



# 2012 Regional Conditions in Colorado

*Updated on September 5, 2014*

**U.S. Army Corps of Engineers  
Albuquerque District**

## **REGIONAL CONDITIONS TO NATIONWIDE PERMITS IN THE STATE OF COLORADO**

### **Regional Conditions Applicable to Specific Nationwide Permits within the State of Colorado**

1. Nationwide Permit No. 12: Utility Line Activities. Notification to the District Engineer (DE) in accordance with General Condition (GC) No. 31, pre- construction notification (PCN) is required for utility line activities that either require open trenching in perennial waters or are for the purpose of water transmission. The purpose for requiring a PCN for water transmission projects is to determine whether the project will result in withdrawal of water from a stream/river, and if so, whether the effects of the withdrawal are minimal.

2. Nationwide Permit Nos. 12 and 14: Utility Line Activities and Linear Transportation Projects. PCN is required for utility lines and transportation activities crossing perennial waters and/or special aquatic resources, including wetlands, in the Colorado River Basin (all tributaries to the Colorado River within Colorado).

3. Nationwide Permit No. 13: Bank Stabilization. PCN is required for bank stabilization activities either exceeding 250 linear feet or that are necessary for erosion prevention in streams with an average width of less than 20 feet (measured between the ordinary high water marks (OHWM)). Bank stabilization activities in these small streams are limited to the placement of no more than ¼ cubic yard of fill material per linear foot below the plane of the OHWM unless the Corps determines on a case-by-case basis that the use of larger or greater quantities of material is appropriate.

4. Nationwide Permit No. 23: Approved Categorical Exclusions. PCN is required for all projects utilizing Categorical Exclusions.

5. Nationwide Permit No. 27: Aquatic Habitat Restoration, Establishment, and Enhancement Activities. This permit is revoked for activities that include a fishery enhancement component in perennial streams. These types of projects must be authorized by the Regional General Permit No. 12 for Aquatic Habitat Improvement for Stream Channels in Colorado.

a. Channel realignment is not authorized by this permit unless it is demonstrated that the realignment is consistent with the natural morphological evolution of the stream.

b. Structures authorized by this permit must allow for the upstream and downstream passage of aquatic organisms, including fish native to the reach, unless waived in writing by the DE.

c. Structures authorized by this permit must not impede waterborne navigation, including recreational watercrafts, unless waived in writing by the DE.

d. The use of concrete/grouting is not allowed in perennial streams unless waived in writing by the DE.

e. The construction of water parks (e.g. kayak courses) and flood control projects are not authorized by this permit.

6. Nationwide Permit Nos. 29 and 39: Residential Developments and Commercial and Institutional Developments. A copy of the Existing FEMA/locally-approved floodplain map must be submitted with the PCN.

### **Regional Conditions Applicable to All Nationwide Permits within the State of Colorado**

7. Important Spawning Areas. GC No. 3 (Spawning Areas) is amended by adding the following: Activities are not authorized by any nationwide permit except after case-by-case review and consultation with Colorado Parks and Wildlife (CPW) if the activities would destroy important spawning areas or would be conducted in these waters during trout and Kokanee spawning seasons. Bio-engineering techniques, such as native riparian shrub plantings, are required for all bank protection activities that exceed 50 linear feet in important spawning areas. For activities located in these important spawning areas, PCN is required and consultation with CPW must be conducted in accordance with the timeframes established in GC 31 (Pre-Construction Notification). Important spawning areas are identified in the list of Gold Medal Waters in Colorado (Attachment 2).

*NOTE: Pre-application consultation with the CPW, preferably on-site, is highly recommended. Providing documentation of pre-application consultation with CPW, stating that CPW has reviewed the proposed project and has no concerns, may result in quicker processing times. Please visit the following state website to determine the appropriate office for coordination: <http://cpw.state.co.us>.*

8. Removal of Temporary Fills. GC No. 13 (Removal of Temporary Fills) is amended by adding the following: When temporary fills are placed in wetlands, a horizontal marker (i.e. fabric, certified weed-free straw, etc.) must be used to delineate the existing ground elevation of wetlands that will be temporarily filled during construction.

