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SWQB (Surface Water)

CERTIFIED MAIL
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June 7, 2000

Lieutenant Colonel Thomas N. Fallin
Albuquerque District, U. S. Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, New Mexico 87109

Re: Clean Water Act Section 401 Water Quality Certification by the State of New Mexico
Nationwide Permits and Conditions Issued on March 9, 2000

Dear Lt. Fallin:

The Surface Water Quality Bureau (SWQB) of the New Mexico Environment Department has reviewed the Final Notice of Issuance and Modification of Nationwide Permits (NWP) published on March 9, 2000 in Part III of the Federal Register (65 FR, pages 12818 – 12898). The final notice included the issuance of five new NWPs, modification of six existing NWPs, modification of nine NWP conditions, and adoption of two new NWP general conditions.

401 Certification with Conditions:

The SWQB has determined that discharges permitted by the NWPs listed below could potentially cause adverse effects to State waters, designated uses, and ultimately water quality standards. To prevent such impacts, conditions are included as a requirement of these NWPs.

Under authority of the New Mexico Water Quality Act (Chapter 74, Article 6 NMSA 1978, et. seq.) and pursuant to Section 401 of the Federal Clean Water Act and 40 CFR Part 121, the SWQB hereby certifies that the discharges associated with the following NWPs will comply with the Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.1 NMAC (2/23/00) (Standards) and with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act upon inclusion of the conditions listed below. Compliance with the terms and conditions of these NWPs and this certification will provide reasonable assurance to the SWQB that permitted activities will not violate applicable State Standards.



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3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Maintenance
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Crossings
15. U.S. Coast Guard Approved Bridges
16. Return Water from Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
21. Surface Coal Mining Activities
23. Approved Categorical Exclusions
25. Structural Discharges
27. Stream and Wetland Restoration Activities - Please note that NWP 27 is now certified with conditions. In the 1997 401 Certification, the SWQB certified NWP 27 without conditions.
28. Modifications of Existing Marinas
29. Single Family Housing
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Activities
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
39. Residential, Commercial, and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities

Conditions required for the NWPs listed above:

1. An individual 401 Certification is required from the SWQB for all projects that will impact more than 1/3 acre of wetlands or for projects proposed within a perennial surface water or perennial reach of an ephemeral or intermittent watercourse as defined in the Standards. No work can begin until the permittee has received a 401 Certification from the SWQB.
2. Copies of 404 authorization letters must be submitted on a monthly basis to the SWQB for projects that have occurred within ephemeral or intermittent drainages or for projects that impacted less than 1/3 acre of wetlands.

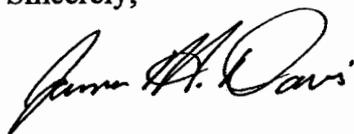
401 Certification Without Conditions:

The SWQB has determined that activities permitted by the NWP's listed below will cause insignificant impacts to State waters and water quality standards. The SWQB hereby certifies that the discharges associated with the following NWP's will comply with the Standards for Interstate and Intrastate Surface Waters, 20.6.1 NMAC (2/23/00) and with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act.

- 1. Aids to Navigation**
- 2. Structures in Artificial Canals**
- 8. Oil and Gas Structures**
- 9. Structures in Fleeting and Anchorage Areas**
- 10. Mooring Buoys**
- 11. Temporary Recreational Structures**
- 20. Oil Spill Cleanup**
- 22. Vessel Removal**
- 24. State Administered Section 404 Programs**
- 30. Moist Soil Management for Wildlife**
- 38. Cleanup of Hazardous and Toxic Waste**

The SWQB specifically reserves the right to amend or revoke this 401 Certification if such activity is necessary to ensure compliance with State water quality standards. If you have any questions regarding this 401 Certification for the Nationwide Permits issued by the COE on March 9, 2000, please call me at 505-827-0187. Thank You.

Sincerely,



James H. Davis, Ph.D., Chief
Surface Water Quality Bureau

JHD: ss

xc: Chris Cudia, Program Manager, NMED Silver City
Richard Prather, Wetlands, Region VI, USEPA
Tod Stevenson, NM Department of Game and Fish
Joy E. Nicholopoulos, U.S. Fish and Wildlife Service