

**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-KWG

Issuing Office: Los Angeles District

Effective Date: March 17, 2017 **Expiration Date:** March 16, 2022

Project Description:

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

The following specific activities are proposed to be authorized under this RGP81. Each activity has a specific notification threshold. The proposed notification thresholds are identified in the following section entitled *Additional Project Information*.

1. Removal of accumulated sediments and debris from existing structures to re-establish design flow carrying capacities (e.g. constructed drainage channels, bridges, culvert road crossings, water intake structures, engineered bank stabilization, etc.):

Activities include removal of accumulated sediment and debris, woody and herbaceous vegetation (including exotic and invasive species), and other obstructions which compromise the integrity of structure and/or impede design flow capacities.

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

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

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

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

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

- Concurrence Notification (RGP Form): <10,000 cubic yards
 - Full PCN (Form 4345): >10,000 cubic yards
- **Non-notification:** Sediment removal activities less than 1,000 cubic yards for Minor and Mid Major watercourses do not require notification unless determined necessary by the Corps. Sediment removal that occurs in constructed concrete lined channels (bed and bank) also do not require notification.

Authorized activity includes the use of removed accumulated sediments can be used to repair erosion damage to bed and banks located within 500' of the structure from where it is originally removed authorized under this RGP81. The use of the accumulated sediments to repair erosion damage must occur simultaneously with removal activities and accumulated sediments may only be temporarily stockpiled in the channel while removal/replacement activities are concurrently occurring. All excess material not used within that 500 feet shall be removed from the watercourse to an upland site. Placement of temporary training berms, dikes, etc to prevent bank erosion (using available material) may be allowed if determined necessary for the proposed activity.

2. Stream bed stabilization in existing, constructed drainage channels: Activities include the repair or replacement of existing structures/fill to maintain structural integrity and operational capacity for adequate drainage and is limited to minor projects resulting in permanent disturbance (jetties, grade control structures, rock weirs, spur dikes, zuni bowls) of WOTUS. This RGP authorizes the following limits and notification requirements:

- Non -Notification: < 1/4 acre disturbance to WOTUS
- Concurrence Notification: between 1/4 acre and 1/2 acres disturbance to WOTUS
- Full PCN (Form 4345): 1/2 acre or more of disturbance to WOTUS

3. Expanded bank stabilization activities: Activities include placing soil cement, shotcrete, riprap or other materials for bank stabilization. In order to determine applicability, combine bank length and volume of fill discharged below the OHWM to obtain a single value for purposes of permit applicability and determination of notification requirements as outlined below (i.e., soil cement, shotcrete, grouted riprap, dumped riprap, reno mattresses, gabions, gabion jetties)

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

4. Expanded notification requirements for reshaping existing constructed drainage channels (with earthen banks & sandy bottom): Activities include discharges to modify the cross-sectional configuration of serviceable drainage channels for the purpose of improving water quality by removing sediment and regrading. The reshaping of the channel cannot increase capacity nor expand the drainage area beyond the original as-built capacity. This activity expands the linear limits of the PCN to the district engineer from 500 LF to 2500 LF.

- Non-notification: <1000 LF
- Concurrence Notification: 1000 LF to 2500 LF
- Full PCN (Form 4345): 2500 LF to 5500 LF

5. Expanded limits for the discharged of dredged and/or fill material for Stormwater Management Facilities: Activities include 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 activity 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 RGP81 authorizes the following limits and notification requirements:

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

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

Additional Project Information

This RGP81 authorizes a tiered notification system ranging from Non-Notification for simple maintenance activities, Concurrence Notification (RGP81 Form) review with minimal process time, and Full Pre-Construction Notification (ENG Form 4345). Any activity which exceeds the Full PCN threshold for any covered activity shall require a Section 404 individual permit. The purpose of this procedure is to document all the necessary terms and conditions necessary to comply with the use of RGP81.

