently connected wetlands and streams, now excluded, play a crucial role in the filtering of pollutants and improving water quality before the water reaches larger bodies of water. Both intermittent and ephemeral streams function as natural buffers to prevent flooding by absorbing and slowly releasing stormwater (Sullivan, 2019; Sullivan et al, 2025). With the exclusion of many wetlands, some habitats for wildlife and aquatic organisms will be impacted, potentially causing harm to a variety of species and ecosystems. Exclusion of ephemeral streams and the more limited definition of adjacent wetlands indicate the rule does not account fully for the role of these habitats in groundwater recharge (Sullivan, 2019). The proposed 2025 EPA WOTUS Rule fails to fully recognize that hydrological systems are interconnected, failing to include water bodies that assist with the health of larger navigable waterbodies, and how one part can negatively affect the whole system.

Waters and water systems are connected in various ways, physically, chemically, and biologically. Individual water bodies have downstream effects, and connectivity is not constant. An example of this is the dead zone in the Gulf of America. Connectivity should be viewed more as a gradient and variable and should be accounted for in how connectivity is determined (Sullivan, 2019). The proposed rule fails to account for biological and chemical connectivity. There will still need to be professional evaluations of connectivity and the permanence of water bodies to determine if they are jurisdictional. Ephemeral and intermittent streams have consequences for downstream waters. Low or even infrequent connectivity can be important for downstream water quality. Isolated wetlands are potentially significant for trapping pollutants before entering into downstream waters, though they will no longer be considered jurisdictional (Sullivan, 2019).

The ways that water bodies function as ecosystems and within watersheds are not recognized by the proposed 2025 EPA WOTUS Rule. Water bodies need to be considered in aggregate and not isolated to understand connectivity. Connectivity facilitates the exchange of nutrients and carbon among water bodies. Biological connectivity assists with the transfer of propagules and nutrients. Without these, fish and aquatic insects will not survive. Aquatic organisms may move through various water body types in their life cycles for certain functions that prevent inbreeding, and help

them escape stress, find mates, and locate food resources. Use of different habitats by these organisms contributes to biodiversity. This rule is trying to simplify a complex system and its issues. In addition, there is disregard for groundwater connectivity; the groundwater and surface water are a single resource (Sullivan 2019; Sullivan et al.2025). Wetlands and streams are linked by integrated surface water and groundwater flow systems, which affect water storage and the rate of flow to downstream waters. Groundwater is excluded at the federal level, but recognition of its existence and significance is appropriate.

2. **Consequences of Narrowing the Definition of WOTUS on the Upper Mississippi River Region**

Significant Losses of Wetland Quantity. Wetlands loss due to the proposed 2025 EPA WOTUS Rule is predicted to be significant, with as much as 80 percent of wetlands nationwide no longer protected under the CWA (EPA, 2025). Already, the Midwest is the nation's largest wetland loss zone, driven by drainage districts for agriculture and development. The remaining wetlands are critical for the protection of water resources and flood-prone communities; in fact, more wetlands are needed. Schilling et al. (2023) show that restoring wetlands and other natural infrastructure in key areas, which can be predicted using mathematical tools, will help to reduce flooding and nutrient pollution. Wetland losses since European settlement, and remaining wetlands in the UMMR are as follows:

- **Iowa:** 95 % of wetlands lost, most drained for agricultural use (Iowa DNR, n.d.); currently has 1.2 percent coverage of wetlands, with 640,000 acres remaining (USGS, n.d.)
- **Illinois**: 90% wetlands lost due to conversion to agriculture and urban development (NRDC, 2024); has 1.2 million acres remaining (USGS, n.d.)
- **Missouri**: 87% of wetlands lost, primarily urban development and flood control measures (Woodbury, 2024); has 643,000 acres (USGS, n.d.)
- **Wisconsin:** 50 percent of wetlands lost (Clean Water Action Council, 2025); maintains greater than 5 million acres (USGS, n.d.)
- **Minnesota:** more than 50 % of wetlands lost (MNDNR, 2024), currently has 10.6 million acres (MPCA, n.d.).

According to NRDC (Scibetta & Heyd, 2025), 59 to 85 percent of Minnesota's wetlands will no longer have federal protection, though it has more regulatory wetlands than any other state in the lower 48. Minnesota and Wisconsin have state wetland conservation authorities that provide alternative protections, though an estimated 2 million acres of forest bogs in MN would no longer have federal protection (Scibetta & Heyd, 2025). The destruction of wetlands due to WOTUS definition changes limiting federal permitting requirements, combined with an increase in drier, hotter weather, will contribute to a significant decrease in natural infrastructure provided by wetlands for flood protection and other critical functions.

