



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

REGIONAL GENERAL PERMIT (RGP) 16-01

UTILITY LINE CONSTRUCTION, MAINTENANCE, REPAIR OR REMOVAL

EFFECTIVE DATE: TBD

EXPIRATION DATE: TBD

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.

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:

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, CESPA-RD
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, or navigable 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 (acreage or length, width, depth at and below the Ordinary High Water Mark (OHWM)). The OHWM can be defined as the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence the landscape, commonly the point where natural vegetation changes from predominantly aquatic to predominantly terrestrial. 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 wetland within wetland boundary; and water type (perennial or intermittent stream; emergent, scrub/shrub, or forested wetland, fen, etc.). A table providing this information is useful if multiple waterways 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.
 - 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 ½" 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;
 - (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, available from the District's website at: <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/RGP.aspx>, may be used as the notification. 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 in an intermittent channel must be done in the dry, outside of monsoon season. Exceptions may be made for intermittent 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 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.
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.
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 to Site:** 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 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 November 18, 2016.

This certification applies to activities subject to State of New Mexico jurisdiction. The following conditions are necessary to assure compliance with the applicable provisions of the CWA §§301, 302, 303, 306, and 307 and with applicable requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico certifies that the discharge will comply with these provisions and requirements upon inclusion of the following conditions in the permit.

Conditional Section 401 Certification of RGP:

1. The NMED Surface Water Quality Bureau requires notification of planned activities in surface waters of the state prior to Corps authorization. This notification is necessary to ensure that the conditions provided in this certification are sufficient to protect water quality. This condition can be met by providing NMED the information submitted to the Corps as described in the Preconstruction Notification Procedures for the RGP. For projects in flowing water or those with the potential to have more than minimal adverse impacts on the aquatic environment, NMED may require additional information such as: 1) a description of potential adverse water quality impacts (including turbidity, which is a measurement of the amount of suspended material in water, as well as oil, grease, or hydraulic fluid, and all other potential contaminants); 2) a description of methods to be used

to prevent water quality impacts (including detailed Best Management Practices, which must be designed to minimize sediment, oil, grease, and other pollutants from entering the water); 3) any surface water monitoring procedures; and 4) for any unavoidable surface water impacts, conceptual mitigation plans.

2. Fuel, oil, hydraulic fluid, lubricants, and other petrochemicals must not be stored within the 100-year floodplain and must have a secondary containment system capable of containing twice the volume of the product. Appropriate spill clean-up materials such as booms and absorbent pads must be available on-site at all times during maintenance.
3. All heavy equipment used in the project area must be pressure washed and/or steam cleaned before the start of the project and inspected daily for leaks. A written log of inspections and maintenance must be completed and maintained throughout the project period. Leaking equipment must not be used in or near the surface water. Refuel equipment at least 100 feet from surface water.
4. Work in ephemeral and intermittent stream channels should be limited to periods of no flow when practicable. Work in intermittent and ephemeral channels during low-flow periods and work in all perennial streams must have prior approval by the NMED. Requests for such approval must describe planned methods to minimize turbidity and to avoid spills. Releases from dams must be incorporated into the work schedule to avoid working in high water.
5. Temporary crossings should be restricted to a single location and perpendicular to and at a narrow point of the channel to minimize disturbance. If flowing water is present, heavy equipment must be operated from the bank or work platforms and not enter surface water, unless otherwise approved in writing by NMED. Heavy equipment must not be parked within the stream channel. Unless otherwise approved by NMED, directional borehole (horizontal) drilling must be used instead of open-cut trenching for the placement of utility lines or other buried structures crossing the channel. Requests for such approval of deviations must include a description of planned methods to minimize turbidity, to avoid spills, and to salvage any drilling equipment that cannot be withdrawn from beneath the channel.
6. Unless otherwise approved by NMED, flowing water must be temporarily diverted around the work area, but remain within the existing channel to minimize erosion and turbidity and to provide for aquatic life movement. Diversion structures must be non-erodible, such as sand bags, water bladders, concrete barriers, or channel lined with geotextile or plastic sheeting. Dirt cofferdams are not acceptable diversion structures. Requests for such approval of deviations must include descriptions of planned methods to minimize turbidity, to avoid spills, and to provide a continuous zone of passage for aquatic life through or around the project area in which the water quality meets all applicable criteria including turbidity.
7. All asphalt, concrete, drilling fluids and muds, and other maintenance materials must be properly handled and contained to prevent releases to surface water. Poured concrete must be fully contained in mortar-tight forms and/or placed behind non-erodible cofferdams to prevent contact with surface or ground water. Appropriate measures must be used to prevent wastewater from concrete batching, vehicle wash-down, or aggregate processing entering the watercourse. Dumping of any waste materials in or near watercourses is prohibited.

