



Public Notice

US Army Corps
of Engineers

Public Notice Number: 200025081

Date: May 3, 2002

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: The Sacramento District announces the issuance of General Permit 7 (GP7).

PURPOSE: GP7 authorizes fill activities needed to construct and maintain certain flood control facilities funded by, or built in accordance with, the Clark County (Nevada) Regional Flood Control District (CCRFCD) program under one permit. GP7 is intended to streamline the permitting process for routine maintenance activities, to provide mitigation certainty for new construction projects, and to authorize minor impact activities which do not qualify for a Nationwide permit. Activities that would qualify for processing through the GP7 process are fill activities resulting in unavoidable minor impacts and, therefore, do not warrant more detailed processing.

Originally proposed as General Permit 9 in August 2000, this General Permit has been revised and modified based on public and agency comments and was renamed GP7.

If additional information is required, please contact Mr. Grady McNure at our St. George Regulatory Office, 321 North Mall Drive, Suite L101, St. George, Utah 84790-7314, or telephone (435) 986-3979, FAX (435) 986-3981.

Michael J. Conrad, Jr.
Colonel, Corps of Engineers
District Engineer

GENERAL PERMIT 7
CONSTRUCTION AND MAINTENANCE OF FLOOD CONTROL FACILITIES
CLARK COUNTY, NEVADA

EFFECTIVE DATE

May 1, 2002

EXPIRATION DATE

May 1, 2007

SCOPE OF WORK: This General Permit authorizes discharges of dredged or fill material for the construction of some new flood control facilities and the routine maintenance of existing flood control facilities. Individual project impacts may not exceed 2 acres of wetlands and 5 acres of total impacts to waters of the United States. Routine maintenance includes:

- cleaning and reshaping earthen channels;
- repair of lined channels;
- repair of erosion control structures;
- cleaning detention and debris basins, culverts and bridges;
- mechanical control and removal of vegetation;
- cleaning and repair of inlet/outlet structures;
- placing temporary fills for BMPs, and
- construction access and dewatering.

The applicant shall notify the Corps prior to the start of the project in accordance with notification procedures described in the Special Conditions section. New construction projects must offer the least-damaging practicable alternative, including mitigation when required by this General Permit.

AUTHORITY: This General Permit is issued under the authority of Section 404 of the Clean Water Act (33 USC 1344), in accordance with provisions of "Regulatory Programs of the Corps of Engineers" (33 CFR 320-330).

DEFINITIONS: For the purpose of these actions, the following definitions are applicable:

Alternatives - The applicant must demonstrate that the proposed fill into waters of the United States is unavoidable and the least environmentally-damaging practicable alternative. Where appropriate, consideration shall be given to alternative channel configurations that could accommodate restoration of native habitat and adjacent vegetated buffers and to available alternative linings such as vegetation, riprap and gabions. The applicant's chosen alternative must be feasible, considering costs, existing technology, and logistics in light of the overall project purpose, and must be designed in conformance with the *CCRFCD Hydrologic Criteria and Drainage Design Manual*.

Individual Permit - A type of standard permit that is issued following a public notice and full public interest review of the permit application, to include distribution of the public notice to all known interested persons and an evaluation of all comments and information received. Our goal is to

complete processing of a standard permit within 60 days to 120 days, unless additional time is needed to extend the comment period, to conduct a public hearing, to prepare environmental documents, or to comply with other Federal laws.

Letter of Permission - An expedited process for a standard permit, wherein a public notice is not issued and the permit decision is made within 45 days. A Letter of Permission (LOP) is used only for projects with minor impacts where the applicant performs a thorough pre-application coordination among regulatory and resource agencies.

Mitigation - Mitigation includes first, avoiding impacts, second, taking steps to minimize impacts, and lastly, compensating for any remaining unavoidable impacts to the extent appropriate and practicable. For unavoidable impacts to channels and washes, depending on the type of activity and location, this General Permit may require creation of wetland habitat or preservation of desert washes with riparian habitat. Proposals to enhance desert wash habitat as mitigation will be considered on a case-by-case basis. The applicant can elect to purchase credits/units from the Clark County-sponsored In-lieu Fee program. Alternatively, the applicant can provide mitigation without using the in-lieu program if a detailed mitigation and monitoring plan is developed by the applicant and approved by the Corps in coordination with the U.S. Fish and Wildlife Service. Such plan shall include the mitigation location and design drawings, vegetation plans, final success criteria, implementation schedule, monitoring schedule, financial assurances and a contingency plan presented in the format of the Sacramento District's *Habitat Mitigation and Monitoring Proposal Guidelines*, dated October 25, 1996. Prior to any work requiring mitigation, the mitigation plan shall be approved by the Corps or evidence of in-lieu fee purchase must be provided to the Corps.

