

# Mapping the Impacts of the Sackett Decision on WI Wetlands – A Risk Assessment

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WISCONSIN'S  
**greenfire**  
VOICES FOR CONSERVATION

# Our Mission

Wisconsin's Green Fire advances science-informed analysis and policy solutions that address Wisconsin's greatest conservation challenges.

# Our Vision

Wisconsin's citizens enjoy the benefits of clean water, clean air, and healthy ecosystems through scientific and thoughtful management of natural resources.

# Wisconsin Historically Had Robust Wetland Protection Laws

- \* Beyond the scope of today's discussion
- \* There will be some erosion of protections in WI due to the Sackett decision
- \* The loss of wetlands and streams nationally will affect water quality, public safety and fish and wildlife



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# WI Green Fire and TNC Collaboration

- **We are working to assess and map the impacts of the Sackett decision**
- **This information will, hopefully, inform future public policy decisions on both the state and national level**



*Lower WI State River DNR*

# Key Phrases in Sackett v EPA

**To be regulated under the Clean Water Act wetlands must:**

- **Be “Indistinguishable” from waters of the US**
- **Have a Continuous surface connection to waters of the US**



*Lower WI State River DNR*

# Mapping Key Phrases

- \* WWI Hydrologic Modifiers that are WOTUS

L - Lacustrine and R - Riverine

- \* WWI Hydrologic Modifier that is NOT WOTUS

K – Wet Soil, Palustrine

WWI Hydrologic Modifier that is **SOMETIMES WOTUS**

H – Standing Water, Palustrine

**H with NWI+ Flow Path Modifiers of Throughflow,  
Outflow, Bi-Directional is WOTUS**

**H with Inflow, Connection Intermittent is NOT WOTUS**



# Wetlands by Design

## A Watershed Approach for Wisconsin



Tom Bernthal & Nick Miller

Co-authors: Joanne Kline, John Wagner, Chris Smith, Max Axler, Matt Matrise, Michele Kille, Matt Silveira, Patricia Moran, Sally Gallagher Jarosz, Josh Brown



# Methods: Watershed 'Needs'

## Step 1

### Wetland Map Data

- Wetland location/extent
- Wetland types
- Water regime
- etc.



### Watershed Context Data

- Landscape Position
- Landform
- Waterbody type
- Waterflow path



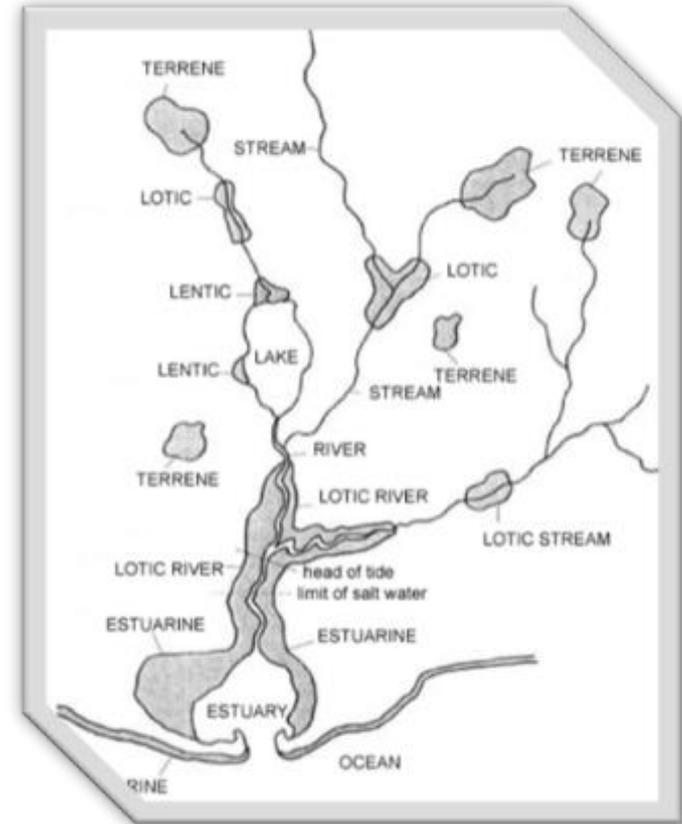
### Ecosystem Services

- Flood Abatement
- Fish & Aquatic Habitat
- Sediment Retention
- Nutrient Transformation
- Surface Water Supply

