

Programmatic General Permit #10 Overview and Required Information

Matt Wilson

Senior Project Manager, Nevada-Utah
Section

Sacramento District Regulatory Program
Workshop

31 May 2018



Programmatic General Permit 10

<http://www.spk.usace.army.mil/Portals/12/documents/regulatory/gp/PGP-10/PGP-10.pdf>



Programmatic General Permit 10

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

MINIMAL IMPACT ACTIVITIES AUTHORIZED IN CONJUNCTION WITH THE STATE OF UTAH'S STREAM ALTERATION PROGRAM

EFFECTIVE: February 22, 2016
EXPIRES: February 22, 2021

The U.S. Army Corps of Engineers, Sacramento District (District), is issuing Programmatic General Permit 10 (PGP 10) for certain activities in waters of the United States (waters) that have been authorized under the State of Utah's Stream Alteration Program. An activity is verified under PGP 10 when the Utah State Engineer issues a Stream Alteration Permit in compliance with state law and the Corps has determined it meets the terms and conditions of this general permit.

ISSUING OFFICE: U.S. Army Corps of Engineers, Sacramento District

ACTION ID: SPK-2002-50464

AUTHORITIES: This permit covers activities under Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Under Section 404, the Corps authorizes the discharge of dredged or fill material into waters of the U.S. Work or structures in or affecting navigable waters are permitted by the Corps under Section 10.

Purpose: This permit is designed to eliminate duplication and expedite authorization of the activities that fall under the Corps' Regulatory Program that have been authorized through a Stream Alteration Permit.


The Stream Alteration Program was implemented by the State of Utah in 1972 to protect the natural resource value of the State's streams and protect the water rights and recreational opportunities associated with them. Section 73-3-29 of the Utah Code requires any person, governmental agency, or other organizations proposing to alter the bed or banks of a natural stream to obtain written authorization from the State Engineer prior to beginning work.

This permit applies to perennial, intermittent and ephemeral streams that are considered to be part of the surface tributary system over which the Utah State Engineer has regulatory authority under the Stream Alteration Program. Limits of the State of Utah's jurisdiction are defined in Administrative Rule R855-13.

U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Sacramento, CA 95814-2922
www.spk.usace.army.mil/Missions/regulatory.aspx

**SACRAMENTO DISTRICT**
US Army Corps of Engineers
Search Sacramento District

HOME > MISSIONS > REGULATORY



How To...
Navigate Our Website

Useful Links



- Public Notices
- Regulatory Program Workshops
- Jurisdiction
- Aquatic Resources Delineation
- General Permits**
- Nationwide Permits
- Letters of Permission
- Individual Permits
- Mitigation
- Endangered Species
- Cultural Resources
- Tribal Consultation

The Regulatory Program Mission

The Department of the Army's Regulatory Program is one of the oldest in the federal government. Initially, it served a simple purpose: to protect and maintain the navigable capacity of the nation's waters. Changing public needs, evolving policy, court decisions and new statutory mandates have changed several aspects of the program including its breadth, complexity and authority.

The U.S. Army Corps of Engineers, through the Regulatory Program, administers and enforces Section 10 of the Rivers and Harbors Act of 1899 (RHA) and Section 404 of the Clean Water Act (CWA). Under RHA Section 10, a permit is required for work or structures in, over or under navigable waters of the United States. Under CWA Section 404, a permit is required for the discharge of dredged or fill material into waters of the United States. Many waterbodies and wetlands in the nation are waters of the United States and are subject to the Corps' regulatory authority.

The Regulatory Program is committed to protecting the Nation's aquatic resources and navigation capacity, while allowing reasonable development through fair and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands.





BUILDING STRONG®

PGP10: Overview

- Minimal impact activities authorized in conjunction with the State of Utah's stream alteration program, which is administered by the Utah Division of Water Rights (UDWR);
- Purpose: Eliminate regulatory duplication, streamline permitting for activities that must also be authorized through a state stream alteration permit.
- Originally issued in 1987 (as PGP40);
- Last issued in 2016, current PGP10 valid through February, 2021



PGP10: Applicability

- PGP10 applies to perennial, intermittent and ephemeral streams;
- Activities covered under this permit are those that have a minimal impact, individually and cumulatively, on the aquatic environment.
- Examples of potentially-covered activities include:
 - culvert installation/extension, bridges, low water crossings, utility crossings, bank stabilization, linear transportation projects, diversion structures, outfall structures, boat ramps, docks, commercial and residential construction, flood control facilities, etc...



