

Appendix N

Additional Information Sheets
City of Farmington
Porter Arroyo Retention Pond
CWA 401/404 Permit Application
SPA-2011-00277

Block 18: Nature of Activity

The project involves constructing a stormwater management structure north of Piñon Hills Boulevard at College Avenue to manage stormwater flows in the Porter Arroyo and reduce the likelihood of future flood damage in the downstream reaches of the arroyo such as occurred in August 2010.

The Porter Arroyo Retention Pond was designed by Larkin Group NM, Inc. in 2004 and will be built by the City of Farmington. Hydrology for the design was based on earlier studies performed by the US Army Corps of Engineers. Larkin updated the hydrology using recently compiled rainfall data and recent aerial photography and contour mapping, which were ultimately used for sizing the reservoir volume and spillway capacity. The facility is planned for construction during 2011.

Porter Arroyo Dam will be located on the northeast edge of the City of Farmington in San Juan County, New Mexico. The Dam will be located approximately 2.4 miles upstream along the Porter Arroyo from the Animas River.

The site will be accessed from College Boulevard going north from 30th Street for 1.2 miles then east on Piñon Hills Boulevard for 0.3 miles. The dam site is located on the north side of Piñon Hills Boulevard 1.3 Miles west of the intersection with East main Street or Highway 516. This intersection is 0.8 miles northeast of the Animas Valley mall.

Below is a quantity/dimension summary chart from the construction plans:

THE OUTLET STRUCTURE FROM THE DETENTION POND IS LOCATED IN THE
 SOUTHWEST QUARTER (SW 1/4) OF SECTION 25, TOWNSHIP 30 NORTH,
 RANGE 13 WEST, NEW MEXICO PRINCIPAL MERIDIAN, AT A POINT WHOSE
 STATE PLANE COORDINATES ARE:
 X = 127,317.34, Y = 103,547.60, CENTRAL ZONE, N.A.D. 1927.

THE PORTER ARROYO DETENTION POND HAS THE FOLLOWING PROPERTIES:

| | |
|--|------------|
| HAZARD CLASSIFICATION _____ | HIGH |
| MAXIMUM HEIGHT OF DIKE ABOVE FOUNDATION _____ | 23 FEET |
| LENGTH OF DIKE _____ | 650 FEET |
| MAXIMUM DIKE WIDTH AT BASE _____ | 135 FEET |
| CREST WIDTH _____ | 20 FEET |
| SLOPE UPSTREAM FACE _____ | 2.5:1 |
| SLOPE DOWNSTREAM FACE _____ | 2.5:1 |
| ELEVATION AT CREST OF DIKE _____ | 5654.9 |
| ELEVATION AT EMERGENCY SPILLWAY CREST _____ | 5645.0 |
| ELEVATION AT BOTTOM OPENING OF OUTLET STRUCTURE _____ | 5629.0 |
| ELEVATION OF FLOWLINE OF OUTLET CONDUIT _____ | 5625.6 |
| FREEBOARD _____ | 11.4 FEET |
| WIDTH OF EMERGENCY SPILLWAY _____ | 35 FEET |
| DISCHARGE CAPACITY OF EMERGENCY SPILLWAY _____ | 7690 CFS |
| OUTLET CONDUIT, TYPE AND SIZE _____ | 30" RCP |
| OUTLET CONDUIT, CAPACITY AT EMERGENCY SPILLWAY CREST _____ | 99 CFS |
| EVACUATION TIME _____ | 26.6 HOURS |
| DRAINAGE AREA _____ | 467 ACRES |
| STORAGE CAPACITY TO SPILLWAY CREST _____ | 25.9 AC-FT |

Block 19: Project Purpose

The Porter Arroyo Detention Facility proposes to construct a dam to control the storm water flow rate of the Porter Arroyo. This removes the mapped FEMA Flood Zone designation from the downstream residential and commercial properties. The Dam is designed to detain the runoff generated by a 100-year storm within the Porter Arroyo drainage system. The drainage system has an approximate area of 1500 acres and is roughly 3.5 miles in length from its upper basin limits on Hood Mesa to its outfall into the Animas River.

Block 22: Material Being Discharged and the Amount of Each Type in Cubic Yards

Proposed discharges for this project will comprise both Temporary and Permanent fills.

Temporary (up to 0.027 acres affected):

- Excavation will occur within the OHWM for the permanent removal of two natural gas lines.
- The existing grade in the disturbed areas will be re-established after the lines are removed.

