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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
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MAR 21 2012

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RE: Certification of 2012 Nationwide Permits for use in Indian country in EPA Region 6

Dear Colonel:

The Environmental Protection Agency (EPA) is the agency required to address water quality certification of the 2012 nationwide permits (NWPs) 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.

For the Section 401 certification of the 2012 NWPs, EPA is using the same list of conditions used to certify the 2007 NWPs. Prior to this certification we have contacted 55 potentially affected Indian tribes in EPA Region 6 and provided an opportunity for review of the proposed conditions. Our goal in adding this list of conditions to the certification is to assist Indian tribes in full protection of water quality. Therefore, with the addition of the enclosure titled "401 Certification Conditions of Nationwide Permits for Indian country in Louisiana, New Mexico, Oklahoma, and Texas" we hereby certify the use of the 2012 NWPs for use in Indian country.

If you have any questions, or wish to discuss these conditions or other Section 404 program issues please contact Tom Nystrom of my staff at (214) 665-8331

Sincerely,

William K. Honker, P.E.
Acting Director
Water Quality Protection Division

Enclosure

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401 Certification Conditions of 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 of 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.