



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

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APPLICATION FOR PERMIT

**Regional General Permit (RGP) No. 81
Maintenance and Bank Stabilization Activities
Pima County, Arizona**

Public Notice/Application No.: SPL-2009-00244-KWG

Project: Regional General Permit 81--Pima County

Comment Period: August 26, 2016, through September 25, 2016

Project Manager: Kevin W. Grove; 602-230-6957; Kevin.W.Grove@usace.army.mil

Applicant

Suzanne Shields, P.E., Director
Pima County Regional Flood Control District
201 North Stone Avenue, 9th Floor
Tucson, Arizona 85701

Contact

Michael Cabrera
Pima County Regional Flood Control District
201 North Stone Avenue, 7th Floor
Tucson, Arizona 85701

Location

In Waters of the United States within the limits of Pima County, Arizona, including Tribal lands.

Activity

This Special Public Notice concerns the U.S. Army Corps of Engineers (Corps), Los Angeles District's proposal, pursuant to 33 Code of Federal Regulations (C.F.R.) Section 325.2(e), to amend and re-issue RGP-81; which authorizes all county, local city and town, and Tribal government entities within Pima County to conduct various maintenance and bank stabilization activities over the next 5 years. This RGP does not apply to non-government entities such as individuals, developers, non-government organizations, etc. The RGP81 lists activities that would discharge dredged or fill material into waters of the United States (U.S.), as regulated under section 404 of the Clean Water Act (CWA). Certain activities listed the RGP81 require the applicant to provide a notification package to the Corps and, in certain circumstances, the applicant may not proceed with proposed maintenance and bank stabilization activities until the Corps verifies the proposed project meets the requirements for RGP81.

For additional information, please reference the attached RGP81 and RGP81 Notification Template.

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act.

Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT,
U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Kevin W. Grove
3636 N CENTRAL AVE SUITE 900
PHOENIX AZ 85012-1939

Alternatively, comments can be sent electronically to: Kevin.W.Grove@usace.army.mil

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made an environmental impact statement is not required for the proposed work.

Water Quality- This public notice will serve as the Corps' application for conditional water quality certification under Section 401 of the Clean Water Act from the Arizona Department of Environmental Quality for the activities described herein and which will eventually be authorized by RGP 81.

Cultural Resources- The Corps of Engineers will consult with the Arizona State Historic Preservation Office (AZ SHPO) under Section 106 of the National Historic Preservation Act (Section 106 NHPA) either programmatically for those activities which solely occur within previously disturbed, channelized, or stabilized waters of the U.S. or on a project-specific basis for any activities which do not meet this criterion and which will result in the disturbance of previously undisturbed areas.

Endangered Species-The Corps of Engineers has determined the proposed RGP81 will have "no effect" on any proposed or listed, threatened or endangered species for those activities which occur in waters of the U.S. where there is no potential for a proposed or listed, threatened or endangered species to occur. In areas where there is a potential for a proposed or listed, threatened or endangered species to occur or where a proposed or listed, threatened or endangered species does occur, the Corps will review the activities on a case-by-case basis and make a project-specific determination of effect in accordance with Section 7 of the Endangered Species Act (Section 7 ESA). This may result in informal or formal consultation with the U.S. Fish and Wildlife Service under Section 7 prior to commencement of any proposed activities.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). Because project

activities could discharge fills within special aquatic sites, identification of the basic project purpose is below. The basic project purpose for the proposed project is flood risk management. The project is **not** water dependent

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b) (1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose is to re-issue Regional General Permit 81 to authorize routine, sediment removal actions to restore conveyance in existing drainages and constructed drainage ways, and to perform bed and bank stabilization activities on existing infrastructure.

Additional Project Information

Baseline information- Many of the recurring maintenance activities conducted by the local jurisdictions are non-regulated activities under Section 404 of the Clean Water Act. Such activities include mowing and hand trimming of vegetation which may be required to ensure that the drainage structure is able to pass the design flood flows effectively. However, additional reactive and preventative maintenance activities are also periodically required which may result in the disturbance of the channel invert or banks and, therefore, are most often regulated under Section 404 of the Clean Water Act. Those regulated activities include:

