



# Introduction

- NWP 27 in the Regulations
- NWP 27 Regional Conditions NM, CO
- PCN Checklist and PCN Form
- Wrap-up and questions



# Nationwide Permit 27 - Aquatic Habitat Restoration, Enhancement, and Establishment Activities



# NWP 27 in the Regulations

From NWP Final Notice, 82 FR 1860, para. 3:

*Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services.\**

*\*Italics, underline added*



# NWP 27 in the Regulations

*To be authorized by this NWP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of an intact aquatic habitat or riparian area of the same type that exists in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area.\**

*\*Italics, underline added*



# NWP 27 in the Regulations

Comments received during the NWP public comment period included requests to restrict use, that NWP 27 was being inappropriately requested by applicants for bank stabilization projects to avoid mitigation. Comments also included discussion on NWP 27 being used for inappropriate conversions from wetlands and/or streams to other waters for a variety of reasons.



# NWP 27 in the Regulations

- To address these issues, HQ added the language in the first two slides requiring the use of a reference condition upon which applicants must base their proposed restoration activities.
- NWP 27 requires a lift in functions and services to be used. No mitigation is required under such circumstances.



# New Mexico and Colorado NWP 27 Regional Conditions

## Colorado:

4. Nationwide Permit No. 27: Aquatic Habitat Restoration, Establishment, and Enhancement Activities. This permit is revoked for activities in which the project purpose is fishery enhancement in perennial streams. These types of projects may qualify for authorization under 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. The use of concrete/grouting is not allowed in perennial streams unless waived in writing by the DE.
  - c. The construction of water parks (e.g. kayak courses) and flood control projects are not authorized by this permit.



# CO – RGP 12

- For fish habitat improvement
- Requires coordination with CO DPW
- For details, see

<http://www.spa.usace.army.mil/Portals/16/docs/civilworks/regulatory/Regional%20General%20Permits/Colorado/RGP12-FINAL-7Oct2016.pdf?ver=2016-11-01-125621-580>



# New Mexico and Colorado NWP 27 Regional Conditions

## New Mexico:

For all proposed activities under Nationwide Permit 27 that require Pre-Construction Notification, a monitoring plan commensurate with the scale of the proposed restoration project and the potential for risk to the aquatic environment must be submitted to the USACE. (See “NWP 27 Guidelines” at <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/NWP.aspx>).



# NM – NWP 27 Monitoring Plan

- Design it to ensure monitoring reports:
  - ▶ Display whether structures are functioning or need repair and include adaptive management plan
  - ▶ Display riparian/wetland vegetation growth
  - ▶ Display whether functional lift is occurring
  - ▶ If required, include performance standards for vegetation, soils, stream/structure parameters using the SPD Uniform Performance Standards as a guide



# NM – NWP 27 Monitoring Plan

- **Functional lift**
  - ▶ Ensure your selected photo points will display structure performance, vegetation regrowth/spread on a comparative and annual basis
  - ▶ Include measured cross-sections, longitudinal profiles to demonstrate structure performance/stream functional lift
  - ▶ Be prepared to fully discuss the above in your monitoring report discussion



# NM – NWP 27 Monitoring Plan

- Performance standards
  - ▶ Use Uniform Performance Standards as a guide
  - ▶ Measureable methods to demonstrate functional lift
  - ▶ Example: *The permittee shall ensure target of >75% of reference absolute cover of wetland species (OBL or FACW) is met by year 5. Interim standard 50% years 1-3, 70% year 4, and final standard 75% year 5.*
  - ▶ <http://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/ups/12505.pdf>



# NWP 27 - PCN Checklist/Form

- Either form or document using checklist is acceptable
- For larger projects or small projects with multiple wetlands/waters, it may be easier to use Checklist and submit a document, with a signature space for applicant
- Important to provide information on all relevant sections
- Checklist and PCN form parallel each other, but are not the same



# NWP 27 – Application Package

- PCN Checklist 1-4, Form 1-2
  - ▶ Provide applicant information and signature, location information – decimal lat-long (NAD83) of project center point preferred,
- Important that applicant (federal agency, land owner, project proponent) sign application – for enforceability, legal authority.



