



# 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, 2021

**EXPIRES:** February 22, 2026

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The U.S. Army Corps of Engineers (Corps), Sacramento District, is issuing Programmatic General Permit 10 (PGP 10) for certain activities in waters of the U.S. (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. Work or structures in, or affecting, navigable waters are authorized by the Corps under Section 10.

**LOCATION:** This PGP authorizes activities in streams that are considered to be part of the surface tributary system over which the Utah State Engineer has regulatory authority under the Utah Division of Water Rights' Stream Alteration Program. Limits of the State of Utah's jurisdiction are defined in Administrative Rule R655-13.

**ACTIVITIES COVERED:** PGP 10 authorizes structures or work in navigable waters and/or the discharge of dredged or fill material into waters for activities that have been authorized by the Utah State Engineer through a Stream Alteration Permit. These activities include, but are not limited to, culvert installation and extension, bridges, low water crossings, utility line crossings, bank stabilization, linear transportation projects, diversion structures, outfall structures, boat ramps, docks, commercial and residential construction, flood control facilities and maintenance of previously permitted activities that are located in waters subject to jurisdiction under Section 10 and/or are not exempt under Section 404.

**TERMS:**

1. Thresholds: The discharge of dredged and/or fill material into streams is limited to no more than 300 linear feet below the ordinary high water mark of a stream.

2. Avoidance and Minimization: Impacts to waters shall be avoided and minimized to the maximum extent practicable.

3. With the exception of stream restoration activities as identified in Term 4, this permit does not authorize the discharge of dredged or fill material into special aquatic sites such as wetlands, springs and riffle/pool complexes. Activities involving discharges of dredged or fill material in special aquatic sites would require an alternate form of Department of Army (DA) authorization.

4. Stream restoration activities located in riffle/pool complexes are authorized under this general permit. 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 coarse 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. Pools are characterized by a slower stream velocity, a steaming flow, a smooth surface, and a finer substrate. Riffle and pool complexes are particularly valuable habitat for fish and wildlife.

5. This permit does not authorize the relocation of streams, including channelization, realignment or piping of natural channels, with the exception of relocation for the purposes of restoration to a more natural condition, where there is an increase in functions and services of the stream environment.

6. Projects requiring compensatory mitigation to offset the adverse impacts are not authorized under this PGP.

7. Projects proposed in the proximity of a public water supply intake, are not authorized under this PGP, except where the activity is for the maintenance, repair or replacement of the intake structure or for adjacent bank stabilization.

8. This permit does not authorize any activities in waters undertaken on tribal lands or activities conducted under emergency situations. These activities require an alternate form of DA authorization, such as a Nationwide or other General Permit.

9. Section 7 of the Endangered Species Act of 1973 (ESA): Unless another federal agency has completed the process to demonstrate compliance with Section 7 of the ESA for impacts related to the project, this PGP may not be used to authorize activities that may affect federally-listed species or for projects in sections of the Green River, Virgin River, Provo River, and Colorado River that have been designated as critical habitat under the ESA.

10. Section 106 of the National Historic Preservation Act of 1966 (NHPA): Unless another federal agency has completed the process to demonstrate compliance with Section 106 of the NHPA for impacts related to the project, this PGP may not be used to authorize activities that may affect historic properties.

11. After-the-fact authorizations: This PGP may not be used to authorize activities for any work that has already occurred in waters.

12. Authorizations subject to Corps Civil Works Section 408 projects: This PGP may not be used to authorize activities that require authorization under 33 USC 408 (Section 408) to alter or temporarily or permanently occupy or use a Corps' federally-authorized Civil Works projects. This includes work in the Surplus Canal in Salt Lake County and in Kays Creek in Davis County.

13. Modifications: PGP verifications cannot be modified. If the work authorized under a PGP verification changes, a new application must be submitted for the work.

14. Single and Complete: The activity must be a single and complete project as defined in Section F of the January 6, 2017, Federal Register Notice for Issuance and Reissuance of Nationwide Permits; Final Rule (82 FR 1860), which can be found at:

<https://www.govinfo.gov/content/pkg/FR-2017-01-06/pdf/2016-31355.pdf>

15. Discretionary Authority: The Corps has the discretion to suspend, modify, or revoke authorizations under this PGP. This discretionary authority may be used by the Corps to further condition or restrict the applicability of the PGP for cases in which it has concerns associated with the Clean Water Act Section 404(b)(1) Guidelines, or regarding any factor of the public interest. Should the Corps determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to waters or otherwise be contrary to the public interest, the Corps will modify the authorization to reduce or eliminate those adverse effects, or notify the project applicant that the proposed activity is not authorized by the PGP and provide instructions on how to apply for authorization under another type of DA permit. 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, Regional General Permit, Letter of Permission or Standard Permit. The Corps will determine on a case-by-case basis, as needed, 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 restore authorization under the PGP at any time it determines the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information. The Corps may also use its discretionary authority to modify, suspend, or revoke the PGP at any time.

