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June 23, 2000

Marc Bailey
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Los Alamos, New Mexico 87545



RE: 401 Water Quality Certification with Conditions - File #2000-042
Emergency Controls to Reduce Erosion from the Cerro Grande Fire
Los Alamos Canyon, Sandia Canyon, Mortandad Canyon, Twomile Canyon,
Pajarito Canyon and associated wetlands, Threemile Canyon, and Canon de Valle

Dear Mr. Bailey:

The Surface Water Quality Bureau (SWQB) of the New Mexico Environment Department has reviewed your application to perform work in several drainages located on Department of Energy property in Los Alamos County, New Mexico. The project includes several measures to reduce potential impacts from erosion and flooding caused by increased runoff from burned areas. These measures include detention basins, re-channelization, culvert replacements, gabion diversions, check dams, and increased road fill.

This project will be regulated by a U.S. Army Corps of Engineers (COE) 404 Nationwide Permit (NWP) #37 for Emergency Watershed Protection and Rehabilitation activities that discharge into Waters of the U.S. (COE File # 2000-00420). The State 401 Water Quality certification is a condition of the COE permit. The purpose of the certification is to ensure that your project will comply with applicable State water quality standards and the Antidegradation Policy. The SWQB has assigned file #2000-042 to the certification for your project.

401 Water Quality Certification with Conditions:

Pursuant to Section 401 of the Clean Water Act and 40 Code of Federal Regulations Part 121, the SWQB hereby grants 401 Certification approval with Conditions for COE NWP#37 – File # 2000-0042 **for the portion of your project that will impact wetlands in Pajarito Canyon (reference in 404 application: Pajarito Canyon - Planned Work, Task#2, Location #7; and additional information sent via e-mail on 6/16/00):** The SWQB can be reasonably assured that project activities will meet State water quality standards and be protective of existing water quality as described in the Antidegradation Policy if the following conditions are implemented:



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1. Prior to beginning work in the borrow pits, a wetland delineation must be completed for all jurisdictional wetlands that will be impacted from the borrow pit excavations. The delineation report must be submitted to the SWQB within 30 days after completion.
2. It is anticipated that the wetland sod placed along the pit bottom could potentially be covered over with sediment and ash from runoff associated with the fire. To document whether these wetlands are permanently lost due to the sediment/ash fill, a report describing the condition of the wetlands must be submitted to the SWQB by December 31, 2002.
3. If wetlands are permanently lost from sediment/ash deposited in the pits, a mitigation plan must be submitted for review and approval to the SWQB by April 1, 2003.
4. The NMED Hazardous and Radioactive Materials Bureau should be contacted if any proposed borrow pits for this project are identified as RCRA Solid Waste Management Units.

No Certification Required for Work in Ephemeral Watercourses:

The SWQB has determined that a written 401 Water Quality Certification is not required from the State for those portions of your proposed project that are located in ephemeral watercourses. However, please be aware that ephemeral watercourses (when flowing) and isolated wetlands within the project area are subject to the *Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.1 NMAC (2/23/00)*. Standards that specifically apply to your project include: Antidegradation Policy (20.6.1.1101); Livestock Watering and Wildlife Habitat Uses (Subsection A of 20.6.1.1103); Stream Bottom Deposits; Floating Solids, Oil, and Grease; Toxic Pollutants; and Turbidity (Subsections A, B, F and J of 20.6.1.1105 NMAC). Please see the attachment for a complete description of these standards.

The SWQB is reasonably assured that your project activities will not adversely affect attainment of State water quality standards or impact existing water quality as described in the Antidegradation Policy. To ensure that you do not violate standards during periods when water is flowing in the ephemeral watercourses, the SWQB recommends that, at a minimum, you implement the following Best Management Practices:

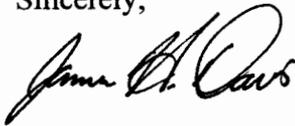
1. Work shall be conducted such that it complies with all conditions of the COE Nationwide Permit # 37 for Emergency Watershed Protection and Rehabilitation
2. Work shall be conducted during conditions of no flow in Los Alamos Canyon, Sandia Canyon, Mortandad Canyon, Twomile Canyon, Pajarito Canyon, Threemile Canyon, and Canon de Valle.
3. Clean fill should be used to construct all berms and diversions.
4. Material removed from sediment detention basins and box culverts should be disposed of properly and not reintroduced into any watercourses.

5. Construction areas shall be protected such that runoff from a precipitation event will not move any disturbed soil to surface water. Disturbed soil and replaced fill shall be properly stabilized and re-vegetated after completion of the work to prevent erosion.
6. All heavy equipment used in the project area shall be steam cleaned prior to the start of the project and inspected daily for leaks. Leaking equipment must not be used in or near any watercourse. Equipment should be parked outside the channel when not in use.
7. Fuel, oil, hydraulic fluid, and other substances of this nature should not be stored within the normal floodplain and must have a secondary containment system to prevent spills if the primary storage container leaks.
8. Spill clean-up materials (i.e. booms, absorbent pads) should be available on-site at all times during construction. Report all spills immediately to the SWQB as required by the New Mexico Water Quality Control Commission regulations (20.6.2.1203 NMAC).
9. A copy of this letter shall be available for inspection at the construction site.

Violations of State water quality standards could lead to penalties under the New Mexico Water Quality Act. Section 74-6-10.1 B of the Act states, "Any person who violates any provision of the New Mexico Water Quality Act other than Section 74-6-5 NMSA 1978 or any person who violates any regulation, water quality standard, or compliance order adopted pursuant to that act shall be assessed civil penalties up to the amount of ten thousand dollars (\$10,000) per day for each violation."

If you have any questions regarding the SWQB's recommendations for compliance with State water quality standards for your project, please contact Sandy Spon at (505) 827-0417. Thank You.

Sincerely,



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

JHD:ss

xc: District II Manager, Los Alamos Field Office, NMED
 John Kieling, Hazardous and Radioactive Materials Bureau
 Ralph Ford-Schmid, DOE Oversight Bureau, NMED
 Barbara Hoditschek, SWQB, NMED
 James Wood, U.S. Army Corps of Engineers, Attn: Regulatory Branch
 Richard Prather, Wetlands, Region 6, USEPA
 Tod Stevenson, NM Department of Game and Fish
 Joy Nicholopoulos, U.S. Fish and Wildlife Service
 401 Certification File #2000-042