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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 Alaska Miners Association (AMA) appreciates the opportunity to provide comments to the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps), together the agencies, on the proposed updated definition of "Waters of the United States" (WOTUS) consistent with the United States Supreme Court's interpretation under the Clean Water Act (CWA) in the ruling *Sackett v EPA*.

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.

The definition of WOTUS applies to all programs authorized under the CWA, and changes will affect all stages of all mining development and operations nationwide. To that end, we endorse the comments of the National Mining Association and the American Exploration & Mining Association. These two organizations have provided extensive technical, policy, and legal comments on behalf of our nationwide industry.

In Alaska, the policy defining WOTUS will undoubtedly have the greatest impact on both the State and the regulated community working within it. As we have stated multiple times in comment periods pursuant to WOTUS regulatory policy proposals, the definition of "waters of the United States" is especially important to Alaskans. 175 million acres of land in Alaska are classified wetlands: this constitutes 43% of the land base. It also represents more than double the wetland acreage of the continental U.S. 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.

In April 2025, AMA submitted lengthy technical comments to the agencies' establishment of a public docket and request for information on defining WOTUS. We wish to incorporate those comments, [found here](#), by reference for the agencies when further considering CWA regulatory and policy actions impacting mining in Alaska.

Alaska's miners have seen decades of uncertainty with the jurisdictional scope of WOTUS; we greatly appreciate the Agencies' development of a Proposed Rule that is overall legally durable and will provide regulatory certainty for our members. It is also largely consistent with United States Supreme Court decisions that place boundaries on how WOTUS should be defined. We generally support its adoption; however, we have Alaska-specific recommendations for consideration in the Final Rule:

#### Exclusion of Permafrost

Many AMA members have projects located where there are extensive areas of permafrost, and their CWA requirements are dependent upon how permafrost is classified. The Proposed Rule suggested permafrost jurisdiction should be dependent on the continuous surface connection test. Permafrost is ground that is frozen for at least two years, and as such, it cannot consistently contribute continuous surface flow to traditionally navigable waters or its tributaries for any defined period such as the proposed "wet season." While melting/thawing permafrost may sometimes occur and exhibit some features of surface hydrology, these conditions are often temporal, difficult to define, and frequently independent of nearby surface water bodies. Having to make such determinations for these areas will inevitably lead to variability and lack of predictability in how permafrost will be addressed over the long term. Inclusion of permafrost as potential WOTUS is inconsistent with the intent of the Proposed Rule to provide clear methods to determine jurisdiction, and AMA urges you to exclude it in the Final Rule.

#### Wetlands and adjacent WOTUS in Final Rule

The Final Rule should very clearly define that for a wetland to be jurisdictional, a continuous surface water connection to a WOTUS must be present, and it must be indistinguishable from the WOTUS. This concept is well described and supported in the Preamble. However, we are concerned that the Preamble language may not be sufficiently durable and therefore, we suggest that it needs to be explicitly stated in Section 120.2(a) of the Final Rule.

#### Continued dialogue with Alaska's regulatory agencies

We strongly encourage the agencies to continue collaboration with the State of Alaska regulatory agencies, in particular the Alaska Department of Environmental Conservation (DEC), to ensure the Final Rule works for Alaska. We maintain that local and state regulators, being intimately familiar with the unique environment and realities of Alaska, are best positioned to craft permitting solutions that protect the environment without stifling community development. We encourage your agencies to continue the productive dialogue already underway to ensure that Alaska's unique conditions, separate from the 48 contiguous states, are incorporated into the Final Rule and implementation. Such state-specific flexibility is needed now more than ever to help achieve the goals of President Trump's Unleashing



Executive Orders specific to Alaska, as well as the nationwide Orders on energy and mineral dominance. We also look forward to continuing to being part of this dialogue.

Conclusion

AMA supports the Proposed Rule, with the enclosed recommendations incorporated. We applaud the agencies' work to achieve a legally durable rule that recognizes Congressional intent and ultimately ends the pendulum of seemingly endless revisions to the definition of WOTUS.

Thank you for the opportunity to submit these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Skibinski".

Deantha Skibinski  
Executive Director