# NWP 27 – Application Package

- PCN Checklist 5, Form 3
  - ▶ Include NWP numbers for which you are applying
  - ▶ NWP 27 Aquatic Habitat Restoration, Enhancement, and Establishment Activities
    - NWP 13, bank stabilization
    - NWP 14 linear transportation projects



# NWP 27 – Application Package

- PCN Checklist 6, Form 4
  - ▶ Purpose and need
    - Why is the project necessary? What are you fixing? What is wrong with the aquatic resource that requires restoration? Water quality? Stream stability? Improving fisheries? Drained and dry wetlands? What reference condition are you trying to achieve?
  - ▶ Project description
    - how many and what type of structures? Hand-constructed with volunteers? What type of machinery to be used? Will you work in flowing water? Do you need to divert it around the project site? Will you have temporary adverse effects to water quality (turbidity)?



# NWP 27 – Application Package

- PCN Checklist 7-8, Form 5
  - ▶ Include table of all geographically distinct wetlands and non-wetland waters to be impacted (or within project boundaries) (must be attachment to form)
  - ▶ Regulations require delineation of all wetlands/non-wetland waters on project site



# NWP 27 – Application Packages

- PCN Checklist 8-9, Form 5
  - ▶ With the form, you'll include baseline site conditions with your delineation report
  - ▶ If using the checklist, as part of your response to 8 and 9, you'll include information on the baseline site conditions



# NWP 27 – Application Package

- PCN Checklist 10-11, Form 4
  - ▶ Plans, figures, and site photographs
  - ▶ Location map, detailed map, structures plan and cross-section view
  - ▶ Photographs of site should clearly display structure location(s)
  - ▶ If many small structures, use a single typical plan view and cross section view of each type of structure to be used (one-rock dam, zuni bowl, baffle, post vane, rock-and-log run-down, etc.)



# NWP 27 – Application Package

- PCN Checklist 12-15, Form 4
  - ▶ Construction methods, surface area/dimensions of permanent and temporary impacts (in table format if multiple waters/wetlands), cubic yards of fill per running foot (only if you are also doing NWP 13 bank stabilization), location of offsite borrow or disposal areas (or if materials obtained from quarry, balanced cut and fill, etc.)



# NWP 27 – Application Package

- PCN Checklist 17-18, Form 7-8
  - ▶ If there is a non-Corps lead federal agency, submit signed ESA and NHPA Section 106 determinations such as NEPA Cat-Ex or FONSI
  - ▶ If Corps is lead federal agency, contact Corps PM early in planning stages to determine need for endangered species and cultural resource surveys – allow time for Corps consultation with USFWS and SHPO/tribal/others (especially important if in a National Historic District)



# NWP 27 – Application Package

- PCN Checklist 19-20, Form 4
  - ▶ Describe your short and long-term maintenance needs, if any
  - ▶ Include detail here on how your project would result in functional lift – the beneficial impacts that would result to the aquatic resource in terms of hydrology, floodplains, substrate, currents/circulation/drainage patterns, deposition/erosion, fisheries/riparian habitat



# NWP 27 – Application Package

- PCN Checklist 21, Form 6
  - ▶ You must describe here:
    - Avoidance of impact achieved to meet purpose and need
    - Minimization of disturbance necessary to meet the purpose and need
    - Any compensatory mitigation necessary/conceptual mitigation plan if not NWP 27 or why mitigation is not required for the proposed action



# NWP 27 – Application Package

- PCN Checklist 22, Form 9-10
  - ▶ Wild and Scenic Rivers, Corps 408 project permits, Section 10 of Rivers and Harbors Act (navigation) - if you are affecting one of these, allow ample time for consultation, additional materials submittal
- Form 11 (PCN checklist doesn't include but should)
  - ▶ NWP General Conditions
  - ▶ Describe on form or checklist attachment which GCs apply to your project and how you will comply with them



