



PUBLIC NOTICE

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

BUILDING STRONG®

**APPLICATION FOR REGIONAL
GENERAL PERMIT 96
ADOT Routine Transportation Activities**

Public Notice/Application No.: SPL-2014-00625-KAT

Project: RGP 96 - Arizona Department of Transportation Routine Transportation Activities

Comment Period: June 24, 2015 to July 23, 2015

Project Manager: Kathleen Tucker; 602-230-6956; Kathleen.A.Tucker@usace.army.mil

Applicant

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Location

All water bodies within Arizona along the right-of-way or easement (including temporary construction easement and drainage easement) of the state highway system to include State Routes, U.S. Highway and Interstates on non-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 establish alternative permitting procedures to address anticipated discharges of dredged and fill materials into waters of the U.S. associated with the Arizona Department of Transportation (ADOT) routine transportation activities over the next 5 years. Specifically, this new Regional General Permit (RGP) 96 for ADOT's transportation activities is proposed to more efficiently evaluate and, if determined eligible by the Corps in coordination with other federal and state agencies, authorize program 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).

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 and Section 10 of the Rivers and Harbors Act. Comments should be mailed to:

Department of the Army
Los Angeles District, U.S. Army Corps of Engineers
Regulatory Division
Attn: Kathleen Tucker
3636 N. Central Ave., Ste 900
Phoenix, Arizona 85012-1939

Alternatively, comments can be sent electronically to: Kathleen.A.Tucker@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 96.

Cultural Resources- The Corps of Engineers in coordination with Federal Highway Administration (FHWA)/ADOT, will consult with the Arizona State Historic Preservation Office (AZ SHPO), appropriate Tribes and Tribal Historic Preservation Office (THPO) 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 preliminarily determined the proposed RGP 96 will have "no effect" on any proposed or listed, threatened or endangered species or it's critical habitat 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 or it's critical habitat to occur. In areas where there is a potential for a proposed or listed, threatened or endangered species or it's critical habitat to occur or where a proposed or listed, threatened or endangered species or it's critical habitat does occur, the Corps in coordination with FHWA/ADOT, 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 Transportation. 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 authorize a Regional General Permit for ADOT to conduct routine transportation construction and maintenance activities within Waters of the U.S. occurring within ADOT ROW or easement (including temporary construction easement) through non-tribal lands in an effort to further implement and achieve ADOT's mission and goals to create safe transportation infrastructure, increase efficiency, and maximize existing agency resources.

Additional Project Information

Baseline information- There are approximately 7,000 miles of ADOT-owned transportation infrastructure throughout the state of Arizona which requires periodic maintenance and upgrades to maintain a safe and efficient transportation system for the travelling public. In 2014, ADOT submitted more than thirty Section 404 permits to the Corps for various routine transportation construction and maintenance activities. This number is based on projects being permitted through ADOT's Environmental Planning Group. Some permitting for maintenance projects may be done at the ADOT District level under a non-notifying nationwide permit or in some cases, where there is a permit application need for maintenance work; the work may be delayed because the permitting notification requirements entail more resources than for usual maintenance projects. Therefore, the actual number of permits processed is difficult to estimate due to a lack of centralized permit tracking for all activities, and could be higher. ADOT incurs costs to prepare Section 404 compliance documentation for routine transportation activities in Waters of the U.S. The approximate cost savings due to reduced and streamlined compliance documentation may range between \$12,000 and \$30,000 per project that would be authorized by the Regional General Permit. ADOT estimates that the Regional General Permit may generate a savings of up to \$150,000 per year in reduced compliance paperwork.

Project description- The applicant proposes to perform routine transportation construction and maintenance activities in Waters of the U.S. located within ADOT ROW or easement (including temporary construction easement) through non-tribal lands across the state of Arizona. Proposed construction activities are those that ADOT regularly conducts, such as culvert extensions due to roadway widening, scour protection, and new bank stabilization. Proposed maintenance activities are on currently serviceable structures, facilities, or fill, provided that the structures, facilities, or fill are not to be put to uses differing from their previously permitted uses. Proposed maintenance activities also include sediment removal or repair of existing structures for adequate drainage, flood hazard reduction, and overall public safety. Routine transportation activities would include discharge of dredged or fill material for temporary construction access, construction activities, water diversion, and dewatering. Permanent impacts to special aquatic sites are allowed with this RGP 96 up to 0.025 acre as long as the authorized activity does not result in more than minimal impacts to the special aquatic sites and aquatic resources.

