

**US Army Corps
of Engineers.**

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NO. 96

Routine Transportation Activities ARIZONA

A. General Information

The District Engineer, Los Angeles District, U. S. Army Corps of Engineers hereby reissues Regional General Permit (RGP) No. 96.

Permittee: RGP 96 applies to Arizona statewide Waters of the U.S. (Waters), occurring within Arizona Department of Transportation (ADOT) right-of-way or easement (including temporary construction easements) (ADOT ROW/EASEMENT) through non-tribal lands and Local Public Agency projects federally funded by Federal Highway Administration (FHWA) that are bid and administered by ADOT (LPA ROW/EASEMENT). Projects that require the acquisition of minor amounts of new ROW or easement directly adjacent to existing ADOT ROW/EASEMENT or LPA ROW/EASEMENT are authorized by this RGP; however, this RGP does not authorize the construction of new alignments or when the activities have been evaluated under an Environmental Impact Statement that was prepared as a part of the National Environmental Policy Act (NEPA) process.

Permit Number: SPL-2014-00625

Issuing Office: Los Angeles District

Effective Date: May 6, 2021

Expiration Date: May 6, 2026

Introduction: This RGP affords ADOT a means to accomplish categories of activities that are similar in nature and cause minimal individual and cumulative impacts to the aquatic environment while eliminating unnecessary duplication of regulatory control. Certain activities required for crossings of Waters that impact 1 acre or less of Waters, or 0.025 acre or less of special aquatic sites would be eligible for this RGP. For projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of RGP authorization. This RGP recognizes ADOT's assumption of responsibility from the Federal Highway Administration (FHWA) for environmental reviews, consultations, and other actions required by applicable Federal laws on certain projects that are Federally Funded.

Project Location: Arizona statewide Waters, occurring within ADOT ROW/EASEMENT through non-tribal lands and LPA ROW/EASEMENT.

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B. Activities Covered by the Regional General Permit

This RGP authorizes the following with the associated limitations and requirements (see Notification Requirements in Section D for definitions):

AUTHORIZED ACTIVITIES	NON-NOTIFICATION	PRE-CONSTRUCTION NOTIFICATION
Maintain Structure - repair or replacement of an existing structure or fill.	<p>These activities do not have acreage threshold requirements for notification. However, maximum impact thresholds for authorization under this RGP would apply (See Section C).</p> <p>Other notification requirements may apply in the following situations:</p> <ul style="list-style-type: none"> • Permanent impacts to intermittent waters • Permanent impacts to perennial waters • Special Aquatic Sites (wetlands) • Proximity to Impaired Waters or Outstanding Arizona Waters (OAWs) • Endangered Species Act (ESA) • National Historic Preservation Act (NHPA) <p>Refer to the Notification Requirements in Section D below to determine if pre-construction notification (PCN) is required.</p>	
Sediment/Debris Removal – no greater than 200 linear feet from structure		
Erosion Repair - fill placed within 100 linear feet of structure		
Emergency Activity – repairs must occur within 3 years of the damage caused by a discrete event		
Geotechnical Activities*	Less than 4 samples in each Waters and sampling holes less than 3-feet in diameter and total impacts (i.e. temporary and permanent) less than 0.10 acre (including impacts from access)	Greater than 4 samples and/or 0.10 acre or greater of total impacts (i.e. temporary and permanent) in each Waters and sampling holes greater than 3-feet in diameter, up to 1 acre of total impacts to each Waters (including impacts from access)
Bed Stabilization* - Stream bed stabilization of an existing structure or fill.	Less than 0.10 acre of total impacts (i.e. temporary and permanent) to each Waters	Greater than 0.10 acre up to 1 acre of total impacts (i.e. temporary and permanent) to each Waters
Bank Stabilization* – Permeable Bank Stabilization Methods	Equal to and less than 1,000 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the ordinary high water mark (OHWM)	Greater than 1,000 linear feet up to 3,000 linear feet total impact or greater than 2 cubic yards of material per running foot below the OHWM
Bank Stabilization* – Impermeable Bank Stabilization Methods	Equal to and less than 600 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the OHWM	Greater than 600 linear feet up to 2400 linear feet total impact or greater than 2 cubic yards of material per running foot below the OHWM
Routine Linear Transportation Projects*	Less than 0.10 acre permanent impact to each Waters	Greater than 0.10 acre up to 1 acre permanent impact to each Waters

* In addition to threshold exceedance, these activities may require notification due to impacts associated with ESA or NHPA; impacts to special aquatic sites, impaired Waters, or OAWs; and permanent impacts to intermittent and perennial Waters. Refer to Section D for notification requirements.

