

Congress of the United States
Washington, DC 20515

January 26, 2023

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

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

Dear Administrator Regan and Assistant Secretary Connor,

We write with deep concern over your agencies' new "waters of the United States" (WOTUS) rule, which will prove ruinous to farmers in the State of Missouri. In this new regulation, the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers purport to regulate every puddle and drainage ditch across America.¹ This radical interpretation is inconsistent with the text and logic of the Clean Water Act. The proposed rule must be rescinded immediately.

In an attempt to justify this rule, Biden administration appointees have boldly claimed this rule would support agriculture.² It does not. Farmers in our State have consistently cried foul at Democrats' attempts to federalize their farmland. This new rule is little more than a redux of the Obama-era WOTUS rule that farmers detested—and which the Trump administration rescinded under the Navigable Waters Protection Rule. Rather than support farmers and American businesses, this administration has caved to woke environmental activists that want to transform American agriculture.

We are particularly concerned about the EPA's decision to regulate ephemeral streams, or "temporary streams," and the use of the significant nexus standard to determine which waters can be regulated by the EPA. These provisions would subject the majority of farmland in the state to stringent EPA regulations concerning pesticide, fertilizer, and land usage. Alarming, failure to comply with these myriad regulations could result in civil and criminal penalties.

Farmers and ranchers in Missouri should be able to determine how to best manage their land and water, not the EPA. This rule is just another federal power grab that infringes on the property rights of farmers in our state. We demand that you rescind this rule immediately.

In the interim, please provide our offices with answers to the following questions:

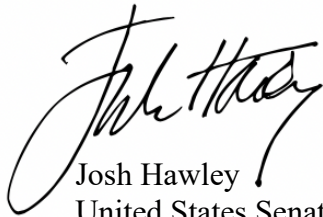
1. What evidence and data justified your decision to classify ephemeral streams as "waters of the United States"? Please provide a full accounting.

¹<https://www.epa.gov/system/files/documents/2022-12/Pre-Publication%20Final%20Rule%20Notice.pdf>

²<https://twitter.com/SecVilsack/status/1608863219732582400?s=20&t=1ZUIv4MARA8z4Fs3efMB3A>

2. Please identify which, if any, Missouri waters would *not* be designated “waters of the United States” under your agencies’ proposed rule.
3. Why was this rule promulgated prior to the issuance of a decision in the Supreme Court case *Sackett v. EPA*, No. 21-454 (U.S.), a decision which will likely have significant consequences for the law governing “waters of the United States”?

Sincerely,



Josh Hawley
United States Senator



Eric Schmitt
United States Senator



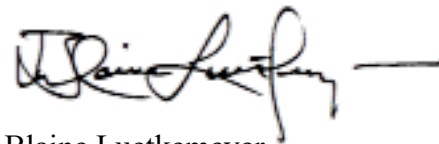
Ann Wagner
Member of Congress



Eric Burlison
Member of Congress



Sam Graves
Member of Congress



Blaine Luetkemeyer
Member of Congress



Jason Smith
Member of Congress



Mark Alford
Member of Congress