CITY OF GRAND JUNCTION
ENGINEERING AND TRANSPORTATION

Purdy Mesa Flowline Replacement Project

SPECIAL PROVISIONS

GENERAL:

The descriptions of the pay items listed in the Bid Schedule for this Project may not agree with those listed in the Standard Specifications. Payment for all Work performed, as required in the Contract Documents, will be in accordance with the items and units listed in the Bid Schedule.

STANDARD SPECIFICATIONS FOR CONSTRUCTION OF WATER LINES, SANITARY SEWERS, STORM DRAINS, UNDERDRAINS AND IRRIGATION SYSTEMS

The City of Grand Junction ***Standard Specifications for Construction of Water Lines, Sanitary Sewers, Storm Drains, Underdrains and Irrigation Systems*** are hereby modified for this Project as follows:

SP-1 BLM RIGHT-OF-WAY NOTICE TO PROCEED STANDARD STIPULATIONS AND PURDY MESA SHORT TERM ROW STIPULATIONS

For Work on BLM-managed parcels, the Contractor shall comply with the BLM Stipulations and attachments provided by the BLM.

SP-2 NATIONWIDE PERMIT 58 GENERAL CONDITIONS AND REGIONAL CONDITIONS

For Work within wetland areas, the Contractor shall comply with the Nationwide Permit 58 “Utility Line Activities for Water and Other Substances” General Conditions and the Regional Conditions to the 2021 Nationwide Permits in the State of Colorado. Wetland areas consist of the ephemeral and perennial stream crossings identified on the drawings.

SP-3 MESA COUNTY ROAD AND BRIDGE RIGHT OF WAY PERMIT REQUIREMENTS

For Work within and adjacent to Reeder Mesa Road and Silverstone Drive, the Contractor shall comply with the Mesa County Road and Bridge Right of Way Permit Requirements. The Contractor shall obtain two Underground and Utility Permits, one for each road.

BLM RIGHT-OF-WAY
NOTICE TO PROCEED
STANDARD STIPULATIONS
AND ATTACHMENTS /
PURDY MESA SHORT TERM ROW
STIPULATIONS

STANDARD STIPULATIONS

1. • A BLM approved biological monitor will be on-site during construction within 50 meters of cactus as delineated by the orange construction fencing.

   • Confine all project related personnel and equipment, within the BLM approved ROW.

   • Areas within 50 meters of cactus will be fenced with orange construction fencing to indicate to construction personnel of sensitive areas as shown on Figures 2a to 2c.

   • Avoid direct removal of cactus.

   • Only dust abatement that is free of chemicals will be used during project construction.

   • Construction will occur outside of the cactus bloom period (typically mid-April through mid-June). A BLM approved. certified weed free seed mix will be utilized during reseeding of the waterline alignment.

2. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder shall be responsible for the cost of evaluation, and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

3. Pursuant to 43 CFR 10.4(g) the holder must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

4. The Holder or its contractor is responsible for informing all person who are associated with the project operations that they will be subject to prosecution for knowingly disturbing historic or archeological sites or for collecting artifacts. If historic or archeological materials are uncovered during any project or construction activity, the Holder must stop work in the area of the discovery that might further disturb such materials and immediately contact the Authorized Officer (AO). Within five working days the AO will inform the Holder as to the mitigation measures the Holder will likely have to undertake before the sites can be used (assuming in-place preservation is not necessary).

5. All construction equipment shall be washed clean and weed seed free prior to moving equipment on public lands and start of construction. The holder shall monitor and control those noxious weeds that may occur or be found, as listed in the booklet, *Noxious Weeds of Mesa County*. If chemical control is necessary, use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Bureau of Land Management. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, the pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

6. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.) with regard to any toxic substances that are used, generated by or stored on the right of way or on facilities authorized under this right of way grant (see 40 CFR, Part 702 799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1 761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

7. The Holder shall comply with applicable State standards for public health and safety, environmental protection ads siting, construction, operation, and maintenance, if these State standards are more stringent than Federal standards for similar projects.

8. The holder shall notify the authorized officer at least 60 days prior to non-emergency activities that would cause surface disturbance on the ROW or TUP. The AO may require the completion of special status species surveys or other resource surveys by a third party contractor at the expense of the holder, or the BLM may choose to complete the survey. The BLM may take actions or make recommendations to protect any special status plant populations identified near or on the ROW.

9. A "Notice to Proceed" shall be required prior to any non-emergency activities that would cause surface disturbance on the right-of-way. Any request for a "Notice to Proceed" must be made to the AO, who will review the proposed action for consistency with resource management concerns such as wildlife, big game winter range, paleontology, special status species, and cultural resource protection. Additional measures may be required to protect special status species or other resources.

10. The Holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the limits of the ROW. Activities outside the right-of-way limits will require a new authorization.

11. At least 90 day prior to the termination of the ROW, the holder shall contact the AO to arrange a joint inspection of the ROW. The inspection will result in the development of an acceptable termination and rehabilitation plan submitted by the holder. This plan shall include, but is not limited to, removal of facilities, drainage structures, and surface material (e.g. gravel or concrete), as well as re-contouring and re-vegetating roads to enhance the visual resource of the surrounding area. The BLM will provide an adequate seed mix for reclamation. The AO must approve the plan in writing prior to a holder's commencement of any termination activities.

