



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**

*Big Pine Paiute Indian Reservation*

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December 15, 2020

David J. Castanon  
Regulatory Division Chief  
Department of the Army  
Los Angeles District Corps of Engineers  
P.O. Box 532711  
Los Angeles, CA 90053-2325

RE: Request for Water Quality Certification under Clean Water Act Section 401

Dear Mr. Castanon:

The Big Pine Paiute Tribe of the Owens Valley (“Tribe”) understands the 2020 Reissuance (and Modification) of Nationwide Permits (“NWP”) will allow the Department of the Army’s Los Angeles District Corps of Engineers (“Corps”) to authorize certain activities that the Corps determines will have minimal adverse effects on the aquatic environment. Activities resulting in more than minimal adverse effects on the aquatic environment, individually or cumulatively, cannot be authorized by NWPs. It is also understood that the Tribe has no control over the Corps’ determination of activities that have a minimal adverse effect on waters of the United States. Therefore, the Tribe denies the Corps’ request for water quality certification for NWPs.

The Tribe has broad authority to review proposed activities in and/or affecting the Reservation’s waters requiring state or federal permits or licenses. The Tribe’s Water Quality Standards were established to protect public health and aquatic life and to maintain or enhance water quality in relation to the beneficial uses of the water. According to the Big Pine Water Quality Standards in Section VII(e):

“If a proposed action has the possibility to adversely affect the water quality of Big Pine Creek, an application must be filed with the Tribal Environmental Office. The application must describe the action proposed and its effects on the Creek, how this information was derived, and a justification for the action. Upon satisfying these requirements, the Tribal Environmental Office will recommend or not recommend this proposal to be considered by the Tribal Council. Tribal Council will make a determination whether to consider the proposal further. If the Tribal Council wishes to consider the application further, the public participation process will take place (see paragraph VII(d)). The Tribal Council has the sole authority in permitting projects which pose a risk to water quality in Big Pine Creek where it traverses the Big Pine Paiute Reservation. If the Tribal Council makes the decision to allow degradation, they will submit their decision to the USEPA for review and approval.”

The Tribe denies the Corps request for water quality certification for NWP's due to insufficient information included in the draft/proposed permits. The draft/proposed permits fail to meet objectives listed in Tables 4, 6, 7, 8, 9, and 10 of the Big Pine Water Quality Standards, outlined below. The water quality standards are intended to protect the public health and welfare, and to maintain or enhance water quality in relation to the existing and/or potential beneficial uses of the water. The water quality objectives listed below are the allowable limits or levels of water quality constituents or characteristics established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area. These water quality objectives provide a basis for detecting any future trend toward degradation or enhancement of Reservation waters. Any issuance of NWP's that do not meet the criteria of water quality data listed in Tables 4, 6, 7, 8, 9, and 10 would violate the Big Pine Tribe Water Quality Standards. The Tribe will deny any requests for NWP's that do not meet these standards, and prohibits any unauthorized discharge into Reservation waters.

**Table 4**  
**Maximum Contaminant Levels**  
**Inorganic Chemicals**

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.05
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Mercury	0.002
Nickel	0.1
Nitrate (as NO <sub>3</sub> )	45.
Nitrate=Nitrite (sum nitrogen)	10.
Nitrite (as Nitrogen)	1.
Selenium	0.05
Thallium	0.002

\*MFL = million fibers per liter; MCL for fibers exceeding 10 µm in length

**Table 6**  
**Maximum Contaminant Levels**  
**Volatile Organic Chemicals (VOCs)**

<i>Chemicals</i>	<i>Maximum Contaminant Level, mg/L</i>
Benzene	0.001
Carbon	0.0005
1,2-Dichlorobenzene	0.6
1,4-Dichlorobenzene	0.005
1,1-	0.005
1,2-	0.0005
1,1-	0.006

Cis-1,2-Dichloroethylene	0.006
Trans-1,2-Dichloroethylene	0.01
Dichloromethane	0.005
1,2-Dichloropropane	0.005
1,3-Dichloropropane	0.0005
Ethylbenzene	0.3
Methyl- <i>tert</i> -butyl	0.013
Monochlorobenzene	0.07
Styrene	0.1
1,1,2,2-Tetrachloroethane	0.001
Tetrachloroethylene	0.005
Toluene	0.15
1,2,4-Trichlorobenzene	0.005
1,1,1-Trichloroethane	0.200
1,1,2-Trichloroethane	0.005
Trichloroethylene	0.005
Trichlorofluoromethane	0.15
1,1,2-Trichloro-1,2,2-Trifluoroethane	1.2
Vinyl Chloride	0.0005
Xylenes	1.750*

