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January 5, 2026

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

Adam Telle
Assistant Secretary of the Army
Department of Civil Works
441 G Street NW
Washington, DC 20314

Re: Updated Definition of “Waters of the United States”, 90 Fed. Reg. 52,498 (Nov. 20, 2025), Docket ID No. EPA-HQ-OW-2025-0322

Dear Administrator Zeldin and Assistant Secretary Zelle:

The undersigned organizations write to provide comments to the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) on the proposed Updated Definition of Waters of the United States (WOTUS).

Our organizations wish to express appreciation for the agencies’ work in updating a definition that is consistent with the United States Supreme Court’s decision in *Sackett v. Environmental Protection Agency*, is durable, and provides regulatory certainty for projects across the nation.

However, we request that the agencies work closely with the State of Alaska regulatory agencies that follow and enforce the Clean Water Act (CWA) in Alaska, to ensure the final definition of WOTUS can be applied and effective in Alaska. Policy regarding the definition of WOTUS will, without a doubt, have the most significant impact on the State of Alaska and the regulated community working in the state. 175 million acres of land in Alaska are classified wetlands: this constitutes 43% of the land base. Alaska’s coastline and tidally influenced waters exceed that of the rest of the nation combined. In addition, Alaska is the only state with permafrost. Therefore, any rule addressing waters, wetlands, and coastal environments will very likely have a greater effect on Alaska than anywhere else in the nation.

A number of our members have projects located where there are extensive areas of permafrost. Therefore, the applicability of CWA requirements to their projects is often highly dependent on how these permafrost areas are classified, including where wetland mosaics are present. By definition, permafrost is ground that is frozen for at least two years. As such, it cannot consistently contribute continuous surface flow to traditionally navigable waters or tributaries for any defined period such as the proposed wet season. Their inclusion as potential WOTUS is inconsistent with the intent of the Proposed Rule to provide clear methods to determine jurisdiction. Therefore, we strongly urge the agencies to exclude permafrost wetland areas and features from the definition of WOTUS.

We would also like to address indistinguishability of wetlands adjacent to WOTUS. Addressing this concept in the Preamble, while helpful, is not binding for the future. The Rule itself should very clearly state that for a wetland to be jurisdictional, a continuous surface water connection must be present and it must be **indistinguishable** from the adjacent water that is WOTUS.

Again, the State of Alaska regulatory agencies that work closely with the Clean Water Act implementation are well equipped to inform the EPA and Corps on the unique environments that our industries work in and the complexities involved with implementation of WOTUS in our state. We encourage you to work with the State of Alaska as you continue the regulatory process of updating the definition of WOTUS.

Thank you for the opportunity to submit these comments.

Sincerely,



Kati Capozzi
President and CEO
Alaska Chamber



Deantha Skibinski
Executive Director
Alaska Miners Association



Stev Wackowski
President and CEO
Alaska Oil and Gas Association



Connor Hajdukovich
Executive Director
Resource Development Council for Alaska

The Alaska Chamber is a non-profit founded in 1953 working to promote a positive business environment in Alaska. The Chamber is the voice of small and large business representing more than 700 businesses, manufacturers, and local chambers across Alaska. Our member companies employ more than 55,000 hardworking Alaskans. The Chamber advocates for a positive investment climate that provides certainty and stability for Alaska.

Alaska Miners Association (AMA) is a professional membership trade organization established in 1939 to represent the mining industry in Alaska. AMA's more than 1,400 members come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Alaska's miners are individual prospectors, geologists, engineers, suction dredge miners, small family mines, junior mining companies, major mining companies, Alaska Native Corporations, and the contracting sector that supports Alaska's mining industry.

Alaska Oil and Gas Association (AOGA) is a professional trade association whose mission is to foster the long-term viability of the oil and gas industry in Alaska for the benefit of all Alaskans. AOGA's 17 member companies account for the majority of oil and gas exploration, development, production, transportation, refining, and marketing activities in Alaska, which includes various operations in the Gulf of Alaska.

Established in 1975, the **Resource Development Council for Alaska (RDC)** is a statewide business association whose mission is to grow Alaska through responsible resource development. RDC is

comprised of individuals and companies from Alaska's fishing, forestry, mining, oil and gas, and tourism industries. RDC's diverse membership also includes Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.