



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

2007 Proposed Regional Conditions in Colorado

PROPOSED REGIONAL CONDITIONS TO NATIONWIDE PERMITS IN THE STATE OF COLORADO

Proposed Regional Conditions Applicable to Specific Nationwide Permits within Colorado

a. Nationwide Permit Nos. 12 and 14, Utility Line Activities and Linear Transportation Projects. In Colorado, utility line and road activities crossing perennial waters or special aquatic sites require notification to the District Engineer in accordance with General Condition 27 (Pre-Construction Notification). In addition, post-construction reporting for activities in all other jurisdictional waters is required and must include information required by General Condition 27 (Pre-Construction Notification) including location, supporting drawings and maps. The post-construction reporting must also include a statement certifying that the General Conditions of the nationwide permits have been followed.

b. Nationwide Permit No. 13 Bank Stabilization. In Colorado, bank stabilization activities necessary for erosion prevention in streams that average less than 20 feet in width (measured between the ordinary high water marks) are limited to the placement of no more than 1/4 cubic yard of suitable fill* material per running foot below the plane of the ordinary high water mark. Activities greater than 1/4 cubic yard may be authorized if the permittee notifies the District Engineer in accordance with General Condition 27 (Pre-Construction Notification) and the Corps determines the adverse environmental effects are minimal. [* See (h) for definition of Suitable Fill]

c. Nationwide Permit No. 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

(1) For activities that include a fishery enhancement component, the Corps will send the Preconstruction Notification to the Colorado Division of Wildlife (CDOW) for review and written approval. If CDOW raises concerns, the applicant may either modify their plans, in coordination with CDOW, or

apply for a standard individual permit.

(2) This nationwide permit may not be used to authorize mechanisms for controlling stormwater runoff for the purpose of reducing downstream erosion, water quality degradation and flooding. Grade control structures are not to exceed 1 foot vertical drop, except where additional vertical drop is clearly demonstrated as necessary to restore aquatic resource functions.

(3) For activities involving the length of a stream, the post-project stream sinuosity will be equal to, or greater than, pre-project sinuosity (Sinuosity is the ratio of stream length to project reach length).

(4) Stream restoration activities are limited to 1,500 linear feet as measured on the stream thalweg, and instream structures are limited to 50 cubic yards per structure.

(5) Structures will allow the passage of aquatic organisms, recreational water craft or other navigational activities, unless specifically waived in writing by the District Engineer. The use of grout and/or concrete in building structures is not authorized by this nationwide permit.

(6) The construction of water parks (i.e. kayak courses) is not authorized by this nationwide permit.

d. Nationwide Permits 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 Pre-Construction Notification. When reviewing proposed developments, the Corps will utilize the most accurate and reliable FEMA/locally-approved pre-project floodplain mapping, not post-project floodplain mapping based on a CLOMR or LOMR. However, the Corps will accept revisions to existing floodplain mapping if the revisions resolve inaccuracies in the original floodplain mapping and if the revisions accurately reflect pre-project conditions. These two permits may not be utilized if the Corps determines a practicable alternative exists for construction of the project outside of the approved floodplain.

e. Nationwide Permit B; Discharges in Ditches and Canals. The discharge must not cause the loss of greater than 1/2 acre of waters of the United States, including the loss of no more than 300 linear feet of ditch or canal, unless this 300 foot linear foot limit is waived in writing by the District Engineer.

Regional Conditions Applicable to All Nationwide Permits within Colorado (Continued)

f. Removal of Temporary Fills. General Condition 13 (Removal of Temporary Fills) is amended by adding the following: When temporary fills are placed in wetlands in Colorado, 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.

g. Important Spawning Areas. General Condition 3 (Spawning Areas) is amended by adding the following: In Colorado, activities which; (1) would destroy important spawning areas; (2) would be conducted in these waters during spawning seasons for trout and Kokanee salmon (spawning season for rainbow and cutthroat trout is March 15 through July 15, and for brown and brook trout and Kokanee salmon is September 15 through March 15); or (3) would have greater than minimal release of sediments during these spawning seasons are not authorized by any nationwide permit. 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 attached list of critical resource waters in Colorado.

h. Suitable Fill. In Colorado, use of broken concrete as fill material requires notification to the District Engineer in accordance with General Condition 27 (Pre-Construction Notification). 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 rebar is prohibited in perennial waters and special aquatic sites.

Regional Conditions for Revocations Specific to Certain Geographic Areas

i. Fens: All Nationwide permits, except permit Nos. 3, 6, 20, 27, 32, 38 and C are **revoked** for activities in these regionally important aquatic resources. Fens are defined as wetlands which are characterized by water logged spongy ground and contain, **in all or part**, soils classified as histosols* or mineral soils with a histic epipedon*. To determine whether this provision applies, the entire wetland must be examined for the presence of

histosols or histic epipedons.