**Table 7**  
**Maximum Contaminant Levels**  
**Non-Volatile Synthetic Organic Chemicals (SOCs)**

<i>Chemical</i>	Maximum Contaminant Level, mg/L
Alachor	0.002
Atrazine	0.001
Bentazon	0.018
Benzo(a)pyrene	0.0002
Carbofuran	0.018
Chlordane	0.0001
2,4-D	0.07
Dalapon	0.2
Dibromochloropropane	0.0002
Di(2-ethylhexyl)adipate	0.4
Di(2-ethylhexyl)	0.004
Dinoseb	0.007
Diquat	0.02
Endothall	0.1
Endrin	0.002
Ethyl Dibromide	0.00005
Glyphosate	0.7
Heptachlor	0.00001
Heptachlor Epoxide	0.00001
Hexachlorobenzene	0.001
Hexachlorocyclopentadiene	0.05
Lindane	0.0002
Methoxychlor	0.03
Molinate	0.02

Oxamyl	0.05
Pentachlorophenol	0.001
Picloram	0.5
Polychlorinated Biphenyls	0.0005
Simazine	0.004
Thiobencarb	0.07
Toxaphene	0.003
2,3,7,8-TCDD (Dioxin)	3 x 10 <sup>-8</sup>
2,4,5-TP (Silvex)	0.05

\*MCL is for either a single isomer or the sum of the isomers.

**Table 8**  
**Secondary Maximum Contaminant Levels**  
**Consumer Acceptance Limits**

<i>Constituents</i>	Maximum Contaminant Levels/Units
Aluminum	0.2 mg/L
Color	15 Units
Copper	1.0 mg/L
Corrosivity	Non-corrosive
Foaming Agents (MBAS)	0.5 mg/L
Iron	0.3 mg/L
Manganese	0.05 mg/L
Methyl-tert-butyl ether (MTBE)	0.005 mg/L
Odor—Threshold	3 Units
Silver	0.1 mg/L
Thiobencarb	0.001 mg/L
Turbidity	5 Units
Zinc	5.0 mg/L

**Table 9**  
**Secondary Maximum Contaminant Levels – Ranges**

<i>Constituent, Units</i>	<i>Recommended</i>	<i>Upper</i>	<i>Short Term</i>
Total Dissolved Solids, mg/L	500	1,000	1,500
Or Specific Conductance, micromhos	900	1,600	2,200
Chloride, mg/L	250	500	600
Sulfate, mg/L	250	500	600

**Table 10**  
**Water Quality Criteria For Ambient Dissolved Oxygen Concentration**  
**(Values are in mg/L, NA = Not Applicable)**

	Beneficial Use Class	Beneficial Use Class	Beneficial Use Class	Beneficial Use Class
	COLD & SPWN <sup>1</sup>	COLD	WARM & SPWN	WARM
30 Day Mean	NA	6.5	NA	5.5

7 Day Mean	9.5 (6.5)	NA	6.0	NA
7 Day Mean Minimum	NA	5.0	NA	4.0
1 Day Minimum	8.0 (5.0)	4.0	5.0	3.0

<sup>1</sup> SPWN Includes all embryonic and larval stages and all juvenile forms to 30 days following hatching.

**Table 11  
MCL Radioactivity**

<i>Constituent</i>	Maximum Contaminant Level, pCi/l
Combined Radium-226 and Radium-228	5
Gross Alpha particle activity (including Radium-226 but excluding Radon and Uranium)	15
Tritium	20,000
Strontium-90	8
Gross Beta particle activity	50
Uranium	20

The Tribe denies any issuance of NWP's listed under the proposed 401 certification due to insufficient water quality data to ensure Big Pine Water Quality Standards are met. Since any 2020 NWP's listed under the proposed 401 certification fails to meet the water quality objectives shown in Table(s) 4, 6, 7, 8, 9, 10, the Tribe denies the Corps request for water quality certification for NWP's. The Tribe requests that the Corps deny water quality certification for activities authorized by the NWP's within the Tribe's land and have the permit holder comply with the above described protocol so the Tribe can make a determination on water quality certification.

Finally, the Tribe is currently being challenged by the COVID-19 pandemic, which has disrupted typical work flow in the Tribal Offices. It may not be easy to reach the Tribe at the phone number above. If you should have any questions regarding this letter, please contact me at [n.williams@bigpinepaiute.org](mailto:n.williams@bigpinepaiute.org).

Sincerely,



Noah Williams  
Tribal Water Program Coordinator

C: James E. Rambeau, Sr., Tribal Chairman