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ATTORNEY GENERAL RAOUL FILES LAWSUIT OPPOSING FEDERAL EFFORTS TO WEAKEN THE CLEAN WATER ACT

Chicago — Attorney General Kwame Raoul today joined a multistate coalition to file a lawsuit challenging the federal government's final rule redefining the "waters of the United States" under the Clean Water Act. The rule allows the Environmental Protection Agency (EPA) to narrow the definition of "waters of the United States" and weaken water quality protections under the Clean Water Act.

The new rule removes protections for all ephemeral streams, many wetlands and other waters that were previously covered under the act. In the lawsuit, Raoul and the coalition argue that the EPA's rule directly conflicts with the Clean Water Act, Supreme Court precedent and the EPA's own scientific findings.

"The residents of Illinois rely on our state's rivers, lakes and streams for safe water for drinking, agriculture and recreation," Raoul said. "I am committed to protecting our vital natural water sources, and I will continue to fight federal attempts to gut regulations that protect our residents from pollution."

The definition for "waters of the United States" within the Clean Water Act is critical to maintaining a strong federal foundation for water pollution control and water quality protection that preserves the integrity of the nation's waters. While the Clean Water Act has resulted in dramatic improvements to water quality in the United States, its overriding objective has not yet been obtained. Many of the nation's waters remain polluted.

The new rollback rule fails to provide clarity or sufficient protections by excluding the headwaters of rivers and creeks as well as other non-traditionally navigable waters from the scope of protected waters. The EPA's narrow definition of "waters of the United States" eliminates federal protections for many waterways, including waters that Illinois relies on for drinking water, wildlife habitat, agriculture and recreation.

In the lawsuit, Raoul and the coalition highlight that excluding these waters directly harms environmentally-friendly states by increasing the risk of pollution from less-protective jurisdictions, incentivizing polluters to relocate to states with less stringent water quality protections and disrupting state regulatory programs. Additionally, the rollback rule removes protections for certain wetlands, potentially imperiling many wetlands upstream from Illinois that store water during storms. Without these wetlands, more stormwater flows into Illinois and the risk of severe flooding increases, such as the historic flood that occurred last spring resulting in 34 Illinois counties being declared disaster areas.

The coalition asserts that the 2020 rule is unlawful under the federal Administrative Procedure Act because it:

- Contradicts the Clean Water Act's objective of maintaining and restoring the integrity of the nation's waters and the EPA's own scientific findings.
- Arbitrarily and capriciously reduces and eliminates protections for ephemeral streams, tributaries, adjacent waters, wetlands and other important water resources that significantly affect downstream waters.
- Fails to comply with controlling Supreme Court precedent established in Rapanos v. United States.
- Lacks a reasoned explanation or rational basis for changing long-standing policy and practice.

Joining Raoul in filing the lawsuit are the attorneys general of California, Connecticut, the District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, Washington and Wisconsin; the California State Water Resources Control Board; the North Carolina Department of Environmental Quality; and the city of New York.