Decline in Water Quality. All LWV UMRR states have experienced a decline in water quality, including increased PFAS levels, and have fertilizer, pesticides, nitrates, phosphate, microplastics, and other contaminants that find their way into the Mississippi River and the Gulf of America. The

five states have aging infrastructure (water, sewer, water treatment, roads, electrical, and power grids) that further impacts the ability to combat climate change and contributes to a decrease in water quality (Harkin Institute, 2025).

Drinking Water Impacts. Water bodies that serve as drinking water sources will be impacted by the loss of wetlands in their watersheds. This even applies to those water bodies not continuously connected to a navigable water, such as ephemeral streams and wetlands. Pollutants from agriculture, development, and industry can enter the larger rivers and lakes that provide drinking water sources but will not have the benefit of the smaller waterbodies as critical filters. Upstream tributaries and headwaters will be more vulnerable to contamination and less able to provide for the function of maintaining water quality in downstream waters. Access to clean drinking water will be harder to obtain, and the costs of water treatment will likely increase and be passed on to consumers. Wetlands as natural filters for water supplies will be left unprotected, and any contamination could be passed on to the larger water bodies. With fewer waters under federal protection, there will be limited oversight at that level, reducing the federal safety net. State jurisdiction is needed as greater pressure is placed on them for the protection of their waters, but this does not always happen.

Impacts on Habitat and Biota. UMMR states are home to a variety of wetlands. IL has the most wetlands in the form of bottomland forests and swamps along rivers. Prairie potholes, marshes, swamps, sloughs, bogs, fens, and ponds are the diverse wetlands found in IA, with some increase in wetlands since 1987 with the Prairie Pothole Joint Venture. Diverse wetlands are also found in MN and include northern peatlands and prairie potholes as well as wild rice beds. MO wetlands include swamps, forested wetlands, marshes, fens, and shrub swamps, and provide a flyway for wintering waterfowl, including bald eagles (USGS, n.d.). Swamps, marshes, aquatic beds, sedge or wet meadows, scrub/shrub, and forested wetlands constitute the variety of wetlands in WI (WI Department of Natural Resources, n.d). The types of wetlands expected to be most impacted with implementation of the proposed 2025 EPA WOTUS Rule are isolated wetlands, depressional wetlands, vernal pools, and headwater wetlands, and these will their losses result in less flood control and decreased water quality for these waterbodies (Heim et al., November 2025).

Ephemeral and intermittent streams, not protected under the proposed 2025 WOTUS Rule, are critical for breeding habitat and stopovers for migratory birds, and they serve as nurseries for many species. These changes can lead to a decline in the diversity and abundance of these organisms. The loss of these habitats influences the aquatic food system, which is a source of food and home to many species that are also food to other organisms, causing a cascade effect on the ecosystem.

Impacts Related to Extreme Weather. Extreme weather events include severe storms, intense rainfall leading to flooding (including flash floods and river crests), droughts, and increased storm intensity. With the narrowing of federal jurisdiction and the loss of wetlands and intermittent streams, the intensity of floods and drought can worsen (Poff, Brinson & Day, 2002). The need for the functions of flood control and water filtration is even greater with extreme weather. Wetlands also have a role in managing greenhouse gases (GHGs) and can be a source of GHGs when disturbed, but also act as a sink where carbon is stored, preventing it from entering the atmosphere (Department of Ecology, State of Washington, n.d.).

As previously noted, naturally occurring wetlands as well as constructed and restored wetlands greatly reduce flood potential in a watershed by absorbing heavy precipitation before it enters a

flood-prone river. Taylor and Druckenmiller (2022) find that the average hectare of wetland lost between 2001 and 2016 cost society $1,840 annually; this figure rose to more than $8000/hectare in developed areas. Wetlands absorb water and allow it to seep more slowly into the water system through groundwater connections. The economic benefit of retaining wetlands in upstream areas of flood-prone rivers is clear and should be taken into consideration in considering changing the WOTUS definition.

All five states have been impacted by extreme weather, including tornadoes, flooding, drought, fires, and extreme storms. The proposed decrease in the protection of wetlands will reduce the mitigation that wetlands provide. One example: this year, the St Louis region experienced drought interspersed with extreme weather, straight-line winds and extreme rain (flooding), and 43 tornadoes, including an EF-3 on May 16, 2025.