Project - Work that is accomplished under a single contract or work that can be identified as being completed at a discrete work site and within a given time frame.

Section 14 Facility Specific Analysis - The Bureau of Land Management, in cooperation with the U.S. Army Corps of Engineers, prepared the *Clark County Regional Flood Control District Master Plan Final Environmental Impact Statement* (FEIS) (1990). This FEIS utilized a programmatic approach to identify and analyze potential impacts. In addition to containing an overall analysis of the entire CCRFCD Master Plan, it contains a procedure for a more site- and/or facility-specific impact analysis. This procedure is outlined in Section 14 of the FEIS. The Record of Decision of the CCRFCD Flood Control Master Plan FEIS requires the preparation of environmental analysis using the procedure described in Section 14 of the FEIS. A Section 14 analysis will be prepared for all new construction authorized under this General Permit for the area covered by the *Clark County Master Plan for the Las Vegas Valley*. For new construction outside of the Las Vegas Valley, a site-specific impact analysis will be prepared in accordance with the *Environmental Assessment of Flood Control Facilities in Outlying Areas of Clark County*.

Section 401 Water Quality Certification - - In accordance with Section 401 of the Clean Water Act, activities authorized by GP7 cannot violate State and Federal water quality standards. The Nevada Division of Environmental Protection, Bureau of Water Quality Planning, has certified that GP7 will comply with all pertinent water quality standards provided that the following conditions of the certification are met: (1) *Proper BMPs must be used at all times to prevent the discharge of any pollutant from any project authorized by GP7 from entering waters of the State,* (2) *GP7 permittee must acquire all necessary local, regional, state and federal permits and approvals as required by law, and* (3) *failure to meet any conditions of this 401 Water Quality Certification or the Temporary Authorization Permit (Rolling Stock/Dewatering Permit) or any other permit issued by NDEP for this project or any violation of NAC 445A may result in the revocation of this 401 Water Quality Certification.* These requirements are reiterated in Special Condition d.

Waters of the United States - Waters of the U.S. include intrastate lakes, rivers, streams, wetlands, sloughs, wet meadows, playa lakes, natural ponds, and tributaries of these waters, where their use, degradation, or destruction could affect interstate or foreign commerce. Intermittent and ephemeral streams which show a surface water connection to another jurisdictional waterbody or stream are also considered waters of the U.S.

HABITAT MITIGATION: Mitigation for unavoidable impacts will be required as follows:

New Construction (New Construction includes, but is not limited to, expanding footprint of existing facilities and lining earthen channels):

Earthen channels with year-round nuisance flow, cleared/devoid of vegetation: Creation of wetlands habitat at a 1/2:1 ratio for the filled wetted area.

Earthen channels with wetland vegetation: Creation of wetlands habitat at a 3:1 ratio for the impacted wetland area.

Dry Washes supporting native desert riparian shrubs and trees (e.g. desert willow, mesquite, etc.): Preservation of similar wash at a 1:1 ratio for each lineal foot of impacted length.

Maintenance:

Concrete-lined Channels and other concrete structures: **No mitigation required.**

Earthen Channels supporting wetlands: Project work outside of Las Vegas Beltway including outlying areas in Clark County may require mitigation for lost habitat through a case-by-case determination by the Corps. Inside the Beltway, no wetlands habitat mitigation will be required, provided adverse project impacts to wetlands are less than 2 acres.

NOTIFICATION: The applicant must submit notification to the Corps prior to initiating any work under this General Permit. For maintenance activities, notification will consist of faxing or mailing a one-page form (Appendix 2) to the Corps' St. George Regulatory Office. The notification must be received 5 days prior to the beginning of work. For projects involving new construction, notification shall follow procedures outlined in Special Condition a(1)-a(11) below and must be submitted to the St. George Regulatory Office 45 days prior to the beginning of work. If the Corps does not provide written objections, make a determination of the need for additional mitigation, or provide project-specific conditions within 5 days for maintenance activities, or 45 days for new construction, from the date the complete application was received, the work as proposed is authorized under this General Permit.

