



Ohio Department of Natural Resources

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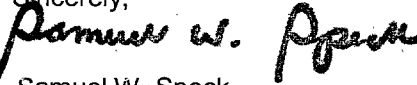
Water Docket
Environmental Protection Agency
Mailcode 4101T
1200 Pennsylvania Ave., NW.
Washington DC 20460
Attention Docket ID No. OW-2002-0050

Dear U.S. Environmental Protection Agency and U.S. Army Corps of Engineers:

On behalf of the Ohio Department of Natural Resources (ODNR), I am writing this letter to provide comments on the issues associated with the scope of waters that are subject to the Clean Water Act, in light of the U.S. Supreme Court decision in the SWANCC ruling (Federal Register/Vol.68, No. 10/ Wednesday, January 15, 2003/ Proposed Rules ANPRM notice).

The ODNR Division of Wildlife strongly urges you to include **all stream channels (with permanent, intermittent and ephemeral flows) and adjacent wetlands** when the new rules are written to clarify what waters have full jurisdiction (CWA) of the "waters of the United States." All streams within the State of Ohio are tributaries (or tributaries to tributaries) to two navigable waterways – the Ohio River or Lake Erie. Great improvements to these waters have occurred under programs established and regulated under the CWA and the exclusion of any of these water resources would result in a degradation of water quality and impact many aquatic wildlife species (e.g. fish, mollusks, and insects) that depend on them. The new clarification that includes all streams should also be applied to all of the relevant sections of the CWA (e.g. Sections 404, 303, 311, 401, and 402). Wetlands, ephemeral streams, and tributaries are an integral part of our nation's watersheds, and thus affect the health of all waters of the United States. Because non-navigable tributaries and their adjacent wetlands drain into larger bodies of water and groundwater sources, their degradation can negatively affect traditional navigable waters. Removing protections for non-navigable tributaries of navigable waters would also jeopardize many important wetlands that comprise significant fish and wildlife habitat, supporting a diversity of flora and fauna, in addition to providing enhanced water quality, flood attenuation, and groundwater recharge.

We have seen remarkable recovery in USA waters following passage of the CWA; and there is growing interest on the part of USEPA, States, and Watershed Councils to better monitor, assess, report, and restore our waters. Removing CWA protections from some subset of our waters will set back these efforts substantially. Thank you for considering the comments of the ODNR.

Sincerely,

Samuel W. Speck
Director