***Area Geological Complexity and Vulnerability*.** The Upper Mississippi Region has significant areas characterized by Karst topography, a landscape formed by the dissolution of soluble rocks like limestone. Karst includes unique features such as caves, sinkholes, and underground streams, and is a landscape often characterized by a lack of surface streams and a high vulnerability to groundwater contamination. Here, groundwater is highly vulnerable to contamination from land surface activities. With the proposed 2025 WOTUS rule, the loss of wetlands and intermittent streams in these areas of the region can lead to an increase in sinkhole formation and a reduction of the natural flood control functions. Water will infiltrate more rapidly and uncontrollably into karst bedrock, can cause underground passages to enlarge, thereby increasing the risk of surface collapse, and decreasing aquifer recharge (MPCA, n.d., Earle, 2021).

Agricultural Concerns. The Upper Mississippi River region's vast agricultural industry, reliant on extensive soybean and corn production and numerous confined animal feeding operations (CAFOs), is a major source of nutrient pollution, fueling the Gulf of America's "dead zone". The narrowed WOTUS definition will leave more wetlands and streams in the five states unprotected from polluted agricultural runoff. The increased nutrient and surface water pollution due to loss of the wetland functions of natural flood control and water filtration can impact croplands. We are also concerned that the impacts of wetland loss could contribute to increased costs of water treatment and lasting damage to rivers and lakes. The impacts of nitrogen fertilizer and manure are already noted in Iowa, with widespread nitrate contamination of groundwater, streams, and private wells, causing the need for very expensive drinking water treatment to ensure safe water (Harkin Institute, 2025).

In addition, weakening regulations to simplify "waste treatment systems" (specifically by excluding "treatment ponds or lagoons") will cause significant damage to the region's water quality. The area's sensitive karst topography makes this especially dangerous, as it allows pollutants to rapidly move from lagoons into precious groundwater and surface water sources.

Increased Mining Pressure. The five LWV UMRR states face increased pressure for mining, and with the revised WOTUS restrictions, permitting will be weakened, which will provide a push for an increase in mining. Mining in the states further degrades water quality, which is further exacerbated by the topography. LWV UMRR states are home to several metals and other materials that are acquired through mining. MN has iron ore, coal, gravel, and silicon, while IA is a source of lead, limestone, and coal. Lead, cobalt, zinc, barite, limestone, and iron can be found in MO. WI has nonmetallic and metallic materials, including copper. IL is a source of coal and limestone. Fewer companies will be required to obtain National Pollutant Discharge Elimination System and Dredge

and Fill permits with the proposed changes in the WOTUS definition before disposing of mining waste and byproducts in our waterways (E&E News, 2025; ksdk,11/21/2025).

Iowa and Missouri Reliance on Federal Water Regulation and Protection. About half of the states in the US rely on the federal CWA for wetland protection, and this includes Iowa and Missouri. Illinois has no statewide protections for wetlands on private land. (Environmental Law Institute, 2022). States without strong water laws will now have a significant gap in protection of their waters as federal oversight is decreased under the proposed 2205 WOTUS Rule, leading to increased pollution and impacts to drinking water. Upstream states without a water regulatory authority can more easily contaminate the water of downstream states, and there will be no federal oversight to prevent this. Headwaters and wetlands, critical to drinking water quality and quantity, are vulnerable to losses and pollution without federal or state protection. States without the mandate to protect their water will either need to develop new programs with permitting or accept the impacts of the lack of protection of their water resources as developers and landowners alter their property and the water resources there.

Exploding Data Center Development. There is a growing development of data centers that can impact the quality and quantity of water. In IA, MN, and WI, with an increasing number of data centers, groundwater levels have decreased (Iowa Environmental Council, 2025). We are particularly concerned for projects impacting wetlands, ephemeral streams, and isolated waterbodies due to the narrowing of federal jurisdiction for these waters. Some states in LWV UMRR do not have the authority to regulate data centers. In addition, data center development will be enhanced due to shortened project timelines and costs with fewer federal requirements for permitting and associated mitigation costs, with the proposed 2025 EPA WOTUS Rule. In July 2025, an Executive Order requiring the facilitation and rapid build-out of data centers was issued to accelerate economic growth (Taft, November 2025). In addition, EPA announced in July 2025 that it will be promoting the new chemicals used in data centers and other projects to reduce regulatory burden (Beeton, October 2025). As the number of data centers grows, the need for water use in cooling and the generation of electricity increases, and this water can be contaminated in the process. This includes Pfas gas, a forever chemical, used in cooling equipment and producing semiconductors housed in data centers (Perkins, October 2025). Data center growth will strain local water resources and contribute to the regulatory burden for states, especially those without authority and programs protecting water, especially wetlands important to local ecosystems that will not be covered under the proposed 2025 EPA WOTUS Rule.

