

*ALBUQUERQUE DISTRICT
U.S. ARMY CORPS OF ENGINEERS*

REGIONAL GENERAL PERMIT (RGP) 16-01

UTILITY LINE CONSTRUCTION, MAINTENANCE, REPAIR OR REMOVAL

EFFECTIVE DATE: November 29, 2021 **EXPIRATION DATE:** November 29, 2026

ISSUING OFFICE: U.S. Army Corps of Engineers (Corps), Albuquerque District
(District)

AREA OF COVERAGE: Within the District's Area of Responsibility for New Mexico and West Texas

AUTHORITY: 33 Code of Federal Regulations (CFR) Parts 322.2(f), 323.2(h), and 325.2(e)(2) published in the Federal Register November 13, 1986, pursuant to Section 404 of the Clean Water Act (CWA).

SCOPE OF AUTHORIZED ACTIVITIES: Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Utility lines: This RGP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, including projects where there is a change in pre-construction contours.

A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area. Material resulting from trench excavation may be temporarily side-cast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer (DE) may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a French drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This RGP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This RGP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This RGP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This RGP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This RGP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary. Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

This RGP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated with native species, as appropriate.

Note 1: The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of RGP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately. A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations.

Note 2: Each activity will be evaluated and, in some cases, may be authorized by nationwide permits or other regional general permits or may be exempt from regulation under Section 404(f)(1) of the Clean Water Act. An individual permit will be required for any activity that the DE determines to have more than minimal environmental effects, individually or cumulatively, or that may be contrary to the public interest.

Note 3: Before any project will be considered and before authorization is granted under this RGP, it must be in compliance with the General Conditions.

This RGP *does not* authorize work in advance of permit verification by the Corps.

GENERAL CONDITIONS OF THIS RGP:

The general conditions (GCs) of the 2021 Nationwide Permits (NWP) are also applicable to this RGP and, therefore, included as an attachment. However, it should be noted that the following conditions of this RGP supersede the NWP GCs where the same basic requirements are addressed. For example, GCs 1 and 2 below supersede GC 32 of the NWP (Pre-Construction Notification); and GC 4 below supersedes GC 6 of the NWP (Suitable Material).

1. **Application and Project Completion Timeframes:** Prior to commencing work, a prospective permittee must notify the Corps of the proposed work in accordance with the requirements of the "Preconstruction Notifications" General Condition below.
2. **Preconstruction Notifications:**
 - a. **Timing of Notification:** The applicant must notify the DE as early as possible and shall not begin the activity until the DE provides written verification that the activity may proceed under this RGP with any site-specific special conditions imposed by the DE. Applicants may request pre-application consultation via the email addresses below or by contacting the NM/TX Branch Chief at 505-231-3586. Preconstruction notification should be sent via mail/email to:
 - U.S. Army Corps of Engineers
 - Albuquerque District
 - Regulatory Division, CESPARD
 - 4101 Jefferson Plaza NE
 - Albuquerque, NM 87109
 - SPA-RD-NM@usace.army.mil
 - SPA-RD-TX@usace.army.mil

Note: Electronic submittals are preferred.
 - b. **Contents of Notification:** The notification should be in writing and include the following information:
 - (1) Applicant's name, physical address, electronic mail address, and telephone number, and contact information for the owner of the affected land.
 - (2) A written description of the proposed work including:
 - a) The purpose and need for the project and anticipated start and end dates