PGP10: Exclusions

- PGP10 does not authorize the following:
 - ▶ discharges of dredged or fill material into special aquatic sites, such as wetlands, springs, fens, riffle/pool complexes, etc.
 - ▶ relocation of streams, including channelization and realignment of natural channels;
 - ▶ activities in waters of the U.S. on Tribal land;
 - ▶ activities conducted under emergency situations.



PGP10: Limitations

- ▶ Activity must be a single and complete project
- ▶ For activities in perennial and intermittent waters, no more than 300 linear feet may be impacted (up to 500 linear feet with bioengineering).
- ▶ For activities in ephemeral waters that are under the purview of the State of Utah, no more than 500 linear feet may be impacted (up to 750 linear feet with bioengineering).
- ▶ No limitation on stream restoration and/or enhancement activities, provided that the project will result in an increase in functions and services provided by the stream channel.
- ▶ Cannot adversely affect listed species or historic properties.



PGP10: Resources

- Where to find the PGP10 permit document?
 - ▶ <http://www.spk.usace.army.mil/Missions/Regulatory.aspx>
- Where to find the PGP 10 application form?
 - ▶ <https://waterrights.utah.gov/strmalt/JointPermitApplication.pdf>
- PGP10 applications should be submitted to the Utah Division of Water Rights (UDWR) (filing instructions are included on the Joint Application Form)



PGP10: Corps Review Process

- UDWR Transmits PGP10 for agency review and comment;
- Corps review will generally result in 1 of 3 possible outcomes:
 - ▶ Activity authorized under PGP10
 - ▶ Activity not authorized under PGP10
 - ▶ Activity *may be* authorized under PGP10, but additional information is needed.



PGP10: Corps Review Process

- Main aspects of Corps review include:
 - ▶ Does the activity meet the PGP10 terms and conditions?
 - ▶ Could the activity adversely affect listed species?
 - ▶ Could the activity adversely affect historic properties?



BUILDING STRONG®

PGP10: Corps Review Process

- The Corps will generally notify the UDWR of its determination within 15 days of receipt of a *complete* application.
 - ▶ **Eligible for PGP10:** The Corps will notify UDWR that the project is eligible and the Section 404 *permitting* process is complete. Permittees are then responsible for compliance with the PGP10 terms and conditions.
 - ▶ **Not eligible for PGP10:** The Corps will notify UDWR that the project is not eligible. Another form of Section 404 authorization will be needed.
 - ▶ **Additional information needed to determine eligibility for PGP10:** The Corps will notify UDWR of the additional information needed to make an eligibility determination.



PGP10: Common Reasons for Project Ineligibility

- Impacts exceed PGP10 thresholds/impacts not minimal;
- Associated impacts to wetlands/special aquatic sites;
- May adversely affect listed species or historic properties;
- Activity involves stream relocation;
- Activity is an emergency project;
- Activity requires mitigation to offset impacts;
- Activity is on Tribal lands;
- Activity already covered by another form of Section 404 authorization;



PGP10: Common Applicant Omissions

- Activity does not meet PGP10 terms and conditions;
- Project is in area with listed species;
- **Notification Procedures Information missing/lacking;**



BUILDING STRONG®

PGP10: Notification Procedures

Page 3 Programmatic General Permit 10

of NWP authorization. However, individual channels in a braided stream or river are not separate waterbodies, and crossings of such features cannot be considered separately.

Activities not meeting the terms and conditions of this permit may be authorized through an alternate form of Department of Army (DA) authorization, such as a Nationwide 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.

Notification Procedures: Applicants must submit a joint application form developed by the State Engineer and the Corps when applying for a Stream Alteration Permit and notification under this general permit. Although not required, the Corps highly recommends a pre-application meeting with both agencies and the applicant. The joint application form and instructions may be obtained from either agency. To be determined completed for processing, the application must include the following:

- a. Completed Joint Permit Application Form;
- b. A vicinity map that clearly identifies the location of the proposed project site on a USGS topographic map (7.5 minute quadrangle map is recommended) with enough detail to easily locate the site and a recent aerial/satellite image of the site;
- c. Plan and cross-sectional view drawings showing all work requiring a permit, including fills, structures, borrow sites, staging areas and storage areas. The drawings must clearly demarcate the ordinary high water mark of the U.S. to be impacted and clearly illustrate where fill will be placed below the ordinary high water mark. Professional drawings are not required; however, drawings must be scaled or indicate dimensions of the work to be completed;
- d. A restoration plan for any areas temporarily disturbed during work, including re-contouring, re-vegetation with appropriate native plants;
- e. Ground photos which clearly show the area of the stream to be impacted as well as photos of the borrow sites, staging areas and storage areas along the bank of the river which show the vegetation in those areas. Photos of the bank are used to help determine the presence/absence of wetlands and other special aquatic sites adjacent to the river, as such, photos showing snow covered ground will not be accepted.
- f. If the activity involves bank stabilization or protection:
 - A description of the need for the work, including the cause of the erosion and the threat posed to structures, infrastructure, and/or public safety;
 - A narrative demonstrating the proposed activity incorporates the least damaging bank protection methods. These methods include, but are not limited to, the use of bioengineering, biotechnical design, root wads, large