Permanent (approximately 0.298 acres affected):

- A retention basin, outfall channel, and compacted soil berm will be constructed within and along the OHWM.
- The berm will result in the placement of 915 cubic yards (cy) of material within the existing OHWM.
- The retention basin upstream of the berm will increase the effective area of the OHWM and offset the above losses by dredging material from within the existing OHWM channel and creating an area for stormwater retention that extends further to the east and west of the existing OHWM of the arroyo channel.

Block 23: Surface Area in Acres of Wetlands or Other Waters Filled

Up to 0.027 acres of the OHWM will be subject to temporary fill during construction due to the permanent removal of two natural gas gathering lines. The temporary fill will be mitigated by requiring the contractor to re-establish the existing grade within the OHWM after the lines are removed.

Up to 0.298 acres of permanent fill will take place in the OHWM as a result of construction of the berm, retention pond, and outfall channel features of the structure. The creation of the retention basin will offset the proposed permanent fill by dredging material from within the existing OHWM and expanding the OHWM further to the east and west than the current limits of the OHWM.

Block 25: Adjoining Property Owners, etc.



Block 27: Methods used to prevent water quality impacts

During removal of the natural gas lines and construction of the new structure, BMPs would be utilized to minimize impacts of the project on waters of the U.S. Descriptions of potential BMPs are as follows:

General Stream Channel Construction BMPs

- Minimize stream channel disturbances and related sediment problems during road construction and stream crossing structure installation by keeping equipment out of stream channel.
- Time construction activities to protect fisheries and water quality.
- Do not place erodible material into stream channels. Remove stockpiled material from high water zones.
- Direct load excavated/dredged material for transport to approved off-site disposal facility.

General Erosion and Sediment Control BMPs

- To minimize erosion, work should be conducted during dry conditions, if possible.
- Existing disturbed areas will be used as staging and access areas.
- Silt fence should be installed to prevent runoff from bare areas reaching a waterway in the event of rain. Silt fence should be as least as long as the disturbed/construction area.
- For disturbed vegetated upland areas, plant appropriate erosion control seed mix as soon as possible upon completion of earthwork.
- Equipment should be steam cleaned of all sediment prior to use on the project and tracking of sediment during project operations shall be monitored and equipment cleaned as needed to minimize sedimentation/erosion potential.

General Material Management BMPs

- Construction Materials – All construction materials will be stored in the “Staging Area” designated in the final construction plans. All construction materials that may contribute to pollutants (e.g. nails, steel, screws, caulking) in stormwater runoff will be covered to avoid contact with rainfall.
- Concrete – Concrete storage BMPs will not be needed because the concrete will be delivered on the day of pouring. The company delivering the concrete will provide its own concrete washout and will haul wash water offsite for disposal.

General Good Housekeeping BMPs

- Good housekeeping measures will be used to minimize potential pollutants released from the construction area by wind and/or water. As a general practice, good housekeeping measures will include prompt cleanup of spills and collection of litter at the end of each workday.
- All heavy equipment will be inspected daily to prevent discharges of petrochemical lubricants and fuels.
- All refueling operations will be conducted at a distance greater than 100 feet from the stream channel. At no time will chemical or petroleum storage containers that are not an integral operational part of a vehicle or construction equipment be permitted within 100 feet of any stream channel.
- All equipment must be steam cleaned, prior to use on the project, to ensure it will be free of noxious weeds and sediment.

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (-710-0003), Washington, DC 20503. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404, Principal Purpose: These laws require permits authorizing activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Routing Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

| | | | |
|--------------------|----------------------|------------------|-------------------------------|
| 1. APPLICATION NO. | 2. FIELD OFFICE CODE | 3. DATE RECEIVED | 4. DATE APPLICATION COMPLETED |
|--------------------|----------------------|------------------|-------------------------------|

(ITEMS BELOW TO BE FILLED BY APPLICANT)

| | |
|--|--|
| 5. APPLICANT'S NAME City of Farmington | 8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) Not applicable. |
| 6. APPLICANT'S ADDRESS 800 Municipal Drive Farmington, NM 87401 | 9. AGENT'S ADDRESS Not applicable. |
| 7. APPLICANT'S PHONE NOS. W/AREA CODE a. Residence 505-599-1301 b. Business | 10. AGENT'S PHONE NOS. W/AREA CODE a. Residence Not applicable. b. Business |

11. **STATEMENT OF AUTHORIZATION**
I hereby authorize, Not applicable. To act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

Not applicable. Not applicable.
APPLICANT'S SIGNATURE DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)
Porter Arroyo Retention Pond

13. NAME OF WATERBODY, IF KNOWN (if applicable)
Porter Arroyo

14. PROJECT STREET ADDRESS (if applicable)
Not applicable.

15. LOCATION PROJECT
San Juan New Mexico
COUNTY STATE

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)
Porter Arroyo upstream of Pinon Hills Blvd. near Piedra Vista High School, City of Farmington, San Juan County, New Mexico 87401. The project is located approximately 500 feet northeast of the intersection of Pinon Hills Blvd. with College Avenue.

