# DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public

Permit No.: MT-RGP-14-01

Issuing Office: Omaha District, Regulatory Branch

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term “this office” refers to the appropriate district or division office of the Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: This Regional General Permit (RGP) authorizes the following flood protection, reconstruction and repair work for flood damaged areas:

a. An “emergency situation” is present where there is a clear, sudden, unexpected, and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective actions, including the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by the emergency, are not undertaken immediately).
b. Discharges associated with excavation or dredging of sediment and debris, including storm deposited material, and the temporary or permanent discharge of fill associated with the excavation from waters of the United States where such an activity would prevent loss of property or where such activity is necessary to reduce flooding and/or erosion. This RGP **DOES NOT** authorize any channelization, channel widening, deepening, or straightening beyond channel limits that existed prior to the event, nor does it authorize the redeposit or disposal of dredged or excavated materials into waters of the United States.
c. The installation of structures in navigable waters and/or discharge of fill material into waters of the United States to facilitate the repair or replacement of collapsed roads or other structures or fills which failed or are failing as a result of the emergency (i.e. bank stabilization, bridges, utility lines, intakes, railroads, canals etc.).
d. The temporary discharge of fill material into waters of the United States to facilitate the emergency work, provided no practicable upland areas are available.
e. The installation and removal of cofferdams or diversion structures to temporarily isolate or dewater a work site.
f. New bank stabilization must be less than 300 linear feet and average less than 1 cubic yard per running foot below the ordinary high watermark (OHWM).

g. Temporary fills in waters of the United States are limited to 0.25 acre or less in size. Permanent fills are limited to 0.10 acre or less in size.
h. Within 15 days of the start of the emergency work, or within 48 hours if the work occurs within the Blackfeet Indian Reservation, the Corps must be notified. Any additional authorizations or special conditions may be included at that time.
i. Work must commence within 30 days from the date of the emergency or this permit does not apply.

Project Location: Waters of the United States, including wetlands, in the State of Montana.

**This RGP expires on March 1, 2021, which is five years from the date of issuance.**

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on **See Special Condition 1 on page 5**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have 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.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You 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 in accordance with the terms and conditions of your permit.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( X ) Section 10 of the River and Harbors Act of 1899 (33 U.S.C. 403).

( X ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

(  ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other federal, state, tribal 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 on 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 provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time circumstances. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.
b. The information provided by you in support of your 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, such as listing of new threatened and endangered species or critical habitat.

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 measures 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. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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

**REGIONAL GENERAL PERMIT MT-RGP-14-01**

## APPLICATION PROCEDURES

Within 15 days after the start of any activities authorized under this RGP, or 48 hours if work will occur within the Blackfeet Indian Reservation, the permittee is required to contact in writing by mail or fax:

U.S. ARMY CORPS OF ENGINEERS
HELENA REGULATORY OFFICE
10 WEST 15TH STREET SUITE 2200
HELENA, MT 59626-9705
PHONE: (406) 441 - 1375 (FAX) 441 -1380

The following written information is required:

1. Name, address, and telephone number of the landowner and of the person responsible for the work (if other than the landowner).

2. A written description of the work, including the purpose and need; type, composition and volume of fill and/or excavated material; length, width and depth of fill material and/or excavation area; disposal site for the fill and/or excavated material; borrow site for fill material; types of equipment to be used; and impacts to wetlands, streams or other waters of the United States.

3. Description of the emergency and the potential for loss of life or property.

5. Purpose of the activity.

6. A written legal description of the project location including section, township, range, and county, as well as latitude and longitude if known.

7. Names, addresses, and telephone numbers of adjacent property owners.

8. A set of drawings on 8 1/2 by 11 inch paper, with dimensions of the proposed work, showing:

a. The project location identified on an aerial photograph or map, including any disposal site locations.
b. A plan or top view of the project area.
c. A typical cross-section or side view of the project.
d. Photographs of the project area.
e. As applicable, a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.

9. The Corps will inform the permittee if further authorizations or special conditions are required.

## REGIONAL GENERAL PERMIT MT-RGP-14-01

## SPECIAL CONDITIONS

Any authorization granted under this RGP is subject to the following conditions:

1. The permittee will have 30 days to complete all work authorized under this RGP. If additional time is needed to complete the authorized activity, a written request for a time extension must be submitted to and approved by the Montana Regulatory Office.

