



**US Army Corps  
of Engineers®**  
Albuquerque District

## REGIONAL GENERAL PERMIT

---

Regional Permit No.: SPA-2012-00138-ABQ  
Permit Name: Regional General Permit NM-12-02;  
Bureau of Reclamation, Rio Grande,  
Elephant Butte Reach, Channel  
Maintenance, Sierra County, NM

Reply To:  
US Army Corps of  
Engineers,  
Albuquerque District, Las  
Cruces Field Office  
505 S. Main St., Suite 142  
Las Cruces, NM 88001

Permittee: Bureau of Reclamation, Elephant  
Butte Field Office  
Waterway: Rio Grande and tributaries, Elephant  
Butte Reach  
Issuance Date: November 28 2012  
Expiration Date: November 28, 2017  
CE Contact Phone: 575-652-3708/ 505-342-3284

---

---

**REGIONAL GENERAL PERMIT  
UNDER SECTION 404 OF THE CLEAN WATER ACT (33 USC 1344)  
for the Bureau of Reclamation, Elephant Butte Field Office**

**Purpose of this Regional General Permit:** The Bureau of Reclamation, Elephant Butte Field Office, located in Truth or Consequences, Sierra County, New Mexico, will conduct channel maintenance activities within the reach of the Rio Grande and its tributaries between the Elephant Butte Dam channel to the Interstate 25 Bridge south of Caballo Dam.

**Permittee:** Bureau of Reclamation, Elephant Butte Field Office, Truth or Consequences, Sierra County, NM.

**Permit Area:** This regional general permit is applicable to all waters of the United States, including wetlands, within the reach of the Rio Grande and its tributaries between the Elephant Butte Dam channel to the Interstate 25 Bridge south of Caballo Dam (see Sheets 1 – 3 of 4).

**Scope of Work and Authorized Materials:** Activities authorized by this regional general permit are as follows:

a. **Sediment Removal.** The permittee is authorized to annually remove up to approximately 60,000 cubic yards (cy) of sediment and other debris from the Rio Grande

near the following tributaries: Mescal Arroyo, Cuchillo Negro Creek, Arroyo Hondo, Palomas Arroyo, Red Canyon, Ralph Edwards Park, Carrie Tingley Hill, and several unnamed smaller arroyos between the Elephant Butte Dam channel from the base to the headwaters of Caballo Reservoir and below Caballo Dam to the Interstate 25 bridge. Removal of additional quantities of sediment and debris may be approved by the U.S. Army Corps of Engineers (Corps) under this permit in the event of heavy monsoon rainfalls and debris flows. Additional quantity removals would be subject to prior approval by the COE. Sediments will be removed during periods of low flow or when irrigation season flows cease from Elephant Butte Dam. Equipment used for sediment removal includes excavators, scrapers and bulldozers. Existing upland spoil areas will be used as disposal sites.

During the annual maintenance sediment removal, the permittee will use native material in the channel to temporarily divert any surface water present. This will allow the permittee to work in the dry on half the width of the channel at a time. After the majority of the sediments are removed from a given area, the temporary diversion will be included as part of the sediment removal. In case of emergency where there is not time to place diversion barriers, alternative methods may initially be required, such as working from the bank, to alleviate the emergency situation. The Corps and New Mexico Environment Department (NMED) would be notified at the time the emergency occurs.

**b. Grade Control Structure Maintenance.** Two existing grade control structures, located south of Cuchillo Negro Creek, will be maintained. An estimated 50 cy of rock rip rap may be used annually to maintain these structures. Equipment used for maintenance of existing bank protection structures includes front end loaders, bulldozers and excavators.

**c. Bank Stabilization Maintenance.** A maximum of 1000 cy of rock rip rap may be used annually to maintain existing bank stabilization or to construct additional new bank protection for private properties along the reach. This work would primarily occur between the Rio Grande Bridge below Elephant Butte Dam to Williamsburg where there is a patchwork of private properties with a mix of existing rip rap bank stabilization and unprotected areas. The work in these areas would occur as needed based on response to erosion caused by activities adjacent to the river, runoff and monsoonal rains. Additional quantities may be placed under this permit subject to prior approval of the Corps for the purposes of bank protection within the Rio Grande and side tributaries and arroyos as appropriate to maintain channel capacity and alignments. Work on existing bank stabilization areas will be repaired at 2 cy/linear foot. New bank stabilization sites will be constructed at 3 cy/linear foot.

