PROTECTING KENTUCKY WATERS

WHAT THE SUPPLEMENTAL PROPOSED FEDERAL RULE MEANS FOR OUR COMMONWEALTH

TEAM KENTUCKY
ENERGY AND ENVIRONMENT CABINET

October 2026 Rev.1.0

During the 2025 Legislative Session, Senate Bill 89 changed Kentucky's legal definition of "water of the Commonwealth" to depend largely on how the federal government chooses to define it. This means that whenever the federal government changes its rules about which rivers, streams, wetlands, or reservoirs are protected from pollution, those rules may change for Kentucky too, without any comments from the public or debate in the Legislature.

Potential impacts to the Commonwealth:

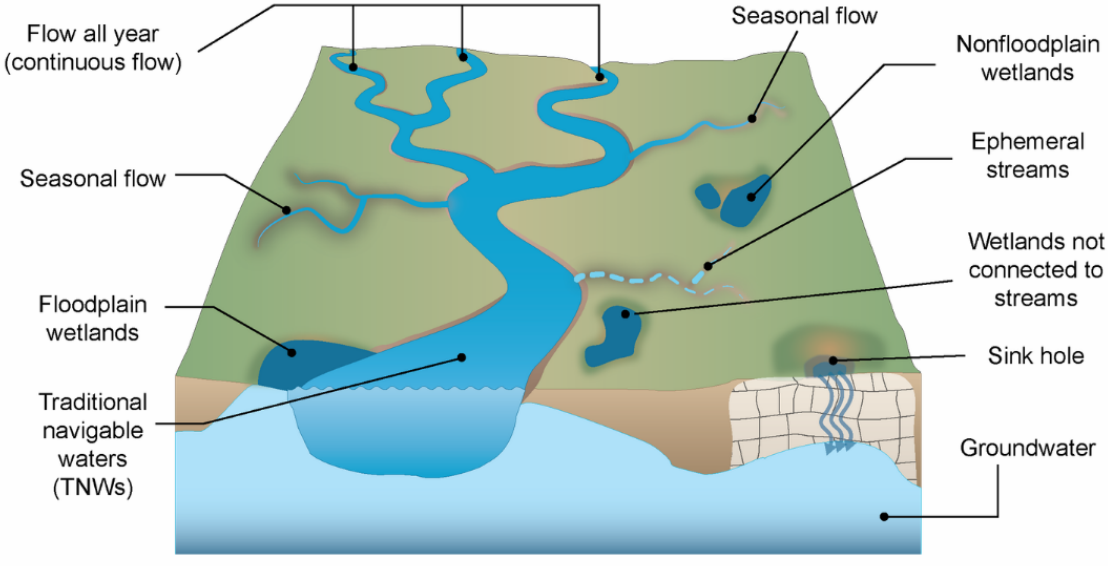
- Hunting & Fishing: Impacts to bird and waterfowl habitat could limit hunting and fishing opportunities
- Flood Protection: Loss of natural areas that help absorb and store water for our flood prone communities
- Recreation & Tourism: Reduced protections could degrade lakes and rivers used for recreation, leading to fewer outdoor opportunities and lost tourism revenue
- Drinking Water: Potential increased costs to treat drinking water sources across the Commonwealth

Kentucky is in a uniquely vulnerable position. Because Kentucky's statute now defines its waters consistent with the jurisdictional reach of the federal government, these impacts are ultimately tied to US Environmental Protection Agency (EPA) and US Army Corps of Engineers (USACE) rulemakings defining Waters of the United States (WOTUS). This means that questions about what waters the state protects may depend on which political party is in power rather than a true scientific or geological standard.