The following activities do not have acreage threshold requirements for notification. Refer to the Notification Requirements in Section D below to determine if PCN is required. Impact limitations apply to all projects authorized by this RGP; refer to Maximum Impacts in Section C below.

Maintain Structure – Repair or replacement of an existing structure or fill

Activities include the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill to maintain the structural integrity and operational capacity of the previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, for adequate drainage, flood hazard reduction, and overall public safety. For the purposes of this RGP, currently serviceable structure or fill is defined as an existing structure and its associated fill. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Because these activities would primarily occur on previously authorized structures or fill, loss of Waters are not anticipated with this activity.

Maintenance activities that include only the cutting and removal of vegetation above the ground (e.g., mowing, rotary cutting, chain sawing, etc.), where the activity does not substantially disturb the root system and does not involve mechanized pushing, dragging, or a similar activity that would redeposit soil, are not regulated activities under Section 404 of the Clean Water Act; therefore notification to the Corps Regulatory Division for these activities is not required.

Sediment/Debris Removal

Activities include removal of sediment, debris, woody and herbaceous vegetation, and other obstructions in the vicinity of existing structures which compromise the integrity of the structure and/or impede flows. This activity can be used to re-establish design flow carrying capacity in a watercourse for public safety when flow events do not sufficiently flush those materials completely through the system, which may result in flooding or erosion of adjacent property. Sediment/debris removal may be achieved using a hydrovac system or mechanical equipment (e.g. dozer, backhoe, blade, etc.). The activity shall occur within ADOT ROW/EASEMENT and/or LPA ROW/EASEMENT but no greater than 200 linear feet upstream or downstream of the existing structure. Removed materials shall be removed from the watercourse to an upland site.

Erosion Repair

Activities include the removal of accumulated sediment (i.e. fill material) from eroded uplands and/or bank to be utilized for repairing erosion cuts in the banks or bed of Waters. Accumulated sediments used to repair erosion damage in Waters must be placed within 100 feet from where the accumulated sediment is originally removed within Waters. The use of the accumulated sediments to repair erosion damage must occur simultaneously with removal activities and accumulated sediments may only be temporarily stockpiled in the channel while removal/replacement activities are concurrently occurring. All excess material not used within that 100 feet shall be removed from the watercourse to an upland site.

Emergency Activity - Maintenance activities or repairs within 3 years of a discrete event including repairs of uplands.

Activities include the emergency repair, rehabilitation, or replacement of those currently serviceable structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within three years of the date of their destruction or damage. For the purposes of this RGP, currently serviceable structure or fill is defined as an existing structure and its associated fill. This activity allows for disturbance to Waters for the emergency repair of uplands damaged by discrete events provided the work is commenced or under contract to commence within three (3) years of the damage.

The following activities have acreage threshold requirements for notification in addition to what it described in the Notification Requirements in Section D below. Impact limitations apply to all projects authorized by this RGP; refer to Maximum Impacts in Section C below.

Geotechnical Activities

Activities include core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching, soil surveys, test pits, potholing and sampling. Material may be removed offsite or used as backfill if no other state or federal regulation would prohibit that activity. Plugging of bore holes with grout to prevent groundwater contamination is authorized if required by state or local requirements. Temporary access and construction of temporary pads is authorized under this activity. Waters must be restored to its pre-construction elevation upon completion of the work and must not drain Waters. Thresholds for notification would include:

- Non-notification: less than 4 samples and less than 0.10 acres of total impacts (i.e. temporary and permanent) in each Waters and sampling holes less than 3-feet in diameter. Discharges that occur as a result of gaining access to bore sites count toward the acreage threshold.
- PCN: greater than 4 samples and/or 0.10 acres or greater of total impacts (i.e. temporary and permanent) in each Waters and sampling holes greater than 3-feet in diameter, up to 1 acre of temporary impact to each Waters and 0.025 temporary impact to special aquatic sites, such as wetlands. Discharges impacts that occur as a result of gaining access to bore sites count toward the acreage threshold.

