



# Everglades Coalition

1000 Friends of Florida  
Arthur R. Marshall Foundation  
Audubon of Florida  
Audubon Society of the Everglades  
Audubon of Southwest Florida  
Caloosahatchee River Citizens Association  
Clean Water Action  
Clean Water Network  
Collier County Audubon Society  
Conservancy of Southwest Florida  
Defenders of Wildlife  
Ding Darling Wildlife Society  
Earthjustice  
Environment Florida  
The Environmental Coalition  
Everglades Coordinating Council  
Everglades Foundation  
Everglades Law Center  
Florida Defenders of the Environment  
Florida Keys Environmental Fund  
Florida Native Plant Society  
Florida Oceanographic Society  
Florida Sierra Club  
Florida Wildlife Federation  
Friends of Arthur R. Marshall  
Loxahatchee Wildlife Refuge  
Friends of the Everglades  
Hendry Glades Audubon Society  
Izaak Walton League  
Florida Keys Chapter  
Florida Division  
Mangrove Chapter  
Izaak Walton League of America  
Last Stand  
League of Women  
Voters of Florida  
Loxahatchee River Coalition  
Martin County  
Conservation Alliance  
National Audubon Society  
National Parks  
Conservation Association  
National Wildlife Federation  
National Wildlife Refuge  
Association  
Natural Resources  
Defense Council  
The Ocean Conservancy  
The Pegasus Foundation  
Sanibel-Captiva  
Conservation Foundation  
Save It Now, Glades!  
Sierra Club  
Sierra Club Broward Group  
Sierra Club Central Florida Group  
Sierra Club Loxahatchee Group  
Sierra Club Miami Group  
South Florida Audubon Society  
Tropical Audubon Society  
The Urban Environment League  
World Wildlife Fund

The Honorable Lisa Jackson  
Administrator, Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

The Honorable Jo-Ellen Darcy  
Assistant Secretary of the Army for Civil Works  
108 Army Pentagon, Rm. 3E446  
Washington, DC 20310

Water Docket  
Environmental Protection Agency  
Mail Code 2822T  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

June 14, 2011

**Attn: Docket ID No. EPA-HQ-OW-2011-0409; Comments on EPA and USACE Guidance Regarding Identification of Waters Protected by the Clean Water Act.**

Dear Administrator Jackson and Assistant Secretary Darcy,

On behalf of the 53 organizations of the Everglades Coalition and our members and supporters, we express our support of the April 2011 Draft Guidance on Identifying Waters Protected by the Clean Water Act (Draft Guidance) issued by the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE). The Draft Guidance is a crucial step toward providing continued protection to the "waters of the United States" covered under the Clean Water Act (CWA) in light of the confusion caused by the Supreme Court rulings in 2001 (*SWANCC*) and 2006 (*Rapanos*). According to the EPA, legal uncertainty caused by those decisions left at least 20 million acres of national wetlands, prairie potholes, seasonal wetlands, headwater streams, lakes, and tributaries unprotected. The Draft Guidance, once finalized, will not only help preserve our Nation's valuable waters, it will help Everglades restoration, provide benefits to Florida's economy, enable higher cost savings for Florida taxpayers, and protect our endangered species.

**Everglades Restoration:** The Everglades ecosystem is vital to Florida's prosperity. Water quality and drainage issues nearly eviscerated the Everglades, resulting in the Comprehensive Everglades Restoration Plan (CERP), approved by Congress to repair this ecosystem by capturing, storing and redistributing fresh water previously lost to tide and to regulate the quality, quantity, timing and distribution of water flows disrupted by the Central & Southern Florida (C&SF) Project. This ecosystem restoration provides numerous economic benefits to Florida. According to EPA data, 30 percent of streams in Florida are at risk of losing protection under the CWA because they are headwater streams. These lakes, streams, rivers and canals are tributaries to the oligotrophic Everglades ecosystem downstream. Thus, enforcement of water quality in these areas is critical to restoring America's Everglades and the drinking water, swimming, fishing, farming, manufacturing, and tourism-benefits it provides.

**Impact to Florida's Economy:** Without adequate regulation of waterways outside of South Florida's national parks and wildlife refuges, polluted water will directly impact and degrade the water quality of Lake Okeechobee, the Everglades, Biscayne, and Dry Tortugas National Parks, Big Cypress National Preserve, and other natural areas. This would be directly adverse to the goals of CERP, aquatic ecosystem restoration programs, and the "no net loss" policy pertaining to Florida's wetlands.

CERP alone is projected to produce more than \$46 billion in benefits to South Florida and create more than 442,664 jobs over the next 50 years. According to Florida Department of Environmental Protection, the state has already begun implementing the Lake Okeechobee Watershed Restoration Plan, costing an estimated \$1.3 and \$1.7 billion to reduce high levels of phosphorus and nitrogen contaminating the water. Six hybrid wetland treatment technology projects have already been implemented to rectify the current water quality issues in Lake Okeechobee. Without enforcing water quality in watersheds that drain into Lake Okeechobee, an increase of contaminated water will make this restoration plan extremely difficult to achieve and more costly overall, shifting the burden from water polluters to taxpayers who fund these projects.

Cost Savings: According to the USACE, taxpayer costs increased substantially as a result of the confusion caused by *SWANCC* and *Rapanos*, due to a greater need of USACE and EPA staffing for the multitude of jurisdictional determinations required under those decisions. The Draft Guidance helps alleviate the taxpayer burden by providing continuity, transparency, and public accessibility to the definitions under the CWA by using a science-based approach for determining which areas are protected under the CWA. The science-based definitional approach provides an important basic way to regulate non-jurisdictional waters. Various geographic features of waterways may still contribute to the pollution of wetlands and traditional navigable water by surface hydrology or critical transitional areas between waterways, making these definitions essential.

Endangered Species: Without the protections afforded under the Draft Guidance, the water degradation facing Florida's ecosystem will harm our delicate and fragile endangered species. The influx of urban development and agriculture has already increased nutrient and pesticide pollution in waters that flow into national parks and other federally protected areas in Florida from stormwater runoff. Today, 131 species of the Everglades' plants and animals, including the Florida panther, American crocodile, Wood Stork, Everglade Snail Kite, and Cape Sable Seaside Sparrow, are threatened or endangered. Without protecting the quality of the vital freshwater flow that enters into critical habitats, we are putting these species at a higher risk of extinction.

By restoring protections to smaller and seasonal streams and wetlands that have a physical, chemical, or biological connection to larger water bodies downstream, the CWA is not only protecting the integrity of our waterways, it protects the biodiversity of our Nation, and provides flood protection, recreational activities, and 117 million Americans with access to safe drinking water.

We support this effort, though we understand that the proposed Guidance is not binding and does not carry the force of law. Thus, we additionally urge you to move forward with rulemaking to end the confusion over which waters are protected by the CWA. The Everglades Coalition encourages EPA and USACE to implement the Draft Guidance without delay and reaffirm the broad congressional scope and intent of the CWA that existed for more than three decades.

Thank you for your continued dedication to protecting our wetlands and waterways.

Sincerely,



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