8. Protective measures must be used to prevent blast, ripped or excavated soil or rock from entering surface water. Dewatering discharges are to be uncontaminated and include all practicable erosion control measures and turbidity control techniques.
9. Work or the use of heavy equipment in wetlands must be avoided or minimized unless the impacts are to be mitigated. Maintenance activities in wetlands must be scheduled during low water or winter (frozen) conditions. Unless otherwise approved by NMED, wetland crossings must be restricted to a single location and constructed perpendicular to and at a narrow point of the wetland. Requests for such approval of deviations must include descriptions of planned methods to minimize turbidity and avoid spills. Wetland vegetation and excavated material (top soil) must be retained and reused to improve seeding success. Permeable fills should be designed and installed when practicable, and flows to wetlands must not be permanently disrupted. Fill materials must be clean and consist of coarse material with minimal fines. Ditches or culverts in wetlands must have properly designed, installed and maintained siltation or sedimentation structures at the outfall.
10. During repair, demolition, treatments, or cleaning activities of bridges or associated structures (e.g., deck, pier, abutment, and wing walls), materials must be kept out of the channel. Before removing a bridge or related structures, impermeable containment material (e.g., plastic sheet, canvas, tarpaulins or other catchment devices) must be secured under the bridge and on the banks to capture any debris that may fall into the stream channel. Sandblasting operations must include vacuum systems or the bridge and associated structures must be completely bagged to collect all lead paint and concrete debris. Any debris that falls onto the containment area or channel must be properly disposed in accordance with the New Mexico Solid Waste Regulations (20.9.1 NMAC). Applicable Material Safety Data Sheets of water repellants and surface finish treatments must be maintained at the project area.
11. Bridges, culverts and structures at stream crossings must be properly designed, installed and maintained to allow passage of sediment, bedload, and woody debris, and to prevent erosion problems or diversion of the stream from its natural channel. Unless otherwise approved by NMED, projects must not alter the natural stream channel size or shape (width, depth, gradient, direction or meander pattern), streamflow velocity (sediment transport rates), or water flow capacity. Requests for such approval of deviations must include descriptions of planned methods to minimize turbidity and avoid spills, as well as to stabilize modified hydraulic geometry.
12. Culverts at stream crossings must be designed and installed to prevent upstream head cutting, downstream channel incision, and erosion of the stream banks or the crossing. Culverts should be designed to pass 100-year flow events. Culvert design must allow for the passage of fish and other aquatic organisms. The road grade at culvert stream crossings must prevent the diversion of the stream from its channel in the event of culvert failure due to plugging or the exceedance of capacity. If the flow overtops the road, it must return to its natural channel instead of running down the road into a new channel.
13. Excavated trenches must be backfilled and compacted to match the bulk density and elevation of the adjacent undisturbed soil.
14. Unless otherwise approved by NMED, all areas adjacent to the watercourse that are disturbed because of the project, including temporary access roads, stockpiles and staging areas, must be restored to pre-project elevations. Disturbed areas outside the channel that are not otherwise physically protected from erosion must be reseeded or planted with native

vegetation. Stabilization measures including vegetation are required at the earliest practicable date, but by the end of first full growing season following maintenance. Native woody riparian and/or wetland species must be used in areas that support such vegetation. Measures to prevent damage by beavers, wildlife, or livestock are required until trees are established. Plantings must be monitored and replaced for an overall survival rate of at least 80 percent by the end of the second growing season. Once established, native plants adapted to the site must be able to thrive with no supplemental water or treatment. Requests for approval of deviation from this condition must include descriptions of planned methods to minimize turbidity and avoid spills, as well as final grading plans.

15. A copy of this Certification must be kept at the project site during all phases of maintenance. All contractors involved in the project must be provided a copy of this certification and made aware of the conditions prior to starting maintenance.