12. After completion of construction the right-of-way will be reseeded with the following seed mix. (See Attaached)

GRAND JUNCTION FIELD OFFICE
MENU-BASED NATIVE SEED MIXES BY HABITAT TYPE
FOR INTERIM AND FINAL RECLAMATION

- All seed placed on public land shall be approved by the BLM and meet BLM standards for species and seeding rate for the specific habitat type within the project area.
- Seed mix and test results shall be provided to the BLM for approval before application.
- All seed shall be tested by a registered seed analyst for viability/germination and noxious weeds at official state seed analysis lab, within a year of acceptance date.
- Certification shall include a minimum germination rate of 80%, a minimum purity of 90%, source-identification, no noxious weed seeds and no more than 0.5% weight of other weed seeds. Mulch shall be certified weed free. (IM 2006-073)

Seeding rates are for drilled seed. Double seeding rate when broadcast seeding.

Table 1-4.a Low Elevation Semi/Salt-Desert Grass/Shrubland, Basin big Sagebrush (8"-10" annual precip)

Grass Components (Required)

Common Name	Species Name	Variety or Species	Soil Preference	Lb/ac (PLS)
Plant All of the Following Grasses				
Indian Ricegrass	*Achnatherum [Oryzopsis] hymenoides*	Native Colorado or Utah source preferred. If not, then Nezpar, Paloma, Rimrock	No Limitation Good for dry, rocky sites	3.7
Alkali Sacaton**	*Sporobolus airoides*	Native Colorado or Utah sources preferred	Alkali/Salt Tolerant	0.1
Sand Dropseed**	*Sporobolus cryptandrus*	UP* Dolores, if available. Native Colorado or Utah sources preferred	No Limitation	0.1
And at Least Two of the Following				
Salina Wildrye	*Leymus salinus*	Native Colorado or Utah sources preferred	No Limitation Salt/Clay Tolerant	1.0
Bottlebrush squirreltail	*Elymus elymoides, Sitanion hystrix*	Fish Creek, Toe Jam, Wapiti	No Limitation	2.4
Western Wheatgrass	*Pascopyrum [Agropyron] smithii*	UP* variety, if available. If not, then: Rosana, Recovery, Rodan (Do not use Arriba)	No Limitation	1.5
And at Least One of the Following				
Galleta	*Pleuraphis jamesii*	Native Colorado or Utah sources preferred	No Limitation	1.0
Purple Three-Awn	*Aristida purpurea*	(Not parishii or perplexa)	No Limitation	1.0

Table 1-4.b Low Elevation Semi/Salt-Desert Grass/Shrubland, Basin big Sagebrush

Forb and Shrub Components (Required)

Common Name	Species Name	Variety or Species	Soil Preference	Lb/ac (PLS)
Plant Both of the Following Shrubs				
4-Wing Saltbush	*Atriplex canescens*	Native Colorado or Utah sources preferred	No Limitation	2.7
Shadscale	*Atriplex confertifolia*	Native Colorado or Utah sources preferred If not available, then Rincon, Snake River Plains, Wytana	No Limitation Salt Tolerant	2.0
Plant One to Three of the Following, as Site-Appropriate				
Globemallow	*Sphaeralcea coccinea*	Native Colorado or Utah sources preferred	No Limitation	0.5
Winterfat	*Krascheninnikovia lanata*	Native Colorado or Utah sources preferred	No Limitation	2.4
Gardner's Saltbush	*Atriplex gardneri*	Native Colorado or Utah sources preferred	No Limitation Alkali/Salt Tolerant	0.3