9. Fens. All nationwide permits, with the exception of 3, 5, 6, 20, 27, 32, 37, and 38, are revoked for activities located in fens and wetlands adjacent to fens. PCN is required for all other activities considered for authorization by Nationwide Permits. The permittee may not begin the activity until the Corps determines the adverse environmental effects are minimal.

A fen is defined as a groundwater-fed wetland with saturated fibric organic soil (greater than or equal to 16 inches in thickness) that is classified as a histosol in the Natural Resources Conservation Service (NRCS) Field Indicators of Hydric Soils in the United State (Version 7.0, 2010). A copy of the document can be obtained from the NRCS at [ftp://ftp-fc.sc.egov.usda.gov/NSSC/Hydric\\_Soils/FieldIndicators\\_v7.pdf](ftp://ftp-fc.sc.egov.usda.gov/NSSC/Hydric_Soils/FieldIndicators_v7.pdf).

*Note: A fen may be part of a larger aquatic system (fen complex) where wetlands and other waters adjacent to the fen may provide a critical source of hydrology necessary for sustaining the fen.*

10. Springs. PCN is required for all Nationwide Permits if the activities occur within 100 feet of the discharge point of a spring. The Corps will determine if the proposed project will have more than a minimal effect to the site specific spring and may require an Individual Permit or project modification to reduce/eliminate the spring impacts. For the purposes of this regional condition, springs do not include seeps or other discharges that do not have a defined channel.

11. Suitable Fill. PCN is required for the use of broken concrete as fill material within the State of Colorado. Permittees must demonstrate that soft engineering methods utilizing native or non-manmade materials are not

practicable (with respect to cost, existing technology, and logistics), before broken concrete is allowed as suitable fill. Use of broken concrete with exposed rebar is prohibited.

*Note: GC No. 6 prohibits the use of unsuitable material, which includes but is not limited to organic debris, building waste, asphalt, car bodies, and junk materials.*

## ADDITIONAL INFORMATION

The following additional information relates to minimization of impacts to jurisdictional waters of the United States and compliance with the General Conditions:

1. **Permittees are reminded** that appropriate erosion and sediment controls are required in accordance with GC No. 12 in order to properly stabilize the site and prevent erosion and siltation into wetlands and other waters downstream. Streambed material or other small aggregate material placed alone for bank stabilization will not meet GC No. 12.

2. **Permittees are reminded** that all compensatory mitigation is required prior to or concurrent with project construction to ensure compliance with the Final Compensatory Mitigation Rule. A complete copy of the Final Compensatory Mitigation Rule may be obtained at the following website: [http://www.usace.army.mil/cecw/pages/final\\_cmr.aspx](http://www.usace.army.mil/cecw/pages/final_cmr.aspx).

3. **Permittees are encouraged** to clean heavy equipment prior to and after construction if equipment was previously used in another stream, river, lake, pond or wetland within 10 days of initiating work in order to prevent the spread of New Zealand Mud Snails and other aquatic hitchhikers:

a. Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and keep the equipment dry for 10 days; or

b. Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with either a 1:1 solution of Formula 409 Household Cleaner and water, or other approved chemical solutions. Treated equipment must be kept moist for at least 10 minutes; or

c. Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with water greater than 120 degrees F for at least 10 minutes.

4. Designated Critical Resource Waters. Within the State of Colorado, the waters listed in **Attachment 1** are designated as Critical Resource Waters. In accordance with GC 22, the discharge of dredged or fill material is not authorized by the following nationwide permits in these waters or their adjacent wetlands: NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, A and B. In addition, in accordance with GC 31, notification to the DE is required for the use of the following nationwide permits in these waters and their adjacent wetlands: NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37 and 38.

5. Gold Medal Waters. Within the State of Colorado, the waters listed in **Attachment 2** are designated as Gold Medal Waters. Requirements for projects located in these waters and their adjacent wetlands are set forth in RC 7 above.