# NWP 27 – Application Package

- Water Quality Certification
  - ▶ If on tribal lands – see website for list of tribes with certifying authority. Either EPA or tribe.
  - ▶ If non-tribal and intermittent or perennial, send your application to NMED simultaneously with Corps submittal to receive confirmation email from NMED

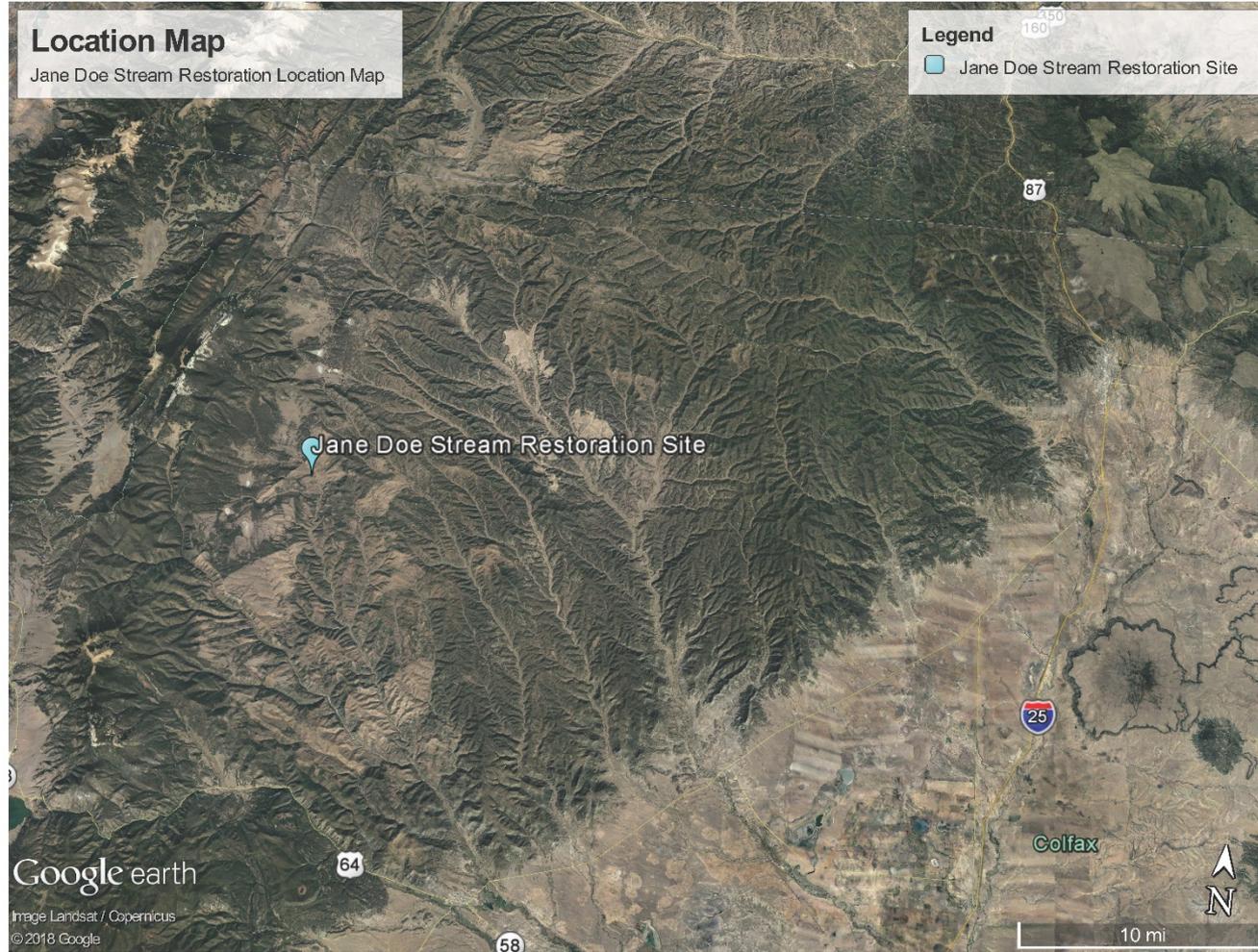


