

# SPECIAL PUBLIC NOTICE

**US Army Corps  
of Engineers®**

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

**Date:** April 15, 2010

**Point of Contact:** Marjorie Blaine (520) 584-1684

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## **TO WHOM IT MAY CONCERN:**

The District Engineer, Los Angeles District, U. S. Army Corps of Engineers, hereby issues Regional General Permit (RGP) No. 81, which authorizes all County, local city and town, and Tribal government entities within Pima County to conduct various maintenance and bank stabilization activities. As listed in the attached permit, certain activities 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.

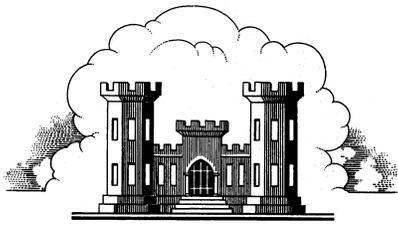
This permit is being issued under Section 404 of the Clean Water Act (33 USC 1344) and is in accordance with provisions of the Regulatory Program of the Corps of Engineers (33 CFR Part 322.2(f)) for activities which are substantially similar in nature, and which cause only minimal individual and cumulative environmental impacts. Any proposed activity that does not have minimal impacts will be processed as an individual permit.

### **Public Comment**

A Public Notice describing the proposed RGP was issued on August 4, 2009 and sent to all interested parties (Corps mailing list), including appropriate State and Federal agencies. Comments received on the Public Notice were fully considered in the decision to issue this permit.

In accordance with the National Environmental Policy Act (NEPA), an Environmental Assessment (EA) was prepared for this RGP. This EA includes responses to all public comments received on the Public Notice and concluded that issuance of this RGP would not cause significant adverse impacts to the environment. This EA may be viewed at, or requested from the Los Angeles District of the Corps of Engineers, Tucson Resident Office.

A final copy of the terms and conditions of this RGP is attached to this public notice. For additional information, please call Marjorie Blaine of my staff at (520) 584-1684. This public notice is issued by the Chief, Arizona Branch, Regulatory Division.



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

**DEPARTMENT OF THE ARMY  
REGIONAL GENERAL PERMIT NO. 81  
MAINTENANCE AND BANK STABILIZATION ACTIVITIES  
PIMA COUNTY, ARIZONA**

**Permittee:** This Regional General Permit (RGP) applies solely to all County, local city and town, and Tribal government entities within Pima County, Arizona.

**Permit Number:** SPL-2009-00244-MB

**Issuing Office:** Los Angeles District

**Effective Date:** April 12, 2010

**Expiration Date:** April 12, 2015

**Project Description**

The District Engineer, Los Angeles District, U. S. Army Corps of Engineers hereby issues RGP No. 81.

This RGP authorizes the following with the associated limitations and requirements (levels of notification are referred to as “Tiers” which are defined under “Additional Project Information”):

**1. Removal of accumulated sediments and debris (including debris plants which are recognized invasive species provided this is specifically identified in Tier Two-Four Notifications) from within 500 feet of an existing structure (e.g. bridges, culverted road crossings, water intake structures, engineered bank stabilization, etc.):**

a. Tier One (Non-notification): In all watercourses regardless of size, removal of less than 50 cubic yards (cy) of sediment and all debris removal or culvert-cleaning activities not involving heavy equipment use in the watercourse.

b. Tier Two (Advisory Notification): Limited accumulated sediment removal activities. For the purposes of this RGP, “Limited” is defined as follows:

- Between 50 and 10,000 cy for major watercourses with base flood flows (Q100) exceeding 10,000 cubic feet per second (cfs);
- Between 50 and 1,000 cy for mid-major watercourses with base flood flows from 1,000 up to 10,000 cfs;
- Between 50 and 500 cy for minor watercourses with base flood flows of less than 1,000 cfs.

c. Tier Three (Concurrence Notification): Moderate accumulated sediment removal activities. For the purposes of this RGP, “Moderate” is defined as follows:

- Over 10,000 yet less than 50,000 cubic yards for major watercourses;
- Over 1,000 yet less than 10,000 cubic yards for mid-major watercourses;
- Over 500 yet less than 2,500 cubic yards for minor watercourses.

d. Tier Four (Full Pre-Construction Notification [Full PCN]): Large accumulated sediment removal activities. For the purposes of this RGP, “Large” is defined as follows:

- 50,000 cubic yards or greater for major watercourses with base flood flows exceeding 10,000 cfs;
- 10,000 cubic yards or greater for minor watercourses with base flood flows from 1,000 up to 10,000 cfs; and,
- 2,500 cubic yards or greater for watercourses conveying base flood flows of less than 1,000 cfs.

**2. Use of removed accumulated sediments from activities described in #1 above to allow repair of erosion damage within 500’ of the structure from where it is originally removed:**

Use of removed accumulated sediments allows the maintaining entity to utilize excavated materials to repair erosion cuts in banks or bed that are located within the approved 500 foot structural proximity limit 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.

**3. Removal of sediment to re-establish design flow carrying capacities:**

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. This RGP authorizes the following limits and notification requirements:

a. Tier One (Non-notification): In all watercourses regardless of size, removal of less than 50 cubic yards (cy) of sediment and all debris removal or culvert-cleaning activities not involving heavy equipment use in the watercourse.

b. Tier Two (Advisory Notification): Limited sediment removal activities. For the purposes of this RGP, "Limited" is defined as follows:

- Between 50 and 10,000 cy for major watercourses with base flood flows (Q100) exceeding 10,000 cubic feet per second (cfs);
- Between 50 and 1,000 cy for mid-major watercourses with base flood flows from 1,000 up to 10,000 cfs;
- Between 50 and 500 cy for minor watercourses with base flood flows of less than 1,000 cfs.

c. Tier Three (Concurrence Notification): Moderate sediment removal activities. For the purposes of this RGP, "Moderate" is defined as follows:

- Over 10,000 yet less than 50,000 cubic yards for major watercourses;
- Over 1,000 yet less than 10,000 cubic yards for mid-major watercourses;
- Over 500 yet less than 2,500 cubic yards for minor watercourses.

d. Tier Four (Full PCN): Large sediment removal activities. For the purposes of this RGP, "Large" is defined as follows:

- 50,000 cubic yards or greater for major watercourses with base flood flows exceeding 10,000 cfs;
- 10,000 cubic yards or greater for minor watercourses with base flood flows from 1,000 up to 10,000 cfs; and,
- 2,500 cubic yards or greater for watercourses conveying base flood flows of less than 1,000 cfs.

*Tier Four activities under this category of activities require submittal of an annual monitoring report to the Corps for a three-year timeframe from the date of completion of work. The annual monitoring report shall include photos and cross-sections from set photopoints within the project area as well as upstream and downstream for 1,000 feet each direction to verify the activities do not result in adverse hydraulic impacts beyond the original work site.*

#### **4. Limited 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 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:

- Tier Two (Advisory Notification): less than 1/10 acre disturbance to WUS
- Tier Three (Concurrence Notification): between 1/10 and 1/4 acre disturbance to WUS
- Tier 4 (Full PCN): > 1/4 acre up to 1/2 acre disturbance to WUS

#### **5. 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:

a. Permeable Bank Stabilization Methods (i.e., hand-placed riprap, dumped riprap, reno mattresses, gabions)

- Tier One (Non-notification): < 1000 CY total
- Tier Two (Advisory Notification): 1000 to 2000 CY total
- Tier Three (Concurrence Notification): 2000 to 3000 CY total
- Tier Four (Full PCN): > 3000 CY total

b. Impermeable Bank Stabilization Methods (i.e., grouted riprap, gunnite, soil cement)