- b) Location of the project: Latitude/Longitude or UTM (NAD 83); may also include - Section, Township, Range or Land Grant
 - c) A description of waters of the United States that may be affected by the activities including the waterway name, if known, or nearest named waterway, including dimensions of waterway/wetlands (acreage or length, width, depth at and below the ordinary highwater mark (OHWM)). Additional information for identifying the OHWM can be found at:
https://www.spa.usace.army.mil/Portals/16/docs/civilworks/regulatory/Jurisdiction/Arid_West_OHWM_Identification_ERDC_TR%2008-12.pdf.
 Also, the length and width or acreage of aquatic resource type (perennial or intermittent stream; emergent, scrub/shrub, or forested wetland, fens, etc.). A table providing this information is useful if multiple aquatic resources exist within the project area
 - d) Delineation report for any impacted waters of the United States. SPD Map and Drawings SOP available at:
https://www.spa.usace.army.mil/Portals/16/docs/civilworks/regulatory/publicnotices/SPD-RG_map-drawing-standards_final_20120806v3.pdf.
 - e) Photos of the project site
 - f) Baseline conditions of the site, including dominant plant species, habitat, structures, disturbance, waterway condition, grade, substrate/soils, floodplain, etc.
 - g) Location of disposal site for excavated material; and
 - h) Type, composition, and quantity of material to be excavated from or placed in (including temporary material used for cofferdams, etc) waters of the United States
 - i) Dimensions of both temporary and permanent impacts to waters of the U.S., including wetlands, within the project area and impact type (e.g., fill, excavation, rip-rap, etc). A table providing this information is useful for projects that have multiple types of impacts and/or multiple stream crossings
 - j) Description of impacts to vegetation, aquatic and wildlife habitat, hydrology and hydraulics at the project site and upstream and downstream of the project, erosion and sedimentation, water quality, and substrate
 - k) Type of equipment to be used. Avoidance and minimization measures, and a Mitigation Plan (if applicable)
 - l) Short- and long-term maintenance requirements or issues and a Maintenance Plan (if applicable)
- (3) A location map on 8 1/2" x 11" paper indicating the location of the proposed work and a legal description (section, township, range, and county, NAD 83 UTM coordinates or latitude and longitude).
 - (4) A set of 8.5 by 11-inch drawings showing the details of the proposed work (plan and cross-sectional views showing elevations and dimensions).
 - (5) Assessment of potential impacts to federally-listed endangered and threatened species or designated critical habitat. Assessment should include endangered and threatened species list for the county the project is located in; description of existing habitat; description of suitable habitat; survey methods; conclusions; and any correspondence or documentation of coordination with U.S. Fish and

Wildlife Service (USFWS)

- (6) Assessment of potential impacts to historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places. Assessment should include statement of known presence or absence of historic properties; identification of historic properties; detailed description of historic properties; survey methods; conclusions; and any correspondence or documentation of coordination with State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO)
 - (7) Any other pertinent, supporting data
- c. **Form of Notification:** The Nationwide Permit Pre-Construction Notification (PCN) Form may be used and is available from the District's website at: <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/RGP.aspx>. Regardless of the form of notification, that applicant must provide all of the information required in General Condition 2.b. Items (1)-(7) above.
- d. **Construction:** Proposed work must be done in the dry, and outside of the monsoon season. Exceptions may be made for intermittent and ephemeral stream channels on a case-by-case basis. Proposals to work in a perennial stream should be during the low flow period of the hydrograph and must include an erosion and sedimentation control plan.
- e. **Mitigation:** Impacts resulting from discharges of dredged or fill material into waters of the United States must be avoided or minimized to the maximum extent practicable. Compensation for unavoidable adverse impacts will be considered when there is a 0.1 ac or more loss of aquatic resource functions. Additional information regarding Mitigation Guidance can be found at: <https://www.spd.usace.army.mil/Portals/13/docs/regulatory/mitigation/MitMon.pdf>. Factors that the DE will consider when determining the suitability of appropriate and practicable mitigation will include, but are not limited to:
- (1) The approximate functions and values of the aquatic resource being impacted, such as habitat value, aquifer recharge, sediment conveyance or retention, flood storage, etc.
 - (2) The permanence of the project's impacts on the resource; and
 - (3) The potential long-term effects of the action on remaining functions and values of the impacted aquatic resource.

To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purpose. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; replacing the loss of aquatic resource values by creating, restoring, or enhancing similar functions and values; or using other methods to offset project impacts.

The DE will utilize a watershed-based approach to establish compensatory mitigation requirements in association with use of this RGP to the extent appropriate and practicable. The goal of a watershed approach is to maintain and

improve the quality and quantity of aquatic resources in a watershed through strategic selection of mitigation sites.

- f. **District Engineer's Decision:** In reviewing the notification for the proposed activity, the DE will determine whether the activity would likely result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public's interest. The applicant may submit a proposed mitigation plan with the notification to expedite the process or an explanation as to why compensatory mitigation should not be required.

If the applicant elects to submit a mitigation plan as part of the proposed project, the DE will review the proposed plan. If the DE determines the activity complies with the terms and conditions of this RGP and the adverse effects are minimal, this office will notify the applicant and include any situation-specific conditions deemed necessary.

If the DE determines the adverse effects of the proposed work are more than minimal, the DE will notify the applicant that the project does not qualify for authorization under this RGP and instruct the applicant on the procedures to seek authorization under an individual permit.

