



**BISHOP PAIUTE TRIBE  
ENVIRONMENTAL MANAGEMENT OFFICE**

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December 8, 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: Reissuance of Nationwide Permits  
Request for Water Quality Certification under Clean Water Act Section 401

Dear Mr. Castanon:

The Bishop Paiute Tribe received correspondence from your office dated October 15, 2020, requesting water quality certification under Clean Water Act Section 401 for the reissuance of Nationwide Permits (NWP). It is understood that the proposed NWPs will allow the Corps to authorize certain activities that have minimal adverse effects on the aquatic environment and that 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.

Bishop Creek, both up and downstream of the Bishop Paiute Reservation, is in the process of being listed on the Clean Water Act, Section 303(d) list for *E. coli* levels that are and have been above the water quality standards established by both, the Bishop Paiute Tribe and the State of California. The *E. coli* levels within the Reservation boundaries also exceed the Tribe's water quality standards. Because Bishop Creek is already an impaired water body, discharges to Bishop Creek that could be authorized by the general license or permit which result in any level of degraded water quality will not comply with the Bishop Paiute Tribe's water quality standards (denial of certification [section 121.7(e)(2) requirement (i)]. The Bishop Paiute Tribe finds any discharge to Bishop Creek will further compromise the currently impaired water quality, and therefore will not comply with the Tribe's water quality standards (denial of certification [section 121.7(e)(2) requirement (ii)].

Based on this determination and in accordance with Corps regulations at 33 CFR 330.4(c), the Bishop Paiute Tribe denies Water Quality Certification (WQC) for activities authorized by NWPs within the tribal lands of the Bishop Paiute Tribe. Anyone wishing to perform such activities will first be required to obtain a project specific WQC or waiver thereof from the Tribe's Environmental Management Office before proceeding under any NWP.

The authority for this determination is made pursuant to the following tribal laws and authorization as follows: According to the Bishop Paiute Tribal Environmental Protection Ordinance (No. 98-02, Sect. 101(c)): "The Tribal Council, pursuant to its inherent sovereignty and federal law, possesses the authority to provide for the comprehensive regulation of environmental quality within the exterior boundaries of the Reservation." The U.S. Environmental Protection Agency Region 9 granted CWA Section 401 and CWA Section 404 authority was granted to the Tribe on April 11, 2006. Water quality standards have been established for the surface waters within the Reservation and are provided in the Bishop Paiute Tribe Water Quality Control Plan (approved by US EPA Region 9 on August 15, 2008).

If you should have any questions regarding the NWPs water quality certification denial, please contact BryAnna Vaughan, Water Quality Coordinator, at [BryAnna.Vaughan@BishopPaiute.org](mailto:BryAnna.Vaughan@BishopPaiute.org).

Sincerely,

Brian Adkins  
Environmental Management Office Director

CC:  
Gloriana M. Bailey, MBA, Tribal Administrator  
Sabrina Renteria, Chief Operations Officer I  
Tilford Denver, Tribal Council Chairman  
Tribal Environmental Protection Agency  
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