- Tier One (Non-notification): < 500 CY total
- Tier Two (Advisory Notification): 500 to 1000 CY total
- Tier Three (Concurrence Notification): 1000 to 1500 CY total
- Tier Four (Full PCN): > 1500 CY total

*For Tier Two-Four Notifications under “a” and “b” above, the applicant shall demonstrate the use of the least environmentally damaging alternative for bank stabilization which meets the erosion protection needs of the reach.*

#### **6. Expanded notification requirements for reshaping existing constructed drainage ditches:**

Although maintenance of drainage ditches is an exempt activity under Section 404(f)(1)c of the Clean Water Act, NWP 41 allows for re-shaping the cross-sectional configuration of currently serviceable constructed drainage ditches for the purpose of improving water quality by regrading the drainage ditch with gentler slopes, which helps reduce erosion and increase growth of vegetation without increasing as-built capacity. Although no limitation on allowable square footage or linear distance is embedded in NWP 41, presently a disturbance of 500 linear feet (LF) or more triggers full PCN requirements. This RGP expands the limit and notification requirements:

- Tier One (Non-notification): <500 LF
- Tier Two (Advisory Notification): 500 LF to <750 LF
- Tier Three (Concurrence Notification): 750 LF to <1000 LF
- Tier Four (Full PCN): >1000 LF

#### **7. 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:

- Tier Two (Advisory Notification): projects impacting <1/4 acre WUS
- Tier Three (Concurrence Notification): projects impacting between ¼ and ½ acre, less than 250 linear feet (LF)
- Tier Four (Full PCN): projects impacting up to ½ acre, 250 to 500 LF

**8. 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 four-tiered system ranging from Non-notification for simple, limited maintenance activities (Tier One) through Full Pre-Construction Notification (PCN) for the largest maintenance/bank stabilization projects (Tier Four). Any activity which exceeds the Full PCN threshold for any covered activity shall require a Section 404 individual permit.

a. Tier One projects (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. Usually the removal of partially buried storm debris or culvert cleaning projects requires manual labor to dig out the accumulated material from the culvert and then a second step to properly dispose of that material. These types of projects, although often labor intensive, do not usually involve much equipment activity (if any) in the watercourse and only the temporary presence of small quantities of trans-located sediments. Small additions of rock riprap to address erosion issues are often initiated from outside of the watercourse. Any Tier One 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 Tier Two Advisory Notification to the Corps.

b. Tier Two projects (Advisory Notification) constitute the lowest level of pre-construction project notification to the Corps under the RGP. This notification shall in the form of an advisory email submittal to the designated local Corps regulatory representative in advance of the proposed activity and shall contain a standard set of information describing the project on the attached RGP Notification Form. The advisory notification is required to be submitted a minimum of 14 calendar days before commencement of work but does not require formal approval or concurrence from the Corps. The intent of this notification is to advise the Corps of the project location, duration and project details so that if interested parties contact the Corps regarding activities in a watercourse, the Corps will be aware that the activity is scheduled and is a project covered under conditions of the RGP. The Corps reserves the right to request a higher tier of review on a case-by-case basis within those two weeks if project specifications do not meet minimal impacts which would be associated with a Tier Two level of notification. The proposed

activity may not begin until after the 14-day notification period has expired or if notified by the Corps that the work requires a higher level of notification. Presumptive concurrence would be the default condition if no response to the submittal was received from the Corps 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. Tier Three projects (*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 a Tier Three 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.

d. Tier Four projects (*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 Tier Four 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. 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.

**Project Location:** Within Pima County including Tribal lands.

**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.

**Special Conditions:** See attached sheet.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - ( ) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
  - ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1314).
  - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. Failure to comply with the terms and conditions of this permit.
  - b. The information provided by the Permittee in support of the permit application proves to have been false, incomplete, or inaccurate (See 4 above).

- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
- d. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. Work/activities authorized under RGP81 expire April 12, 2015. It is expected that the RGP can be reissued for an additional five years; however, the Corps must determine if individual and cumulative impacts were and are expected to remain minimal.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



David J. Castanon  
Chief, Regulatory Division  
(for the District Engineer)

4-13-10

(DATE)

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

\_\_\_\_\_  
(TRANSFEEEE)

\_\_\_\_\_  
(DATE)

**SPECIAL CONDITIONS**  
**PERMIT NO. SPL-2009-00244-MB**

- a. The permittee shall comply with all requirements and conditions state water quality certification as issued by the Arizona Department of Environmental Quality on August 25, 2009 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 (520) 584-1684.
- c. The permittee shall not remove native trees which have a diameter at breast height (dbh) of four inches or greater unless said trees are no longer upright and present a significant flow obstruction.
- d. 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.
- e. This permit is not authorized for use in any wetland areas.
- f. Sediment removal activities authorized under Category 3 of this RGP for Tier Two, Three, and Four Notifications shall not occur more than once annually unless severe flow events result in a public safety issue. The applicant shall provide a written justification to the Corps with their notification if public safety issues exceed this condition.
- g. All sediment removal activities shall be completed within 90 days of onset of the activity at a specific location.
- h. 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.
- i. 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; all temporary stockpiles shall be removed within two weeks of completion of the activity.
- j. 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. The permittee shall not discharge fill or construction debris into the waters of any water of the U.S.
- k. The permittee shall immediately remove all excess excavated material to an upland disposal site which has previously been disturbed.

- l. The permittee shall not divert flows outside of the ordinary high water mark of any water of the U.S.
- m. 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.
- n. 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.
- o. 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.
- p. 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.
- q. 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.
- r. 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.
- s. 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.



Janice K. Brewer  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • www.azdeq.gov



Benjamin H. Grumbles  
Director

August 10, 2009

401 cert reading file: **rs309:027**

Applicant: U.S. Army Corps Of Engineers  
Regulatory Division (SPL-2009-00244-MB)  
Marjorie Blaine  
5205 E. Comanche Street  
Tucson, Arizona 85707

Subject: CWA 401 Water Quality Certification for the proposed  
**Regional General Permit No. 81: Routine Maintenance Activities Pima County, Arizona** impacting any waters of the United States located on non-tribal lands within Pima County.  
U.S. Army Corps of Engineers (Los Angeles District) File No.:  
**SPL-2009-00244-MB**

Dear Ms. Blaine:

The Arizona Department of Environmental Quality (**ADEQ**) has reviewed the U.S. Army Corps of Engineers (**CoE**) public notice (8/4/09) for the subject Regional General Permit No. 81 (**RGP**) pursuant to Section 401 of the Clean Water Act (**CWA**).

For the purposes of this certification, Waters of the U.S./**WUS** refers to the stream channel between the Ordinary High Water Marks (**OHWM**) of that channel.

All applicants are responsible for obtaining all other permits, certifications and licenses that may be required by federal, state or local authorities. Activities which may require other Arizona approvals include, but are not limited to:

- a. Construction activities disturbing greater than one acre of land will require an Arizona Pollution Discharge Elimination System (**AZPDES**) Stormwater Permit. Prior to the commencement of activities herein certified, the applicant will have available for inspection onsite a copy of the Notice of Intent (**NOI**) and associated ADEQ authorization letter, and a Stormwater Pollution Prevention Plan as required by the applicable stormwater regulations.
- b. If reclaimed wastewater is used for irrigation or dust control, a Reclaimed Water Permit will be required and an AZPDES Permit may be required if in a WUS. In any case, water used for dust suppression or irrigation shall not contain contaminants that could violate state water quality standards (**WQS**).
- c. If dewatering operations are needed, this water shall not be discharged into a WUS without proper permits, including, but not necessarily limited to an AZPDES Permit.