3. **Certificate of Completion:** Upon completion of the work, the permittee shall submit a signed Certification of Compliance form to the Corps. The certification shall include:
 - a. A statement that the work was done in accordance with the Corps authorization, including any special conditions.
 - b. A statement that the required compensatory mitigation, if applicable, was done in accordance with the permit conditions.
 - c. The signature of the permittee certifying the completion of the work and mitigation.
 - d. Project site photos.
 - e. For all projects that include a design-build component, the permittee shall also submit a complete set of as-built drawings.
4. **Suitable Material:** This RGP authorizes the construction, maintenance, repair or removal of utility lines and does not authorize the discharge of fill material other than associated sloping and stabilization of vertical banks to prevent collapse and temporary access roads. Discharges consisting of broken concrete, used tires, trash, car bodies or other unsuitable material is not authorized by this permit, and material discharged must be free of toxic pollutants in toxic amounts. Discharged material must not be placed in a manner that will be eroded by normal or expected high flows.
5. **Best Management Practices:**
 - a. Efforts must be taken to avoid removing natural structural materials that protect or armor the stream bed because such removal may expose material that is more susceptible to erosion and headcuts.

- b. Soil Erosion and Sediment Controls. Temporary soil erosion and sediment controls must be used and maintained in effective operating condition during construction.
 - c. When feasible, impacted aquatic resources must be returned to their pre-construction contours and elevations.
6. **Management of Water Flows:** Work in the stream channel should be limited to periods of no or low flow. In the event that storm flows or runoff events are forecasted during construction, work in the channel must cease and measures must be taken to remove temporary piles within the channel. The activity must be constructed to withstand expected high flows.
 7. **Authorized Work:** Work not described in permit application documentation but deemed necessary after a field assessment is not authorized unless coordinated with the Regulatory Division project manager and approved in writing (i.e., electronic mail or facsimile transmission, memo to the record, etc.).
 8. **Access:** You must allow representatives from this office and other agencies to inspect the authorized activity at any time deemed necessary to ensure the project is being or has been accomplished in accordance with the terms and conditions of this RGP.
 9. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights, and tribal water quality
 10. **Water Quality Certification:**

For Permittees on Non-tribal Land in New Mexico:

State Water Quality Certification (WQC) is required by CWA §401 to ensure that the permit is consistent with state law and complies with the 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. Pursuant to 20.6.2.2002 NMAC, the New Mexico Environment Department (NMED) issued conditional certification for the RGP dated February 11, 2021; and is included as an attachment.

Regarding NMED's conditional WQC, a few clarifications are provided. First, GC 1. Notification states that "Email confirmation from NMED for the use of this Certification is required by USACE Regional Condition 2.b and is typically completed within 60 days of receipt of a complete application." However, Regional Condition 2.b is only applicable to the 2017 NWP that remain in effect. Additionally, under the category of Post-construction stabilization per GC 2, the WQC states that "Plantings must be monitored and replaced for an overall survival rate of at least 80 percent by the second growing season." It should be noted that the Corps determines monitoring requirements on a case-by-case basis. Finally, the WQC references state regulations regarding Discharge Permits, as well as requirements under Section 402 of the CWA as conditions. However, these regulations are not within the purview of the Corps.

For Permittees on Non-tribal Land in West Texas:

State Water Quality Certification has been issued by the Texas Commission of Environmental Quality (TCEQ) in pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the revised RGP 16-01 received September 8, 2021. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission on Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. If this application is a modification of an original permit or any modification thereof for which a special condition was cited by the Commission or a predecessor agency, such conditions shall remain valid. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency. Provisions within the certification shall be attached to any permit issued by the COE and shall be followed by the permittee or any employee, agent, contractor, or subcontractor of the permittee during any phase of work authorized by a COE permit.

For Permittees on Tribal Lands:

Water quality certification for projects on tribal lands must be obtained from the tribal water quality program for tribes that have water quality certification authority (as of the date of this notice) - Pueblo of Sandia, Pueblo of Isleta, Pueblo of Nambé, Pueblo of Acoma, Picuris Pueblo, Pueblo of Pojoaque, Santa Clara Pueblo, Taos Pueblo, Ohkay Owinghey, Pueblo of Tesuque, Navajo Nation and Ute Mountain Ute Tribe). Contact information as of the date of this notice is provided below:

