



Weakening the Clean Water Act: What It Means for Oregon

What happened to the Clean Water Act?

Millions of acres of wetlands and thousands of miles of streams are losing Clean Water Act (CWA) protections in the wake of Supreme Court decisions in 2001 (*SWANCC*) and 2006 (*Rapanos*) and subsequent Corps of Engineers and EPA guidance. **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.**

Recent storms, floods, wildfires and droughts offer one clear lesson: we must protect our natural water supplies and water infrastructure. Healthy streams and wetlands are vital, they:

- Naturally filter and replenish our drinking water supplies
- Absorb flood waters and protect coastlines during heavy storms and hurricanes
- Recharge and release precious water supplies during times of drought
- Support diverse and abundant fish and wildlife
- Support local hunting, fishing, birdwatching, and boating industries
- Offer refuge and recreation close to home for people and wildlife alike.

These waters are all the more important in the face of climate change which will drastically alter the water cycle, leading to increased occurrences of flooding and drought, as well as sea level rise and increased storm intensity.

What's at risk in Oregon?

In Oregon, the EPA estimates that over 50% of streams are intermittently flowing and/or headwater streams. These smaller water bodies are among those at risk of losing Clean Water Act protections based on recent Supreme Court decisions. These smaller streams provide important drinking water, flood control, and aquatic habitat functions.



Access to Safe Drinking Water

According to the EPA 1.7 million Oregon residents—**nearly half of the state's population—receive drinking water from areas containing these smaller streams that are at risk of losing Clean Water Act protections.** In Western Oregon, 57-69% of the streams that feed public water supplies are vulnerable to Clean Water Act protection loss; in Central Oregon that percentage jumps to 86-100%. Across the state, **74 facilities located on these smaller streams may no longer need pollution discharge permits** (required under federal law) because the waters on which they are located are exempt from the Clean Water Act in the wake of the Supreme Court rulings.

What might strike humans as no more than a moist ditch can be nifty digs for steelhead in the right circumstance—like one of the rainy periods Southern Oregon expects this week.

The Register Guard,
December, 2008

A Booming Recreational Fishing Industry

According to a U.S. Fish and Wildlife Service Survey, anglers spent \$1 billion in Oregon in 2006. In addition to the more than 450,000 Oregonians who fished in the state in 2006, 122,000 non-residents traveled to Oregon to take advantage of the state's flowing waters.

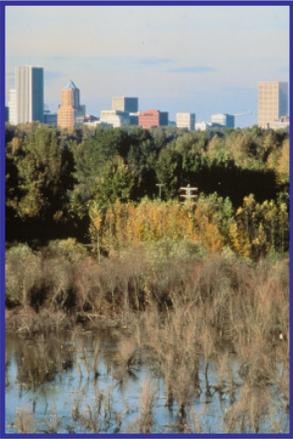
Oregon's smaller streams—like those found in the Willamette, Columbia, and Rogue River watersheds—provide essential habitat for Oregon's iconic cold water fisheries. Adult coho salmon reproduce in Oregon's headwaters and use them for protection during flooding periods, while younger salmon use these waters for refuge from larger predators. Steelhead trout reside in nutrient-rich headwaters for several years until they are large enough to migrate to sea.

Given the impacts on Oregon's fish populations, the Association of Northwest Steelheaders, the Wild Salmon Center, Native Fish Society, Environment Oregon, and Columbia Riverkeepers have joined together to support passage of legislation to restore the original intent of the Clean Water Act.



Coho Salmon, Washington Department of Fish and Wildlife

What's at risk in Oregon? (contd.)



Portland Skyline, USFWS

Streams that prevent damaging sediment from moving downstream

Headwaters keep sediment upstream and can store sediment for over a century. **Sediment that travels downstream translates to additional expenses for municipalities—multiplying water purification costs and requiring local governments to dredge navigational channels.**

Additionally, excess sediment threatens aquatic species because it:

- prevents sunlight penetration thereby impeding aquatic plant growth;
- accumulates in and clogs fish gills;
- settles along the bottom of the streambed, decreases the area available for spawning, and buries the eggs of salmon, coastal cutthroat, and steelhead trout.

The Health of the Willamette River

The Willamette River, one of only fifteen EPA-designated American Heritage Rivers, receives the largest amount of runoff (per surface area) of any river in the United States. Runoff, from industry, municipalities, and agriculture, has compromised the river's health for over fifty years. **According to a 2010 Oregon Department of Environmental Quality report, restoring damaged Willamette Valley streams would require up to \$1.2 billion.** Protecting the Valley's natural wetlands, streams, and riparian areas is the most effective means of ensuring the health of the river. Loss of Clean Water Act protections, resulting in wetland and small stream destruction, will only exacerbate the runoff threat -- and the price tag for restoring the health of the River.

Flood Control

Wetlands and intermittently flowing streams absorb flood waters, moderating peak flood stages and reducing flood damage. **Just a 1% loss of a watershed's wetlands can increase total flood volume by almost 7%.** Flooding is an issue in Oregon where 258 counties and cities are eligible for federal flood insurance due to the flooding risk. A 2009 New Year's Day Flood in Clackamas County caused over \$1.7 million in assessed damage to municipal property. In part because of continual stream and wetland loss, Clackamas is concerned about future flooding. Clackamas has considered wetland restoration as a potential solution, but lacked sufficient funding, leading County Commissioner Bob Austin to say, "Full implementation of the Clean Water Act can only help us."

Former Oregon Gov. Ted Kulongoski Supports Restoring Clean Water Act Protections

Recognizing the importance of Oregon's wetlands, streams, and other bodies of water, former Governor Kulongoski wrote to Congress: "Waters not considered navigable, such as small streams and isolated wetlands, need protection under the Clean Water Act because of the important roles they play in providing ecological services."

Oregon 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 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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