1. the removal of accumulated sediments from channels and culverts which reduce the design flow-carrying capacity of the channels;
2. the removal of debris from the channels which can divert, retard and obstruct flow and cause significant local scour which may damage public infrastructure or public or private property;
3. the removal of invasive vegetative species (including root mass) such as buffelgrass and *Arundo* which can propagate and out-compete native species as well as cause increased fire risk;
4. the repair of flow-induced lateral and vertical erosion cuts that can compromise the structural integrity of flood control and other governmental infrastructure as well as propagate from public rights-of-way to private property thus causing risk of private property loss;
5. the re-establishment of acceptable longitudinal channel bottom slopes in older, earthen conveyance channels where slope undulations lead to water ponding that can, in turn lead to excessive breeding habitat for mosquitoes and attendant concerns with the West Nile Virus;
6. the harrowing of retention or detention basin bottoms in order to enhance the infiltration of storm water that may pond for extended periods (and lead to the above-mentioned vector breeding nuisance) after silts accumulate in basin bottoms and plug up the infiltration mechanism; and,
7. the replacement of aging, damaged or poorly designed flow conveyance and erosion protection infrastructure such as rock and rail bank stabilization or corrugated metal pipes, before complete and potentially catastrophic system failure occurs and results in severe loss of public or private property or life.

Specific Activities Proposed to be Authorized by this RGP

The following specific activities are proposed to be authorized under this RGP. Each activity has a specific notification threshold. The proposed notification thresholds are

identified in the following section entitled *Additional Project Information*.

1. Removal of accumulated sediments from existing structures to re-establish design flow carrying capacities (e.g. constructed drainage channels, bridges, culvert road crossings, water intake structures, engineered bank stabilization, etc.): Sediment removal may be required to re-establish design flow carrying capacity in a watercourse for public safety when flow events do not sufficiently fully flush those sediments completely through the system.

Major Watercourses (Santa Cruz River, Rillito River, Pantano Wash, Tanque Verde)

- Concurrence Notification (RGP Form): All activities <75,000 cubic yards
- Full PCN (Form 4345): Activities >75,000 cubic yards

Mid Major Watercourses (base flows between 2,000 cfs and 10,000cfs)

- Concurrence Notification (RGP Form): < 20,000 cubic yards.
- Full PCN (Form 4345): > 20,000 cubic yards.

Minor Watercourses (base flows less than 2,000 cfs)

- Concurrence Notification (RGP Form): <10,000 cubic yards
- Full PCN (Form 4345): >10,000 cubic yards

- Non-notification: Sediment removal activities less than 1,000 cubic yards for Minor and Mid Major watercourses do not require notification unless determined necessary by the Corps. Sediment removal that occur in constructed concrete lined channels (bed and bank) also do not require notification.

NOTE: Use of removed accumulated sediments can be used to repair erosion damage to bed and banks located within 500' of the structure from where it is originally removed authorized under this RGP. The use of the accumulated sediments to repair erosion damage must occur simultaneously with removal activities and accumulated sediments may only be temporarily stockpiled in the channel while removal/replacement activities are concurrently occurring. All excess material not used within that 500 feet shall be removed from the watercourse to an upland site. Placement of temporary training berms, dikes, etc to prevent bank erosion (using available material) may be allowed if determined necessary for the proposed activity.

2. Stream bed stabilization in existing, constructed drainage channels:

The coverage authorized under this RGP for bed stabilization is limited to minor projects resulting in permanent disturbance (jetties, grade control structures, rock weirs, spur dikes, zuni bowls) of waters of the U.S. (WUS) not to exceed a maximum of 1/2 acre. This RGP authorizes the following limits and notification requirements:

- Non -Notification: < 1/4 acre disturbance to WUS
- Concurrence Notification: between 1/4 acre and 1/2 acres disturbance to WUS
- Full PCN(Form 4345): > 1/2 acre disturbance to WUS

3. Expanded bank stabilization activities:

This RGP combines bank length and volume of fill discharged below the OHWM to obtain a single value for purposes of permit applicability and determination of notification requirements as outlined below (i.e., soil cement, shotcrete, grouted riprap, dumped riprap, reno mattresses, gabions, gabion jetties)

- Non-notification: < 500 - 1000 CY total up to 750 LF
- Concurrence Notification: >1000 to 3000 CY total up to 1500 LF
- Full PCN (Form 4345): > 3000 CY total up to 2500 LF

4. Expanded notification requirements for reshaping existing constructed drainage channels (with earthen banks & sandy bottom):

- Non-notification: <1000 LF
- Concurrence Notification: <7500 LF
- Full PCN (Form 4345): >7500 LF

5. Expanded limits for the discharged of dredged and/or fill material for Stormwater Management Facilities:

NWP 43 allows for the construction and maintenance of stormwater management facilities, including excavation of stormwater ponds, detention and retention basins, as well as the installation and maintenance of water control structures (i.e. outfall structures, spillways, grade control structures). This RGP increases the distance of linear impact without an increase in the total ½ -acre limit. For the construction of new stormwater management facilities, or expansion of existing stormwater management facilities, this RGP authorizes the following limits and notification requirements:

- Non-Notification: projects impacting <1/4 acre WUS
- Concurrence Notification: projects impacting between ¼ and ½ acre, less than 500 linear feet (LF)
- Full PCN (ENG 4345): projects impacting up to ½ acre and >500 LF

6. Increases the allowable time to commence or be under contract to commence emergency maintenance activities or repair of uplands damaged by discrete events:

This RGP allows the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within three years of the date of their destruction or damage and would also allow the repair of uplands damaged by discrete events provided the work is commenced or under contract to commence within three years of the damage.

