

## Supreme Court's Sackett ruling will free states to deliver clean drinking water

The Supreme Court's decision in *Sackett v. EPA* last month was a much-needed win for clean water efforts in states across the country. The ruling, which narrowed the scope of federal authority over wetlands, rightly restores the balance of power between federal and state governments and frees states to care for their own water resources without intrusive federal regulations getting in the way.

For years, federal agencies have issued regulation after regulation that infringe on states' abilities to best care for their water resources. Over the past decade, the federal government has sought five different attempts at creating a Waters of the U.S. (WOTUS) rule to determine which waters will be federally regulated under the Clean Water Act. The latest version of the rule, now rendered invalid by the Supreme Court's *Sackett* decision, would have given the U.S. Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) wide-ranging regulatory authority over ponds, ditches, and even low spots that hardly ever hold water.

The rule was so ambiguous that rain on drought-stricken land could prompt new requirements for the private landowner to seek a review as to whether permits are needed to productively use the land again for agriculture, construction, or more. It left jurisdictional determinations to the mercy and whims of federal bureaucrats. The subjective nature of the rule was particularly harmful in North Dakota's prairie pothole region, where wetlands are often isolated and temporary.

As director of North Dakota's Department of Water Resources, I've seen firsthand that our water resources are far better off in the hands of local officials who desire to strike the balance between meeting today's needs for prosperity and protecting it for future generations.

Our in-state experts have a deep understanding of the complexities of North Dakota's unique hydrological landscape, and state agencies work side by side to manage and protect the wetlands in our state, numbering over 1 million. We know how to successfully protect water and, at the same time, support responsible use by agriculture, oil and gas, and other key economic drivers. If the most recent WOTUS rule had been enforced in North Dakota, it would have had detrimental implications on my state agency's ability to protect and improve our water.

One of the projects being spearheaded by my agency is a regional water system that has been years-long in the making to improve water supply challenges for more than 80,000 residents in the north central region of North Dakota. Within that project's footprint are areas that have experienced water quantity and quality concerns for decades, and in some cases, there have been public water supplies that could not meet minimum drinking water standards. Federal, state and local partners have invested more than \$350 million in the project so far, which will ensure clean and abundant water access for residents and support economic development opportunities for industries in the area.

Contrary to promoting clean water, the most recent WOTUS rule had the potential to instead stall it for thousands of people living in rural America.

The rule's unclear language also would have forced the state to undergo expensive and lengthy studies to determine if these crucial infrastructure projects to deliver clean water require further federal permits. Queue the costly delays, further risking local economies and human health.

Fortunately, the Supreme Court's action in the Sackett case means the federal government must head back to the drawing board on a new rule that aligns with the court's decision. While this is good news, the EPA and the Corps must act quickly to draft a clear and reasonable water rule that brings certainty to the regulated community.

We all want clean water, and it's vital that federal agencies recognize the importance of a working partnership between states and the federal government. Federal regulations must not stand in the way, but instead should empower states' efforts to protect and improve water for all Americans.