



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 4478
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. 40
COE No. MVK-2012-196
WQC No. WQC2012049

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. 40, Agricultural Activities: 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. 40 – Agricultural Activities authorizes discharges of dredged or fill material into non-tidal waters of the United States for agricultural activities, including the construction of building pads for farm buildings. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in waters of the United States; and similar activities.

This NWP also authorizes the construction of farm ponds in non-tidal waters of the United States, excluding perennial streams, provided the farm pond is used

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solely for agricultural purposes. This NWP does not authorize the construction of aquaculture ponds.

This NWP also authorizes discharges of dredged or fill material into non-tidal waters of the United States to relocate existing serviceable drainage ditches constructed in non-tidal streams.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States, including the loss of no more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds the district engineer waives the 300 linear foot limit by making a written determination concluding that the discharge will result in minimal adverse effects. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity.

Note: Some discharges for agricultural activities may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4). This NWP authorizes the construction of farm ponds that do not qualify for the Clean Water Act Section 404(f)(1)(C) exemption because of the recapture provision at Section 404(f)(2) [MVK-2012-196, WQC2012049].

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:

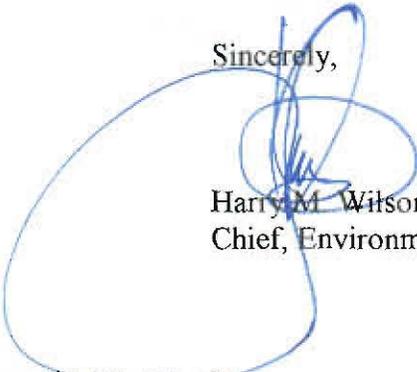
1. The permittee shall obtain appropriate wastewater permits and/or approvals for the proposed activity prior to the commencement of construction activities.
2. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include 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. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
5. 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