The applicant requests that the Corps create a Regional General Permit that would authorize an expansion of impact and discharge thresholds and a revision of regional general conditions from those identified in various applicable Nationwide Permits. Furthermore, the applicant requests the Regional General Permit include an outline and definitions of tiered notification for Section 404 compliance documentation for various routine transportation activities addressed in the permit. The following activities are proposed to be authorized under this RGP 96. Each activity has a specific notification threshold. The Corps has determined that the proposed activities would not result in more than minimal impacts to aquatic resources.

The following activities do not have additional acreage threshold requirements for tiered notification. Refer to the levels of notification below to determine which level the following activities would fall within.

Maintain Structure - Existing structures/facilities/fill repair or replacement

The repair rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill to maintain the structural integrity and operational capacity of the previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, for adequate drainage, flood hazard reduction, and overall public safety.

Geotechnical Activities

Activities include borings no greater than 3 feet in diameter and a maximum of 4 borings per watercourse. Material may be removed offsite or used to backfill boring holes if no other state or federal regulation would prohibit that activity. This would also include temporary access and temporary discharges as long as the impact is minimal and the site is restored to their pre-project conditions/contours.

Sediment/Debris Removal

Remove accumulated sediments and debris in vicinity of existing structure:

Activities include the removal of deposited sediment, debris, woody and herbaceous vegetation (including exotic/invasive species), and other obstructions which compromise the integrity of the structure and/or impede flows in the vicinity of existing structures/facilities within two years of deposition. This would include sediment removal using a hydovac system to liquefy the sediment that would be vacuumed out of the channel. The activity shall occur within ADOT Right-of-way/easement but no greater than 200 linear feet upstream or downstream of the structure/facility such as bridges, bridge piers, bridge abutment, culverts, roadway fills, etc.

Erosion Repair - Removed accumulated sediment for erosion repair

Activities include the use of removed accumulated sediments that allows ADOT to utilize excavated materials to repair erosion cuts in banks or bed that are located within 100 feet of the structure from where it is originally removed. 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 100 feet shall be removed from the watercourse to an upland site.

Emergency Activity - Increases the allowable time to commence or be under contract to commence emergency maintenance activities or repair of uplands damaged by discrete events

This activity 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.

The following activities have additional acreage threshold requirements for the level of notification in addition to what it described below in the notification levels.

Re-Establish Design Flow Carrying Capacities:

Activities include sediment, debris, vegetation and obstruction removal to re-establish design flow carrying capacity in a watercourse for public safety when flow events do not sufficiently fully flush those completely through the system and would result in flooding or erosion of adjacent property. This would include sediment removal using a hydovac system to liquefy the sediment that would be vacuumed out of the channel. Activity is limited to within the ADOT Right-of-way/easement upstream or downstream of the structure/facility such as bridges, bridge piers, bridge abutment,

culverts, roadway fills, etc.

- Non-notification: less than 0.10 acre disturbance to Waters of the U.S.
- Concurrence Notification: between 0.10 and 0.50 acre disturbance to Waters of the U.S.
- Full PCN: > 0.50 acre up to 1 acre disturbance to Waters of the U.S.

Bed Stabilization - Limited stream bed stabilization in existing, constructed drainage channels

Activities for bed stabilization include the repair or replacement of existing structures/fill to maintain the structural integrity and operational capacity of the structures/fill for adequate drainage, flood hazard reduction, and overall public safety. The repair/replacement is limited to minor projects resulting in permanent disturbance of Waters of the U.S. (Waters of the U.S.) not to exceed a maximum of 1 acre.

