



COLORADO

Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

October 1, 2015

Water Docket
Environmental Protection Agency
Mail Code 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Attention: Docket ID No. EPA-HQ-OW-2014-0461

Re: Reinterpretation of Clean Water Act Tribal Provision
Docket ID No. EPA-HQ-OW-2014-0461

Dear EPA:

The State of Colorado offers the following comments on the Environmental Protection Agency reinterpretation of the Clean Water Act ("CWA") Tribal Provision. Colorado is generally in favor of tribes obtaining treatment as a state under the Clean Water Act and therefore supportive of the reinterpretation. However, Colorado believes that Public Law 98-290 is one of the special circumstances referred to in the Federal Register notice that would limit or preclude the Southern Ute Indian Tribe from obtaining treatment as a state status over fee lands within the external boundaries of the reservation.

Land within the Southern Ute reservation has a checkerboard ownership pattern. Approximately half of the reservation is comprised of Indian trust and federally owned land, while the other half is owned in fee by Colorado citizens within the traditional boundaries of the reservation. In 1984, the Southern Ute Tribe, the State of Colorado, and La Plata County jointly petitioned the U.S. Congress to approve Public Law 98-290 ("PL 290"), an agreement drawing reservation boundaries and delineating jurisdictional authority between the State and the Southern Ute Tribe. The Tribe, the State, and the County all saw this boundary drawing and jurisdictional delineation as necessary to end long and costly battles between the State and the Tribe. PL 290 was signed into federal law on May 21, 1984. The State of Colorado believes that PL 290 precludes the Southern Ute from obtaining treatment as a state with respect to fee lands within the external boundaries of the reservation. In the event that the Southern Ute submitted an application for treatment as a state to include these lands, Colorado would avail itself of the opportunity to submit comments on that application and assert that PL 290 is a federal law that establishes unique jurisdictional arrangements that affect the Southern Ute's ability to exercise authority over fee lands under the CWA.

Sincerely,

Dr. Larry Wolk
Executive Director
Colorado Department of Public Health and Environment



Cc: Annette Quill, Colorado Attorney General's Office

