

Senators Seek Withdrawal of Wetlands Policy Document ***August 27, 2004***

Thirty-one Democrats, four Republicans and one independent in the Senate have signed letters to President Bush urging the administration to withdraw a 2003 policy document that the senators allege weakens federal protections for U.S. wetlands. Seven of the senators serve on the Environment and Public Works Committee.

In January 2003, the Corps of Engineers and the Environmental Protection Agency issued a "guidance document" to federal officials offering the administration's interpretation of a 2001 Supreme Court opinion that sharply curtailed federal jurisdiction over isolated wetlands under the Clean Water Act based on the presence of migratory birds. That opinion limited federal regulation of wetlands to navigable waters.

"Traditional navigable waters are waters that are subject to the ebb and flow of the tide, or waters that are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce," the administration said in its 2003 guidance document.

This interpretation is narrower than the one intended by the Supreme Court, which limited the government's jurisdiction only to isolated wetlands due to the presence of migratory birds, the senators said. The court's decision does not extend to all isolated wetlands, they added.

This weekly report is written by the American Society of Civil Engineers' Government Relations staff. If you have any questions or comments about any items in this report please email govwash@asce.org.