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NOLS

The Leader In Wilderness Education

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January 30, 2015

Dr. Elizabeth Southerland
U.S. Environmental Protection Agency
Office of Science and Technology
1200 Pennsylvania Ave., N.W.
Mail Code 4301T
Washington, DC 20460

Mr. Shaun McGrath
Administrator
U.S. EPA Region 8
1595 Wynkoop St.
Mail Code: 8RA
Denver, CO 80202-1129

Re: Wyoming DEQ's Final Determination Regarding The Categorical Redesignation Of Streams In The State From Primary Contact Recreation To Secondary Contact Recreation (August 20, 2014).

Dear Dr. Southerland and Mr. McGrath:

On behalf of the National Outdoor Leadership School (NOLS), I am writing to express our concerns about the Wyoming Department of Environmental Quality (DEQ), Water Quality Division's August 20, 2014 decision to downgrade surface waters from primary to secondary contact recreation. We ask that the Environmental Protection Agency (EPA) reject the DEQ's categorical downgrade, and support the Wyoming Outdoor Council's appeal to that end. This decision affects many of the streams that NOLS relies on and regularly uses for outdoor education and recreation across the state of Wyoming.

NOLS is a non-profit outdoor education school with a 50-year history of stewardship of public lands and water in Wyoming. We are proud to be part of the outdoor recreation industry in Wyoming, teaching responsible, ethical backcountry travel to more than 220,000 students over the past half century. When our founders chose Lander, Wyoming as the location for their new school they found public lands with exceptional clean water, forests, mountains, and unique recreation opportunities. The original course, a 30-day Wind River Wilderness backpacking expedition, remains the quintessential NOLS wilderness experience. Our students, as young as 14 years old, embark on courses ranging from one week to three months where, in addition to learning technical backcountry travel techniques, they learn Leave No Trace wilderness ethics, leadership,

risk management, and environmental studies. Together these skills empower our students to become stewards of the wilderness that they enjoy.

The DEQ report describes a three-step categorization process used in their Use Attainability Analysis (UAA) to identify and downgrade streams where primary contact recreation is unrealistic or unattainable. The first step identified "low flow" streams, the second considered potential for public recreation, and the third considered public feedback. We believe that there are significant flaws in their methods at each step.

Streams in the mountains of Wyoming can very greatly in flow regime depending on season, weather, and even time of day. A small stream during spring snowmelt runoff might form a natural pool or waterfall inviting for swimming or bathing in June, slow to a trickle in July, and refill after August thunderstorms common in our mountains in late summer. It is unrealistic to use annual flow statistics to categorize streams across a state with dramatically variable climatic, topographic, and geomorphic characteristics. An intermittent stream in the lowlands may indeed be unavailable for primary contact recreation. Similarly sized streams in a mountain watershed, however, may provide excellent opportunities for primary contact recreation.

Thousands of miles of streams within NOLS operating areas, including the Wind River Range, the Bighorns, the Absarokas, the Tetons, the Wyoming Range, and the Red Desert, have been downgraded as a result of the DEQ's decision (see attached map).

The second step DEQ used in its UAA to categorize these streams as not suitable for primary recreation was that the public would not regularly use them for recreation due to lack of easy access because the streams are located further than .5 miles from a trailhead or .25 miles from roads. These streams flow through the extensive, remote wilderness that we consider our outdoor classroom. NOLS expeditions regularly travel on foot more than 100 miles on a 30-day expedition, and nearly all of this travel occurs miles from a road or trailhead. In 2014, we ran 121 expeditions in Wyoming, representing 28,186 user-days that used these waters. Despite being many miles from the nearest road, our students will regularly encounter other users of the backcountry, indicating that we are not the only members of the public to venture into the backcountry.

On an extended wilderness expedition, our students, some as young as 14, have the opportunity to use many of these downgraded waters for primary contact recreation including bathing, cooling off on hot days, swimming, learning to cross wilderness rivers, fishing, rinsing cookware, and drinking (via a chlorine treatment), all of which provide the opportunity for the ingestion of water. Through the UAA, the DEQ has downgraded nearly half of the total stream miles in our operating area, more than 5,000 stream miles. This includes more than 2,300 miles that flow through designated wilderness areas and should be protected as Class I waters. Our experience is not unique to Wyoming's backcountry; thousands of people travel annually through Wyoming's Wilderness areas. DEQ's presumption that small remote streams are not accessible for primary recreation is inaccurate.

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The final step in the DEQ's UAA sought to engage in public feedback. In the decision DEQ cites 'overwhelming public interest in appropriately designating recreational uses for waters of the state.' At no time during the UAA process did DEQ contact NOLS, neither informing us of the existence of the process nor seeking comment on their decision, in spite of our being a significant commercial recreation user. It is our understanding that other outfitting operations were similarly unaware of the process. In addition, we note that there was a notable lack of comments from the recreating public, who will ultimately bear the impacts of this decision.

We understand that there are many small, ephemeral streams in Wyoming where primary contact recreation is not an attainable use. However, we contend that the methods used by the WY DEQ to downgrade streams across the state have captured many streams that are used by recreation users as well as streams in Wilderness areas, Wilderness Study Areas, and other protected areas that have been set aside in part for recreation and where streams deserve protection that will provide for all potential uses.