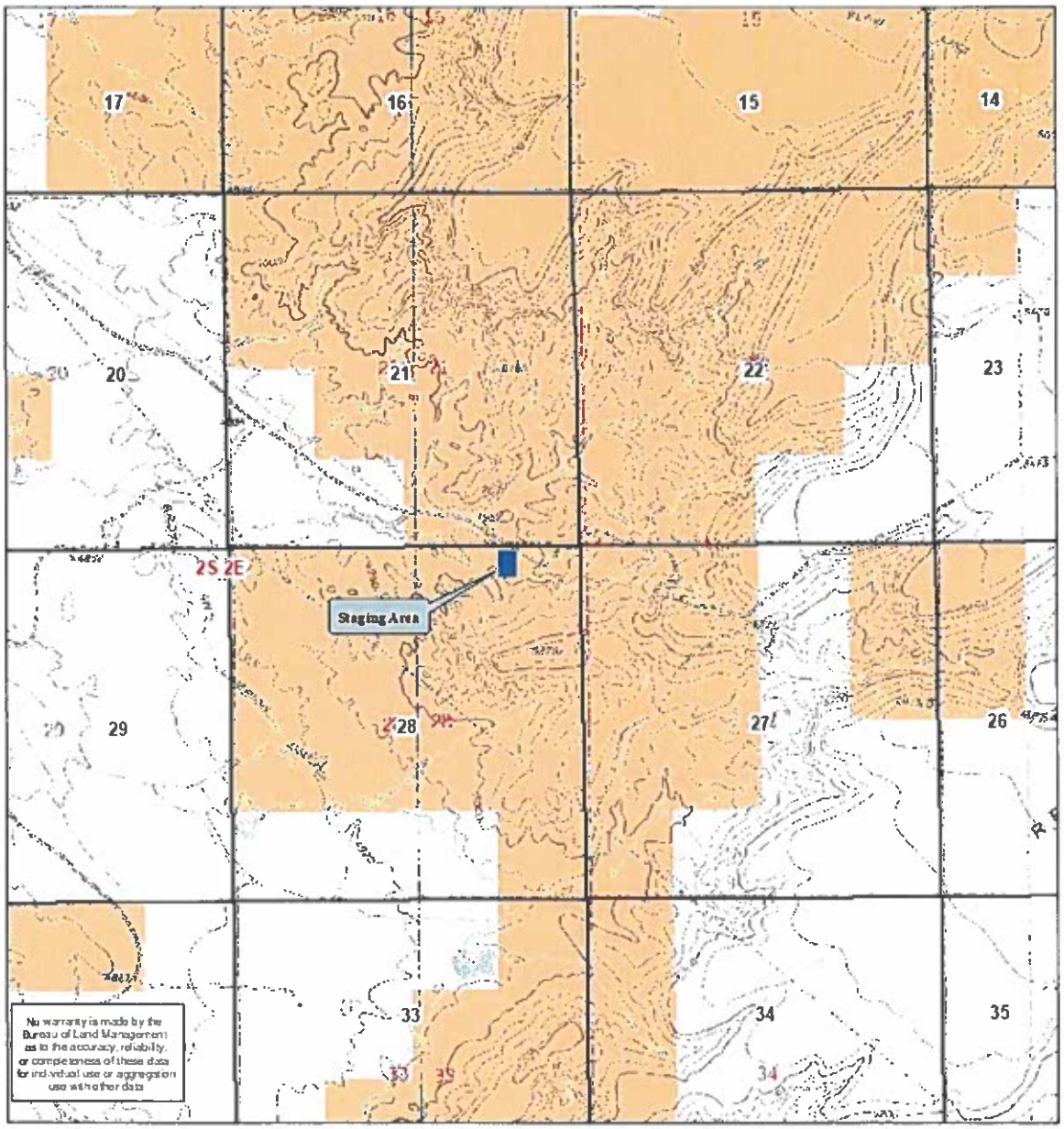
*Uncompahgre Project (UP), Kathy See, nativeplant@upartnership.org , 970-240-9498, 970-901-8247
UP seed - commercial growers/distributors:
- Granite Seed, http://www.graniteseed.com/ 888-577-5650
- Southwest Seed, Walt Hennes, http://www.southwestseed.com/ 970-565-8722
- Benson Farms, Jerry Benson, http://www.bfinativeseeds.com/ 509-765-6348
- L & H Seed, Paul Herman, http://www.lhseeds.com/ 509-234-1010
- Seed-rite, Keith Schafer, http://www.seedrite.com/ 509-982-2400
- Bear Tooth Seed (was Heart Mountain Seed), Brian Duyck, 307-272-7779

**If planning to drill seed, small seeds must be packaged separately to allow for separate application. Small seeds, such as alkali sacaton, fleabane, flax and sand dropseed shall be planted no deeper than 0.25 inch or broadcast. If an entire site will be broadcast, the small seeds can go in the mix.

***Upper Colorado Environmental Plant Center, Meeker, CO; 970-878-5003

EXHIBIT A

Renewal - COC 0 11879-01 - City of Grand Junction



0 1,200 2,400 3,600 4,800 Feet

1:24,000

Bureau of Land Management

Private

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This map was produced by the BLM Grand Junction Field Office April 2023

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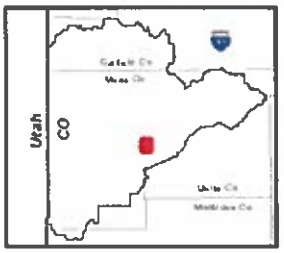

Location of the Project in the Grand Junction Field Office

EXHIBIT B

PURDY MESA SHORT TERM ROW STIPULATIONS

1. A paleontological resource monitor will be required during trenching and or construction operations to monitor the trench walls, construction activities, and associated spoils. The operator will need to contact one of the permitted consultants. The operator or his contractor will contact the Bureau of Land Management, Grand Junction Field Office, Geologist, at (970) 244-3000, 48 hours prior to any construction activities. If vertebrate fossil material is encountered, it will be evaluated by the monitor to determine appropriate actions to prevent the loss of significant scientific values. Any fossil material is federal property, to be finally assessed by a vertebrate paleontologist and taken to the Colorado Museum of Natural History.

2. Prohibit surface occupancy and use and surface-disturbing activities within active white-tailed prairie dog towns from April 1 to July 15.