# NWP 27 – Application Package

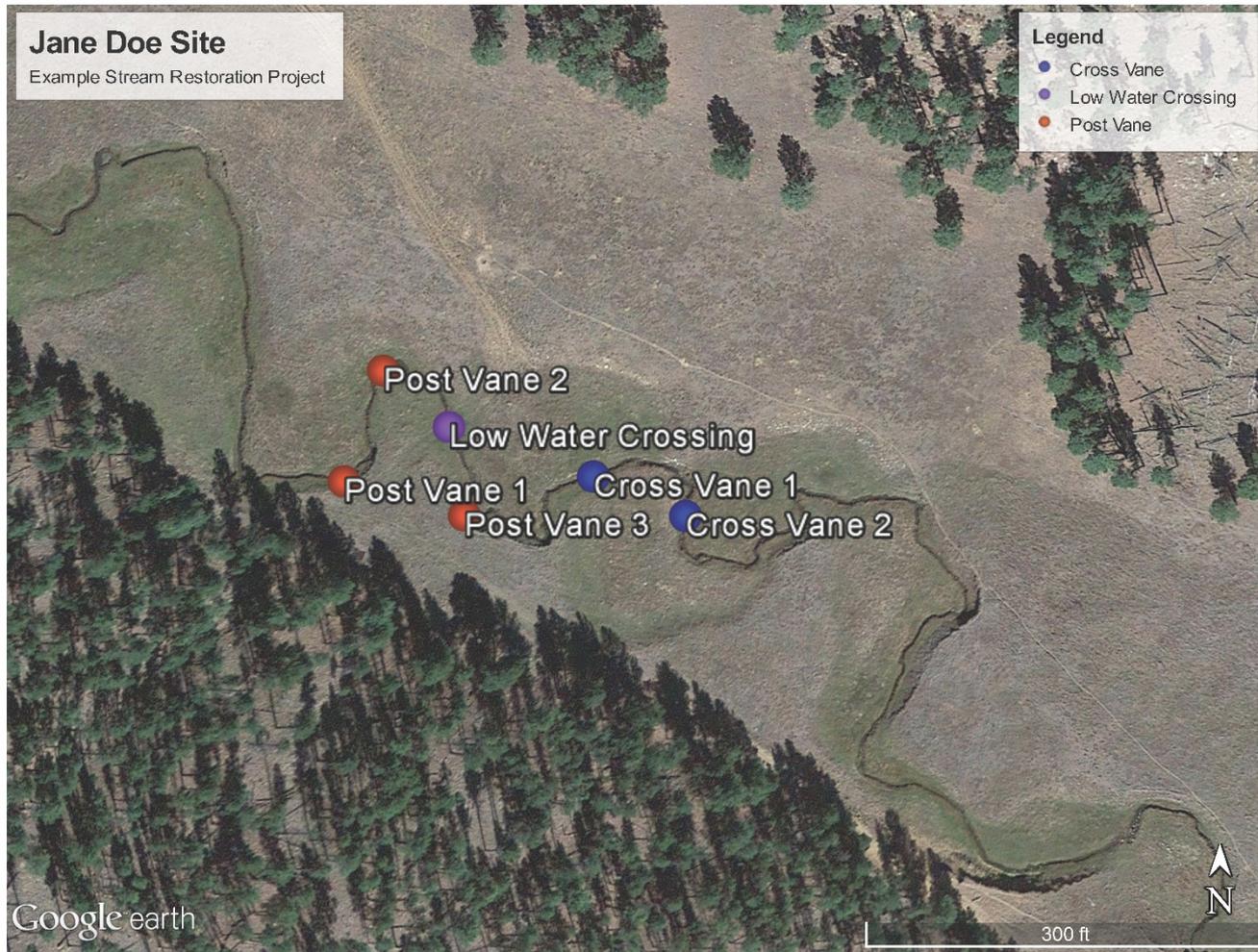
- In GC 32, Corps PM has 30 days to tell you whether application is complete and additional info you need to submit
- Verification letter from Corps
  - ▶ Will include detailed project description and surface area of temporary/permanent impact
  - ▶ Will include special conditions referencing your monitoring plan and annual date for monitoring report submittal



