



Restoring Clean Water Act Protections: Missouri Facts and Figures

Waters At Risk

- Missouri Department of Natural Resources (DNR) has estimated that intermittent/ephemeral streams account for at least 84,450 (76%) of Missouri stream miles. EPA estimates that 58% of Missouri streams have no other streams flowing into them, and 66% do not flow year-round and now may not be protected by the Clean Water Act.
- EPA says that 2,549,622 people in Missouri receive some of their drinking water from areas containing these smaller streams. Missouri Department of Conservation (DEC) reports that 62.3 percent of Missourians receive their drinking water from river and stream sources.
- Missouri DEC has estimated that about 660,000 acres (35%) of Missouri wetlands could be considered so-called “isolated” waters -- water bodies that have lost Clean Water Act protections in the wake of the 2001 *SWANCC* Supreme Court decision.
- Wetlands destruction continues in Missouri despite the many benefits provided by wetlands. Wetlands improve water quality and wildlife habitat, and they provide flood control and recreational opportunities. For example, an economic analysis along the Illinois River estimated the annual net benefit of wetland restoration to be \$740 per acre of restored wetland.

Wildlife, Hunting, and Fishing Impacts as a result of *SWANCC* and *Rapanos*

- In 2006, almost \$3.4 billion was spent in Missouri on wildlife-related recreational activity, including fishing, hunting, and wildlife watching recreation.
- In 2001, Missouri anglers' retail purchases of fishing-related items totaled over \$832 million, helped fund approximately 15,000 jobs in the state, and generated over \$14 million in state income tax.
- The reduced jurisdiction of the Clean Water Act after *SWANCC* and *Rapanos* is negatively impacting duck hunting in Missouri. The Prairie Pothole Region (also known as “the Duck Factory”) supports a globally significant population of breeding waterfowl, and it is at risk. Ducks Unlimited attached bands to certain ducks in their nesting ground in the Dakotas—wetlands surrounded by grasslands—and later observed the ducks in Missouri. These nesting grounds are no longer protected by the Clean Water Act. Without federal protection of wetlands duck habitat, then, the duck population—and duck hunting—in Missouri will suffer.
- Ninety percent of fish caught by American recreational anglers need wetlands for shelter, food supply, spawning, and nursery areas. Wetlands are essential spawning grounds for fish. Wetlands also provide the insect and smaller fish that serve as food for many larger game fish.

No Jurisdiction, Less Enforcement

- From July 2006 until early 2008, the *Rapanos* decision or the Guidance negatively affected more than 500 Clean Water Act enforcement cases nationally.
- Missouri has reported that some 82.5 percent of the permitted facilities in Missouri discharge to streams without continuous flow. “[M]any headwater and intermittent streams have regulated sewage discharge permits associated with them.” Missouri DEC Comments to EPA (March 12, 2003). Without Clean Water Act jurisdiction over these at-risk streams, the pollution from these facilities may no longer be limited by CWA permits.

Permitting Delays and Increased Costs: Clean Water Act permitting takes longer and, as a result, is more expensive after *SWANCC* and *Rapanos*. New requirements for jurisdictional determinations have delayed permit reviews by two months to two years (they used to take 60-90 days).

State Protections in Missouri: Missouri’s current permitting programs for general water pollution control, and for wetlands protection in particular, are closely tied to the Clean Water Act. Missouri’s CWA 401 program issues the majority of its 401 certifications of CWA permits on activities discharging into Missouri’s intermittent and ephemeral waterbodies. According to the Missouri DNR, “though the NPDES [National Pollution Discharge Elimination System] program will not be directly impacted by narrowing of the definition of jurisdictional waters, the overwhelming majority of activities overseen by the 401 program will no longer be regulated.” (DNR comment letter to EPA, March 4, 2003). The removal of federal authority over so-called “isolated” wetlands will likely also remove state authority over dredge, fill, and pollution activities in these waters. Missouri joined over 30 states in asking the Supreme Court in *Rapanos* to uphold broad legal protections for small tributaries and their adjacent wetlands.

Key Quotes from Missouri DNR and DEC:

- “Failure to afford protection to “isolated” wetlands will inevitably lead to increased draining and filling which will negatively impact ground waters and in-stream flows. Polluted ground water and the disruption of stream’s hydrologic cycles mean increased costs for the general public, a diminished biosphere, and increased threats to rare and endangered species of all types.” MO DEC.
- “[P]ollutants discharged into a waterway that is temporarily disconnected from other waters, will eventually contaminate the whole of the system.” MO DNR
- “[I]nterstate commerce, in the form of tourism dollars, is not dependent upon just one single waterbody, but is related to the intertwined network of waters that produce quality water and wildlife that attract tourism to our state.” MO DNR.
- “The revenue that Missouri generates from water-related tourism, such as floating, fishing, and duck-hunting, is dependent upon the quality of those waters, which are dependent upon the quality of connected wetlands and the intermittent headwaters that feed them.” MO DNR

- “[H]ealthy headwaters and clean streams figuratively and literally represent the foundation of a several billion dollar fishing, hunting, wildlife-viewing industry in Missouri, supporting tens of thousands of jobs.” MO DNR.
- “[T]he majority of previous court rulings have upheld what every Missourian demands, clean water, regardless of its source, and a health environment in which to live and raise a family.” MO DNR.

Missouri Congressional Delegation: Senators Christopher Bond, Claire McCaskill.
Representatives William Clay, Todd Adkin, Russ Carnahan, Ike Skelton, Emanuel Cleaver, Sam Graves, Roy Blunt, JoAnn Emerson, Kenny Hulshof.

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