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

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:

- Pueblo of Sandia, Jessica Tracy, Director, Environment Department, 481 Sandia Loop, Bernalillo, New Mexico 87004, jtracy@sandiapueblo.nsn.us
- Pueblo of Isleta, Ramona Montoya, Environment Department, P.O. Box 1270, Isleta, New Mexico 87022, Ramona.Montoya@Isletapueblo.com
- Pueblo of Nambe, Steve Rydeen, Department of Environment and Natural Resources, 15A NP 102 West, Santa Fe, New Mexico 87506, srydeen@nambepueblo.org
- Pueblo of Acoma, Donna Martinez, Acoma Environment Department, P.O. Box 309, Acoma, NM 87034, dmartinez@puebloofacoma.org
- Pueblo of Picuris, Wayne Yazza JR., Acting Environmental Director, P.O. Box 158 Penasco, NM 87553, environment@picurispueblo.org; Tazbah Jackson, Environmental Technician, P.O. Box 158 Penasco, NM 87553, envirotech@picurispueblo.org
- Pueblo of Pojoaque, Adam Duran, Environment Department, 39 Camino Del Rincon, Santa Fe, NM 87506, aduran@pojoaque.org

- Pueblo of Santa Ana, Alan Hatch, Director, Department of Natural Resources, 2 Dove Rd. Santa Ana Pueblo, NM 87004, alan.hatch@santaana-nsn.gov; Tammy Montoya, Hydrologist, Department of Natural Resources, 2 Dove Rd. Santa Ana Pueblo, NM 87004, tammy.montoya@santaana-nsn.gov
- Santa Clara Pueblo, Dino Chavarria, Office of Environmental Affairs, P.O. Box 580, Espanola, New Mexico 87532, DinoC@santaclarapueblo.org
- Pueblo of Taos, Miguel Vigil, Water Quality Specialist, Environmental Office, P.O. Box 1846, Taos, New Mexico, 87571, MVigil@taospueblo.com
- Ohkay Owingeh, Naomi Archuleta, Environment Department, P.O. Box 717, San Juan, New Mexico 87566, naomi.archuleta@ohkay.org
- Pueblo of Tesuque, Greg Kaufman, Director, Department of Environment and Natural Resources 20 TP828, Santa Fe, New Mexico, 87506, gkaufman@pueblooftesuque.org
- Navajo Nation, Lee Anna Martinez-Silversmith, 401 Certification Program Manager, Navajo Nation Environmental Protection Agency, P.O. Box 339, Window Rock, AZ 86515, leeanna.martinez09@yahoo.com
- Ute Mountain Ute Tribe, Scott Clow (Director) and/or Colin Larrick (Water Quality Manager), Environmental Program, PO Box 448, 520 Sunset Boulevard Towaoc, Colorado 81334, sclow@utemountain.org, clarrick@utemountain.org
- Pueblo of Laguna, Steven Etter, Environmental and Natural Resources Department, P.O. Box 194, Laguna Pueblo, NM 87026, setter@pol-nsn.gov; Nikki E. Woodward, Water Quality Specialist, P.O. Box 194, Laguna Pueblo, NM 87026, ewoodward@pol-nsn.gov

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, Daniel Landeros, Environmental Engineer, 1201 Elm Street, Suite 500 (ECDWR), Dallas, TX 75270, landeros.daniel@epa.gov, (214) 665-8077
- EPA Region 8 for Colorado, Brent Truskowski, Truskowski.brent@epa.gov, (303) 312-6235
- EPA Region 9 for allotted lands within the Navajo Nation, Elizabeth Goldmann, Physical Scientist, Water Division, 75 Hawthorne Street, San Francisco, CA 94105, Goldmann.Elizabeth@epa.gov

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 USACE will consult with the U.S. Fish and Wildlife Service (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/endangered/>.

12. **Historic Properties:** Impacts to historic properties 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 Division 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. **Suitable Material:** 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.
15. **Temporary Storage of Excavated Materials in Channel:** Material resulting from trench excavation may be temporarily side cast into waters of the U.S. for up to 30 days 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.
16. **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).
17. **Stream Channelization:** Stream channelization is prohibited.
18. **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.
19. **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.

20. **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.
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 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.

Kelly Allen
Chief, Regulatory Division

DATE