



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Lawson
Morgan
File

SEP 03 2015

Julianne Polanco
California State Historic Preservation Officer
1725 23rd Street, Suite 100
Sacramento, CA 95816

Re: U.S. Environmental Protection Agency Region 9 authorization to allow the California State Water Resources Control Board to initiate consultation with the State Historic Preservation Officer and Tribal Historic Preservation Officers for projects funded under the Drinking Water State Revolving Fund Program

Dear Ms. Polanco:

The U.S. Environmental Protection Agency Region 9 (EPA) administers the Drinking Water State Revolving Fund (DWSRF) program, which authorizes capitalization grants to state Agencies in Region 9, including the California State Water Resources Control Board (SWRCB). In turn, the SWRCB provides assistance to public and private community water systems as well as nonprofit non-community water systems for DWSRF projects.

Projects carried out with EPA assistance under the DWSRF may have effects on properties included in, or eligible for inclusion in, the National Register of Historic Properties. The National Historic Preservation Act (NHPA), 54 U.S.C. §300101 et seq., and its implementing regulations, 36 CFR Part 800, require federal agencies to consider the effects of their undertakings on historic properties.

Pursuant to 36 CFR §800.2(c)(4), a federal agency may authorize an applicant for federal assistance to initiate consultation with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and others, provided that: (1) the federal agency remains legally responsible for all findings and determinations charged to the agency official; and (2) the federal agency notifies the SHPO/THPO when an applicant is so authorized.

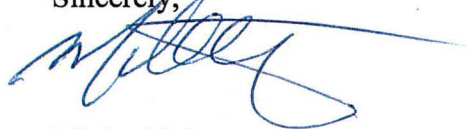
In accordance with 36 CFR §800.2(c)(4), EPA hereby authorizes the SWRCB to act on EPA's behalf when initiating the NHPA consultation process in connection with DWSRF assistance to public and private community water systems and nonprofit non-community water systems. Effective immediately, the SWRCB may consult with the SHPO and THPOs in the State of California and other relevant parties to initiate the review process established under 36 CFR Part 800 including identifying and evaluating historic properties, assessing effects, and proposing mitigation measures where necessary. However, EPA Region 9 will remain responsible for participating in the consultation process when:

- SWRCB determines that the "Criteria of Adverse Effect" under 36 CFR §800.5 applies to an undertaking;
- there is disagreement between the SWRCB and the SHPO/THPO regarding the scope of the area of potential effects, identification of historic properties, or evaluation of effects;
- there is an objection from consulting parties or the public regarding findings or determinations or the implementation of agreed provisions; or
- there is potential for a foreclosure situation or intentional adverse effects as described under 36 CFR §800.9(b) and (c).

In accordance with 36 CFR §800.2(c)(2), EPA Region 9 shall ensure that all consultations with Indian Tribes are conducted in a sensitive manner respectful of all tribal sovereignty and the government to government relationship between the federal government and Indian Tribes. This letter, therefore, is not intended to modify or limit such requirements nor mandate that Indian Tribes consult with grantees or provide information if the Indian Tribes conclude that consultation should be directly with the EPA.

If you have any questions, please contact Juanita Licata in the Infrastructure Section, at (415) 972-3450 or via email at Licata.juanita@epa.gov.

Sincerely,



Michael Montgomery
Acting Division Director
Water Division

✓cc:

Darrin Polhemus, Deputy Director
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