Weakening the Clean Water Act:
What It Means for Wisconsin

Across the country, small streams (headwater, intermittent, and ephemeral streams) and wetlands are losing Clean Water Act protections in the wake of two recent Supreme Court decisions and subsequent federal agency directives. **More than one half of Wisconsin's streams do not flow year round or have no streams flowing into them, leaving them at increased risk of filling and pollution.** The Wisconsin Department of Natural Resources (DNR) estimates that as many as 1.1 million acres of wetlands, especially seasonal wetlands that are essential for breeding ducks, could lose Clean Water Act protection under the Court's decisions. **Without intervention from Congress or the Administration to restore Clean Water Act protections for waters that were protected prior to 2001, these waters will continue to be polluted and destroyed.**

Restoring Clean Water Act protections for small streams and wetlands will keep Wisconsin's waters clean.

Intact small streams and wetlands trap substantial amounts of sediment, nutrients, and chemicals, keeping those pollutants from reaching downstream waters. In one study, nutrients traveled less than 65 feet in a small headwater stream before being removed from the water. If not filtered out, these pollutants increase drinking water treatment costs, fill in reservoirs and navigation channels, and damage fisheries and recreation.

- **Close to 400,000 people in Wisconsin get some or all of their drinking water from public drinking water systems that rely at least in part on small and seasonal streams.** *All* of the public drinking water systems in Ashland, Brown, Marinette, and Outagomie Counties are fed at least in part by these small at risk streams.

- **More than 200 facilities with Clean Water Act permits are located on at-risk Wisconsin streams.** If these streams lose Clean Water Act protections, federal permits will no longer be necessary, and these facilities may be able to pollute at will as state controls are undermined.

Horicon National Wildlife Refuge, USGS

Restoring Clean Water Act protections for small streams and wetlands will reduce flooding in Wisconsin communities.

USGS

Intact small streams and wetlands reduce the intensity and frequency of floods by absorbing significant amounts of water and slowing the flow of water downstream. **A single acre of wetland can store 1 to 1.5 million gallons of flood water, and just a 1% loss of a watershed's wetlands can increase total flood volume by almost 7%.** Wisconsin has lost about 46% of its original wetlands. Overall, the Great Lakes have lost about 66% of their wetlands.

In the upper Midwest, the frequency of the most intense rainfall events has increased by 20 percent since the late 1960s. Although no one incident proves a trend, in August 2007 Wisconsin received record rains, breaking records held since 1897. During the 2007-2008 winter, Wisconsin received more than 100 inches of rain. Large floods can have disastrous effects, damaging utilities, personal property, and infrastructure. Or, as was the case in Milwaukee in 1993, they can overwhelm water treatment facilities and cause outbreaks of waterborne diseases. The 1993 flooding event contributed to 403,000 cases of intestinal illness, resulting in 54 deaths.

Protecting small streams and wetlands is vital for fish and wildlife, and a vibrant recreational industry in Wisconsin.

- Using data from the U.S. Fish and Wildlife Service, the American Sportfishing Association estimates that freshwater anglers in Wisconsin generated about $2.34 billion in total economic activity in 2006. Fishing supported more than 25,000 jobs and generated more than $167 million in local and state tax revenue.
- The Fish and Wildlife Service estimates that 66,000 waterfowl hunters in Wisconsin generated about $26.2 million in total economic activity in 2006. Wisconsin duck and goose hunters spent 1 million days in the field, which is more than waterfowl hunters in all but 4 other states.

USFWS

Unfortunately, in Wisconsin, EPA and the Corps have removed historic Clean Water Act protections for important fishing lakes. In the Hayward Lakes region, the 86-acre Gurno Lake is now vulnerable to contamination from various sources—nutrient runoff, dumping, and destruction, just to name a few. Gurno Lake has a reputation among anglers for its walleye, mueky, largemouth bass, and bluegill.

Restoring protections will bolster enforcement of Clean Water Act requirements.

The Supreme Court decisions and subsequent agency guidance have added uncertainty and time-consuming investigations and paper work to the Clean Water Act permitting process and have negatively affected Clean Water Act enforcement cases regionally and nationwide. As a result, already limited resources are being diverted away from protecting human health and the environment to determining whether or not a water is protected by the Clean Water Act.

Wisconsin supports broad legal protections for small streams and wetlands.

In 2007, Wisconsin Governor Doyle sent a letter to the Wisconsin delegation urging them to support restoring Clean Water Act protections:

> The Clean Water Act was meant to prevent a state-by-state approach, because all water flows downstream and the discharges in one state can significantly hamper water quality protection in another. Having a basic federal standard is essential for safeguarding economic values such as public water supplies, fisheries, and recreation – the Great Lakes and the Mississippi River, which border Wisconsin, are prime examples of how one state alone cannot protect water quality.

The Administration Must Restore Clean Water Protections for the Nation's Waters

For almost a decade, Congress has failed to enact legislation restoring the historic scope of the Clean Water Act. **To protect the Nation's waters, EPA and the Corps of Engineers should revise their definition of "Waters of the United States" to restore and clarify Clean Water Act protections, including for so-called "isolated wetlands," in a manner consistent with both law and science.** A successful rulemaking will restore and clarify protections for millions of wetland acres and stream miles, and will place these restored protections on a much more secure legal and scientific foundation.

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