



TETRA TECH EC, INC.

California Energy Commission DOCKETED 11-AFC-3
TN # 66446 AUG 03 2012

August 3, 2012

Mr. Eric Solorio
California Energy Commission
Docket No. 11-AFC-3
1516 9th St.
Sacramento, CA 95814

Cogentrix Quail Brush Generation Project - Docket Number 11-AFC-3, U.S. Army Corps of Engineers Determination Letter

Docket Clerk:

Pursuant to the provisions of Title 20, California Code of Regulation, and on behalf of Quail Brush Genco, LLC, a wholly owned subsidiary of Cogentrix Energy, LLC, Tetra Tech hereby submits the U.S. Army Corps of Engineers Determination Letter and the request to the Corps for concurrence. The Quail Brush Generation Project is a 100 megawatt natural gas fired electric generation peaking facility to be located in the City of San Diego, California.

If you have any questions regarding this submittal, please contact Rick Neff at (704) 525-3800 or me at (303) 980-3653.

Sincerely,

A handwritten signature in blue ink that reads "Constance E. Farmer".

Constance E. Farmer
Project Manager/Tetra Tech

cc: Lori Ziebart, Cogentrix
John Collins, Cogentrix
Rick Neff, Cogentrix
Proof of Service List

TETRA TECH EC, INC.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR CERTIFICATION
FOR THE QUAIL BRUSH GENERATION PROJECT**

DOCKET NO. 11-AFC-03
PROOF OF SERVICE
(Revised 7/18/2012)

APPLICANT

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Cogentrix Energy, LLC
John Collins, VP Development
Lori Ziebart, Project Manager
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APPLICANT'S CONSULTANTS

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*Center for Biological Diversity

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*indicates change

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DECLARATION OF SERVICE

I, Constance Farmer, declare that on August 3, 2012, I served and filed copies of the attached U.S. Army Corps of Engineers Determination Letter, dated June 5, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: <http://www.energy.ca.gov/sitingcases/quailbrush/index.html>.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:
(Check all that Apply)

For service to all other parties:

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- by sending an electronic copy to the e-mail address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-AFC-03
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.ca.gov

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
michael.levy@energy.ca.gov

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Received

JUN 18 2012

TETRA TECH EC INC
DENVER OFFICE



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS LOS ANGELES DISTRICT
Regulatory Division, Carlsbad Field Office
6010 Hidden Valley Road, Suite 105
Carlsbad, California 92011

June 5 2012

REPLY TO
ATTENTION OF

Office of the Chief
Regulatory Division

Tetra Tech EC, Inc.
Attention: Ms. Connie Farmer
143 Union Boulevard, Suite 100
Lakewood, Colorado 80228

SUBJECT: Determination regarding requirement for Department of the Army Permit

Dear Ms. Farmer:

I am responding to your request (File No. SPL-2012-00370-CMS) dated August 16, 2011, for clarification on whether a Department of the Army Permit is required for the Quail Brush project located north of San Clemente Canyon Freeway (SR-52), east of Medina Drive, and adjacent to Sycamore Landfill Road in the city of San Diego, San Diego County, California (Latitude 32.8613, Longitude -117.0346).

The Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. The first test determines whether or not the proposed project is located within or contains a water of the United States (i.e., it is within the Corps' geographic jurisdiction). The second test determines whether or not the proposed project includes an activity potentially regulated under Section 10 of the Rivers and Harbors Act or Section 404 of the Clean Water Act. If both tests are met, and the activities in question are located within the Corps' geographic jurisdiction, then a permit would be required. As part of our evaluation process, we have made the determination below.

Geographic jurisdiction:

Based on the information you have provided, dated August 16, 2011, we have determined the Quail Brush project site may contain water(s) of the United States pursuant to 33 C.F.R. §325.9. Please note, until a jurisdictional determination is approved by the Corps for the project area, we cannot rule out that waters of the United States occur on-site.

Activity:

Based on the information you have provided, we have determined the proposed work, were it to occur in waters of the United States (see above, "*Geographic jurisdiction*"), would not involve a discharge of dredged or fill material and therefore, would not be regulated under

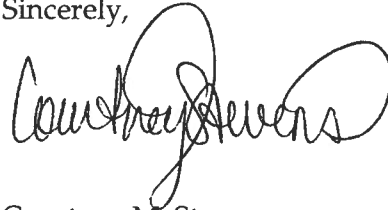
Section 404 of the Clean Water Act if the activity is performed in the manner described in your application.

Requirement for a Department of the Army Permit:

Based on the discussion above, we have determined your proposed project is not subject to our jurisdiction under Section 404 of the Clean Water Act and a Department of the Army permit would not be required from our office if the activity is performed in the manner described. As previously stated, please note, until a jurisdictional determination is approved by the Corps for the project area, we cannot rule out that waters of the United States occur on-site. Notwithstanding our determination above, your proposed project may be regulated under other Federal, State, and local laws.

If you have any questions, please contact me at 760-602-4841 or via e-mail at Courtney.M.Stevens@usace.army.mil. Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink that reads "Courtney Stevens". The signature is written in a cursive style with a large, looping flourish at the end.

