

# **RTC EXHIBIT 1**

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16 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

17 UPPER SOUTH EAST COMMUNITIES ) Case No. 3:13-cv-00403-MMD-WGC  
18 COALITION, )  
Plaintiff, ) **AFFIDAVIT OF PAUL GARTH OKSOL**  
19 v. )  
20 U.S. ARMY CORPS OF ENGINEERS; LT. )  
21 GEN. THOMAS P. BOSTICK, in his official )  
capacity, Chief of Engineers and Commanding )  
22 General, U.S. Army Corps of Engineers; COL. )  
MICHAEL J. FARRELL, in his official )  
23 capacity, District Commander, Sacramento )  
District, U.S. Army Corps of Engineers; )  
24 KRISTINE S. HANSEN, in her official )  
capacity, Senior Project Manager, Reno Field )  
25 Office, Sacramento District, U.S. Army Corps )  
of Engineers; and REGIONAL )  
26 TRANSPORTATION COMMISSION OF )  
WASHOE COUNTY. )  
27 Defendants. ))  
28

**AFFIDAVIT OF PAUL GARTH OKSOL**

COMES NOW Paul Garth Oksol and hereby deposes and states under oath that the following is true and correct, based upon personal knowledge:

1. I, Paul Garth Oksol, am an adult over the age of 18 years of age and I am of sound mind.

2. I have a Bachelor of Science in Civil Engineering, and I am a registered Professional Engineer in the State of Nevada.

3. I have been employed with the Regional Transportation Commission of Washoe County ("RTC") since November 2002. Prior to that, I worked in a number of capacities for the Federal Highway Administration.

4. I have been a Project Manager the entire time I have been with RTC. Currently, I am RTC's Project Manager for the Phase 1 project and the Phase 2 project of the currently planned Southeast Connector ("SEC"). I make this affidavit based upon my personal knowledge.

5. The Phase 1 project involves a roadway construction project from the intersection of Sparks Blvd and Greg Street to approximately 800 feet South of Clean Water Way. The current plan for the Phase 2 project will involve approximately 4.5 miles of roadway extending from approximately 800 feet south of Clean Water Way south to the intersection of Veterans Parkway and South Meadows Parkway. The Southeast Connector ("SEC"), as explained in more detail below, is a roadway that has been discussed and on the books for decades and, as currently planned, is comprised of the Phase 1 project and the proposed Phase 2 project.

6. I have served as the Project Manager for the SEC since January 2007. As such, I have been involved with a wide range of activities including but not limited to the selection of the roadway alignment, public outreach, stakeholder involvement, right of way activities, design, mitigation, and construction.

**RTC's Role in the Community**

1           7.       RTC is a public agency created under the laws of the State of Nevada and the  
2 Board of Commissioners is comprised of elected representatives from Washoe County, the City  
3 of Reno, and the City of Sparks. RTC serves as the Metropolitan Planning Organization  
4 (“MPO”), Public Transit Authority and Street and Highway agency for Washoe County. RTC is  
5 empowered to spend countywide motor fuel taxes on regional roadways consistent with the  
6 Regional Transportation Plan (“RTP”), in addition to countywide sales tax revenue for both  
7 roadway and public transit services. More details about RTC in general are publicly available at  
8 [www.rtcwashoe.com](http://www.rtcwashoe.com).

9           8.       As the MPO for our community, RTC adopted the latest iteration of our RTP on  
10 April 19, 2013. The RTP includes guiding principles that focus RTC’s selection of projects on  
11 mobility, safety, economic diversification, sustainability, and choices for transportation. These  
12 guiding principles have been, and are the foundation, used by RTC to develop multimodal  
13 projects to serve our region’s long term transportation needs. A true and accurate copy of the  
14 April 19, 2013, RTP can be found at <http://www.rtcwashoe.com/planning-7> (titled: 2035  
15 Regional Transportation Plan) and will herein be referred to as RTC Exhibit 1-A (served in  
16 accordance the Court’s instructions), and maintained by RTC in the regular course of business.

17           9.       The SEC is needed by our community and will provide significant benefits to our  
18 community. These benefits to our community are both transportation-related and environmental-  
19 related. The SEC’s purpose and need was once again confirmed by RTC when it adopted the  
20 new RTP. The RTP shows that the SEC is a project that substantially improves regional mobility  
21 and connectivity – especially for neighborhoods and businesses east of I-580; it is part of the road  
22 network that contributes to the attainment of air quality standards as required by the Clean Air  
23 Act Amendments of 1990; and, it is fully funded through local fuel tax revenues made possible  
24 by the voter approved RTC-5 initiative of November 2008. These topics are discussed in more  
25 detail below.

1           10.     RTC implements projects through an annual Interlocal Cooperative Agreement  
2 (“ICA”) executed between RTC and City of Reno, City of Sparks and Washoe County. In  
3 November 2012 and in overt confirmation of the community’s desire to proceed with the SEC,  
4 RTC along with Washoe County, the City of Reno, and the City of Sparks executed the latest  
5 version of this agreement, which tasks RTC to continue with the design, right of way acquisition,  
6 and construction of the SEC. A true and accurate copy of this ICA is attached as RTC Exhibit 1-  
7 B, and maintained by RTC in the regular course of business.

