



TWENTY-NINE PALMS BAND OF MISSION INDIANS

46-200 Harrison Place . Coachella, California . 92236 . Ph. 760.863.2444 . Fax: 760.863.2449

January 9, 2018

Ms. Donna Downing
U.S. Environmental Protection Agency
Office of Water (4504-T)
1200 Pennsylvania Avenue NW.
Washington, D.C. 20314

Re: Request for Government-to-Government Consultation during development of the Step 2 rulemaking for the substantive re-evaluation and revision of the definition of "Waters of the United States" in accordance with Executive Order 13778

Dear Ms. Downing,

The Twenty-Nine Palms Band of Mission Indians (Tribe) is a federally recognized tribe that exercises substantial governmental powers and sovereignty over its trust lands (Reservation). The Tribe has also been designated statutory authority to implement Clean Water Act (CWA) §§ 106, 319, 303(c), and 401 on the Reservation. The Tribal Environmental Protection Agency (Tribal EPA) administers pollution prevention, nonpoint source, and Tribal Water Quality Standards programs for the protection of Tribal Water Resources.

On February 28, 2017, the President signed Executive Order 13778 "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule", directing the Administrator of the Environmental Protection Agency and the Assistant Secretary of the Army for Civil Works to rescind the 2015 Waters of the United States (WOTUS) Rule and consider interpreting the term "navigable waters," as defined in 33 U.S.C. 1362(7), in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006).

This anticipated reinterpretation of the WOTUS has the potential to affect the water quality programs currently operated by the Tribal EPA. A decrease in protection of Tribal Water Resources could have negative impacts on tribal cultural, wildlife, and forestry programs, and may also have a detrimental effect on economic enterprise. The United States Government has a trust responsibility to Native American Tribes, and must fulfill its fiduciary obligation to protect tribal lands and resources. The Tribe is therefore requesting initiation of formal consultation consistent with Executive Order 13175 to discuss the potential implications of the anticipated reinterpretation.

Please contact Shawn Muir in our Tribal EPA Office at (760) 398-6767 or smuir@29palmsbomi-nsn.gov to arrange a meeting at your earliest convenience.

Sincerely,

Darrell Mike
Tribal Chairman

Copies to:

Shawn Muir, Environmental Coordinator
Anthony Madrigal, Jr., Tribal Historic Preservation Officer



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