

No. 21-454

IN THE
Supreme Court of the United States

MICHAEL SACKETT & CHANTELL SACKETT,

Petitioners,

v.

ENVIRONMENTAL PROTECTION AGENCY, ET AL.,

Respondents.

*On Writ of Certiorari to the United States
Court of Appeals for the Ninth Circuit*

**BRIEF OF ENVIRONMENTAL AND COMMUNITY
ORGANIZATIONS AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

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INTEREST OF *AMICI CURIAE*¹

Amici curiae are 114 environmental and community non-profit organizations (listed in the Appendix to this brief) that rely on the Clean Water Act and its comprehensive water-quality protections to help protect public health and the environment. *Amici* have an interest in ensuring that the Act is interpreted consistently with Congress’s stated objective to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

**INTRODUCTION AND
SUMMARY OF ARGUMENT**

Congress enacted the Clean Water Act with a single stated objective: to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” This objective can only be achieved if the Act protects both navigable waters and the interconnected wetlands and tributaries that significantly affect them.

The Act’s text, structure, and history—and this Court’s decisions, spanning decades—confirm that Congress enacted a comprehensive water-quality statute to do just that. With the Act’s programs, Congress protected downstream traditional navigable waters by regulating activities not only in those waters, but also in upstream wetlands and tributaries that significantly affect their integrity. The Act’s application to all “waters of the United States” has been

¹ The parties have consented to the filing of this brief. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici* or their counsel made a monetary contribution to its preparation or submission.

implemented consistent with this understanding—and with great success for our nation’s water quality—for virtually all of its 50-year history.

Petitioners now put forward a “two-step” test for determining the Act’s scope that is, more accurately, a giant leap backward. Their proposed reading would protect only waters deemed navigable and wetlands that physically abut them, “but no more.” This reading ignores that the Act repeatedly recognizes wetlands themselves as “waters.” And it would allow the destruction of *every* non-abutting wetland and non-navigable tributary of a traditional navigable water, with obvious and significant negative impacts on the downstream water’s chemical, physical, and biological integrity. That is not the comprehensive water-quality statute Congress enacted. The Court must reject this backward interpretation of the Clean Water Act, which would greatly undermine Congress’s clearly stated objective.

ARGUMENT

I. The Clean Water Act Protects the Chemical, Physical, and Biological Integrity of the Nation’s Waters

The text, structure, and history of the Clean Water Act—as well as this Court’s decisions—all confirm that Congress enacted a comprehensive statute with the single objective of protecting water quality. That objective requires protections for wetlands and tributaries that significantly affect the chemical, physical, or biological integrity of traditional navigable waters.

A. Text and Structure Confirm Congress’s Water-Quality Objective

Congress enacted the Clean Water Act to achieve a single objective—to ensure the integrity of our

nation’s water quality. The text of the Act makes this clear, specifying that “[t]he objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” Federal Water Pollution Control Act Amendments of 1972, Pub. L. No. 92-500, § 101(a), 86 Stat. 816, 816 (1972) (codified at 33 U.S.C. § 1251(a)) (emphasis added). The Act then identifies two “goals” to achieve the objective, both of which also focus on water quality and aquatic ecosystems: first, eliminating “the discharge of pollutants into the navigable waters”; and second, achieving “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water.” 33 U.S.C. § 1251(a)(1)–(2). The Act’s text thus confirms Congress’s statutory objective of ensuring water quality.

Petitioners insist that “[a]ll questions of statutory interpretation begin with the text,” Pet’rs’ Br. 25, but they nowhere acknowledge the statutory text that specifies the Act’s water-quality objective. Instead, Petitioners repeat the plurality opinion’s suggestion from *Rapanos v. United States* that “clean water is not the *only* purpose of the statute.” 547 U.S. 715, 755–56 (2006); Pet’rs’ Br. 46. This suggestion conflates one of several “polic[ies]” identified by Congress, *see* 33 U.S.C. § 1251(a)(3)–(7), (b), (c), (f), (g); *see also infra* p. 8 (discussing 33 U.S.C. § 1251(b)), with the sole specified “objective” that Congress enacted the statute to “achieve,” 33 U.S.C. § 1251(a). Because the Clean Water Act’s text distinguishes between the Act’s single water-quality *objective*, on the one hand, and various *policies*, on the other, it must be presumed that Congress acted “intentionally and purposefully” in selecting the disparate language. *Azar v. Allina Health Servs.*, 139 S. Ct. 1804, 1813 (2019) (quotation omitted).

Recognizing water quality as the Act’s single objective thus does not “substitut[e] the purpose of the statute for its text,” as the *Rapanos* plurality suggested, 547 U.S. at 755, but rather respects the text that Congress enacted. Indeed, as this Court correctly (and more recently) explained, “Congress’ purpose *as reflected in the language of the Clean Water Act* is to ‘restore and maintain the . . . integrity of the Nation’s waters.’” *Cnty. of Maui v. Hawai’i Wildlife Fund*, 140 S. Ct. 1462, 1468 (2020) (emphasis added) (quoting § 101(a), 86 Stat. at 816).

Other text in the Clean Water Act, as well as its structure, confirm this broad water-quality objective and show how the statute achieves it: the Act regulates the upstream discharge of pollution and fill materials that affect downstream water quality. The Act does this by, among other things, including as “waters of the United States” upstream waters that significantly affect downstream traditional navigable waters.

The Section 402 national pollutant discharge elimination system program, for example, applies pollution limits, which “carry out the objective of this chapter,” 33 U.S.C. § 1311(b), to every discrete source of pollution. *Id.* § 1342(a)(1). This approach relies on broad, comprehensive jurisdiction to regulate such sources at the point they discharge pollutants, rather than waiting for the cumulative effects of pollution that washes downstream to major rivers or lakes.

The Section 404 program, governing the discharge of dredged or fill material, also furthers Congress’s water-quality objective and reinforces that Congress regulated at the point of pollution. Section 404(b) directs the agencies to develop permitting guidelines, 33 U.S.C. § 1344(b), based on cross-referenced criteria from Section 403(c), including effects on “human health or welfare,” “marine life,” and “esthetic,

recreation, and economic values,” *id.* § 1343(c)(1). Section 404(c) then authorizes EPA to prohibit such discharges where they will have “unacceptable adverse effect[s] on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.” *Id.* § 1344(c). The reference to “effect[s]” on “municipal water supplies” and other areas highlights that Congress intended EPA to regulate the upstream discharge of fill material that affects downstream water quality. *See Mingo Logan Coal Co. v. EPA*, 829 F.3d 710, 724 (D.C. Cir. 2016) (“[S]ection 404(c) allows the EPA to consider the effects of spoil disposal downstream from the fill itself and downstream water quality may enter the equation.”).

