



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6
1445 Ross Avenue
Dallas, Texas 75202 - 2733

November 30, 2016

Dear Honorable Leader:

The U.S. Environmental Protection Agency (EPA) Region 6 is engaging your tribe in consultation and coordination regarding the Nationwide Permits (NWP) used by the U.S. Army Corps of Engineers ("Corps") to authorize minor projects in wetlands and other regulated waters of the United States.

These permits are set to expire on March 18, 2017. The process to improve and reissue these NWPs is underway. If you have not yet seen the proposed revisions to the Nationwide Permit program, they are available at the following website: <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

EPA is the agency required to address water quality certification for tribes that have not received treatment in the same manner as a state for the water quality standards and §401 certification programs. In 2012, EPA issued §401 certification for the NWPs on tribal lands with a list of standard conditions to ensure that water quality is maintained. This year we are engaging all EPA Region 6 Federally Recognized Indian Tribes, which have not received treatment in the same manner as a state for the water quality standards and §401 certification programs, in formal consultation. We are contacting you to provide an opportunity for review of the standard list of conditions we propose to include in our potential §401 certification of the NWPs on tribal lands in March 2017.

Please review the enclosed standard list of conditions, which would apply to land, and water within your current reservation or areas where you may have protected treaty rights. Our goal in compiling this list is to help ensure the protection of your water quality within those areas. We will only move forward with the certification of the NWPs for your tribal lands if we receive a request to do so, either by letter or email, prior to January 15, 2017. These requests can be sent to Tom Nystrom of my staff at the following address or email address:

Tom Nystrom (6WQ-EM)
Wetlands Section
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202
nystrom.thomas@epa.gov

Of course you also have the option of requesting that we do not certify the NWPs for use within your jurisdictional area, and we will honor that request. If we do not receive a response, we will not certify the NWPs for use. In either situation the Corps will deny "blanket" authorization for use of the NWPs, and anyone wanting to perform such activities must first obtain a project specific water quality certification or waiver from EPA, subject to your approval, before proceeding under the NWP.

Tribal consultation will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* and the *Guidance for Discussing Tribal Treaty Rights* (www.epa.gov/tribal/consultation/consult-policy.htm). EPA Region 6 invites you and your designated consultation representative(s) to participate in this process. EPA Region's anticipated timeline for the consultation and coordination period is expected to extend from November 15, 2016 to January 15, 2017. Enclosed is a consultation and coordination plan for this action that includes a description of the action under consultation and the process EPA plans to follow, including a timeline for the consultation and coordination period and information on how you can provide input on this action. Please contact Randy Gee, Region 6 Tribal Consultation Advisor, at 214-665-8355 for further information.

EPA will host two region-wide coordination conference calls to discuss the NWP's used by the Corps to authorize minor projects in wetlands and other regulated waters of the United States on the following dates and times:

Wednesday, December 14, 2016, at 10:00 AM (central) / 9:00 AM (mountain)

Wednesday, January 11, 2017, at 2:00 PM (central) / 1:00 PM (mountain)

The conference call phone number for each call is 866-299-3188 and the access code is 2146656653#. EPA staff are also available to discuss the NWP's prior to the conference call or following the call.

If you have any questions, suggestions, or wish to discuss these conditions, the NWP's, or the Clean Water Act Section §404 program, please contact me at (214) 665-7101 or have your staff contact Mr. Tom Nystrom of my staff at (214) 665-8331 with any questions.

Sincerely,
/s/William K. Honker, P.E.
Director
Water Division

Enclosures

Section 401 Certification Conditions of Nationwide Permits for Tribal Lands
Tribal Consultation and Coordination Plan and Timeline