

# Weakening the Clean Water Act: What it Means For Nevada



The purpose of the Clean Water Act is “to restore the chemical, physical, and biological integrity of the nation’s waters.” Over the past 31 years, the Act has led to great improvements in our water quality and protection of our water resources. In spite of this, last year the Bush Administration issued guidelines that eliminate Clean Water Act protection for many of our country’s important wetlands, streams, and other waters. These waters provide tremendous benefits to people and wildlife across the nation—benefits that will be lost forever if the Administration continues on its current path.

The U.S. Environmental Protection Agency estimates that the new guidelines remove Clean Water Act protection from 20 million acres, or 20 percent of the wetlands remaining in the lower 48 states. Loss of federal safeguards leaves these wetlands and other threatened waters subject to an incomplete patchwork of state and local protection. In the many areas where no state or local safeguards exist, it leaves these waters completely exposed to unlimited destruction and pollution.

**If so-called “isolated basins” are not regulated under the Clean Water Act, the vast majority of Nevada would fall outside of Clean Water Act jurisdiction.**

## **Federal Clean Water Act Changes:**

The Bush Administration claims that its new guidelines are necessary to implement a 2001 Supreme Court ruling limiting Clean Water Act protections for some “isolated” ponds and wetlands. However, the guidelines go beyond the narrow scope of the so-called “SWANCC” decision, and needlessly put at risk millions of acres of wetlands, streams, ponds, lakes and other waters.

While the Administration had also asked for public comment on whether the rules of the Clean Water Act itself needed changing, it abandoned this effort after an enormous outpouring of opposition to this plan from Congress, 39 state agencies, conservation and environmental groups, hunters and anglers, and the public. But the guidance remains in effect and is causing unnecessary damage to many wetlands, rivers, lakes, and ponds.

## **Why Do We Need Federal Protection?**

The removal of wetlands protections at the federal level has prompted many to look at state-level protections that could “plug the gap” left by the guidance and the 2001 Supreme Court decision. Only about one-third of the states (18) have any independent protection programs against dredge and fill activities in these types of waters, and most are substantially weaker than the Clean Water Act. In general, state water protection programs have evolved to work in conjunction with the federal law and heavily rely on federal funding and personnel to effectively protect waters.

Another concern is the nature of water resources. Since many



states can share one common river, lake, or stream, protections in one state can be undermined by a lack of protections in a neighboring state. A lack of protection at the federal level could lead to a “race to the bottom” where states deregulate, making it cheapest to pollute locally in an attempt to attract industries from out of state. Additionally, some internationally important resources are now threatened, such as North America’s waterfowl, half of which breed in the prairie pothole wetlands of the northern Great Plains states where no state-level wetlands protections exist.





dry riverbed, TPWD

Districts are interpreting the guidance such that they are not regulating these so-called “terminal basins”, claiming they are “isolated.” Since the majority of the state lies within the Great Basin, this interpretation would leave the majority of Nevada’s waters susceptible to unlimited filling and destruction.

According to a Nevada state official, “The fact that such a small percentage of Nevada’s land area is covered with wetlands, lakes, and playas demonstrates the critical nature of these waters to the State’s wildlife. In many cases, a small isolated spring is the only water available to birds, deer, pronghorn antelope, carnivores, and other vertebrate species for many miles.” Nevada’s wetlands are also critical as breeding areas for fish, amphibians, and migrating birds. Wetlands in the state that could be considered “isolated” such as wet meadows, seeps, springs, and playas provide stopovers for migrating warblers, orioles, grosbeaks, wrens, and flycatchers; are staging areas for swans, ducks, and geese, and vital habitat for sage grouse. For example, Silver Lake Playa in northwestern Nevada is used by 87 species of

**The Importance of Wetlands-Dependent Outdoor Recreation to Nevada in 2001**

	participants	revenue
hunters/anglers	219,000 people	\$351 million
wildlife watchers	543,000 people	\$250 million

birds, 17 species of mammals, 8 species of reptiles, and 4 species of amphibians, as documented by the Nevada Division of Wildlife.

Fourteen species of fish that are associated with springs are listed as threatened or endangered in Nevada. Of particular concern are spring-snails, many of which live only in one or a few springs. The loss of these springs would lead to the loss of entire species.

**Recreation**

Wetlands in Nevada that are affected by the Administration’s guidance offer many recreational opportunities, from hunting and fishing to nature studies and small recreational boat use. The Nevada Bird List Serve has documented visitors from California, Arizona, and other states coming to Nevada’s playas to bird-watch. Several communities have begun advertising to attract out of state bird watchers and other recreationalists to the area for such activities. Over half of the sites in the Nevada Wildlife Viewing Guide describe wetlands that might be considered “isolated” by the Corps.



Nevada fishing, USFWS

Streams, wetlands, and their dependent wildlife help make Nevada a beautiful place and provide it with a lucrative source of income. In the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, it was found that 219,000 people fished or hunted in Nevada in 2001, spending \$351 million in the State. Additionally, 543,000 people participated in wildlife-watching activities, spending over \$250 million.

## Water Quality

Mining is the second largest industry in Nevada and produces significant quantities of toxic wastes, including cyanide, heavy metals, and toxic trace elements. Most mining in the state occurs in areas where playas and other wetlands that might be considered “isolated” are located. Since the state relies on federal funding for enforcement of the Clean Water Act, if these waters are no longer protected under the Act, the ability of the Nevada Division of Environmental Protection to protect them would be seriously impeded, potentially harming downstream communities, endangered species habitat, and even drinking water supplies.

Small streams make up approximately 85 percent of the total drainage network in a basin and collect most of the water and dissolved nutrients from the surrounding terrestrial ecosystem. There are 143,578 miles of streams and rivers in Nevada, 88 percent (126,257 miles) of which are intermittent (only flow part of the year) and are in danger of losing Clean Water Act protections, depending on how the Corps interprets the Administration’s vague guidance. Small wetlands and streams act



as a sieve for larger water bodies, capturing nutrients, debris, and pollutants as water flows toward rivers and lakes. Nevada’s clean water supply is maintained by healthy headwaters. The upper reaches of the watershed make downstream water safe for drinking and more appealing for recreation.



## Flooding

Playas are very efficient at holding excess water after storm events or during snow melts. These wetlands store water and either hold it until it evaporates or recharge groundwater supplies. Wetlands in general have the ability to hold amazing amounts of excess water (up to 1.5 million gallons per acre) that they then slowly distribute back into the watershed. They help to reduce flooding damages to downstream and lakefront communities. At the time of the 1997 flood in Mason Valley, Nevada, development had already destroyed the original floodplain and surrounding wetlands. Without this natural flood buffer, the surrounding community incurred millions of dollars of damage.

## What You Can Do

Log on to <http://www.nwf.org/ourprograms> (click on [wetlands conservation](#) under National Programs) to get more information and to see if your legislators have taken steps to protect our Nation’s waters.

Ask President Bush, Senators Ensign and Reid and your representative to:

- work for the withdrawal of the harmful guidelines
- fully enforce the Clean Water Act to ensure protections for all our valuable wetlands and streams
- support the passage of the **Clean Water Authority Restoration Act of 2003** (H.R.962 and S.473)