The Section 401 water-quality certification program likewise demonstrates that Congress intended to prevent downstream water-quality impacts, including in downstream states. It provides for notice, hearings, and additional permit conditions if a discharge “may affect . . . the quality of the waters of any other State.” 33 U.S.C. § 1341(a)(2). The same is true for any downstream tribe treated as a state. *Id.* § 1377(e).

The Clean Water Act’s terms—including the meaning of “waters of the United States,” 33 U.S.C. § 1362(7)—must be interpreted in a way that is consistent with “major congressional objectives, as revealed by the statute’s language, structure, and purposes,” *Maui*, 140 S. Ct. at 1477. Here, the Act’s language, structure, and purpose confirm that the Act protects the water quality of traditional navigable waters by also protecting, as “waters of the United States,” those interconnected waters that significantly affect them. If those interconnected waters were omitted from the Act’s reach, the Act’s stated objective would be undermined by allowing upstream fill and

pollution that would significantly degrade downstream water quality. *See infra* Part II.C. The Court therefore must reject any interpretation of “waters of the United States” that allows upstream discharges to degrade the chemical, physical, or biological integrity of the nation’s waters. *See Maui*, 140 S. Ct. at 1473 (rejecting interpretation that would create regulatory loopholes) (citing *EPA v. California ex rel. State Water Res. Control Bd.*, 426 U.S. 200, 202–04 (1976) (basic purpose of Clean Water Act is to regulate pollution at its source)).

B. The Act Comprehensively Protects Water Quality by Expanding Earlier Navigation- and State-Based Efforts

The statutory history further confirms that the Clean Water Act protects not only the traditional navigable waters encompassed by earlier, less comprehensive statutes, but also those waters that significantly affect the chemical, physical, or biological integrity of traditional navigable waters.

Prior to 1972, Congress largely left water pollution control to the states. The Federal Water Pollution Control Act of 1948, Pub. L. No. 80-845, 62 Stat. 1155, was limited to providing technical assistance to states, partial financing of municipal sewage treatment works, and authority to bring public nuisance lawsuits to abate interstate water pollution when all other means failed. States were left to establish and enforce treatment requirements for pollution sources. In 1965, Congress tried another unsuccessful approach, directing states to develop ambient water-quality standards specifying the acceptable levels of pollution in a state’s interstate navigable waters. *California*, 426 U.S. at 202. That system proved unworkable because it “focused on the tolerable effects rather than the preventable causes of water pollution.” *Id.*

These federal programs' jurisdiction over waterways was severely limited, and the result was widespread deterioration of the nation's waters. From the 1950s to the 1970s, for example, the United States lost an average of over 450,000 acres of wetlands every year. W.E. Frayer et al., U.S. Fish & Wildlife Service, National Wetlands Inventory, "Status and Trends of Wetlands and Deepwater Habitats in the Conterminous United States, 1950s to 1970s" (1983), *available at* <https://tinyurl.com/44w6svw7> (documenting 20-year net loss of over 9 million acres of wetlands).

By the 1970s, Congress recognized that the nation's waters "[we]re in serious trouble." H.R. Rep. No. 92-911, at 66 (1972). Congress deemed its prior approaches, whose limited navigation-based federal jurisdiction had left most water protection to the states, to be "inadequate in every vital aspect." *City of Milwaukee v. Illinois & Michigan*, 451 U.S. 304, 310 (1981) (quoting S. Rep. No. 92-414, at 7 (1971)). Congress responded by enacting a "total restructuring' and 'complete rewriting' of the existing water pollution legislation" in the Clean Water Act of 1972. *Id.* at 317.

The Clean Water Act's history makes clear that Congress intended it to be a "comprehensive" statute that established an "all-encompassing program of water pollution regulation." *Milwaukee*, 451 U.S. at 317–19. Among other things, the Act expanded the reach of prior navigation-based statutes to encompass "virtually all bodies of water." *Int'l Paper Co. v. Ouellette*, 479 U.S. 481, 492 (1987). Congress "chose to define the waters covered by the Act broadly," *United States v. Riverside Bayview Homes, Inc.*, 474 U.S. 121, 133 (1985); 33 U.S.C. § 1362(7), and specified that the Act's objective was to protect the "chemical, physical, and biological integrity" of the nation's waters, 33 U.S.C. § 1251(a). Lawmakers repeatedly reiterated that they

intended the Act's scope to be "given the broadest possible constitutional interpretation." H.R. Rep. No. 92-911, at 131 (1972); *accord* S. Rep. No. 92-1236, at 3822 (1972) (Conf. Rep.).

Relatedly, the Clean Water Act's history (and text) reveals that Congress rejected the state-based approach to protecting water quality that had already failed. Instead, Congress structured the Act around a cooperative federalism system that established a "regulatory 'partnership' between the Federal Government and the source State." *Ouellette*, 479 U.S. at 490. This system allows states to implement the Act's programs, *see* 33 U.S.C. §§ 1342(b), 1344(g); *see also id.* § 1251(b) (referencing permitting programs under sections 402 and 404), and to set more protective standards for jurisdictional waters within their borders, *see id.* § 1370(1). But the Act does not give states discretion to fall below the federal floor: Congress recognized states' responsibility to "*prevent, reduce, and eliminate* [water] pollution," *id.* § 1251(b) (emphasis added), not to *allow* such pollution where a state so chooses. Congress's stated policy of preserving the states' role in pollution control thus neither undermines the Act's specified water-quality objective, *see supra* Part I.A, nor limits the Act's comprehensive jurisdiction.

C. The Court's Decisions Recognize the Act's Broad Jurisdiction and Water-Quality Objective

This Court's decisions, spanning decades, have recognized the Clean Water Act's comprehensive protections for our nation's water quality. *E.g.*, *PUD No. 1 of Jefferson Cnty. v. Wash. Dep't of Ecology*, 511 U.S. 700, 700 (1994) (describing Act as a "comprehensive water quality statute designed to 'restore and maintain the chemical, physical, and biological integrity of the Nation's waters'" (quoting 33 U.S.C. §1251(a))).

