

# PRESS RELEASE

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## ***Sackett* Decision Radically Limits Scope of Waters Protected by the Clean Water Act**

Portland, ME. Yesterday, the U.S. Supreme Court decision in *Sackett* established a new standard for determining when a wetland or other water is a water of the United States (WOTUS), that substantially reduces the extent of Clean Water Act (CWA) protections for wetlands and non-navigable tributaries. In effect, the Court has adopted the “relatively permanent” standard from *Rapanos* and eliminated a significant nexus as a basis for jurisdiction. All justices concurred in the judgement that the Sackett’s wetlands are not WOTUS, but for varying legal reasons laid out in concurring opinions.

“SCOTUS just reinterpreted the Clean Water Act and changed the intent as written by Congress in 1972, perverting the original Congressional intent behind the Clean Water Act, our nation’s landmark environmental legislation that has successfully cleaned up our nation’s waters for over 50 years,” says Marla Stelk, Executive Director, National Association of Wetland Managers (NAWM). “This decision is incongruous with modern science and universally agreed upon understandings of hydrological connectivity. The outcome will undoubtedly manifest in serious negative consequences on public health and safety, water quality, aquatic health, flood control, and wildlife.”

The *Sackett* decision holds that WOTUS includes only those “wetlands with a continuous surface connection to bodies that are ‘waters of the United States’ in their own right,” so that they are “as a practical matter indistinguishable from waters of the United States.” As a result, to assert CWA jurisdiction over an adjacent wetland a party now must establish 1) the adjacent body of water is relatively permanent and connected to traditional interstate navigable waters, and 2) the wetland has a continuous surface connection with that relatively permanent water, making it “difficult to determine where the ‘water’ ends and the ‘wetland’ begins.”

During the George W. Bush Administration, in 2007, the U.S. Environmental Protection Agency issued a compliance order against the Sacketts to cease construction. Every U.S President (except Donald Trump) since then has held that the wetlands on the Sacketts’ land are WOTUS and that the Sacketts need a federal permit to build a house on their land.

The NAWM is an independent 501(c)(3) nonpartisan organization whose mission is to build capacity for state and tribal members and foster collaboration among the wetland community of practice by encouraging the application of sound science to wetland management and policy, promoting the protection and restoration of wetlands and related aquatic resources, and providing training and education for members and the general public.

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Learn more about NAWM at: [www.nawm.org](http://www.nawm.org)