

● PROTECT YOUR WETLAND ASSETS



Wetlands provide wildlife habitat and vital flood storage.

While we like to think we protect wetlands by law, we really don't. We've destroyed more than half of our original supply of wetlands, and we're destroying them still.

Audubon, November-December, 1996

Additional resources for this section:

- Living with Wetlands
A Handbook for Homeowners for Northeastern Illinois
(see binder pockets)
- Illinois Wetlands—A Guide for Local Governments (see binder pockets)
- An Individual Map from Kishwaukee River Ecosystem Partnership is Included.

Protect Your Wetland Assets

For generations our government has paid us to destroy wetlands. Those “dismal swamps” have been drained, filled, dredged, and dammed. Today wetlands are viewed differently. Wetlands provide homes for plants and animals. Wetlands store excess rainfall and help reduce the possibility of flooding. Conversely, wetlands slowly release stored waters providing a constant water source for plants and animals. Wetlands protect adjacent streams, ponds, and rivers from excess silt and pollutants. Wetlands are an interesting tourist destinations alive with life, ever-changing with the seasons. Illinois has lost 95% of its historical wetlands. Additional losses will increase tax burdens and diminish quality of life.

Municipal officials should be aware of the lack of protection afforded to wetlands. Federal protection of wetlands under the Clean Water Act is not enough to guarantee survival. The following sections detail federal, state, and local programs that deal with wetland protection. Included are suggestions for how municipalities can protect and guarantee wetland survival.

Federal Law — The Clean Water Act

Section 404 of the Clean Water Act details the permit program of the U.S. Army Corps of Engineers that deals with adding dredged and/or fill material to wetlands and other “waters of the United States.”

Any filling activities require a permit from the Corps before starting any work. In addition, any project that will effect wetlands should be reviewed by the Army Corps of Engineers. Copies of the permit application must be forwarded to the Illinois Department of Natural Resources and the Illinois EPA, and should be sent to the U.S. Fish and Wildlife Service.

When building a home or business developers and individuals must avoid or minimize impact to a wetland. If the disturbance to a wetland cannot be avoided, the Army Corps may allow individuals and/or businesses to mitigate for the damage. Wetland mitigation can be in the form of restoring a previously converted wetland, enhancing a degraded wetland, or creating new wetlands. *At this point in time there are no manmade wetlands that can duplicate the complex natural functions of natural wetlands.*

Provisions of Section 404

- regulates “discharges” of dredged or fill material
- regulates activities that involve work within the jurisdictional boundary of a wetland

Issues NOT Covered by Section 404

- flow of polluted stormwater into wetlands
- silt from construction sites washing into wetlands
- removal of vegetation along streams, lakes, ponds
- encroachment next to wetlands
- changing a wetland to open water by means of an impoundment or dredging
- changes in the lands next to a wetland
- removal of shoreline buffers
- Isolated Wetlands - those wetlands not connected to "navigable waters"

State Law

It is the goal of the State of Illinois that there be no overall net loss of the state's remaining wetlands due to any state-supported activity. State agencies are also directed to preserve, enhance, and create wetlands in order to increase the quality and quantity of Illinois' wetland resources. If state funds or technical assistance are provided to a project, it must comply with the Interagency Wetland Policy Act of 1989 which is administered by the Illinois Department of Natural Resources. In addition, construction projects in floodplain wetlands or wetlands next to a public body of water (i.e. Kishwaukee River) will be regulated. However, no state law regulates wetland impacts undertaken by private entities, including ditching and other destructive modification of wetlands. Nor is there Illinois law to deal with polluted stormwater flow, erosion, or other adjacent land impacts on wetlands.

In 2003, a bill establishing the Illinois Wetlands Protection Act passed the Illinois House of Representatives. As of March 2004, this bill that would protect wetlands not within Army Corps of Engineers jurisdiction had not yet passed Illinois Senate.

WHAT CAN NIPC DO FOR YOU?

Northeastern Illinois Planning Commission (NIPC) a planning agency that works with governments and citizens to promote sound and orderly development.

Call NIPC for assistance in developing ordinances to protect Kishwaukee wetlands and streams.

For a free copy of *Model Stream and Wetland Protection Ordinances*, email NIPC at : (<http://www.nipc.cog.il.us>)

Municipal or County Ordinances

Municipalities can incorporate wetland protection ordinances into their comprehensive plans that include education, acquisition, and other planning efforts. Municipal ordinances can be tailored to address issues of local concern, i.e. flood control and preventative measures to identify and protect important wetland functions. Regulation at the local level can be effective in protecting local wetlands by addressing those activities that may destroy or degrade wetlands. Municipalities must also assess the cumulative impacts of activities that affect wetlands.

In accordance with statewide authorization to create a countywide stormwater plan, both Kane County and McHenry County have a Stormwater Management Ordinance in place which also protects wetlands throughout the county. Municipal or County ordinances should not require significant new staff expertise and resources. Existing planners and engineers can interpret wetland protection ordinances. Additional assistance is available from local NRCS and SWCD staff and the U.S. Fish and Wildlife Service. Additionally, wetland protection ordinances should be designed to complement Corps of Engineers regulations, but not duplicate them.

Benefits of Local Wetland Protection

- addresses and controls important local issues
 - streambank stabilization*
 - erosion control*
 - recreational opportunities*
 - open space*
 - preservation of wildlife habitat*
 - preservation of biodiversity*
 - natural flood storage*
 - shoreline protection*
 - stormwater impacts*
- can prohibit the direct discharge of stormwater runoff to wetlands
- can require buffers of native plants to remain around wetlands
- can require setbacks that restrict activities with potential adverse impacts to wetlands
- can require replacement of all wetland functions without limits on size or type of activity

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● **Recommended Key Elements of a Municipal or County Ordinance**

- addresses important local factors, such as stormwater impacts
- includes protection of a buffer along streambanks and wetland edges
- includes protection of a setback, including the buffer, for buildings and structures
- calls for avoidance of mapped wetlands, with particular emphasis on high quality wetlands identified in the ADID project in McHenry County, and the National Wetlands Inventories in Boone, Kane, Winnebago, DeKalb, and Ogle counties
- addresses all important wetland functions == especially stormwater storage
- includes specific criteria for avoidance and mitigation of stream channels to minimize costly bank erosion and to protect high quality habitat

● **Conservation Easements**

Municipalities can protect wetlands with conservation easements. This type of agreement will grant certain uses of property without transfer of ownership of the property. Easements can be written to require that a buffer of native plants is maintained next to a wetland.

● **Deed Restrictions**

Deed restrictions can be mandated by city or county governments. These restrictions are similar to conservation easements in that it restricts use of a particular parcel of land. The U.S. Army Corps can place deed restrictions on “outlots” or common areas of subdivisions that include a wetland. The homeowners’ association then holds the deed to this common area.



NOTE TO MUNICIPALITIES

Individualized maps of your community have been included in this folder. The maps show the wetlands in your area, using the National Wetlands Inventory and/or the USGS Advanced Identification(ADID) study of Wetlands.

These maps were provided by the Kishwaukee River Ecosystem Partnership (KREP), a group of local conservation-minded groups and citizens working to raise awareness of the ecological, recreational, cultural, and economic importance of the Kishwaukee River watershed. KREP coordinates and encourages efforts to foster stewardship, protect, and enhance its natural resources. Contact Nathan Hill, 815-544-1576, at the Kishwaukee River Ecosystem Partnership if you would like to participate in upcoming public meetings and receive a copy of the findings on the major issues in your Kishwaukee River subwatershed.