# Assessing Past and Present Wetland Services

## LLWW Classification and Expert Group Judgements

- Landscape Position: Lentic, Lotic, Terrene
- Landform: Floodplain, Fringe, Basin, Flat, Slope
- Waterbody: River, Stream, Lake, Pond, NA,
- **Waterflow Path:** Inflow, Outflow, Throughflow, Bi-directional, Intermittent;
- “entrenched,” “artificial” and other modifiers can be added



# Kakagon Sloughs



Source: Esri, DeLorme, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community





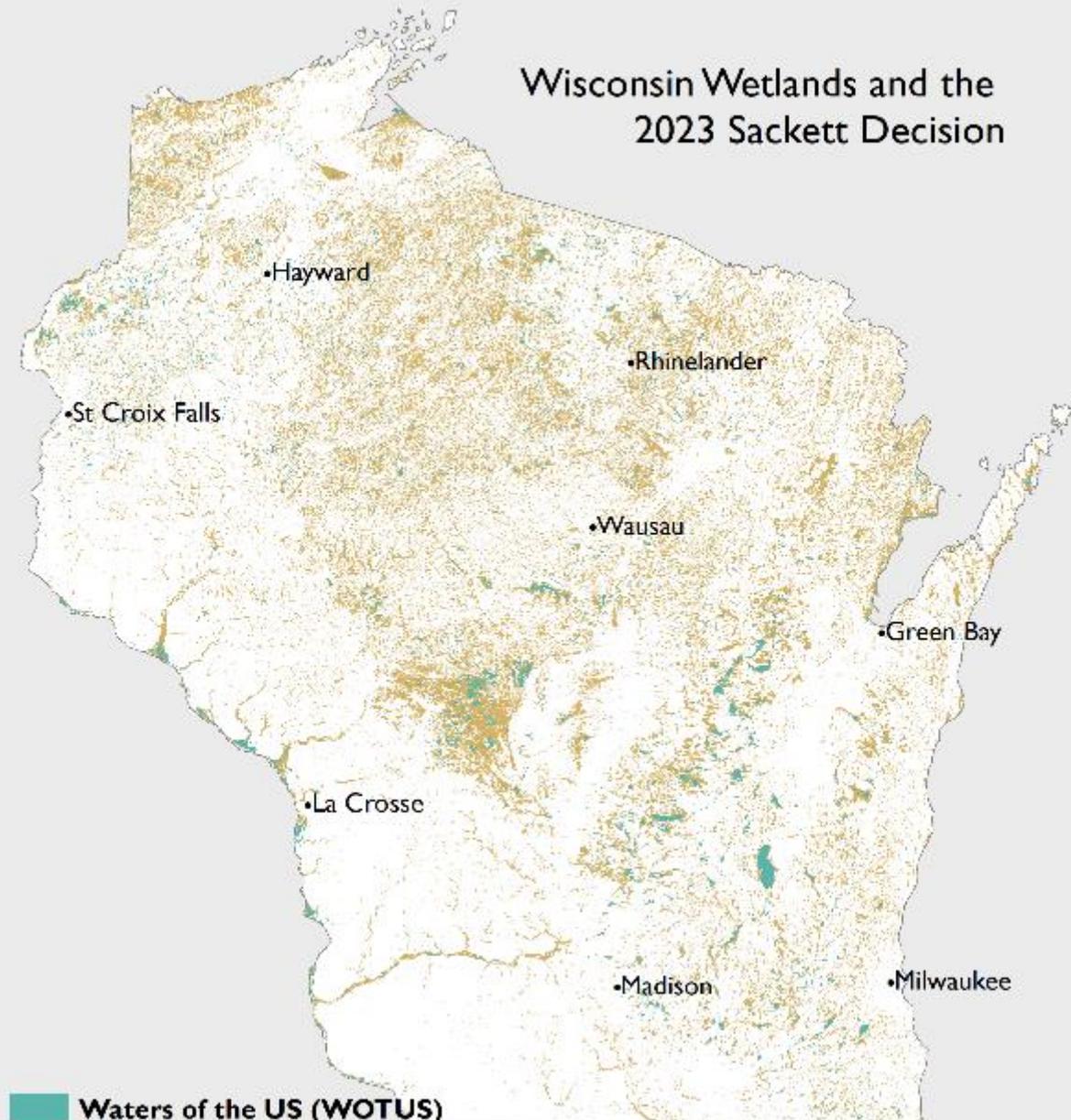


# Public Benefits at Risk Due to the Sackett Decision

- Wetlands Left Federally Unprotected by Sackett Decision And Their Public Benefits

