



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 25 2006

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Response to Request for Review of Department of Army Permit

FROM:

Benjamin H. Grumbles
Assistant Administrator

A handwritten signature in black ink, appearing to read "B. Grumbles", written over the typed name and title.

TO:

Wayne Nasti
Regional Administrator, Region IX

I am writing in response to your September 7, 2006, request for elevation of proposed Permit #200401247SDM to the Assistant Secretary of the Army (Civil Works) for review. The request for a higher level review relates to the U.S. Army Corps of Engineers Los Angeles District (Corps) action to issue a Clean Water Act (CWA) Section 404 permit to the Maricopa County Department of Transportation (applicant) for the Cotton Lane Road Bridge project in the City of Goodyear, Maricopa County, Arizona.

After a thorough review of this request, the Office of Water has decided not to request further review of this individual permit pursuant to the provisions of Part IV of the 1992 CWA Section 404(q) Memorandum of Agreement (MOA). However, the Region questioned the decision by the Corps that the preferred alternative was the Least Environmentally Damaging Practicable Alternative (LEDPA) and expressed concern that the cost determination was inappropriately applied in making that determination. We believe there is a question whether the analysis that supported the selection of the LEDPA was consistent with the Agencies' policies and regulations. While we did not object to this particular project, we believe a Policy Elevation may be the most appropriate tool for addressing the underlying policy issue of concern.

I appreciated the opportunity to discuss this important issue with you recently. If my staff can provide further assistance during this process, please have your staff contact Mr. Clay Miller at (202) 566-1365.