The Court first addressed the Act's scope in relation to common law nuisance claims. Prior to the Act's passage, the Court had recognized federal common law claims for interstate water pollution. *See Illinois v. Milwaukee*, 406 U.S. 91, 107 (1972). After the Act became law, however, the Court held that Congress had displaced such claims by establishing a "comprehensive regulatory program" for water pollution control. *Milwaukee*, 451 U.S. at 317. The Court subsequently held that the Act also preempted claims under the common law of downstream states. *Ouellette*, 479 U.S. at 491–92. The Act's broad coverage and "pervasive regulation," which "applies to all point sources and virtually all bodies of water," was "sufficiently comprehensive" to infer that "Congress left no room for supplementary state regulation." *Id.* (citation and internal quotations omitted).

The Court has never curtailed the Clean Water Act's protection of waters that significantly affect downstream water quality. In *Riverside Bayview*, the Court upheld the Act's application to wetlands based on the Army Corps' "ecological judgment" that such wetlands have "significant effects on water quality and the aquatic ecosystem"—for example, where they "filter and purify water draining into adjacent bodies of water" or "slow the flow of surface runoff into lakes, rivers, and streams and thus prevent flooding and erosion." 474 U.S. at 134–35, 135 n.9.

The Court's decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)*, 531 U.S. 159 (2001), was also consistent with this approach. There the Court rejected the Army Corps' application of the Act to isolated ponds based on their use as migratory bird habitats, *id.* at 167, but did not reject the Act's application to waters based on their significant effects on downstream waterways. In fact,

the Court distinguished *Riverside Bayview* on the basis of the “significant nexus between the wetlands and ‘navigable waters’” in that case, which implicated “Congress’ concern for the protection of water quality and aquatic ecosystems.” *Id.*

Justice Kennedy’s concurring opinion in *Rapanos* also relied on the existence of a “significant nexus” between covered wetlands and navigable waters. 547 U.S. at 759. While that phrase itself does not appear in the statute, Justice Kennedy made clear that the framework is nonetheless grounded firmly in the Act. He explained that the “required nexus must be assessed in terms of the statute’s goals and purposes,” and that “Congress enacted the law to ‘restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.’” *Id.* at 779 (quoting 33 U.S.C. § 1251(a)). Therefore, because “wetlands can perform critical functions related to the integrity of other waters—functions such as pollutant trapping, flood control, and runoff storage”—Justice Kennedy explained that they fall within the Act’s coverage if they “significantly affect the chemical, physical, and biological integrity of other covered waters.” *Id.* at 779–80.

When the Court interpreted the Clean Water Act most recently in *Maui*, it again reaffirmed that the Act must be interpreted in a way that is consistent with Congress’s stated objective to “restore and maintain the . . . integrity of the Nation’s waters.” *Maui*, 140 S. Ct. at 1468 (quoting 33 U.S.C. § 1251(a)). The Court rejected an interpretation of the Act that would create loopholes allowing the statute’s water-quality objective to be defeated. *Id.* at 1477. The Court explained that even an interpretation that is “more absolute” and would be “easier to administer” still must be rejected if its consequences are “inconsistent with major

congressional objectives.” *Id.* As explained below, Petitioners’ proposed test here fails for the same reasons.

II. Petitioners’ Test Undermines the Integrity of Our Nation’s Waters and Contravenes the Act’s Water-Quality Objective

Because wetlands and tributaries can significantly affect the chemical, physical, and biological integrity of traditional navigable waters, categorically excluding most of them from the Clean Water Act’s reach would contravene the Act’s water-quality objective and comprehensive scope. Petitioners nonetheless define “waters of the United States” in a way that would do just that.

The first step of Petitioners’ test for including wetlands as “waters of the United States” would require a continuous surface connection between the wetlands and so-called “authentic ‘water[s],” Pet’rs’ Br. 28, similar to the test proposed by the *Rapanos* plurality. Petitioners then go further than the *Rapanos* plurality and, in the second step, would require that the surface connection be to a water deemed navigable. In short, Petitioners would define “waters of the United States” as only waters deemed navigable and wetlands with continuous surface connections to them. Both of these steps contravene the Clean Water Act and share the same fundamental flaw: they are not based on protecting water quality and would allow degradation of the integrity of our nation’s waters.

A. The Act Does Not Require a Continuous Surface Connection or “Relatively Permanent” Flow

The *Rapanos* plurality, echoed in the first step of Petitioners’ test, requires that wetlands have a “continuous surface connection” to another jurisdictional water, and that tributaries have “relatively

permanent” flow, to be “waters of the United States.” 547 U.S. at 742. These requirements are based on misinterpretations of a dictionary and subjective assertions that these waters are not “waters.” Wetlands and tributaries, even those that lack Petitioners’ and the plurality’s required characteristics, are still “waters.” And, consistent with the Act’s comprehensive reach and objective, they are “waters of the United States” where they significantly affect the chemical, physical, or biological integrity of traditional navigable waters. Categorically excluding wetlands and tributaries that lack surface connections and permanent flow would contravene the Act and undermine its objective.

1. Petitioners claim wetlands are not “waters” unless they physically abut other “waters,” such that the wetlands become indistinguishable from them. Pet’rs’ Br. 17, 28–29; *see also Rapanos*, 547 U.S. at 742, 755 (plurality op.). Wetlands, however, are “waters” in their own right; they need not be continuously connected to other waters to be protected under the Act.

Wetlands are waters or water bodies in ordinary language. Indeed, Congress itself referred to wetlands as waters or water bodies repeatedly in the Clean Water Act. For example, Section 404 provides that a state may administer its own dredge-and-fill permitting program with respect to waters other than “those waters” used or susceptible to use in interstate or foreign commerce “including” adjacent wetlands. 33 U.S.C. § 1344(g)(1). The word “including”—as opposed to “and”—makes plain that Congress understood the wetlands *to be* “waters.” Other sections of the Clean Water Act are similar. In the Lake Champlain Basin Program, Congress referred to “streams, rivers, lakes, and *other bodies of water, including wetlands.*” *Id.* § 1270(g)(2) (emphasis added). Elsewhere Congress

referred to “streams, rivers, *wetlands*, *other waterbodies*, and riparian areas,” *id.* § 2336(b)(2) (emphasis added), and defined “coastal waters” to mean the waters of the Great Lakes “including” portions of other “bodies of water” with certain features, “including wetlands,” *id.* § 2802(5). These examples show that there is nothing contrary to “ordinary language” about referring to wetlands as waters or waterbodies. Pet’rs’ Br. 25. Congress itself plainly understood wetlands as waters.

