



**NATIONAL
WILDLIFE
FEDERATION**

Our Outdoor Traditions Rely on Healthy Waters

A 2023 Supreme Court ruling revoked Clean Water Act protections for most wetlands in the United States and potentially nearly five million miles of streams. The impacts on hunting and fishing could be significant.



PHOTO: AARON KINDLE

How are fish and wildlife at risk?

Most waterfowl use wetlands that are now federally unprotected. For example, pintails, green-winged teal, black ducks and many others rely on coastal wetlands, which are now at high risk of development. Migrating ducks often stopover in newly-unprotected wetlands alongside rivers and streams. Many wetlands in rural areas can now be freely plowed under while those in urbanizing areas can be more easily paved over. The Prairie Potholes are at even greater risk.

Fish that rely on “skinny water” – like salmon, steelhead and trout – will be affected by the loss of protections for many streams. As more waters are affected, sportfish that live in larger lakes and rivers could also end up feeling the impacts. Big game species like bears, pronghorn, mule deer and bighorn sheep that rely on these waters could also be affected.

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 wetlands that have a “continuous surface connection” to “relatively permanent” bodies of water. This overturned decades of bipartisan implementation of the law which protected virtually all important wetlands and waterways. Many vital wetlands that may be separated from those nearby waters by a structure like a road, levee, dune, or berm are now stripped of federal safeguards.

The opinion removes Clean Water Act protections for nearly two-thirds of wetlands and potentially millions of miles of streams. It poses a particular threat in the West, where very few waters – even streams that are critical sources of drinking water – meet this new “relatively permanent” standard.

Over 50% of North American waterfowl depend on wetlands for breeding and one-third of threatened and endangered species depend on these areas for their survival.



Tom Koerner/USFWS

How will this affect water quality and our way of life?

This opinion greatly weakens our nation's ability to protect our drinking water supplies. Over time, it will increase costs for many households, because communities will have to go to greater lengths to ensure their water supplies are safe to drink.

Healthy wetlands and watersheds keep us safe from floods and save us money. A wetland the size of a football field can store up to 1.5 million gallons of floodwaters – enough to fill roughly three Olympic-sized pools. Small streams feed larger rivers downstream, and act as sponges to absorb and slowly filter floodwaters.

Over time, many Americans will experience the impacts of this decision in the form of increased flooding or decreased water quality. Socially vulnerable communities, who are already more likely to live in places prone to flooding or with unsafe sources of drinking water, will likely be disproportionately affected.

Ephemeral streams are particularly important in certain regions like the arid west. In Arizona, more than 95% of streams are seasonal and in New Mexico, over 90% of streams are seasonal or rain dependent.

What does the Clean Water Act do?

The Clean Water Act protects America's waters by making it illegal to pollute waters without a permit that protects water quality. This includes not only requiring factories and sewage treatment plants to get a permit before polluting a water body; but also requiring a permit before altering or destroying a water body. Farms and ranches have always generally been exempted from the need to get either of these types of permits. The oil and gas, chemical manufacturing, mining and other industries will benefit from this ruling by being able to wantonly pollute and destroy waters without having to bear the costs of cleaning up their mess.

Before the passage of the Clean Water Act in 1972, many of America's rivers were effectively open sewers, filled with industrial and human waste, devoid of aquatic life and unsafe for human contact. An area of wetlands the size of Maryland was destroyed in the two decades before the law was passed. Despite rapid population growth, the Clean Water Act has greatly improved the health of our rivers and streams and wetlands loss has slowed dramatically.

What can we do now?

Congress needs to listen to the American people who want clean water and pass a new law clarifying which types of waters can be protected by the Clean Water Act.

Another avenue is to strengthen local state and local protections. This court decision does not prevent states, Tribes or localities from taking steps to protect important waters. We also need greater funding for voluntary protection and restoration of individual wetlands and waterways. Some of this could come from Congress, for example, including through Farm Bill funding or the passage of the Recovering America's Wildlife Act.



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Hunters and anglers have an essential role to play in creating the political will to better protect our waters - and our wildlife and our way of life - at the local, state and federal levels.