



Everglades Coalition

1000 Friends of Florida
Arthur R. Marshall Foundation
Audubon Florida
Audubon of Southwest Florida
Audubon of the Western Everglades
Audubon Society of the Everglades
Backcountry Fly Fishers of Naples
Bullsugar Alliance
Calusa Waterkeeper
Cape Coral Friends of Wildlife
Center for Biological Diversity
Conservancy of Southwest Florida
Defenders of Wildlife
“Ding” Darling Wildlife Society
Earthjustice
Environment Florida
Everglades Foundation
Everglades Law Center
Everglades Trust
Florida Bay Forever
Florida Conservation Voters Education Fund
Florida Defenders of the Environment
Florida Keys Environmental Fund
Florida Native Plant Society
Florida Oceanographic Society
Friends of the Arthur R. Marshall
Loxahatchee National Wildlife Refuge
Friends of the Everglades
Hendry-Glades Audubon Society
International Dark-Sky Association, FL Chapter
Izaak Walton League of America
Izaak Walton League Florida Division
Izaak Walton League Florida Keys Chapter
Izaak Walton League Mangrove Chapter
Lake Worth Waterkeeper
Last Stand
League of Women Voters of Florida
Martin County Conservation Alliance
Miami Pine Rocklands Coalition
Miami Waterkeeper
National Audubon Society
National Parks Conservation Association
National Wildlife Refuge Association
Natural Resources Defense Council
North Carolina Outward Bound School
Ocean Research & Conservation Association
Reef Relief
Sanibel-Captiva Conservation Foundation
Save It Now, Glades!
Sierra Club
Sierra Club Florida Chapter
Sierra Club Broward Group
Sierra Club Calusa Group
Sierra Club Central Florida Group
Sierra Club Loxahatchee Group
Sierra Club Miami Group
Snook and Gamefish Foundation
South Florida Audubon Society
Southern Alliance for Clean Energy
The Florida Wildlife Federation
The Institute for Regional Conservation
The National Wildlife Federation
The Urban Environment League of Greater Miami
Theodore Roosevelt Conservation Partnership
Tropical Audubon Society

April 15, 2019

Andrew Wheeler
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

R.D. James
Assistant Secretary of the Army (Civil Works)
Department of the Army
108 Army Pentagon
Washington, D.C. 20310-0108

U.S. Environmental Protection Agency
EPA Docket Center
Office of Water Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460
Ow-docket@epa.gov

Re: Docket ID No. EPA-HQ-OW-2018-0149: Revised Definition of Waters of the United States

Dear Administrator Wheeler and Assistant Secretary James:

On behalf of the 63 members of the Everglades Coalition – an alliance of local, state, and national conservation and environmental organizations dedicated to restoring America’s Everglades – we respectfully submit the following comments opposing the Environmental Protection Agency (EPA) and Army Corps of Engineers’ (Corps) proposed *Revised Definition of “Waters of the United States.”* The proposed revision is a dramatic reinterpretation of the Clean Water Act that would, by the EPA’s own estimate, remove federal pollution protections from more than half of our nation’s wetlands. The proposal could also threaten protections for up to 70% of our nation’s streams. A less-protective Clean Water Act threatens the health of the “River of Grass” – a vital source of Florida’s tourism, commercial and recreational fishing, outdoor recreation, biodiversity, and the drinking water supply of nearly 8 million Floridians. We urge the agencies to immediately withdraw this proposal.

Congress passed the Clean Water Act in 1972 in order to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters,” and for decades, the Clean Water Act safeguarded Florida’s rivers, streams, lakes, and wetlands. This proposal contradicts the law and science that is the foundation for Clean Water Act successes of the past 47 years, and is a drastic departure from Congress’ direction, from long-standing policies, and from the protections our water resources and communities need. If the Agencies continue to move forward with this proposal, it will be the most severe weakening of clean water protections since the Act’s inception.

