

From: [CWAwotus](#)
To: [Gude, Karen](#)
Subject: Tribal comment
Date: Thursday, June 01, 2017 12:53:06 PM

I assume that this should be included with consultation comments.

-----Original Message-----

From: drupal_admin@epa.gov [mailto:drupal_admin@epa.gov]
Sent: Thursday, June 01, 2017 10:42 AM
To: CWAwotus <CWAwotus@epa.gov>
Subject: Form submission from: Waters of the United States (WOTUS) Rulemaking Contact Us about the Waters of the United States Rulemaking form

Submitted on 06/01/2017 10:41AM

Submitted values are:

Name: Dr. Rebecca Bond
Email Address: rebecca.bond@okkt.net
Comments:

I am the Assistant Environmental Director of the Kickapoo Tribe of Oklahoma.
I am writing to offer my thoughts on the proposed WOTUS rule making.

First, I am concerned about concluding that wetlands are not WOTUS waters unless there is a "continuous surface water connection" with a permanent water body. This is problematic because (1) some wetlands have a significant subsurface connection with jurisdictional waters and (2) in arid areas there may be very few wetlands that receive CWA protection because they are not connected to a water body that passes the permanence test.

Secondly, I know that the term "navigable" is included in the CWA, but I wonder if this term continues to be relevant with regard to water quality regulation. Surface water navigation is no longer a major player in the US economy, and ecologists have long known that you cannot address the health of large rivers without also addressing the health of the smaller streams that feed and support these rivers.

I do not think that all isolated wetlands are jurisdictional waters. However, we need a WOTUS rule that reflects the current understanding of the interconnectedness of surface and subsurface waters. The Kennedy opinion, which rejects the continuous flow standard and offers the "significant nexus" standard, makes protection of water systems more likely than implementation of the Scalia standard.