

**Opening Remarks from Betsy Southerland, Ph.D.,  
at the House Democrat Transportation & Infrastructure Roundtable on:  
“Murky Waters: Navigating a Post-Sackett World”  
July 26, 2023**

My name is Betsy Southerland. I worked for 33 years in EPA’s Water and Superfund programs, retiring in 2017 as the Director of the Office of Science and Technology in the Water program. Since retirement, I have been a member of the Environmental Protection Network, an organization of nearly 600 former EPA career and political appointee scientists and regulators. EPN provides pro bono technical assistance to communities with environmental problems and critiques EPA regulations and guidance.

The *Sackett* decision is the most dramatic constriction of environmental law in the history of this country. Congress passed the CWA in 1972 precisely because the historical reliance on state water quality programs failed to protect the nation’s waters and subjected downstream states to unregulated water pollution from upstream states. *Sackett* has returned over 50% of the wetlands and as much as 70% of the streams to only state control. For this roundtable, EPN developed a checklist of all the actions the states and tribes will need to take to protect waters and wetlands excluded from the CWA by this decision. This checklist makes clear the Supreme Court has handed the states an enormous unfunded mandate.

If states or tribes are unwilling or unable to take the necessary actions, small streams and wetlands throughout the country will be permanently lost to dredge and fill activities, pollution will increase from newly unregulated sources, and flooding will worsen in inland and coastal areas. Twenty-six states filed lawsuits opposing the 2023 definition of waters of the U.S., so it is unlikely these states will be willing to protect *Sackett* excluded waters and wetlands.

Unless Congress amends the CWA to spell out a detailed definition of waters of the U.S. based on the proven science of hydrologic connectivity, the CWA’s goal of restoring and maintaining the chemical, physical, and biological integrity of the nation’s waters will be impossible to achieve.