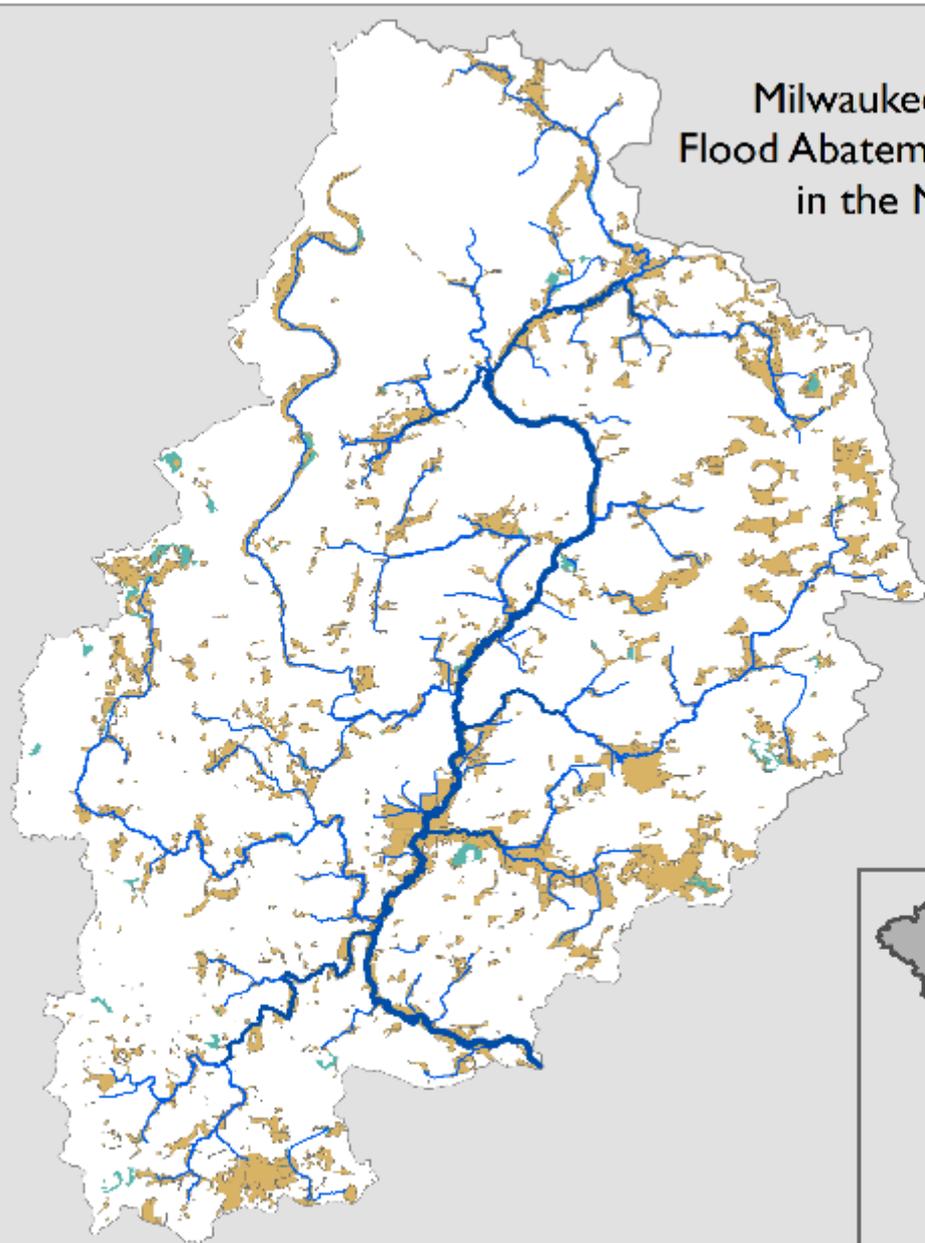
	All Wetlands	Federally Unprotected Wetlands (Not WOTUS)	Public Benefits of Federally Unprotected Wetlands (based on Wetlands by Design)		
			Flood Control	Water Quality	Fish and Aquatic Life Habitat
Millions of Acres	6.4	5.6	4.4	3.7	5.0
Percent Total	100%	88%	69%	58%	78%