Northern Regional Office  
1801 W. Route 66 • Suite 117 • Flagstaff, AZ  
86001  
(928) 779-0313

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ  
85701  
(520) 628-6733

It is incumbent upon the applicant/permittee to check current rules, ADEQ publications and the ADEQ website (<http://www.azdeq.gov/index.html>) to determine if any waterbody on their project site is named an "Outstanding Arizona Water" (a.k.a. Unique Water) or is a 303[d]-listed impaired water. An Individual 401 Certification is required in every instance when a project has a potential to impact any of these waters as follows:

- Projects on a waterbody with an impaired reach (303[d]-impaired water), if the project impacts the listed waterbody within 800 meters (or ½ mile) downstream of an impaired reach to within 1600 meters (or 1 mile) upstream of an impaired reach, or
- Projects on a tributary to a waterbody listed as impaired, if the tributary mouth is on an impaired reach and the project impacts the tributary within 1600 meters (or 1 mile) of its mouth, or
- Projects on a designated Outstanding Arizona Water, if the project impacts the designated waterbody within 800 meters (or ½ mile) downstream of a designated reach to within 1600 meters (or 1 mile) upstream of a designated reach, or
- Projects on a tributary to a designated Outstanding Arizona Water, if the tributary mouth is on a designated reach and the project impacts the tributary within 1600 meters (or 1 mile) of its mouth.

Otherwise, RGP 81 is conditionally certified by ADEQ and the following 401 Water Quality Conditions apply to all projects on non-tribal areas within Pima County, Arizona as approved by the CoE under the proposed RGP.

#### **401 Conditions**

1. Any discharge occurring as a result of activities certified for the subject project shall not cause a violation of WQS. Applicability of this condition is as defined in A.A.C. R18-11-102.
2. This certification does not authorize the discharge of wastewater, process residues or other waste to any WUS.
3. Runoff and seepage from activities certified herein shall not cause a violation of Arizona WQS for any WUS.
4. Except as allowed or specified in the RGP and this certification, activities herein certified shall be performed during periods of low flow (baseflow or less) in any watercourse or other WUS, or no flow in the case of ephemeral and intermittent waterbodies. No equipment or vehicles shall enter any WUS while flow is present regardless whether flow is in a channel or is surface runoff; e.g., sheetflow, unless all conditions herein are met.
5. The effectiveness of all control measures shall be reevaluated after each flow event and repaired/modified as needed.
6. Applicant must minimize clearing, grubbing, scraping or otherwise limit exposure of erodible surface to the minimum necessary for each construction phase or location.
7. Except as allowed or specified in the RGP and this certification, if activities certified herein are likely to create an erosion or sedimentation problem, operations shall cease until the problem is resolved or until control measures have been undertaken.

8. Except as allowed or specified in the RGP and this certification, erosion control, sediment control and/or bank protection measures shall be installed before construction and pre-operation activities, and shall be maintained during construction and post-construction periods to minimize channel or bank erosion, soil loss and sedimentation. **Control measures shall not be constructed of uncemented or unconfined imported soil, or other materials easily transported by flow.**
9. The applicant is responsible for ensuring construction material and/or fill (other than replacement of native fill or that necessary to support revegetation) including, but not limited to: rock, gabion fill or other channel-lining materials, placed within the OHWM of any WUS, shall not include materials; e.g., pollutant-contaminated soil, that can cause or contribute to pollution of a surface water. Material used to support vegetation rooting or growth shall be protected from erosion. Any fill material washing must occur outside of the OHWM of any WUS prior to placement and the rinseate from such washing shall be contained and treated, or otherwise prevented from contributing sediment or causing erosion to any WUS. Other than replacement of native fill or material used to support vegetation rooting or growth, fill placed in locations subject to scour must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.
10. Except as allowed or specified in the RGP, any dredged material is to be placed and retained in areas outside the OHWM of any WUS. Runoff from this material/area is to be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) to any WUS.
11. Except as allowed or specified in the RGP and this certification, upon completion of construction the applicant shall ensure no adverse change due to the subject project has occurred in the stability (with respect to stream hydraulics, erosion and sedimentation) of any WUS including upstream and downstream from the project. If such change has occurred, the applicant shall take steps to restore the pre-project stability of any impacted segments.
12. Except where the activities certified herein are intended to permanently alter any WUS, all disturbed areas shall be restored and (re)vegetated as allowed or specified in the RGP. Denuded areas shall be revegetated as soon as possible. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion.
13. If retention/detention basins are included in or added to the project, then no later than immediately following initial land clearing or rough grading, applicant will complete the grading necessary to direct runoff towards retention/detention basins sized to accept storm runoff and capture sediment prior to it entering any WUS. Detention basins will provide detention through the use of controlled outflow spillways and shall cause no significant change to the hydraulic conditions of the upstream or downstream WUS outside of the project boundaries. The basins shall be maintained; e.g., have sediment removed, as required to maintain their function.
14. Except as allowed or specified in the RGP and this certification, when flow is present in any WUS within the project area, the applicant and any contractor will not divert, impede, restrict, or stop the flow by any means except to prevent erosion or pollution of any WUS.