Additional Project Information

1. This RGP authorizes a tiered notification system ranging from Non-notification for simple, Concurrence Notification (RGP 81 Form) and Full Pre-Construction Notification (ENG Form 4345). Any activity which exceeds the Full PCN threshold for any covered activity shall require a Section 404 individual permit.

a. Non Notification require no advance notification to the Corps prior to commencement of the activity. Those limited maintenance projects would be typified by removal of sediment from a culvert to restore its design flow carrying capacity, the removal of storm debris, or to emplacement of small amounts of rock rip rap to repair or arrest erosion damages as described in the above categories. Any project which may affect any threatened or endangered species or modify any designated critical habitat of a threatened or endangered species may not proceed under non-notification and the applicant shall provide Notification to the Corps.

b. Concurrence Notification constitute the mid-range level pre-construction project notification to the Corps under the RGP. At this level of notification, the RGP Notification Form shall be completed and emailed to the local Corps regulatory representative a minimum of 14 calendar days before the commencement of work. This allows the Corps to more thoroughly review the project summary information, request follow up information as needed, and formally acknowledge and concur via email that the project meets (or does not meet) the conditions of the RGP project based on the information provided. Presumptive concurrence would be the default condition if no response to the submittal was received after 14 calendar days. If, during the 14-day notification period, the Corps determines the proposed activity may affect a threatened or endangered species or adversely modify designated critical habitat or a threatened or endangered species, the Corps will notify the applicant and work may not commence until the Corps has consulted with the U.S. Fish and Wildlife Service.

c. Full Pre-Construction Notification constitute the highest level notification under the RGP and require a complete PCN as defined under current Corps Nationwide Permit Notification requirements. Standard reviews and acknowledgements as defined under regulations in effect at that time would be conducted by the Corps. The Corps shall attempt to complete the verifications for projects within 45 days from the date the notification is complete but may extend this as warranted by other requirements such as Section 7 ESA or Section 106 NHPA consultations.

2. This RGP authorizes activities based on carrying capacity of the watercourse. This RGP defines "Major Watercourses" as the Santa Cruz River, Rillito River, Pantano Wash, and the Tanque Verde, defines a "Mid Major Watercourse" with base flows between 2,000 cfs and 10,000cfs, and defines a "Minor Watercourse" with base flows less than 2,000 cfs.

3. Applicants on Tribal lands shall obtain an individual Section 401 water quality certification or waiver from the U.S. Environmental Protection Agency, Region IX (415) 972-3398.

Permit Conditions

General Conditions:

1. The activity authorized by this permit must be maintained in good condition and in conformance with the terms and conditions of this permit. The Permittee is not relieved of this requirement if the permitted activity is abandoned, although a good faith transfer to a third party may be made in compliance with General Condition 4 below. Should the Permittee wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, a modification must be obtained from this permit from this office, which may require restoration of the area.
2. If the Permittee discovers any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, the Corps must be immediately notified of what has been found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
3. If a conditioned water quality certification has been issued for this project, the Permittee must comply with the conditions specified in the certification as special conditions to this permit.
4. The Permittee must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of this permit.
5. 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 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.

Proposed Special Conditions

The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

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- a. The permittee shall comply with all requirements and conditions state water quality certification as issued by the Arizona Department of Environmental Quality on **DATE##** and attached to this permit.
- b. Should cultural resources or archeological remains be encountered during construction/excavation, work shall immediately cease in the area of discovery. The permittee shall promptly notify the State Historic Preservation Office at (602) 542-7137 and the Corps at (602) 230-6957.
- c. This RGP cannot be combined with other Section 404 authorizations including Nationwide Permits, other RGPs, or individual permits to increase the scope of work, the area of impact to

waters of the U.S., or the limits to the discharge of fill material at a specific or proximal location.