Bed Stabilization - Stream bed stabilization of an existing structure or fill

Activities for bed stabilization include construction of new bed stabilization adjacent to an existing structures/fill to maintain the structural integrity and operational capacity of the structures/fill for adequate drainage, flood hazard reduction, and overall public safety. Examples of bed stabilization include stabilized piers, scour pads and cutoff walls (i.e. culvert outlets and outfalls). Temporary access, and temporary fill associated with the construction of bed stabilization is authorized under this activity. Thresholds for notification would include:

- Non-notification: less than 0.10 acre of total impacts (i.e. temporary and permanent) to each Waters
- PCN: greater than 0.10 acre up to 1 acre of total impacts (i.e. temporary and permanent) to each Waters and 0.025 permanent or temporary impact to special aquatic sites, such as wetlands

Bank Stabilization

Activities would include construction of new bank stabilization. Bank stabilization may be constructed of permeable materials such as riprap, gabion mattresses, and bioengineered techniques (or equivalent) or impermeable materials such as shotcrete, concrete, or cement stabilized alluvium (or equivalent). Thresholds for notification would include:

a. Permeable Bank Stabilization Methods

- Non-notification: equal to and less than 1,000 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the OHWM
- PCN: greater than 1,000 linear feet up to 3,000 linear feet total impact or greater than 2 cubic yards of material per running foot below the OHWM

b. Impermeable Bank Stabilization Methods

- Non-notification: equal to and less than 600 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the OHWM
- PCN: greater than 600 linear feet up to 2400 linear feet total impact or greater than 2 cubic yards of material per running foot below the OHWM

Routine Linear Transportation Projects

Activities would include the construction of new transportation facilities or modifications to existing facilities within existing ADOT ROW/EASEMENT and/or LPA ROW/EASEMENT. Examples include new construction, replacement, or modifications of bridge piers and shafts, culverts, ditches, erosion protection measures, bridge scour retrofit, or roadway fill. Projects that require the acquisition of minor amounts of new ROW or easement directly adjacent to existing ADOT ROW/EASEMENT or LPA ROW/EASEMENT are authorized; however, the RGP does not authorize the construction of new alignments. Bridge scour retrofit activities would include stockpiling of native material to be backfilled below the OHWM, without impeding flows. Thresholds for notification would include:

- Non-notification: less than 0.10 acre permanent impact to each Waters
- PCN: greater than 0.10 acre up to 1 acre permanent impact to each Waters and 0.025 permanent or temporary impact to special aquatic sites, such as wetlands

C. Maximum Limitations

Activities authorized by this RGP can be combined on a single and complete project provided the maximum impact thresholds are not exceeded by a single and complete project. For projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of RGP authorization. Geotechnical activities that occur before design are also considered a single and complete project. The following impact limitations apply to all projects authorized by this RGP:

- 1 acre permanent impact to Waters per drainage crossing
- 0.025 acre total impacts (i.e. permanent and temporary) to special aquatic sites, such as wetlands
- 1 acre total impacts (i.e. temporary and permanent impact) to Waters from geotechnical activities
- 1 acre total impacts (i.e. temporary and permanent) to each Waters impacted by bed stabilization
- 3,000 linear feet total impact from permeable bank stabilization methods
- 2,400 linear feet total impact from impermeable bank stabilization methods

D. Notification Requirements

This RGP 96 authorizes non-notification for simple, limited transportation activities, and PCN for large routine transportation activities or those activities which have potential to result in more than minimal direct and cumulative impacts. Any activity which exceeds the PCN threshold for any covered activity shall require a Section 404 individual permit unless authorized by another general permit.

Non-Notification - Requires no advance notification to the Corps prior to commencement of the activity. Does not allow any work to occur in Special Aquatic Sites, within certain distances of impaired waters or OAWs, or allow permanent impacts to intermittent or perennial waters (See PCN requirements below). Those limited transportation projects would be typified by removal of sediment from a culvert to restore its design flow carrying capacity, the removal of storm debris, or the replacement of small amounts of rock rip rap to repair or arrest erosion damages. Usually the removal of partially buried storm debris or culvert cleaning projects requires manual labor to dig out the accumulated material from the culvert and then a second step to properly dispose of that material. These types of projects, although often labor intensive, do not usually involve much equipment activity (if any) in the watercourse and only the temporary presence of small quantities of trans-located sediments. This could include hydro vacuuming as long as the impact is temporary. Small additions of rock riprap to address erosion issues are often initiated from outside of the watercourse. Refer to Section B for a full description of the non-notifying activities authorized by this permit.

