



Montana Department of
ENVIRONMENTAL QUALITY

Judy Martz, Governor

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.state.mt.us

December 26, 2001

Rodney Schwartz
U.S. Army Corps of Engineers
Attn. CENWO-OD-R
106 S. 15th St.
Omaha, NE 68102

Subject: 199370003 Rock Creek Project—Sterling

Dear Mr. Schwartz:

The Montana Department of Environmental Quality (DEQ) waives 401 Water Quality Certification for the subject project. This decision is based on analysis contained in the Wetlands and Non-wetland Waters of the U.S. and Hydrology sections in Chapter 4 and the 404(b)(1) Showing in Appendix F of the final EIS that indicate minimal impacts to the quality of state waters. The results of the analysis is consistent with administrative rule 17.30.105(2)(a).

Do not hesitate to contact me if you have any questions at (406)444-4626 or jeryan@state.mt.us.

Sincerely,

/S/

Jeff Ryan
Water Quality Wetland Specialist

cc: Allan Steinle, COE

17.30.105 DEPARTMENT CERTIFICATION OPTIONS (1) Except as provided in (2), the department shall take one of the following actions upon completing its review of an application for certification submitted under this subchapter:

(a) deny certification for any activity which the department finds will result in a discharge that will violate any effluent limitation or water quality standard stated in or developed pursuant to ARM Title 17, chapter 30;

(b) issue certification for any activity which the department finds will not result in a discharge that will violate any effluent limitation or water quality standard stated in or developed pursuant to ARM Title 17, chapter 30; or

(c) issue conditional certification for any activity that with the conditions imposed will not result in a discharge that will violate any effluent limitation or water quality standard stated in or developed pursuant to ARM Title 17, chapter 30.

(2) The department may waive certification if the department finds that the activity will:

(a) cause minimal or no impacts to the quality of state waters; or

(b) require an application for a Montana pollutant discharge elimination system permit under ARM Title 17, chapter 30, subchapter 13, a Montana groundwater pollution control system permit under ARM Title 17, chapter 30, subchapter 10, a short-term exemption from water quality standards under 75-5-308, MCA, or a short-term narrative water quality standard under 75-5-318, MCA. (History: 75-5-401, MCA; IMP, 75-5-402, 75-5-403, MCA; NEW, 1991 MAR p. 2033, Eff. 11/1/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1999 MAR p. 2256, Eff. 10/8/99.)

17.30.106 TENTATIVE DETERMINATION BY THE DEPARTMENT

(1) The department shall, within 30 days of receipt of a completed application, notify the applicant, the federal permitting or licensing agency, and the regional administrator of its tentative determination to either issue, issue with conditions, or deny certification. If the department does not notify the applicant of a tentative determination within 30 days after the application is determined to be complete, the department is deemed to have waived certification.

(2) The department's tentative determination must be in writing and shall explain the reasons for denying, issuing, or conditionally issuing certification.

(3) Notification of the department's tentative determination must include: