



Weakening the Clean Water Act: What It Means for Florida

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 in 2001 (*SWANCC*) and 2006 (*Rapanos*) and subsequent federal agency directives. **Without intervention by Congress or the Administration to restore Clean Water Act protections for waters protected prior to 2001, these waters will continue to be polluted and destroyed.**

Florida's headwaters, lakes, and streams are at risk

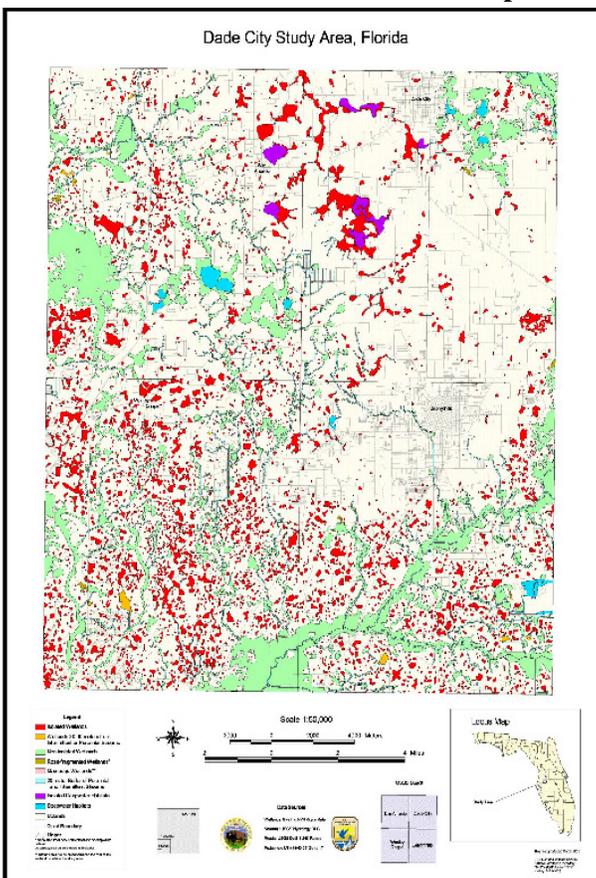
According to EPA, almost 30% of Florida's streams are headwater streams at risk of losing Clean Water Act protections. Half of Florida's almost 52,000 miles of rivers and streams are considered ditches or canals and are also at risk of losing protection despite their prominence and their obvious effects on the quality of Florida waters. Hundreds of thousands of wetlands associated with these streams, canals, and ditches could lose protection as well.

In addition, hundreds of thousands of acres of Florida's shallow, depressional wetlands, including cypress domes and sinkhole wetlands, are particularly vulnerable to losing Clean Water Act safeguards. Florida Department of Environmental Protection (DEP) has estimated that over 800,000 acres of wetlands in the Panhandle region alone are so-called "isolated" waters likely to lose Clean Water Act protection. **Florida has already lost almost half of its historic wetlands – and has lost more wetland acreage than any other state in the continental United States.**

DEP has highlighted these losses as a "special state concern":

"The tripling of Florida's population..., and the shift from natural landscapes to intense urban development, has caused extensive habitat loss in aquatic habitats and affected the viability of fisheries in many estuarine areas."

The additional loss of Clean Water Act protections only heightens the risk to Florida's prized water resources.



Restoring Clean Water Act protections for small streams and wetlands will keep Florida'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 costs, fill in reservoirs and navigation channels, and damage fisheries, recreation, and Florida's robust tourism industry.

The Florida DEP reports poor water quality for 28% of Florida's river and stream miles, 25% of its lake acres, and 59% of the square miles of its estuaries. The top causes of surface water impairment included low dissolved oxygen, fecal coliform bacteria, and nutrients - pollution problems that can be reduced through Clean Water Act protection of wetlands and small streams that filter excess nutrients (nitrogen and phosphorus) and Clean Water Act pollution discharge controls.

This 168,000-acre study area in Western/Central Florida contained 34,000 acres of wetlands, or 20% of the total acreage. Of these wetlands, 90% of the total number of wetlands, might be considered "isolated." These are shown in red.

Threats to Drinking Water: According to the EPA, over 1.8 million people in 12 south-western Florida counties receive drinking water from public water systems that rely at least in part on intermittent, ephemeral, or headwater streams—the very waterways that are at risk of losing protections in the wake of the recent Supreme Court rulings.

Increased Pollution: Over 100 polluting facilities with pollution controls established by Clean Water Act permits are located on at risk Florida streams. If these streams lose Clean Water Act protections, federal permits will no longer be necessary, and pollution from these facilities will likely increase due to weaker pollution controls.