Kentucky's Water Resources

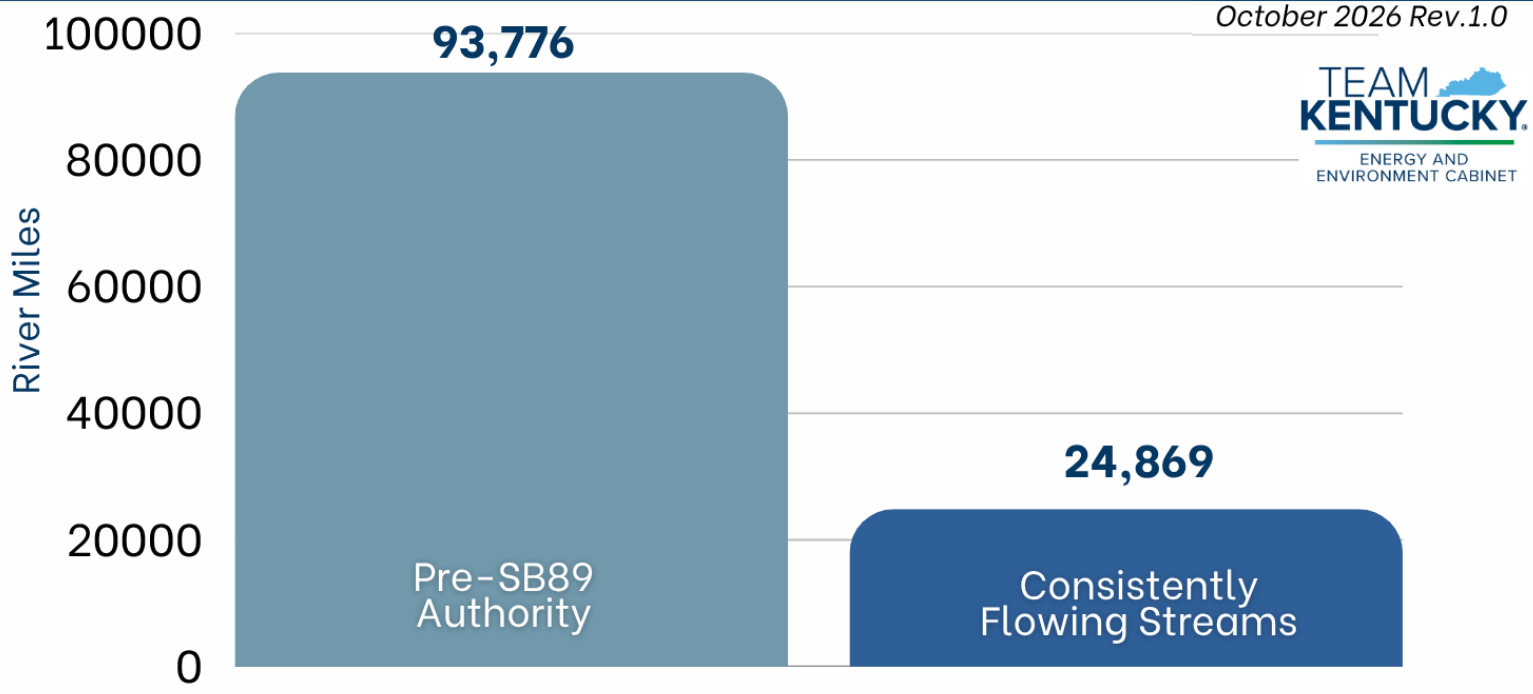
Kentucky's water supply is supported by a diverse, interconnected network of rivers, streams, lakes, and groundwater aquifers.

Senate Bill 89 ceded the federal government authority to define what parts of that network can be regulated, using definitions from Waters of the US (WOTUS).



PROPOSED KENTUCKY AUTHORITY

CONTINUOUSLY FLOWING RIVERS & STREAMS



Under the proposed Supplemental WOTUS definition, federal protection may apply only to perennial streams with standing or consistently flowing water every day of the year. Most of Kentucky's streams only flow seasonally. The new WOTUS rule could leave many of these streams unprotected under Kentucky law.

- Approximately 74 percent of all streams, nearly 69,000 miles, flow only during certain times.
- These changes could result in greater flood risks, poorer water quality, impacts to outdoor tourism and recreation, and higher water treatment costs for Kentucky families.
- Identifying which seasonal streams qualify would be complicated and lead to potential delays in permitting.

If the federal government adopts a narrower definition, seasonal streams will no longer be protected under Kentucky law.

WETLANDS

NATURE'S FLOOD DEFENSE

October 2026 Rev.1.0



99% **of KY's Wetlands Lose Protection Under Proposed Supplemental WOTUS Rule**

1 Acre Wetland = 1.5 Million Gallons Floodwater Stored

Wetlands act like natural sponges, soaking up heavy rains and holding onto water during storms. They slow down runoff, spread out floodwaters and release water slowly, reducing the pressure on nearby communities. Each acre of a wetland is capable of holding up to 1.5 million gallons of floodwater.