- Non-notification: less than 0.10 acre disturbance to Waters of the U.S.
- Concurrence Notification: between 0.10 and 0.50 acre disturbance to Waters of the U.S.
- Full PCN: > 0.50 acre up to 1 acre disturbance to Waters of the U.S.

Bank Stabilization – Bank Stabilization of existing stabilized slopes Activities would include construction of new bank stabilization or repair of existing bank stabilization structures or fill. Bank stabilization may be constructed of permeable materials such as riprap, gabion mattresses, and bioengineered techniques (or equivalent) or impermeable materials such as shotcrete, concrete, or cement stabilized alluvium (or equivalent). Tiered notification would include:

a. Permeable Bank Stabilization Methods

- Non-notification: Less than 2,000 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the ordinary high water mark
- Concurrence notification: Between 2,000 and 3,000 linear feet total impact and up to 2 cubic yards of material per running foot below the ordinary high water mark
- Full pre-construction notification: Greater than 3,000 linear feet up to 5,000 linear feet total impact or greater than 2 cubic yards of material per running foot below the ordinary high water mark

b. Impermeable Bank Stabilization Methods

- Non-notification: Less than 800 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the ordinary high water mark
- Concurrence notification: Between 800 and 1600 linear feet total impact and up to 2 cubic yards of material per running foot below the ordinary high water mark
- Full pre-construction notification: Greater than 1600 linear feet up to 3000 linear feet total impact or greater than 2 cubic yards of material per running foot below the ordinary high water mark

Routine Linear Transportation Projects- Activities would include the construction of new transportation facilities or modifications to existing facilities occurring within ephemeral waterways. Examples include new construction, replacement, or modifications of bridge piers and shafts, culverts, ditches, erosion protection measures, bridge scour retrofit, or roadway fill. Bridge scour retrofit activities would include stockpiling of native material to be backfilled below the ordinary high water mark, without impeding flows. Tiered notification would include:

- Non-notification: Less than 0.10 acre permanent impact to Waters of the U.S. per drainage crossing
- Concurrence notification: Between 0.10 acre and 0.50 acre permanent impact to Waters of the U.S. per drainage crossing

- Full pre-construction notification: Between 0.50 acre and 1 acre permanent impact to Waters of the U.S. per drainage crossing

Levels of Notification

This RGP 96 authorizes Non-notification for simple, limited transportation activities, Concurrence Notification for notification with minimal process time frames, and Full Pre-Construction Notification (PCN) for the largest routine transportation/bank stabilization projects. Any activity which exceeds the Full PCN threshold for any covered activity shall require a Section 404 individual permit.

Non Notification - Requires no advance notification to the Corps prior to commencement of the activity. Does not allow any work to permanently or temporarily impact perennial Waters or special aquatic sites. Those limited transportation projects would be typified by removal of sediment from a culvert to restore its design flow carrying capacity, the removal of storm debris, or the replacement 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. This could include hydro vacuuming as long as the impact is temporary. Small additions of rock riprap to address erosion issues are often initiated from outside of the watercourse. Any non-notification 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 Concurrence Notification to the Corps. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Properties (NRHP) is allowed proceed under non-notification and the applicant shall provide Concurrence Notification to the Corps.

Concurrence Notification - Constitutes the mid-range level pre-construction project notification to the Corps under the RGP 96. This notification allows up to 0.10 acre of permanent impact per drainage crossing within perennial Waters and no impacts to special aquatic sites. At this level of notification, the RGP 96 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 this notification 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 (USFWS). If, during the 14-day notification period, the Corps determines the proposed activity may affect historic properties listed, or eligible for listing, in the NHRP, the Corps will notify the applicant and work may not commence until the Corps has consulted with the Tribal and/or State Historic Preservation Office.

Full Pre-Construction Notification - Constitutes the highest level notification under the RGP 96 and requires 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 full PCN projects within 45 days from the date the notification is complete but may extend this as warranted by other requirements such as Section 7 Endangered Species Act (ESA) or Section 106 National Historic Preservation Act (NHPA) consultations. This notification allows up to 0.025 acre of

permanent or temporary impact per drainage crossing to special aquatic sites, such as wetlands and permanent impacts to perennial Waters greater than 0.10 acre.

