REGIONAL GENERAL PERMIT 02 (RGP-02-MT)

U.S. ARMY CORPS OF ENGINEERS

FISH BARRIERS, LADDERS, SCREENS, & TRAPS WITHIN THE STATE OF MONTANA

Effective Date: June 20, 2025 Expiration Date: March 18, 2029

The U.S. Army Corps of Engineers (Corps), Omaha District, hereby issues Regional General Permit 02-MT for permanent or temporary work or structures in navigable waters of the U.S., and/or discharges of dredged or fill material into waters of the United States associated with aquatic species management related activities in the state of Montana.

PERMITEE: General Public (including federal, tribal, state, or local agencies)

PERMIT NUMBER: RGP-02-MT (formerly GP-00-02), Amendment 5 (USACE File Number: NWO-2000-21002-MT)

ISSUING OFFICE: U.S. Army Corps of Engineers (USACE), Omaha District, Montana Regulatory Office

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 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.

AUTHORITIES: Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) and Section 404 of the Clean Water Act (33 U.S.C. § 1344)

PURPOSE: The purpose of this Regional General Permit (RGP) is to authorize certain discharges of dredged or fill material into waters of the United States, including wetlands, and/or work or structures in navigable waters of the United States for projects designed to manage the movement of aquatic species populations, permanently or temporarily, for conservation or management purposes.

LOCATION: This RGP is applicable to all waters of the U.S. within the state of Montana, including tribal lands. Certain waterways and aquatic resource types are given special consideration. These areas include, but are not limited to, occupied and critical habitat for fish species protected by the Endangered Species Act, Wild and Scenic Rivers, and Special River Management Zones (See General Condition 2).

ACTIVITIES COVERED: To the extent that a Corps permit is required, activities authorized by this RGP include, but are not limited to:

1. Construction or installation of temporary or permanent fish screens or barriers to prevent fish and aquatic species entrainment in irrigation facilities, hydroelectric facilities, water intakes, etc.*

2. Construction or installation of temporary or permanent barriers or deterrence/guidance systems to isolate populations of desired species or exclude populations of undesired species from aquatic systems or portions of a system.*

3. Construction or installation of temporary or permanent live traps, holding boxes, containment, or counting devices (chutes, weirs, gates, etc.) intended to benefit aquatic organism conservation, restoration, and management goals such as improving or monitoring the passage for desirable species and/or controlling or monitoring the passage of undesired species from aquatic systems. *

4. Temporary structures, fills, and work, including the use of temporary mats, necessary to construct the activities authorized by this permit. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

5. Other activities not specifically listed may be authorized on a case-by-case basis provided the discharge will result in no more than minimal adverse environmental effects. †

* Proposals for permanent barriers must include an evaluation of maintenance needs associated with the screen or barrier, including bedload/debris accumulation.

† Modifications to current instream barriers for fish and other aquatic species may be authorized. These may include man-made features such as culverts, diversions, flashboard dams, flood/grade control structures, or road crossings and natural features such as jog jams, woody debris barriers, beaver dams, sand/gravel bars, side channel blockages, landslides, and waterfalls. Other barriers may be included when they impede fish passage to previously accessible habitat and the addition, modification, or removal of such would provide a clear benefit to aquatic organisms.

TERMS: The maximum impacts allowed under this RGP for projects that are single and complete with independent utility and purpose are:

1. One-half (1/2) acre of permanent loss* to non-wetland jurisdictional areas, to include stream channel and open waters, unless the Corps waives this limit, after agency coordination, by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects.

2. One-half (1/2) acre of permanent loss* to wetlands. This limit cannot be waived.

* See the definition of "Loss of waters of the United States" in the Definitions section below.

This RGP contains provisions intended to protect the environment, endangered species, and historic properties and to ensure activities authorized by this RGP will cause no more than minimal individual and cumulative environmental impacts. The RGP General Conditions describe the criteria which must be met for work to be accomplished under this RGP and the terms and conditions contained within this permit apply to this RGP only. Work that does not comply with these provisions is not authorized by this RGP and may require Department of the Army (DA) authorization by other available permit tools. In accordance with 33 CFR 322.2(f)(1), this RGP authorizes activities that are substantially similar in nature that would result in no more than minimal individual and cumulative adverse effects on the aquatic environment, when conducted under the terms and conditions of this permit.

