

Timothy L. Nuvangyaoma  
*Chairman*

Clark W. Tenakhongva  
*Vice Chairman*

December 8, 2020

Mr. David J. Castanon, Chief  
Regulatory Division  
U.S. Army Corps of Engineers  
Los Angeles District  
915 Wilshire Boulevard, Suite 930  
Los Angeles, California 90017

**RE: Response to Re-issuance and Modification of Nationwide Permits Docket No. COE-2020-0002**

Dear Mr. Castanon:

This letter constitutes the Hopi Tribe's formal response to Re-issuance and Modification of Nationwide Permits Docket No. COE-2020-0002 for the Corps application for water quality certification (WQC) under Section 401 of the Clean Water Act for those purposed Nationwide Permits (NWP) that will result in a discharge in the Tribal Lands of the Hopi Tribe.

The Hopi Tribe received program authorization under Clean Water Act (CWA) Section 303 and recognition of its authority to administer CWA Section 401 from the U.S. Environmental Protection Agency (USEPA) - Region IX on April 23, 2008. This authorization extends to all lands within the exterior boundaries of the Hopi Indian Reservation. On July 8, 2008, the USEPA approved the Hopi Tribe's Water Quality Standards, which allows the tribe to issue federal permit certifications.

The following NWPs are denied: 1, 2, 4, 8, 9, 10, 11, 12, 13, 15, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 34, 35, 36, 39, 40, 41, 42, 43, 44, 46, 48, 49, 50, 51, 52, and 54. These NWPs are denied because the Hopi Tribe Water Resources Program does not have reasonable assurances that the denied NWPs will comply with the applicable provisions of section 303 of the Clean Water Act and appropriate requirements of federal and tribal laws. Any future CWA section 401 certification action on projects authorized by these denied NWPs will be considered on an individual, project-specific basis. Denying the above list of NWPs will allow the Hopi Tribe Water Resource Program to thoroughly review and ensure any discharges will comply with CWA §301, 302, 303, 306, and 307, the Hopi Water Code water quality standards and other applicable Hopi Tribal requirements.

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The Hopi Tribe Water Resources Program can certify the NWP's that were not denied because they are activities determined to have minimal impacts to waters on the Hopi Reservation. In contrast, it is not possible to determine whether all the activities authorized by the denied NWP's will comply with the Hopi Water Code which prohibits the issuance of a general certification unless the activities to be certified will not have any of the following impacts:

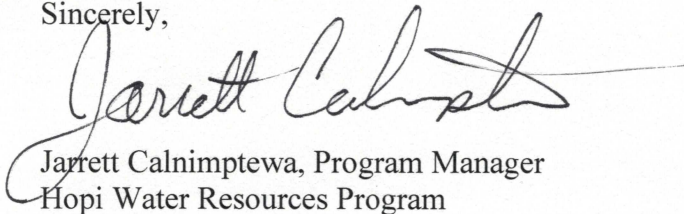
- (1) Significant adverse impacts on water quality that could feasibly be avoided if individual certification, for the proposed activities seeking individual federal licenses or permits, was issued.
- (2) Violation of any water quality objectives adopted or approved under the Hopi Water Code.

The denied NWP's may individually or cumulatively have impacts to waters on the Hopi Reservation that may constitute degradation to water quality and the Hopi Tribe Water Resources Program may require more information to approve certification for activities. An applicant may be denied a certification due to additional information needed was not present in the initial application and the Hopi Tribe Water Resources Program may require additional information such as the location of the project, any ground or surface water areas affected, the Best Management Procedures (BMP's) proposed, and restoration plans after the project is completed to return the area to its formal natural state.

Anyone requesting to perform activities that require a Nationwide Permit must first obtain a project specific Section 401 water quality certification from the Hopi Tribe's Water Resources Program before proceeding under a Nationwide Permit.

If you have any questions regarding this matter please contact Jarrett Calnimpewa, Program Manager at [JCalnimpewa@hopi.nsn.us](mailto:JCalnimpewa@hopi.nsn.us) or by phone at (928) 734-3711.

Sincerely,



Jarrett Calnimpewa, Program Manager  
Hopi Water Resources Program

CC: Timothy Nuvangyaoma, Hopi Chairman  
Clayton Honyumtewa, Director of the Department of Natural Resources  
Thomas Torres, USEPA Region 9 Water Division  
Danielle Angeles, EPA Region 9

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