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Supreme Court Decision Puts Drinking Water at Risk, Will Increase Destructive Flooding Nationwide

A 2023 Supreme Court ruling has narrowed the scope of the Clean Water Act, removing protections for most wetlands and many streams. Over time, this decision will affect drinking water supplies, worsen flooding, and raise costs for consumers in communities across the country.



PHOTO: USFWS

What did the Supreme Court decide?

In a case called *Sackett vs. EPA*, five justices signed a controversial opinion that the Clean Water Act only applies to “relatively permanent” bodies of water and wetlands that have a “continuous surface connection” to them. This test dramatically limits the historic scope of protections under the Clean Water Act and contradicts how the Act has been interpreted and applied since its passage in 1972. This decision removes protections for nearly two-thirds of the nation’s wetlands and potentially millions of miles of rivers and streams that don’t flow year-round. These wetlands and streams feed larger waters downstream, and act as sponges to absorb and slowly filter floodwaters and clean our drinking water.

Drinking Water Impacts

The decision revoked Clean Water Act protections for waters that are not “relatively permanent” – even though these waters are important for our drinking water supplies. This decision could harm water quality and increase costs in communities around the country.

Many states do not have their own protections, so it will now be easier for polluters to dump sewage, chemicals or construction debris into our waters without oversight. It will also be easier for developers, mining companies or landowners to block or change the flow of these streams, which could further reduce the amount of water reaching larger rivers and drinking water reservoirs.



The Colorado River provides drinking water for one in ten Americans. Demands on the river already outstrip supply, and an extended drought recently drained Lake Mead to its lowest levels ever. Compounding these challenges, many streams that feed the Colorado River are likely no longer federally protected from pollution and destruction.

Phoenix gets most of its water from the Salt and Verde rivers, but virtually all of the creeks that feed them are now almost certainly unprotected.

More than half of the streams that feed Dallas’s six drinking water reservoirs have likely lost protections, as have about half the streams that flow into Lake Lanier, the main source of drinking water for the Atlanta area.

Flood Damages – and Costs – Are Already on The Rise

Flooding is already the most common and costly natural disaster in the United States. Warmer temperatures are causing more evaporation and rainfall, which is triggering more frequent and more damaging floods. Home insurance prices are rising nationwide due to the recent increases in extreme weather. In Florida, which has been battered by a series of unusually destructive hurricanes, a dozen insurance companies have stopped issuing new policies in the state; prices spiked by more 40 percent in 2023.

Over 40 million Americans already live in an area that is at risk of flooding – even though many do not know it. Socially vulnerable communities are more likely to live in flood-prone areas, and are less able to recover financially when floods occur.

Wetlands: Our Natural Flood Buffers at Risk

The new ruling removes long-standing Clean Water Act protections for more than two-thirds of the nation's wetlands. This will make it easier to damage or destroy the wetlands that have long been our first line of defense against flooding.

One acre of wetlands can absorb more than a million gallons of floodwater.

Wetlands can absorb a tremendous amount of water during storms, reducing flooding downstream. Urban wetlands are particularly protective for communities during storms, but the Supreme Court's decision will revoke protections for many wetlands in developed areas. The loss of these wetlands will increase costs for everyone: One study found that destroying just one acre of urban wetlands resulted in roughly \$8000 a year of additional payouts from the taxpayer-funded National Flood Insurance Program.

Similarly, coastal wetlands have demonstrated their value as storm buffers again and again. An analysis of every tropical storm and hurricane that hit United States between 1995 and 2016 found that counties with more wetlands experienced less property damage. But many coastal wetlands are now unprotected by the Clean Water Act – and they are at high risk of being developed.

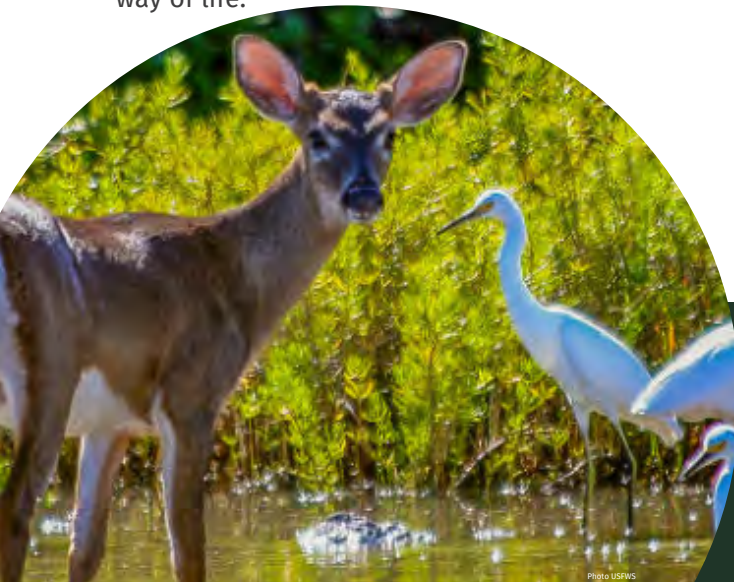
Wildlife Need Healthy Waters

The streams and wetlands that have lost protections are critical for many species of wildlife, including fish like trout and salmon. Most waterfowl and many other birds use the streams and wetlands that have lost protections. These waters are also critical for amphibians, which are sensitive to water pollution and are already declining at a rate of nearly four percent a year. The loss of protections for these waters will make it more difficult to recover hundreds of species already at risk – and could result in more species becoming endangered.

What can we do now?

Congress needs to listen to the American people who want clean water and pass a new law restoring protections to wetlands and other waters that were safeguarded by the Clean Water Act for decades.

Congress could also provide more funding for the protection and restoration of individual wetlands and waterways, for example, including through the Farm Bill or by passing the Recovering America's Wildlife Act. We can also do more at the state and locals to protect these waters. Many communities at risk are working to restore wetlands in their area, knowing that keeping these waters healthy is the safe way to protect their residents' water supplies and way of life.



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For 50 years, the Clean Water Act has helped improve the health of many waters nationwide and prevented deterioration or destruction of many more. Unless we restore basic pollution protections for our waters, this progress will be reversed.