Petitioners claim that wetlands cannot be waters because they are “lands with some amount of water on them.” Pet’rs’ Br. 25. That argument proves too much, as it describes every water body right down to the Pacific Ocean. *See United States v. California*, 436 U.S. 32, 36 & n.9 (1978) (describing an area of the Pacific as “submerged lands” with “waters located on or over” them). Petitioners also suggest that Congress may not have considered wetlands to be water bodies because, in the mid-19th century, Congress supposedly viewed wetlands as nuisances. Pet’rs’ Br. 26–27. But by 1977, Congress made explicit its intent to protect wetlands, *see* Pub. L. No. 95-217, sec. 67, 91 Stat. 1566, 1601 (1977) (codified at 33 U.S.C. § 1344(g)(1)); *see also Riverside Bayview*, 474 U.S. at 138–39 (discussing 1977 amendments to Clean Water Act), and by 1990, Congress enacted “a long-term goal to increase the quality and quantity of the Nation’s wetlands,” Pub. L. No. 101-640, sec. 307, 104 Stat. 4604, 4635 (1990) (codified at 33 U.S.C. § 2317). Petitioners’ idea that when enacting the Clean Water Act, Congress was still operating in a Grimm’s Fairy Tale era of “sinister and forbidding” wetlands, Pet’rs’ Br. 27, is baseless.

To be sure, *Riverside Bayview* noted that on “a purely linguistic level, it may appear unreasonable to classify ‘lands,’ wet or otherwise, as ‘waters.’” 474 U.S.

at 132. However, the Court went on to reject this assessment as “simplistic” and failing to do justice to the “realities of the problem of water pollution.” *Id.* The Court also observed that “the transition from water to solid ground” may not be “abrupt” and it is not always obvious where to find the limit of “waters.” *Id.* at 132, 134. But the Court held that the Corps could treat the wetland at issue as a “water of the United States” not because of an inability to distinguish it from the nearby creek or because the wetland was frequently flooded by the creek, but rather because of the “congressional concern for protection of water quality and aquatic ecosystems,” and because protecting adjacent wetlands stemmed from the Act’s goal to maintain and improve water quality. *Id.* at 132–33.

The Court in *Riverside Bayview* never suggested that the wetland at issue there was “*indistinguishable*” from the nearby creek. *Rapanos*, 547 U.S. at 755 (plurality op.); Pet’rs’ Br. 17. In fact, the oral argument transcript from that case makes clear that the wetland and creek were not directly abutting. See Br. of *Amicus Curiae* Idaho Conservation League 19–20 (discussing facts of *Riverside Bayview*); see also *SWANCC*, 531 U.S. at 176 & n.2 (Stevens, J., dissenting) (same). Thus, contrary to Petitioners’ argument here, Pet’rs’ Br. 22–23, the Court’s determination that some wetlands are “inseparably bound up with” other waters referred to their significant effects on water quality, *Riverside Bayview*, 474 U.S. at 133–34, not physical abutment. Notably, the Army Corps regulation discussed in *Riverside Bayview* protected “adjacent” wetlands as waters of the United States not only where they physically abutted another waterway, but also where they were “in reasonable proximity to other waters of the United States.” *Id.* at 134 (quoting 42 Fed. Reg. 37,122, 37,128 (July 19, 1977)). The Court’s

holding addressed such “adjacent” wetlands, *id.* at 131 n.8, and the Court’s reasoning turned on the wetlands’ “significant effects on water quality and the aquatic ecosystem,” *id.* at 135 n.9.

The Court’s holding in *SWANCC* also does not support requiring a “surface connection” between wetlands and other waters. In *SWANCC*, the Court did not address whether filling the ponds at issue would significantly affect the integrity of a traditional navigable water. Instead, the Court simply rejected the Army Corps’ argument that the Act protected the ponds at issue because they could affect interstate commerce solely by serving as habitat for migratory birds. 531 U.S. at 173. And as noted above, pp. 9–10, *SWANCC* distinguished the ponds at issue from the wetlands in *Riverside Bayview* not because the ponds lacked a continuous surface connection to other covered waters, but rather because the wetlands in *Riverside Bayview* had a “significant nexus” to a navigable water that implicated Congress’s “concern for the protection of water quality.” 531 U.S. at 167.

Consistent with *SWANCC* and *Riverside Bayview*, the scientific literature details the myriad ways in which wetlands play a vital role in maintaining the chemical, physical, and biological integrity of downstream traditional navigable waters. Essential functions performed by wetlands include trapping, storing, and filtering pollutants that would otherwise degrade downstream waters; temporarily retaining groundwater that supports baseflow in rivers; providing habitat for breeding fish, insects, and other species to help sustain the biological productivity of downstream waters; and retaining stormwater, floodwater, and runoff that would otherwise impair river quality and functioning. 86 Fed. Reg. 69,372, 69,392 (Dec. 7, 2021) (proposed rule); EPA & Dep’t of the Army, Technical Support

Document 30, 173–96 (Nov. 18, 2021) (hereinafter “TSD”), *available at* <https://tinyurl.com/4a5eruuy>. And even wetlands that lack a direct surface connection to traditional navigable waters or their tributaries often exert significant effects on downstream waters through periodic flooding or shallow subsurface connections. *See* 86 Fed. Reg. at 69,409; TSD at 184–89.²

Despite the undisputed significance of these wetlands to downstream water quality, Petitioners push for a test that would likely exclude over 45 million acres of wetlands from the Act’s protections. *See* Mot. Summ. J., Ex. 47 Table 2 (Doc. 58-50), *S.C. Coastal Conservation League v. Wheeler*, No. 2:20-cv-01687-DCN (D.S.C. July 10, 2020) (analyzing effects of since-vacated 2020 rule, which was based largely on the *Rapanos* plurality). These exclusions would include important wetlands at the doorstep of the Okefenokee National Wildlife Refuge in southeastern Georgia, which are critical to the health of the surrounding watershed because they store water during storm events and filter water, lessening flooding and pollution downstream. *See* C. Rhett Jackson et al., *Redefining Waters of the US: A Case Study from the Edge of the Okefenokee Swamp*, 41 *Wetlands* 106 at 8 (Nov. 2021). Allowing these wetlands to be destroyed would harm water quality and quantity locally and downstream, *id.*, including the St. Marys River and the iconic Okefenokee.