For emergency situations when work needs to be performed immediately, notification must be faxed to the St. George Regulatory Office (435-986-3981) and followed with a telephone call (435-986-3979) to verify that work may proceed under authority of this General Permit. Emergency work will require approval of the Nevada Division of Environmental Protection and other state and local jurisdictions.

All projects authorized by GP7 must comply with all applicable general and special conditions of this General Permit.

SPECIAL CONDITIONS:

1. *For new construction*, including expansion of the footprint of an existing facility and lining earthen channels, the applicant shall submit a completed and signed Department of the Army application form, **Eng Form 4345**, with a description of the proposed activity at least 45 days prior to initiation of work in waters of the United States. The project description shall include:
 - (a) volume and type of material to be placed into waters of the United States;
 - (b) total area of waters of the United States to be directly and indirectly affected;
 - (c) representative pre-construction photographs of the project site;
 - (d) a description of existing environmental resources (a Section 14 Facility-Specific Analysis or facility-specific environmental assessment can be used);
 - (e) a description of any environmental impacts that are expected to occur including a discussion of impacts to biological, ground water, and water quality functions at the project site, a description of best management practices to be used, and an evaluation of effects to Federally-listed threatened or endangered species (In part, a Section 14 Facility-Specific Analysis or facility-specific environmental assessment can be used);
 - (f) consideration of alternatives demonstrating that the proposed fill into waters of the United States is unavoidable and the least environmentally-damaging practicable alternative (in part, the facility design or alternatives summary memorandum can be used);
 - (g) dewatering plan, if applicable;
 - (h) proposed construction schedule;
 - (i) any other information pertinent to the stream channel or wash involved;

- (j) a list of all other permits and authorizations as required by law, ordinance, or regulation.
 - (k) For new construction projects affecting greater than one-half (0.5) acre of waters of the United States, including wetlands, the applicant shall send a courtesy notification package to NDEP, NDOW, USFWS, and USEPA. If agencies have comments or objections to provide, they shall provide these comments to the Corps within 20 days of receiving the project information. Notification for routine maintenance work is described in 2. below.
2. *For routine maintenance activities*, the applicant shall mail or fax a completed and signed notification form (Appendix 2) to the Corps. Upon request or when wetlands are impacted, the Corps will fax a copy of this form to the resource and regulatory agencies.
 3. *For project areas supporting habitat for migratory birds*, clearing of land (or other surface disturbance) shall be timed to avoid the bird breeding season which occurs approximately March through August. Destruction of nests with eggs or young is a violation of the Migratory Bird Treaty Act (15USC 701-718h). Under the Act, active nests of migratory birds may not be harmed, nor may migratory birds be killed.

If clearing of habitat cannot be performed outside the breeding season, a qualified biologist shall survey the area prior to land clearing. If active nests are located, or if other evidence of nesting (mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active. The applicant shall contact USFWS for additional information.

4. *For both maintenance activities and new construction*, erosion and siltation controls (Best Management Practices, BMPs) must be used and maintained throughout the construction period until all disturbed areas are stabilized. If straw bales are selected as a BMP, they shall be certified as weed free. The permittee shall submit photographs of best management practices used during construction and post-construction photographs within 30 days of project completion to demonstrate the project was constructed in accordance with the conditions of GP7.
5. A Department of the Army Individual Permit or Letter of Permission will be required for activities where the District Engineer determines that more than minimal impacts may occur as a result of the proposed work. In addition, this General Permit does not apply to work that may impact a Federal enforcement action or to work where construction is initiated prior to satisfying all the terms and conditions of this General Permit.
6. To ensure that GP7 does not result in significant direct, indirect, and cumulative adverse effects to waters of the United States, the Corps in coordination with USFWS, USEPA, NDOW, and NDEP will make yearly inspections of permitted

projects to assess the success and effectiveness of the required mitigation and to review anticipated pending construction projects and their associated mitigation. The Corps will coordinate the review with CCRFCD and will solicit the participation of the resource and regulatory agencies. **(Note that the Corps may elect to inspect a representative sample of projects in the event that an especially large number of projects are authorized within a single year.)**

7. The fill activity must be part of a single and complete project.

GENERAL CONDITIONS:

1. This General Permit is proposed to expire on **March 1, 2007**, unless modified, extended or revoked.
2. No activity is authorized which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the Corps has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the Corps if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the Corps that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places.
3. If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this General Permit, the permittee must immediately notify the Corps. The Corps 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. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for listing or which is likely to destroy or adversely modify the critical habitat of such species, as identified under the Federal Endangered Species Act (ESA). The prospective permittee shall notify the Corps if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized.
5. The permittee must maintain the activity authorized by this General Permit in good condition and in conformance with the terms and conditions of this General Permit, and is not relieved of this requirement if the permittee abandons the permitted activity, unless the permittee makes a good faith transfer to a third party. Should the permittee wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, the permittee must obtain authorization from the Corps which may require restoration of the area.