#### 8                           **SEC Historical Development, Planning and Community Support**

9           11.     RTC coordinates, cooperates and collaborates with other governmental entities as  
10 a matter of course. As to the SEC specifically, RTC has made substantial effort to communicate  
11 to, and with, the interested stakeholders the design concept and the issues and benefits of the  
12 SEC. RTC strives to include recommendations from project stakeholders on the design concepts  
13 of the roadways it builds, and the currently proposed SEC includes substantial input from  
14 stakeholders.

15           12.     The concept of an SEC dates back to the late 1950’s. An SEC concept was first  
16 approved by decision makers in the Truckee Meadows Area Urban Transportation Plan that was  
17 finalized and adopted in 1965 (the “1965 UTP”). The SEC concept was called State Route 27.  
18 Although various corridors (that is, routes for the roadway) have been discussed and analyzed  
19 over the many decades of discussion and analysis, the Valley Corridor (as it was later identified  
20 as), which is the corridor the SEC planned alignment resides in today, has consistently shown the  
21 most travel benefit with the least cost throughout the years of study and planning. A detailed  
22 thirteen page chronology that summarizes the extensive planning history of the SEC is attached  
23 as RTC Exhibit 1-C.

24           13.     Importantly, during an RTC Board Meeting in January 2007, as part of a tri-  
25 annual update of the Regional Transportation Plan (“RTP”), RTC solicited comments about  
26 selecting one corridor for the SEC. Every time the RTP is updated, there are public open houses,  
27

1 committee meetings, and opportunities for public comment, and that was the case leading up to  
2 the January 2007 RTC Board Meeting. After obtaining and considering public input, RTC Board  
3 voted to approve the Valley Corridor for the SEC on January 19, 2007. A true and accurate copy  
4 of the RTC Board meeting minutes for Jan 19, 2007 is attached as RTC Exhibit 1-D, and  
5 maintained by RTC in the regular course of business.

6 14. Implementation of the SEC and other regional roadway work had been hampered  
7 for some time due to a lack of sufficient funding. However, in November 2008, the voters  
8 approved a local ballot initiative to encourage the Nevada Legislature to move forward with  
9 legislation that would allow RTC to index fuel taxes to inflation and thereby obtain additional  
10 funding to build major projects – including the SEC. Subsequently and consequently, the  
11 Nevada Legislature passed legislation enabling RTC to index fuel taxes to inflation. I believe it  
12 was apparent that the RTC-5 referendum showed that citizens desired additional capacity on the  
13 roadway network.

14 15. With new fiscal capacity in place through this indexing and this voter mandate to  
15 address roadway infrastructure issues, RTC proceeded with four bond sales to obtain the monies  
16 necessary to build a number of regionally significant projects including the SEC. These bond  
17 sales achieved their stated purpose and raised funds as desired and planned. The SEC project is  
18 entirely locally funded. No federal dollars are being used to design, build or otherwise fund the  
19 SEC in either phase 1 or 2.

20 16. Public support for the SEC is further evidenced by actions from the City of Sparks  
21 and City of Reno in November 2012. Sparks and Reno are the fee owners of much of the  
22 property comprising the alignment within the Phase 1 project. On November 26, 2012, Sparks  
23 and Reno granted a construction easement to RTC for the Phase 1 construction. A true and  
24 accurate copy of the construction easement, granted November 26, 2012, is attached as RTC  
25 Exhibit 1-E, and maintained by RTC in the regular course of business.

#### 26 **RTC's Extensive Community Outreach**



1 which includes the recession period. The traffic model analysis showed that while the projected  
2 traffic volumes on the SEC did decrease as compared to earlier planning and analysis, the  
3 reduced traffic volumes were still within the guidelines of a 6 lane facility. Actually, past long-  
4 range future planning showed the travel demand justified 8 lanes; however, the earlier plan was  
5 to build 6 at this time and the additional 2 lanes at a later date.

6 20. Travel demands for organizations such as RTC are commonly analyzed in terms  
7 of 5, 10, and 20 year time horizons. RTC's traffic modeling shows that 6 lanes will be fully  
8 utilized in the 20-year time horizon. However, the modeling shows a *current* need and benefit  
9 for a north-south roadway, which is the SEC. This modeling indicates a *present benefit* to the  
10 community for a 2 to 4 lane facility. Because of construction inflation, economies of scale, and  
11 reduction of future traffic impacts, RTC is planning to construct 6 lanes at this time. In essence  
12 RTC is doing what RTC is charged with – planning for the future and proactively addressing  
13 community needs. Again, to be clear, our studies and modeling indicate a current need for this  
14 north-south connector.

#### 15 **The SEC is Not Duplicative of McCarran Boulevard**

16 21. The SEC is needed as a north-south connector and this would not be duplicative of  
17 McCarran Boulevard, which only runs north-south for part of the circle that McCarran makes.  
18 During the last flood warning on December 2, 2012, the McCarran Boulevard Bridge over the  
19 Truckee River had to be closed as a preventive measure. This bridge has encountered historic  
20 problems with flooding. The Phase 1 bridge over the Truckee River is designed to be utilized  
21 safely during flood events up to a 117-year event (which greatly exceeds the McCarran  
22 Boulevard Bridge tolerance for flood conditions). This Phase 1 bridge will provide emergency  
23 access and an evacuation route over the Truckee River that does not currently exist. This will  
24 serve to keep a portion of our community from literally being cut off from all egress during  
25 major floods.



