



Weakening the Clean Water Act: What it Means for North Carolina

Across the country, small streams (headwater, intermittent, and ephemeral) and wetlands are losing Clean Water Act protections in the wake of two recent Supreme Court decisions and subsequent federal agency directives. More than 2 million acres of wetlands and more than 260,000 miles of headwater streams in the Southeast are at risk of pollution and development under current federal policy. **More than half of North Carolina's streams and adjacent wetlands are at risk of uncontrolled filling and pollution.** 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.

Waters at Risk due to *SWANCC* and *Rapanos* Supreme Court Decisions and Agency Guidance

Wetlands and small streams fulfill numerous vital functions. They naturally filter and replenish our drinking water supplies; absorb flood waters; protect coastlines during heavy storms and hurricanes; recharge and release precious water supplies during times of drought; support diverse and abundant fish and wildlife; and support local hunting, fishing, bird-watching and boating industries. **The North Carolina Wildlife Resources Commission agrees: “[i]solated wetlands, ephemeral streams and tributaries are an important part of North Carolina's watersheds.”**

For a clear example of the importance of wetlands to water quality, one needs to look no further than the Congaree Bottomland Hardwood Swamp in North Carolina's southern neighbor, South Carolina. The Congaree wetlands remove enough sediment, toxic substances and excess nutrients to replace a wastewater treatment plant that would cost the surrounding community more than \$5 million to construct and additional millions to maintain and operate.

Source water protection areas containing small or intermittent streams and rivers sustain drinking water supplies serving more than 4.7 million North Carolinians—that's more than half of the state's residents. Failure to protect them may increase drinking water treatment costs or risks to public health.



Congaree National Park, flickr, pinchof

Wildlife, Hunting, and Fishing Impacts



Great Egret Fishing, Mattamuskeet NWR, North Carolina, 2010, flickr, Shawn Beelman

Currituck Sound—located, fittingly, in Duck, North Carolina—is one of the most important wintering habitats for waterfowl on the Atlantic Flyway and offers incredible opportunities for bird watchers. In some years, as much as 5 percent of the waterfowl in the flyway winter there. Streams, wetlands and their dependent wildlife help make North Carolina a beautiful place and provide it with a lucrative source of income. **In 2006, over \$2.7 billion was spent in North Carolina on wildlife-related activities, many of which are directly or indirectly dependent on healthy aquatic habitat.** These expenditures support over 47,000 jobs in the state.

No Jurisdiction, Less Enforcement

From July 2006 until early 2008, the *Rapanos* decision and guidance negatively affected more than 500 Clean Water Act enforcement cases nationally. Jurisdictional confusion stemming from the *SWANCC* and *Rapanos* decisions continues to undermine Clean Water Act enforcement.

At least 513 polluting facilities are located on at-risk streams in North Carolina. Their pollution is presently limited by Clean Water Act permits, but these permits may no longer be necessary.



USFWS

Restoring Clean Water Act Protections will Bolster Enforcement

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, extensive 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.

State Protections in North Carolina

North Carolina's strong wetlands and stream protection programs suffer from the uncertainty and confusion over the underlying and closely related federal Clean Water Act jurisdiction. Waters flowing into North Carolina from other states may be subject to weaker pollution controls. **Without a Clean Water Act federal floor, state programs are vulnerable to attack in the state legislature and in the courts.**

North Carolina joined more than 30 states in asking the Supreme Court to uphold Clean Water Act protections for small tributaries and their adjacent wetlands.



Richard Seeley

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.



For more information contact:

Jan Goldman-Carter
Wetlands and Water Resources Counsel
www.nwf.org/waters

goldmancarterj@nwf.org
202-797-6894

National Wildlife Federation • National Advocacy Center • 901 E Street NW, Suite 400 • Washington, DC 20004