**d. Temporary Rock Dike Construction:** During periods of non-release from the Elephant Butte Dam, a temporary rock dike would be installed in the vicinity of the local bath houses (see Sheet 4 of 4). The approximate dimensions of the temporary dike will be 140 feet long, 5 to 8 feet high, 10 feet wide at the top, and 102 feet wide at the bottom. The front side slope would be 1.5:1 with a back slope of 10:1 (approximately 3000 cy of

rock). The temporary dike will be placed and removed every year. The dike materials will be placed by front end loaders and dozers, and then removed upon resumption of irrigation flow.

**Duration of the Regional General Permit:** This regional general permit authorizes activities begun within 5 years and completed within 6 years after the date of issuance, unless the permit is revoked in the interim.

**Pre-Construction Notification Procedures:** Preconstruction notification is required for activities which fall within the above Activities "a" through "d". Notification will be provided on an annual basis prior to the construction season and shall include:

- a. A wetlands determination/delineation for any potential wetlands areas in or adjacent to proposed maintenance sites.
- b. Drawings or sketches on 8-1/2" x 11" paper showing the project location, the plan or top view of all work subject to Section 404, and cross-sectional or side views of the work.
- c. The permittee will provide annual work locations, estimated quantities of sediments to be removed, and estimated volume rock rip rap to be used for grade control and bank stabilization repairs or new bank stabilization structures.

**Work Exceeding Volume Limits**

Other erosion control activities or activities which exceed any of the volume limitations in Activities "a" through "d" may be authorized under this regional general permit if the permittee first provides the Corps of Engineers with the below information prior to beginning work:

a. A complete description of the proposed activities exceeding the volume limits including the proposed locations, cubic yards of sediments to be removed, location and cubic yardage of all rock rip rap materials to be discharged for grade control maintenance; the location of existing bank stabilization structures to be repaired including the length, area and volume of the discharge and the cubic yardage per linear foot. Any new bank stabilization will require notification which includes the length, area and volume of the discharge and the cubic yardage per linear foot. Additionally, if the new bank stabilization is within the Truth or Consequences-Williamsburg reach and exceeds 100 linear feet in length, the permittee will request approval for the new bank stabilization and submit a mitigation plan with that request. Each new 100 linear feet would trigger another compensatory mitigation increment which may include:

- Placement of boulder structures for fish habitat
- Salt cedar or other invasive species removal and maintenance with planting of native species as part of a riparian restoration.

b. A wetlands determination/delineation for any potential wetlands areas in or adjacent to proposed maintenance sites.

c. Drawings or sketches on 8-1/2" x 11" paper showing the project location, the plan or top view of all work subject to Section 404, and cross-sectional or side views of the work.

The information should reference Regional General Permit No. SPA-2012-00138-ABQ and be sent to:

US Army, Corps of Engineers  
Albuquerque District, Las Cruces Field Office  
505 S. Main St., Suite 142  
Las Cruces, NM 88001  
Telephone: (575) 652-3708

The Corps of Engineers will notify other Federal and state agencies of the proposed work. The Corps of Engineers may add special conditions to ensure that adverse environmental impacts are minimal, or may decide that an individual permit application is required. Within 45 days of receiving a completed notification, the Corps of Engineers will review the proposal and inform the permittee if the work may proceed under the authorization of this regional general permit. The work cannot proceed until the Corps of Engineers has provided written approval.

**Conditions of the Regional General Permit:** All activities authorized under this regional general permit are subject to the following conditions.

1. Maintenance activities shall routinely be performed after the cessation of irrigation flows each year. Emergency actions to maintain channel flows during the irrigation season are authorized but must be done during low flow conditions or by temporarily diverting flows into a temporary channel.
2. The Bureau of Reclamation shall meet onsite annually with invited state and federal agencies to jointly examine the permitted locations within this reach of the Rio Grande and to discuss each year's proposed maintenance activities and the details of each year's mitigation activities, if any.
3. The Bureau of Reclamation shall submit an annual report of maintenance and mitigation activities to the Corps of Engineers, Regulatory Division. The report shall include at a minimum, the type, location, and acreage or cubic yardage of each maintenance and mitigation activity performed. The report shall include a citation of the Section 404 Regional General Permit Number NM-12-02 and the Action Number SPA-2012-00138-ABQ.