- Under the proposed Supplemental WOTUS rule, the EPA states that many of Kentucky's wetlands would not meet the definition of permanently flooded and would no longer be protected.
- The wetlands at risk currently store over 481 billion gallons of water - **that is the same volume as Barren River Lake and Green River Lake combined!**
- Without protection under Kentucky law, more frequent and severe flooding, fewer hunting and outdoor opportunities, and harm to wildlife could occur.

If the federal government adopts a narrower definition, 99% of Kentucky's wetlands may no longer be protected under Kentucky law.

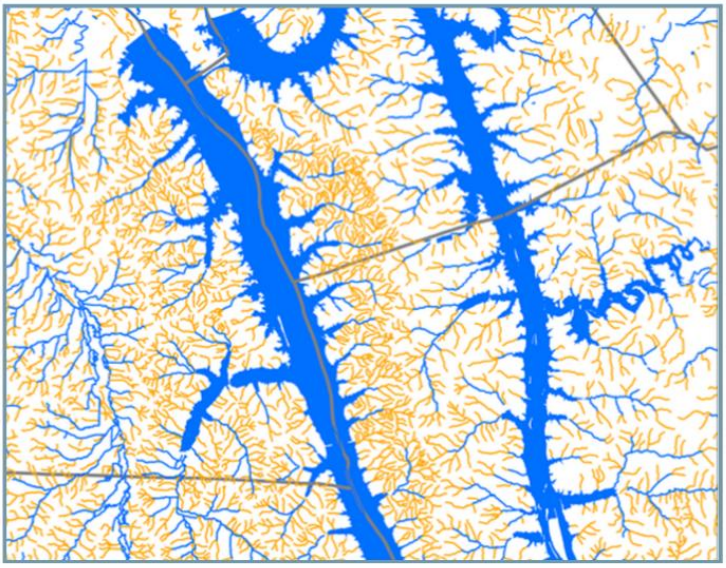
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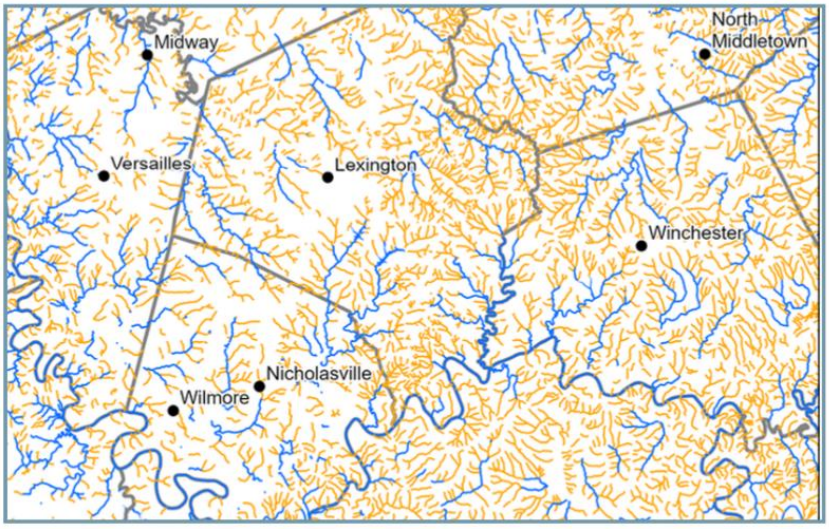
Western Kentucky Region-Kentucky Lake



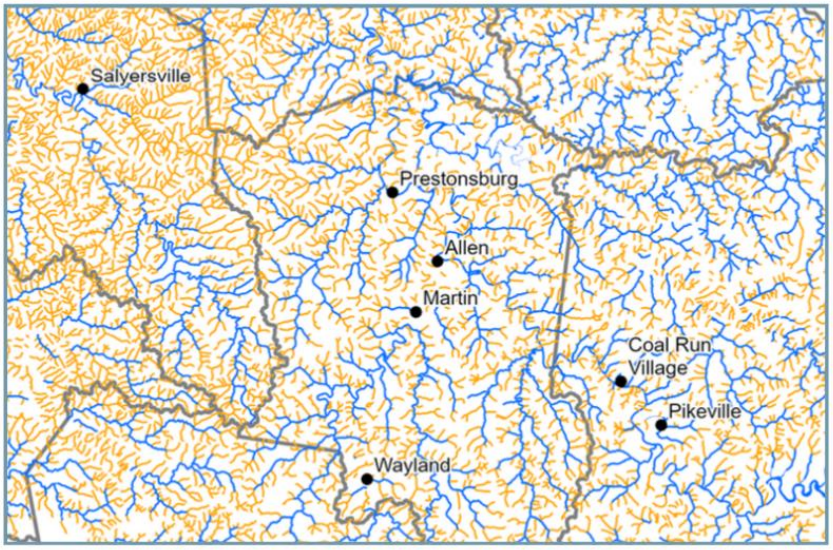
See if this impacts your backyard stream