2. This RGP authorizes the discharge of dredged or fill material and other work associated with flood or emergency protection measures, and restoration, repair or reconstruction measures performed in waters of the United States within the state of Montana as a result of damages caused by emergencies. The work will be limited to that authorized by the Corps through the issuance of this RGP.

3. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate federal agency (i.e., U.S. Forest Service, Bureau of Land Management) with direct management responsibility for the river, has determined in writing the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

The designated rivers in Montana include:

**Flathead River**. The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir. Classification/Mileage: Wild–97.9 miles; Scenic–40.7 miles; Recreational–80.4 miles; Total–219.0 miles.

**Missouri River.** The segment from Fort Benton, 149 miles downstream to Robinson Bridge. Classification/Mileage: Wild–64.0 miles; Scenic–26.0 miles; Recreational–59.0 miles; Total–149.0 miles.

The following link provides a map showing the location of the Montana rivers listed on the National River Inventory list: http://www.nps.gov/ncrc/programs/rtca/nri/states/mt.html

4. All channel restoration work will be limited to restoring the area to pre-emergency conditions and verified using U.S. Department of Agriculture, Natural Resource Conservation Service aerial photographs, or other qualifiable data, aerial photos, ground photos, plans, etc.

5. Repair measures authorized herein do not allow for improved drainage of legally drained wetlands or new, permanent drainages that would result in the lowering of basin water retention capacity and/or impacts to the wildlife value of that wetland.

6. All temporary ditches in waters of the United States must be restored to pre-emergency conditions within 30 days of the end of the emergency conditions. If necessary, extensions can be requested from the Corps.

7. Repair measures authorized herein are to restore areas to pre-emergency conditions. Minor deviations may be authorized.

8. Repair and protection measures authorized herein do not allow for the construction of structures that result in any further stream channel constriction or in the redirection of flows.

9. Temporary levees, accesses, and other fills must involve the least damaging and minimum amount of disturbance/impacts to waters of the United States. Appropriate measures must be taken to maintain near normal downstream flows to minimize flooding.

10. No secondary or high flow channels can be wholly or partially blocked.

11. All fill must be of suitable materials and placed in such a manner that the material will not be eroded by expected high flows.

12. All fill material will be obtained from a non-wetland, upland source. Fill may not be obtained from areas within the OHWM of streams or lakes.

13. The permittee is responsible for ensuring that the Corps is notified of the location of any borrow site that will be used in conjunction with the construction of the authorized activity so the Corps may evaluate the site for potential impacts to aquatic resources, historic properties, and endangered species. For projects where there is another lead federal agency, the permittee shall provide the Corps documentation indicating that the lead federal agency has complied with the National Historic Preservation Act (NHPA) and Endangered Species Act (ESA) for the borrow site. The permittee shall not initiate work at the borrow site in conjunction with the authorized activity until approval is received from the Corps.

14. All temporary fills, including sandbags, in waters of the United States. must be completely removed and the area restored to pre-emergency conditions within 30 days of the end of emergency conditions. Time extensions can be requested in writing from the Corps.

15. All areas adjacent (contiguous, bordering, neighboring) to jurisdictional waters disturbed by construction shall be revegetated with appropriate perennial native grasses and forbs and maintained in this condition. *Elaeagnus angustifolia* (Russian olive), *Phalaris arundinacea* (reed canary grass), *Lythrum salicaria* (purple loosestrife), *Bromus inermus* (smooth brome), *Phragmites, sp.* (common reed, river reed) and *Tamarix, sp.* (salt cedar), are *NOT* appropriate choices of vegetation. A cover crop may be planted to aid in the establishment of native vegetation. The disturbed areas shall be reseeded concurrent with the project or immediately upon completion. Revegetation shall be acceptable when ground cover of desirable species reaches 75%. If this seeding cannot

be accomplished by September 15 the year of project completion, then an erosion blanket shall be placed on the disturbed areas. The erosion blanket shall remain in place until ground cover of desirable species reaches 75%. If the seeding can be accomplished by September 15, all seeded areas shall be properly mulched to prevent additional erosion. When the vegetation has become established, all temporary erosion control materials shall be removed from the project site. Biodegradable or photodegradable materials need not be removed.

