



State of Utah

Department of
Environmental Quality

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Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

JON M. HUNTSMAN, JR.
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April 16, 2007

Michael S. Jewell
Chief, Regulatory Branch
U.S. Army Engineer District-Sacramento
1325 J Street
Sacramento, CA 95814-2922

Dear Mr. Jewell:

Subject: Water Quality Certification
Nationwide Permits – Agency Comments

Purpose: Section 401 Water Quality Certification for all Nationwide Permits

Pursuant to Section 401 of the Clean Water Act, the Utah Division of Water Quality (DWQ) has determined that applicable water quality standards may be violated and cumulative impacts may occur unless 401 certification criteria and appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment load to any adjacent waters during Nationwide Permit (NWP) project activities.

Over the past 5 years, several additional surface waters have been listed on the 303(d) list as impaired for selenium, nutrients, total dissolved solids, and temperature. Total maximum daily loads (TMDLs) have been established for 32 streams or stream segments, 9 are pending EPA approval and studies are currently underway for 16 waterbodies. We recommend that water quality parameters be monitored for effectiveness of BMPs, especially turbidity, as part of the NWP protocol for all projects within or adjacent to surface water.

As a condition for 401 certification, the Utah DWQ requires that the following conditions be included in all NWPs that require notification to the District Engineer prior to commencing work to ensure that the activities authorized by the NWPs have minimal individual and cumulative adverse impacts on the aquatic environment:

1. Whenever an applicant causes the water turbidity in an adjacent surface water to increase by 10 NTU's or any visible increase in turbidity as a direct result of the project, the applicant shall notify the Utah DWQ.
2. The applicant shall not use any fill material which may leach organic chemicals (e.g., discarded asphalt) or nutrients (e.g., phosphate rock) into the receiving water.
3. Applicant shall protect any potentially affected fish spawning areas.
4. Utah Code Annotated 19-5-114 requires that any spill or discharge of oil or

other substance which may cause pollution to the waters of the state must be reported to DWQ immediately.

5. In an effort to abate pollution as a result of NWP activities, the applicant shall remediate riparian areas along stream banks to minimize water quality impacts if vegetation is disturbed as a result of a project.

The above-listed conditions provide direction for NWP applicants to contact our office for further assistance or review our web site at waterquality.utah.gov for permit information. If you have any questions concerning any water quality conditions for NWPs or if you believe that the conditions do not meet your regulations at 33 CFR Part 325.4, please contact Shelly Quick at (801) 538-6516 for further discussion of this issue.

Sincerely,



Walter L. Baker, P.E.
Director

WLB:sq

cc: Jason Gipson, Corps of Engineers, Utah Regulatory Office

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