3. "No surface use is allowed within a 402 meter (0.25-mile) radius of active raptor nests, as mapped in the Resource Management Plan, BLM's GIS database or other maps provided by local, state, federal or tribal agencies that are analyzed and accepted by the BLM, during the following time period(s), or until fledging and dispersal of young:
   - Osprey nests: April 1 to August 31.
   - Red-tailed hawk nests, including any alternate nests: February 15 to July 15.
   - Swainson's hawk nests and associated alternate nests: April 1 to July 15.
   - **Burrows or burrowing owl nest sites: March 1 to August 15.**
   - Great horned owl nests: February 1 to August 15.
   - Other owls and raptors: March 1 to August 15.
   - Cooper's hawk, sharp shinned hawk, and northern harrier nests: April 1 to August 15."

4. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder shall be responsible for the cost of evaluation, and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

5. Pursuant to 43 CFR 10.4(g) the holder must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

6. The Holder or its contractor is responsible for informing all person who are associated with the project operations that they will be subject to prosecution for knowingly disturbing historic or archeological sites or for collecting artifacts. If historic or archeological materials are uncovered during any project or construction activity, the Holder must stop work in the area of the discovery that might further disturb such materials and immediately contact the Authorized Officer (AO). Within five working days the AO will inform the Holder as to the mitigation measures the Holder will likely have to undertake before the sites can be used (assuming in-place preservation is not necessary).

7. All construction equipment shall be washed clean and weed seed free prior to moving equipment on public lands and start of construction. The holder shall monitor and control those noxious weeds that may occur or be found, as listed in the booklet, *Noxious Weeds of Mesa County*.

8. Use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Bureau of Land Management. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, the pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

9. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.) with regard to any toxic substances that are used, generated by or stored on the right of way or on facilities authorized under this right of way grant (see 40 CFR, Part 702 799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1 761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

10. The Holder shall comply with applicable State standards for public health and safety, environmental protection ads siting, construction, operation, and maintenance, if these State standards are more stringent than Federal standards for similar projects.

11. The holder shall notify the authorized officer at least 60 days prior to non-emergency activities that would cause surface disturbance on the ROW or TUP. The AO may require the completion of special status species surveys or other resource surveys by a third party contractor at the expense of the holder, or the BLM may choose to complete

the survey. The BLM may take actions or make recommendations to protect any special status plant populations identified near or on the ROW.

12. A "Notice to Proceed" shall be required prior to any non-emergency activities that would cause surface disturbance on the right-of-way. Any request for a "Notice to Proceed" must be made to the AO, who will review the proposed action for consistency with resource management concerns such as wildlife, big game winter range, paleontology, special status species, and cultural resource protection. Additional measures may be required to protect special status species or other resources.

13. The Holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the limits of the ROW.

14. At least 90 day prior to the termination of the ROW, the holder shall contact the AO to arrange a joint inspection of the ROW. The inspection will result in the development of an acceptable termination and rehabilitation plan submitted by the holder. This plan shall include, but is not limited to, removal of facilities, drainage structures, and surface material (e.g. gravel or concrete), as well as re-contouring and re-vegetating roads to enhance the visual resource of the surrounding area. He BLM will provide an adequate seed mix for reclamation. The AO must approve the plan in writing prior to a holder's commencement of any termination activities.

15. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with the plan(s) of development which was (were) approved and made part of the grant on July 13, 2018. Any relocation, additional construction, or use that is not in accord with the approved plan(s) of development, shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all stipulations and approved plan(s) of development, shall be made available on the right-of-way area during construction, operation, and termination. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.

16. Holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.

17. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment.

18. The holder shall provide for the safety of the public entering the right-of-way. This includes, but is not limited to, barricades for open trenches, flagmen/women with communication systems for single-lane roads without intervisible turnouts, and attended gates for blasting operations.

19. Specific sites as identified by the authorized officer (e.g., archaeological sites, areas with threatened and endangered species, or fragile watersheds) where construction equipment and vehicles shall not be allowed, shall be clearly marked onsite by the holder before any construction or surface disturbing activities begin. The holder shall be responsible for assuring that construction personnel are well trained to recognize these markers and understand the equipment movement restrictions involved.

20. The holder shall recontour disturbed areas, or designated sections of the right-of-way, by grading to restore the site to approximately the original contour of the ground as determined by the authorized officer.

21. The holder shall revegetate all disturbed areas using a seed mixture specified by the authorized officer. Seeding shall not be initiated prior to October 1 of the year of completion of the construction activities and shall be completed prior to the following growing season. The seed mixture shall be planted in the amounts specified in pounds of pure live seed (PLS)/acre. There shall be no primary or secondary noxious weed seed in the seed mixture (it must be certified weed free). Seed shall be certified seed; exceptions to this requirement must be approved in writing by the authorized officer. The seed mixture container shall be tagged in accordance with State law(s) and the tag(s) submitted for inspection by the authorized officer. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorized officer upon evaluation after the second growing season.

22. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

23. Except rights-of-way expressly authorizing a road after construction of the facility is completed, the holder shall not use the right-of-way as a road for purposes other than routine maintenance as determined necessary by the authorized officer in consultation with the holder.