6. The permittee must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of the General Permit.
7. Limits of this authorization:
 - (a) This General Permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - (b) This General Permit does not grant any property rights or exclusive privileges.
 - (c) This General Permit does not authorize any injury to the property or rights of others.
 - (d) This General Permit does not authorize interference with any existing or proposed Federal projects.
8. Limits of Federal Liability. In issuing this General 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.

ADDITIONAL INFORMATION:

Most documents referenced in this GP are available from the Sacramento District Regulatory Program website at <http://www.spk.usace.army.mil/cespk-co/regulatory/> and Clark County Regional Flood Control District Website at <http://www.ccrfd.com>.

FOR THE DISTRICT ENGINEER:

/s/
Art Champ
Chief, Regulatory Branch
April 30, 2002

Attachment:
Appendix 1 - Agency Contact List
Appendix 2 - Faxable Notification Form

APPENDIX 1

AGENCY CONTACTS

U.S. Army Corps of Engineers

St. George Regulatory Office
321 North Mall Drive, Suite L-101
St. George, Utah 84790-7314
Phone: (435) 986-3979
Fax: (435) 986-3981
Attention: Grady McNure

U.S. Fish and Wildlife Service

Southern Nevada Field Office
701 North Torrey Pines Drive
Las Vegas, Nevada 89130
Phone: (702) 515-5230
Fax: (702) 515-5231
Attention: Dan Reinkensmeyer, Erik Orsak or Cynthia Martinez

U.S. Environmental Protection Agency

Region IX, Wetlands Section
75 Hawthorne Street
San Francisco, California 94105-3901
Phone: (415) 972-3474
Fax: (415) 947-3537
Attention: Kathleen Dadey

Nevada State Historic Preservation Office

Capitol Complex, 100 Stewart Street
Carson City, Nevada 89710
Phone: (775) 684-3448
Fax: (775) 684-3442
Attention: Rebecca Palmer

Nevada Division of Environmental Protection

Bureau of Water Quality Planning
333 West Nye Lane, Room 138
Carson City, Nevada 89706-0851
Phone: (775) 687-4670
Fax: (775) 687-6396
Attention: Glen Gentry

Nevada Division of Wildlife

Southern Region Office
4747 West Vegas Drive
Las Vegas, Nevada 89808
Phone: (702) 486-5127
Fax: (702) 486-5133
Attention: Bradley Hardenbrook

APPENDIX 2
FLOOD CONTROL FACILITY ROUTINE MAINTENANCE
GENERAL PERMIT 7 NOTIFICATION

RESPONSIBLE PARTY (PERMITTEE)

NAME:

AGENCY:

ADDRESS:

CONTACT NAME:

PHONE:

SIGNATURE: _____

PROJECT/CHANNEL/FACILITY NAME: _____

LOCATION:

FROM (Street Name)

TO (Street Name)

WORK ACTIVITY AREA:

CHANNEL LENGTH (Feet) _____ WIDTH (Feet) _____

FACILITY AREA (Acres) _____

TYPE OF MAINTENANCE (check all that apply):

___ Vegetation Clearing

___ Reshape Earthen Channel

___ Debris/Sediment Removal
sediment disposal area _____

___ Repair Lined Channel
describe _____

___ Clear/Flush Culvert & Bridges

___ Temporary Fills For Construction, Access, Dewatering & Bmp's

___ Other describe _____

ESTIMATED TIME FRAME:

Begin Date _____ End Date _____

___ Work area does not support habitat for migratory birds.

___ Work area supports habitat for migratory birds; work is timed to avoid the bird breeding season.

___ Work area supports migratory birds; biological survey has been completed and sensitive areas will be avoided.

Five days prior to starting work sign and fax this form to the U.S. Army Corps of Engineers St. George Regulatory Office, **FAX: (435) 986-3979**. Inform this office of any substantial changes from planned maintenance or any unusual events encountered. Thank you for your cooperation.