17. DIRECTIONS TO THE SITE
From New Mexico Highway 516 (Main Street) eastbound from Farmington, take Pinon Hills Blvd. north approximately 1.75 miles to intersection with Twin Peaks Rd. (to west) and Pinon Hills Blvd. (to east), take Pinon Hills Blvd. east and travel approximately 1000 feet to the La Plata crossing.

18. Nature of Activity (Description of project, include all features)
The project involves constructing a stormwater management structure north of Pinon Hills Boulevard at College Avenue to manage stormwater flows in the Porter Arroyo and reduce the likelihood of future flood damage in the downstream reaches of the arroyo such as occurred in August 2010. See attached sheets for additional information.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)
The purpose of the project is to construct a structure to control stormwater runoff that will limit property damage in downstream developed areas along Porter Arroyo. See attached sheets for additional information.

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Project Schedule
Start Date 1 AUGUST 2011 End Date 1 AUGUST 2013

21. Reason(s) for Discharge

Permanent sediment removal and reworking will occur during grading and earthwork for construction of the berm and retention basin. Temporary fills will take place during removal of two natural gas gathering lines that transect the project area.

22. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

See attached sheets for description of materials and estimated quantities.

23. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

No jurisdictional wetlands were identified in the project area. Total other waters of the U.S. within the project area consist of the following: 0.298 acres of permanent impact and 0.027 acres which will be subjected to temporary impacts within the ordinary high water mark (OHWM). Temporary impacts will be restored by regrading the disturbed area to match the pre-existing grade of the channel after removal of the affected gas lines.

24. Is Any Portion of the Work Already Complete? Yes _____ No X IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

The City of Farmington owns the property immediately upstream and downstream of the proposed project area. Please see the attached figure and information sheets for more information. Farmington Public Schools operates Piedra Vista High School on the east side of the project area. College Avenue forms the west and north limits of the overall project area, and Pinon Hills Boulevard forms the overall southern limit of the project area.

26. Describe any adverse water quality impacts that may result from the proposed activity such as increased turbidity or erosion. How long will such impacts occur?

Active earth work will only occur at times when no water is flowing in the arroyo. The project will result in the construction of a retention basin and berm, which will limit future impacts of sediment erosion and stream turbidity of the receiving water (Animas River), having a net positive impact on the river. Existing downstream weirs are designed to collect sediment during runoff events and should be sufficient to trap minor amounts of sediment that could be mobilized as a result of typical precipitation events occurring during construction of the project.

27. Describe methods to be used to prevent water quality impacts which could interfere with attainment of State designated fishery, recreation, irrigation, water supply or other uses.

General BMPs to be implemented during this project are summarized on the attached sheets. The project is located in an ephemeral arroyo and construction will take place when no flow is occurring in the arroyo, which will limit water quality impacts that could occur.

28. List of Other Certifications or Approvals/Denials Received from other Federal, State or Local Agencies for Work Described in This Application.

| AGENCY | TYPE APPROVAL* | IDENTIFICATION NUMBER | DATE APPLIED | DATE APPROVED | DATE DENIED |
|--------|----------------|-----------------------|--------------|---------------|-------------|
|--------|----------------|-----------------------|--------------|---------------|-------------|

Not Applicable.

*Would include but is not restricted to zoning, building and flood plain permits.

29. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

Not Applicable.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

21. Reason(s) for Discharge

Permanent sediment removal and reworking will occur during grading and earthwork for construction of the berm and retention basin. Temporary fills will take place during removal of two natural gas gathering lines that transect the project area.

22. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

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29. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.


SIGNATURE OF APPLICANT

7/18/11
DATE

Not Applicable.
SIGNATURE OF AGENT DATE

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18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.



