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Official Correspondence Form

Name:	U1102512
Title:	Clean Water Act Section 401 Water Quality Certification for NMED SWQB File 872 Water Canyon, Phase II (culvert replacement), Los Alamos County, New Mexico
Date Received:	12/21/2011
Addressee Name:	Robert Beers, RCRA
Originator:	James P. Bearzi, NMED
Action Item Description:	
Action Due Date:	
Responsible for Action:	Search
Responsible Office:	
Distribution:	Robert Beers Michael Graham Charles McMillan Elizabeth Sellers Richard Marquez Paul Henry Michael Brandt Scotty Jones Deborah K. Woitte William Alexander Phoebe K. Suina Anthony R. Grieggs Tina Sandoval

NEW MEXICO
ENVIRONMENT DEPARTMENT

Surface Water Quality Bureau

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DAVE MARTIN
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BUTCH TONGATE
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EP2011-5564

December 17, 2011

CERTIFIED MAIL NO.7008 1830 0003 4176 7977

Mr. Robert Beers
Los Alamos National Labs
P.O. Box 1663
MS K490
Los Alamos, New Mexico 87545

Re: Clean Water Act Section 401 Water Quality Certification for NMED SWQB File 872: Water Canyon, Phase II (culvert replacement), Los Alamos County, New Mexico.

Dear Mr. Beers:

The New Mexico Environment Department (NMED) has examined the application for the project indicated above under Sections 404 and 401 of the federal Clean Water Act. According to the application, this project involves replacing a 36" CMC culvert with a 10X10 ft CBC at the NM 501 crossing of Water Canyon. The new culvert is pre-cast off site. A Phase I project temporarily relocated utility lines, and a Phase III project will address upstream channel stability, as well as post-project reclamation or adjacent areas.

The U.S. Army Corps of Engineers (USACE) will regulate this project under Nationwide Permit NW-XX (USACE Action SPA-2011-00512-ABQ). A state Water Quality Certification is required by Section 401 of the federal Clean Water Act to ensure that the project complies with the 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*), hereinafter referred to as "Standards." A Section 401 Water Quality Certification is also required to comply with General Condition 21 (Water Quality) and General Condition 23 (Regional and Case-By-Case Conditions) of the Nationwide Permits.

The Standards applicable to the project, which are available on the web at http://www.nmcpr.state.nm.us/nmac/parts/title20/20.006.0004.pdf, include but are not limited to:

20.6.4.8	Antidegradation Policy and Implementation Plan
20.6.4.13A, B, F, I and J	General Criteria for Bottom Deposits and Suspended or Settleable Solids, Floating Solids, Oil and Grease, Toxic Pollutants, Temperature, and Turbidity
20.6.4.13.J	Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the normal growth, function or reproduction of aquatic life is impaired or that will cause substantial visible contrast with the natural appearance of the water. Turbidity shall not exceed 10 NTU over background turbidity when the background turbidity is 50 NTU or less, or increase more than 20 percent when the background turbidity is more than 50 NTU. Background turbidity shall be measured at a point immediately upstream of the turbidity-causing activity. However, limited-duration activities necessary to accommodate dredging, construction or other similar activities and that cause the criterion to be exceeded may be authorized provided all practicable turbidity control techniques have been applied and all appropriate permits and approvals have been obtained.

20.6.4.98	All non-perennial unclassified waters of the state, except those ephemeral waters included under 20.6.4.97 NMAC.
20.6.4.900	Standards Applicable to Attainable or Designated Uses

According to the Standards, the Water Canyon (upper LANL boundary to headwaters) is designated for the following uses: livestock watering, marginal warmwater aquatic life, primary contact, and wildlife habitat. "Surface water(s) of the state" means all surface waters including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, reservoirs or natural ponds.

Water Canyon (upper LANL boundary to headwaters) does not meet Standards for Marginal Warmwater Aquatic Life due to Aluminum (2010 - 2012 CWA 303(d)/305(b) Integrated Report and List of Assessed Surface Waters). Because of this impaired designation, it is especially critical that turbidity is prevented or minimized during and after construction of the project.

