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TESTIMONY TO SAB PEER REVIEW PANEL ON EPA's CONNECTIVITY STUDY

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Good morning (afternoon). My name is Tom Crafford and I serve the State of Alaska as Director of the Office of Project Management and Permitting in the Department of Natural Resources.

My comments today augment those submitted by the State of Alaska on November 6 for this panel's review. The State's comments were compiled from reviews by multiple state agency technical professionals. I urge the panel to consider them in your deliberations as I can only cover a few key points in my testimony today.

Alaska is a long way from Washington DC. Alaskans are accustomed to seeing maps of the U.S. where Alaska appears as a miniature inset map distorting the size and location of our state. Even so, we were incredulous that Alaska, which hosts more wetlands than the rest of the combined U.S., was wholly omitted from the illustrations in the report. Coupled with the lack of information about wetlands and aquatic conditions common to northern latitudes, it's hard to discern how Alaska was considered in the connectivity report.

Permafrost, tundra, muskegs, boreal forest spruce bogs, glaciers, massive snowfields – these are features of our state that are uncommon or entirely absent in the rest of the country. The complex interconnections of groundwater in areas underlain by continuous and discontinuous permafrost, seasonal flooding at spring break-up, braided outwash rivers, and cold, low-nutrient streams are a few of the conditions that make Alaska unique.

Alaska's estimated 174 million acres of wetlands constitute about 65% of the nation's total and comprise about 43% of the state. That's an area larger than the next largest state, Texas. In fact, EPA considers all land north of the Brooks Range as tundra wetlands. Very few of our wetlands have been disturbed by man and vast acreages have been forever protected in federal Parks, Preserves, Refuges and Monuments as well as our State Park system.

Because of the remoteness and lack of developed overland access throughout most of the state, there is much about Alaskan waterbodies and wetlands we are still learning. We do know, however, that some methodology used to delineate wetlands per Army Corps of Engineers guidance doesn't work well in areas with undeveloped soils and where hydrology is often driven by seasonal freezing and flooding or permafrost.

The connectivity report makes reference to headwaters, perennial, intermittent and ephemeral waters. It introduces new terms such as "unidirectional" and "bidirectional" to describe connectivity of waters within a watershed. It commingles and interchanges terms that have been previously defined in wetland science, such as "riparian/floodplain wetland" and "riverine wetland". By introducing and defining new terms, the report compounds already complex terminology. The State recommends that EPA use terms and definitions that are long-established and accepted for scientific and technical analyses when discussing wetland connectivity.

The concept of a geographically isolated wetland where a surface water cannot be readily observed requires on-site, targeted data collection to determine the degree -- that is, the significance -- of connectivity. According to the report, the only truly isolated wetlands are completely surrounded by uplands. But not all wetlands, including wide swaths of permafrost tundra in Alaska that may be near but do not abut "waters of the U.S.", will have a demonstrated significant nexus.

We are concerned that this report has been written after the fact to support an already crafted proposed Clean Water Act jurisdictional rule. A draft of that rule was leaked in early November 2013, redefining and significantly expanding federal jurisdiction under the Clean Water Act. Alaska is no stranger to federal rules and policies which, written with the lower-48 in mind, are at best awkward and difficult to apply to Alaska.

In addition, the State of Alaska is currently evaluating whether it will assume Section 404 permitting, as states are entitled and Congress intended, under the Clean Water Act. If the connectivity report is used to support redefinition of "waters of the U.S." in a manner that would further limit those waters over which a state is entitled to assume jurisdiction under a state 404 program, or if the report and rulemaking make faulty assumptions about what waters and wetlands are – in the first instance – subject to Clean Water Act regulation, we have significant concerns with both the report and the pending rulemaking.

In closing, the state reviewers appreciated the effort behind the report as a literature review. However, the report lacks studies relevant to interior and arctic Alaska, and it appears to assume, as a rule, that connectivity is significant, even when such an assumption is unsupported. This results in a massive expansion of waters and wetlands that would be subject to Clean Water Act regulation. These and other weaknesses in the report undermine its effectiveness if it's to inform a truly nationwide rulemaking process.