Ohkay Owingeh	Naomi Archuleta	Environment Department	505-852-4212	naomi.archuleta@ohkay.org
Pueblo of Acoma	Donna Martinez	Acoma Environment Department	505-552-5161	dmartinez@puebloofacoma.org
Pueblo of Isleta	Ramona Montoya	Department of Natural Resources	505-869-765	Ramona.Montoya@isletapueblo.com
Pueblo of Laguna	E. Nikki Woodward	Environmental and Natural Resources Department	505-552-7512	info.environmental@pol-nsn.gov ; ewoodward@pol-nsn.gov
Pueblo of Nambe	Glenda Fred-Weahkee	Department of Environment and Natural Resources	505-455-4420	gfred-weahkee@nambepueblo.org
Pueblo of Picuris	Shannon Tenorio	Environment Department	575-587-0110	administrator@picurispueblo.org ; Envirotech@picurispueblo.org
Pueblo of Pojoaque	Adam Duran	Environment Department	505-455-2278	aduran@pojoaque.org

Pueblo of Sandia	Greg Kaufman	Environment Department	505-771-5081	gkaufman@sandiapueblo.nsn.us
Pueblo of Santa Ana	Andrew Sweetman, Tammy Montoya	Department of Natural Resources	505-771-6771 (Alan) 505-771-6739 (Tammy)	Andrew.Sweetman@santaana.nsn.gov ; Tammy.Montoya@santaana.nsn.gov
Pueblo of Santa Clara	Dino Chavarria	Office of Environmental Affairs	505-753-7326 ext 1239	DinoC@santaclarapueblo.org
Pueblo of Taos	Miguel Vigil	Environmental Office	575-751-4601	MVigil@taospueblo.com
Pueblo of Tesuque	Sage Mountainflower, Sophie Stauffer	Department of Environment & Natural Resources	505-303-1566 Ext. 3094	sstauffer@pueblooftesuque.org ; sagem@pueblooftesuque.org
Navajo Nation	Patrick Antonio	Navajo Nation EPA, Water Quality Program	928-871-715	Panto41815@aol.com

For projects on tribal lands where the tribe does not have water quality certification authority, certification must be obtained from the appropriate Regional Office of the Environmental Protection Agency. Contact information as of the date of this notice is provided below:

- EPA Region 6, Water Division, Brianna Wadley, Life Scientist, 1201 Elm Street, Suite 500 (ECDWR), Dallas, TX 75270, Wadley.Brianna@epa.gov, (214) 665-8077
- EPA Region 9 for allotted lands within the Navajo Nation, Elizabeth Goldmann, Physical Scientist, Water Division, 75 Hawthorne Street, San Francisco, CA 9410 Goldmann.Elizabeth@epa.gov, (415) 972-3398

Section 402 comment:

Activities that disturb one acre or more may require a permit from EPA under Section 402 (NPDES) of the Clean Water Act. The permittee should submit the appropriate application to EPA 14 days prior to initiating construction. In the case of emergency operations, you must apply no later than 30 days after the start of construction and are considered provisionally covered under the terms and conditions of the EPA issued general permit immediately, and fully covered 14 calendar days after EPA has acknowledged receipt of your application (Notice of Intent, or NOI), unless EPA notifies you that your authorization has been delayed or denied. For additional information, contact:

EPA Region 6
1445 Ross Avenue
Suite 1200
Dallas, Texas 75202
Ph: 800-887-6063 or 214-665-2760 if calling from outside Region 6

11. **Endangered Species:** No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat as identified under the Endangered Species Act (ESA).

As appropriate, the Corps will consult with the USFWS on specific requests to perform work under this permit if the project may affect a threatened or endangered species, or critical habitat.

Consultation may conclude with the identification of conservation recommendations by the USFWS in non-jeopardy Biological Opinion (BO). At the discretion of Corps, these recommendations will be incorporated into the permit decision, and the Corps will enforce compliance with accepted recommendations. If the USFWS renders a jeopardy BO and reasonable and prudent alternatives cannot be implemented to avoid the unacceptable impacts, the project will require an individual Department of the Army permit.

Authorization of an activity under this permit does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a BO with "incidental take" provisions, etc.) from the USFWS, both lethal and non-lethal "takes" of protected species are in violation of the ESA.

Information on the location of listed or proposed threatened or endangered species and their designated or proposed critical habitat can be obtained directly from the FWS or from their website at <http://www.fws.gov/angered/>.

12. **Historic Properties:** Impacts to cultural resources listed, proposed for listing, or potentially eligible for listing in the National Register of Historic Places will be avoided to the maximum extent practicable. If such resources will be impacted because of actions authorized under this RGP, the Corps will consult with the State Historic Preservation Officer/Tribal Historic Preservation Officer, and/or the Advisory Council for Historic Preservation, to determine the appropriate procedures and/or mitigation required to comply with Section 106 of the National Historic Preservation Act and other applicable regulations (e.g. Appendix C of 33 CFR Part 325 and Interim Guidance).