15. Except as allowed or specified in the RGP and this certification, silt-laden or turbid water resulting from project activity shall be settled, filtered or otherwise treated to ensure no violation of Arizona WQS in any WUS.
16. When flow (including sheet flow or other surface runoff) in any WUS in the work area is sufficient to erode, carry or deposit material, activities certified herein shall cease until:
  - a. the flow decreases below the point where sediment movement ceases, or
  - b. until control measures (e.g., equipment and materials easily transported by flow protected with non-erodible barriers or moved outside the flow area) have been undertaken.
17. Work shall be conducted and monitored to ensure that pollution from the activities certified herein including, but not limited to: earthwork, concrete mixing and placement and equipment maintenance and washing does not cause an exceedence of Arizona WQS in any WUS.
18. Except as allowed or specified in the RGP and this certification, the applicant will erect any barriers, covers, shields and other protective devices as necessary to prevent any construction materials, equipment or contaminants/pollutants from falling, being thrown or otherwise entering any flowing WUS.
19. Upon completion of the activities certified herein (except as noted in condition 24 -concrete curing), areas within the OHWM of all WUS at the project site shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions. Any debris including, but not limited to: soil, silt, sand, rubbish, cement, bituminous material, oil or petroleum products, organic materials, tires or batteries, derived from the activities certified herein shall not be stored at any site where it may be washed into a WUS and shall be properly disposed of after completion of the work.
20. The applicant must designate area(s) for equipment staging and storage located entirely outside of the OHWM of any WUS. Any equipment maintenance, washing or fueling that cannot be done offsite will be done in the designated area. The spill containment plan (condition 21) shall include this(these) area(s). Material specifically manufactured and sold as spill containment and adsorbent/absorbent will be on hand to control small spills. All equipment and workboats shall be inspected for leaks prior to use within the OHWM of any WUS. All leaks shall be repaired and all equipment and workboats will be cleaned (using steam or a pressure washer) to remove any fuel or other fluid residue prior to use in any WUS.
21. The applicant shall have a spill containment plan onsite to ensure that pollutants are prevented from entering any WUS. In addition, the applicant must designate areas, located entirely outside of the OHWM of any WUS, for chemical and petroleum storage, and solid waste containment. All materials stored onsite will be stored in appropriate containers or packaging. Any pollutant produced by activities certified herein shall be properly disposed of in accordance with applicable regulations. A spill response kit will be maintained in this (these) area(s) to mitigate any spills. The kit will include material specifically manufactured and sold as spill adsorbent/absorbent and spill containment. The applicant will ensure that whenever there is activity on the site, that there are personnel on site trained in the proper response to spills and the use of spill response equipment.

22. Except as allowed or specified in the RGP and this certification, permanent and temporary pipes, and culverted crossings shall be adequately sized to handle expected flow and properly set with end section, splash pads, or headwalls that dissipate water energy to control erosion.