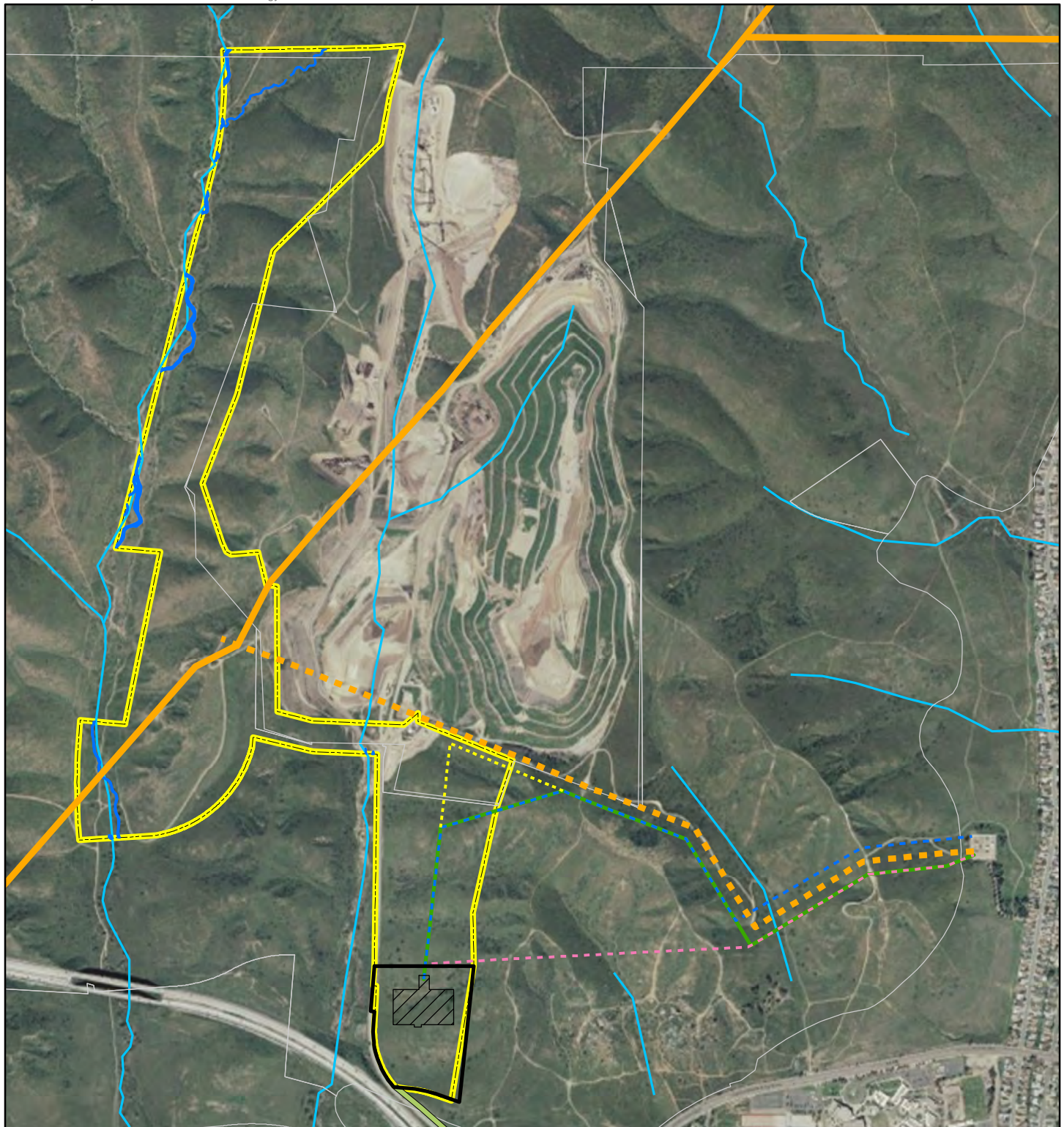
Courtney M. Stevens
Project Manager, South Coast Branch

From: [Scott Crawford](#)
To: richard.J.vansant@usace.army.mil
Subject: Letter of Concurrence
Attachments: [4.12-5 Waters USACE 022712.pdf](#)













Hey Richard,

Attached is the original jurisdictional delineation as well as an update map including the old project area as well as the new project site. All of the proposed alternatives will cross one drainage feature that is designated as a blue-line drainage on the USGS topographic map and located in the southeastern corner of the attached map. This drainage is mostly contained within an upland swale with periodic eroded areas that appear to be intermittent ordinary high water marks. The drainage feature will be crossed by a transmission line, but will not likely be impacted by any project related impacts. There is an existing transmission line that already crosses the drainage and the new transmission line will parallel the existing line utilizing the existing access roads. Please let me know if you need any information that you required to prepare a letter of concurrence stating that no waters of the US. will be impacted by project construction.

Kind Regards,



Legend

-  Project Boundary
-  Plant Site
-  Preferred Gentle
-  Alternative 1
-  Alternative 2
-  Alternative 3
-  Existing SDG&E T-Line
-  Existing 138 kV T-Line
-  Biological Survey Area
-  USACE/RWQCB Jurisdictional Areas
-  Intermittent Stream (NHD Flowlines)
-  MHPA MSCP Subarea Plan Boundary

QUAIL BRUSH GENERATION PROJECT

FIGURE 4.12-5
Wetlands and Water Resources
in Biological Survey Area -
USACE Jurisdiction

