



STEVEN A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN
Governor

May 11, 2007

Mr. David A. Manning
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. Manning:

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, 2007. 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 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 19, 20, 23, 27, 33, or 37 be provided to the DEQ. Additionally, the DEQ requests the opportunity to review and comment on these proposed actions. The DEQ requests 10 days to review the PCN and notify the COE of our intent to submit comments. If the DEQ provides notification of intent to comment, the DEQ requests 5 days to submit written comments on the proposed project. 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, 7, 12, 13, 14, 16, 17, 18, 21, 29, 31, 39, 40, 41, 42, 43, 44, 45, 46, and 47 is denied for all activities located within any designated Critical Resource Water.

Water Quality Certification for Nationwide Permits 49 and 50 is denied for all activities in all watersheds of Oklahoma. We are concerned that the lack of limits on applicability 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.

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

EJ/WTC/GWJ/MD/JLC/ED

cc: Shane Charlson, 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)
Kelly Hunter-Burch, Chief Environmental Protection Unit, Oklahoma Attorney General
Mike Thralls, Oklahoma Conservation Commission
Ed Fite, Administrator, Oklahoma Scenic Rivers Commission