Proposed Mitigation– The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b) (1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance: The alternatives analysis for this project indicated that avoidance of Waters of the U.S. is not practicable because the entire ADOT infrastructure requires periodic maintenance, upgrades, and expansions to maintain a safe and reliable transportation network. After reviewing the alternatives analysis and independently evaluating opportunities for avoidance, the Corps has concurred that avoidance of Waters of the U.S. is not practicable for this project.

Minimization: Impacts to Waters of the U.S. would vary on a project-by-project basis. However, similar steps and actions would be taken for each project to be authorized under the Regional General Permit in an effort to minimize impacts to Waters of the U.S. During the maintenance project identification and construction scoping and design phases, project team members such as the ADOT District, design engineers, environmental staff, and others would collaborate to identify efficient project design and construction methods that would minimize impacts to Waters of the U.S., so that impacts do not exceed the minimum necessary to achieve each project. Example efforts to minimize impacts through design and construction methods may include but are not limited to:

- Reducing the permanent impact footprint due to structures, excavation, roadway fill, or vegetation removal
- Designating avoidance areas to preserve Waters of the U.S. or other environmental resources within the project limits
- Designating access areas and recommending the use of existing roads when present
- Designating stockpiles in uplands, disturbed areas, and/or outside of the main thalweg(s)
- Designating staging areas in uplands
- Developing containment plans to avoid discharges due to work on structures spanning above Waters of the U.S.
- Avoiding and/or minimizing vegetation removal to the maximum extent practicable
- Preserving native trees with a diameter at breast height (dbh) of 4 inches or greater unless they are down or obstruct flows
- Developing temporary and/or permanent measures to maintain flows through the project limits
- Implementing control measures and Stormwater Pollutant Prevention Plans (SWPPPs) when applicable to prevent erosion
- Adhering to various ADOT standards and manuals including the *Standards for Road and Bridge Construction*, *Erosion and Pollution Control Manual for Highway Design and Construction*, *Maintenance and Facilities Best Management Practices Manual*, *Stormwater Enforcement Response Plan*, *Clean Water Act Section 404/401 Guidance Manual*, and other ADOT manuals as applicable.

Upon completion of the project, Waters of the U.S. would be recontoured to pre-construction

conditions to the maximum extent practicable. Native plant reseeding and/or revegetation in uplands would be evaluated for each project, and would be implemented, as necessary. In some instances, Waters of the U.S. would receive post-maintenance or post-construction treatment such as reseeding or revegetation, though the primary practice would be to avoid reseeding in active channels due to the high potential of seeds being washed downstream. More typically, impacted areas retaining a natural ground surface within Waters of the U.S. would be expected, over time, to regain vegetation through re-propagation and regeneration of the vegetation communities present.

Impacts to Waters of the U.S. would further be minimized due to expedited and increased ability to conduct maintenance activities which would improve the conditions of Waters of the U.S. due to restoration of flows and reduced erosion.

Compensation: Compensatory mitigation was determined not to be required for this project because:

- Impacts to Waters of the U.S. would be minimized through design and construction methods for ephemeral Waters (less than 1 acre of impact), perennial Waters (less than 0.025 acre of impact), and special aquatic sites such as wetlands (less than 0.025 acre of impact)
- Long-term impacts to vegetation are not anticipated due to project-by-project applicable reseeding, plantings, and the likelihood of natural re-propagation and vegetation regeneration
- All of the Waters of the U.S. statewide would occur within the disturbed ADOT transportation corridor
- No threatened or endangered species would be adversely affected by this project
- Rich functions and values of habitat sufficient for a diverse assemblage of species generally are not present within the disturbed ADOT transportation corridor
- Frequent maintenance would improve the conditions of Waters of the U.S. through restoration of flows and reduced erosion

Expansion of Nationwide Permit Regional Conditions- Activities would include routine transportation maintenance or construction work that generates minor permanent impacts (up to 0.025 acre per drainage crossing) within special aquatic sites, such as wetlands. Tiered notification would include:

- Non-notification: No work within perennial Waters or special aquatic sites
- Concurrence notification: Up to 0.10 acre of permanent impact per drainage crossing within perennial Waters and no impacts to special aquatic sites
- Full pre-construction notification: Up to 0.025 acre of permanent impact per drainage crossing to special aquatic sites, such as wetlands and permanent impacts to perennial Waters greater than 0.10 acre.

