



## PRESS RELEASE

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**AIDEA Releases Technical Method for Determining State Control of Wetlands**  
*AIDEA is Standing up for Private and State Property Rights Based on Supreme Court Decision  
in Sackett v. EPA*

November 9, 2023 (Anchorage, Alaska) – The Alaska Industrial Development and Export Authority (AIDEA) has released a technical method for determining whether wetlands are subject to federal or state regulatory jurisdiction. The new AIDEA Jurisdictional Evaluation Method, or JEM, results from the United States Supreme Court’s decision in *Sackett v. Environmental Protection Agency (Sackett)*, which clarified the definition of Waters of the United States and significantly narrowed the reach of federal wetlands regulatory jurisdiction under the Clean Water Act.

For decades, federal agencies have used the wetlands regulatory process to slow or halt the development of resources on state lands, and often impose permit conditions such as costly compensatory mitigation requirements that challenge the economics of a project. In some cases, Alaskans conducting activities on their own property that accidentally disturb wetlands have received severe fines for not obtaining prior federal authorization.

Such federal control over wetlands emphasizes the importance of identifying the jurisdictional boundaries that determine whether a project is subject to state or federal permit standards. This is particularly true in Alaska given that the state contains 175 million acres of wetlands, which equates to 63% of all wetlands in the United States.

Prior to the 2023 *Sackett* decision, “Any piece of land that is wet at least part of the year is in danger of being classified by EPA employees as [federal] wetlands,” *Sackett* 566 U.S. 120 (2012) (Justice Alito). “Virtually any parcel of land containing a channel or conduit ... through with rainwater may occasionally flow ... could be claimed as federal wetlands; including a land area some 120 miles away from a river,” *Sackett* 598 U.S. 651 (2023) (Justice Alito). In the 2023 *Sackett* case, the Supreme Court recognized several legal limits to the definition of federal “wetlands” including:

- The constitutional due process clause. The U.S. Constitution requires federal laws to give clear notice in advance whether an act by a property owner, such as moving dirt, is a crime. To give notice, federal wetlands must have visible surface water, be a relatively permanent water body (lakes, rivers, etc.,) able to sustain the movement of goods and people, or have a continuous surface connection to such waterbody.

- The Clean Water Act's statutory use of the term "waters" in defining "Waters of the United States" and wetlands as meaning relatively permanent water bodies ordinarily described as "streams, rivers, oceans, and lakes", "that were or had been navigable in fact or which could reasonably be so made" but not "lands, wet or otherwise."
- A broad definition of federal wetlands would gut the traditional and statutory authority of states in the Clean Water Act to be the **first or primary authority** "to plan the development and use ... of land and water resources."

For several months, AIDEA has been diligently studying the implications of the *Sackett* decision with legal and scientific experts. One of the key subject matter experts involved with developing the AIDEA JEM is Eddie Packee, Ph.D., CPSSc., CPESC, CPSWQ, CPISM, CESSWI. Initial applications of AIDEA's method for implementing *Sackett* have shown reductions of federal jurisdictional wetlands by 75% - 80%. This reduction of federal jurisdiction provides the state with oversight over wetlands and could eliminate federal bureaucratic red tape and forced payments of property owners to develop their own property.

"In the battle against excessive federal intervention that has hampered Alaska's economic growth for far too long, AIDEA's pioneering solution could remedy this issue once and for all. The AIDEA Jurisdictional Evaluation Method (JEM), rooted in the Supreme Court's *Sackett v U.S.* decision, means Alaskans have regained control over our lands, said Governor Mike Dunleavy. "By precisely defining federally designated wetlands, we have brought clarity to the bureaucratic process and reduced federal control statewide. This achievement is a significant win for property rights and economic progress in Alaska. Credit goes to the expertise of individuals like Dr. Packee and the unwavering efforts of AIDEA. Together, we are paving the way for a future where Alaskans can prosper by having a definitive method for understanding wetland jurisdiction without unwarranted interference, enabling property owner freedom and prosperity for generations to come." said Mike Dunleavy, Governor of Alaska.

"For five decades, Alaskans have borne the brunt of excessive federal intervention. Today, AIDEA takes a significant step towards restoring the balance between environmental conservation and economic progress with this new technical method for determining jurisdiction of federal wetlands. I applaud AIDEA for developing a sound methodology," said Dana Pruhs, AIDEA Chairman of the Board of Directors.

"AIDEA's mission is to create good-paying jobs and economic development for Alaskan communities, individuals, and families. That mission is threatened by federal agency control as seen recently with the ANWR leases – ignorance of federal law and direct interference by the President for political campaign purposes," said Randy Ruaro, Executive Director of AIDEA, "We are committed to pushing back against federal overreach, enabling the responsible development of our valuable resources."

"Through rigorous research and collaboration, we have meticulously crafted a pragmatic

and legally defensible method to assess and delineate federally defined wetlands accurately. JEM represents a significant step forward in our understanding and the ability to effectively manage permitting requirements. We are hopeful it will pave the way for more informed decisions in the realm of land management," said Eddie Packee. "Without JEM, we have lived in a world where landowners are subject to thousands of dollars of fines and potential jail time simply by building a deck on their own property."

AIDEA remains steadfast in its dedication to promoting economic vitality and ensuring the sustainable development of Alaska's natural resources. By championing the rights of private landowners, AIDEA continues to lead the charge in reducing federal overreach, mapping the path to a prosperous future for Alaska and its residents.

To view a recent presentation of the JEM application, [click here](#). For information about AIDEA or any of AIDEA's projects, please visit [www.aidea.org](http://www.aidea.org) or contact AIDEA at [communications@aidea.org](mailto:communications@aidea.org).

**About AIDEA:**

The Alaska Industrial Development and Export Authority is a public corporation of the State of Alaska. AIDEA's purpose is to promote, develop, and advance the general prosperity and economic welfare of the people of Alaska.

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