U.S. Army Corps of Engineers, Sacramento District
1325 J Street Sacramento, CA 95814-2922
<http://www.spk.usace.army.mil/organizations/ceespk-co/regulatory/index.html>

Page 4 Programmatic General Permit 10

woody debris and native plantings. If rock must be used due to site erosion conditions, explain how the bank stabilization structure incorporates elements beneficial to aquatic organisms;

- A planting plan which involves the use of native riparian plants, unless the applicant demonstrates it is not appropriate or not practicable.

Note: Activities which would harden and/or narrow the channel beyond what would be required for bank stabilization in natural channels are not authorized if the activity would have the potential to result in more than minimal impacts.

- g. An assessment of the likely impact the work would have on upstream, downstream and cross-stream properties. Specifically, discuss the following:
 - Will the activity accelerate deposition or erosion?
 - Will the activity involve relocation, channelization or realignment of a natural stream channel?
 - Will the activity result in a shift in the main flow patterns?

The completed joint application form and the information above must be submitted to Utah State Engineer's Office.

Once a complete application has been received, the State Engineer will circulate copies to federal and states agencies as a public notice of the proposed work. Copies will be sent to the Corps, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, Utah Division of Wildlife Resources, Utah Division of Water Quality and local agencies. The State Engineer will allow at least 20 days for review and comment. The State Engineer will notify the Corps of any application that generates considerable public interest or opposition.

The Corps will review each application to determine whether the activity complies with the terms and conditions of this permit. The Corps must also ensure compliance with related laws including Section 7 of the federal Endangered Species Act and Section 106 of the National Historic Preservation Act.

For an activity to be authorized under this permit, the Corps must find the activity has no effect or, with the concurrence of the U.S. Fish and Wildlife Service (USFWS), the activity is not likely to adversely affect listed species or modify critical habitat. If USFWS requires additional conservation measures to concur that a project is not likely to adversely affect listed species or habitat, the activity may need to be authorized under another type of Corps permit. If the activity is likely to adversely affect listed species or modify critical habitat then the activity will require an alternate form of Department of Army (DA) authorization, such as a Nationwide Permit.

The Corps must ensure compliance with Section 106 of the National Historic Preservation Act.

U.S. Army Corps of Engineers, Sacramento District
1325 J Street Sacramento, CA 95814-2922
<http://www.spk.usace.army.mil/organizations/ceespk-co/regulatory/index.html>



BUILDING STRONG®

PGP10: Joint Application Form

JOINT PERMIT APPLICATION FORM				
U.S. ARMY CORPS OF ENGINEERS - FOR SECTIONS 404 AND 10				
UTAH STATE ENGINEER'S OFFICE - FOR NATURAL STREAM CHANNELS				
Application Number (assigned by):		State Engineer		
Applicant's Name (Last, First M.I. or entity if not an individual)		Authorized Applicant Representative (if any)		Applicant's Telephone Number and Area Code
Applicant's Address (Street, RFD, Box, Number, City, State, Zip)				Representative's Telephone Number and Area Code
PROJECT LOCATION				
Quarter Section(s)	Section	Township	Range	Base & Meridian
County	Associated Watercourse or Watercourse to be Altered		Check <input type="checkbox"/> Within City Limits <input type="checkbox"/> Outside City Limits List town or project town:	
Project location or address:				
Brief description of project including methods and equipment to be employed to complete the work:				
Purpose (justification) of project:				
Is this a single and complete project or is part of a larger project, continuing project, or other related activities? If so, please describe the larger project or other related activities:				
If project included the discharge of dredged or fill material into a watercourse or wetland:				
Cubic yards of material:				
Acreage or square footage of waters of the United States affected by the project:				
Source and type of fill material:				
Length of stream that will be impacted below ordinary high water elevation:				

Stream Alterations

Alternatives (other ways to accomplish project purpose):	
Describe any proposed mitigation to offset impacts to the stream channel:	
Cultural resource impacts: Are you aware of any cultural resources or any historic properties that will be impacted by the proposed project? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, please explain:	
Has a cultural resource survey been conducted on the property where the proposed project is to occur? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, please briefly explain the survey results:	
List other authorizations required by Federal, state, or local governments (i.e. National Flood Insurance Program), and the status of those authorizations:	
Estimated starting date of project:	Estimated completion date:

Please complete the following checklist

Failure to indicate that all pertinent information has been submitted will result in your application being returned.

