SQUAXIN ISLAND TRIBE

December 4, 2025

Katherine P. Sanborn
Colonel, Corps of Engineers
District Commander
Corps of Engineers, Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

CC: Jeffrey Brittain
EPA Region 10
Brittain.Jeffrey@epa.gov

Re: Denial of 401 Water Quality Certification Request for Proposed Army Corps of Engineers 2026 Nationwide Permits

Dear Colonel Sanborn:

The Squaxin Island Natural Resources Department has completed its review of the notice of proposed rulemaking by the Department of the Army Corps of Engineers 33 CFR Chapter II Proposal to Reissue and Modify Nationwide Permits as described in the Federal Register dated June 18, 2025. This review was conducted in response to the Corps request for review pursuant to Section 401 of the Clean Water Act. ("CWA"). The Tribe is denying your application for water quality certification for the proposed Nationwide Permits under Section 401 of the Clean Water Act.

Section 401(a) of the CWA requires that applicants for federal permits that may result in discharges into waters of the United States obtain certification that the discharge will comply with various applicable provisions of the CWA. The Squaxin Island Tribe has EPA approval to administer a water quality standards program and to issue water quality certifications on the Squaxin Island Reservation.

Based on the available information, we are unable to conclude that authorization of discharges under the US Army Corps of Engineers' (USACE's) proposed Nationwide Permits and District's regional conditions will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act and the Squaxin Island Tribal Code. The proposed Nationwide Permits provide insufficient information to identify waters receiving discharges from potential projects that may be authorized. Thus, it is impossible to make a determination under 40 C.F.R. § 121.7(f) whether any Tribal water quality requirements are applicable to the potential projects and to conclude that they would be met.

Additionally, due to the lack of specific information on the discharge characteristics, quantities and specific locations, as well as the conditions of receiving waters and their quantities to be lost, we cannot determine whether these Nationwide Permits, and the discharges they would authorize, will comply with Squaxin Island Tribal Code.

In order to demonstrate that the range of discharges from potential projects authorized under the Nationwide Permits would comply with the Squaxin Island Tribal Code, the following water quality data and information would be needed for each such project: a map showing the location of Regulated Surface Waters which may be affected by the activity, a description of the proposed activity and of any discharge characteristics (biological, chemical, thermal or other), the locations at which discharges may enter Regulated Surface Waters, a description of the function and operation of equipment or facilities used to treat possible pollutants including specification of the degree of treatment expected to be attained, dates of proposed activity, description of proposed discharge monitoring methods, site plan and basic design of activity, and copies of any environmental assessments, impact statements or other environmental review documents.

The only way to receive the information required is by doing a case-by-case review of each project and associated discharges. Therefore, we deny Clean Water Act 401 certification for the 2026 Nationwide Permits and their applicable regional conditions in order to retain the ability to make an individual 401 certification decision for each authorization.

The Squaxin Island Tribe's Public Notice Process:
On June 18, 2025, the Tribe received a request for certification from the Army Corps of Engineers. On November 12, 2025, the Tribe issued a public notice regarding the proposed project and provided the opportunity for the public to submit comments until December 3, 2025. The notice was posted on https://squaxinisland.org/epa-treatment-as-a-state/. No public comments were received.

If you have any further questions, please contact me at awhitener@squaxin.us and emarbet@squaxin.us.

Sincerely,

Andy Whitener

Andy Whitener (Dec 4, 2025 08:51:25 PST)

Andy Whitener
Director
Squaxin Island Tribe
Natural Resources Department

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Final Audit Report 2025-12-04

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