

its source.<sup>4</sup> The Congressionally intended breadth of the Clean Water Act is indisputably apparent in the comprehensive and interrelated goals, policies, definitions, programs, and directives set forth in text of the Act itself, as well as in Congress' direction that the entire Act applies broadly to protect the "waters of the United States, including the territorial seas."<sup>5</sup>

The ultimate goal of the Clean Water Act is to eliminate all discharges of pollutants into those waters.<sup>6</sup> This includes waters specifically referenced in the text of the Clean Water Act, such as navigable waters, interstate waters, intrastate waters, wetlands, streams, rivers, lakes, territorial seas, coastal waters, sounds, estuaries, tributaries, and bays.<sup>7</sup> "To do this, the [Clean Water Act] does not stop at controlling the 'addition of pollutants,' but deals with 'pollution' generally, see § 1251(b), which Congress defined to mean 'the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water,' § 1362(19)."<sup>8</sup>

A long line of Supreme Court cases have confirmed the breadth of the Clean Water Act and its protections for the Nation's waters (i.e., "waters of the United States"), as well as the Act's objective of completely eliminating water pollution in those waters. For example:

- In *City of Milwaukee v. Illinois & Michigan* (1981), a unanimous Supreme Court determined that Congress' intention in amending the Water Pollution Control Act in 1972 was "clearly to establish an all-encompassing program of water pollution regulation . . . [and] 'to establish a *comprehensive* long-range policy for the elimination of water pollution.' S.Rep.No.92-414, at 95, 2 Leg.Hist. 1511 (emphasis supplied)."<sup>9</sup>
- In *Riverside Bayview* (1985), a unanimous Supreme Court determined that "[p]rotection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' . . . [This is precisely why] Congress chose to define the waters covered by the Act broadly."<sup>10</sup> The Court also confirmed the breadth of Clean Water Act jurisdiction over "waters," including "lakes, rivers, streams, and other bodies of

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<sup>4</sup> *County of Maui*, 590 U.S. at 178-79 (citing *EPA v. Cal. ex rel. State Water Res. Control Bd.*, 426 U.S. 200, 202-04 (1976) (basic purpose of the Clean Water Act is to regulate pollution at its source)).

<sup>5</sup> 33 U.S.C. § 1362(7).

<sup>6</sup> 33 U.S.C. § 1251(a).

<sup>7</sup> 33 U.S.C. § 1362(7); see, e.g., *City of Milwaukee v. Illinois & Michigan*, 451 U.S. 304, 318-19 (1981); 33 U.S.C. § 1313 (applying water quality standard to "interstate waters," "intrastate waters," "navigable waters" and simply "waters."); 33 U.S.C. § 1252(c)(3) ("rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes"); N. William Hines, *History of the 1972 Clean Water Act: The Story Behind How the 1972 Act Became the Capstone on a Decade of Extraordinary Environmental Reform*, 4 J. ENERGY & ENV'T L. 80 (2013), <https://gwujeeel.files.wordpress.com/2013/10/4-2-hines.pdf> ("Hines History of the CWA").

<sup>8</sup> *S.D. Warren Co. v. Me. Bd. of Env't Prot.*, 547 U.S. 370, 385 (2006).

<sup>9</sup> *City of Milwaukee*, 451 U.S. at 318 (internal footnotes omitted).

<sup>10</sup> *United States v. Riverside Bayview Homes, Inc.*, 474 U.S. 121, 132-33 (1985) (citation omitted) ("*Riverside Bayview*").