# Example Figures



# Example Figures



# Example Figures

Figure 6: Low Water Crossing Diagrams

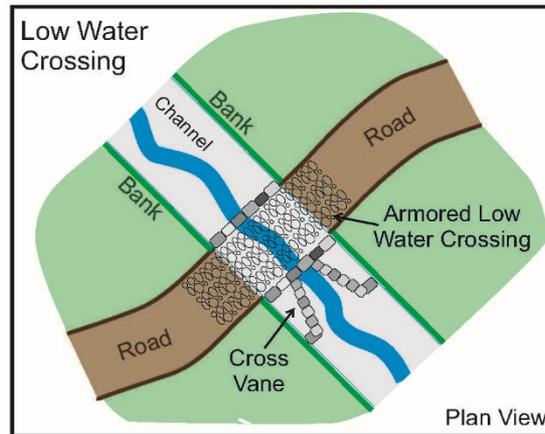
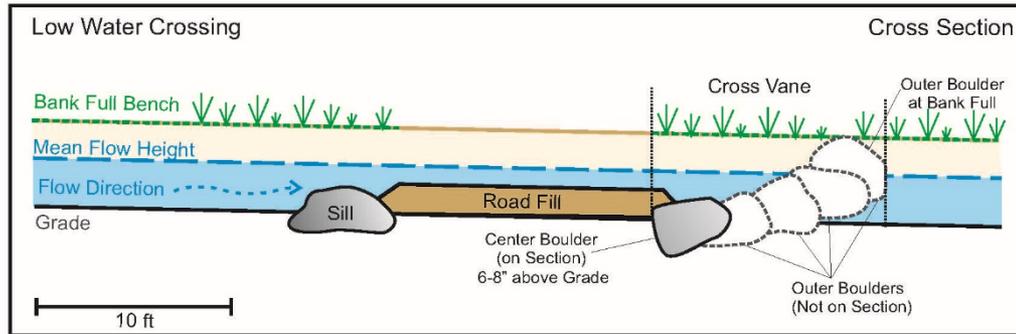


Figure credit: Vermejo Park Ranch



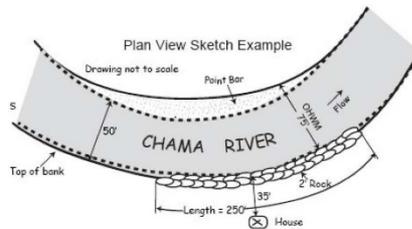
# Example Figures

PCN Checklist

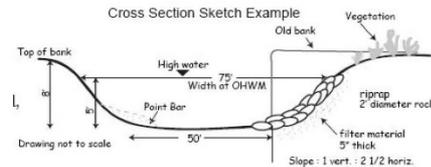
## Map and Figures Examples:



**Figure 1. Vicinity Map:** Photocopy from road or topo map; indicate site location, any landmarks, etc.



**Figure 2. Plan View Sketch "Bird's-eye view":** Include all features, distances, length and width dimensions of features and waterbody/wetland, Ordinary High Water Mark (OHWM), wetland boundary, north arrow, and scale.



**Figure 3. Cross Section Sketch "Cut away view":** include heights, widths of structures, channel, wetland, bank slopes, OHWM, wetland boundary, etc.

