



Minnesota Pollution Control Agency

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Ms. Tamara Cameron
Regulatory Branch Chief
St. Paul District, U.S. Army Corps of Engineers
180 Fifth Street East, Suite 700
St. Paul, MN 55101-1638

RE: Operations – Regulations (MVP-2012-00758-BRC)
General Permit: GP-001-MN
Draft 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 (33 USC 1251 et seq.), Minn. Stat. chs. 115 and 116 and Minn. R. 7001.1400-7001.1440. The MPCA has examined the information furnished by the United States Army Corps of Engineers (USACE), specifically the proposed General Permit, GP-001-MN, placed on public notice on April 5, 2012, and bases its certification decision upon an evaluation of this information and such other information that is relevant to water quality considerations. The proposed GP-001-MN would be valid for five years and would replace the existing GP-001-MN, which was issued on May 15, 2007, and expired on May 15, 2012. As further identified within it, the proposed GP-001-MN would authorize certain activities in waters and wetlands regulated by the Minnesota Department of Natural Resources (MN DNR) that are considered similar in nature and those that are anticipated to have minimal adverse environmental effects, individually or cumulatively, on the aquatic environment. Mitigation is required for wetland impacts and is based on the areal extent of the impact and the percentage of pre-settlement wetlands remaining in a project's area of the state. (The specific mitigation requirements are found in section 5.a.ii.(3) of the draft GP-001-MN.)

The MPCA certifies the referenced general permit (GP-001-MN) because there is reasonable assurance 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 GP-001-MN and complied with:

1. This certification does not apply to projects that involve greater than three acres of impact to waters and wetlands regulated by the MN DNR by fill, drainage, excavation or inundation.
2. This certification does not apply to projects that involve the removal or construction of permanent dams with a constructed height greater than six feet or that impound more than 15 acre-feet of water in any waters.
3. This certification does not apply to projects that alter greater than 500 linear feet of a river, stream, ditch or other water course determined to be a water of the state by channelization, diversion or bank stabilization.

4. Minn. R. chs. 7001 and 7090 require any activity that will disturb one acre or more of land to first obtain coverage under the National Pollutant Discharge Elimination System Permit (NPDES)/State Disposal System (SDS) General Stormwater Permit from the MPCA for the discharge of stormwater associated with construction activity. Both the owners and operators of construction activities that disturb one acre or more of land are responsible for obtaining coverage and complying with the conditions of the NPDES/SDS General Stormwater Permit prior to commencing construction activities. Sites that disturb less than one acre within a larger common plan of development or sale that is more than one acre also need to obtain permit coverage. A detailed Stormwater Pollution Prevention Plan (SWPPP), which contains both temporary and permanent erosion and sediment control plans, must be prepared prior to submitting an application for the NPDES/SDS General Stormwater Permit. Information on the NPDES/SDS General Stormwater Permit can be found at <http://www.pca.state.mn.us/publications/wq-strm2-05.pdf>.
5. All projects must incorporate Best Management Practices (BMPs) to control erosion during construction, as detailed in the MPCA document Protecting Water Quality in Urban Areas – Best Management Practices for Dealing With Storm Water Runoff From Urban, Suburban and Developing Areas of Minnesota (the most recent version can be found at <http://www.pca.state.mn.us/qzqha87>) and the Minnesota Stormwater Manual (the most recent version can be found at <http://www.pca.state.mn.us/pyria84>) whether or not coverage under the NPDES/SDS General Stormwater Permit for construction activities is required.
6. Projects that include dredging and the disposal of material dredged from waters of the state must determine whether a separate State Disposal System (SDS) Permit that authorizes the disposal of the dredged material is required from the MPCA. Information on determining the need for a separate SDS Permit can be found at <http://www.pca.state.mn.us/wfhy824>.
7. Projects that include new bridges or the reconstruction of existing bridge decking must direct the roadway approach and deck stormwater drainage to an off end drainage system. Roads with over 500 heavy vehicles per day shall provide for the containment of toxic or hazardous material spills to prevent direct runoff of such substances to waters of the state.
8. This certification applies to existing MN DNR permits including: General Permits, Programmatic Permits, or permits delegated to local governments; these include any permits that have been promulgated to allow for MN DNR issuance of Public Waters Work Permit Authorization to the general public, to Local Units of Government or other political subdivision. Any new MN DNR General Permits, Programmatic Permits or permits delegated to local governments developed subsequent to this certification must be submitted to the MPCA and receive MPCA approval in order to be considered certified under the scope of GP-001-MN.
9. Projects that include the construction of a new stormwater discharge outlet or outlets (not including maintenance actions or replacement of existing outfalls), with discharge pipe(s) greater than 36 inches in diameter, must provide stormwater treatment as detailed in the Minnesota Stormwater Manual (the most recent version can be found at <http://www.pca.state.mn.us/pyria84>). These practices include, but are not limited to: water quality and quantity measures such as detention ponds, infiltration basins, rain gardens, and grit removal. For proposals that do not include BMPs as indicated above, the MPCA may submit additional water quality conditions to the Corps within 30 days of the Corps' authorization of that specific project under GP-001-MN.
10. For projects that will potentially impact: (a) Outstanding Resource Values Waters (ORVWs), as listed in Minn. R. 7050.0180; (b) a water listed as impaired on the Section 303(d) list, based on standards defined in Minn. R. 7050.0220; or (c) trout waters, as identified in Minn. R. 7050.0240, the MPCA

may submit additional water quality conditions to the Corps within 30 days of the Corps notice of authorization of a project under GP-001-MN, which will be included as an addendum to the GP-001-MN for that specific project.

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. A copy of this 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 GP-001-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.

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

Sincerely,

David Richfield
Supervisor, Water & Land Rules & Special Projects Unit
St. Paul Office
Municipal Division

DR/JM:wgp

cc: Tim Smith, St. Paul District, U.S. Army Corps of Engineers,
Peter Swenson, U.S. Environmental Protection Agency, Chicago
Tony Sullins, Field Supervisor, U.S. Fish and Wildlife Service
Kent Lokkesmoe, MN DNR - Waters
Steve Colvin, MN DNR - Ecological Services