



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 22-46

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS the Squaxin Island Tribe (the "Tribe") is a federally recognized tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. s 1523).

WHEREAS the Tribe is a signatory to the Treaty of Medicine Creek of 1854, 10 Stat. 1132 (the "Treaty") and therein reserved, pursuant to Article 3 of the Treaty the "the right of taking fish, at all usual and accustomed grounds and stations ..." (its "UA") and to hunt and gather on "open and unclaimed lands".

WHEREAS the Tribe is organized under a Constitution and By-Laws originally ratified by the Tribe on May 15, 1965, approved by the Secretary of the Interior on July 8, 1965; amended November 20, 1998, approved by the Secretary of the Interior on December 11, 1998; and further amended by the Tribe on October 20, 2000, and approved by the Secretary of the Interior on October 25, 2000.

WHEREAS the Squaxin Island Tribal Council (the "Tribal Council") is the duly elected governing body of the Tribe and exercises substantial governmental duties and powers, including governmental authority over its members exercise of treaty rights within its UA and on open and unclaimed lands, and the lands and waters within the Squaxin Island Reservation and its trust lands.

WHEREAS under the Treaty, the Constitution, and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education, and general welfare of tribal members, of protecting and managing the lands, waters, and natural resources and rights of the Tribe and to restore and maintain the chemical, physical and biological integrity of the waters within its UA.

WHEREAS this Resolution is adopted pursuant to the authority found in Article III, Sections 1 (a), (b) and (h) of the Constitution.

WHEREAS the Clean Water Act (CWA) authorizes the Environmental Protection Agency (EPA) to treat Indian tribes in the same manner as states (TAS) for purposes of CWA regulatory programs.

WHEREAS the Tribe seeks TAS for CWA section 303(c) water quality standards (WQS) and section 401 water quality certification programs, pursuant to section 518(e) of the CWA and part 131 in Title 40 of the Code of Federal Regulations.

WHEREAS the Tribe asserts authority over all surface waters within the areas identified as Reservation and Trust Lands. The Tribe's Reservation includes its initial Island Reservation (10 Stat. 1132) and

subsequent off-Island lands proclaimed Reservation (FR 77-30176; 49 CFR 50116-01; and 64 FR 2499-01) and additional off-Island lands held in trust by the United States for the Tribe.

WHEREAS the Tribe proposes to submit its application for approval to implement CWA section 303(c) WQS and section 401 water quality certification programs; a decision by EPA to approve the Tribe's TAS application does not constitute approval of the Tribe's WQS. Rather EPA's review and approval or disapproval of the Tribe's WQS is a separate EPA action under the CWA.

WHEREAS the Tribe's Application seeks approval to administer the CWA WQS and certification programs for all lands within the Squaxin Island Tribe's Reservation as well as the Tribe's trust lands located outside of the Squaxin Island Tribe's Reservation that qualify as informal reservation lands (collectively referred to as the "Reservation and Trust Lands"). The Tribe's Reservation and informal reservation lands are located on numerous parcels. The parcels are near each other and within and adjacent to Southern Puget Sound, including Totten Inlet. The TAS Application identifies 4607.71 acres of Squaxin Island Tribe Reservation and Trust Lands that are the subject of the TAS Application. Of this amount, 1971.76 acres are Reservation lands and 2,635.95 acres are Trust lands. The waterbodies within the Reservation and Trust lands include freshwater bodies, wetlands, tidelands, and submerged lands, including the waterward boundary of the Island Reservation to -18 mean lower low water.

WHEREAS In 1998, the EPA approved the Tribe as satisfying the criteria for § 518 (e) and § 504 of the CWA and awarded it a § 106 Water Pollution Control Program grant. The application included a demonstration of the Tribe's eligibility to administer programs for the prevention, reduction, and elimination of water pollution, including the development and implementation of ground-water protection strategies. Thereafter, in 2000, the Agency awarded a CWA § 319 grant. However, the EPA requires an applicant to demonstrate that it satisfies §§ 518 (e) and § 504 to implement its WQS and water certification programs.

WHEREAS the CWA implementing regulations require that the Tribe demonstrate that it has a governing body carrying out substantial governmental duties; that the functions to be exercised must pertain to the management and protection of water resources which are within the borders of its Reservation; and that it demonstrate that it can be reasonably expected to be capable of carrying out the functions of the program in a manner consistent with the terms and purposes of the CWA and applicable regulations.

WHEREAS the Tribal Council has reviewed and considered the application for TAS to implement the WQS and water quality certification programs under §§ 303(c) and 410 and the IWL and TMDL programs under § 303(d) of the CWA.

WHEREAS there are waters within the Reservation used by the Tribe or Tribal members and those waters are subject to protection under the CWA. The impairment of such waters by the activities of others, would have a serious and substantial effect on health and welfare of the Tribe.

WHEREAS the Tribe desires to assume responsibility for issuing, maintaining and enforcing WQS and § 401 water certification programs for surface waters of its Reservation and Trust lands.

THEREFORE, BE IT RESOLVED that the Squaxin Island Tribal Council hereby adopts and approves the following:

1. The submission to the EPA of the TAS Application for "Treatment in a Manner Similar to A State" to administer WQS and water quality certification programs under §§ 303(c) and 401 of the CWA.
2. The request that the EPA conclude that the Tribe has made the required demonstration to meet the eligibility and application requirements of 40 C.F.R. § 131(a)(1)-(4) and (b)(1)-(6) to administer WQS program for surface waters of the Reservation and Trust Lands; that pursuant to 40 C.F.R. § 131.4(c) the Tribe is also eligible to the same extent as a state for purposes of the water quality certification program under CWA § 401; and determined to be an "affected state" within the meaning of CWA §§ 402(b)(3) and (5) and its implementing regulations at 40 C.F.R. § 122.4(d).
3. Authorizes the Director of its Natural Resources Department to do all acts necessary and appropriate to obtain the authority to implement the WQS and water quality certification programs, including executing and submitting all documents the EPA may require and to supplement, as and when is appropriate, the Application to supplement the catalog of Reservation and Trust lands as additional fee lands held by the Tribe are designated trust lands by the United States and eligible for inclusion as Reservation and Trust Lands.
4. Authorizes the Director of the Natural Resources Department to develop WQS.
5. Authorizes the Legal Department to complete an Attorney Certification for the TAS Application enacted herein, or a substantially similar document, and provide any additional supporting documents as may be required by the EPA for its review and approval of the Application.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on July 14, 2022, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.

Kristopher K. Peters

[Kristopher K. Peters \(Jul 20, 2022 14:46 PDT\)](#)

Kristopher Klabasch Peters, Chair

Attested by: 
[Patrick Braese \(Jul 20, 2022 16:10 PDT\)](#)

Patrick Braese, Secretary

Jaimie Cruz

[Jaimie Cruz \(Jul 20, 2022 16:36 PDT\)](#)

Jaimie Cruz, Vice Chair












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Final Audit Report

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