NOTIFICATION PROCEDURES: The prospective permittees must submit a pre-construction notification (PCN) in accordance with the procedures outlined General Condition 1.

For assistance, please contact the Montana Regulatory Office by email at Montana.Reg@usace.army.mil and/or by telephone or voicemail at (406-441-1375) or visit the Montana Regulatory website at: https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/.

I. RGP GENERAL CONDITIONS

To qualify for this RGP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any case-specific conditions required by the district engineer.

1. Pre-Construction Notification. To use this RGP, prospective permittees must first submit a pre-construction notification (PCN) in accordance with the procedures outlined in Appendix A.

a. No activity may begin until the prospective permittee receives written verification from the District Engineer, or his or her designee, that the proposed project meets the requirements of this RGP. This RGP shall not be interpreted as authorizing any work other than which is outlined above, and which strictly meets all terms and conditions set out herein. All work undertaken that does not strictly comply with the following terms, conditions, standards, and limitations will require separate Department of the Army authorization.

b. For projects resulting in the loss of greater than 0.1 acre of jurisdictional wetlands, a wetland delineation using the currently approved Corps delineation manual and any appropriate supplements to the manual.

c. The name(s) of those federally listed species that might be affected by the proposed activity, or which utilize the designated critical habitat that might be affected by the proposed activity, or documentation demonstrating compliance with the Endangered Species Act (if another agency is the lead federal agency). See General Condition 12.

d. If the activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. See General Condition 14.

e. Project plans showing all aspects of the proposed activity and the location of avoided and impacted waters of the U.S. Plan-view and cross-section plans shall be included. Both temporary (e.g., access, staging) and permanent impacts to waters of the U.S. shall be shown. Plans may be hand-drawn as long as they include approximate dimensions of all structures or work located in waters of the U.S.

f. A written statement explaining how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S.; and

g. If applicable, a request for waiver of impact thresholds (i.e., to exceed the loss of 0.5 acre of jurisdictional non-wetland waters of the U.S.) must include rationale for how the activity will result in only minimal individual and cumulative adverse environmental effects (see General Condition 15 below).

h. Agency Coordination: The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the RGP and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal. Agency coordination is required for activities that result in the loss of greater than 0.5 acre of permanent loss to non-wetland jurisdictional areas, to include stream channel and open waters.

i. Upon receipt of a notification, the DE will immediately provide (i.e., by electronic mail, facsimile transmission, overnight mail or other expeditious manner) a copy to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and tribal resource offices, as appropriate).

ii. These agencies will have 10 calendar days from the date the material is transmitted to notify the DE via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. If contacted by an agency, the DE will wait an additional 15 calendar days before making a decision on the pre-construction notification. The comments must explain why the agency believes the adverse environmental effects will be more than minimal.

iii. The DE will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the RGP, the need to impose terms and conditions to avoid and minimize adverse effects on aquatic resources, and the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The DE will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by electronic mail, facsimile transmission, or other means.

2. Aquatic Resources of Special Concern. The District Engineer may authorize activities under this RGP only after determining that the impacts to the following aquatic resources of special concern will be no more than minimal:

a. Upper Yellowstone River Special River Management Zone (SRMZ): The SRMZ is defined within the Special Area Management Plan (SAMP) as the 48-mile reach of the upper Yellowstone River (River Miles 531.8 to 483.6) from upstream of Emigrant River downstream to a few miles below the Shields River and Mission Creek confluences (0.7 mile downstream from the bridge at the community of Springdale). It includes secondary channels, side channels, the main (primary) channels, and adjacent wetlands within the channel migration zone (CMZ) or, in absence of a CMZ, within areas flooded by the 100-year discharge. The SMRZ is located entirely within Park County, Montana. See the current Special Area Management Plan (SAMP) found here: https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/EA-Upper-Yellowstone-River/

b. Wetlands Classified as Peatlands: For purposes of this condition, peatlands are permanently or seasonally waterlogged areas with a surface accumulation of peat (organic matter) 30 centimeters (12 inches) or thicker. Under cool, anaerobic, and acidic conditions, the rate of organic matter accumulation exceeds organic decay. Any peat- covered areas, including fens, bogs, and muskegs, are classified as peatlands.