1           22.     McCarran Boulevard is not a north-south connector; it only runs more or less  
2 parallel with the SEC for a relatively short distance. McCarran Boulevard is a circumferential  
3 ring road that curves west just south of Mira Loma Drive. The planned SEC will be a true north-  
4 south connector extending much further south of where McCarran turns to the west, connecting  
5 the South Meadows and Damonte Ranch areas to the I-80, Sparks Boulevard area, and will allow  
6 accessibility for residents in these respective areas to jobs and retailing opportunities, which help  
7 economic growth. I have personally witnessed the backup of traffic in South Reno on an almost  
8 daily basis, and these observations confirm and bolster what the modeling revealed, namely  
9 current problems exist because there is no north-south alternative in this area other than  
10 Interstate-580 and Double R Boulevard. The SEC would remedy this congestion.

11           23.     Widening McCarran Boulevard alone will not meet the community's  
12 transportation needs and certainly will not relieve traffic congestion on I-80 and I-580. This  
13 conclusion is based on traffic modeling I have personally reviewed. Some of this modeling  
14 information I have reviewed is set forth in April 2010 RTC staff report attached as RTC Exhibit  
15 1-H, noted above.

#### 16                           **The SEC Provides Important Benefits to the Community**

17           24.     In addition to the environmental benefits of the SEC discussed below, the SEC has  
18 numerous other benefits. The benefits include but are not limited to:

- 19           • Improving connectivity for north/south travel by providing an alternative to the heavily  
20 travelled US 395/I-580;
- 21           • Reducing traffic volumes on portions of I-80, I-580, Southeast McCarran, Longley Lane,  
22 Greg Street and Double R Boulevard and other significant regional routes;
- 23           • Providing an efficient route for commuters from the North and South;
- 24           • Adding safety features of a high-speed roadway, including barrier rail, wide shoulders,  
25 longer distances for merging on and off the facility, and separation of pedestrian/bicycle  
26 travel; and,

- In the event of a major flood, the surrounding regional roads are subject to flooding. The design of the SEC maintains two dry travel lanes in each direction. This allows for emergency access and evacuation should the need arise. The Project will remedy the absence of emergency vehicle access to Hidden Valley/Meadows, the Water Treatment Plant, and areas east of Steamboat Creek during Truckee River and Steamboat Creek flood events. The current design calls for a portion of Mira Loma Drive to be slightly elevated in order to match the elevation of the SEC. This slight change would keep parts of Mira Loma Drive *above* the 117-year flood event, truly reducing the chances of the egress being flooded.

25. I am personally familiar with each of these benefits listed immediately above. The first three bullet points above are supported by studies I have reviewed. An example of such studies is contained in the April 2010 RTC staff report attached as RTC Exhibit 1-H.

26. RTC staff developed a staff report that was presented to the RTC Board on April 16, 2010. The synopsis of the staff report clearly stated that the SEC is a needed project and the failure to build the project would result in:

- Significant increases in congestion/delay on I-580, I-80, McCarran Blvd, Longley Lane Greg Street, and Double R Blvd.
- 8,600 hours of delay per day equating to \$4.43 million a month in lost productivity costs using Federal Highway Administration costs of delay information
- Degradation of regional air quality by adding up to 262,000 pounds of carbon monoxide and over 10,500 pounds of particulate matter on an annual basis. These increases would jeopardize the ability to conform to federal air quality standards and risk the loss of transportation funds for the entire community.

27. The RTC April 2010 staff report, as previously noted above, is attached as part of RTC Exhibit 1-H, and explains this analysis in greater detail. It is maintained by RTC in the regular course of business



1 staff and this newly added design/environmental consulting firm, RTC went to substantial efforts  
2 to address concerns raised with the May 2011 approach. Basically, as part of this effort to  
3 address stakeholder concerns, RTC developed an almost completely new mitigation plan for the  
4 SEC, which caused both the Phase 1 and the Phase 2 projects to be re-scoped. This enabled RTC  
5 to enhance the environmental benefits of the SEC, including but not limited to the ability to  
6 impact less of the higher quality wetlands.

7 32. Among other things, RTC responded by completely eliminating the May 2011  
8 concept of realigning the 5.5 miles of Steamboat Creek that paralleled the proposed 5.5 miles of  
9 roadway. Other changes were also made in the revamped version. These changes met with the  
10 approval of a number of stakeholders, who now support the current approach.

11 33. A main concern with the previous realignment of the creek was the possible  
12 deposition of mercury containing sediment and the changed location of the confluence of the  
13 Truckee River and Steamboat Creek. The deposited sediment, under the old mitigation plan,  
14 could have acted as a polluted plume of material flowing downstream in flood events and cause  
15 substantial damage to the downstream aquatic environment. In addition, the relocated confluence  
16 brought up a number of very real concerns over the operations of the TMWRF plant and their  
17 discharge permit. Extensive analysis and possible mitigation efforts would be needed to keep the  
18 TMWRF plant in compliance with their NDEP permit. Both the PLPT and TMWRF, as well as  
19 other users that were concerned about a realigned creek, are pleased with the current mitigation  
20 plan.

