



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

December 3, 2008

Mr. Douglas E. Eberhardt, Chief  
U.S. Environmental Protection Agency  
NPDES Permits Office, WRT-5  
75 Hawthorne Street  
San Francisco, CA 94105-5246

Dear Mr. Eberhardt:

On June 17, 2008 the U.S. Environmental Protection Agency (EPA) published in the Federal Register (Volume 73, Number 117) the Notice for the *Draft National Pollutant Discharge Elimination System (NPDES) General Permits for Discharges Incidental to the Normal Operation of a Vessel*. The State of Nevada received a request for 401 Water Quality Certification (WQC) from EPA on July 03, 2008. In accordance with 40 CFR 124.53(c) (3) the State responded within 45 days of the request (prior to August 17, 2008 – the end of the 45 day period). At that time due to the uncertainty of the language of the final general permit for vessel discharges, 401 WQC was denied. This letter revokes that previous 401 WQC determination.

In deciding to issue 401 WQC, NDEP has taken into account the recently enacted Clean Boating Act (P.L. No. 110-228) which eliminates the CWA's NPDES permit requirement for discharges incidental to the normal operation of recreational vessels. Therefore EPA will not be issuing the Recreational General Permit (RGP) so 401 WQC is not required for the RGP. EPA also states that it will modify the final Vessel General Permit (VGP) so that it will not apply to recreational vessels 79 feet or more in length. Also, EPA states that the final VGP, except for ballast water discharges, will not apply to discharges incidental to the normal operation of fishing vessels or non-recreational vessels less than 79 feet in length. EPA is no longer seeking 401 WQC from the States with respect to: (1) The RGP (2) Any recreational vessels that would have been covered by the proposed VGP and (3) Any non-ballast water discharges from fishing vessels (regardless of size) or from non-recreational vessels less than 79 feet in length.

In determining 401 WQC the State has made the determination that the proposed Vessel General Permit (VGP) will adequately protect the Waters of the State.

Based on this new information 401 Water Quality Certification is granted for the proposed VGP with the following conditions.

1. The proposed discharges permitted by the VGP will comply with all applicable State, Local, Interstate Agency and Federal laws, policies and regulations governing the protection of the beneficial uses of the State's Waters.
2. If in the opinion of the State the Final VGP does not adequately protect the Waters of the State or does not achieve compliance with the Nevada Water Quality Standards and other applicable provisions of state law, the 401 WQC may be modified or revoked.
3. This 401 WQC is valid until the VGP is modified, reissued, suspended or revoked. EPA must reapply for a new 401 WQC if any of these actions occur.

If you have any question please contact me at (775) 687-9448.

Sincerely yours,



Glen Gentry  
Monitoring Branch Supervisor  
Bureau Water Quality Planning

cc: Tom Porta, Deputy Administrator  
Jon Palm, Chief, Bureau of Water Pollution Control  
Kathy Sertic, Chief, Bureau of Water Quality Planning  
Alan Tinney, Permits Supervisor