c. Rivers, Streams, Lakes, and Impoundments with Listed Critical Habitat: Any projects within the following waterways and their impoundments:

- Bitterroot River
- Clark Fork River (tributary to the Columbia River)
- Flathead Lake
- Flathead River
- Milk River
- Missouri River
- Yellowstone River

d. Rivers and Streams with Wild and Scenic River Designation or Study Status: Currently 388 miles of river are designated as wild & scenic within Montana. Go to https://www.rivers.gov/montana.php for more information. Also see General Condition 10 below.

- Missouri River - The Upper Missouri National Wild and Scenic River section starts at Fort Benton, Montana, and runs 149 miles downstream ending at the James Kipp Recreation Area.

- Flathead River - Designated wild and scenic starting at the North Fork from the Canadian border downstream to its confluence with the Middle Fork. The Middle Fork from its headwaters to its confluence with the South Fork. The South Fork from its origin to the Hungry Horse Reservoir.

- East Rosebud Creek – Designated from its source in the Absaroka-Beartooth Wilderness downstream to East Rosebud Lake and Fossil Lake, and from immediately below, but not including the outlet of East Rosebud Lake downstream to the Custer Gallatin National Forest boundary.

3. Navigation. No activity may cause more than a minimal adverse effect on navigation.

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 or her 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.

4. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized. Contact Montana Fish Wildlife & Parks (MT FWP) Fisheries Division at fwpfsh@mt.gov or at (406) 444-2449 for questions concerning spawning seasons or timing of in-water work. Regional office information can be found on their web site: https://fwp.mt.gov/

5. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

6. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

7. Adverse Effects from Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

8. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

9. Single and Complete Project. The activity must be a single and complete project. The same GP cannot be used more than once for the same single and complete project.

10. Wild and Scenic Rivers. 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 with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

a. The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the RGP activity until notified by the district engineer that the

Federal agency with direct management responsibility for that river has determined in writing that the proposed RGP activity will not adversely affect the Wild and Scenic River designation or study status.

b. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service (FWS)). Information on these rivers is also available at: http://www.rivers.gov/.

11. Tribal Rights, Cultural and Historic Resources. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. No work or activity is authorized by this RGP that would impact, affect, or otherwise degrade any cultural or tribal resources, including resources listed in or nominated for listing in the National Register of Historic Places. This includes any future sites that become listed or nominated. If the Permittee or the Permittee's contractors discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by the RGP, the Corps shall be immediately notified.

12. Endangered Species. No activity is authorized under this RGP 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 designated critical habitat or critical habitat proposed for such designation.

No activity is authorized under this RGP which "may affect" a listed species or critical habitat unless ESA Section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed.

See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA Section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA Section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action." The regulations governing interagency cooperation under section 7 of the ESA for consultation conducted during emergency situations (50 CFR 402.05) will be followed when applicable.

a. The Permittee agrees to make every reasonable effort to execute the work authorized by this RGP in a manner that minimizes any adverse impact on fish, wildlife, and natural environmental values. If the Permittee or the Permittee's contractors discover any federally listed threatened or endangered species or their habitat may be present while accomplishing work or activities authorized by this RGP, the Corps shall be immediately notified. If threatened or endangered species are sighted at or near the project site, particularly during construction, work must cease, and the U.S. Fish and Wildlife Service contacted immediately at (406) 449-5225.

b. Authorization of an activity by this RGP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

c. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS or their web page at http://www.fws.gov/ or http://www.fws.gov/ipac.

13. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by this RGP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

14. Historic Properties. No activity is authorized under this RGP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied (see 36 CFR part 63).

a. Permittees must submit a pre-construction notification (PCN) to the district engineer if the RGP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on,

or potentially eligible for listing on the NRHP, including previously unidentified properties and shall not begin construction until notified by the District Engineer that the requirements of the NHPA have been satisfied and that the activity is authorized (see 36 CFR part 800 and 33 CFR Part 325, Appendix C).

b. The PCN must state which historic properties might have the potential to be affected by the proposed RGP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or designated tribal representative, as appropriate, and the National Register of Historic Places (NRHP).

c. Prospective permittees should be aware that Section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

15. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

a. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

c. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre (4,356 square feet) or all losses of stream bed that exceed 3/100-acre (1,306 square feet), unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate, or the adverse environmental effects of the proposed activity are no more than minimal and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less and losses of stream bed of 3/100-acre or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

d. Compensatory mitigation plans for RGP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

e. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

f. Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of this RGP.

g. Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For permittee-responsible mitigation, the special conditions of the RGP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

h. Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to an herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

16. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

17. Water Quality. If a conditioned water quality certification is issued for the project, the permittee must comply with the conditions specified in the certification as special conditions to this permit. Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an RGP with CWA section 401, the proposed discharge is not authorized by an RGP until water quality certification is obtained or waived (see 33 CFR 320.3(a)) and a copy submitted to the district engineer. The discharge is not authorized by an RGP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver. The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

a. The following certifying agencies have certified, certified with conditions, or waived a CWA Section 401 certification for the activities authorized under this RGP:

Certifying Agency	Status of 401 Water Quality Certification
Montana Department of Environmental Quality (DEQ) - State of Montana	401 WQC with conditions was issued October 11, 2023
Assiniboine & Sioux Tribes - Fort Peck Reservation	401 WQC was waived as of October 3, 2023
Blackfeet Nation - Blackfeet Reservation	401 WQC was waived as of October 3, 2023
Confederated Salish & Kootenai Tribes (CSKT) - Flathead Reservation	401 WQC with conditions was issued September 28, 2023
Northern Cheyenne Tribe - Northern Cheyenne Reservation	401 WQC was waived as of October 3, 2023
U.S. Environmental Protection Agency (EPA) - Crow, Fort Belknap, and Rocky Boy's Reservations	401 WQC with conditions was issued October 3, 2023

b. If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of this RGP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an RGP.

18. Other Authorizations, Permits, and Permissions. Authorizations under this general permit do not relieve permittees from obtaining permits or other authorizations from any required state or local agency, or the consent of the landowner.

19. Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 325.2(e)(2)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification.

20. Use of Multiple General Permits. The use of more than one general permit (GP) for a single and complete project is authorized, subject to the following restrictions:

a. If only one of the GPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the GP with the highest specified acreage limit.

b. If one or more of the GPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those GPs cannot exceed their respective specified acreage limits.

21. Transfer of Regional General Permit Verifications. If the permittee sells the property associated with this regional general permit verification, the permittee may transfer the regional general permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the regional general permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

_____ (Transferee) _____ (Date)

22. Compliance Certification. Each permittee who receives a RGP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the RGP verification letter. The certification document will include:

a. A statement that the authorized activity was done in accordance with the RGP authorization, including any general, regional, or activity-specific conditions.

b. A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits.

c. The signature of the permittee certifying the completion of the activity and mitigation.

d. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

23. Activities Affecting Structures or Works Built by the United States. An activity that is located on an existing locally or federally maintained U.S. Army Corps of Engineers project requires separate approval from the District under 33 U.S.C. 408. A PCN must be submitted and include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

24. Violations and Non-Compliance. If the Secretary of the Army or an authorized representative of the Secretary of the Army determines there has been a violation of the terms and conditions of this RGP, he or she may suspend or revoke the authorization for an individual project under this RGP. In addition, failure to comply with the terms and conditions of this RGP may result in removal of the structures, restoration of the waterway, and imposition of penalties, as provided by law.

25. Inspection. Work authorized under this permit may be inspected by the Corps at any reasonable time to assure that it is being or has been completed in compliance with the terms and conditions of this permit.