Permanent and temporary access roadways, culverted and unculverted crossings, staging areas, material stockpiles and pads shall be constructed so as to accommodate the overtopping of the fill by streamflow and fill must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.

23. Acceptable construction materials that will or may contact water in any WUS are: crushed stone, native fill (meeting the requirements in condition 9), concrete, steel (including galvanized), plastic, or aluminum and other materials specifically approved in writing by ADEQ.
24. If fully, partially or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete, applicant will take steps; e.g., sheet piling or temporary dams (earth-filled cofferdams are not allowed), to prevent contact between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or otherwise cease to be available; i.e., are no longer a pollutant threat. Where possible, construction work will be during extreme low water conditions or at a time and season with the highest probability of ensuring work is done in "the dry".
25. For portions of the project utilizing potable water or groundwater for irrigation, direct runoff of irrigation water and overflows from runoff detention and/or retention areas into any WUS shall be limited to the extent practicable and shall not cause downstream erosion or flooding.
26. For portions of the project utilizing reclaimed wastewater for irrigation, direct runoff of irrigation water and overflow from retention/detention structures or storage impoundments into any WUS is prohibited without the proper permits including, but not limited to, Arizona's Reclaimed Wastewater Permit and, if within the wetted area of a 25-year flood event (or within the floodplain in some cases), an AZPDES permit.

ADEQ 401 Certification contact and mailing address:  
Arizona Department of Environmental Quality  
Surface Water Section / 401 Certifications / mailstop 5415A-1  
Robert Scalamera  
1110 West Washington Street  
Phoenix, Arizona 85007

For questions or general comments:

Robert Scalamera  
email: rs3@azdeq.gov  
Voice: (602) 771-4502

ADEQ CWA 401 Water Quality Certification of these activities to operate under the terms (including the conditions herein) of the applicable CoE CWA RGP 81 does not affect or modify in any way the obligations or liability of any person for any damages, injury, or loss, resulting from these activities. This Certification is not intended to waive any other federal, state or local laws.

Sincerely,



Linda Taunt, Deputy Director  
Water Quality Division

electronic copies: U.S. Army Corps of Engineers, Regulatory Branch – Attn.: Sally McGuire  
USEPA, Wetlands Regulatory Office – Attn.: Dave Smith (WTR-8)

**REGIONAL GENERAL PERMIT , %NOTIFICATION**  
**Maintenance UbX'6 Ub\_ 'GhUV]nUjcb'5 Wj jHYg**

U.S. Army Corps of Engineers  
 Tucson Resident Office  
 5205 E. Comanche Street  
 Tucson, AZ 85707  
 Marjorie.E.Blaine@usace.army.mil

**Notification Type:**  Tier 1 - Non Notification  Tier 2 - Advisory Notification (14 Days)  Tier 3 - Concurrence Notification (14 days)  Tier 4 - Full PCN - ENG FORM 4345 or Equivalent

**Permittee**

Agency:  Contact Person:   
 Address:  Phone Number:   
 Authorized Representative:

**Project Location**

Primary Street:  Channel/Facility Name:  ID #:  Q100 cfs:   
 Secondary Street:  Channel Type:  Length:  Width:   
 Township: \_\_\_\_\_ Range: \_\_\_\_\_ Section: \_\_\_\_\_

**Maintenance Activity**

- Erosion Maintenance  Sediment Removal  Structural Repair  Channel Reshape  
   Vegetation Maint.  Other (specify below)

General description of work: (Include Purpose, fill material type, disposal area, specify Other)

**Equipment**

- Backhoe  Dump Truck  Excavator  Loader  Grader  Hand tools  Other \_\_\_\_\_

**Duration of Work**

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U. S. Fish and Wildlife Review <http://www.azgfd.gov/hgis/>

Cultural Resource Review

**Supporting Documentation**

- 8 1/2 x 11 Map(s) (Aerial or USGS Quad)   
  Site Photos  Reports