Currently, our students and staff are confident that surface water we encounter in the wilderness is clean and safe for use, whether that be to cool off by dunking their heads, jumping in to clean off the dust from a long day's hike, or wading through a stream when it flows across our paths. The decision to downgrade streams in our 'classroom' threatens this long-standing hallmark of wilderness recreation that continues to draw students to explore the distant corners of Wyoming.

We ask that the EPA disapprove of the Wyoming DEQ's categorical downgrade of streams from primary contact recreation to secondary contact recreation due to the misrepresentation of the current and potential uses of many of these streams and the overall lack of participation from the recreation industry and recreating public during the planning process. Further, we would like to add our voice, as a longstanding leader in the outdoor recreation industry, in support of the Jan 5, 2015 letter from the Wyoming Outdoor Council (WOC) to the EPA in opposition of the Wyoming DEQ's Categorical UAA. Our organization is one of the primary commercial recreation users of the streams that were downgraded in this UAA and we concur with WOC that the information and process utilized by the DEQ was not appropriate for such a wide reaching, influential, and potentially harmful decision. We are proud to be a part of the responsible use of our public land that has preserved high quality land and water throughout the state and ask the EPA to help us keep this resource as a part of Wyoming's legacy.

We would appreciate being kept informed of any progress or decisions pertaining to the Wyoming DEQ's proposal.

Sincerely,

Gary Cukjati

Gary Cukjati
NOLS Rocky Mountain Director

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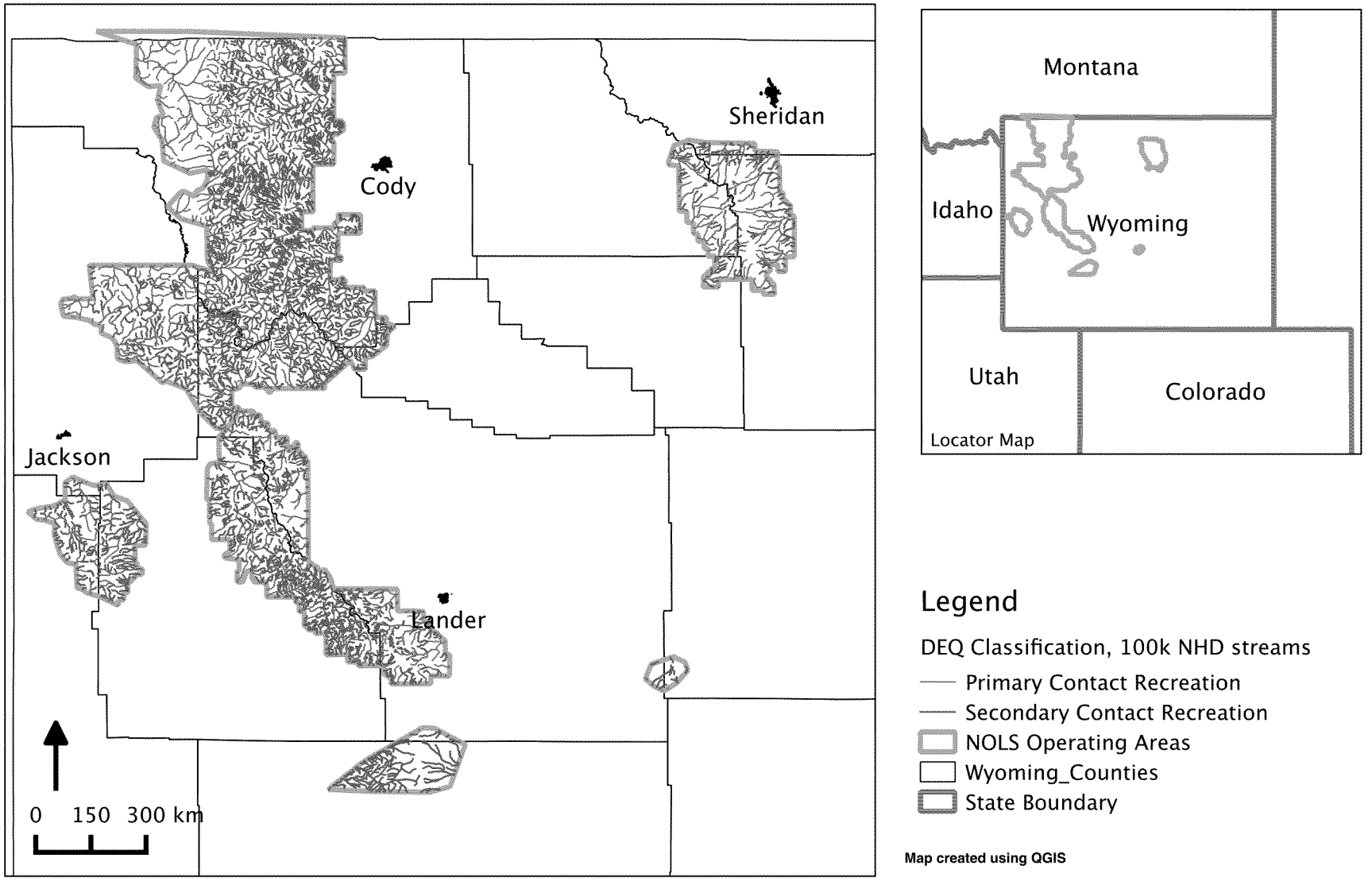
WY DEQ Recreation Use Classification for streams in NOLS operating areas