4. Existing spoil placement sites shall be utilized. No spoil areas occur shall in any special aquatic sites, including wetlands. Each spoil site shall have a barrier, such as a berm, compost socks, or vegetated strip, between it and any jurisdictional waters or wetlands. No new spoil areas shall be developed without prior notification to the Corps of Engineers detailing the proposed location and the reason for creating a new spoil area.
5. Care will be used during maintenance activities to retain or replace vegetation to prevent streambank erosion. Lost woody riparian vegetation will be replaced and protected from wildlife or livestock damage at a 2:1 ratio to insure survival. Required plantings shall include only native species.
6. During sediment removal activities located at the confluence of Cuchillo Negro Creek and other sites as determined during the annual field review, additional depression areas near locations utilized by local fishermen shall be created at a distance of approximately 50 feet upstream into the tributary at the confluence with the Rio Grande.
7. No redesign of the Bureau of Reclamation's 1985 channel design profile for this reach of the Rio Grande is authorized under this permit. This condition does not include the mitigation activities in special conditions 5 and 6 above. Significant alterations to meanders and backwaters shall be avoided.
8. Existing bank stabilization shall be maintained. If repair is required, fills will not exceed 2 cy/linear foot. At new identified sites of active bank erosion on private properties, at the owner's request, new bank stabilization structures shall not exceed 3 cy/linear foot (up to 1,000 cy per year).
9. Mitigation shall be required as follows: With each new 100 linear foot bank stabilization structure that is constructed within the Truth or Consequences-Williamsburg Reach, the BOR will coordinate with the Corps of Engineers to determine which of the proposed mitigation methods is best suited. Approved mitigation methods are the placement of boulder structures for fish habitat or the removal of salt cedar or other invasive species and revegetation with native species.
10. Material may not be placed in any location or manner that will impair surface water flows into or out of any wetlands.
11. The permittee must take precautions to avoid and minimize temporary impacts and protect wetlands from damage during access and construction. The permittee shall restore wetlands to pre-construction conditions for all impacts associated with temporary fill activities.
12. If a permittee discovers any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, the permittee

shall stop work and immediately notify the Corps.

13. Activities authorized under this permit shall not jeopardize the continued existence of a threatened or endangered species, or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which is likely to destroy the critical habitat of such species.

14. Dredged or fill material shall not consist of unsuitable material (e.g., trash, debris, waste metal products, asphalt, car bodies, tires, etc.) and must be free from toxic pollutants in toxic amounts.

15. Discharges of dredged or fill material shall not occur in close proximity of a public water supply intake, shall not limit the ability of any existing diversion structure to appropriate water, and shall not adversely impact a stream gauging station.

16. Activities in breeding areas for migratory waterfowl must be avoided to the maximum extent practicable. On a case-by-case basis, the Corps may restrict the timing of construction in order to avoid and minimize impacts to migratory waterfowl during the breeding season.

17. The permittee must allow representatives from the Corps to inspect the authorized work at any time deemed necessary to ensure it is being or has been accomplished in compliance with the terms and conditions of the permit.

**Further Information:**

a. State Water Quality Certification: In accordance with Section 401 of the Clean Water Act, regional general permits in the State of New Mexico have been certified by statute pursuant to state water quality standards (20.6.4 NMAC), the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

b. Congressional Authorities: This regional general permit is authorized pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

c. Limits of this Authorization: This regional general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law; does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize interference with any existing or proposed Federal project.

d. Limits of Federal Liability: In issuing this regional general permit, the Federal Government does not assume any liability for the following: damages to the permitted projects or uses thereof as a result of other permitted or unpermitted activities or from

natural causes; damages to the permitted projects or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activities authorized by this permit; design or construction deficiencies associated with the permitted work; or damage claims associated with any future modification, suspension, or revocation of this permit.

e. **Reevaluation of Permit Decision:** The Corps of Engineers may reevaluate its decision on this regional general permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: the permittee fails to comply with the terms and conditions of this permit; the information provided by the permittee in support of the permit application proves to have been false, incomplete, or inaccurate; significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the regional general permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and if fails to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

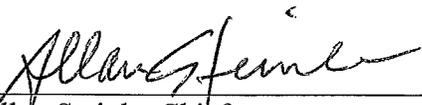
  
\_\_\_\_\_  
Allan Steinle, Chief  
Albuquerque District, Regulatory Division

28 Nov 12  
\_\_\_\_\_  
Date

Enclosures

natural causes; damages to the permitted projects or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activities authorized by this permit; design or construction deficiencies associated with the permitted work; or damage claims associated with any future modification, suspension, or revocation of this permit.

e. **Reevaluation of Permit Decision:** The Corps of Engineers may reevaluate its decision on this regional general permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: the permittee fails to comply with the terms and conditions of this permit; the information provided by the permittee in support of the permit application proves to have been false, incomplete, or inaccurate; significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the regional general permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and if fails to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

  
\_\_\_\_\_  
Allan Steinle, Chief  
Albuquerque District, Regulatory Division

  
\_\_\_\_\_  
Date

Enclosures