Excess Nutrient Pollution: Florida DEP has identified the potential public health threat from harmful algal blooms (HABs) as a “special state concern,” reporting that freshwater harmful algal blooms are “increasing in frequency, duration, and magnitude and therefore may be a significant threat to surface drinking water resources and recreational sites.”



Blue-green algae covered waterway in Martin County

- Toxin levels in the St. Lucie River and estuary during an algae bloom in 2005 were 300 times above suggested drinking water limits and 60 times above suggested recreational limits
- Algal blooms have adverse effects on human health. Just touching or inhaling vapors from a bloom can cause serious harm.
- These harmful algal blooms are largely due to high nutrient loads. They have been found statewide, including river and stream systems such as the St. Johns, Caloosahatchee, Peace, and Kissimmee Rivers, and Lake Okeechobee.
- Sewage treatment plant improvements and other pollution controls triggered by the Clean Water Act can and do reduce this nutrient pollution.
- The algal bloom outbreak in 2005 had negative economic impacts to the water-related industries of Martin and St. Lucie Counties, industries that total \$840 million annually.

Everglades Nutrient Pollution: Nutrient pollution is among the most serious threats facing the Everglades. Phosphorus levels in Lake Okeechobee far exceed state-mandated levels, now exceeding 150 parts per billion, or about 3.5 times recommended levels. These nutrients remain in the lake for decades, and this polluted water is not only deadly to the lake, but is also discharged down gradient into the Atlantic and Gulf estuaries and the Everglades where it causes serious degradation to these ecologically productive and economically valuable systems. **More than 25 percent of the remaining Everglades ecosystem has been damaged by excessive nutrient pollution - a 40 percent increase in just 10 years.**

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



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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. They absorb flood waters, moderating peak flood stages, and reducing flood damage. **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%.**

Florida’s seasonal and shallow depressional wetlands store waters from Florida’s heavy seasonal rains, helping to reduce flooding. Yet these are the wetlands most vulnerable to losing Clean Water Act protection in the wake of the Supreme Court decisions. Wetland drainage and fill-in for residential and commercial development has increased localized flooding risks in South Florida. Further north, Escambia, Santa Rosa, and Pinellas Counties have among the highest excessive flood damage costs reported by the National Flood Insurance Program.

Protecting small streams and wetlands is vital for fish and wildlife, and Florida's vibrant outdoor recreation and tourism industry.

Florida's streams and wetlands support diverse and abundant fish and wildlife and clean water vital to the State's vibrant outdoor recreation and tourism industry. **According to the Florida Fish and Wildlife Conservation Commission, Florida is the official "Fishing Capital of the World."** Many salt-water and freshwater fish utilize Florida streams for breeding and growth and all species, whether they reside in salt or freshwater, are highly dependent on the water quality of the state's stream and canal systems.

Wildlife-associated recreation in Florida has significant economic impacts at the local, regional and state level. **In 2006, state residents and nonresidents spent \$8.1 billion on wildlife recreation in Florida with fishing-related expenditures alone totaling \$4.3 billion.** In that same year 2.8 million state residents and nonresidents chose to fish in Florida waters.



The endangered Wood Stork, NPS

A 2009 Nature Conservancy study reports, "Florida enjoys a \$65 billion annual tourism industry that is inextricably linked to the utilization and enjoyment of our state's natural resources.... Tourism is Florida's largest single economic engine, and it can be sustainable provided that we conserve enough of what makes our state special..." As a recent *Gainesville Sun* editorial noted, "the potential economic impact of hiking, camping, cycling, kayaking, fishing, hunting and other outdoor activities and the potential payback to businesses and to entrepreneurs who cater to ecotourists is enormous."

Restoring and clarifying Clean Water Act protections will ensure enforcement of Clean Water Act safeguards and reduce permitting costs and delays.

The recent Supreme Court decisions and subsequent agency guidance have added uncertainty and burdensome fact-finding and paper work requirements to the Clean Water Act permitting process and have undermined Clean Water Act enforcement of oil, gas, sewage, and other pollution. The resulting confusion, uncertainty, cost, and delay is hurting business and public infrastructure development as well as the environment.

While Florida's DEP, along with its regional water management districts, has independent state wetland and stream pollution protections, these are generally not as strong as those required by the Clean Water Act, and a Clean Water Act rollback could leave Florida's water pollution control program vulnerable to attack in wetlands and other waters that are no longer federally regulated.

Florida joined over 30 states in asking the Supreme Court to uphold broad legal protections for small tributaries and their adjacent wetlands.

Martin, Dade, Broward, and other Florida county commissioners have called on Congress and the Administration to restore Clean Water Act protections for Florida's at risk waters.

To protect Florida waters, the Administration should restore Clean Water Act protections by affirming and clarifying the EPA and Corps of Engineers' definition of "Waters of the United States."

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 its 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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