If the federal government adopts a narrower definition, all non-blue lines could no longer be protected under Kentucky law.

Central Kentucky Region - Lexington



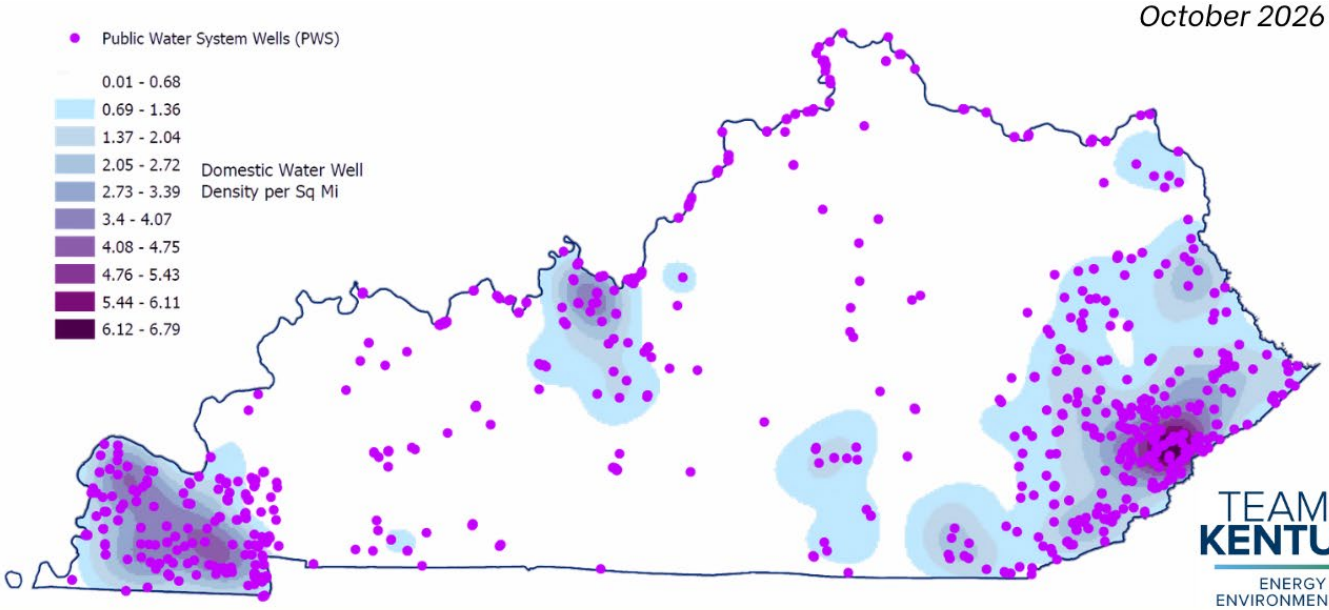
Eastern Kentucky Region - Pikeville



GROUNDWATER IMPACTS

DRINKING WATER SOURCES

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The proposed update to WOTUS has excluded groundwater completely from the definition. If fewer streams and wetlands are protected under federal and state law, groundwater could be affected in several ways:

- 127 Public water systems supply ~760,000 residents with clean drinking water from groundwater sources.
- While these areas are protected under SB89 and a Wellhead Protection Area, not all domestic use wells have the same protection.
- Many Kentucky families rely on private wells as their only source of drinking water. These private wells are not protected under current Kentucky law.
- Since 1984, the Division of Water has documented well records for 30,000 wells.

If the federal government adopts a narrower definition, groundwater resources could no longer be protected under Kentucky law.