Proposed Special Conditions

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

1. ADOT must undertake the activities authorized by this permit in conformance with the terms and conditions of this permit. ADOT is not relieved of this requirement if the existing structure/facility/fill in Waters of the U.S. is abandoned. Should ADOT wish to cease to

maintain the existing structure/facility/fill or should ADOT desire to abandon it, ADOT must notify this office, which may require restoration of the area.

2. 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, the new permittee shall sign on the Transferee block located on the signature page of this permit. By signing the signature block, the Transferee acknowledges being provided a complete copy of this permit and agrees to comply with all terms and conditions of this permit.
3. If on March 20, 2020 you have commenced or are under contract to commence the permitted activity you will have an additional twelve (12) months to complete the activity under the present RGP 96 terms and conditions. However, if the Corps discovers noncompliance or unauthorized activities associated with the permitted activity the Corps may request the use of discretionary authority in accordance with procedures in 33 CFR § 330.4(e) and 33 CFR § 330.5(c) or (d) to modify, suspend, or revoke this specific verification at an earlier date.
4. Sediment removal activities authorized under Removal of sediment to re-establish design flow carrying capacities of this RGP 96 for Notifications shall not occur more than once annually per location unless severe flow events result in a public safety issue. The applicant shall provide a written justification to the Corps with their Concurrent or Full Pre-construction notification if public safety issues exceed this condition. All sediment removal activities shall be completed within 90 calendar days of onset of the activity at a specific location.
5. For the purposes of compliance with Section 106 of the NHPA, the Federal Highway Administration (FHWA) shall be the lead federal agency for federally funded projects. The Corps shall serve as lead federal agency for state and local funded projects.
6. Prior to submittal of a PCN for use of this RGP 96, the applicant shall conduct a Phase I (Class III) Survey of the project site in accordance with Section 106 of the NHPA. This survey shall be provided as an attachment to the required PCN. Applicants should request approval via email, of their scope of work prior to initiation of the survey. If, based on the review of this information by the Corps, it is determined that the project has the potential to impact a property that is listed or eligible for listing on the NRHP, the Corps will complete all coordination required by Section 106 of the NHPA prior to making a decision as to whether the project can proceed under this RGP 96.
7. Pursuant to 36 C.F.R. Section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Arizona State Historic Preservation Office at 602-542-7120 or the appropriate Tribal Historic Preservation Office and the Corps' Regulatory Division Staff (Kathleen Tucker at 602-230-6956) within 24 hours. The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume work in the area surrounding the potential cultural resources until the Corps re-authorizes project activities, per 36 C.F.R. Section 800.13.
8. ADOT shall allow representatives from this office to inspect the authorized activities at any time deemed necessary to ensure that it is being or has been accomplished with the terms

and conditions of this permit.

9. This RGP 96 cannot be combined with other Section 404 authorizations including Nationwide Permits, other RGPs, or individual permits to increase scope of work, the area of impacts to Waters of the U.S., or the limits to the discharge of fill material at a specific or proximal location.
10. Where ADEQ has not previously certified compliance with Clean Water Act Section 401, an individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 320.3(a)). The Corps district engineer or ADEQ may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

Administration

11. ADOT shall provide a copy of this permit to all field staff, contractors, subcontractors, and equipment operators. Copies of this permit shall be readily available at the work site at all times during periods of active work, and shall be presented to any Corps Regulatory Division personnel upon request.

