

January, XX 2012

Ms. Tamara Cameron  
USACE  
Regulatory Branch Chief, St. Paul District  
180 Fifth St E Ste 700  
St. Paul, MN 55101-1678

RE: Regional General Permit: RGP-003-MN - MPCA changes to the 401 certification due to comments received during the Public Notice process.  
Clean Water Act Section 401 Water Quality Certification

Dear Ms. Cameron:

This letter is submitted by the Minnesota Pollution Control Agency (MPCA) under authority of Section 401 of the Clean Water Act (CWA) (33 USC 1251 et seq.), Minn. Stat. chs. 115 and 116 and Minn. R. 7001.1400-7001.1470. The MPCA modified the 401 portion of RGP-003-MN and has examined the information furnished by the United States Army Corps of Engineers (USACE), specifically the proposed Regional General Permit, RGP-003-MN. MPCA bases its certification decision upon this and other such information relevant to water quality considerations. The proposed RGP-003-MN would be valid for five years and it would replace existing RGP-003-MN.

The proposed RGP-003-MN would authorize impacts to USACE-jurisdictional waterbodies for certain activities that are considered to be similar in nature and those that are anticipated to have minimal adverse environmental effects, individually or cumulatively, on the aquatic environment.

The MPCA certifies the referenced general permit (RGP-003-MN) because there is reasonable expectation that the activities identified within it will be conducted in a manner that will not violate applicable water quality standards, provided the following conditions are incorporated into the RGP-003-MN and complied with:

1. The in-water Best Management Practices (BMPs) must be properly installed prior to conducting the authorized activities and must be maintained throughout the duration of the project's in-water disturbances. While conducting the work, the BMPs must also be visually monitored to ensure turbidity and/or sedimentation is not occurring downstream and outside of the defined working area. If turbidity and/or sedimentation is observed outside and downstream of the defined work area, then the authorized activities must cease immediately until alternative BMPs, which will adequately control turbidity and sedimentation, have been implemented. This certification does not authorize the applicable water quality standards governing these waters of the state to be violated outside of the defined work area. In-water BMPs must be included in the construction plan. Further information regarding the types of BMPs that may be suitable for this purpose can be found in a manual at the following web page:  
[http://www.dnr.state.mn.us/waters/watermgmt\\_section/pwpermits/gp\\_2004\\_0001\\_manual.html](http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html).

2. For MN Areas of Concern, that are limited to the St. Louis River and its bay, see EPA website:  
<http://www.epa.gov/greatlakes/aoc/>.
3. In water BMPs should be used for any dredging. Refer to the DNR website for BMPs  
[http://www.dnr.state.mn.us/waters/watermgmt\\_section/pwpermits/gp\\_2004\\_0001\\_manual.html](http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html).
4. Bridge Maintenance Construction and/or Demolition activities: In addition to following all other applicable certification conditions, including condition 1 above, activities authorized by RGP-003-MN that involve bridge maintenance, construction and/or demolition must also comply with the following conditions:
  - a. Excluded Activities. This certification does not authorize bridge demolition activities that exclusively use explosive devices to implode or collapse a bridge, or any portion of a bridge, into a river or stream, including intermittent streams.
  - b. Any painting, cleaning, or restoration of bridges that is associated with the activity authorized by RGP-003-MN must use curtains or other reliable containment methods to ensure paint, chemicals, grouting or other contaminants will not discharge to any waters of the state.
  - c. If the riprap to be placed under a bridge for permanent stabilization is to be grouted with concrete, then prior to conducting the grouting activity, plywood sheeting, sheet piling, sand bags, or other suitable BMP must be placed at the base of the riprap to ensure no uncured cement will reach the waterbody. The BMPs must remain in place until all concrete grouting has cured.
5. Impaired Waters. It is the permittee's responsibility to ensure, while conducting any activities authorized by RGP-003-MN, the activities shall not exacerbate any existing impairments of a CWA 303 (d) listed waterbody. The following MPCA Web pages contain more information and search tools available to determine which waters in Minnesota are impaired: <http://www.pca.state.mn.us>  
<http://pca-gis02.pca.state.mn.us/website/stormwater/csw/viewer.htm>  
[http://pca-gis02.pca.state.mn.us/eda\\_surfacewater/index.html](http://pca-gis02.pca.state.mn.us/eda_surfacewater/index.html).
6. Pursuant to Minn. R. 7001.1450, failure to comply with any of the conditions above may result in the MPCA invalidating or revoking this 401 Certification on a project-by-project basis. A copy of the certification should therefore be posted at the work site, together with a copy of all other required regulatory authorizations. This certification includes and incorporates by reference the general conditions of Minn. R. 7001.0150, subp. 3. This action does not exempt the RGP-003-MN permittee from the responsibility of complying with all applicable local, state, and federal requirements, including any MPCA authorizations not specifically identified in the certification that may be required, nor does it grant any right to violate personal or property rights.

NOTIFICATIONS: The following notifications are not conditions of the MPCA CWA 401 Certification of RGP-003-MN. They are provided to notify the general public in Minnesota that certain discharges in waters of the United States, or activities associated with discharges into waters of the United States, are also regulated under other rules administered by the MPCA:

1. Minn. R. chs. 7001 and 7090 requires any activity that will disturb one acre or more of land to first acquire a National Pollutant Discharge Elimination System Permit (NPDES)/State Disposal System (SDS) General Stormwater Permit from the MPCA for discharging stormwater during construction activity. Both the owners and operators of construction activity disturbing one acre or more of land are responsible for obtaining and complying with the conditions of the NPDES/SDS General Stormwater Permit prior to commencing construction activities. Sites disturbing less than one acre

within a larger common plan of development or sale that is more than one acre also need permit coverage. A detailed Stormwater Pollution Prevention Plan (SWPPP), containing both temporary and permanent erosion and sediment control plans, must be prepared prior to submitting an application for the NPDES/SDS General Stormwater Permit. In addition, any project that will result in over 50 acres of disturbed area and has a discharge point within one mile of a special or impaired water is required to submit their SWPPP to the MPCA for a review at least 30 days prior to the commencement of land disturbing activities. If the SWPPP is found to be out of compliance with the terms and conditions of the NPDES/SDS General Stormwater Permit, further delay may occur. For more information, please visit the following Web page:

<http://www.pca.state.mn.us/publications/wq-strm2-05.pdf>.

2. Minn. R. ch. 7001 requires that, prior to testing the structural integrity of any newly-installed pipeline, or any existing pipeline that is maintained and/or repaired by RGP-003-MN, NPDES/SDS Permit coverage must be obtained from the MPCA, which regulates the discharge of water and trench waters associated with this activity.
3. Any asbestos, lead paint, or lead plates on existing bridges authorized to be demolished shall be removed and disposed of in accordance with MPCA rules and regulations.

If you have any questions on this certification please contact Jim Brist at 651-757-2245.

Sincerely,

David Richfield  
Supervisor, Agency Rules Unit  
SSTS, Land Treatment, and Rules Section  
Municipal Division

DR/JB:ah

cc: Peter Swenson, USEPA  
Tony Sullins, USFWS  
Kelly Urbanek, USACE – Bemidji  
Dale Homuth, DNR