



Shoshone-Bannock Tribes

TRIBAL WATER RESOURCES DEPARTMENT

P.O. Box 306
Fort Hall, Idaho 83203

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December 11, 2020

Kelly Urbanek
Chief, Regulatory Division
Boise Regulatory Field Office
720 E Park Boulevard, Suite 245
Boise, ID 83712-7757

Re: Shoshone-Bannock Tribes' Final CWA §401 Decision on the 2020 Proposed Nationwide Permits for the Fort Hall Reservation

Dear Ms. Urbanek:

The Shoshone-Bannock Tribes completed its review of 2020 Proposed Nationwide Permits, as requested in the October 13, 2020 request for water quality certification submit from your office. The § 401 certification decision is enclosed.

The Shoshone-Bannock Tribes (Tribes) denies without prejudice water quality certification for all activities authorized by the 2020 NWP's within the Fort Hall Reservation. An individual 401 certification is required for each project within the Fort Hall Reservation.

If you have questions or would like to discuss this decision, please contact me at (208) 239-4582.

Sincerely,

Candon Tanaka
Water Quality Specialist

Cc: James Joyner, USACE
SBT- Water Resources Commission
file



**Shoshone-Bannock Tribes
Water Resources Department
Final § 401 Water Quality Certification Decision**



December 9, 2020

U. S. Army Corps of Engineers – Proposed 2020 Nationwide Permits

Pursuant to the provisions of Section 401 (a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended, 33 USC Section 1341 (a)(1), the Shoshone-Bannock Tribes, Water Resources Department (SBT-WRD) has the authority to review Clean Water Act Section 404 dredge and fill permits and issue water quality certification decisions.

The Shoshone-Bannock Tribes received a request for water quality certification from the U.S. Army Corp of Engineers dated October 13, 2020, for the following 2020 proposed Nationwide Permits (NWP) numbered: 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, C, D, and E.

Based on the available information the Shoshone-Bannock Tribes Water Resources Department is unable to conclude that authorization of discharges under the U.S. Army Corp of Engineers proposed NWP and the Walla Walla District's regional conditions will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act and our tribal water quality requirements, including Chapter 5. § 503 of the Shoshone-Bannock Tribes' Water Quality Protection Act.

The proposed NWP provide insufficient information to identify waters receiving discharges from potential projects that may be authorized, and thus it is impossible to make a determination under 40 C.F.R. § 121.7(f) whether any Tribal water quality requirements are applicable to the potential projects and to conclude that they would be met. The lack of specific information on the discharge types, quantities and specific locations, as well as the conditions of receiving waters and their quantities to be lost, we cannot determine whether these NWP, and the discharges they would authorize, will comply with Tribal water quality requirements.

In order to demonstrate that the range of discharges from potential projects authorized under the NWP would comply with the Tribes' water quality requirements, the following water quality data and information would be needed for each such project: the name of the receiving water, the specific location of the project discharge, the amount

and area of the discharge of the project, any available site-specific baseline conditions or monitoring data for the project site. The only way to receive the information required is by conducting a case-by-case review of each project and associated discharges.

Therefore, the Shoshone-Bannock Tribes (Tribes) denies without prejudice water quality certification for all activities authorized by the aforementioned NWP's within the Fort Hall Reservation. An individual 401 certification decision will be required for each project within the Fort Hall Reservation.



Candon Tanaka
Water Quality Specialist
Shoshone-Bannock Tribes