*Histosols have 40 centimeters (16 inches) or more of the upper 80 centimeters (32 inches) an organic soil material (or less over bedrock). Organic soil material has an organic carbon content (by weight) of 12 to 18 percent, or more, depending on the clay content of the soil. Histic epipedons have a 20 to 60 centimeter-thick (8-24 inches) organic soil horizon that is at or near the surface of a mineral soil. Histosols and histic epipedons are widely recognized as organic soils formed by slow accumulation of plant debris in waterlogged situations where it cannot decompose. (More information on histosols can be obtained from the U.S. Department of Agriculture, Natural Resources Conservation Service publications on Keys to Soil Taxonomy and Field Indicators of Hydric Soils in the United States).

j. Springs: Within the State of Colorado, all nationwide permits are **revoked** within 100 feet of the point of groundwater discharge of natural springs. A spring source is defined as any location where ground water emanates from a point in the ground. For purposes of this regional condition, springs do not include seeps or other discharges which do not have a defined channel.

ADDITIONAL INFORMATION

2. The following provides additional information regarding minimization of impacts and compliance with existing general Conditions:

a. Permittees are reminded of the existing General Condition No. 6 which prohibits the use of unsuitable material. Organic debris, building waste, asphalt, car bodies, and trash are **not** suitable material. Also, General Condition 12 requires appropriate erosion and sediment controls (i.e. all fills must be permanently stabilized to prevent erosion and siltation into waters and wetlands at the earliest practicable date). Streambed material or other small aggregate material placed along a bank as stabilization will **not** meet General Condition 12.

b. Designated Critical Resource Waters in Colorado. In Colorado, a list of designated Critical Resource Waters has been published in accordance with General Condition 19 (Designated Critical Resource Waters). This list will be published on the Albuquerque District Regulatory home page and will be attached to nationwide permit summaries distributed to the public. A copy is attached (see Enclosure 1).

Enclosure 1

CRITICAL RESOURCE WATERS IN COLORADO

In accordance with General Condition No. 25 (Designated Critical Resource Waters) the following waters within the State of Colorado are designated as critical resource waters:

a. Outstanding Natural Resource Waters:

Cache la Poudre Basin: All tributaries to the Cache La Poudre River system, including all lakes and reservoirs, which are within Rock Mountain National Park;

Laramie River: All tributaries to the Laramie River system, including all lakes and reservoirs which are in the Rawah Wilderness Area;

North Fork Gunnison River: All tributaries to North Fork Gunnison River system, including lakes, reservoirs and wetlands within the West Elk and Raggeds Wilderness Area;

North Platte River: All tributaries to the North Platte River and Encampment Rivers, including all lakes and reservoirs, which are in the Mount Zirkle Wilderness Area;

San Miguel River: All tributaries, lakes, reservoirs, and wetlands within the boundaries of the Lizard Head and Mt. Sneffels Wilderness Area;

Roaring Fork River: All tributaries to the Roaring Fork River system, including lakes, reservoirs and wetlands within the Maroon Bells/Snowmass Wilderness Area;

Umcompahgre River: All tributaries to the Uncompahgre River system, including lakes, reservoirs, and wetlands within the Mt. Sneffels and Big Blue Wilderness Areas;

Upper Arkansas River Basin: All streams, wetlands, lakes, and reservoirs within the Mount Massive and Collegiate Peaks Wilderness Areas;

Upper Colorado River: Mainstem of the Colorado River system including tributaries, lakes, reservoirs, and wetlands within Rocky Mountain National Park;

Upper Gunnison River Basin: All tributaries, lakes, reservoirs, and wetlands in the La Garita Wilderness Area. All tributaries to the Gunnison River system, including lakes, reservoirs, and wetlands within West Elk, Collegiate Peaks, Maroon Bells, Raggeds, Fossil Ridge, Oh-Be-Joyful and Big Blue Wilderness Areas;

White River: Trapper's Lake and tributaries to Trapper's Lake;

Yampa River: All tributaries to the Yampa River, including lakes, reservoirs and wetlands within Zirkle Wilderness Area.

b. Important Spawning areas: In Colorado, important spawning areas are defined as "Gold Metal Waters" as identified by the State of Colorado. Gold Metal Waters are defined in the Colorado Fishing Season Information brochure, on the Colorado Division of Wildlife website www.dnr.state.co.us, or can be obtained at any Corps office in Colorado.