BILL RICHARDSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Surface Water Quality Bureau
Harold Runnels Building Room N2050
1190 St. Francis Drive - Zip 87505
P.O. Box 26110 - Zip 87502-6110

Santa Fe, New Mexico
Telephone (505) 827-0187
Fax (505) 827-0160

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RON CURRY
SECRETARY

CINDY PADILLA
DEPUTY SECRETARY

CERTIFIED MAIL

March 29, 2007

Mr. Donald Borda
U.S. Army Corps of Engineers
Albuquerque District, Regulatory Branch
4101 Jefferson Plaza NE
Albuquerque, New Mexico 87109-3434

Subject: Clean Water Act Section 401 Water Quality Certification for the United States Army Corps of Engineers 2007 Nationwide Permits in Ephemeral Streams and Denial of Water Quality Certification in Intermittent, Perennial and Wetland Surface Water, and Outstanding National Resource Waters (ONRW)

Dear Mr. Borda:

The Surface Water Quality Bureau (SWQB) of the New Mexico Environment Department has examined the final notice of the Reissuance of Nationwide Permits (NWP) under Section 404 of the federal Clean Water Act by the Department of Defense, Department of the Army, Corps of Engineers (U.S. Army Corps of Engineers (USACE)) in Part II of the Federal Register (Vol. 72, No. 47, pp 11092-11198) published on March 12, 2007. Additional Regional Conditions for New Mexico are anticipated from the USACE Albuquerque District.

A state Water Quality Certification is required by Section 401 of the federal Clean Water Act to ensure that the NWP are consistent with state law, comply with the state Water Quality 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 through February 16, 2006), and implement the Water Quality Management Plan, including Total Maximum Daily Loads (TMDLs), the Continuing Planning Process, and Antidegradation Policy Implementation Plan. 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 NWP.

Denial of Section 401 Certification of NWP for Discharges to Intermittent, Perennial, and Wetland Surface Water, and Outstanding National Resource Waters (ONRW):

Under authority of the New Mexico Water Quality Act (Chapter 74, Article 6 NMSA 1978, et. seq.) and pursuant to Section 401 of the federal Clean Water Act and 40 Code of Federal Regulations (CFR) Part 121, the SWQB hereby denies Section 401 certification of discharges to intermittent, perennial and wetland surface water defined in 20.6.4.7 NMAC, and Outstanding National Resource Waters (ONRW) designated in 20.6.4.9 NMAC that are regulated by Nationwide Permits.

The SWQB is not reasonably ensured that NWP project activities in intermittent, perennial and wetland surface water, and ONRWs will meet the state Water Quality Standards, implement the Water Quality Management Plan, protect existing water quality as described in the Antidegradation Policy Implementation Plan, or comply with applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the federal Clean Water Act.

In accordance with General Condition 21 of the Nationwide Permits, a project-specific Section 401 Water Quality Certification must be obtained (see 33 CFR 330.4(c)) for discharges to any intermittent, perennial and wetland surface waters and to any ONRW prior to construction. The SWQB requires a complete application and USACE permit verification prior to commencing the water quality certification review.

Conditional Section 401 Certification of NWPs for Discharges to Ephemeral Surface Water:

Under authority of the New Mexico Water Quality Act (Chapter 74, Article 6 NMSA 1978, et. seq.) and pursuant to Section 401 of the federal Clean Water Act and 40 Code of Federal Regulations (CFR) Part 121, the SWQB hereby issues a conditional Section 401 Water Quality Certification for discharges that are regulated by NWPs to ephemeral surface waters.

This certification is subject to conditions to reasonably ensure that the activity will be conducted in a manner that will not violate applicable state Water Quality Standards and Water Quality Management Plan, including the Antidegradation Policy Implementation Plan. **Therefore, this Certification is not valid unless the following conditions are adhered to:**

1. Bridges, culverts and structures at stream crossings 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.
2. The project must not alter the natural stream channel size or shape (width, depth, gradient, direction or meander pattern), streamflow velocity (sediment transport rates), or water flow capacity after completion except for projects specifically designed to restore previously degraded and unstable streams.
3. 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, etc.) 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 the wet storage volume is reduced by one half.
4. 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.
5. 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. Heavy equipment must not be parked within the stream channel.
6. Work in the stream channel must be limited to periods of no flow. Avoid working within the channel during spring runoff season or summer thunderstorm flows. Local weather forecasts must be monitored to avoid working in flow or high water. Work may occur during low flow as required, such as for emergencies, subject to prior approval by the SWQB. Heavy equipment must be operated from

the bank, when practicable. The SWQB must be notified and provided descriptions of temporary diversion structures and any other planned methods to avoid or minimize turbidity and to avoid spills. Comments from the SWQB must be incorporated into the work plan prior to construction.