Notification and Reporting

12. Activities described above that require notification, shall be submitted to the Corps Regulatory Division at least 30 days prior to initiation of construction or maintenance activity. Verification from the Corps must be received prior to initiation of the activity. The notification shall include the following for the Corps Regulatory Division to determine if the proposed activities comply with the terms and conditions of this permit:
 - a. A completed Preliminary Jurisdictional Determination Form including: project location (i.e., latitude/longitude coordinates of the approximate center point of the project in degrees/minutes/seconds format), U.S.G.S. 7.5 minute quadrangle name, and datum. For linear projects the upstream and downstream coordinates shall be reported; for all others, the approximate center of the project location shall be reported.
 - b. The RGP 96 Notification Form shall be used and include the following:
 - i. A brief description of the existing design features of the structure/facility/fill, proposed activities in Waters of the U.S., an estimate of temporary impacts (in acres), an estimate of permanent impacts (if any, in acres), an estimate of excavation/fill quantities (in cubic yards), and type of materials proposed to maintain or repair the structure/facility/fill.
 - ii. A brief narrative or drawings of the methods to divert water/dewater.
 - iii. A description of post-construction site restoration/revegetation.
 - iv. A statement of the proposed activities potential to affect cultural resources and a description of compliance with applicable federal regulations which protect these resources.
 - v. A statement of the proposed activities potential to affect federally listed endangered or threatened species or designated critical habitat, and a description of compliance with applicable federal regulations which protect these resources.
13. Maintenance activities that include only the cutting and removal of vegetation above the ground (e.g., mowing, rotary cutting, chain sawing, etc.), where the activity does not

substantially disturb the root system and does not involve mechanized pushing dragging or similar activity that would redeposit soil, are not regulated activities under Section 404 of the Clean Water Act; therefore notification to the Corps Regulatory Division for these activities is not required.

14. Within one year of permit issuance, ADOT shall develop and maintain an internal tracking system that includes all completed construction and maintenance activities in waters of the U.S., or special aquatic sites, covered by this permit. Maintenance project documentation shall include activity description, the start and end dates of the work, and project coordinates. Construction project documentation shall include that listed above for maintenance plus site restoration/revegetation activities and date installed, if applicable, at least one before and one after photo of the construction and revegetation area, and a brief discussion of any problems and corrective measures taken. Beginning in 2016, ADOT shall provide a copy of the tracking system report to Corps Regulatory Division once per year, by September 30 for the period July 1 through June 30.

Resource Protection

15. Native trees with a diameter at breast height (dbh) of four inches or greater shall not be removed unless they are no longer upright or present a significant flow obstruction.
16. This permit does not authorize you to take any threatened or endangered species or adversely modify designated critical habitat. In order to legally take a listed species, separate authorization under the Endangered Species Act (e.g. Section 10 permit, or a Biological Opinion (BO) under Section 7, with "incidental take" provisions with which you must comply) is required.
17. This permit does not authorize you to take any migratory birds pursuant to the Migratory Bird Treaty Act. Vegetation shall not be removed from 1 February to 30 August to avoid impacts to nesting birds unless the results of a pre-project bird survey by a qualified biologist indicates no nesting birds are present in the project area. Pre-project surveys shall be conducted within two weeks of the proposed vegetation removal. Survey results shall be submitted to the Corps Regulatory Division prior to construction activities in Waters of the U.S. (electronic mail, facsimile, standard mail, is acceptable). If nesting birds are present, no work shall occur until the young have fledged and would no longer be impacted by the project. Survey results shall be submitted to the Corps Regulatory Division prior to construction activities in Waters of the U.S.
18. Prior to initiating construction activities in Waters of the U.S., the Permittee shall clearly mark the work area limits with flagging or similar measures to ensure mechanized equipment and personnel do not enter Waters of the U.S., special aquatic sites and adjacent riparian areas outside of permitted work area for the duration of routine transportation activities in or adjacent to Waters of the U.S. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial compensatory mitigation requirements.
19. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding **only during project activities in Waters of the U.S.** Flows shall not be diverted outside of the ordinary high watermark of any water of the U.S. Fill materials must be of a type, and be placed in a manner, that will not result in erosion by high flows.