21 34. Based on my experience and observations, and first hand involvement, I strongly  
22 believe the design submitted to the Corps on July 19, 2013, is a vastly improved plan, as  
23 compared to what was originally proposed in May 2011 after responding to stakeholders  
24 concerns.

1           35.     A by-product of this substantially revised and improved plan is that it removed all  
2 impacts to jurisdictional waters that previously existed with the earlier version of the Phase 1  
3 design concept and scope (which had been proposed in May 2011).

4           36.     On September 26, 2012, RTC wrote a letter to the Corps explaining the changes in  
5 the SEC and describing that the revised Phase 1 design concept no longer had any impacts to  
6 jurisdictional waters. The letter advised that Phase 1 was a project with independent utility and  
7 would result in no impact to jurisdictional waters. The Phase 1 project ends approximately one  
8 and a half miles from the jurisdictional waters that the planned Phase 2 project will impact.  
9 Specifically, the Phase 1 project does not proceed right up to (and stop immediately before) the  
10 location in which the planned Phase 2 construction will impact jurisdictional waters. A true and  
11 accurate copy of the Letter from L. Gibson, RTC Executive Director, to K. Hansen, U.S. Army  
12 Corps of Engineers Senior Project Manager Reno Field Office (Sept. 26, 2012) is attached as  
13 RTC Exhibit 1-I, and maintained by RTC in the regular course of business. This letter took the  
14 version of the SEC described in the May 2011 permit out of play. The Corps' website listed the  
15 May 2011 permit application as "Withdrawn." Specifically, the Corps' "FY12 Finalized  
16 Actions" report lists the May 2011 Section 404 application under the category of "*Closure*  
17 *Method*" as "Withdrawn" as of July 25,  
18 2012.[Http://www.spk.usace.army.mil/Portals/12/documents/regulatory/pdf/final\\_actions/FY12-](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/pdf/final_actions/FY12-finalized_actions.pdf)  
19 [finalized\\_actions.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/pdf/final_actions/FY12-finalized_actions.pdf); a true and accurate copy of page 46 of the Report is attached hereto as  
20 RTC Exhibit 1-J. Whether the approach set forth in the July 19, 2013, application is called an  
21 amended or substantially revised or new (replacing the withdrawn) permit application is a matter  
22 of semantics; but, the Corps clearly treated the May 2011 SEC application as withdrawn. The  
23 fact is that the approach developed in 2012 as to the Phase 1 construction project and the Phase 2  
24 construction project, and explained to the Corps in the Fall of 2012 (particularly as to the Phase 1  
25 project) and set forth in the July 19, 2013, application (as to the Phase 2 project) involves  
26 basically a totally different mitigation plan. This difference in the scope of the project to be

1 reviewed by the Corps for a permit is reflected in the Corps' project description for Phase 2,  
2 which reads, "**PROJECT DESCRIPTION:** The applicant is proposing to place fill to construct  
3 a 4.5 mile 6 lane road extending from the intersection of Veterans Parkway and South Meadows  
4 Parkway in the South to Clean Water Way in the North."

5 [Http://www.spk.usace.army.mil/Media/RegulatoryPublicNotices/tabid/1035/Article/17655/spk-](http://www.spk.usace.army.mil/Media/RegulatoryPublicNotices/tabid/1035/Article/17655/spk-2010-01058-southeast-connector-nv.aspx)  
6 [2010-01058-southeast-connector-nv.aspx](http://www.spk.usace.army.mil/Media/RegulatoryPublicNotices/tabid/1035/Article/17655/spk-2010-01058-southeast-connector-nv.aspx)

7 37. In a letter dated November 16, 2012, the Corps concurred with the redesign and  
8 stated that it had no jurisdiction over the redesigned Phase 1 portion of the SEC. A true and  
9 accurate copy of the Letter from K. Hansen, U.S. Army Corps of Engineers Senior Project  
10 Manager Reno Field Office, to G. Oksol, RTC SEC Project Manager (Nov. 16, 2012) is attached  
11 as RTC Exhibit 1-K, and maintained by RTC in the regular course of business.

12 38. This allowed RTC to proceed with obtaining the necessary permits from state and  
13 local agencies and to begin construction of Phase 1.

14 39. The concept of phasing for the SEC is not new and runs throughout its history.  
15 The 1965 UTP described the original State Route 27 as a longer roadway that has already been  
16 completed in phases over the last 48 years. Developers built a southern section, approximately 4  
17 miles in length, over a period of about 5-7 years in the 2000's. The current SEC is the last 5.5  
18 miles of the overall 16-mile roadway identified in 1965.