7. Temporary diversion structures must be non-erodible, such as sand bags, water bladders, concrete barriers or channel lined with geotextile or plastic sheeting. Dirt cofferdams are not acceptable diversion structures. Diversion structures must be capable of carrying anticipated stream flows during the construction period. All man-made materials must be removed from the diversion channel and water returned to the original channel in a manner that avoids or minimizes turbidity. Temporary diversion channels must be backfilled in a manner that prevents erosion and diversion of the stream from its natural channel.
8. All asphalt, concrete, 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 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.
9. During demolition, treatments, or cleaning activities of bridges or associated structures (e.g., deck, pier, abutment and wing walls), materials must be kept out of the channel. Before removing bridge or related structures, impermeable containment material (e.g., plastic sheet, canvas, tarpaulins or other catchment devices) must be secured above the water, under the bridge, and on the banks to capture any debris that may fall into the stream channel. Sandblasting operations must include vacuum systems or the bridge and associated structures must be completely “bagged” to collect all lead paint and concrete debris. Any debris that falls onto the containment area or into the channel must be properly disposed in accordance with the NM Solid Waste Regulations (20.9.1 NMAC). Applicable Material Safety Data Sheets of water repellants and surface finish treatments must be maintained at the project area to assist the SWQB in monitoring or inspections, if needed.
10. Excavated trenches must be backfilled and compacted to match the bulk density and elevation of the adjacent undisturbed soil. All areas adjacent to the watercourse that are disturbed because of the project, including temporary access roads, must be restored to pre-project elevations and replanted with native vegetation and/or physically protected from erosion. Stabilization measures including vegetation are required at the earliest practicable date, but by the end of first full growing season following construction.
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. The SWQB 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 505-428-2500. For non-emergencies after hours, call 866-428-6535 or 505-428-6535 (voice mail, twenty-four hours a day). For emergencies only, call 505-827-9329 twenty-four hours a day (NM Department of Public Safety).

Violations of state Water Quality 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 Water Quality Act [Chapter 74, Article 6 NMSA 1978] 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 SWQB reserves the right to amend or revoke this conditional Section 401 Certification of the Nationwide Permits if necessary to ensure compliance with the state Water Quality Standards. If you need further information please feel free to contact the SWQB at (505) 827-0187 or one of my staff listed below. Thank you.

Sincerely,



Marcy Leavitt, Chief
Surface Water Quality Bureau

ML:cc, cc, dm, ns, et

xc: Chris Canavan, NMED SWQB, Las Cruces (505) 647-7926
Chris Cudia, NMED SWQB, Las Vegas, (505) 454-2810
Dave Menzie, NMED SWQB, Silver City, (505) 388-0599
Neal Schaeffer, NMED SWQB, Santa Fe, (505) 476-3017
Erin Trujillo, NMED SWQB, Santa Fe, (505) 827-0418
Tom Nystrom, USEPA, Region 6
Lisa Kirkpatrick, NM Department of Game and Fish
Brian Millsap, U.S. Fish and Wildlife Service

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

District Office File/ORM # PJD Date:

State City/County

Nearest Waterbody:

Location: TRS, LatLong or UTM:

Name/ Address of Person Requesting PJD:

Identify (Estimate) Amount of Waters in the Review Area:

Non-Wetland Waters: linear ft width acres Stream Flow:

Wetlands: acre(s) Cowardin Class:

Name of Any Water Bodies on the Site Identified as Section 10 Waters: Tidal: Non-Tidal:

Office (Desk) Determination Field Determination: Date of Field Trip:

SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite quad name:
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:
- Photographs: Aerial (Name & Date):
 Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and Date of Regulatory Project Manager (REQUIRED)

Signature and Date of Person Requesting Preliminary JD (REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

Appendix A - Sites

District Office File/ORM # PJD Date:

State City/County Person Requesting PJD

| Site Number | Latitude | Longitude | Cowardin Class | Est. Amount of Aquatic Resource in Review Area | Class of Aquatic Resource |
|-------------|----------|-----------|----------------|--|---------------------------|
| 1 | 36.779 | 108.163 | n/a | 0.325 ac. | ephemeral stream |
| | | | n/a | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Notes:

See attached Wetland Delineation Report and Biological Assessment Report. No wetland features were identified in the project area. Within the project area, Porter Arroyo is mapped as an ephemeral stream. No hydric soils are mapped within the project area, and no hydrophytic vegetation was observed during the field inspection visits.