



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

APR 14 2017

Mr. Allan Steinle
Chief, Regulatory Division
Albuquerque District, Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

RE: Update to Certification of 2017 Clean Water Act Section 404 Nationwide Permits for use in Indian country in EPA Region 6

Dear Mr. Steinle:

The U.S. Environmental Protection Agency (EPA) is the agency required to address water quality certification of the Corps of Engineers 2017 Clean Water Act Section 404 nationwide permits (NWP) in Indian country where a tribe has not received treatment in the same manner as a state for the Clean Water Act (CWA) Section 401 program.

This letter serves to update our certification letter of March 2, 2017. Since that time we have been able to add the Pueblo of Zia and the Jicarilla Apache Nation to the list of tribes that are aware of the procedures and details of the NWPs and requested that EPA certify them for use on tribal land.

Therefore, with the addition of the enclosure titled *401 Certification Conditions for the 2017 Nationwide Permits for Tribal Lands in Louisiana, New Mexico, Oklahoma, and Texas* we hereby certify the use of the 2017 NWPs for use on the Pueblo of Zia and the Jicarilla Apache Nation.

If wish to discuss this certification or are aware of other tribes that wish to be added to the list, please contact Tom Nystrom of my staff at (214) 665-8331.

Sincerely,

A handwritten signature in blue ink that reads "WK Honker".

William K. Honker, P.E.
Director
Water Division

Enclosure

401 Certification Conditions for the 2017 Nationwide Permits for
Tribal Lands in Louisiana, New Mexico, Oklahoma, and Texas

1. The permittee shall conduct all work in such a manner as to comply with all U.S. Army Corps of Engineers §404 permit conditions.
2. The permittee shall keep a copy of this certification with conditions at the project site during all phases of construction. All contractors or subcontractors involved in the project must be provided a copy of this certification prior to commencement of activities.
3. All heavy equipment used in the project areas shall be steam cleaned before the start of the project and inspected daily for leaks. Leaking equipment must not be used in or near surface water or in a wetland area equipment shall be parked outside the waterbody when not in use.
4. All fuels, oil, hydraulic fluid, or other substances of this nature must not be stored, temporarily or otherwise, within the normal floodplain or the wetland. A secondary containment system for these items shall be used in the event the primary containment system leaks. Refueling of servicing of equipment must not take place within 100 feet of any watercourse or within the wetland area.
5. The construction area shall be protected such that a runoff event will not move soil or contaminants to surface water or away from the construction site. These measures shall be in place prior to the commencement of activities and inspected daily.
6. Temporary mats must be placed on stream banks, riparian areas, and wetlands, to minimize impacts to soil and vegetation from heavy equipment. Temporary access roads must be restored to pre-project conditions.
7. All asphalt, concrete, and other construction materials must be properly handled and contained to prevent releases to the stream channels. All concrete that is to be poured must be fully contained in mortar-tight forms to prevent accidental releases to surface water or ground water. No discharge of any concrete to surface water or ground water may occur. Dumping of waste materials near watercourses is strictly prohibited.
8. Work in a stream channel should be limited to periods of no flow when practicable, and must be limited to periods of low flow. Avoid working within the channel during spring runoff or summer thunderstorm season.
9. When working in a stream channel, flowing water must be temporarily diverted around the work area to minimize sedimentation and turbidity problems. Acceptable diversion structures are non-erosive and include (but are not limited to) sand bags, water bladders, concrete barriers lined with plastic, and flumes.
10. The permittee shall restore all areas disturbed by construction activities to pre-project conditions. This shall include restoration of surface contours, stabilization of the soil, and restoration of appropriate native vegetation to establish permanent cover.
11. Prior to commencement of each project, the permittee shall contact the Tribe to obtain a list of emergency response personnel. The permittee shall provide this list to all staff, contractors and subcontractors.
12. Immediate initiation of consultation with the tribe is required should any human remain or artifacts be unearthed during the project that fall under the Native American Graves Protection and Repatriation Act guidelines.