### **GENERAL CONDITIONS:**

1. The permittee must avoid activities in waters that serve as breeding areas for migratory to the maximum extent practicable.
2. The permittee may not engage in activities in waters that may result in the take, possession, sale, purchase, barter or transport of any bald or golden eagle, alive or dead, or any part, nest, or egg thereof. The permittee shall avoid the destruction of riparian vegetation, especially mature cottonwoods, to the maximum extent practicable. Unavoidable vegetation clearing and surface disturbance shall be conducted outside critical breeding, nesting, and fledging seasons. Locations of existing bald and golden eagle nests should be identified prior to the initiation of activities. Appropriate spatial buffer zones of inactivity should be established during crucial breeding and nesting periods relative to eagle nest sites or territories. Arrival at nesting sites can occur as early as December. Nesting and fledging can continue through August.
3. The project shall not substantially disrupt the movements of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area.

4. The permittee shall avoid activities in spawning areas during the spawning season to the maximum extent practicable. Activities that would result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
5. The permittee shall avoid destruction of riparian or riverine vegetation within waters, especially mature cottonwoods, to the maximum extent practicable and all disturbed areas must be restored to pre-disturbance levels. When work authorized by this permit causes damage to riparian vegetation that is not directly covered by a permanent feature, these scarred areas shall be replanted with a mixture of native trees, shrubs, forbs and grasses, as appropriate. At a minimum, replanting an area at a 1:1 ratio will be required. The permittee is ultimately responsible for re-vegetation success.
6. The permittee shall design all bank stabilization activities using bio-engineering techniques to the maximum extent practicable, unless the Corps determines it to not be practicable.
7. The permittee must stop all work if any previously unknown historic properties, archaeological artifacts, or remains are identified during the completion of authorized work, and the permittee must immediately notify the Corps. The Corps will initiate the federal coordination procedures required to determine if the remains or cultural resources warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Work may not resume until the Corps has completed the process to comply with the appropriate laws and regulations.
8. The permittee shall ensure all activities satisfy all conditions of the Section 401 water quality certification issued for this permit by the Utah Division of Water Quality.
9. The permittee is responsible for all authorized work and ensuring that all contractors and workers are made aware of and adhere to the terms and conditions of the permit authorization. The permittee shall ensure that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all installation activities are completed.
10. Fill material must be clean and free of contaminants and noxious plants. Fresh cement or concrete is not allowed in waters unless it is placed in sealed forms. Unsuitable fill material includes vehicle bodies, farm machinery, appliances and other metal objects, asphalt, biodegradable construction debris and tires.
11. The permittee is responsible for ensuring all construction equipment be cleaned to remove noxious weeds/seeds and petroleum products prior to moving on site. Machinery shall be fueled outside of the channel to prevent spillage into waterways. Best management practices shall be used to ensure construction related byproducts do not enter the riverine ecosystem and have negative effects on aquatic organisms.
12. The permittee shall not use heavy equipment within the stream channel, except where the Corps determines it is necessary.
13. The permittee must ensure that material is not be placed in any location or manner which will impair surface water flows into or out of any adjacent wetlands.

14. The permittee is responsible for ensuring construction Best Management Practices are implemented to minimize sedimentation inputs to river systems resulting from stream bed disturbance by storing excavated material outside of the stream channel. 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.
15. Work in waters shall only be conducted during periods of low or no flow, unless the applicant demonstrates the proposed work during higher flows is necessary and would not result in more than minimal impacts, or that this condition is otherwise not appropriate or practicable. The Corps will make this determination on a case by case basis. In situations where work must occur in water, a dewatering plan will be required with the application.
16. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters shall be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity shall 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). Culverts placed in streams must be installed in a manner that maintains flows during low flow periods, and in a manner that maintains fish passage in locations where periodic flows provide stream connectivity and allow fish movement above and below the installed structure.
17. All temporary fills must be removed in their entirety within 30 days after completion of the permitted action and the affected areas returned to their pre-existing elevations.
18. Within 30 days of completion of the permitted work, the permittee must submit the following information to the Corps and State Engineer:
  - a. The permittee's name, address, telephone number and email address;
  - b. The Stream Alteration Permit number and Corps Action ID;
  - c. A statement that the authorized work was done in accordance with the Stream Alteration Permit and PGP 10 including special conditions added to the verification; and
  - d. The signature of the permittee certifying the completion of the work and mitigation.
19. 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.
20. Any activity authorized by this permit must be maintained in good condition and in conformance with the terms and conditions of this permit.

21. For activities authorized through this permit under Section 10 of the Rivers and Harbors Act of 1899, the permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps 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.
22. If the permittee sells the property associated with this PGP verification, the permittee may transfer the permit verification to the new owner by submitting a letter to the Corps office to validate the transfer. A copy of the PGP verification and new landowner information must be attached to the letter requesting transfer.