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Removing Clean Water Act safeguards for thousands of miles of streams and millions of acres of wetlands would leave them without guaranteed protection under the Clean Water Act's pollution control, prevention, and clean-up programs. The Agencies claim their proposed definition is based in law but limiting Clean Water Act protections to only waters with a permanent or consistent flow or with a direct surface hydrological connection to other waters, has previously been rejected by a majority of Supreme Court Justices, by the George W. Bush administration, and by courts interpreting the Act.

Additionally, for the first time in the history of the Clean Water Act, the Agencies are proposing to end protections for ephemeral streams. Though ephemeral streams may only flow after a rain, they provide water for larger streams and rivers, filter pollutants and capture nutrients, and provide critical habitat for wildlife. Categorically excluding all ephemeral streams from protections is a dramatic departure from decades of regulatory practice that followed science and common sense to protect our nation's water resources. Upstream tributaries and adjacent wetlands and lakes are critically important for the Everglades, which is located downstream at the southern tip of Florida.

We are also troubled that the Agencies invite comment on even more severe rollbacks, such as whether or not the rules should exclude all streams that don't flow-year-round. Such a radical departure from decades of clean water policy would wipe out protections for over half of the streams across the country, including an estimated 12% of streams in Florida. There is no scientific basis for excluding these streams from protection, instead science supports the need to protect these streams. We believe that all streams, regardless of size or frequency of flow, should be safeguarded from pollution or destruction, because the science demonstrates that they serve critical functions in protecting clean water and reducing flood damage for downstream communities.

Everglades Impacts

From Florida's \$58.6 billion outdoor recreation industry to its \$3 billion craft brewery economy, the health of Florida's waters is essential to the health of its economy. Clean water sustains Florida's renowned fishing grounds that draw more than 4 million anglers from across the nation to the "Fishing Capital of the World" each year. Tourism to Everglades National Park alone generates approximately \$100 million annually. The Everglades depends on the slow flow of clean water south through the state from upstream tributaries and wetlands. A strong Clean Water Act is critical to larger efforts underway to restore the Everglades and other watershed ecosystems across the country. Federal water quality protections work hand in hand with state and federal restoration investments, helping Florida's economy, wildlife, and communities thrive. Without adequately protecting upstream waters at the headwaters of the Everglades, polluted water will further impair water quality downstream in Lake Okeechobee, Everglades National Park, Big Cypress National Preserve, and Florida Bay. This would directly contradict the fundamental goals of the Comprehensive Everglades Restoration Plan (CERP) and the extensive state and federal investments made to restore America's Everglades.

Much of the Greater Everglades Ecosystem has lost its shallow, seasonal wetlands and vital watershed functions such as flood protection, nutrient and pollution cleansing, aquifer recharge and water supply, wildfire threat reduction, and critical habitat for many imperiled species. For example, the Audubon Corkscrew Swamp Sanctuary in Naples is critical nesting habitat for wading birds like the threatened Wood Stork. This sanctuary was once the largest Wood Stork rookery in the nation, and requires further protection and restoration of shallow, seasonal wetlands and scarce wet prairies to fully recover. However, most wet prairies are threatened by the rule because they are inundated less than six months a year. Hundreds of thousands of acres of Florida's shallow, seasonal wetlands – including wet prairies, hydric pine flatwoods, and hydric hammock – are particularly vulnerable to losing Clean Water Act safeguards. The Florida Department of Environmental Protection (DEP) has estimated that over 800,000 acres of wetlands in the

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Panhandle region alone are so called “isolated” waters likely to lose Clean Water Act protection. Additionally, half of Florida’s almost 52,000 miles of rivers and streams considered ditches or canals are also at risk of losing protection despite their prominence and their obvious benefits to the quality of Florida waters. Hundreds of thousands of acres of wetlands associated with these and other streams, creeks, and canals that are proximal to, but that do not directly about them could lose protection as well.