20. No debris, soil, sand, bark, slash, sawdust, rubbish, cement or washings thereof, asphalt, oil or petroleum products, or any other material that may be harmful to fish or wildlife, that results from routine transportation activities and associated activities shall be allowed to enter or be placed where it may be washed by rainfall or runoff into Waters of the U.S. When routine transportation activities are completed, all excess materials, and/or debris shall be removed from the work area to an approved off-site disposal area, outside of Waters of the U.S.

Site Restoration

21. Invasive and noxious plant species removed during routine transportation activities shall be disposed at an approved off-site location, outside Waters of the U.S. Plants to be controlled shall include those listed in the State and Federal Noxious Weed and the State Invasive Species list in accordance with State and Federal Laws and Executive Orders.
22. Routine transportation activities authorized under this permit are expected to involve temporary impacts to Waters of the U.S., including special aquatic sites, and adjacent riparian areas, and permanent impacts may occur. Temporary and permanent impacts to Waters of the U.S. and special aquatic sites, if not avoided or minimized, shall be mitigated in accordance with the Corps Mitigation Rule (33 CFR 332, April 2008). Temporary and permanent mitigation proposals shall be approved by the Corps Regulatory Division prior to routine transportation activities in Waters of the U.S.

Restrictions on the Discharge

23. All routine transportation work shall be limited to maintenance or repair of the original scope and design specifications of the existing structure/facility/fill. Permanent erosion control measures (e.g., bank stabilization, energy dissipation, etc.) in excess of the existing structure/facility/fill footprint shall not be authorized by this RGP 96 unless the Corps Regulatory Division determines impacts would be minimal.
24. Staging and storage areas for equipment and construction materials shall be located in uplands and where possible, a minimum of 100 feet from Waters of the U.S. Storage areas located less than 100 feet from Waters shall be approved by the Corps Regulatory Division, and these areas shall be shown on construction plans. Temporary stockpiling is authorized only where it is specifically stated in the covered activities; all temporary stockpiling shall be removed within two weeks of completion of the activity.
25. Temporary fills in special aquatic sites are not allowed unless specifically authorized by the Corps Regulatory Division. Following completion of the routine transportation activity, temporary fills must be entirely removed to an upland location, outside Waters of the U.S., and the affected area must be restored to the pre-project condition in accordance with the provision of the Corps Mitigation Rule (33 CFR 332).
26. The Permittee is authorized perform the work described in this RGP 96 provided that upstream and downstream Waters of the U.S. are not degraded by such activities. Routine transportation activities may include, but are not limited to, the repair of bridge piers, bridge

abutments, and repair or replacement of inlet and outlet structures. Where temporary water diversion, grading, filling or excavation occurs as part of the repair or replacement, the Permittee shall ensure standard Best Management Practices are in place to minimize turbidity within the affected waterbody. Standard BMPs are provided in the *ADOT Erosion and Pollution Control Manual for Highway Design and Construction*, <http://www.azdot.gov/business/engineering-and-construction/roadway-engineering/roadside-development/erosion-and-pollution-control-manual>.

27. Work in streams or rivers with ephemeral or intermittent flows shall be performed during periods when the channel is dry or flows are absent or minimal. Work within waterways with perennial flow shall be performed during the driest period of the year and during low flow conditions, generally April through June. When work in flowing or standing water is unavoidable, standard best management practices shall be implemented to minimize turbidity within the affected waterbody, and appropriate measures must be taken to minimize flooding and erosion on adjacent properties. Equipment working in wetlands shall be placed on mats (or equivalent) to minimize soil disturbance and compaction.
28. Any work undertaken by this project shall not cause more than minimal degradation of water quality, more than minimal changes to the flow characteristics of the stream, or increase flooding on adjacent properties or downstream of the proposed routine transportation activity. Any work undertaken 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 96.
29. The Corps Regulatory Division project manager shall be notified of any accidental spill of hazardous materials within 12 hours of detection. Notification may be in the form of an electronic mail message, telephone, or facsimile. Notification shall include the reason for the spill, the exact location of the spill, the type and approximate quantity of the materials spilled, and the measures taken to control and clean up the spilled materials.

For additional information please call Kathleen Tucker of my staff at 602-230-6956 or via e-mail at Kathleen.A.Tucker@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.