- ☐ Appropriate application processing fee payment (see fee schedule below).
- ☐ A clear site location map with enough detail to easily find the site, a recent aerial/satellite image of the site, and a USGS topography map (7.5 minute quadrangle map is recommended).
- ☐ Plan view and cross-sectional drawings showing all work requiring a permit, including fills, structures, borrow sites, staging areas and storage areas. The drawings must clearly demarcate the ordinary high water mark of the waters of the U.S. to be impacted and clearly illustrate where fill will be placed below the ordinary high water mark. Professional drawings are not required; however, drawings must be scaled or indicate dimensions of the work to be completed.
- ☐ A restoration plan for any areas temporarily disturbed during work, including re-contouring, revegetation with appropriate native plants and maintenance and monitoring to ensure success for the restored area.
- ☐ Ground photographs taken from various locations of the proposed disturbance area.
- ☐ Please check the box if the proposed project involves bank stabilization or protection. If so, please complete the following:
 - ☐ A description of the need for the work, including the cause of the erosion and the threat posed to structures, infrastructure, and/or public safety.
 - ☐ A narrative demonstrating the proposed activity incorporates the least damaging bank protection methods. These methods include, but are not limited to, the use of bioengineering, biotechnical design, root wads, large

Stream Alterations



BUILDING STRONG®

PGP10: Required Information

- Applicant contact information;
- Project location;
- Project description (be specific and be thorough);
- Project purpose;
- Single and complete project?
- Description of proposed fill (including fill volume, area filled);



PGP10: Required Information

- Alternatives considered;
- Proposed mitigation;
- Cultural resources information;
- Other government authorizations required;
- Project schedule;



BUILDING STRONG®

PGP10: Required Information – Checklist Items (Most Commonly Deficient)

- Vicinity Map;
- Plan view and cross-section, showing the ordinary high water mark (OHWM);
- Area of fill below the OHWM (acres or square feet);
- Restoration plan for temporarily disturbed areas;
 - ▶ Timing, types of plants, ecological target, objectives, success criteria;



PGP10: Required Information – Checklist Items (Most Commonly Deficient)

- Ground photos (needed to document that there would be no wetland impacts);
- If bank stabilization:
 - ▶ Demonstration of need for the work, including the cause of the erosion and the threat posed to structures, infrastructure, and/or public safety;
 - ▶ Narrative demonstrating that the activity incorporates the least damaging bank protection methods;
 - ▶ A planting plan which involves the use of native riparian plants, unless the applicant demonstrates that it is not appropriate or practicable.



PGP10: Permit Conditions

- Upon authorization, permittees are responsible for adherence to the 23 PGP10 general conditions.
- General conditions are on pages 5-8 of the PGP10;
- Read the permit and understand and adhere to all conditions!



BUILDING STRONG®

PGP10: Permit Conditions Overview

- **GC2:** Avoid destruction of riparian vegetation, if riparian clearing is unavoidable, then timing of clearing shall be outside of critical breeding/nesting season;
- **GC4:** No activity may substantially disrupt the movements of indigenous aquatic life, unless the activity's primary purpose is to impound water;
- **GC6:** Destruction of riparian vegetation avoided. Disturbed areas replanted at a minimum 1:1 ratio;
- **GC9:** Must also follow the Section 401 certification conditions: 1) BMPs, 2) notification to Utah Division of Water Quality in streams listed on 303(d) list or with established TMDLs, 3) maintain shade on class 3A streams, and 4) work on class 1C streams must notify drinking water intakes.



PGP10: Permit Conditions Overview

- **GC10:** Fill material must be clean;
- **GC13:** Machinery must be kept out of stream channel to maximum extent possible;
- **GC14:** Fill must not impair flows into/ or out of adjacent wetlands;
- **GC16:** Timing requirements to work in low flow/no flow conditions;
- **GC17:** Culvert installation requirements;
- **GC20:** Compliance certification to the Corps is required;
- **GC21:** Corps is granted right of entry for inspection;
- **GC22:** Permittee is responsible for maintaining the activity in good condition;



PGP10: Summary

- The purpose of PGP10 is to eliminate duplication and streamline permitting;
- In order to work effectively, required information must be provided;
- The checklist information on the bottom of the joint application form is the most commonly missing information;
- Permittee's must read, understand, and adhere to the PGP10 terms and conditions;
- Compliance with the PGP10 terms and conditions is mandatory for authorized projects;



BUILDING STRONG®

Questions?



BUILDING STRONG®