If the permittee discovers any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, the permittee must immediately notify the Corps Regulatory Branch who will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

13. **Regional and Case-by-Case Conditions:** The activity must comply with any special conditions added by the DE.
14. **Temporary Storage of Excavated Materials in Channel:** Material resulting from trench excavation may be temporarily side cast into waters of the U.S. for no more than 3 months provided that the material is not placed in a manner that will allow it to be dispersed by currents or other forces. In the event that storm flows or runoff events are forecasted, measures must be taken to remove the material within the channel.

15. **Work in Wetlands:** In wetlands, the top 6 to 12 inches of a trench should generally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect).
16. **Stream Channelization:** Stream channelization is prohibited.
17. **Removal of Temporary Fills:** Temporary fills associated with the project, such as access roads or coffer dams, shall be removed in their entirety and the affected areas returned to pre-existing elevations and revegetated with appropriate native riparian or wetland vegetation appropriate for the area.
18. **Dredged or excavated materials:** With the exception of that authorized herein, dredged or excavated material will be placed on an upland site above the ordinary high water mark in a defined area not classified as a wetland to prevent the return of such materials to the waterway.
19. **Energy Dissipation:** Energy dissipation measures must be used when necessary to prevent erosion downstream of permitted structures/fill. Design of energy dissipation structures must be based on site specific flow conditions, scour potential and channel erosion resistance.
20. **Channel Instability:** The elevation of material used to cover the utility line must be minimized to the maximum extent practicable in order to prevent bed and bank instability. The potential for channel instability must be addressed in the application and project plans should include design counter measures that are appropriate for the site (e.g. downstream apron, rock refusals into the bank, etc.)
21. **Passage of sediment and flows:** Utility line crossings must be properly designed, installed and maintained to allow passage of water, sediment, bedload, and woody debris.
22. **Contaminated Dredge Material:** If contaminated dredge material that was not anticipated or provided for in the permit application is encountered during dredging, operations shall cease immediately (e.g. as a result of a spill or frac-out). Contaminated dredge material is defined as dredge material which has been chemically, physically, or biologically altered by man-made or man-induced contaminants which include, but are not limited to solid waste, hazardous waste and hazardous waste constituent.

For Actions in New Mexico

The individual operating or responsible for the dredging operations shall notify the Albuquerque District's Regulatory Division as soon as possible at (505) 231-3586 or (505) 342-3374, and no later than 24 hours after discovery of the material. Dredging activities shall not be resumed until authorized in writing by the Corps

For Actions in West Texas

Pursuant to Chapter 26 of the Texas Water Code, the individual operating or

responsible for the dredging operations shall notify the Railroad Commission (RRC) of Texas' 24-hour emergency number at (844) 773-0305 (toll free) or (512) 463-6785 as soon as possible, and not later than 24 hours after the discovery of the material. The applicant shall also notify the Corps that activities have been temporarily halted. Contaminated dredge material shall be remediated or disposed of in accordance with RRC rules. Dredging activities shall not be resumed until authorized in writing by the RRC.

23. **Compliance with Other Laws:** The permittee must comply with all Federal, State and local applicable regulations and ordinances.

FURTHER INFORMATION:

1. **Congressional Authorities:** Activities conducted under this RGP are authorized pursuant to:

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **Limits of authorization under RGP No. 16-01**

- a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that provision of permit verification under this RGP is not contrary to the public interest is made in reliance on the information provided by the permittee.

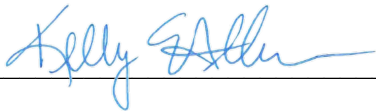
5. **Reevaluation of Permit Decision:** This office may reevaluate its decision to issue this RGP, or on the verification that any particular activity qualifies for this RGP, at any time circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. Failure to comply with the terms and conditions of this permit.
- b. The information provided in support of the permit verification request or after-action report proves to be false, incomplete, or inaccurate. See Item 4 above.
- c. Significant new information becomes available which this office did not consider in reaching the original public interest decision.
- d. The activity is determined to result in more than minimal impacts.

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 compliance with the terms and conditions of this 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. If the permittee 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.

This permit becomes effective when the Federal official, designated to act for the Albuquerque District Engineer, has signed below.



29 November 2021

Kelly Allen
Chief, Regulatory Division

DATE