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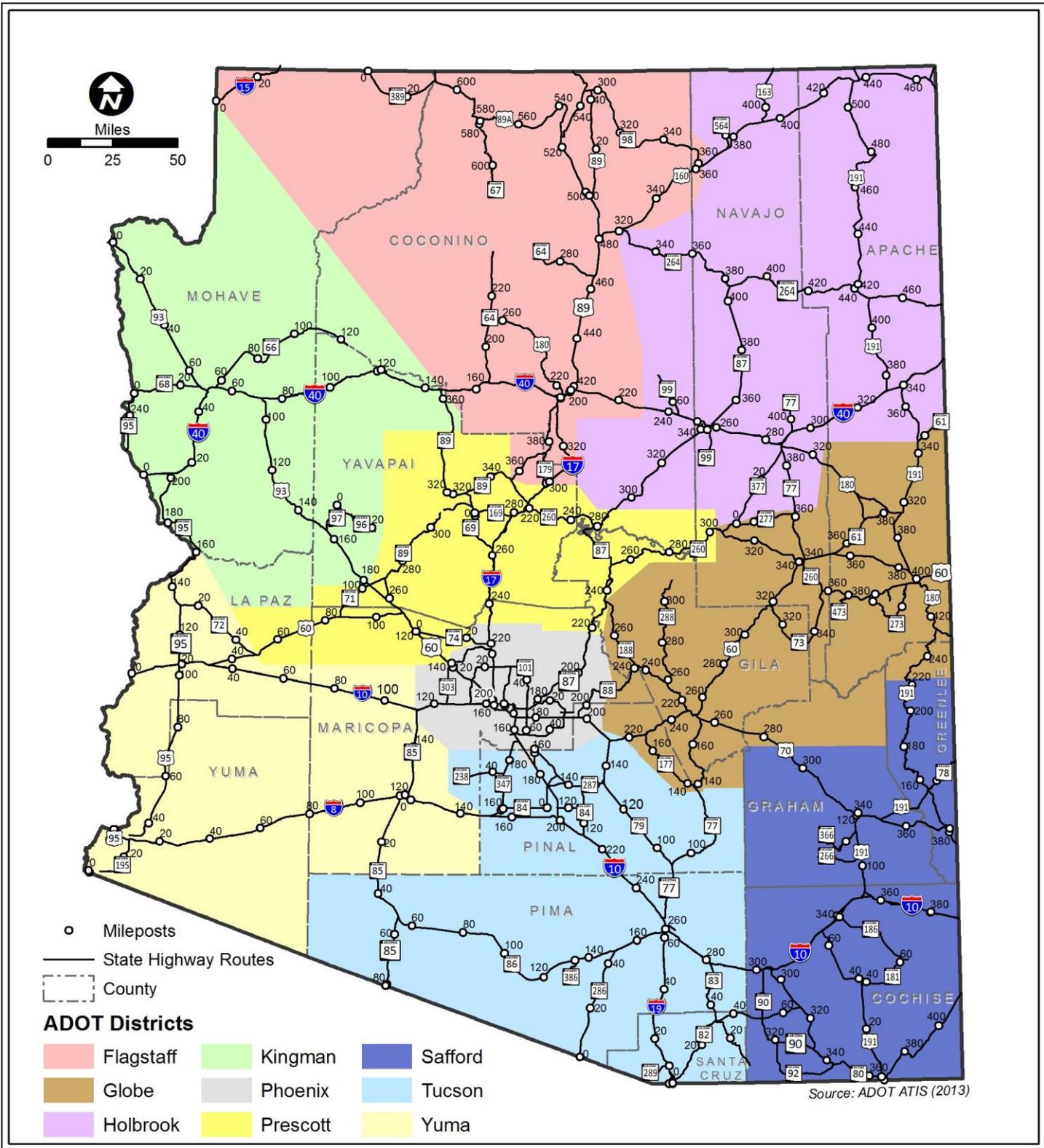


Figure 1. State Highway System Map
 Corps File Number: SPL-2014-00625-KAT
 Regional General Permit for Routine Transportation Activities