26. Maintenance. 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 or sell the property associated with this permit. You may make a good faith transfer to a third party. 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 the Corps, which may require restoration of the area.

II. REQUIRED BEST MANAGEMENT PRACTICES

27. Avoidance and Minimization. You shall avoid and minimize discharges of dredged or fill material into waters of the U.S. to the maximum extent practicable. Temporary staging, access, and disposal areas shall be located outside of waters of the U.S. unless determined not to be practicable or appropriate by this office. Return water from upland disposal areas shall not be allowed to enter waters of the U.S. and must be contained within the disposal area or with applicable water management/containment equipment. If it is not practicable or appropriate to avoid discharges of dredged or fill material into waters of the U.S. associated with staging, access, and disposal areas, appropriate justification shall be identified in the Notification required in Appendix A. Compensatory mitigation may be required as a special condition of any authorization under this RGP.

28. Project Limits. Prior to commencement of construction activities in waters of the U.S. authorized by this permit/verification, you shall clearly identify the limits of disturbance in the field (including staging areas) with highly visible markers (e.g., construction fencing, flagging, silt barriers, etc.). You shall maintain such identification properly until construction is completed, and the soils have been stabilized.

29. Vegetation Removal and Replanting. The clearing or removal of vegetation during construction will be minimized to the greatest extent practicable. You are required to minimize adverse effects by:

a. When vegetation removal is required, vegetation will be cut at ground level (not grubbed).

b. You shall return any area affected by temporary construction, dewatering, and access work, including staging areas, to their pre-existing contours and conditions, and re-vegetate with appropriate native vegetation common to the area, within 45 days following completion of construction activities in waters of the U.S. authorized by this RGP.

30. Disposal of Excess Material. All construction debris and any other material not authorized by the Corps for permanent placement into waters of the U.S. will be disposed of in an upland location in such a manner that precludes it from enter a waterway, wetland, or other aquatic area.

31. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). If broken concrete will be used as fill material, the individual pieces must be large enough so that they will not be displaced by wave action and all exposed rebar must be removed. A list of materials prohibited or restricted as fill material in waters of the U.S. can be found at: https://www.nwo.usace.army.mil/Media/Fact-Sheets/Fact-Sheet-Article-View/Article/487696/prohibited-restricted-materials/

32. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. Stream channelization is defined as the manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

33. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance. Equipment for handling and conveying materials during construction must be operated to prevent unplanned and unapproved dumping or spilling of material into the waterway. All equipment must be cleaned prior to entering and before leaving the work site in order to prevent the spread of invasive species. It must be cleaned of any oil, grease, and debris prior to entering waterway.

34. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any

work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, whenever practicable.

35. Biodegradable Erosion Control Materials. Permanent erosion control blanket or fabric used in or adjacent to waters of the U.S. shall be comprised of biodegradable material, to ensure decomposition and reduced risk to fish, wildlife, and public safety, unless conditioned otherwise. If the applicant proposes to use materials other than as indicated above, they must demonstrate how the use of such materials will not cause harm to fish, wildlife and public safety. Non-degradable blanket or fabric that becomes exposed within waters of the United States must be removed.

36. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Unless determined to be not appropriate or practicable by this office, for all temporary staging, access, dewatering, and construction activities resulting in temporary fill within waters of the U.S., you shall:

a. Install a horizontal marker (e.g., fabric, certified weed free straw, waddles etc.) to delineate the existing bottom elevation of the waters of the U.S. prior to the placement of temporary fill in waters of the U.S.

b. Remove all temporary structures, work, and fills, including cofferdams and temporary emergency management measures, in their entirety within 30 days following completion of emergency conditions and/or construction activities in waters of the U.S. authorized by this RGP. You shall return any area affected by temporary construction, dewatering, and access work, including staging areas, to their pre-existing contours and conditions, and re-vegetate with appropriate native vegetation common to the area, within 45 days following completion of construction activities in waters of the U.S. authorized by this RGP.

