2012 Regional Conditions in Colorado

U.S. Army Corps of Engineers
Albuquerque District

REGIONAL CONDITIONS TO NATIONWIDE PERMITS IN THE STATE OF COLORADO

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

1. Nationwide Permit No. 12 Utility Line Activities. Notification to the District Engineer in accordance with General Condition No. 31, pre-construction notification (PCN) is required for utility line activities that either require open trenching in perennial waters or are for the purpose of water transmission. The purpose for requiring a PCN for water transmission projects is to determine whether the project will result in withdrawal of water from a stream/river, and if so, whether the effects of the withdrawal are minimal.

2. Nationwide Permit Nos. 12 and 14, Utility Line Activities and Linear Transportation Projects. PCN is required for utility lines and transportation activities crossing perennial waters and/or special aquatic resources, including wetlands, in the Colorado River Basin (all tributaries to the Colorado River within Colorado).

3. Nationwide Permit No. 13 Bank Stabilization. PCN is required for bank stabilization activities either exceeding 250 linear feet or that are necessary for erosion prevention in streams with an average width of less than 20 feet (measured between the ordinary high water marks (OHWM)). Bank stabilization activities in these small streams are limited to the placement of no more than ¼ cubic yard of fill material per linear foot below the plane of the OHWM unless the Corps determines on a case-by-case basis that the use of larger or greater quantities of material is appropriate.

4. Nationwide Permit No. 23 Approved Categorical Exclusions. PCN is required for all projects utilizing Categorical Exclusions.

5. Nationwide Permit No. 27 Stream and Wetland Restoration Activities. This permit is revoked for activities that include a fishery enhancement component in perennial streams. These types of projects must be authorized by the Regional Permit No. 12 for Aquatic Habitat Improvement for Stream Channels in Colorado.

   a. Channel realignment is not authorized by this permit unless it is demonstrated that the realignment is consistent with the natural morphological evolution of the stream.

   b. Structures authorized by this permit must allow for the upstream and downstream passage of aquatic organisms, including fish native to the reach, unless waived in writing by the District Engineer.

   c. Structures authorized by this permit must not impede waterborne navigation, including recreational watercrafts, unless waived in writing by the District Engineer.

   d. The use of concrete/grouting is not allowed in perennial streams unless waived in writing by the District Engineer.

   e. The construction of water parks (e.g. kayak courses) and flood control projects are not authorized by this permit.

6. Nationwide Permits No's 29 and 39; residential Developments and Commercial and Industrial Developments. A copy of the Existing FEMA/locally-approved floodplain map must be submitted with the PCN.

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

7. Important Spawning Areas. GC No. 3 (Spawning Areas) is amended by adding the following: Activities are not authorized by any Nationwide Permit except after case-by-case review and consultation with the Colorado Parks and Wildlife (CPW) if the activities would destroy important spawning areas or would be conducted in these waters during trout and Kokanee spawning seasons. Bio-engineering techniques, such as native riparian shrub plantings are required for all bank protection activities that exceed 50 linear feet in important spawning areas. Important spawning areas are identified in the list of Gold Medal Waters in Colorado (Attachment 2). Pre-construction notification is required for such activities and consultation

with CPW would be conducted in accordance with the timeframes established in GC 31.

8. Removal of Temporary Fills. GC No. 13 (Removal of Temporary Fills) is amended by adding the following: When temporary fills are placed in wetlands, a horizontal marker (i.e. fabric, certifies weed-free straw, etc.) must be used to delineate the existing ground elevation of wetlands that will be temporarily filled during construction.

9. Fens. All Nationwide Permits, with the exception of 3, 5, 6, 20, 27, 32, 37, and 38 are revoked for activities located in fens and wetlands adjacent to fens. PCN is required for all other activities considered for authorization by Nationwide Permits. The permittee may not begin the activity until the Corps determines the adverse environmental effects are minimal.

> A fen is defined as a groundwater-fed wetland with saturated fibric organic soil (greater than equal to 16") that is classified as a histosol in the Natural Resources Conservation Service's (NRCS) Field Indicators of Hydric Soils in the United States, Version 7.0, 2010. A copy of the document can be obtained at ftp://ftp-fc.sc.egov.usda.gov/NSSC/Hydric_Soils/FieldIndicators_v7.pdf.

Note: A fen may be part of a larger aquatic system (fen complex) where wetlands and other waters adjacent to the fen may provide a critical source of hydrology necessary for sustaining the fen.

10. Springs. PCN is required for all Nationwide Permits if the activities occur within 100 feet of the discharge point of a spring. The Corps will determine if the proposed project will have more than a minimal effect to the site specific spring and may require an Individual Permit or project modification to reduce/eliminate the spring impacts. For the purposes of this regional condition, springs do not include seeps or other discharges that do not have a defined channel.

11. Suitable Fill. PCN is required for the use of broken concrete as fill material within the State of Colorado. Permittees must demonstrate that soft engineering methods utilizing native or non-manmade materials are not practicable (with respect to cost, existing technology, and logistics), before broken concrete is allowed as suitable fill. Use of broken concrete with exposed rebar is prohibited. *Note: GC No. 6 prohibits the use of unsuitable material, which includes but is not limited to organic debris, building waste, asphalt, car bodies, and junk materials.*

ADDITIONAL INFORMATION

The following additional information relates to minimization of impacts to jurisdictional waters of the United States, and compliance with existing General Conditions:

1. **Permittees are reminded** that appropriate erosion and sediment controls are required in accordance with GC No. 12 in order to properly stabilize the site and prevent erosion and siltation into wetlands and other waters downstream. Streambed material or other small aggregate material placed alone for bank stabilization will not meet GC No. 12.

2. **Permittees are reminded** that all compensatory mitigation is required prior to or concurrent with project construction to ensure compliance with the Final Compensatory Mitigation Rule. A complete copy of the Final Compensatory Mitigation Rule may be obtained at the following website: http://www.usace.army.mil/cecw/pages/final_cmr.aspx.

3. **Permittees are encouraged** to clean heavy equipment prior to and after construction if equipment was previously used in another stream, river, lake, pond or wetland within 10 days of initiating work in order to prevent the spread of New Zealand Mud Snails and other aquatic hitchhikers:

   a. Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and keep the equipment dry for 10 days; or

   b. Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with either a 1:1 solution of Formula 409 Household Cleaner and water, or other approved chemical solutions. Treated equipment must be kept moist for at least 10 minutes; or

   c. Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with water greater than 120 degrees F for at least 10 minutes.