

America's Waters Are In Trouble



Sportsmen Support Restoring Clean Water Act Protections

American Sportfishing Association
Ducks Unlimited
Izaak Walton League of America
National Wildlife Federation
The Nature Conservancy
Pheasants Forever
Quail Forever
Theodore Roosevelt Conservation Partnership
Trout Unlimited
The Wildlife Society

Congress Must Restore Clean Water Act Protections and Safeguard the Nation's Waters

Our ability to protect wetlands, streams, and lakes under the Clean Water Act has become more difficult in the wake of recent Supreme Court decisions in 2001 (*SWANCC*) and 2006 (*Rapanos*) and subsequent Corps of Engineers and Environmental Protection Agency (EPA) guidance.

After a year of droughts, historic floods, and devastating hurricanes, one lesson should be clear: we must protect our natural water supplies and water infrastructure.

- ❖ Healthy streams and wetlands naturally filter and replenish our drinking water supplies.
- ❖ They store and absorb flood waters and protect coastlines during heavy storms and hurricanes.
- ❖ They recharge and release precious water supplies during times of drought.
- ❖ They support diverse and abundant fish and wildlife populations.
- ❖ They support local hunting, recreational fishing, birdwatching, and boating industries.
- ❖ They offer refuge and recreation close to home for people and wildlife alike.



Hunters, Anglers, and Conservationists Support Congressional Action

As a coalition of America's leading sportsmen and conservation organizations representing millions of members, we urge Congress to act quickly in 2009 to restore the Clean Water Act protections for wetlands, streams, lakes, and headwaters that were protected prior to the Supreme Court's intervention in 2001.

Specifically, we urge passage of legislation that incorporates the following solutions:

- 1. Adopting a statutory definition of "waters of the United States" based on the longstanding definition in EPA and Corps regulations.**
- 2. Deleting the term "navigable" from the Act to clarify that Congress' primary concern in 1972 was to protect the nation's waters from pollution rather than just sustain the navigability of waterways.**
- 3. Including a set of findings that explain the factual basis for Congressional assertion of constitutional authority over waters and wetlands, including those that appear to be geographically "isolated."**
- 4. Preserving the Act's long-standing exemptions for farming, ranching, mining, and forestry activities.**

Impacts in California

In California, the EPA estimates that 46 percent of the streams have no other streams flowing into them, and that 66 percent do not flow year-round. These smaller water bodies are among those at risk of losing Clean Water Act protections based on recent Supreme Court decisions. The EPA also says that 14,272,000 people in California receive drinking water from areas containing these smaller streams -- water bodies that have had Clean Water Act safeguards removed. Furthermore, EPA's regional office has stated that "[a]ll or portions of most of the major waterways in Southern California (e.g. Los Angeles, Santa Ana, San Mateo, Santa Margarita, San Luis Rey, San Diego and Sweetwater rivers) can flow intermittently, especially during drought years."

Hunters and Anglers in California:

Residents:

- 274,000 residents spent a total of 3,339,000 days hunting.
- 1,578,000 residents spent a total of 18,310,000 days fishing.

Non-Residents:

- 152,000 non-residents spent a total of 1,084,000 days fishing.

Sportsmen's Impact on California Economy

- Total Economic Impact of Hunting 2006: \$1.6 Billion
- Total Economic Impact of Fishing 2006: \$4.7 Billion

* Data based on 2006 U.S. Fish & Wildlife Service Survey, American Sportfishing Association, Congressional Sportsmen's Foundation

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What Do We Have to Lose?

Drinking Water: EPA estimates that more than 111 million Americans get their drinking water from public supplies fed in whole or in part by intermittent or ephemeral streams vulnerable to pollution under these decisions. Treating polluted drinking water is expensive. New York City estimates that pollution of small streams and wetlands in the city's drinking water source areas could cost up to \$6 billion for treatment plant construction and \$300 million/year for operation.

Habitat for Fish and Wildlife: An estimated 20 million acres of wetlands - or 20% of all remaining wetlands in the lower 48 states - have already lost Clean Water Act protection since the SWANCC decision. These include geographically isolated wetlands, such as those of the Prairie Pothole Region. These wetlands provide essential breeding habitat for 50-75% of North America's duck population. Many more are at risk after *Rapanos*.



Flood Control: The Midwest has suffered two 500-year floods in the last 15 years. Wetlands and intermittently flowing streams naturally absorb flood waters, moderating peak flood stages and reducing flood damage. A 1% loss of a watershed's wetlands can increase total flood volume by almost 7%. Floods cause an estimated \$3.7 billion in damage annually. Recent flooding in Illinois and Iowa underscores the need for wetland protection. These two states have lost 85 and 89% of their original wetlands, respectively.

Enforcement of Clean Water Act Pollution

Controls: Uncertainty due to the Court decisions and agency guidance is undermining enforcement of the Clean Water Act's pollution controls, according to a March 2008 memo from EPA's head of enforcement. "[S]ince July 2006, the *Rapanos* decision or the Guidance negatively affected approximately 500 enforcement cases."

Intermittently Flowing Streams: According to EPA, 59% of stream miles in the continental U.S. are intermittent or ephemeral and are losing Clean Water Act protection as a result of the 2006 *Rapanos* decision and 2007-2008 *Rapanos* guidance. These smaller streams provide important drinking water, flood control, and aquatic habitat functions.

Fishing and Boating Lakes: Several Midwestern lakes have lost Clean Water Act protections, including the 86-acre Gurno Lake in northern Wisconsin which supports active recreational fishing for largemouth bass, muskie and walleye in an area well-known for fishing, boating and outdoor recreation.

Timely Permitting and Certainty: The confusing and cumbersome new requirements for jurisdictional determinations have delayed permit reviews by two months to two years. The *Rapanos* guidance has substantially delayed and increased the cost of transportation projects. December 2008 revisions to the guidance only further confuse decisions on the scope of CWA protections.

Industry and Agricultural Water Supplies: Farmers and ranchers need clean water for irrigation and livestock. Food and drink processing requires clean water. Pollution and destruction of wetlands and small streams pollutes and harms surface and ground water supplies.