37. Outfall Structures and Associated Intake Structures. Inlet screens for intakes in the Yellowstone River or the Missouri River in Blaine, Chouteau, Custer, Dawson, Fergus, Garfield, McCone, Petroleum, Phillips, Prairie, Richland, Roosevelt, Valley, and Wibaux Counties must be installed on all pump intakes with a screen mesh opening size no larger than 1/4 inch. Water intake velocities must not exceed 1/2 foot per second through the mesh. Intakes must be located in the deepest water available and be elevated off the bottom of the riverbed.

III. DEFINITIONS

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term “discharge” means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s) but may also lead to a decline in other aquatic resource function(s) while still resulting

in a net increase in the overall functions of the resource. Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an RGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the RGPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, floating, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark (OHWM): The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification (PCN): A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by a regional or nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. PCN may be required by the terms and conditions of a permit, or by regional conditions. A PCN may be voluntarily submitted in cases where PCN notification is not required, and the project proponent wants confirmation that the activity is authorized by a specific permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See General Condition 17.)

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of RGP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an RGP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances, and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tribal lands: Any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order, or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the RGP, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

IV. FURTHER INFORMATION

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to: Section 404 of the Clean Water Act (33 U.S.C. § 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403).

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 projects.

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 the Corps 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. The Corps may reevaluate its decision on this permit at any time circumstances warrant. 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 the Corps did not consider in reaching the original public interest decision.

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 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 the Corps, and if you fail to comply with such directive, the Corps 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. The permit duration, as described above, 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.

Activities not meeting the terms and conditions of this permit may be authorized through another type of permit from the Corps, such as a Nationwide Permit or Standard Individual Permit. The Corps will determine on a case-by-case basis whether an activity has a more than minimal impact, individually or cumulatively, on the aquatic environment or may be contrary to the public interest. The Corps may include additional special conditions to a verification under this permit to ensure the activity has minimal impact.

V. PERMIT DURATION

This permit is valid from issuance and will expire on March 15, 2029. The Corps may re-evaluate the terms and conditions of this permit at any time deemed necessary to protect the public interest. Activities verified by the Corps under this permit are valid until the date this RGP expires. In the event that this RGP expires when the project is under construction or under contract to begin construction, the applicant will have up to one year after the permit expiration to complete the work. In such case, the applicant must notify the Corps and submit sufficient evidence such as photos of work or proof of contract.

VI. ATTACHMENTS

a. Appendix A – Pre-Construction Notification Procedure

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

Robert J. Newbauer, P.E. — 20 June 2025
(DISTRICT ENGINEER) — (DATE)
Colonel, Corps of Engineers
District Commander

BY: _____
Eric A. Laux
Chief, Regulatory Branch, Operations Division
(For the District Engineer)

REGIONAL GENERAL PERMIT 02 (RGP-02-MT)

U.S. ARMY CORPS OF ENGINEERS

FISH BARRIERS, LADDERS, SCREENS, & TRAPS WITHIN THE STATE OF MONTANA

Effective Date: March 18, 2024 Expiration Date: March 18, 2029

APPENDIX A
Pre-Construction Notification Procedures

1. Preferred method - Submit Construction Notification (CN) package in electronic form to: Montana.Reg@usace.army.mil

2. If unable to submit via email the CN can also be mailed to:

U.S. Army Corps of Engineers, Montana Regulatory Office
100 Neill Ave, Helena, MT 59601-3329
Phone: (406) 441-1375

I. NOTIFICATION CONTENTS - the notification package must contain the following information:

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

2. Project Location: A written legal description of the project location including section, township, range, county, and latitude/longitude in decimal degrees. Provide information for all locations if work will occur at multiple sites.

3. Timing: Project start and completion dates.

4. Project Description: A written description of the proposed work, including:

a. The purpose and need for the project.

b. Type, composition, and volume of fill and/or excavated material.

c. Length, width, and depth of fill material and/or excavation area.

d. Disposal site(s) for the fill and/or excavated material.

e. Source or borrow site location for fill material.

f. Types of equipment to be used.

g. Impacts to wetlands, streams, or other waters of the U.S. in square feet or acres.