- d. This permit is not authorized for use in any wetlands and/or special aquatic sites.
- e. This RGP authorizes temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps of Engineers. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if the district engineer determines that it will not cause more than minimal adverse effects on aquatic resources. Following completion of construction, temporary fill must be entirely removed to an area that has no waters of the United States and the affected areas must be restored to pre-construction elevations.
- f. All sediment removal activities shall be completed within 90 days of onset of the activity at a specific location.
- g. The permittee shall not use this RGP to conduct the same category of activity at an adjacent location within a one-year timeframe. Use of the same category of activity within a one-year period shall be at separate and distinct locations within a specific watercourse. Any waivers to this condition must be approved by the District Engineer.
- h. The permittee shall not permanently stockpile material below the ordinary high water mark of any water of the U.S. Temporary stockpiling is authorized only where it is specifically stated in the covered activities.
- i. The permittee shall perform maintenance work during low water conditions when the area is naturally dewatered and shall suspend all operations when there is water within the project area.
- j. The permittee shall immediately remove all excess excavated material to an upland disposal site which has previously been disturbed.
- k. The permittee shall not divert flows outside of the ordinary high water mark of any water of the U.S.
- l. The permittee shall not excavate, fill, or grade in the watercourse outside of the minimum area needed to accomplish the activity and shall not exceed the limits provided by this RGP.
- m. The permittee shall not excavate sediment below the OHWM specifically for use as a fill source; however, where this RGP allows, the permittee may use accumulated sediments to repair erosion damage.
- n. This RGP prohibits the removal of sediments for the primary purpose of obtaining a material source; this RGP shall not be used for commercial aggregate operations.

- o. The permittee shall remove all excess fill, stockpiles, and/or construction debris/equipment from the site immediately upon completion of construction but no longer than 14 days from completion of the activity.
- p. Prior to onset of construction/excavation, the permittee shall provide the contractor(s) with a copy of this permit. The contractor shall read and agree to comply with all conditions herein.
- q. This RGP shall be effective for five years from the date of issuance after which time it may be reauthorized if Federal, State, and local agencies and the public support its reissuance.
- r. This RGP may be modified or revoked in the future if: (1) new species or new critical habitat become Federally listed that could be adversely affected by the permitted activities or (2) additional information indicates that activities permitted under this RGP cause significant environmental impacts.

For additional information please call Kevin Grove of my staff at 602-230-6957 or via e-mail at Kevin.W.Grove@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
3636 N CENTRAL AVE SUITE 900
PHOENIX AZ 85012-1939
WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY

REGIONAL GENERAL PERMIT 81 NOTIFICATION

Routine Flood Control Maintenance

U. S. Army Corps of Engineers
3636 N. Central Ave, Suite 900
Phoenix, Az 85012
Ph. (602) 230-6950
Fax (602) 640-2020
Sallie.McGuire@usace.army.mil

Notification Type: ☐ Non-Notification ☐ Concurrence Notification ☐ Full Pre-Construction Notification

Permittee	Corps File Number	Internal Agency Activity # (optional)
Agency	Contact Person	
Address	Phone Number	
Authorized Representative	Submittal Date	End Review Date

Project Location		Lat:	Long:	Township:	Range:	Section:
Primary Street:	Channel/Facility Name	ID #	Q100 cfs			
Secondary Street:	Channel Type	Length	Width			

Maintenance Activity	<input type="checkbox"/> Sediment Removal (Category 1)	<input type="checkbox"/> Stream Bed Stabilization (Category 2)	<input type="checkbox"/> Bank Stabilization (Category 3)	<input type="checkbox"/> Channel Reshaping (Category 4)
	<input type="checkbox"/> Stormwater Facilities (Category 5)	<input type="checkbox"/> Emergency Activities (Category 6)		

General description of work: (Include purpose, work description, disposal area, materials, etc.)

Equipment ☐ Backhoe ☐ Dump Truck ☐ Excavator ☐ Loader ☐ Grader ☐ Hand tools ☐ Other

Duration of Work		Est. Start/End Date		Riparian Classification	
Impact to WUS?		Permanent		Temporary	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Acres	Linear Feet	Acres	Linear Feet	
Channel Bottom					
Channel Bank					
Total					

Riparian Disturbance Area in acres (if applicable)	
Type of Discharge Material (list all)	Volume (cy)

<input type="checkbox"/> U. S. Fish and Wildlife Review http://www.azgfd.gov/hgis/	MSCP Section 10 Eligible? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Section 7 Review Required? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Total
<input type="checkbox"/> Cultural Resource Review	Survey Required? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Consultation Required? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	

Supporting Documentation	<input type="checkbox"/> Map(s) (Aerial or USGS Quad)	<input type="checkbox"/> Cross Section Drawing(s)
	<input type="checkbox"/> Plan View Drawing(s) (to scale)	<input type="checkbox"/> Site Photos <input type="checkbox"/> Reports