## Wisconsin Wetlands and the 2023 Sackett Decision



**Waters of the US (WOTUS)**  
**Non WOTUS**

# Milwaukee River Basin: Flood Abatement Wetlands in the North Branch



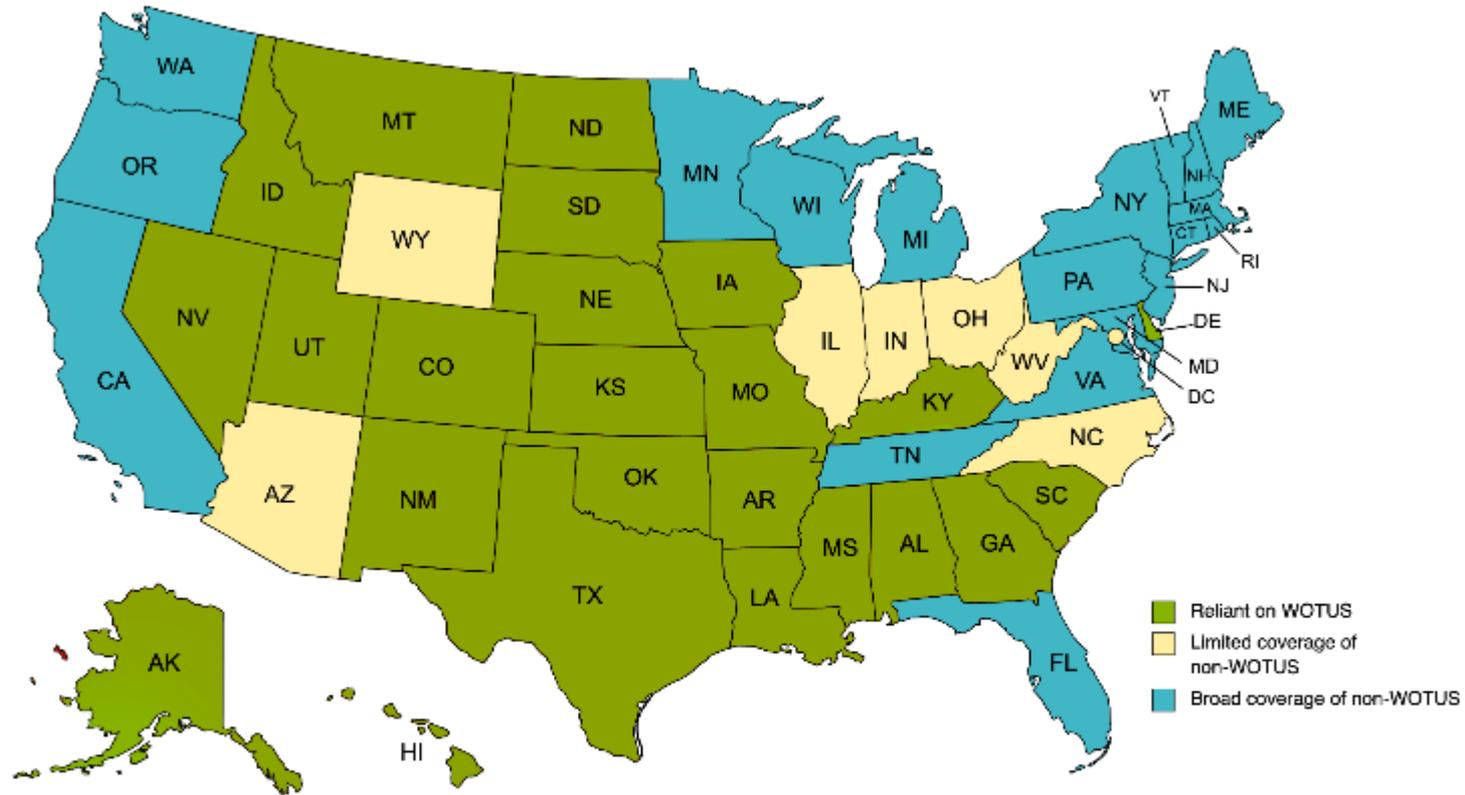
Milwaukee River Basin

 Waters of the US (WOTUS)

 Non WOTUS



# Most States Do Not Have Residual Wetland Protection Laws



Environmental Law Institute- James McElfish May 2023

# For More Information

- **“Opportunities Now 2.0: Wetlands and Waterways in WI: Navigating Changes to the Federal Waters of the US Rule”**  
<https://wigreenfire.org>
- **New pub on Sackett this Fall?**
- **Wetlands by Design**  
<https://freshwaternetnetwork.org>



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