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

b. Concurrence Notification constitutes the mid-range level pre-construction project notification to the Corps under the RGP81. At this level of notification, the RGP81 Notification Form shall be completed and emailed to the local Corps regulatory representative a minimum of 14 calendar days before the commencement of work. This allows the Corps to more thoroughly review the project summary information, request follow up information as needed, and formally acknowledge and concur via email that the project meets (or does not meet) the conditions of the RGP81 project based on the information provided. Presumptive concurrence would be the default condition if no response to the submittal was received after 14 calendar days. If, during the 14-day notification period, the Corps determines the proposed activity may affect a threatened or endangered species or adversely modify designated critical habitat or a threatened or endangered species, the Corps will notify the applicant and work may not commence until the Corps has consulted with the U.S. Fish and Wildlife Service.

c. Full Pre-Construction Notification constitutes the highest level notification under the RGP81 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 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.

d. 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. The RGP81 activities authorized are based on the carrying capacity of the watercourse. This RGP81 defines "Major Watercourses" as the Santa Cruz River, Rillito River, Pantano Wash, and the Tanque Verde, defines a "Mid Major Watercourse" with base flows between 2,000 cubic feet per second (cfs) and 10,000 cfs, and defines a "Minor Watercourse" with base flows less than 2,000 cfs. Each activity has a specific notification threshold, these are identified in the following section entitled Additional Project Information. The use of RGP81 is prohibited in Special Aquatic Sites including wetlands, pool and riffle complexes, and vegetated shallows.

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.

6. Special Conditions:

- a. The permittee shall comply with all requirements and conditions state water quality certification as issued by the Arizona Department of Environmental Quality on October 12, 2016, and attached to this permit.
- b. The permittee shall comply with all requirements and conditions for compliance identified by Arizona State Historic Preservation Office letter dated September 12,

2016, and attached to this permit.

- c. Should cultural resources or archeological remains be encountered during construction/excavation, work shall immediately cease in the area of discovery. The permittee shall promptly notify the State Historic Preservation Office at (602) 542-7137 and the Corps at (602) 230-6957.
- d. This RGP81 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 WOTUS, 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 wetlands and/or special aquatic sites.
- f. This RGP81 authorizes temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps of Engineers. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if the district engineer determines that it will not cause more than minimal adverse effects on aquatic resources. Following completion of construction, temporary fill must be entirely removed to an area that has no WOTUS and the affected areas must be restored to pre- construction elevations.
- 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 RGP81 to conduct the same category of activity at an adjacent location within a one-year timeframe. Use of the same category of activity within a one-year period shall be at separate and distinct locations within a specific watercourse. Any waivers to this condition must be approved by the District Engineer.
- 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.
- 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.
- 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 RGP81.
- n. The permittee shall not excavate sediment below the OHWM specifically for use as a fill source; however, where this RGP81 allows, the permittee may use accumulated sediments to repair erosion damage.
- o. This RGP81 prohibits the removal of sediments for the primary purpose of obtaining a material source; this RGP81 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 RGP81 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 verification is valid through March 17, 2017. If on March 17, 2017 you have commenced or are under contract to commence the permitted activity you will have an additional three (3) months to complete the activity under the present RGP terms and conditions.
- t. This RGP81 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 RGP81 cause significant environmental impacts.

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.
- e. Extensions. Work/activities authorized under RGP81 become effective December 7, 2016 and will expire December 6, 2021. Pending the District Engineers' approval, if on December 6, 2021, you have commenced or are under contract to commence the permitted activity you will have an additional six (6) months to complete the activity under the present RGP81 terms and conditions. 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.



Digitally signed by CASTANON.DAVID.J.1231966150
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=USA, cn=CASTANON.DAVID.J.1231966150
Date: 2017.03.14 10:35:05 -07'00'

David J. Castanon
Chief, Regulatory Division

(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.

(TRANSFeree)

(DATE)