



STATE OF MISSISSIPPI

PHIL BRYANT
GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

March 23, 2012

Certified Mail No. 7011 3500 0000 3106 4386
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. 32
COE No. MVK-2012-196
WQC No. WQC2012041

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. 32, Completed Enforcement Actions: 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. 32 – Completed Enforcement Actions authorizes any structure, work, or discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with either:

- (i) The terms of a final written Corps non-judicial settlement agreement resolving a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or the terms of an EPA 309(a) order on consent resolving a violation of Section 404 of the Clean Water Act, provided that:

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OFFICE OF POLLUTION CONTROL

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- (a) The unauthorized activity affected no more than 5 acres of non-tidal waters or 1 acre of tidal waters;
 - (b) The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity that is authorized by this NWP; and
 - (c) The district engineer issues a verification letter authorizing the activity subject to the terms and conditions of this NWP and the settlement agreement, including a specified completion date; or
- (ii) The terms of a final Federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the United States under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or
- (iii) The terms of a final court decision, consent decree, settlement agreement, or non-judicial settlement agreement resulting from a natural resource damage claim brought by a trustee or trustees for natural resources (as defined by the National Contingency Plan at 40 CFR subpart G) under Section 311 of the Clean Water Act, Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, Section 312 of the National Marine Sanctuaries Act, Section 1002 of the Oil Pollution Act of 1990, or the Park System Resource Protection Act at 16 U.S.C. 19jj, to the extent that a Corps permit is required.

Compliance is a condition of the NWP itself. Any authorization under this NWP is automatically revoked if the permittee does not comply with the terms of this NWP or the terms of the court decision, consent decree, or judicial/non-judicial settlement agreement. This NWP does not apply to any activities occurring after the date of the decision, decree, or agreement that are not for the purpose of mitigation, restoration, or environmental benefit. Before reaching any settlement agreement, the Corps will ensure compliance with the provisions of 33CFR part 326 and 33 CFR 330.6(d)(2) and (e) [MVK-2012-196, WQC2012041].

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. For projects greater than five acres of total ground disturbances including clearing, grading, excavating or other construction activities, the applicant shall

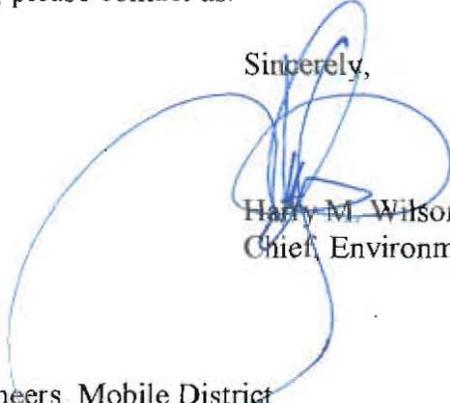
obtain the necessary coverage under the State of Mississippi's Large Construction Storm Water General NPDES Permit. For projects greater than one to less than five acres of total ground disturbances including clearing, grading, excavating or other construction activities, the applicant shall follow the 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.

3. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
4. 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,



Harry M. Wilson, P.E., DEE
Chief, Environmental Permits Division

HMW: 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