Now is not the time to turn back the clock on critical clean water protections for wetlands that filter and clean up pollution – Florida has already lost almost half of its historic wetland acreage and has lost more wetland acreage than any other state in the continental United States. Urban development runoff and agricultural nutrient and pesticide pollution currently impair waters that flow into Everglades National Park and the resulting harmful algal blooms have plagued Florida’s waters, including the St. Johns River, Caloosahatchee and St. Lucie Rivers and Estuaries, and Lake Okeechobee. For nearly two years, recurring toxic blue-green algae outbreaks coupled with the worst red tide in over a decade, have severely impacted Florida’s wildlife, economy, and public health. The Sanibel and Captiva Chamber of Commerce and Fort Myers Beach Chamber of Commerce reported combined losses of \$87 million between July-December 2018; an estimated 4.4 million pounds of dead marine life were removed from Lee County beaches between June-September 2018; and as recently as August 23, 2018, blue-green algae discharged into the St. Lucie River from Lake Okeechobee was nearly 50 times too toxic for human contact. Wetland protection and restoration are essential components of addressing these major harmful algal blooms, because wetlands help filter out the nutrient pollution which feeds these toxic outbreaks.

Springs Threatened

In addition to the Everglades, other iconic water resources in Florida are threatened by this proposal, such as Florida’s springs. Florida’s springs hold both tremendous economic value, as recreational and water supply resources, and ecological value as headwaters or tributaries of important rivers like the Suwannee, Wekiva, Santa Fe, Silver, Ocklawaha, and Rainbow. There are over 700 Florida springs, with 30 being first magnitude, flowing more than 65 million gallons of water per day – more than anywhere else in the world. Groundwater and aquifer flow create these amazing places in Florida, with some rivers going underground for miles before emerging on the surface but may lose protections under this rule. Lack of Clean Water Act protection for the waters that are cleansed and attenuated in wetlands throughout the springs’ watersheds will harm these crystalline waters with nutrients, pesticides and other pollution, plus reduce recharge of the Floridan aquifer that feeds these springs and rivers.

Conclusion

Since the Clean Water Act was passed in 1972, we have made significant progress in cleaning up many of our nation’s most iconic rivers, lakes, and bays, all of which depends on the small streams that flow into them and on the wetlands that buffer them. The proposal would open up millions of miles of streams and millions of acres of wetlands to development and extractive activities without sufficient pollution controls. Once these resources are destroyed, they cannot be fully recovered. Instead of opening more wetlands and downstream waters to the threat of pollution and destruction, the EPA and Army Corps should be doing more to ensure these streams and wetlands are safeguarded in order to better protect and restore our nation’s ecological treasures like the Everglades.

By weakening Clean Water Act protections for certain streams and most wetlands, the EPA and Army Corps of Engineers threaten Florida’s wildlife, communities, economy, and way of life. It also threatens the significant progress we have made towards restoring America’s Everglades, a diverse watershed of international importance. **From the Florida Panhandle to the Everglades, our organizations urge the Agencies to swiftly withdraw this proposal.** Any potential new rulemaking must help achieve the foundational goals of the Clean Water Act, which is impossible to achieve without protecting tributary

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streams from pollution or protecting the full range of all watersheds' wetland types from being drained and filled. Wetland functions impact national interests in all states and cannot be delegated to uneven and haphazard state-by-state policies. Any new rule must be grounded on a robust, inclusive, transparent, science-based, and legally sound rulemaking process and must clearly protect all streams, floodplain wetlands, and non-floodplain wetlands that are ecologically connected to downstream waters, in accordance with the Clean Water Act.

Therefore, the Everglades Coalition opposes the proposed *Revised Definition of "Waters of the United States"* and asks that the agencies immediately withdraw this damaging proposal from consideration.

Sincerely,



Mark Perry
Co-Chair



Marisa Carrozzo
Co-Chair

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