



6/20/2017

Re: "Waters of the United States" rulemaking; Phase 1 comment period

To Whom It May Concern:

The Snoqualmie Indian Tribe—sduk^walbix^w in our Native language—is a federally recognized tribe in the Puget Sound region of Washington State. Known as the People of the Moon, Snoqualmie tribal members were signatories to the Treaty of Point Elliott in 1855. The Tribe owns and operates the Snoqualmie Casino in Snoqualmie, Washington.

We have been in the Puget Sound region and the Snoqualmie Valley since time immemorial. sq^wed (Snoqualmie Falls) is the birthplace of the sduk^walbix^w. We had more than 90 long houses along the Snoqualmie River and its tributaries. These rivers and streams were the highways used to travel from village to village and connected all the ʔacitalbix^w (Natives). The fish, game, trees and roots provided us with everything we need to live. All of this was given to us by duk^wibet^w (Transformer) in the ancient times when all of the animals could talk and before things were what they are now.

We are the sduk^walbix^w, People of Moon. We are the descendants of sluk^walb tə duk^wibet^w. We have lived, hunted and fished this area for as long as the earth and rivers remember. We are still here today; caring for the land, water, fish and game that duk^wibet^w gave us.

Our culture is sustained by this land. Without clean, cold water to drink and to fish in; without land to sustain game and plants for food, fiber, and medicine; without clean air to breathe—our culture cannot exist. When our ancestors signed the Treaty of Point Elliot, trading our former lands for the right to continue our culture and our way of life, they did so with the understanding that all those things that support and sustain us and our culture would remain available to us. To this end, the government of the United States, with whom we made that agreement, has a trust responsibility to ensure that we continue to have access to clean water, land and air across our traditional lands, in perpetuity. For this reason, we have serious misgivings about a reduction in the scope of federal Clean Water Act (CWA) jurisdiction.

A reduction in CWA jurisdiction will jeopardize the physical, chemical, and biological integrity of those waters that sustain the culture and lives of the Snoqualmie people. Placing these resources in jeopardy would be an abrogation

of the United States government's treaty agreement with our ancestors. It is something that the Snoqualmie people take incredibly seriously.

It is our understanding that on February 28, 2017, the President signed the "Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule" (EO), and that the EO directs that EPA and the Army "shall consider interpreting the term 'navigable waters'" in a manner "consistent with Justice Scalia's opinion" in *Rapanos*. Justice Scalia's opinion indicates CWA jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters. Unfortunately, Justice Scalia's opinion is not based in science or sensible water quality policy.

We urge EPA and the Army to base the revised definition of "waters of the US" in sound science. Very, very few waters and wetlands are truly "isolated" in an ecological sense. In fact, most streams, rivers, lakes, oceans and wetlands have a connection to other waters. The connection may be underground. It may occur for only a portion of the year. It may be hard to discern or define without detailed investigation, but it still exists, it is still a critical feature of the waterbody or wetland, and it demands that we think more broadly about our interconnected hydrologic resources.

"Seasonal" streams and wetlands should remain under CWA jurisdiction. These features are no less important simply because of the seasonal nature of their hydroperiods. Depending on their location and the surrounding landscape, they may well be even more critical in providing hydrologic, habitat, and water quality functions than more frequently wetted features. Wetlands without continuous surface connections to other jurisdictional waters should also remain protected by the CWA. Wetlands in particular are often supported by water movement that occurs underground. To remove them from CWA jurisdiction simply because one of their key components is not visible on top of the ground is arbitrary and not based in science or common sense. If the EPA and the Army must find some way to remove some wetlands from CWA jurisdiction, they should look to distance from other jurisdictional waters, and it should be at least a mile or more, but even this definition is problematic, because it is not based in science, and it is also arbitrary. Please use defensible science to redefine "waters of the United States."

Thank you for the opportunity to comment.

Sincerely,



Matthew J. Baerwalde
Water Quality Manager
425-363-2008
mattb@snoqualmientribe.us