16. All erosion control blankets or fabrics used in or adjacent to waters of the United States must be comprised of degradable material to ensure decomposition. Do not use material that includes stabilized netting or stabilized open mesh, as these products take a long time to degrade and they can trap small animals, birds, amphibians and fish. This prohibition also applies to mesh materials used for wattles, rolled materials, and bank wraps. Erosion control blankets or fabrics that break down within 24 months are acceptable. Non-degradable blankets or fabrics may be allowed on a case-specific basis if it will be buried beneath riprap or structures and it is not likely to be exposed. Non-degradable blankets or fabrics that become exposed within waters of the United States must be removed.

17. Riprap projects shall not only incorporate soil in the voids of the rock with native grass seeding, but also should incorporate willow plant cuttings, if native to the area, at a rate of approximately 10 per linear foot randomly placed from the low water to the bank full height of the rock. Soil placement and revegetation work can be completed after the emergency, but it must be done within 30 days.

18. The clearing of vegetation, including trees located in or immediately adjacent to waters of the United States, will be limited to what is absolutely necessary for construction of the project.

19. All construction debris will be disposed of on an approved upland site in such a manner that it cannot enter a waterway or wetland. The permittee will establish and carry out a plan for the immediate removal of debris during construction in order to prevent the accumulation of unsightly, deleterious and/or potentially polluting materials.

20. Equipment for handling and conveying materials during construction will be carefully operated to prevent dumping or spilling materials into the water except as approved herein.

21. All dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the OHWM in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.

22. Concrete trucks will be washed in such a manner that washwater cannot enter a water of the United States.

23. During construction, no petroleum products, chemicals, or other deleterious materials shall be allowed to enter or be disposed of in such a manner that would allow entry into the water. Precautions will be taken to prevent entry of these materials into the water.

24. All work in the waterway will be performed in such a manner so as to minimize increases in suspended solids and turbidity that may degrade water quality and damage aquatic life outside the immediate area of operation.

25. All earthwork operations on shore will be carried out in such a manner that sediment runoff and soil erosion to the waterbody are controlled.

26. If and when the Corps has been notified that a dredging or filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the Corps subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.

27. The use of machinery in the waterway will be kept to a minimum.

28. A discharge of material may not occur in the proximity of a public water supply unless appropriate approval is given and mitigation measures are identified to offset any adverse effects.

29. If threatened or endangered species are sighted at or near the project site, particularly during construction, work must cease and the Montana Regulatory Office at (406)441-1375 and the USFWS at (406)449-5225 must be contacted immediately. No activity is authorized which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized which ‘‘may affect’’ a listed species or critical habitat, unless Section 7 consultation addressing the effects of the activity has been completed. Federal agencies should follow their own procedures for complying with the requirements of the ESA, and must provide the Corps with appropriate documentation when consultation has been completed.

31. The permittee, the permittee's contractor or any employees, subcontractors or other persons working in the performance of the project shall immediately report the discovery of subsurface features, possible scientific, prehistorical, historical, or archeological data, giving the location and nature of the findings to the State Historic Preservation Office (SHPO) and the Montana Regulatory Office. If discoveries occur on an Indian reservation, the applicable Tribal Historic Preservation Office (THPO) and the Montana Regulatory Office shall be notified. The permittee shall cease construction or operation at the site of any cultural resource discovery. Work shall not begin or resume until notified by the Montana Regulatory Office.

32. 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, 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.

36. Modification of any existing federal navigation structure (i.e. revetment, dike, levee, etc.) is not authorized by this RGP.

37. Due to public safety concerns and potential structural instability, no equipment shall be staged on federal structures.

38. The District Commander may require additional special conditions be included in any authorization issued under this RGP to avoid or minimize adverse environmental impacts. The District Commander may also require an individual permit for an activity determined to have more than minimal adverse environmental impacts, individually or cumulatively, or would be contrary to the public interest.

JOHN W. HENDERSON, P.E.
Colonel, Corps of Engineers
Commanding

By: /signature on file/
MARTHA S. CHIEPLY
Chief, Regulatory Branch
Operations Division

Date: March 4, 2016