NATIONWIDE PERMIT 58
"UTILITY LINE ACTIVITIES FOR WATER AND OTHER SUBSTANCES"
GENERAL CONDITIONS
AND
REGIONAL CONDITIONS TO THE 2021 NATIONWIDE PERMITS IN THE STATE OF COLORADO

US Army Corps of Engineers®
Albuquerque District

2021 Nationwide Permit Summary

NATIONWIDE PERMIT 58
Utility Line Activities for Water and Other Substances
Effective Date: March 15, 2021
Expiration Date: March 14, 2026
(NWP Final Notice, 86 FR 2744)

Utility Line Activities for Water and Other Substances. Activities required for the construction, maintenance, repair, and removal of utility lines for water and other substances, excluding oil, natural gas, products derived from oil or natural gas, and electricity. Oil or natural gas pipeline activities or electric utility line and telecommunications activities may be authorized by NWPs 12 or 57, respectively. This NWP also authorizes associated utility line 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 NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines for water and other substances, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose that is not oil, natural gas, or petrochemicals. Examples of activities authorized by this NWP include utility lines that convey water, sewage, stormwater, wastewater, brine, irrigation water, and industrial products that are not petrochemicals. 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 sidecast 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 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 NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a 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 NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for above-ground utility lines: This NWP authorizes the construction or maintenance of foundations for above-ground utility lines in all waters of the United States, provided the foundations are the minimum size necessary.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including 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 NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). 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.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (see 33 CFR part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, 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 of dredged or fill material, 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. After construction, 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, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) A section 10 permit is required; or (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the utility line is constructed, installed, or maintained in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

Note 2: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single

and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d).

Note 3: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. 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.

Note 4: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to the General Bridge Act of 1946. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

Note 5: This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 6: For activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required,

upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements

No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (*e.g.,* through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas

Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds

No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48 or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material

No activity may use unsuitable material (*e.g.,* trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes

No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects from Impoundments

If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows

To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede

the passage of normal or high flows unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (*e.g.,* stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains

The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment

Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls

Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills

Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance

Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project

The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management

responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (*e.g.,* National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: *http://www.rivers.gov/*.

17. 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.

18. Endangered Species

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the

proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP 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 Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at *http://www.fws.gov/* or *http://www.fws.gov/ipac* and *http://www.nmfs.noaa.gov/pr/species/esa/*, respectively.

19. Migratory Birds and Bald and Golden Eagles

The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties

(a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: No historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the

assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts

Permittees that discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters

Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation

The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (*i.e.,* on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate, or the

adverse environmental effects of the proposed activity are no more than minimal and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate, or the adverse environmental effects of the proposed activity are no more than minimal and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (*e.g.,* conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (*e.g.,* riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (*e.g.,* resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to an herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures

To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management

In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits

The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications

If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____

(Transferee)

_____

(Date)

30. Compliance Certification

Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are

used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States

If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN, and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed

under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address, and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (*e.g.,* a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be

required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (*e.g.,* via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will

have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life, or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic

resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (*e.g.,* partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (*e.g.,* watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) That the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval

of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s) but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (*i.e.,* spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required, and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (*i.e.,* spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: 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. 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 NWP 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.

Single and complete non-linear project: For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (*i.e.,* by reducing the concentration of nutrients, sediments, hazardous substances, and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

Additional Information

For additional information concerning the nationwide permits or for a written determination regarding a specific project, please contact the office below:

New Mexico:

Albuquerque District Office
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435
Telephone: (505) 342-3280

Southern New Mexico and Western Texas:

Las Cruces Regulatory Office
200 E Griggs Avenue
Las Cruces, NM 88001-3516
Telephone: (505) 554-7943

Northwestern New Mexico, Southwestern Colorado, and the San Luis Valley of Colorado:

Durango Regulatory Office
1970 E 3rd Avenue, Suite 109
Durango, CO 81301-5025
Telephone: (970) 259-1582

Northwestern Colorado:

Grand Junction Regulatory Office
400 Rood Avenue, Room 224
Grand Junction, CO 81501-2520
Telephone: (970) 243-1199

Southeastern Colorado:

Pueblo Regulatory Office
201 W 8th Street, Suite 350
Pueblo, CO 81003-3435
Telephone: (719) 543-9459

Information about the U.S. Army Corps of Engineers regulatory program, including NWPs, may also be accessed on our website at www.spa.usace.army.mil/reg.

This NWP is effective February 25, 2022, and expires on March 14, 2026.

Summary Version: February 25, 2022

US Army Corps
of Engineers®
Albuquerque District
Omaha District

Regional Conditions to the 2021 Nationwide Permits in the State of Colorado

Regional Conditions Applicable to All Nationwide Permits within the State of Colorado

1. Construction of Diversions and Intakes. The permittee must submit a pre-construction notification (PCN) to the District Engineer in accordance with general condition 32 prior to commencing any activity that involves the construction of new water diversions and intakes. This regional condition does not apply to maintenance activities covered by Nationwide Permit (NWP) 3.