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# Example Figures

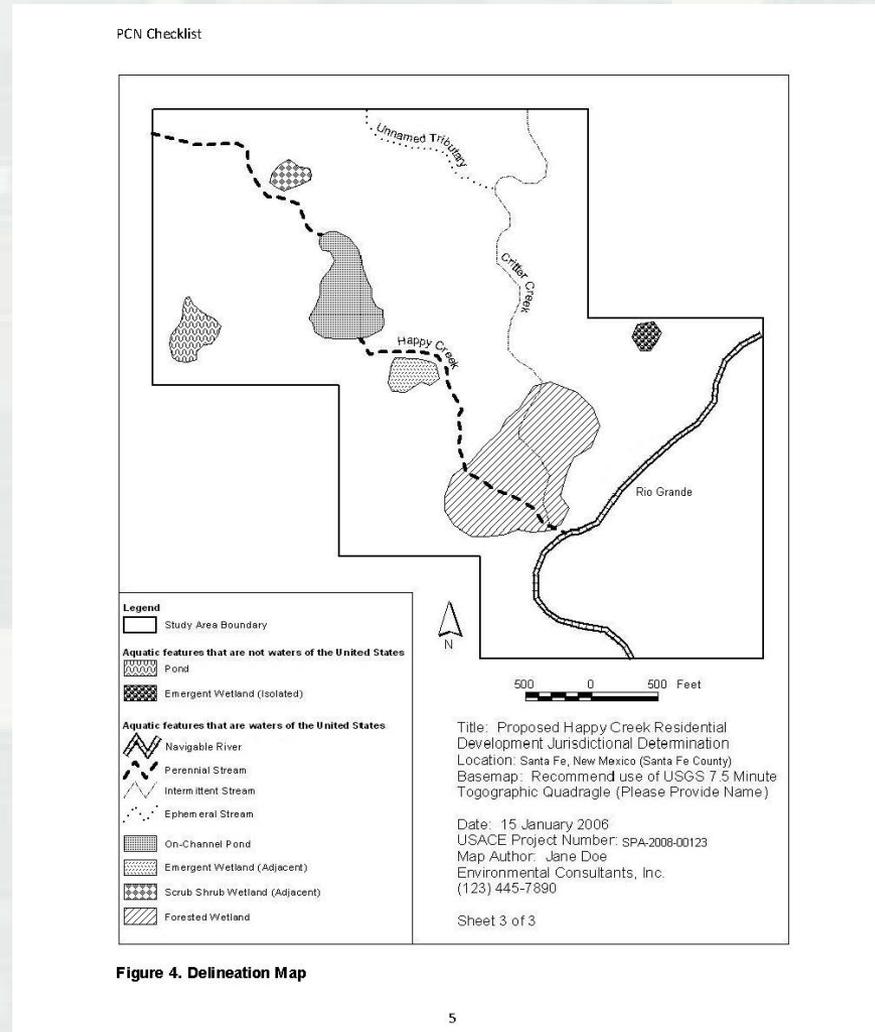


Figure 4. Delineation Map

# NWP 27 Monitoring Report

- Discussion
  - ▶ Include structure performance – did any fail? Did created pools fill in unexpectedly?
  - ▶ Include weather extremes for reporting period – was winter/monsoon precip normal, high, low? Did you have flood events?
  - ▶ Include vegetation growth discussion – did reveg exceed expectations? Do you have an influx of invasives?
  - ▶ Overall project performance – lead the reader to your project performance/functional lift conclusion



# NWP 27 Monitoring Report

- Data Presentation
  - ▶ Include your cross-sections and long pro
  - ▶ Vegetation plots/transects
  - ▶ Other measurements in table format
- Performance Standards
  - ▶ Include interim/final performance standard – are you meeting? How measured?



# NWP 27 Monitoring Report

- Adaptive Management
  - ▶ Do you have poor structure performance or failure?
  - ▶ Is revegetation not meeting project objectives or performance standards?
  - ▶ Will structure/veg issue result in adverse impacts?
  - ▶ How will you address project deficiencies?



# NWP 27 Monitoring Report

- Photo points/figures
  - ▶ Ensure your selected photo points display the conclusion you are trying to convey
  - ▶ Ensure your discussion section ties to the photos in the document



# Questions?

