



STATE OF MISSISSIPPI

PHIL BRYANT
GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

April 20, 2012

Certified Mail No. 7011 3500 0000 3106 4188
Mr. Michael F. McNair
Regulatory Branch Chief
U.S. Army Corps of Engineers, Vicksburg District
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Dear Mr. McNair:

Re: U.S. Army Corps of Engineers
Nationwide Permit No. 14
COE No. MVK-2012-196
WQC No. WQC2012024

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, to the U.S. Army Corps of Engineers, an applicant for a Federal License or permit to conduct the following activity:

U.S. Army Corps of Engineers, Nationwide Permit No. 14, Linear Transportation Projects: Nationwide Permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. The U.S. Army Corps of Engineers issues nationwide permits to authorize certain activities that require Department of the Army permits under Section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899.

Nationwide Permit No. 14 – Linear Transportation Projects authorizes activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

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OFFICE OF POLLUTION CONTROL

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This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands.

Note: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4) [MVK-2012-196, WQC2012024].

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

1. The permittee shall obtain appropriate wastewater permits and/or approvals for the proposed activity prior to the commencement of construction activities.
2. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within waterways found on the latest version of the State of Mississippi's Section 303(d) List of Impaired Water Bodies for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
 - a. Justification of why the impacts cannot be avoided;
 - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters; and

- c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
3. For projects greater than five acres of total ground disturbances including clearing, grading, excavating or other construction activities, the applicant shall obtain the necessary coverage under the State of Mississippi's Large Construction Storm Water General NPDES Permit. For projects greater than one to less than five acres of total ground disturbances including clearing, grading, excavating or other construction activities, the applicant shall follow the conditions and limitations of the State of Mississippi's Small Construction Storm Water General NPDES Permit. No construction activities shall begin until the necessary approvals and/or permits have been obtained.
4. In cases where a pre-construction notification is required to the U.S. Army Corps of Engineers, a pre-construction notification shall be provided to MDEQ for projects associated with hydrofracking activities for oil and gas exploration. Unless verification is provided that the proposed activities have been previously reviewed and approved through a master planning process, MDEQ shall be allowed 10 working days to provide comments for the proposed activities. For activities not previously included in an approved master planning process, the pre-construction notification to MDEQ shall include the following:
 - a. Impacts resulting from authorizations for oil and gas exploration shall be minimized to the maximum extent practicable;
 - b. A mitigation plan for unavoidable impacts shall be provided and should be within the same watershed as practicable;
 - c. All fill shall be removed in the event that production is not achieved; and
 - d. A plan for restoring the sites in the event production is not achieved.
5. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained.
6. This NWP shall not apply to natural tidal waters for personal transportation.
7. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
8. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If we can be of further assistance, please contact us.

Sincerely,



Richard Harrell, P.E., DEE
Director, Office of Pollution Control

RH: cb

cc: U.S. Army Corps of Engineers, Mobile District
Attn: Mr. Craig Litteken, Regulatory Branch Chief
U.S. Army Corps of Engineers, Memphis District
Attn: Mr. Tim H. Flinn, Acting Regulatory Branch Chief
U.S. Army Corps of Engineers, Nashville District
Attn: Mr. Brad Bishop, Western Regulatory Section Chief
Mr. Jan Boyd, Department of Marine Resources
Ms. Kathy Lunceford, U.S. Fish and Wildlife Service
Mr. William Cox, Environmental Protection Agency