## **ATTACHMENT 1: DESIGNATED CRITICAL RESOURCE WATERS**

The Colorado Water Quality Control Division designates Critical Resource Waters within the State of Colorado. Please note that the following list is subject to change. For the most current list, or for more information on specific designations within these watersheds and their tributaries, please refer to the Colorado Water Quality Control Commission's website: <http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251595703337>.

**Animas and Florida River Basins.** All tributaries to the Animas River and Florida River, including all wetlands, which are within the Weminuche Wilderness Area.

Hermosa Creek, including all tributaries, from the source to immediately below the confluence with Long Hollow, except for the East Fork of Hermosa Creek.

All lakes and reservoirs tributary to the Animas River and Florida River which are within the Weminuche Wilderness Area. This segment includes Lillie Lake, Castilleja Lake, City Reservoir, Emerald Lake, Ruby Lake, Balsam Lake, Garfield Lake, Vestal Lake, Eldorado Lake, Highland Mary Lakes, Verde Lakes, Lost Lake, and Crater Lake.

**Bear Creek Basin.** The mainstem of Bear Creek and all tributaries, lakes, and reservoirs, including wetlands, within the Mt. Evans Wilderness Area.

**Big Thompson River Basin.** The mainstem of the Big Thompson River, including all tributaries, lakes, reservoirs, and wetlands, located within Rocky Mountain National Park (RMNP).

**Blue River Basin.** North Fork of the Swan River, including all tributaries and wetlands, from the source to the confluence with the Swan River.

All tributaries to the Blue River, including wetlands within the Eagle Nest and Ptarmigan Peak Wilderness Areas.

All lakes and reservoirs within the Eagle Nest and Ptarmigan Peak Wilderness Areas.

**Boulder Creek Basin.** All tributaries to Boulder Creek, including lakes, reservoirs, and wetlands, located within the Indian Peaks Wilderness Area.

**Cache la Poudre River Basin.** All tributaries to the Cache La Poudre River, including lakes, reservoirs, and wetlands, located within RMNP and Rawah, Neota, Comanche Peak, and Cache La Poudre Wilderness Areas.

**Clear Creek Basin.** All tributaries to Clear Creek, including lakes, reservoirs, and wetlands, located within Mt. Evans Wilderness Area.

**San Luis Valley (Closed Basin).** All tributaries in the Closed Basin, including wetlands, lakes, and reservoirs, located within the La Garita Wilderness Area.

The mainstem of Sand Creek, including all tributaries and wetlands, from the source to the mouth.

The mainstem of Medano Creek, including all tributaries and wetlands, from the source to the mouth

**Colorado River Basin.** The mainstem of the Colorado River, including all tributaries and wetlands, located within or flowing into RMNP.

All tributaries to the Colorado River and Frasier River within RMNP and within the Never Summer, Indian Peaks, Byers, Vasquez, Eagles Nest, and Flat Top Wilderness Areas.

Mainstem of Northwater Creek and Trapper Creek, including all tributaries and wetlands, from their source to the confluence with the East Fork of Parachute Creek. East Middle Fork of Parachute Creek, including all tributaries and wetlands from the source to the confluence with Middle Fork of Parachute Creek.

Battlement Creek, including all tributaries and wetlands, from its source to a point immediately downstream boundary of BLM lands.

Mainstem of Rapid Creek, including all tributaries and wetlands, from the source to a point immediately below the confluence with Cottonwood Creek including Kruzen Springs.

**Dolores River Basin.** All tributaries to the Dolores River and West Dolores River, including all wetlands, tributaries, which are within the Lizard Head Wilderness area.

Mainstem of Rio Lado from the source to the confluence with the Dolores River. Mainstem of Spring Creek from the source to the confluence with Stoner Creek. Mainstem of Little Taylor Creek from the source to the confluence with Taylor Creek.

All lakes, and reservoirs tributary to the Dolores River and West Dolores River, which are within the Lizard Head Wilderness area. This segment includes Navajo Lake.