² Notably, even adjacent wetlands with minimal (or no) hydrological connections can significantly affect downstream waters by preventing pollution from flowing into the tributary network. *See Rapanos*, 547 U.S. at 775 (Kennedy, J., concurring in the judgment) (“[I]t may be the absence of an interchange of waters prior to the dredge and fill activity that makes protection of the wetlands critical to the statutory scheme.”).

Petitioners' property also demonstrates why interpreting the Act to require "surface connected" wetlands in a statute concerned with water quality makes little sense. Petitioners argue that Congress did not regulate their wetland even though: (1) the Act's single objective is to "to restore and maintain the . . . integrity of the Nation's waters," 33 U.S.C. § 1251(a); (2) the Act expressly regulates wetlands, *id.* § 1344(g)(1); and (3) it is undisputed that filling Petitioners' wetland will harm Priest Lake, a navigable water that is only 300 feet away, JA 29, 41–42. Indeed, the record demonstrates that Petitioners' wetland provides water-quality improvement to Priest Lake via sediment retention and nutrient uptake, and provides flow attenuation by retaining runoff and groundwater flow. *Id.* at 41–42.

Petitioners argue that Congress nonetheless did not want to regulate their wetland because, despite an undisputed *subsurface* connection to Priest Lake, and an undisputed influence on the water quality of the lake, there is no visible *surface* connection. Pet'rs' Br. 50; JA 29, 41. But that distinction has no basis in the Clean Water Act, which treats wetlands as "waters" without reference to "surface connections," and it would severely undermine the Act's water-quality objective by excluding wetlands that significantly affect traditional navigable waters. Petitioners' argument simply ignores the basic reality that the largest waters are only as clean as the waters that flow into them.

2. In addition to requiring a continuous surface connection between wetlands and jurisdictional waters, the *Rapanos* plurality also asserts that streams without "relatively permanent" flows of water, such as ephemeral streams (which flow as a result of precipitation events, such as rain or snowfall), do not count

as “waters.”³ Although not directly at issue in this case—given that there are no ephemeral streams near Petitioners’ property (JA 30), and the focus of the question presented is on the proper test for wetlands—this too is wrong, for several reasons.

First, the plurality relies on a dictionary defining “waters” to mean those found in “streams and bodies forming geographical features such as oceans, rivers, [and] lakes” or “the flowing or moving masses, as of waves or floods, making up such streams or bodies.” 547 U.S. at 732–33 (quoting Webster’s New Int’l Dictionary 2882 (2d ed. 1954)). According to the plurality, these examples “connote continuously present, fixed bodies of water.” *Id.* at 733. But the critical words “continuously present” come from nowhere. And the dictionary’s reference to “floods” strongly suggests that a continuous presence of water is *not* a necessary feature of “waters.” *Rapanos*, 547 U.S. at 770 (Kennedy, J., concurring in the judgment) (noting that a “flood or inundation” is “impermanent by definition”).⁴

Second, the *Rapanos* plurality claims that the word “stream” implies “*continuous* flow.” 547 U.S. at 733 n.6 (citing Webster’s New Int’l Dictionary 2493 (2d

³ The plurality asserts that “intermittent” streams also are not “waters” under the Act, 547 U.S. at 732 n.5, 733–34, 739, but simultaneously allowed for coverage of streams that the agencies deem “intermittent”—namely, ones with seasonal flow. *Id.* at 732 n.5; Appendices to TSD at 8, *available at* tinyurl.com/57ef2fmz (classifying “intermittent stream[s]” as those that flow continuously, but only at certain times of year).

⁴ Many ephemeral streams also have “fixed” visually identifiable features, such as channel beds, banks, and ordinary high water marks. *See* 80 Fed. Reg. 37,054, 37,058 (June 29, 2015) (defining “waters of the United States” to include only tributaries, including ephemeral tributaries, with “physical indicators of flow—bed and banks and ordinary high water mark”).

ed. 1954) (referring to “[a] *steady flow*, as of water, air, gas, or the like”). But “continuous flow,” in the sense used by the dictionary, does not mean “lasting all year.” It simply distinguishes a steady flow of liquid (however long the flow lasts) from more discontinuous liquid dispersal, like drops or splashes. It does not exclude a stream that flows steadily—“continuously”—following a precipitation event for a limited time.

Third, the plurality resorts to asserting that intermittent or ephemeral streams are not streams because of a purported “commonsense understanding.” 547 U.S. at 734. But that is simply not so, linguistically, scientifically, or as a matter of common sense. For example, a government manual published a decade before the Clean Water Act’s enactment defined “stream” as water flowing in natural channels, and noted that streams may be classified as either perennial, intermittent, or ephemeral. U.S.G.S., *Manual of Hydrology: General Introduction and Hydrologic Definitions* 18 (1960), *available at* <https://tinyurl.com/5f73ujvy>. The photograph below shows a flowing ephemeral stream. Even if the channel were dry other times of year, “common sense” does not dictate that this feature is not a “stream” or a “water.”



Floodwaters in an ephemeral stream, Walnut Gulch, Arizona. EPA, *The Ecological and Hydrological Significance of Ephemeral and Intermittent Streams in the Arid and Semi-arid American Southwest* 28 (Nov. 2008), available at <https://ti-nyurl.com/3dzbx5h>.

Finally, the *Rapanos* plurality theorizes that intermittent or ephemeral streams are more like “ditches” or “channels,” and therefore akin to “point sources” under the Act. 547 U.S. at 735–36; 33 U.S.C. § 1362(14) (defining “point source”). But the assumption that ditches and channels have only intermittent flow is unsupported. *See Rapanos*, 547 U.S. at 802 (Stevens, J., dissenting) (each example of a “point source” in the Act, such as pipes and channels, “can all hold water permanently as well as intermittently”). In a lengthy footnote, the plurality claims that when ditches and channels have permanent flows, they are called something else—like rivers, creeks, or streams. *Id.* at 736 n.7. But ephemeral streams are *also* called streams—not necessarily “channels.” And the plurality acknowledges that at least some features with a “continuous presence of water” are *not* “waters” under its reading. *Id.* Thus, the plurality concedes that continuity of flow ultimately does not dictate whether a feature is a “water of the United States.”

Instead, the *Rapanos* plurality’s interpretation of “waters” boils down to say-so: whether the plurality considers a particular feature to be a “water.” Petitioners take the same approach. See Pet’rs’ Br. 26 n.10, 23–24 (a feature is a “water” if it is “akin to” something “normally considered ‘waters’” or “ordinarily referred to as a ‘water’”). But as explained above, there is no basis in ordinary usage, or the Act itself, to conclude that all streams not deemed “relatively permanent” are not “streams.”

In fact, the Act’s purpose—to restore and maintain water quality—may be equally or more affected by impermanent tributaries than by small, continuous ones. See *Rapanos*, 547 U.S. at 769 (Kennedy, J., concurring in the judgment) (the plurality’s flow requirement “makes little practical sense in a statute concerned with downstream water quality,” because a continuous “trickle” would count as a “water,” while “torrents thundering at irregular intervals” would not); TSD at 159 (after a storm event, “contributions of the storm-flow from ephemeral tributaries accounted for 76% of the flow of the Rio Grande”).

B. The Clean Water Act Applies to More Than Traditional Navigable Waters

Petitioners also propose a “second step” to their jurisdictional test, Pet’rs’ Br. 23, but it would be better described as a giant leap backward: they would protect only traditional navigable waters (and wetlands that physically abut them), despite the fact that Congress has repeatedly rejected this failed approach to federal jurisdiction and this Court expressly rejected it as an interpretation of the Act.

When Congress enacted the Clean Water Act in 1972, it retained the term “navigable waters” from prior legislation, but—crucially—expanded the Act’s

scope by redefining it broadly as the “waters of the United States.” See *Riverside Bayview*, 474 U.S. at 133. The House had proposed defining the Act’s jurisdiction as “*navigable* waters of the United States,” H.R. Rep. No. 92-911, at 53 (1972), but the Senate conferees specifically deleted the word “navigable,” making clear that “waters of the United States” is not constrained by navigability. S. Rep. No. 92-1236, at 144 (1972) (Conf. Rep.). Congress thus intended to “repudiate limits that had been placed on federal regulation by earlier water pollution control statutes,” and to “regulate at least some waters that would not be deemed ‘navigable’ under the classical understanding of that term.” *Riverside Bayview*, 474 U.S. at 133.⁵

Congress also made this intent plain in other provisions of the Act. For example, Congress specifically limited state permitting under Section 404 to waters that are *not* traditional navigable waters, and instead authorized it only for waters “*other than* those waters which are presently used, or are susceptible to use[,] . . . as a means to transport interstate or foreign commerce.” 33 U.S.C. § 1344(g)(1) (emphasis added). As the *Rapanos* plurality acknowledges, “[t]his provision shows that the Act’s term ‘navigable waters’ includes something more than traditional navigable waters.” 547 U.S. at 731. Indeed, the plurality goes on to reject Petitioners’ theory that the “other” waters described in Section 404(g)(1) are strictly intrastate navigable waters. *Id.* at 731 n.3.

⁵ Notably, the significant nexus test still gives the term “navigable” some import, because the “waters of the United States” covered by that test have at least some significant connection to downstream traditional navigable waters. *Rapanos*, 547 U.S. at 779 (Kennedy, J., concurring in the judgment).

As explained above, *supra* Part I.B, Congress intended the Act to apply broadly—and to expand federal jurisdiction over water pollution control beyond the narrow, navigability-based approach of previous efforts—precisely because those prior efforts had proved to be “inadequate in every vital aspect.” *Milwaukee*, 451 U.S. at 310 (quoting S. Rep. No. 92-414 at 7). That is why Congress replaced those prior efforts with an “all-encompassing program of water pollution regulation,” *id.* at 318, that—for the first time—“dominate[d] the field” by covering “virtually all bodies of water,” *Ouellette*, 479 U.S. at 492.

Consistent with Congress’s design, the scientific literature unequivocally demonstrates that upstream tributaries significantly affect the integrity of traditional navigable waters. TSD at 29; *see also id.* at 157–73. Tributaries concentrate, mix, transform, and transport water and other materials downstream; they transport and transform chemical elements and compounds, influencing water quality, sediment deposition, nutrient availability, and biotic functions in downstream waters; and they facilitate dispersal and migration, processes that have critical biological implications for aquatic organisms that depend on downstream waters to complete their life cycles or maintain viable populations. *Id.* at 158; *see also* 86 Fed. Reg. at 69,390–92.

Despite this science and the abundant history above, Petitioners’ theory would require finding that the Clean Water Act actually *shrank* federal jurisdiction to cover only navigable waters and indistinguishable abutting wetlands, “but no more.” Pet’rs’ Br. 43. As Petitioners acknowledge, previous statutes since the nineteenth century protected any “tributary of any navigable water.” *Id.* at 33–34 (citing, e.g., *United States v. Rio Grande Dam & Irrigation Co.*, 174

U.S. 690 (1899)). Likewise, courts have long affirmed that Congress has “the authority to regulate nonnavigable waters when that regulation is necessary to achieve Congressional goals in protecting navigable waters.” *United States v. Deaton*, 332 F.3d 698, 707 (4th Cir. 2003) (collecting cases); *see also Oklahoma ex rel. Phillips v. Guy F. Atkinson Co.*, 313 U.S. 508, 525 (1941) (“There is no constitutional reason why Congress cannot under the commerce power treat the watersheds as a key to flood control on navigable streams and their tributaries.”). Yet Petitioners suggest, without support, that Congress in 1972 excluded all non-navigable tributaries of navigable waters from the “waters of the United States.” Pet’rs’ Br. 44. The opposite is true: Congress recognized that jurisdiction under the Act must extend to “navigable waters . . . and their tributaries” for the health of the “aquatic ecosystem” and “well-being of human society.” S. Rep. No. 92-414, at 76–77 (1971) (emphasis added).