19 40. In November 2010 RTC conducted a Cost and Risk Assessment of the SEC and  
20 analyzed various scenarios of completing the SEC. As a result, RTC decided to design the  
21 northern part of the Project (Phase 1) as a separate design package. The north end of the Project  
22 was chosen to provide a northern point of access to the overall SEC from I-80, which would  
23 otherwise be unavailable because of the physical barrier presented by the Truckee River. From a  
24 design standpoint, the southern limit of Phase 1 was chosen at 800 feet south of Clean Water  
25 Way in order to provide a sufficient platform and work area to construct the bridge over Clean  
26 Water Way. In so doing, if Phase 2 were delayed or curtailed, it will be relatively easy to add



1 connections to Mill Street and/or Pembroke. RTC already possesses the right of way to  
2 Pembroke, and doing so could be accomplished without impacting any jurisdictional waters, for  
3 either option. RTC advertised Phase 1 services of both a design firm in January 2011 and a  
4 contractor in October 2011 to provide design/construction documents, constructability reviews,  
5 and value engineering analysis. This information confirms that Phase 1 did not arbitrarily come  
6 about in late 2012 to circumvent the Corps' process as is implied by the Plaintiff. In fact, a  
7 different design team and a different construction contractor are in place for the Phase 2 project.

8 41. The Phase 1 work does not impact jurisdictional waters, the Corps declined  
9 jurisdiction, and a Section 404 permit is not, therefore, necessary or appropriate for Phase 1. In  
10 fact, once the Corps declined jurisdiction, RTC had no way to obtain a Section 404 permit for the  
11 revamped Phase 1 work.

#### 12 **The Phase 1 Project has Independent Utility**

13 42. The Phase 1 project has a distinct independent utility. A connection from the Mill  
14 Street extension or Pembroke (or both) to McCarran Boulevard could easily be made. This is  
15 particularly so as to Pembroke, which already exists. RTC owns the right of way to construct the  
16 SEC to Pembroke Drive, another regional road, and it would alleviate regional traffic congestion.  
17 The currently adopted RTP – as well as previous RTPs – show a connection of the SEC via a  
18 Mill Street Extension to McCarran Boulevard. If the Phase 1 project were limited to extending  
19 to either a Mill Street Extension and/or to Pembroke Drive, it would still serve regional travel  
20 demands. Based on my understanding of the roadway system and studying of pertinent traffic  
21 patterns, this connection will help facilitate traffic movement between Reno and Sparks.

22 43. Such connections for the Phase 1 construction project would be built without  
23 federal money. For Pembroke, RTC owns the land that would contain the right of way. Both the  
24 Mill Street Extension and Pembroke connection can be built without impacting any waters of the  
25 United States.





1 network other than at its end points. It also would greatly impact a regional park. This corridor  
2 also would be much more visible to a larger segment of the community because of its location on  
3 the foothills and adjacent mountainsides.

4 48. The Ridgetop Corridor was also considered. However, it would involve the  
5 construction of multiple tunnels and bridges, and potentially the topping of mountaintops; it  
6 would also require the filling in of some valleys. Overall, this approach would potentially alter  
7 the profile of the mountain range. Dozens of homes would have to be demolished for this  
8 alternative. In addition, this option directly impacts wild horses and big horn sheep habitat. This  
9 route would also have no connections to the regional road network other than at its end points  
10 (i.e., no connections to Pembroke, Mira Loma, South Meadows, and Steamboat Parkway). This  
11 option would be approximately 4 to 5 times more expensive than the Valley Corridor.

12 The Sparks Industrial Corridor has many of the problems and concerns as stated for the Ridgetop  
13 Corridor, except the severity of topping of mountaintops and altering the mountain range profile  
14 could be reduced and the cost would be 2 to 3 times more expensive than the Valley Corridor.  
15 This route would also have no connections to the regional road network other than at its end  
16 points (i.e., no connections to Pembroke, Mira Loma, South Meadows, and Steamboat Parkway).

17 **The impact of Phase 2 work on jurisdictional waters will be very limited**

18 49. The impacts to jurisdictional waters in Phase 2 will be very limited. RTC and its  
19 team have made an enormous effort to avoid and minimize impacts to jurisdictional waters in the  
20 re-design of its Phase 2 work

21 50. The Section 404 application submitted on July 19 covers the entire length of  
22 Phase 2. However, it is important to put this in perspective. In actuality, only about 1,700 feet of  
23 the approximately 24,000 feet (4.5 miles) of Phase 2 will include potential impacts to  
24 jurisdictional waters. In fact, approximately 11.2 acres of jurisdictional waters will actually be  
25 permanently impacted, out of approximately 173.3 acres of jurisdictional waters within the  
26 Valley Corridor; this is in contrast to the approximately 1,000 acres that comprise the SEC.

1 Also, approximately 75% of the approximately 11.2 acres of impacted jurisdictional waters were  
2 constructed (not natural) wetlands, and some of those could be argued are not technically “waters  
3 of the United States” because they are wetlands solely because of agricultural irrigation.

4 Importantly, the jurisdictional waters that will be impacted are not interconnected in any sense,  
5 so that impacts to waters in one area will not impact waters in another. The impacts to  
6 jurisdictional waters are a very small piece of Phase 2 scope and an even smaller facet  
7 (percentage) of the overall SEC.

### 8 **Environmental Benefits of the SEC**

9 51. The SEC provides substantial environmental benefits to our community. As  
10 explained above, the SEC provides significant transportation-related benefits to the community.  
11 But, the SEC also provides substantial environmental benefits. The alignment of the SEC not  
12 only avoids and minimizes impacts to jurisdictional waters, the SEC also has several other  
13 significant environmental benefits. The environmental benefits include reduced air pollution,  
14 wetland mitigation over and above what is required by the Corps, reduced sediment loading to  
15 the Truckee River, and placement of existing (historic) mercury contamination under the road  
16 and above the 117-year flood water elevation so it does not continue to spread when floods occur  
17 (in the manner that it currently does).