Section 401 Water Quality Certification with Conditions:

Pursuant to Section 401 of the Clean Water Act and 40 Code of Federal Regulations Part 121, the NMED hereby issues a conditional Section 401 Water Quality Certification for USACE Action SPA-2011-00512-ABQ (Water Canyon, Phase II (culvert replacement)) based on the application and/or information provided. This certification is subject to conditions to reasonably assure that the activity is consistent with state law, will be conducted in a manner that will not violate applicable Standards, and implements the Water Quality Management Plan, including Total Maximum Daily Loads (TMDLs), the Continuing Planning Process, and Antidegradation Policy Implementation Plan. Therefore, this Certification is not valid unless the following conditions are met:

1. Erosion control measures for all portions of the project area that drain to or would have runoff toward surface water must be properly selected, installed, inspected, repaired, and maintained. Erosion and sediment control structures (e.g., silt fences, sediment basins) must be inspected after significant storm events and repaired as necessary. Sediment must be removed from erosion control structures when the sediment reaches one-half the height of the structure or wet storage volume is reduced by one-half.

2. Fuel, oil, hydraulic fluid, lubricants, and other petrochemicals must not be stored within the 100-year floodplain and must have a secondary containment system to prevent spills. Appropriate spill clean-up materials such as booms and absorbent pads must be available on-site at all times during construction.

3. 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. Leaking equipment must not be used in or near surface water. Refuel equipment at least 100 feet from surface water.

4. Local weather forecasts must be monitored to avoid working in high water. Work in the stream channel should be limited to periods of no flow when practicable, and must be limited to periods of low flow.

5. Temporary crossings must be restricted to a single location and perpendicular to and at a narrow point of the channel to minimize disturbance. Heavy equipment must be operated from the bank or work platforms and not enter surface water when practicable. Heavy equipment must not be parked within the stream channel. Heavy equipment that is operated from within flowing water must be appropriate for such work and properly maintained.

6. All asphalt, concrete, drilling fluids and muds, and other construction materials must be properly handled and contained to prevent releases to surface water. Poured concrete must be fully contained in mortar-tight forms and/or placed behind non-erodible cofferdams to prevent releases to surface water or ground water. Appropriate measures must be used to prevent wastewater from concrete batching, vehicle wash-down, or aggregate processing entering the watercourse. Dumping of waste materials near watercourses is strictly prohibited.

7. Protective measures must be used to prevent blast, ripped or excavated soil or rock from entering surface water. Construction excavation dewatering discharges are to be uncontaminated and include all practicable erosion control measures and turbidity control techniques.

8. Work or the use of heavy equipment in wetlands must be avoided or minimized unless the impacts are to be mitigated.

9. Culverts and related 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.

10. Excavated trenches must be backfilled and compacted to match the bulk density and elevation of the adjacent undisturbed soil.

11. A copy of this Section 401 Water Quality Certification must be kept at the project site during all phases of construction. All contractors involved in the project must be provided a copy of this certification and made aware of the conditions prior to starting construction.

12. Unless the project will commence 2011, the NMED must be notified at least five days before starting construction to allow time to schedule monitoring or inspections.

13. Report all spills immediately to the NMED as required by the New Mexico Water Quality Control Commission regulations (20.6.2.1203 NMAC). For non-emergencies during normal business hours, call 505-476-6025. For non-emergencies after hours, call 866-428-6535 or 505-476-6035 (voice mail, twenty-four hours a day). For emergencies only, call 505-827-9329 twenty-four hours a day (New Mexico Department of Public Safety).

Violations of Standards could lead to penalties under the New Mexico Water Quality Act. Section 74-6-10.1 B of the Act states: "Any person who violates any provision of the New Mexico Water Quality Act other than Section 74-6-5 NMSA 1978 or any person who violates any regulation, water quality standard, or compliance order adopted pursuant to that act shall be assessed civil penalties up to the amount of ten thousand dollars ($10,000) per day for each violation."

The NMED specifically reserves the right to amend or revoke this conditional Section 401 Certification at any time to ensure compliance with the Standards. If you have any questions regarding this Section 401 Water Quality Certification, please feel free to contact Neal Schaeffer of my staff at 505.476.3017.

Sincerely,

James P. Bearzi
Chief
Surface Water Quality Bureau

JPB: cns

xc: Neal Schaeffer, NMED SWQB
District II Manager, Santa Fe
William M. Oberle, U.S. Army Corps of Engineers
Tom Nystrom, Wetlands, Region 6, USEPA
Jill Wick, New Mexico Department of Game and Fish
U.S. Fish and Wildlife Service
401 Certification File 872

CERTIFIED MAIL

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Mr. Robert Beers
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NAME Lawrence Torres
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DATE 12/21/2011

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