

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA, NORTHERN DIVISION

UPPER SOUTHEAST COMMUNITIES
COALITION,

Plaintiff,

v.

U.S. ARMY CORPS OF ENGINEERS, et al.,

Defendants,

Case No. 3:3:13-cv-00403

DECLARATION OF KRISTINE S. HANSEN
IN SUPPORT OF FEDERAL
DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

I, Kristine S. Hansen, state and declare as follows:

1. The matters asserted herein are true and correct based on my personal knowledge and belief and if called to testify, I could and would testify competently to these matters.

2. I am currently a senior Regulatory project manager working in the United States Army Corps of Engineers, Sacramento District ("Corps") Reno, Nevada field office. I am responsible for implementing and enforcing the requirements of Section 404 of the Clean Water Act ("CWA") (33 U.S.C §1344) and Section 10 of the Rivers and Harbors Act ("RHA") (33 U.S.C. §403) in Carson City, Washoe, Storey, Douglas, Lyon, Mineral, Churchill, Pershing, Humboldt, Elko, Lander, Eureka and Esmeralda Counties within Nevada and the Lake Tahoe Basin in Nevada and California.

1 3. I am the project manager assigned to review and process the permit application submitted by
2 the Regional Transportation Commission of Washoe County (“RTC”) pursuant to CWA Section
3 404 for the SouthEast Connector project (“SEC”).

4 4. RTC first submitted a CWA Section 404 permit application for the SEC in May 2011. At that
5 time, RTC was proposing to construct a 5.5 mile major road arterial in Reno, Nevada that would
6 involve placing fill in 3.41 acres of jurisdictional wetlands and other waters of the United States.
7 Additionally, RTC proposed to excavate and place fill in 4.54 acres of wetlands and other waters
8 of the United States in order to restore approximately 33,000 linear feet of Steamboat Creek.
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10 5. By letter dated September 26, 2012, RTC notified me that the SEC project design had
11 changed. The project would now occur in two phases and Phase 1 of the SEC would not involve
12 the discharge of dredged or fill material into jurisdictional wetlands or other waters of the United
13 States. The RTC also removed the 33,000 linear feet of Steamboat Creek restoration proposed in
14 the original SEC design. Furthermore, RTC’s letter expressed the opinion that Phase 1 could
15 stand alone as a single and complete project by “connecting to Clean Water Way or Pembroke
16 Drive or a Mill Street extension which is in the current 2030 Regional Transportation Plan”. A
17 true and correct copy of RTC’s September 26, 2012 letter is attached hereto as Exhibit 1.
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20 6. On November 16, 2012, I responded to RTC’s September 2012 letter and confirmed that the
21 work RTC proposed for the SEC Phase 1 would “not result in the discharge of dredged or fill
22 material within waters of the United States and does not involve work in navigable waters of the
23 United States; therefore, a Department of the Army Permit is not required for this work.” A true and
24 correct copy of my November 16, 2012 letter is attached hereto as Exhibit 2. It is my understanding
25 that RTC began constructing the SEC Phase 1 in February 2013.
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1 7. RTC submitted a CWA Section 404 permit application for the SEC Phase 2 in July 2013. SEC
2 Phase 2, as currently proposed, requires a CWA section 404 permit because 29, 040 feet of the
3 roadway will involve a total of 13.51 acres of temporary and 11.23 acres of permanent impacts to
4 jurisdictional waters of the United States. A public notice for the proposed project was published
5 on August 23, 2013; however no permit has been issued. In reviewing and processing RTC's CWA
6 Section 404 permit application for Phase 2, I will follow the CWA implementing regulations found
7 at 33 CFR Parts 230 – 332 and 40 CFR Part 230 ("404(b)(1) Guidelines"). The 404(b)(1)
8 guidelines state that "no discharge may be permitted where there is a practicable alternative to the
9 proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the
10 alternative doesn't have other significant adverse environmental consequences." 40 CFR § 230.1(a).
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13 8. The Corps' regulation implementing the National Environmental Policy Act ("NEPA") (42
14 U.S.C. §4321 et seq.) states "[i]n all other cases where the district engineer determines that there are
15 unresolved conflicts concerning alternative uses of available resources, the [environmental
16 assessment] shall include a discussion of the reasonable alternatives which are to be considered by
17 the ultimate decision –maker". 33 CFR Part 325 Appendix B.
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19 9. In compliance with the above cited regulations and as part of the practicable alternatives analysis,
20 I will review alternatives to Phase 2 that do not result in a discharge of dredged or fill material into
21 jurisdictional wetlands and other waters of the United States as well as on-site and off-site
22 alternatives to determine, among other things, if they meet the basic project purpose and are
23 available, and capable of being done considering cost, existing technology and logistics 40 CFR
24 §230.1(a)(2). I plan to prepare an environmental assessment to determine whether or not an
25 environmental impact statement is necessary; unless, information gathered as I am reviewing the
26 application makes it clear that an EIS is required.
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1 10. My understanding of the requirements in the 404(b)(1) Guidelines and 33 CFR Part 325,
2 Appendix B for consideration of alternatives is that the Corps' review of the SEC Phase 2 would not
3 be constrained by the construction of the SEC Phase 1. The consideration of alternatives will not be
4 limited to those that connect with the bridge and roadway built during Phase 1, and the fact that
5 RTC will have invested substantial resources will not be a factor in the consideration of
6 alternatives.
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12 I declare under penalty of perjury under the laws of the State of Nevada and the United States of
13 America that the foregoing is true and correct to the best of my current knowledge.
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15 Executed in Reno, Nevada on September 5, 2013.

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18 Kristine S. Hansen
19 Senior Regulatory Project Manager
20 U.S. Army Corps of Engineers, Sacramento District
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