Developments after 1972 further refute Petitioners’ theory. In 1973, EPA promulgated regulations defining “navigable waters” broadly to include not only traditional navigable waters, but also their tributaries. 38 Fed. Reg. 13,528, 13,529 (May 22, 1973). Although Army Corps regulations adopted the following year applied only to traditional navigable waters, this navigability approach was soundly rejected by federal courts. *See United States v. Ashland Oil & Transp. Co.*, 504 F.2d 1317, 1325 (6th Cir. 1974); *Nat. Res. Def. Council, Inc. v. Callaway*, 392 F. Supp. 685 (D.D.C. 1975); *United States v. Holland*, 373 F. Supp. 665 (M.D. Fla. 1974). Consequently, the Corps acknowledged that the Act required it to extend federal water-quality protections to non-navigable tributaries and wetlands. 40 Fed. Reg. 31,320, 31,324–25 (July 25, 1975).

In response, Congress considered a 1977 legislative proposal that would have redefined and limited federal jurisdiction to match Petitioners' theory by limiting the scope of Section 404 to cover only navigable-in-fact waters and their adjacent wetlands. *See Riverside Bayview*, 474 U.S. at 135–38. Congress rejected this attempt to reduce the scope of the Act. H.R. Rep. No. 95-830, at 97–105 (1977) (Conf. Rep.). As this Court recognized, the 1977 amendments that Congress ultimately passed made explicit its intent to protect more than traditional navigable waters, and “retained the [1972 Act’s] comprehensive jurisdiction over the Nation’s waters.” *Riverside Bayview*, 474 U.S. at 136–37 (quotation and alteration omitted). As lawmakers explained at the time, that “comprehensive coverage” was “essential for the protection of the aquatic environment” because even “seemingly separable” aquatic systems are, in fact, “interrelated and interdependent.” 123 Cong. Rec. 26,718 (1977) (statement of Sen. Baker). One “cannot . . . preserve the remaining qualities of our water resources without providing appropriate protection for the entire resource.” *Id.*

In other words, Congress in 1977 already rejected Petitioners' proposed theory, which would have required limiting the scope of the 1972 Act. Congress enacted other measures, however, to soften the impact of the Act's broad jurisdictional scope. *See, e.g.*, Pub. L. No. 95-217, § 67, 91 Stat. at 1600 (adding general permitting provision and permitting exclusions for certain agricultural and other activities) (codified at 33 U.S.C. § 1344(e), (f)). Congress understood that the Act could not achieve its water-quality objective if it excluded from its scope upstream tributaries and wetlands that significantly affect downstream waters.

C. Regulating Discharges “Indirectly” Does Not Close the Loopholes Opened by Petitioners’ Approach

Petitioners and the *Rapanos* plurality try to downplay the consequences of their tests by suggesting that the agencies may still be able to require permits for certain upstream discharges so long as the pollution eventually flows downstream to “waters of the United States.” 547 U.S. at 743; Pet’rs’ Br. 42 (suggesting that Congress regulated discharges that “end up in” traditional navigable waters). But this “indirect discharge” theory suffers from multiple flaws. Most significantly, it purports to regulate harm solely from mobile pollutants (and only questionably at that), leaving unaddressed the significant harms to traditional navigable waters that result from the wholesale destruction of streams and wetlands—like Petitioners’ wetland here—when they are filled.

1. The “indirect discharge” theory would be the agencies’ only means of regulating mobile pollutants that wash downstream, according to Petitioners. Such an approach would be highly problematic. Regulating pollutant discharges “indirectly” only when they flow, eventually, to a “water of the United States” might require, first, that the pollution be identified in the (sometimes large) downstream water body, and second, that the agencies trace a given pollutant upstream to a particular tributary and a particular source on that tributary. Even if the pollution source is found, the agencies might have to prove that the discharge is the “functional equivalent of a direct discharge” to a downstream navigable water, applying several different factors. *Maui*, 140 S. Ct. at 1468.

The *Rapanos* plurality questions why such tracing would be harder than proving that the upstream tributary flows to the downstream water. 547 U.S. at 745.

But if arsenic or any other pollutant were found in Lake Michigan, it is not clear whether the “indirect discharge” theory would allow the agencies to regulate *all* dischargers of that pollutant along all upstream tributaries, without proving that *each* point source in fact contributed to the pollution found in the Lake. By contrast, if the tributaries and wetlands themselves were (properly) regarded as “waters of the United States,” each point source discharging into such waters would require a permit. That result is far more consistent with the objective and structure of the Act, which Congress designed specifically to regulate pollutants *at their source*—not merely in the downstream traditional navigable waters. *See supra* Part I.A.

2. More fundamentally, the “indirect discharge” theory ignores the tremendous harm to downstream waters caused by discharging dredged or fill material into excluded wetlands and tributaries. *See Rapanos*, 547 U.S. at 744 (plurality op.) (acknowledging that the theory would not address fill that “stay[s] put”). In a statute dedicated to protecting water quality, there is no reason why Congress would have differentiated between the water-quality harm caused by mobile pollutants and the water-quality harm caused by filling and destroying upstream waters. Exempting the latter activities would open a significant gap in the Act’s protection of downstream navigable waters. Indeed, even prior to the Act’s passage, Congress regulated not only upstream *mobile* pollutants that flowed to downstream waters, but also other types of upstream manipulation that influence downstream waters. *See Oklahoma*, 313 U.S. at 525–26 (upholding Congress’s authority to dam a tributary of the Mississippi River, noting that “control over the non-navigable parts of a river may be essential or desirable in the interests of the navigable portions”).

Petitioners claim that Congress “recognized” that upstream fill “likely would never reach navigable waters,” and regulating it would “do little” for downstream water quality. Pet’rs’ Br. 42; *see also Rapanos*, 547 U.S. at 743–44 & n.11 (plurality op.). These claims are manifestly incorrect. Even assuming fill does not migrate downstream, depositing dredge and fill material into an upstream wetland or tributary—such as by converting that wetland or tributary to dry land, or significantly changing its structure and function—can unquestionably harm the integrity of downstream waters.

