



PUEBLO OF SANTA ANA

OFFICE OF THE GOVERNOR

08 December 2022

Daniel I. Delgado
U.S. Army Corps of Engineers Albuquerque
District Regulatory Division
4101 Jefferson Plaza NE
Albuquerque, NM 87109

RE: Water Quality Certification – Action No. SPA2012-00347 Regional General Permit NM/West TX-17-01, Emergency Repair and Protection Activities

Dear Mr. Delgado:

The Pueblo of Santa Ana (the Pueblo) respectfully submits its Clean Water Act Section 401 Certification for the Re-issuance of Regional General Permit (RCP) NM/TX-17-01, Emergency Repair and Protection Activities”. The Pueblo certifies the referenced permit with the conditions listed in Attachments A and B.

If you have any questions, please contact Tammy Montoya at (505) 771-6739 or Andrew Sweetman at (505) 771-6757.

Sincerely,

Pueblo of Santa Ana
Joseph Sanchez, Governor

Attachment A: Pueblo of Santa Ana Permit Conditions
Attachment B: Pueblo of Santa Ana Antidegradation Policy

cc: Andrew Sweetman, Pueblo of Santa Ana Water Resources Division Manager
Tammy Montoya, Pueblo of Santa Ana Hydrologist

Attachment A
Pueblo of Santa Ana Permit Conditions:

1. The permittee shall provide a copy of the Notice of Intent (NOI) to the Pueblo of Santa Ana (the Pueblo), at the same time it is submitted to the U.S. Army Corps of Engineers, Albuquerque District (the Corps), for projects with discharges onto the lands of the Pueblo as defined in the Pueblo's antidegradation policy within the Pueblo of Santa Ana Water Quality Standards (see Attachment B).
2. Upon completion of the project identified in the NOI, the permittee will submit a Notice of Termination (NOT) to the Pueblo.
3. All required or requested permittee specific information identified above shall be submitted to the following address:

Pueblo of Santa Ana Department of Natural Resources, Attention: Water Resources Division
2 Dove Road, Santa Ana Pueblo, NM, 87004

4. Discharges are not authorized by the permittee unless an accurate and complete NOI have been submitted to the Pueblo. Failure to provide an accurate and complete NOI may result in a denial of the discharge permit, or a delay in the project.
5. The permittee could be required to perform water quality monitoring, sampling, or analysis during the active permit dates for constituents determined by the Pueblo.
6. Before submitting a NOT, permittees must certify to the Pueblo's Department of Natural Resources in writing that requirements for site stabilization have been met, and any temporary erosion control structures have been removed.

Attachment B

Section II. ANTIDegradation Policy and Implementation Plan

A. Antidegradation Policy:

The **Antidegradation** Policy of the Pueblo is as follows:

1. Existing uses and water quality levels necessary to protect existing uses shall be maintained and protected.
2. Where existing water quality exceeds levels necessary to support propagation of fish and wildlife and recreation in and on the water, that level of water quality shall nonetheless be maintained and protected unless it is found, after full satisfaction of governmental and public participation requirements, that a lower level of water quality is required in order to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation of water quality, the Pueblo of Santa Ana shall impose the highest statutory and regulatory requirements for **point sources** and shall impose **best management practices** for **non-point sources**.
3. The Pueblo shall require the highest statutory and regulatory requirements for all new and existing **point sources** and all cost-effective and reasonable management practices for **non-point source** control.
4. The Pueblo of Santa Ana will evaluate and identify high quality waters described in Section II(A)(2) on a parameter-by-parameter basis.
5. Where high quality water constitutes an exceptional recreational, cultural, or ecological resource, those waters may be designated as Outstanding Tribal Resource Waters. No permanent degradation of Outstanding Tribal Resource Waters shall be permitted from their current condition for any reason.
6. Prior to lowering high water quality for waters described in Section II(A)(2), the Pueblo shall conduct an analysis of alternatives is, and if practicable alternatives are identified, then one of those alternatives may need to be selected in order for the lowering of the high-quality water to be allowed.
7. In those cases where potential water quality impairments associated with thermal discharge are involved, the **antidegradation** policy and implementation method shall be consistent with Section 316 of the Clean Water Act, as amended, (33 U.S.C. Section 1326 (1987)).

B. Implementation Plan

Acting under authority delegated by the Pueblo of Santa Ana Tribal Council, the Pueblo of Santa Ana Department of Natural Resources (DNR) shall implement the Pueblo of Santa Ana Water Quality Standards, including the **Antidegradation** Policy, by establishing and maintaining controls on the introduction of pollutants into **surface waters of the Pueblos**. More particularly, the DNR shall do the following:

1. monitor water quality (chemical, physical, and biological) to assess the effectiveness of pollution controls and to determine whether water quality standards are being attained;
2. evaluate the impact of effluents on receiving waters;
3. advise prospective dischargers of discharge requirements;
4. review the adequacy of the existing data base identifying the Pueblo's waters, the data available to determine the quality of those waters and to compare to the **designated uses**

- for those waters, and obtain additional data when required;
5. require the **Best Available Technology (BAT)** of wastewater treatment **practicable** to protect and maintain **designated uses** and existing water quality consistent with long-term environmental protection objectives;
 6. develop water quality based **effluent** limitations and comment on technology-based **effluent** limitations, as appropriate, for inclusion in any federal permit issued to a discharger pursuant to Section 402 of the Clean Water Act (33 U.S.C. Section 1342), and review of Section 404 permits of the Clean Water Act (33 U.S.C. Section 1344);
 7. require that these **effluent** limitations be included in any such permit as a condition for Tribal certification pursuant to Section 401 of the Clean Water Act, (33 U.S.C. Section 1341), provided that a reasonable time for compliance may be considered as part of the certification process for any existing permits.
 8. coordinate water pollution control activities with other tribal, local, state, and federal agencies, as appropriate;
 9. develop and pursue an inspection program and enforcement strategy in order to ensure that **National Pollutant Discharge Elimination Systems (NPDES)** dischargers comply with requirements of the Clean Water Act (CWA) and the Pueblo of Santa Ana Water Quality Standards and any requirements promulgated thereunder, and in order to support the compliance and enforcement of Federal **NPDES** permits by the U.S. Environmental Protection Agency;
 10. encourage voluntary implementation of **best management practices** to control **non-point sources** of pollutants to achieve compliance with the Pueblo of Santa Ana Water Quality Standards;
 11. ensure that the provisions for public participation required by these Standards and the Clean Water Act are followed;
 12. determine if instream flows are adequate to support **designated uses** and meet narrative and numeric water quality standards, and if surface and groundwater withdrawals cause or contribute to degradation of unique surface or ground waters, in coordination with the Water Resources Division Manager;
 13. implement policies and procedures to protect designated Outstanding Tribal Resource Waters according to an implementation plan adopted by the Tribal Council;
 14. if necessary, in consultation with the WRDM and subject to the approval of Pueblo of Santa Ana Tribal Council, designate streams as perennial, intermittent or **ephemeral** and determine numeric low flow values; and
 15. provide technical oversight and planning support to other departments within the Pueblo's administration and/or the Enterprises owned by the Pueblo in order to accomplish the objectives of the Water Quality Standards. These departments may include Santa Ana Gaming Commission, Hospitality, Tamaya Ventures, Tamaya Housing, Tribal Resources, Wellness, Agriculture, Natural Resources, Education and Maintenance.