



BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY

Big Pine Paiute Indian Reservation

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March 23, 2017

David J. Castanon
Chief, Regulatory Division
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 Big Pine Paiute Tribe of the Owens Valley (Tribe) received correspondence from the Department of the Army's Los Angeles District Corps of Engineers (Corps) requesting water quality certification under Clean Water Act Section 401 for the reissuance of Nationwide Permits (NWP). It is understood that 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. The Tribe supports the language amended in General Condition 17 regarding tribal rights; However, 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 extremely 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 degradation to Big Pine Creek. If the Tribal Council makes the decision to allow degradation, they will submit their decision to the USEPA for review and approval.”

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. If you should have any questions regarding the NWP's water quality certification denial, please contact Alan Bacock, Water Program Coordinator, at a.bacock@bigpinepaiute.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shannon Romero', with a large, stylized flourish extending to the left.

Shannon Romero
Tribal Chairwoman