18 52. The SEC will reduce air pollution, as discussed above, by alleviating traffic  
19 congestion on the regional roadway network. The Project also includes a 10-foot wide multi-use  
20 path that will connect the extensive network of bike lanes in south Reno to the popular Truckee  
21 River Trail and to the multi-use path along Sparks Blvd, which connects to recreational activities  
22 around the Sparks Marina.

23 53. Wetlands mitigation ratios that are typically approved by the Sacramento District  
24 of the Corps are in the neighborhood of 2 to 1. The proposed mitigation plan for the SEC is 3 to  
25 1 for obligate wetlands, 2 to 1 for agriculture induced wetlands, and 1.5 to 1 for the whitetop  
26 infested wetlands. When you factor in the volumetric flood mitigation basins planned for Phase  
27

1 2, the potential wetlands ratio approaches 15 to 1, far in excess of what is typically required.  
2 Besides the net increase in quantity of wetlands, it is noteworthy that the mitigated wetlands are  
3 of a higher environmental value because they are contiguous, as opposed to the currently existing  
4 ones, which are separate and distinct from each other. RTC is currently working on creating a  
5 Conservation Easement that would permanently protect the mitigation wetlands and all other  
6 wetlands created as part of the flood volume mitigation efforts.

7 54. To account for the volume of fill needed for the roadway, an equal or greater  
8 amount of volume will be excavated to offset the fill. This excavation in Phase 2 is planned to  
9 occur alongside Steamboat Creek, which allows the creek to return to a more natural floodplain.  
10 Currently, the creek is severely incised and the water from smaller flood events is not able to  
11 spread out over a natural floodplain, which in turn confines the water and increases flow  
12 velocities, increasing bank erosion and sediment transport downstream. This sediment decreases  
13 water quality both within the creek and downstream within the Truckee River. The Phase 2  
14 design will mitigate this problem by allowing the creek to utilize a more natural floodplain,  
15 which will reduce sediment transport by retarding flow velocities. This is important to  
16 stakeholders and was in response to concerns voiced pursuant to the Corps' previous process.

17 55. Historic mercury exists within the corridor of the roadway (and pretty much  
18 throughout the surrounding area). The SEC is not a mercury clean-up project. RTC conducted a  
19 three-dimensional analysis of the locations and concentrations of mercury in the SEC area. The  
20 Project will permanently sequester existing mercury contamination within the Project limits by  
21 encapsulating the mercury-containing soils within the roadway prism. The mercury-containing  
22 soils will be under impervious pavement, buried more than three feet from the edge of the  
23 pavement, and will be located above the elevation of a 117-year flood event. This will reduce the  
24 available mercury load to Steamboat Creek and the Truckee River which currently occurs during  
25 rain and flood events. This too has been very important to our stakeholders.

1           56. For example, I have had a number of meetings and conversations with members of  
2 the PLPT, regarding the concerns they had over contamination eventually getting to Pyramid  
3 Lake. The tribe is now supportive of the approach RTC is proposing in its July 19, 2013, Section  
4 404 permit application. I have also met with other stakeholders to address concerns they raised  
5 with the conceptual approach that had initially been taken in the May 2011 application. RTC  
6 worked hard to address these concerns, and the results of these efforts culminate in the approach  
7 set forth in the July 19, 2013, application. The past concerns with the May 2011 permit submittal  
8 have been avoided or properly mitigated with the July 2013 permit submittal.

9                   **The Phase 1 Project does not cause any impacts to flood waters**

10           57. Although the Phase 1 work does not include any discharges to waters under the  
11 Corps' jurisdiction, it nevertheless does address flood mitigation per local ordinances. The flood  
12 volume mitigation basins in Phase 1 were constructed as indentations in the ground that gradually  
13 get deeper and have a very wide opening for water to sheet flow drain toward Steamboat Creek.  
14 The sheet flow edge is above the ordinary high water mark of the creek. Importantly, substantial  
15 modeling and calculations were performed to ensure the design of Phase 1 had zero net impact on  
16 flooding; this was very important to RTC and our stakeholders. As part of the flood management  
17 planning currently in place in the community, the City of Sparks has formally approved of our  
18 zero net impact on flooding for Phase 1 work (as Phase 1 is within Sparks' zone of responsibility  
19 for such approvals), and Sparks issued a variance from the flood management ordinance and  
20 certified the zero rise of flood waters due to the mitigation efforts of the Phase 1 project. A true  
21 and accurate copy of the Sparks Flood Variance and Zero Rise Certification is attached as RTC  
22 Exhibit 1-L, and maintained by RTC in the regular course of business.

23           58. More specifically, RTC has already addressed flood-related issues pertinent to the  
24 Phase 1 construction and consistent with the appropriate permitting process. As a result, a  
25 variance from the provisions of the Sparks Municipal Code, Title 15 (Sections 15.11.0310 –  
26  
27

1 15.11.0350, Floodways) was necessary. The City of Sparks City Council approved the variance  
2 at its regular meeting on February 11, 2013.