Filling wetlands that lack surface connections to other covered waters can significantly impair downstream navigable waters. *See supra* p. 16 (discussing wetlands near Okefenokee National Wildlife Refuge). A wetland lacking a surface connection can significantly affect the condition and function of downstream waters by storing water and thus attenuating downstream flooding and reducing nutrient and soil pollution in downstream waters. *Rapanos*, 547 U.S. at 775 (Kennedy, J., concurring in the judgment). When wetlands perform filtering and runoff-control functions, “filling them may increase downstream pollution, much as a discharge of toxic pollutants would.” *Id.* (citing U.S. Congress, Office of Technology Assessment, *Wetlands: Their Use and Regulation*, OTA–O–206, pp. 43, 48–52 (Mar. 1984)).

Filling tributaries can also harm downstream waters. Tributaries, even when they are seasonal or ephemeral, are the dominant source of water in most rivers. TSD at 159; *see also id.* at 166. Small tributary streams “often have the greatest effect” on downstream water quality by storing and reducing chemical inputs, serving as a sink for contaminants that would otherwise reach downstream waters. *Id.* at 162–63.

Headwater streams can also provide habitat for species that use downstream waters and can serve as a food source to organisms living in downstream waters. *Id.* at 164. In specific cases, EPA has found that the “burial” of certain headwater streams and their tributaries by filling them would result in unacceptable adverse effects on wildlife downstream, by removing the buried streams’ functions and resulting in a significant loss of habitat, degrading downstream aquatic ecosystems. *See* 76 Fed. Reg. 3126, 3128 (Jan. 19, 2011); *Mingo Logan Coal Co. v. EPA*, 70 F. Supp. 3d 151, 169–70, 177–78 (D.D.C. 2014).

The Act itself also belies Petitioners’ assumption that Congress was not concerned with the discharge of dredged or fill material that can significantly affect downstream water quality. Section 404(c) grants EPA authority to prohibit the disposal of dredged or fill material in specified areas if it “will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.” 33 U.S.C. § 1344(c); *see supra* pp. 4–5. The disposal site *itself* need not be a municipal water supply, fishery, or recreational area—rather, EPA is empowered to regulate the disposal of fill that may “have an . . . effect” on such areas. “Because an entity will never be permitted to discharge dredged and fill material directly into municipal water supplies, it follows that Congress must have contemplated that EPA would be concerned with an effect occurring downstream from the discharge site.” *Mingo Logan Coal*, 70 F. Supp. 3d at 178.

Notwithstanding Congress’s textual requirement to prevent downstream water-quality impacts from discharged fill, Petitioners’ and the *Rapanos* plurality’s theories would allow discharges of fill in wetlands or tributaries that would degrade downstream

municipal water supplies, fisheries, and recreational areas—exactly the harmful outcomes Congress enacted the statute to prevent. Indeed, Petitioners’ theory would allow the unpermitted destruction of *every* non-navigable tributary to a river system, so long as the fill did not make its way downstream. Because these theories would unquestionably degrade the chemical, physical, and biological integrity of our Nation’s waters, they are contrary to the Clean Water Act and must be rejected.

CONCLUSION

The Court should affirm the judgment below.

Respectfully submitted,

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APPENDIX

Appendix A

The Environmental and Community Organizations participating as *amici curiae* are:

10,000 Hawks

Alabama Rivers Alliance

Alaska Environment

Alliance for the Great Lakes

Alliance of Nurses for Healthy Environments

American Rivers, Inc.

American Whitewater

Amigos Bravos

Anthropocene Alliance

Black Warrior Riverkeeper, Inc.

Buffalo River Watershed Alliance

Cahaba River Society

California Environmental Voters

Cape Fear River Watch

Carolina Wetlands Association

2a

Center for a Sustainable Coast

Center for Biological Diversity

Charles River Watershed Association

Charleston Waterkeeper

Chattahoochee Riverkeeper, Inc.

Chesapeake Bay Foundation, Inc.

Choctawhatchee Riverkeeper

Citizens for Pennsylvania's Future

Clean Water Action

The Clinch Coalition

Coastal Conservation League

Congaree Riverkeeper

Connecticut League of Conservation Voters

Conservation Alabama

Conservation Federation of Missouri

Conservation Voters New Mexico

Dan River Basin Association

Dogwood Alliance

Endangered Habitats League

Environment America

Environment Arizona

Environment California

Environment Colorado

Environment Florida

Environment Georgia Research & Policy Center

Environment Maine

Environment Michigan

Environment Minnesota

Environment Montana

Environment New Hampshire

Environment New Jersey

Environment New Mexico

Environment New York

Environment Ohio

Environment Rhode Island

Environment Texas

4a

Environmental Law & Policy Center

Flint Riverkeeper Inc.

Flood Naught

Florida Wildlife Federation, Inc.

Food & Water Watch

Friends of the Rappahannock

Friends of the Rivers of Virginia

Georgia Audubon

Georgia Canoeing Association

Georgia Conservation Voters

Georgia Interfaith Power and Light

Georgia River Network

Good Stewards of Rockingham

Great Egg Harbor Watershed Association

Harpeth Conservancy

Haw River Assembly

Healthy Gulf

Kentucky Waterways Alliance

5a

Lake Watch of Lake Martin, Inc.

League of Conservation Voters

Lynnhaven River NOW

Maine Conservation Voters

Maryland League of Conservation Voters

Massachusetts Rivers Alliance

Memphis Community Against Pollution (MCAP)

Michigan League of Conservation Voters

Mobile Baykeeper

Montana Conservation Voters Education Fund

MountainTrue

Musconetcong Watershed Association

National Trust for Historic Preservation in the
United States

National Wildlife Refuge Association

Natural Resources Defense Council

NC League of Conservation Voters

New York League of Conservation Voters

Obed Watershed Community Association

6a

Ogeechee Riverkeeper

One Hundred Miles

Oregon League of Conservation Voters

The People's Justice Council

Potomac Riverkeeper Network

Protect Our Aquifer

Public Employees for Environmental Responsibility,
Inc.

The River Project

Satilla Riverkeeper

Savannah Riverkeeper

Save Our Saluda

Saving Island Green Wildlife & Beyond

Shoals Environmental Alliance

Sierra Club

Sound Rivers

SouthWings

Tennessee Citizens for Wilderness Planning

Tennessee Environmental Council

7a

Tennessee Riverkeeper

Tennessee Scenic Rivers Association

Tip of the Mitt Watershed Council

Upstate Forever

Vermont Natural Resources Council

Waterway Advocates, Inc.

Wetlands Watch

Wisconsin Conservation Voters

Wisconsin Environment