**Eagle River Basin.** All tributaries to the Eagle River system, including lakes, reservoirs, and wetlands, located within the Eagle Nest and Holy Cross Wilderness Areas of the Gore Range.

Abrams Creek, including all tributaries and wetlands, from the source to the eastern boundary of the BLM lands.

**Fountain Creek Basin.** Severy Creek, including all tributaries, from the source to a point just upstream of where the Forest Service Road 330 crosses the stream.

Bear Creek, including all tributaries, from the source to a point upstream of GPS coordinated N3847682, W10454917 (this location is at elevation 8,200 feet above sea level at a 250 degree angle and 3,000 feet from the trailhead of the Mount Buckhorn Trail off High Drive).

**Upper Gunnison River Basin.** All tributaries to the Gunnison River, including and wetlands, within the La Garita, Powderhorn, West Elk, Collegiate Peaks, Maroon Bells, Fossil Ridge, or Uncompahgre Wilderness Areas.

All tributaries and wetlands from North Beaver Creek to Meyers Gulch, from the West Elk Wilderness boundary to their confluences with Blue Mesa Reservoir, Morrow Point Reservoir, or the Gunnison River, excluding Steuben Creek, North Willow Creek, and Soap Creek.

All lakes and reservoirs that are tributary to the Gunnison River and within the La Garita, Powderhorn, West Elk, Collegiate Peaks, Maroon Bells, Raggeds, Fossil Ridge, or Uncompahgre Wilderness Areas.

**Lower Gunnison River Basin.** All tributaries to the Smith Fork, including all wetlands, which are within the West Elk Wilderness Area.

All lakes and reservoirs tributary to the Smith Fork, and are within the West Elk Wilderness Area.

**North Fork of the Gunnison River Basin.** All tributaries to North Fork of the Gunnison River, including all wetlands, within the West Elk or Raggeds Wilderness Areas.

All lakes and reservoirs that are tributary to the North Fork of the Gunnison River and within the West Elk or Raggeds Wilderness areas.

**Laramie River Basin.** All tributaries to the Laramie River system, including lakes, reservoirs, and wetlands, located within the Rawah Wilderness Area.

**Los Pinos River Basin.** All tributaries to the Los Pinos River, including all wetlands, which are within the Weminuche Wilderness Area.

All lakes and reservoirs tributary to the Los Pinos River which are within the Weminuche Wilderness Area. This includes Granite Lake, Divide Lakes, Elk Lake, Flint Lakes, Moon Lake, Rock Lake, Betty Lake, Lost Lake, Hidden Lake, Vallecito Lake, Eldorado Lake, Trinity Lake, Leviathan Lake, Sunlight Lake, Hazel Lake, Columbine Lake, and Emerald Lake.

**Mancos River Basin.** All tributaries of the Mancos River located within Mesa Verde National Park.

**North Fork of the Gunnison River Basin.** All tributaries to North Fork of the Gunnison River, including lakes, reservoirs, and wetlands, located within the West Elk and Raggeds Wilderness Areas.

**North Platte River Basin.** All tributaries to the North Platte River and Encampment Rivers, including lakes and reservoirs.

All wetlands located within the Mount Zirkle, Never Summer, and Platte River Wilderness Areas.

**Piedra River Basin.** All tributaries to the Piedra River, including all wetlands, which are within the Weminuche Wilderness Area.

All lakes and reservoirs tributary to the Piedra River which are within the Weminuche Wilderness Area. This segment includes Window Lake, Monument Lake, Hossick Lake, and Williams Lakes.

**Rio Grande Basin.** All tributaries to the Rio Grande, including lakes, reservoirs, and wetlands, located within the Weminuche Wilderness Area.

**Roaring Fork River.** All tributaries of the Roaring Fork River system, including lakes and reservoirs, located within the Maroon Bells/Snowmass, Holy Cross, Raggeds, Collegiate Peaks, and Hunter/Fryingpan Wilderness Areas.

**San Juan River Basin.** All tributaries to the San Juan River, Rio Blanco, and Navajo River including all wetlands which are within the Weminuche Wilderness area and South San Juan Wilderness Area.