3 59. Once RTC obtained this no net rise certificate from Sparks, no other approvals or  
4 authorizations to begin the Phase 1 work were required on this issue. Significantly, this approval  
5 first required RTC to establish (with flood water modeling analysis and data) that the Phase 1  
6 project created no adverse impacts to the flood plain. Thus, because of the no adverse impact  
7 designation, Phase 1 can have no material bearing on the Corps' Truckee River Flood Control  
8 Project.

### 9 **Miscellaneous Points**

10 60. Phase 1 does not involve and has not involved the discharge of any pollutants or  
11 dredge or fill material; no permit under Section 404 is necessary for any portion of the Phase 1  
12 work. Phase 1 did not and does not require a 404 permit. RTC stated that no fill or dredge  
13 material would be placed in waters of the United States in our letter dated September 26, 2012.  
14 See RTC Letter to Corps (Sept. 26, 2012) RTC Exhibit 1-I. The Corps communicated its  
15 concurrence and declined jurisdiction on November 16, 2012. As part of this process by which  
16 the Corps declined jurisdiction, a number of discussions and meetings were held with Corps  
17 personnel. The Corps, prior to making its decision to decline jurisdiction, made a number of  
18 inquiries and reviewed maps and diagrams, and asked a number of questions. I explained the  
19 actions that RTC proposed to take in the Phase 1 project, including my explanation that because  
20 RTC was no longer proposing to realign Steamboat Creek, RTC was no longer planning to  
21 impact any jurisdictional waters in the Phase 1 project. I explained how RTC was planning to  
22 address flood issues to the satisfaction of local permitting requirements without working within  
23 the ordinary high water mark of Steamboat Creek or the Truckee River. RTC had to demonstrate  
24 this to the Corps to their satisfaction.

25 61. As of the date of this affidavit, and to the best of my knowledge and belief, the  
26 Phase 1 work has not impacted any jurisdictional waters. Specifically, the Phase 1 work has not

1 resulted in the discharge of any fill, dredge or pollutant to any waters of the United States. Also,  
2 there are no plans to discharge (and certainly no intention of discharging) in the future any fill,  
3 dredge or pollutant to any waters of the United States as part of the Phase 1 project. RTC  
4 advised the Corps that it would not impact any waters of the United States in Phase 1, and RTC  
5 explained to the Corps how it would accomplish this construction project without any such  
6 impacts; as it turns out, RTC has done just that – performed its Phase 1 work without any  
7 discharges to waters of the United States.

8 62. As discussed above, no Phase 2 construction work will occur until after the Corps  
9 concludes its process for the July 19 permit application submitted by RTC.

10 63. The jurisdictional waters impacted in Phase 2 are a very small facet of the overall  
11 project (though those areas are nevertheless being treated with special care); specifically, the  
12 impacted jurisdictional waters comprise about 1700 feet of the approximately 24,000 feet of the  
13 alignment. The community supports this Project, which has substantial environmental and other  
14 benefits for our region.

15 64. RTC, to the best of my knowledge and belief, has followed all pertinent laws  
16 regarding Phase 1 and, where appropriate, consulted and coordinated with the Corps for both the  
17 Phase 1 construction project and the proposed Phase 2 construction project. To the best of my  
18 knowledge and belief, RTC has been and is in full compliance with the Clean Water Act  
19 (“CWA”).

20 65. RTC, to the best of my knowledge and belief, has followed all pertinent laws  
21 regarding Phase 1 and, where appropriate, consulted and coordinated with the Corps for both the  
22 Phase 1 construction project and the Phase 2 construction project. To the best of my knowledge  
23 and belief, RTC is in full compliance with the Clean Water Act (“CWA”).

24 66. RTC takes great pride in its environmental and regulatory compliance with all its  
25 projects and, in fact, the SEC will serve as a national model for sustainable highway design.

26 **Status of the Phase 1 Construction Project**



1           67.     At this time, the Phase 1 project is a little over 40 percent complete. However, all  
2 clearing of vegetation throughout the roadway path has been accomplished. In other words,  
3 virtually all trees, shrubs, weeds, and other vegetation that are going to be cleared for the Phase 1  
4 project have already been cleared. In addition, all shrubs and vegetation that will need to be  
5 cleared on or near the banks of the Truckee River have already been cleared and almost all  
6 shrubs and vegetation that will need to be cleared on or near the banks of the Steamboat Creek  
7 have already been cleared. However, none of the clearing of vegetation near the Truckee River  
8 and Steamboat Creek banks touched on any jurisdictional waters. Revegetation and  
9 planting/landscaping work still needs to occur. The Phase 1 Truckee bridge construction was  
10 engineered to never touch on jurisdictional waters, so as not to impact the waterway  
11 environment. Also, all major bridge pier work done near the Truckee bank for the bridge has  
12 already been completed. For the Phase 1 construction project, RTC implemented Best  
13 Management Practices (“BMPs”) as part of the Stormwater Pollution Prevention Plan  
14 (“SWPPP”) required under the stormwater permit for the Phase 1 project.