5. Drawings, Maps, and/or Project Plans: A set of drawings with dimensions of the work showing:

a. The project location identified on an aerial image, including the disposal site locations.

b. A plan or top view of the project area(s), staging area(s), and access point(s), clearly identifying types and locations of structures/impacts, along with dimensions, and approximate extents of aquatic resources, to include the ordinary high-water mark (OHWM) of waters and boundaries of wetlands, within the project area. A sketch can be made on an aerial image.

c. A typical cross-section or side/profile view(s) of the existing stream channel and the proposed structures, including dimensions (length, width and height of the structures or work), a scale, and the location of the OHWM.

d. Pre-construction photographs of the project area.

6. Aquatic Resource Inventory: The aquatic resource inventory must identify the limits of all aquatic resources within the project area, such as: lakes, ponds, ditches, perennial, special aquatic sites and intermittent streams. If greater than 0.1-acre of wetlands will be impacted by the proposed work, you must include a wetland delineation prepared in accordance with the current method required by USACE.

7. Mitigation: Mitigation is a sequential process that requires applicants to first avoid and minimize impacts to waters of the U.S. to the maximum extent practicable, prior to providing compensatory mitigation to offset losses due to unavoidable impacts.

a. If the proposed activity will result in the loss of greater than 1/10-acre of wetlands (4,356 square feet) or 3/100-acre (1,307 square feet) of stream bed, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required.

b. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan with the notification package.

8. Coordination with Montana Fish, Wildlife & Parks: Prior to submitting a Notice of Intent to the Corps of Engineers, any work proposed by a private party must be coordinated with and approved by the Montana Department of Fish, Wildlife, & Parks (MTFWP). Verification of the MTFWP's approval should accompany the Notice of Intent to the Helena Regulatory Office.

Applicants can seek approval from the MTFWP office nearest the project site:

a. Region 1 – 490 North Meridian Road, Kalispell, MT 59901 / fwprg12@mt.gov / 406-752-5501
b. Region 2 – 3201 Spurgin Road, Missoula, MT 59804 / fwprg22@mt.gov / 406-542-5500
c. Region 3 – 1400 South 19th, Bozeman, MT 59718 / fwprg3@mt.gov / 406-577-7900
d. Region 4 – 4600 Giant Springs Rd, Great Falls, MT 59405 / fwprg42@mt.gov / 406-454-5840
e. Region 5 – 2300 Lake Elmo Drive, Billings, MT 59105 / fwprg52@mt.gov / 406-247-2940
f. Region 6 – 1 Airport Rd, Glasgow, MT 59230 / fwprg62@mt.gov / 406-228-3700
g. Region 7 – 352 I-94 Bus. Loop, PO Box 1630, Miles City, MT 59301 / fwprg72@mt.gov / 406-234-0900
h. For projects within the boundaries of Indian Reservations, the Tribal Natural Resource Department will fulfill the role of MTFWP described above.

II. SUBMISSION OF CONSTRUCTION NOTIFICATION - The notification information above can be submitted through any of the following methods:

1. Montana Joint Application Form: Submit a completed form along with the appropriate maps and drawings.

a. This is a standardized application that can be used to apply for one or all local, state, or federal permits in the State of Montana. Please note permits may be required from other agencies. Refer to the Joint Application instructions to determine which permits apply and submit a signed application to each applicable agency.

b. You can find links to the joint application, as well as instructions to download or print, on the Montana Department of Natural Resources & Conservation Website: https://dnrc.mt.gov/Licenses-and-Permits/Stream-Permitting/

2. USACE Permit Application Form: Submit a completed form along with the appropriate maps, drawings, and MTFWP approval information.

a. The ENG FORM 4345, or Individual Permit Application Form can be used for submission to USACE.

b. You can find links to the application, as well as instructions to download or print, on the U.S. Army Corps of Engineers Headquarters Website at: https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/

3. Cover Letter and Package: Send all of the information with a cover letter requesting consideration under this Regional General Permit.