

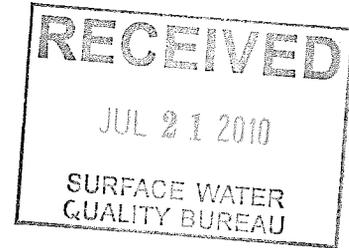


INTERNATIONAL BOUNDARY AND WATER COMMISSION  
UNITED STATES AND MEXICO

July 14, 2010

OFFICE OF THE COMMISSIONER  
UNITED STATES SECTION

Glenn Saums  
Acting Bureau Chief  
New Mexico Environment Department  
Surface Water Quality Bureau  
P.O Box 5469  
Santa Fe, New Mexico 87502-5469



RE: DRAFT Procedures for Certification of Federal Permits Pursuant to Clean Water Act  
Section 401

Dear Mr. Saums,

The United States Section, International Boundary and Water Commission(USIBWC) has received notice of the new regulation proposal for rules addressing the certification of federal permits pursuant to Section 401 and would like to offer the following comments.

The proposed rules do not mention procedures for certification of federal permits for discharge of dredge or fill material authorized under U.S. Army Corps of Engineers (USACE) nationwide permits. The current proposed rules make exception to general and nationwide permits, however there is no information for these type of federally permitted activities. The USIBWC routinely conducts channel maintenance activities in the Rio Grande in New Mexico under USACE nationwide permits. Once an activity is authorized by the USACE under a nationwide permit, the USIBWC then must obtain a separate Section 401 authorization from the New Mexico Environment Department (NMED). The USIBWC recommends that these two processes be completed concurrently. A separate and streamlined New Mexico Section 401 certification should be automatically authorized for small projects or activities that are already authorized under USACE nationwide permits. Variations of the 401 certification may occur depending on degree or levels of impact authorized by each individual nationwide permit. A formal agreement between the USACE and the NMED to automatically certify (401 certification) nationwide permit authorizations would be beneficial and streamline the process.

If you have any questions regarding these comments, please feel free to contact Natural Resources Specialist, Daniel Borunda of my staff at 915-832-4767.

Sincerely,

Lisa M. Santana, Ph.D.  
Acting Division Chief  
Environmental Management Division