15           68.     Prior to some of the work on the banks of the Truckee River a state permit from  
16 the Nevada Division of Water Resources (NDWR) was needed. A true and accurate copy of the  
17 applicable NDWR permit is attached as RTC Exhibit 1-M, and maintained by RTC in the regular  
18 course of business. This agency regulates from the top of the bank while the waters of the United  
19 States delineate from below the ordinary high water mark. All of our work was above the  
20 ordinary high water mark but did need this state permit. RTC was advised that the state also  
21 confirmed with the Corps the appropriateness of this orchestration and delineation prior to  
22 issuing the permit for this work on the bank. The NDWR also recently inspected RTC’s work on  
23 site at the Phase 1 project and was highly complementary of how RTC accomplished this work.  
24 All of this work has been performed in a manner so as to fully satisfy all dictates of the both the  
25 NDWR and the Corps.

26                   **RTC will be severely impacted if the Phase 1 work were halted**

1           69.     If RTC was ordered to stop construction of the Phase 1 construction project, RTC  
2 would incur substantial out of pockets costs, which are taxpayer funds. RTC is under contract  
3 with Keiwit Construction company as the prime contractor. Keiwit has subcontractors on site  
4 and also has large rental equipment on site. A stop in work would cost RTC penalties and fees  
5 under our contract. A copy of the RTC contract with Keiwit is attached as RTC Exhibit 1-N(a-b),  
6 and maintained by RTC in the regular course of business. RTC would have to pay Keiwit for its  
7 salaried personnel on site. RTC would also have to pay for the fees associated with rentals of the  
8 large equipment (such as cranes, drilling equipment, and material storage fees), which would be  
9 left dormant on site or shipped back to the contractor. RTC would incur expenses for Keiwit's  
10 subcontractors. The costs alone for a sudden work stoppage would likely exceed \$2,000,000,  
11 even if the work stoppage was only for 90 days; these estimated damages for this type of  
12 situation would include costs to RTC for Kiewit, Kiewit's subcontractors, possible delay claims,  
13 and security costs, among other things. These real and substantial costs for stopping our  
14 construction work would have been much lower if action had been taken much earlier in the  
15 process. At this point, with progress for the project past 40 percent and moving towards 50  
16 percent completion, there are a number of facets of the work underway simultaneously, which  
17 means more subcontractors, more equipment rentals and more people; months ago, when the  
18 project was just beginning, it would have been much less expensive to stop work as compared to  
19 stopping when mid-way into a project.

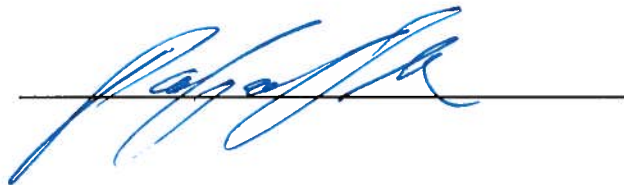
20           70.     There are between 100 and 200 hourly employees gainfully employed on site.  
21 Most of these employees would have to be laid off, which causes a significant burden on these  
22 individuals and their families, and on the local economy.

23           71.     Because the land needed for the roadway work in the Phase 1 project is already  
24 cleared, it would be harmful for the environment to stop work. The barren soil was not  
25 contemplated to be left unaddressed for an indefinite period of time. This prolonged exposure of  
26 barren soil for an unexpected delay may greatly increase soil erosion, which can be harmful to  
27



1 the environment due to a number of reasons. This could negate some or all of the efforts taken to  
2 date to protect soil erosion and related environmental concerns. In addition, a lack of presence on  
3 the job site could allow the invasive tall whitetop weed to infest the work site. This would  
4 greatly increase expenses as it relates to whitetop control. A small, isolated presence of whitetop  
5 is much easier to control than an infestation. Due to local permit obligations, RTC may have to  
6 continue to take actions on the roadway (such as dust control) even if there is an order to stop  
7 work, which is another cost. For safety reasons, a shutdown would likely cause RTC to employ  
8 some form of security (in terms of fencing and/or security guards) for the open construction site  
9 (due to unconnected bridge components and open trenches, for example); another safety concern  
10 is the expanded time in which there would be a need for additional traffic control at the  
11 intersection of Gregg and Sparks. There would be a concern and potential costs to RTC from  
12 vandalism and to address rust and material degradation resulting from the unanticipated time in  
13 which materials at the site are exposed to the elements. The monetary costs and safety concerns  
14 to RTC, with even a short delay in construction, will be substantial.

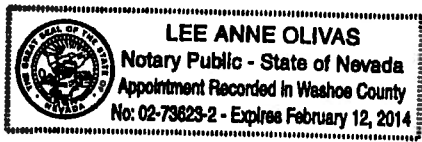
15 FURTHER AFFIANT SAYETH NOT.  
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1 STATE OF NEVADA )  
2 COUNTY OF WASHOE ) SS.  
3 )

4 On this 4th day of September, 2013, before me appeared  
5 Paul Garth Oksol, to me personally known, who being by me duly sworn, did state that he has  
6 made the sworn statements herein in this Affidavit, and that the statements made herein are true  
7 to the best of his knowledge, information and belief.

8 IN TESTIMONY WHEREOF, I hereunto set my hand and affix my official seal  
9 in the County and State aforesaid, the date and year written above.



10 Lee Anne Olivas  
11 Notary Public

12 (SEAL)

13 My Commission Expires: 2/12/14