



SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN
Governor

February 24, 2017

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 the U.S. Army Corps of Engineers (Corps) Nationwide Permits

Dear Mr. Commer:

The Department of Environmental Quality (DEQ) has received your request for a Water Quality Certification under Section 401 of the Federal Clean Water Act [33 U.S.C. §1251 et seq. (1972)], for activities to be permitted under the Nationwide Permits issued pursuant to Section 404 of the Act with an effective date of March 19, 2017. 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 DEQ rules and regulations related to the 401 procedures, please access it online at www.deq.state.ok.us/rules/611.pdf or contact the DEQ Office of External Affairs at (800) 869-1400.

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 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 following the time frames specified in the NWP General Condition 32. 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, and 53 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, *Return Water From Upland Contained Disposal Areas*, the certification is conditioned as follows: a DEQ approved set of Best Management Practices for sediment control in return water shall be submitted to the DEQ, approved, and implemented before commencing any discharge.

The DEQ acknowledges that the potential to use NWP 34, 48 or 54 in Oklahoma is not likely. However, for administrative clarity the Water Quality Certification is denied for NWP 34, 48, and 54.



Subject to the exceptions noted above, the DEQ grants Clean Water Act 401 Water Quality Certification for the Corps 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) 702-6100.
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 (e.g. riprap) to minimize impacts to an aquatic resource and enhance aquatic habitat.

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

Sincerely,



Joe Long, Environmental Programs Manager
Watershed Planning Section
Water Quality Division

cc: David Carraway, Regulatory Project Manager, Regulatory Branch, Corps, Tulsa
J.D. Strong, Director, Oklahoma Department of Wildlife Conservation
Lauren Poulos, Life Scientist, Wetland Section, EPA Region 6
Julie Bays, Public Protection Unit Chief, Attorney General of Oklahoma
Brooks Tramell, Director, Monitoring, Assessment & Wetlands Programs, Oklahoma Conservation Commission
William Cauthron, Interim Director, Water Quality Programs Division, Oklahoma Water Resources Board,
Darrell Townsend II, Ph.D., Director, Ecosystems Management, Grand River Dam Authority