The Importance of Wetlands to the Mississippi River Basin. For the people of the Mississippi River basin, wetland protections under the Clean Water Act are essential. Our drinking water, economy (including tourism, recreation, fishing, and commerce), agriculture, and cultural heritage all depend on maintaining the integrity of our wetlands.

3. Alternatives Regarding the Proposed 2025 WOTUS Rule

Congressional Amendment of the WOTUS in the CWA. Congress could amend the CWA and provide a statutory definition of WOTUS that explicitly includes wetlands and streams based on their physical, chemical, and biological connection to navigable waters, regardless of a continuous surface connection. Secondly, legislation could clarify that EPA and ACE have discretion to use the best available science, including connectivity of waters that are not permanent, when specifying

jurisdiction, and at the same time recognize state authority over land and water resources (Littlejohn et al.,.2025). The Majors Questions Doctrine was used in the Sackett decision and applies to this situation. It says that when an agency or department has authority over economically and/or politically significant issues, Congress must provide exceedingly clear language granting this authority. The Supreme Court argued that WOTUS was a major question, so any amendment of the CWA regarding WOTUS by Congress must provide very clear language as to its intent for the role of the federal government (Christensen et al., August 2025).

Use Data and Tools for Jurisdiction. An alternative approach could be the use of a more integrated method using scientific data, from the USGS and other sources including stream flow data, soil maps, and regional water quality assessments, to find the status of jurisdiction based on confirmed hydrological connections, rather than using the more restrictive, narrow definitions of relatively permanent flow and wet season (Congressional Research Service, 2025; Littlejohn et al., 2025)

State-Level Legislation and Action to Protect Waters Not Covered under the CWA. States have the authority to pass legislation to create their own jurisdiction over wetlands and intermittent streams, similar to the significant nexus standard that was used before the Sackett decision, accounting for the physical, chemical, and biological connectivity to support protection of these waters (Congressional Research Service, 2025; Littlejohn et al., 2025). California, Maryland, and New Mexico have worked toward implementing this.

Several states, California, Minnesota, and Wisconsin, among others, have existing powerful laws that serve to fill the regulatory gap left by the proposed 2025 EPA WOTUS Rule.

Lastly, there are policy tools and funding that can be used to protect water quality and wetlands. These include state tax credits, conservation easements, use of Clean Water State Revolving Funds for projects that promote wetland protection, zoning laws for sensitive water areas, and water protection standards for tribal lands, working with Tribes to incorporate indigenous knowledge in the standards.

Incorporating the Significant Nexus Standard in Legislation. The nexus standard, established by Justice Kennedy in the Rapanos v. the US decision, was used as the method for establishing the physical, chemical, and biological connectivity before the Sackett decision. This standard can be incorporated into law by Congress and become the scientific basis for determining water body connectivity and jurisdiction, and meet legislative requirements clearly.

Incorporation of Continuous Surface Connection. A definition of continuous surface water connections can be developed and codified that acknowledges that subsurface or less frequent surface water connections, such as during rain events. This would be in place of requiring wetlands to have to abut a jurisdictional water and surface water at least during the wet season, promoting the continued protection of wetlands as natural filters and providing flood control.

Include Ephemeral and Intermittent Streams. The proposed EPA 2025 WOTUS Rule excludes most ephemeral streams and most intermittent streams from protection under the CWA. These water bodies could be included as protected in WOTUS and facilitate their important role as headwaters in river systems and in downstream water quality and quantity.

4. Recommendations

On behalf of our members, we urge you to reconsider the proposed narrow definition of WOTUS for the interpretation of waters and wetlands under the CWA and expand protections to preserve more of these precious resources. The continuous surface connection standard ignores the scientific reality of how water moves and that even seemingly isolated wetlands provide critical ecological functions.

As Dr. Betsy Southerland, former Director of Science and Technology at the US EPA Office of Water, states, “The role of headwaters, tributaries and wetlands, even without continuous surface connection, play a critical role in the aquatic system” (EPN, 2025). We recommend reviewing the U.S. Fish and Wildlife Service’s 2024 report to Congress and the alternatives provided in our comments for further strategies to strengthen waters and wetland conservation and regulation.

Sincerely,

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