



2012 Regional Conditions in Colorado

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 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 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 District Engineer.
- c. Structures authorized by this permit must not impede waterborne navigation, including recreational watercrafts, unless waived in writing by the District Engineer.
- d. The use of concrete/grouting is not allowed in perennial streams unless waived in writing by the District Engineer.
- e. The construction of water parks (e.g. kayak courses) and flood control projects are not authorized by this permit.

6. Nationwide Permits No's 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 the 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. Important spawning

areas are identified in the list of Gold Medal Waters in Colorado (Attachment 2). PCN is required for such activities and consultation with CPW would be conducted in accordance with the timeframes established in GC 31.

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 equal to 16") that is classified as a histosol in the Natural Resources Conservation Service's (NRCS) Field Indicators of Hydric Soils in the United States, Version 7.0, 2010. A copy of the document can be obtained at ftp://ftp-fc.sc.gov.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.

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 and Gold Medal Waters in Colorado. Within the State of Colorado, the waters listed in **Attachment 1** are designated as critical resource waters. In accordance with GC 22 (Designated Critical Resource Waters), the discharge of dredged or fill material is not authorized by the following nationwide permits in these waters, including wetlands adjacent to such waters: 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 (Pre-Construction Notification), notification to the District Engineer is required for use of the following nationwide permits in these waters, including adjacent wetlands: NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37 and 38.

Within the State of Colorado, the waters listed in **Attachment 2**, Gold Medal Waters, fall under the requirements set forth in Regional Condition 7 (above).

ATTACHMENT 1:

DESIGNATED CRITICAL RESOURCE WATERS

OUTSTANDING NATURAL RESOURCE WATERS

In the State of Colorado, the following waters are designated as Critical Resource Waters.

Animas and Florida River Basins. All tributaries to the Animas River and Florida River, including wetlands, lakes, and reservoirs, located within the Weminuche Wilderness Area.

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

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 Krusen Springs.

Dolores River Basin. All tributaries to the Dolores River and West Dolores River, including wetlands, tributaries, lakes, and reservoirs, located within the Lizard Head Wilderness Area.

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).

Gunnison River Basin. All tributaries to the Gunnison River, including lakes, reservoirs, and wetlands, located within the La Garita and Powderhorn Wilderness Areas.

All tributaries to the Gunnison River, including lakes, reservoirs, and wetlands, located within the West Elk, Collegiate Peaks, Maroon Bells, Raggeds, and Fossil Ridge Wilderness Areas.

All tributaries to the Gunnison River, including lakes, reservoirs, and wetlands, located within the Uncompahgre Wilderness Area.

All tributaries to the Smith Fork, including lakes, reservoirs, and wetlands, located within the West Elk Wilderness Area.

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 lakes, reservoirs, and wetlands, located within the Weminuche Wilderness Area.

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 lakes, reservoirs, and wetlands, located within the Weminuche Wilderness Area.

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 lakes, reservoirs, and wetlands, located within the Weminuche and South San Juan Wilderness Areas.

San Miguel River Basin. All tributaries to the San Miguel River, including lakes, reservoirs, and wetlands, located within the Lizard Head and Mt. Sneffles Wilderness Areas.

South Platte 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 lakes, reservoirs, and wetlands, located within the Mt. Sneffels and 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://wildlife.state.co.us/>) or contact any CPW or Corps office in Colorado.

Animas River. From Lightner Creek to Rivera Crossing Bridge.

Blue River. From Dillon Reservoir Dam downstream to the confluence with the Colorado River (34 miles).

Colorado River. From Fraser River downstream to the confluence with Troublesome Creek (20 miles).

Fryingpan River. From Ruedi Reservoir Dam downstream to the confluence with the Roaring Fork River (14 miles).

Gore Creek. From Red Sandstone Creek downstream to Eagle River (4.5 miles).

Gunnison River. From the upper boundary of the Black Canyon of the Gunnison National Monument downstream to the confluence with the North Fork of the Gunnison River (26 miles).

North Delaney Lake. Ten miles west of Walden.

North Platte River. From the Routt National Forest boundary to the Wyoming border (5.3 miles).

Rio Grande. From Farmers' Union Canal upstream to the upper boundary of Collier State Wildlife Area (22.5 miles).

Roaring Fork River. From the confluence with Crystal River downstream to the confluence with the Colorado River (12 miles).

South Platte River. The Middle Fork of the South Platte River downstream from U.S. Route 285, the South Fork of the South Platte River downstream from the outlet at Antero Reservoir, and from the confluence of the Middle and South Forks of the South Platte River downstream to the inlet of Spinney Mountain Reservoir.

From the outlet of Spinney Mountain Reservoir downstream to the inlet of Eleven Mile Canyon Reservoir.

From Cheesman Reservoir Dam downstream to the confluence with the North Fork of the South Platte River (19.5 miles).

Spinney Mountain Reservoir. On the South Platte River, five miles upstream from Eleven Mile Canyon Reservoir.