2. Open Trenching in Perennial Streams. The permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing any activity that involves open trenching in perennial streams.

3. Peatlands. All NWPs, with the exception of 3, 5, 6, 20, 27, 32, 37, and 38, are revoked for the discharge or dredged or fill material in peatlands. For NWPs 3, 5, 6, 20, 27, 32, 37, and 38, the permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing work in peatlands. The term peatland includes fens and bogs. For the purposes of this regional condition, a peatland is defined as a wetland with organic soil that is classified as a histosol in the Natural Resources Conservation Service (NRCS) guidance document entitled Field Indicators of Hydric Soils in the United States (Version 8.0, 2016). A copy of the document can be obtained from the NRCS at nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_053171.pdf.

4. Stream Stabilization. The permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing any stream stabilization activity that utilizes non-native material. The permittee must also submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing any stream stabilization activity that exceeds the placement of ¼ cubic yard of material per linear foot on average below the plane of the ordinary high water mark for streams with an average width of less than 20 feet (measured at the plane of ordinary high water).

Non-native materials include clean brick, broken concrete, cinder block, slab material, wire mesh, such as gabion baskets, grout, and sheet piling. The use of

broken concrete with exposed rebar and tires (loose or formed into bales), and other materials listed under general condition 3 is prohibited in all waters of the United States. Rock rip rap, and woody debris are considered native material.

For all stream stabilization activities involving non-native material, permittees must demonstrate that alternative engineering methods utilizing native materials are not practicable (with respect to cost, existing technology, and logistics), before the use of non-native material is allowed as suitable fill.

5. Gold Medal Waters. The permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing all activities located in waters identified as "Gold Medal" by the Colorado Wildlife Commission. Upon receipt of a complete PCN, the U.S. Army Corps of Engineers (Corps) will initiate Agency Coordination with Colorado Parks and Wildlife (CPW) as outlined in the procedures under general condition 32(d) of the NWPs. Pre-application consultation with CPW is not required but highly recommended. If a pre-application consultation is conducted with CPW, providing written documentation of CPW's response to the project may satisfy the coordination requirements resulting in quicker processing times. Please visit CPW's website at cpw.state.co.us to determine the location of Gold Medal waters and the appropriate office for coordination.

6. Water Quality Certification. In accordance with 33 CFR 330.4(c), the conditions of Clean Water Act Section 401 water quality certifications are incorporated as conditions of the Section 404 NWPs. The requirements for water quality certifications in the State of Colorado can be found at spa.usace.army.mil/reg/wqc.

Regional Conditions Applicable to Specific Nationwide Permits within the State of Colorado

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

   a. Net increase in aquatic resource functions and services. For projects requiring a PCN, the PCN must contain a description/assessment of the existing aquatic habitat conditions (i.e., baseline information), to be compared to proposed/post-construction conditions, and an explanation for why the project is needed (i.e., project purpose), including a description of how the project will improve aquatic habitat.

   b. Ecological reference. This permit authorizes activities that are planned, designed, and implemented for the purpose of restoring, establishing, and enhancing aquatic habitat to resemble an ecological reference. To demonstrate compliance with this permit requirement, the PCN must identify the ecological reference or conceptual model used for project design. This permit does not

authorize projects that involve other goals, such as waterborne recreation (e.g., kayak courses) and flood control.

c. Fisheries enhancement. Agency Coordination with CPW is required for projects involving fisheries enhancement in perennial streams. Upon receipt of a complete PCN, the Corps will decide whether the project involves fisheries enhancement activities, regardless of whether the PCN explicitly identifies "fisheries enhancement" as the project purpose, and initiate Agency Coordination with CPW in accordance with the procedures set forth under general condition 32(d). Pre-application consultation with CPW, preferably on-site, is highly recommended for projects involving fisheries enhancement, and providing documentation of pre-application consultation with CPW and their response may satisfy the coordination requirements of this permit resulting in quicker processing times. Please visit CPW's website to determine the appropriate office for coordination: cpw.state.co.us.

To assist in Agency Coordination with CPW for projects involving fisheries enhancement, drawings must also include the following:

(1) Plan view of all work clearly identifying types and locations of structures/impacts, along with dimensions, and approximate extents of aquatic resources within the project area, including wetlands and riffle-pool complexes. To aid in visual understanding, this plan can be overlaid on a recent aerial image of the project site. The plan should also include information such as the existing and proposed bank slopes, width-to-depth ratio of the channel, and sinuosity.

(2) Cross-sectional and longitudinal profile views to scale of the existing stream channel and the proposed channel modifications, including dimensions (length, width and height of the structures or work).

Failure to include the information required for Agency Coordination with CPW, when applicable, may result in delays and/or withdrawal of the PCN due to incompleteness.

d. As-built drawings. For projects requiring a PCN with a design-build or fisheries enhancement component, the permittee shall submit a complete set of as-built drawings to the Corps within 90 days following the completion of work.

e. Use of concrete and grout. The use of concrete/grouting is not allowed in perennial streams unless the Corps determines on a case-by-case basis that the impacts will result in minimal adverse effects to the aquatic resource.

