

Preliminary Individual Comments from Dr. Judith Meyer on the Scientific and Technical Basis of the Proposed Rule Titled “Definition of ‘Waters of the United States’ Under the Clean Water Act”

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Dr. Judith Meyer

Comments from Dr. Judy Meyer

I will not be able to participate in the teleconferences to be held this week, but look forward to being able to provide comments on the resulting report. I have read the proposed rule as well as the comments provided by other panel members. Since I won't be on the call, I am providing some brief comments in a slightly different form, namely as thoughts on the comments provided by other panel members in response to question 1, which covers my area of expertise. Essentially I am writing down some of the points I would have made had I been able to participate in the call.

I agree with the statements of most panel members that EPA and the Corps should be congratulated because of the clarity with which the strong scientific support for the proposed rule has been presented.

I agree with the statements of most panel members that the inclusion of all tributaries is consistent with best available science. Several panel members have provided extensive explanations of the scientific support for the inclusion of tributaries, and these explanations should be incorporated into our report.

Dr. Aldous raises what seems to be a legitimate concern about whether spring-fed tributaries with constant flow meet the OHWM requirement, but others with more experience with designation of OHWM in these types of streams may be able to clarify how OHWM is determined in these systems. Presumably if flow is that constant, the OHWM would simply be the current water level.

Dr. Allan and Dr. Johnson both raise important concerns about the exclusion of ditches that are in uplands. Dr. Tank's point that the flow regime in identified ditches be less than intermittent rather than less than perennial has merit. In addition to these important points raised, I wonder if the term “upland” has been adequately defined.

I do not agree with Dr. Josselyn's comments on the absence of scientific support for inclusion of headwater streams. Considerable scientific research has been done on first and second order headwater streams; the scientific research supporting the inclusion of tributaries is not limited to third and fourth order streams as he has stated.

I agree with several panel members who noted the scientific support for inclusion of human-altered channels in the definition of tributaries.

Dr. Johnson makes an important point about the need for high resolution mapping products that should be part of our report.