



STEVEN A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN
Governor

April 9, 2012

Mr. Andrew R. Commer
Chief, Regulatory Office
U.S. Army Corps of Engineers, Tulsa District
1645 South 101st East Avenue
Tulsa, OK 74128-4609

Re: Water Quality Certification for Nationwide Permits

Dear Mr. Commer:

We have received your request for a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (Public Law (P.L.) 92-500), as amended by the Clean Water Act of 1977 (P.L. 95-217), for activities to be permitted under the Nation Wide Permits issued pursuant to Section 404 of the Act with an effective date of March 19, 2012. The Department of Environmental Quality rules governing 401 Certification are contained in Oklahoma Administrative Code (OAC) 252:611-3-1 through 252:611-3-6 pursuant to 27A Oklahoma Statute, Section 2-6-103(C)(2). For copies of the Department's rules and regulations related to the 401 procedures, please contact the Customer Assistance Division at (405) 702-6100.

This Water Quality Certification supersedes all previous Water Quality Certifications for the Nationwide Permits in the State of Oklahoma.

The DEQ requests that all Pre-Construction Notifications (PCN) and information pertaining to any project, regardless of size, located within any designated Critical Resource Water which is proposed to be authorized under NWP 20 be provided to the DEQ. Additionally, the DEQ requests the opportunity to review and comment on these proposed actions following the time frames specified in the NWP General Condition 31. The DEQ will expedite the review and notification process when practicable. This request is not a condition of certification.

Water Quality Certification for Nationwide Permits 3, 13, 18, 41, 45, 46, 51 and 52 is denied for all activities located within any designated Critical Resource Water.

Water Quality Certification for Nationwide Permits 49 and 50 are denied for all activities in all watersheds of Oklahoma. We are concerned that use of these permits could lead to more than minimal impacts on waters of the State.

For Nationwide Permit 16, discharges associated with Upland Contained Disposal Areas, the certification is conditioned as follows: the discharge shall not contain a Total Suspended Solids (TSS) concentration of greater than 45 mg/L daily maximum and shall maintain a pH between 6.5 and 9.0. The TSS daily maximum shall be monitored by grab sample collected at least once a year during discharge. The limits and monitoring may be waived on a site-specific basis through implementation of a DEQ approved set of BMPs. The BMPs shall be submitted to the DEQ, approved, and implemented before commencing any discharge.

The DEQ acknowledges that the potential to use NWP 34 or 48 in Oklahoma is not likely. However, for administrative clarity the Water Quality Certification is denied for NWP 34 and 48.



Subject to the exceptions noted above, the DEQ grants Clean Water Act 401 Water Quality Certification for the Corps of Engineers Nationwide Permits subject to the following conditions:

1. All spills of fuel or other pollutants in excess of five gallons shall be reported to the DEQ, within twenty-four (24) hours, to the pollution prevention hotline at 1-800-522-0206.
2. All fueling and servicing of vehicles and equipment shall be done above the Ordinary High Water Mark (OHWM).
3. The permittee shall provide access to the property for DEQ inspection purposes.
4. Any material and fuels used in the project shall be stored and/or stockpiled above the Ordinary High Water Mark (OHWM) and shall be removed from a likely flood zone prior to any predicted flood.
5. If a stormwater discharge permit for construction activities is required, one can be obtained from the DEQ at (405) 702-8100.
6. If the project is located on or may affect water impaired for turbidity and/or sediment, Best Management Practices and other controls shall be selected and implemented in order to control soil erosion and maintain compliance with Water Quality Standards (Oklahoma Administrative Code, Chapter 45). The permittee shall maintain sufficient records to document the type of practices implemented to maintain compliance with this condition, during the term of the permit. A copy of the current EPA-approved list of impaired waters (303(d) list) can be viewed at http://www.deq.state.ok.us/wqdnew/305b_303d/index.html
7. For any project involving bank stabilization, the permittee shall consider installing bioengineering practices in lieu of structural practices (riprap) to minimize impacts to the aquatic resource and enhance aquatic habitat.

If you have any questions regarding this Certification, please contact Elena Jigoulina at 405-702-8200.

Sincerely,



Mark Derichsweiler, P.E.
Engineering Manager
Watershed Planning and Storm Water Permitting Section
Water Quality Division, DEQ

SCM/WTC/TW/MD/ED/EJ

cc: Michael Ware, Regulatory Branch, U.S. Corps of Engineers; Tulsa
Director, Oklahoma Department of Wildlife Conservation
Director, U.S. Fish and Wildlife Service, Tulsa
Regional Administrator, EPA Region 6 (6E-FT)
Tom Bates, Public Protection Unit Chief, Attorney General of Oklahoma
Mike Thralls, Oklahoma Conservation Commission
Derek Smithee, Oklahoma Water Resources Board, Water Quality Programs Division
Ed Fite, Administrator, Oklahoma Scenic Rivers Commission