MESA COUNTY ROAD AND BRIDGE RIGHT OF WAY PERMIT REQUIREMENTS OVERVIEW

Mesa County Road and Bridge Right of Way Permit Requirements Overview

Revision Date: March 2024

Declarations:

- Please fill out this online application and upload your sketch plan to complete the online application process.
- Your application and sketch plan will then be reviewed by Mesa County staff.
- Once the review is complete and fees are assessed, a formal permit form will be sent out for signatures and final approval. Any special provisions will be indicated or attached as part of the permit form.
- The completed and approved permit form, with signatures, will be distributed and also an electronic copy will be attached to this online permit record.
- Payment options include invoicing by Mesa County staff or you can pay any outstanding permit fees via credit card by logging into your online registered account and selecting "Pay Fees".
- Please direct any questions the Mesa County Road & Bridge Department (970) 255-5032

BACKFILL

The proposed utility shall be installed within the right-of-way at a depth of [INSTALL DEPTH] (24 inches minimum). The backfilling within the roadway prism shall be made in six-inch lifts and mechanically compacted and densified to 90% density around the utility, and 95% density for the remaining portion of the trench between the base course and the utility. Backfill outside the roadway prism shall be compacted to a density consistent with the adjoining area but in no case less than 85% density. Percentages shall be determined by AASHTO T99, with the material within two percent of optimum moisture. Backfill material shall be of clear random (non-granular) material. Bedding material may be granular. Granular backfill may be authorized on a case by case basis. If granular backfill material is used, compaction shall be a minimum of 70% relative density. Imported backfill (Class 1 or 2 as defined by the Department of Highways, Division of Highways, State of Colorado, and Standard Specifications for Road and Bridge Construction, latest edition) may be used or required when existing material unsuitable.

BORING

Where the installation crosses an asphaltic surfaced roadway the installation shall be installed by boring or jacking through beneath the road surface; however, open cutting shall be allowed up to the edge of the shoulder portion of the road. No tunneling shall be permitted.

WHEN PAVEMENT CUTS ARE PERMITTED:

1. An unsuccessful attempt has been made to bore or jack the installation.

2. Conflicting utilities place constraints as to elevation or alignment on the proposed installation.

3. Connecting to an existing utility or installation located beneath the paved portion of the roadway.

4. Otherwise approved in advance.

5. Cutting existing asphalt shall be accomplished so as to provide a neat even line and outside of the motor vehicle wheel path.

When an open cut is allowed, the Permittee shall be responsible for backfilling and compacting as described in the BACKFILL section of this permit. The Permittee is responsible for restoring the disturbed portion of the roadway to its original condition. The disturbed area shall be repaired within 48 hours from the time of excavation or 24 hours from completion, of backfilling, whichever is greater. Hot Bituminous Pavement Mix Grade D or E as defined by the Department of Highways, Division of Highways, State of Colorado, Standard Specification of Road and Bridge Construction, latest edition, shall be used for patching material, except when unavailable, during which time a temporary cold mix patch shall be allowed. Temporary patches shall be replaced with hot mix patched within five working days after material becomes available. All disturbed areas to be patched shall be Prime Coated with MC-70 or the equivalent and applied at the rate of 0.15 - 0.30 gallon per square yard. Thickness layer of patching shall not be less than 3 inches.

COMPACTION

Permittee will be required to perform compaction control testing in accordance with the Applicable Provisions, unless structure backfill (flow-fill) is utilized. Permittee shall be responsible for patch failure due to consolidation of backfill and subsequent surface settlement for a period of eighteen months after completion of patching. Repairs to failed patches could be made by the Mesa County Road Department and billed directly to the permittee, or owner-utility.

PLOWING

Utility placement by plowing shall be allowed only when approved in advance by the Division of Transportation Supervisor. Permit fee shall be determined in accordance with the Fee Schedule.

Where plowing operations occur across improved surfaces or within the roadway prism and result in an open cut, backfilling shall consist of fine-grained granular aggregate compacted to 85% minimum relative density. Permanent surfaces shall be replaced where crossed with a minimum patch width 12 inches wider (6 inches per side) than the surface damaged by plowing.

AGREEMENT

The Permittee shall agree to hold the County of Mesa, the agencies thereof, and their officers and employees harmless from any and all loss and damage which may arise out of or be connected with the installation, maintenance, alteration, removal, or presence of the installation herein referred to or any work facility connected therewith, within the area covered by this permit, unless loss or damage occurs from their negligence. This work shall be completed within sixty days from the above date unless otherwise stated in Special Provisions. No work shall be allowed on Saturdays or Sundays unless provided for under Special Provisions. No open trench permitted in traveled roadway after dark, unless otherwise specified in Special Provisions. In the event that road improvements within the right-of-way existing at the time of utility installation is necessitated for any reason the utility agrees to relocate at its sole expense to a location not in conflict with the proposed roadway, the reasonable advance notice, from the Division of Transportation Supervisor. Mesa County will not be responsible for any damage to any installation placed inside County Right- Of-Way limits, occurring due to normal maintenance activities.

