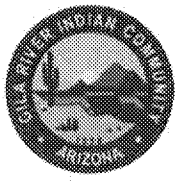
GILA RIVER INDIAN COMMUNITY

Executive Office of the Governor & Lieutenant Governor

"Putting Our People First"

Stephen Roe Lewis
Governor



Robert Stone
Lieutenant Governor

August 7, 2019

Colonel Aaron Barta, Commander
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd.
Los Angeles, CA 90017

Mike Stoker, Regional Administrator
Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Re: *Request for Government-to-Government Consultation regarding Delegation of Clean Water Act Section 404 Authority to the Arizona Department of Environmental Quality*

Dear Colonel Barta and Mr. Stoker,

Pursuant to Executive Order 13175 (*Consultation and Coordination with Indian Tribal Governments*), the U.S. Army Corps of Engineers' (USACE) Tribal Consultation Policy and Principles, and EPA Policy on Consultation and Coordination with Indian Tribes, the Gila River Indian Community requests that Government-to-Government Consultation be initiated with respect to Arizona Department of Environmental Quality's (ADEQ) request that EPA delegate to ADEQ authority under the federal Clean Water Act (CWA) to administer the Section 404 permitting program in Arizona.

In April 2018, Governor Ducey authorized ADEQ to develop rules to assume the CWA section 404 program. Since that time, ADEQ has begun to prepare its proposed CWA program, formed a number of working groups, and commenced drafting its CWA Assumption Rule. Under the State's current timeline, a federal rulemaking process for the Draft CWA Assumption Rule would be commenced in April 2020, and ADOT would submit the rule to the EPA for approval in October 2020.

While the Community understands that this delegation would not authorize ADEQ to issue Section 404 permits for activities taking place on Community lands, ADEQ would be responsible for permitting off-Reservation actions that could impact Reservation lands either directly or indirectly.

525 West Gu u Ki · P.O. Box 97 · Sacaton, Arizona 85147
Telephone: 520-562-9841 · Fax: 520-562-9849 · Email: executivemail@gric.nsn.us

Under USACE's administration of the Section 404 permitting program, the Community has been able to engage in Government-to-Government consultation to address concerns regarding impacts to its lands, waters, resources, and other interests potentially posed by off-Reservation projects.

The Community feels strongly that limitations and protections must be built into ADEQ's permitting program to protect tribal interests, and that processes and requirements must be in place to ensure that meaningful Government-to-Government consultation will continue if ADEQ assumes CWA Section 404 authorization. As such, it is an appropriate time for USACE, EPA, and the Community to engage in Government-to-Government consultation – *i.e.*, while ADEQ's permitting program is being formulated – to ensure that any delegation of the Section 404 program provides adequate protections for the Community and that the United States will continue to fulfill its consultation obligations with the Community following a Section 404 assumption.

Thank you.

Stephen R. Lewis, Governor
Gila River Indian Community

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