







Contact: Scott Yaich, DU, 901-758-3874, syaich@ducks.org
Scott Kovarovics, IWLA, 301-548-0150 x223, skovarovics@iwla.org
Jan Goldman-Carter, NWF, 202-797-6894, goldmancarterj@nwf.org
Katie McKalip, TRCP, 406-240-9262, kmckalip@trcp.org
Steve Moyer, TU, 703-284-9406, smoyer@tu.org

National Hunting, Angling Groups Applaud Release of Clean Water Guidance

Action is a first step in restoring protections for waters, valuable fish and wildlife habitat

WASHINGTON, April 27, 2011 – Some of the nation's top sportsmen's organizations – Ducks Unlimited, the Izaak Walton League of America, the National Wildlife Federation, Trout Unlimited and the Theodore Roosevelt Conservation Partnership – applaud the administration for taking an important step today to begin restoring Clean Water Act protections to streams and wetlands. These waters provide critical habitat to fish and wildlife, flood control, drinking water and many other benefits.

The proposed guidance issued by the administration would more clearly define which U.S. waters are subject to Clean Water Act protections. This would begin restoring longstanding protections for many of the nation's wetlands, streams, lakes and headwaters that have been vulnerable to pollution and destruction since the *SWANCC* (2001) and *Rapanos* (2006) Supreme Court decisions. Issuing agency guidance – instructions to staff in the field about how to interpret laws or court decisions – is a well-established practice used by every administration. To ensure transparency and diverse stakeholder participation in the process, the proposed Clean Water Act guidance will be available for public comment and review for 60 days.

Decisions in the two Supreme Court cases and agency guidance issued in 2003 and 2008 jeopardize crucial water resources and wildlife habitat. Taken together, they removed protections for at least 20 million acres of wetlands, particularly prairie potholes and other seasonal wetlands essential to waterfowl populations throughout the country. Intermittent streams that provide critical habitat for fish, especially trout, and feed into the public drinking water systems for more than 117 million Americans also are at risk.

"The importance of this guidance cannot be overstated," said Steve Moyer, vice president of government relations for Trout Unlimited. "Restoring these lost protections means more habitat in the long run for all the fish and wildlife that sportsmen love to pursue."

Restoring protections for these waters directly benefits the American people, fish and wildlife, and outdoor recreation, including hunting, fishing and boating. The economic benefits to the United States from these wetlands and streams are staggering. For example, the U.S. Fish and Wildlife Service found that wildlife-dependent recreation in the United States generates \$80 billion in hunting and fishing expenditures annually.

The wording of the two Supreme Court decisions left state and federal regulators, landowners and manufacturers confused about which U.S. waters are protected by the Clean Water Act.

"This confusion led to lost protections for some of our nation's most important waters, which could have significant consequences for wetland conservation, particularly in areas important for breeding and migratory waterfowl," said Scott Yaich, director of conservation operations for Ducks Unlimited. "Clear guidance could go a long way toward restoring wetland protections important to our nation's waterfowl and waterfowl hunters."

"We are pleased the administration has taken this crucial first step to provide clarity to landowners, conservationists and businesses regarding waters of the United States," said Whit Fosburgh, president and CEO of the Theodore Roosevelt Conservation Partnership. "This action has been taken with no expansion of federal reach but simply restoring protections Congress originally put in place. This not only will conserve healthy habitat and water quality; it also will safeguard and support the sporting traditions that tens of millions of Americans enjoy."

The proposed guidance takes a moderate approach that falls within the limits of the Supreme Court decisions. For example, it generally excludes roadside ditches, gullies or small washes from coverage under the Clean Water Act and does not apply to ponds and other ornamental bodies of water constructed by excavating dry land. Moreover, the proposed guidance does not affect any of the existing exemptions in the Clean Water Act for a wide range of farming and forestry activities, including plowing, cultivating and seeding and the construction and maintenance of stock ponds and logging roads.

"The administration's proposal is balanced and reasonable," said Scott Kovarovics, conservation director for the Izaak Walton League of America. "It restores traditional Clean Water Act protections to streams and wetlands while clearly retaining exemptions from the Act for farming, ranching and logging."

"This guidance reflects a more faithful reading of Justice Kennedy's pivotal 'significant nexus' test for jurisdiction and places clean water programs on more solid legal and scientific footing," said Jan Goldman-Carter, wetlands and water resources counsel for the National Wildlife Federation. "There is also widespread agreement that a rulemaking is needed to further clarify and restore protections that existed prior to the *SWANCC* decision for our nation's wetlands, streams and other waters. This guidance is very encouraging, and we now look forward to a solid rule further clarifying and reinforcing these protections."

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