FEE SCHEDULE

A permit will be required for each public road that work is being performed in. The permit fee shall be Twenty-Five Dollars ($25.00). Permits that include a road closure shall be Fifty Dollars ($50.00). Extraordinary costs relating to utility inspection shall be billed to the Permittee at the rate of $15.00/hour for Inspector's time and $20.00/hour for the Division of Transportation Supervisor time.

NOTE:

The issuance of this permit does not warrant the availability of right-of-way or easement adjacent to roadways. Permittee is responsible for insuring he has legal access to the areas shown on the permit application. The issuance of this document by Mesa County permits the applicant to work in areas where their work will affect existing County facilities and land. This permit does not warrant:

1. The existence of County right-of-way in all the areas proposed for disturbance by the applicant. The applicant is responsible for determining the legal status of the land impacted by their activities and obtaining any easements or rights-of-way required from affected landowners.

2. This permit does not warrant that the areas proposed for disturbance are free of existing utilities or facilities. The applicant is responsible for locating any existing facilities and insuring that the work being done under this permit does not adversely impact any existing Facilities.

APPLICABLE PROVISIONS

All utility installations shall comply with the applicable provisions of the Mesa County Standard Specifications for Road and Bridge Construction, and Mesa County Road and Right-of-Way Use Regulations. Requirements for installation of utilities within the right-of-way include, but are not limited to, the following:

1. The Permittee shall notify the local police, ambulance, fire department and school district stating duration of all road closures. All road closures must be pre-approved.

2. All work covered by this permit must be completed within the designated time frame not to exceed 60 days. Extension of the completion date may be granted upon proper request to the County Division of Transportation.

3. No cleated or track equipment shall work on or move over asphalt surfaces without mats.

4. Any materials from excavation as the result of utility installation will be removed from road surface each day.

5. Encasement of water main and sewer force main will be required from toe of slope to toe of slope under all paved county road intersections and approaches, unless otherwise approved in advance by the Division of Transportation.

6. All requests for installation may be reviewed in field by representative of the Division of Transportation office prior to issuance of any permit.

7. All construction of underground installations will generally require the services of an inspector furnished by the Division of Transportation. The decision as to which project requires inspection is reserved by the Division of Transportation. All extraordinary costs relating to the inspection of such utility installation will be borne by the Permittee at a rate specified by Mesa County.

8. All drainage facilities or siphons will be opened immediately upon completion of work at side of drainage or siphon installation. Damaged portion of drainage or siphon facility will be replaced. All damaged sections shall be inspected by Division of Transportation inspector before being concealed in any manner. Drainage ditches or borrow pits shall be restored to original condition immediately after backfilling is completed.

9. The issuance of this permit does not constitute acceptance into the county road system of any roads shown on the sketch; nor does it obligate Mesa County to participate in the construction or maintenance of access roads located upon existing public rights of use. Mesa County does not warrant county right-of-way. The Permittee shall determine all ownership and property lines.

10. During winter months the roadway surface will be repaired with cold mix asphalt within 48 hours of road cut excavation. Permittee will place the final hot mix road patch within 5 working days after becoming available.

11. Compaction testing schedule:

a. One test at 1/2 trench depth from 0 to 5 feet deep, and one test at finish grade.

b. Two tests, one at each third point for trenches 5 to 10 feet deep, and one test at finish grade.

c. Three tests, one at each quarter point for trenches 10 feet deep and over, and one test at finish grade.

d. Tests shall be performed at 30 foot intervals for trenches 1 to 120 feet in length, 50 foot intervals for trenches 120 to 300 feet, and 100 foot intervals for trenches over 300 feet in length. Additional tests may be required by the Division of Transportation Supervisor. Permittee shall bear all expense for testing fees and repair costs.

e. Documentation of compaction control test results may be waived by the Engineering Supervisor upon submittal of an acceptable bond guaranteeing repair or replacement of failures within a one and half year period after completion of the first repair.

12. A suitable bond in the amount fixed by the Division of Transportation Supervisor may be required prior to issuance of any permit. This bond may be released by the Division of Transportation Supervisor upon submittal and acceptance of compaction test results certified by a Registered Professional Engineer licensed to practice in the State of Colorado.

Work shall comply with any and all laws, ordinances, orders, rules, regulations, standards, and licensing requirements of state, federal, municipal, or local authority or agency having jurisdiction.

Permittee shall indemnify and hold harmless Mesa County, its employees and agents, from any acts arising from the construction of facilities or work covered by this permit and the permit process.

The Permittee or their Contractor shall maintain insurance at all times during performance of work authorized by the permit with minimum limits of liability of not less than $1,000,000 for each claim and $1,000,000 Annual Aggregate. By applying your electronic signature on the Applicant Signature line, you are signing and accepting this Permit. In accepting this Permit the undersigned, representing the Permittee, verifies that he has read and understands all of the foregoing provisions: that he has the authority to sign for and bind the Permittee: and by virtue of his signature the Permittee is bound by all conditions set forth herein.

*Note this is only a summary and not all applicable requirements for Right of Way work. See Mesa County Road and Bridge webpage for current CDOT Standards and Specifications when planning your next Right of Way project.