



Navajo Nation Environmental Protection Agency
Surface and Ground Water Protection Department

P. O. Box 339, Window Rock, AZ 86515
Phone: 928-871-7755 • Fax: 928-871-7996



JONATHAN NEZ
President

MYRON LIZER
Vice-President

Daniel Delgado, Senior Project Manager
U.S. Army Corps of Engineers-Albuquerque District
Regulatory Division, NM/Texas Branch
4101 Jefferson Plaza NE
Albuquerque, New Mexico 87109-3435

January 6, 2023

Re: Navajo Water Quality Certification – Action No. SPA-2012-00347, Regional General Permit NM/West TX-17-01, Emergency Repair and Protection Activities (Navajo Nation 401 Certification Number 2023-0289WR)

Dear Mr. Delgado:

The Navajo Nation Environmental Protection Agency NPDES Water Quality Program (NNEPA WQP) has reviewed the Draft Regional General Permit (RGP) NM/West TX-17-01 for emergency repair and protection activities within the New Mexico and West Texas (NM/ West TX) Regulatory Branch area of responsibility, which includes New Mexico, parts of west Texas, and the entire Navajo Nation within New Mexico, Arizona, and Utah. The US Army Corps of Engineers, Albuquerque District (Corps) request for a Clean Water Act Section 401 Water Quality Certification for RGP NM/West TX-17-01 (RGP 17-01), Emergency Repair and Protection Activities is granted with conditions for the Project Proponent (Corps). The justification for the requirements of the following conditions is to ensure that all projects and activities permitted by the RGP 17-01 will not violate the Navajo Nation Surface Water Quality Standards:

1. RGP 17-01 applicants shall review the current Navajo Nation Surface Water Quality Standards (NNSWQS). The current NNSWQS may be found at <https://www.epa.gov/sites/default/files/2014-12/documents/navajo-tribe.pdf>. (NNSWQS are updated every few years. Contact the NNEPA WQP to confirm the current version of NNSWQS.)
2. All projects and activities permitted by the RGP 17-01 will not violate the NNSWQS.
3. Corps shall provide to the NNEPA WQP notification of all RGP 17-01 projects within the Navajo Nation
4. RGP 17-01 applicants shall submit a copy of the “Contents of Notification”, as described in RGP -17-01 to the NNEPA WQP when the Corps requires notification.
5. RGP 17-01 applicants shall submit a copy of the “Post Activity Report”, as described in RGP -17-01 to the NNEPA WQP.
6. RGP 17-01 applicants, for projects to maintain or repair an existing structure, shall provide to the NNEPA WQP a description of how the structure failed and what will be done to prevent a future failure.

7. Any information required to be submitted to the NNEPA WQP shall be submitted by emailed to:
patrickantonio@navajo-nsn.gov
Or by mail to:
NNEPA NPDES/ Water Quality Program Manager
PO Box 339
Window Rock, AZ 86515
NNEPA WQP Phone number is 928-871-7185
8. RGP 17-01 applicants shall adhere to all Corps Regional Conditions for the Navajo Nation.
9. RGP 17-01 applicants shall provide a copy of these Clean Water Act § 401 Water Quality Certification conditions for Corps RGP 17-01 to all appropriate contractors and subcontractors. RGP 17-01 applicants shall ensure that these conditions are understood by all appropriate contractors and subcontractors. RGP 17-01 Applicant shall keep at copy of these conditions at the work site where the workers may read it. (Justification – ensures that contractors and subcontractors comply with Navajo Nation Surface Water Quality Standards 2015 (NNSWQS 2015) Sections 203 and 207).
10. Erosion control and/or bank protection features (e.g., silt fences, straw bales, riprap, or mulching) shall be used, where appropriate, to minimize channel or bank erosion and soil loss. These features shall be maintained, as necessary, during pre-construction and construction periods. Denuded areas shall be revegetated as soon as possible with native plants and seed. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
11. Earthen fill placed in locations subject to scour shall contain no more than ten percent (10%) of particles finer than 0.25 mm diameter (passing a No. 60 sieve, on a dry weight basis) unless it is native fill material being placed back into the area from which it was dredged (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
12. Upon completion of work activities, the work area shall be restored to maintain the stability of upstream and downstream segments of the impacted surface water bodies listed above with respect to erosion and sedimentation. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
13. RGP 17-01 applicants are responsible for ensuring construction material and/or fill, placed within the ordinary high water mark (OHWM), is free from substances (including fines that may be associated with rip-rap material) that can cause or contribute to pollution of a surface water (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
14. Debris (such as soil, silt, sand, construction debris, rubbish, cement, asphalt, oil or petroleum products, organic materials, tires and/or batteries) derived from site activities shall not be deposited at any site where it may be washed into Water of the United States and shall be properly disposed at a facility approved to accept such debris after completion of the work. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
15. RGP 17-01 applicants shall have a spill containment plan to ensure that pollutants are contained, removed and properly disposed of. In addition, equipment maintenance shall be performed at an upland site away from Waters of the Navajo Nation. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
16. Runoff and seepage from alterations of the natural environment into the impacted surface water bodies listed above shall not cause a violation of NNSWQS 2015 Sections 203 and 207.
17. Construction materials, including concrete, asphalt, and piping, shall consist of materials that do not leach pollutants into surface or ground waters. Activities shall be conducted and monitored to ensure that pollution from concrete formation and equipment washing does not drain into surface or

ground waters (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).

18. At completion, all work residues, equipment and non-native materials shall be removed from and properly disposed outside the 100-year floodplain. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
19. At completion, all work residues, equipment and non-native materials shall be properly disposed at a facility approved to accept such waste. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
20. Stockpiles of materials shall be stored outside of jurisdictional waters. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
21. No discharge of process water, material processing residue, wastewater or other residual material is authorized within jurisdictional waters. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).
22. Flows shall be diverted around work operations or the work shall be performed during low water conditions when the area is naturally dewatered. When there is water flow within the work area, work activity shall cease and work equipment relocated outside the watercourse. (Justification – ensures that contractors and subcontractors comply with NNSWQS 2015 Sections 203 and 207).

This conditional certification is approved with the understanding that the subject activities are consistent with all applicable Corps terms, conditions, and regional conditions. If there are any substantive changes in the proposed project that may affect water quality, the applicant shall notify the Corps and NNEPA WQP. Failure to do so will result in revocation of this certification. This certification is valid for the period specified in the RGP 17-01. If for some reason the Corps RGP 17-01 is revoked, suspended or modified, this certification may also be revoked, suspended or modified.

If you have any questions, please contact Patrick Antonio, Program Manager/Principal Hydrologist, with the NNEPA Water Quality/NPDES Program at (928) 871-7185.

Sincerely,



Yolanda Barney, Director, Surface and Groundwater Protection
Navajo Nation Environmental Protection Agency

Copy furnished:

USEPA, Region IX – Thomas Torres, Director, Water Division, 75 Hawthorne Street, San Francisco, CA 94105.
NNEPA/WQP & NPDES Programs, Post Office Box 339, Window Rock, AZ 86515