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January 25, 2016

Mr. Chris Wrbas
U.S. Army Corps of Engineers
Durango Regulatory Office
1970 East 3rd Ave. Suite 109
Durango, CO 81301

SUBJECT: Clean Water Act Section 401 Water Quality Certification, NMED SWQB File 1251, Penny Lane Low Head Dam Modifications, San Juan County, New Mexico

Dear Mr. Wrbas:

The New Mexico Environment Department (NMED) has examined the application for the project indicated above under §§404 and 401 of the federal Clean Water Act (CWA). According to the application, this project involves improving boater safety, recreation, fish passage, and floodplain functioning through modification of the diversion structure and immediate vicinity. This work includes constructing a new concrete ramp, creating an in-channel wave that is desirable to the boating community, improving an existing boat ramp, and developing a small access road and parking area,

CERTIFICATION PROCESS: The U.S. Army Corps of Engineers (USACE) will regulate this project under a Standard Individual Permit (USACE Action SPA-2015-00366-ABQ). A state Water Quality Certification is required by CWA §401 to ensure that the permit is consistent with state law (New Mexico Water Quality Act, §§74-6-1 through 74-6-17, NMSA 1978) and complies with the state Water Quality Standards (*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC) amendments effective on January 14, 2011*), the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certification (20.6.2.2002, NMAC), NMED issued a public notice of this activity and announced a public comment period, posted on the Surface Water Quality Bureau's web site: (www.nmenv.state.nm.us/swqb/WQA/Notice) on October 19, 2015. The public comment period ended on November 20, 2015. Four comments were received, three generally in support of this project and one opposed. USACE requested the applicant to respond to one comment, which NMED also reviewed.

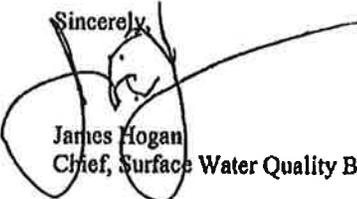
Conditional §401 Certification of permit: The following conditions are necessary to assure compliance with the applicable provisions of CWA §§301, 302, 303, 306, and 307 and with applicable requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico certifies that the discharge will comply with these provisions and requirements upon inclusion of the following conditions in the permit:

1. Fuel, oil, hydraulic fluid, lubricants, and other petrochemicals must not be stored within the 100-year floodplain and must have a secondary containment system capable of containing twice the volume of the product. Appropriate spill clean-up materials such as booms and absorbent pads must be available on-site at all times during construction.
2. All heavy equipment used in the project area must be pressure washed and/or steam cleaned before the start of the project and inspected daily for leaks. A written log of inspections and maintenance must be completed and maintained throughout the project period. Leaking equipment must not be used in or near surface water. Refuel equipment at least 100 feet from surface water.
3. Local weather forecasts must be monitored to avoid working in high water. Work in the stream channel must be limited to periods of no flow.
4. Temporary crossings should be restricted to specific designated locations. Heavy equipment must not be parked within the stream channel.
5. Protective measures must be used to prevent all excavated soil or rock from entering surface water.
6. All structures must be properly designed, installed and maintained to allow passage of sediment, bedload, and woody debris, and to prevent erosion problems or diversion of the stream from its natural channel.
7. All areas adjacent to the watercourse that are disturbed because of the project, including temporary access roads, stockpiles and staging areas, must be restored to pre-project elevations. Disturbed areas outside the channel that are not otherwise physically protected from erosion must be reseeded or planted with native vegetation.
8. A copy of this Certification must be kept at the project site during all phases of construction.
9. All contractors involved in the project must be provided a copy of this certification and made aware of the conditions prior to starting construction.

If you have any questions regarding this §401 Water Quality Certification, please feel free to contact Neal Schaeffer of my staff at 505-476-3017.

Sincerely,



James Hogan
Chief, Surface Water Quality Bureau

JH:cns

xc: Allen Steidle, Regulatory Division Chief, USACE
Tom Nystrom, Wetlands, Region 6, USEPA
Matthew Wunder, New Mexico Department of Game and Fish
U.S. Fish and Wildlife Service
401 Certification File 1251