All lakes and reservoirs which are tributary to the San Juan River, Rio Blanco, and Navajo River and located within the Weminuche Wilderness Area and South San Juan Wilderness Area.

This segment includes Archuleta Lake, Spruce Lakes, Turkey Creek Lake, Fourmile Lake, Upper Fourmile Lake, Crater Lake, Quartz Lake, Fish Lake, and Opal Lake.

**San Miguel River Basin.** All tributaries, including wetlands, to the San Miguel River, and within the boundaries of the Lizard Head, or Mount Sneffels Wilderness Areas.

All lakes and reservoirs tributary to the San Miguel River and within the boundaries of the Lizard Head, or Mount Sneffels Wilderness Areas.

**South Platter River Basin.** All tributaries to the South Platte River, including lakes, reservoirs, and wetlands, located within the Lost Creek and Mt. Evans Wilderness Areas.

**St. Vrain Creek Basin.** All tributaries to St. Vrain Creek, including lakes, reservoirs, and wetlands, located within the Indian Peaks Wilderness Areas and RMNP.

**Uncompahgre River Basin.** All tributaries to the Uncompahgre River, including all wetlands, which are within the Mt. Sneffels or Uncompahgre Wilderness Areas.

All lakes and reservoirs tributary to the Uncompahgre River and within the Mt. Sneffels or Uncompahgre Wilderness Areas.

**White River Basin.** All tributaries to the White River, including lakes, reservoirs, and wetlands, located within the Flat Tops Wilderness Area, including Trapper's Lake.

**Yampa River Basin.** All tributaries to the Yampa River, including lakes, reservoirs, and wetlands, located within Zirkle, Flat Tops, and Sarvis Creek Wilderness Areas.

## **ATTCHMENT 2: GOLD MEDAL WATERS**

The following list of important spawning areas has been defined as Gold Medal Waters by the State of Colorado. As a reminder, according to RC 7 above, PCN is required for all proposed nationwide permit activities in these waters; consultation with CPW must be conducted in accordance with the timeframes established in GC 31.

NOTE: This list of Gold Medal Waters is subject to change. For the most current list, please refer to the Colorado Parks and Wildlife (CPW) Colorado Fishing Brochure available on the CPW website (<http://cpw.state.co.us>) or contact any CPW or Corps office in Colorado.

### **GOLD MEDAL LAKES:**

**North Delaney Butte Lake** in Jackson County.

**Spinney Mountain Reservoir** in Park County.

**Steamboat Lake** in Routt County.

### **GOLD MEDAL STREAMS:**

**Animas River** from Lightner Creek to Rivera Crossing Bridge.

**Arkansas River** from the confluence with the Lake Fork of the Arkansas, near Leadville, downstream to Parkdale at the Hwy. 50 bridge crossing above the Royal Gorge.

**Blue River** from Dillon Reservoir Dam to Green Mountain Reservoir inlet; and

From Green Mountain Reservoir dam to Colorado River confluence.

**Colorado River** from Fraser River to Troublesome Creek confluence.

**Ervingpan River** from Ruedi Reservoir dam to Roaring Fork River confluence.

**Gore Creek** from Red Sandstone Creek to Eagle River confluence.

**Gunnison River** from 200 yards downstream of Crystal Reservoir dam to the North Fork of the Gunnison River.

**North Platte River** from the south boundary of Routt National Forest to the Wyoming border.

**Rio Grande** from State Highway 149 Bridge at South Fork downstream to the Rio Grande canal diversion structure.

**Roaring Fork River** from the Fryingpan River downstream to the Colorado River confluence.

**South Platte River:** The middle fork of the South Platte River from State Highway 9 Bridge to the south fork confluence;

From the confluence of the middle and south forks to Spinney Mountain Reservoir inlet;

From the Spinney Mountain Reservoir outlet downstream to Eleven Mile Reservoir inlet;

From Cheesman Reservoir dam to the south boundary of the Wigwam Club property; and

From the north boundary of the Wigwag Club property to Scraggy View picnic ground.