### **PRE-CONSTRUCTION NOTIFICATION PROCEDURES:**

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

1. Completed Joint Permit Checklist is located at <https://waterrights.utah.gov/strmalt/forms.asp>;
2. 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;
3. Plan and cross-sectional view drawings showing all work requiring a permit, including permanent and temporary fills, structures, borrow sites, staging areas and storage areas. The drawings must clearly demarcate the ordinary high water mark of the waters 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. The ordinary high water mark is the line on the bank established by fluctuations of water and indicated by physical characteristics such as shelving, destruction of terrestrial vegetation, presence of litter or debris, or changes in the character of soil (see Figures 4, 5, and 6 in the permit application instructions).
4. A restoration plan for any areas temporarily disturbed during work, including removal of fills, re-contouring, re-vegetation with appropriate native plants;
5. Ground photos which clearly show the area of the stream to be impacted, as well as photos of the disturbance areas such as 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.

6. 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 woody debris and native plantings. If only rock is to be used due to site erosion conditions, explain why bio-engineering is not practicable and provide information indicating 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.

7. An assessment of the likely impact the work would have on upstream, downstream and cross-stream properties. Specifically, discuss the following:

- Will the work speed up accumulation (deposition) or result in the loss (erosion) of sediments?
- Will the activity result in the relocation, straightening, or rearrangement of a natural stream channel?
- Will the activity result in the amount of water flowing in the stream and/or a change in the way water moves within the stream?

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

1. Once a complete checklist 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, US Fish and Wildlife Service (FWS), U.S. Environmental Protection Agency (EPA), 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 checklist that generates considerable public interest or opposition.

2. The Corps will review each checklist to determine whether the activity complies with the terms and conditions of this permit.

a. The Corps must also ensure compliance with related laws including Section 7 of the ESA. For an activity to be authorized under this permit, the Corps must find the activity has no effect on federally-listed species or modify critical habitat. If the activity may affect listed species or modify critical habitat then the activity will require an alternate form of DA authorization, such as a Nationwide Permit, unless another federal agency has previously demonstrated compliance with Section 7 of the ESA. In such instances, the Corps may adopt the determinations of that agency and continue processing the PGP 10 application.

b. The Corps must ensure compliance with Section 106 of the NHPA for each activity to be authorized under this permit. Activities that may result in adverse effects to sites listed, or sites eligible for listing, on the National Register of Historic Places will not be authorized under this permit. Should any such impacts be identified, the Corps will request, after any necessary coordination with the State Historic Preservation Office, to suspend processing of the application while the applicant considers ways of modifying the proposal to address the identified concerns, unless another federal agency has previously demonstrated compliance with Section 106 of the NHPA. In such instances, the Corps may adopt the determinations of that agency and continue processing the PGP 10 application.

c. Should a specific activity be found to not meet the terms and conditions of this permit or have impacts that are more than minimal, the Corps will notify the State and the applicant of one of the following:

(1) The activity does not qualify for authorization under PGP 10, with instruction on the procedures to seek authorization under a different type of permit; or

(2) The activity might be authorized under PGP 10 with certain modifications. In such cases, a revised application would need to be submitted.

**Further Information:**

1. This permit does not obviate the need to obtain any other required federal, state or local authorizations.
2. This permit does not grant any property rights or exclusive privileges nor do they authorize injury to the property or the rights of others.
3. This permit does not convey the right to interfere with any existing or future federal project.
4. In issuing authorizations under this permit, the Federal Government does not assume any liability for the following: damages to authorized projects, or uses thereof, as a result of other permitted or un-permitted activities or natural events; damages to persons or property caused by authorized activity; damages to authorized projects, or uses thereof, as a result of current or future activities undertaken by or on behalf of the United States in the public interest; design or construction deficiencies associated with the authorized work; damage claims associated with any modification, suspension or revocation of individual authorizations.
5. In issuing authorizations under this permit, the Corps must rely on information supplied by the applicant. Should it be determined that any authorization was based on false, incomplete or inaccurate data, the Corps reserves the right to re-evaluate the case and to suspend, modify or revoke the authorization. Failure to comply with the terms and conditions of an authorization is also grounds for suspension, modification or revocation, as is the discovery of relevant information not considered in the initial application review.



**Permit Duration:** This General Permit expires 5 years from the date of issuance. 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 General Permit expires. In the event that this General Permit 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.

**CONTACTS AND ADDITIONAL INFORMATION:**

For additional information or questions about PGP 10, please contact:

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U.S. Army Corps of Engineers, Sacramento District  
Utah Regulatory Office  
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Bountiful, Utah 84010-7744  
(801) 295-8380

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

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Michael S. Jewell  
Chief, Regulatory Division

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Date