Endangered Species Act (ESA): ADOT has been delegated responsibility by the FHWA for environmental reviews, consultations, and other actions required by federal law for federally funded projects. This delegation and assumption of responsibility is documented in a memorandum of understanding between ADOT and FHWA pursuant to 23 USC 326 and 23 USC 327 (commonly known as NEPA assignment). Therefore, any federally funded, non-notification project which may affect any threatened or endangered species or modify any designated critical habitat of a threatened or endangered species may proceed under non-notification after ADOT follows its procedures for compliance with the ESA. If the project is state funded, the applicant shall provide a PCN to the Corps 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.

National Historic Preservation Act (NHPA): ADOT has been delegated responsibility by the FHWA for environmental reviews, consultations, and other actions required by federal law for federally funded projects. This delegation and assumption of responsibility is documented in a memorandum of understanding between ADOT and FHWA pursuant to 23 USC 326 and 23 USC 327 (commonly known as NEPA assignment). Furthermore, ADOT has been designated to act as the lead federal agency for the Corps through a state-wide programmatic agreement for Section 106 compliance on federally funded projects. Therefore, any federally funded activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) is allowed to proceed under non-notification after ADOT follows its procedures for compliance with Section 106 of the NHPA. If the project is state funded, the applicant shall provide PCN to the Corps and shall not begin work on the activity until notified by the Corps that Section 106 requirements have been satisfied and that the activity is authorized.

Pre-Construction Notification (PCN) - Requires advance notification to the Corps prior to commencement of the activity. The RGP 96 Notification Form shall be completed and emailed to the local Corps regulatory representative. The Corps shall attempt to complete the verifications for PCN projects within 30 days from the date the notification is complete but may extend this as warranted by other requirements such as Section 7 of the ESA or Section 106 NHPA consultations. In these situations, work may not commence until the Corps has received consultation documentation from ADOT when the project is federally funded, or until the Corps has consulted with the USFWS and the State Historic Preservation Office (SHPO).

A PCN is required for the following:

- Impacts exceeding non-notification thresholds listed in Section B
- Permanent impacts in intermittent or perennial waters
- Impacts in special aquatic sites (e.g. wetlands), up to 0.025 acre of cumulative impact (i.e. permanent and temporary) per drainage crossing.
- Impacts in waters designated by the Arizona Department of Environmental Quality as 303(d) impaired surface waters, within 1 mile upstream and/or 1/2 mile downstream of a designated impaired surface water, and on tributaries to impaired waters within 1 mile of the impaired waters
- Impacts in waters designated by the Arizona Department of Environmental Quality as an Outstanding Arizona Water (OAW), within 1 mile upstream and/or 1/2 mile downstream of a designated OAW, and on tributaries to OAWs within 1 mile of the OAW
- State funded activities which may affect any threatened or endangered species or modify any critical habitat of a species listed under the ESA.
- State-funded activities which may affect a historic

Refer to Special Conditions 1 and 2 for a description of the information required for a complete PCN.

E. Permit Conditions

General Conditions:

1. 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.
2. Permittee must undertake the activities authorized by this permit in conformance with the terms and conditions of this permit. The Permittee is not relieved of this requirement if the existing structure/facility/fill in Waters is abandoned. Should the Permittee wish to cease to maintain the existing structure/facility/fill or should Permittee desire to abandon it without a good faith transfer, a modification must be obtained from this permit from this office, which may require restoration of the area.
3. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, the new permittee shall sign on the Transferee block located on the signature page of this permit. By signing the signature block, the Transferee acknowledges being provided a complete copy of this permit and agrees to comply with all terms and conditions of this permit.
4. The Permittee shall allow representatives from this office to inspect the authorized activities at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of this permit.
5. The permittee shall comply with all requirements and conditions in the letter of Clean Water Act Section 401 Certification from the Arizona Department of Environmental Quality issued on March 12, 2021. These certifications demonstrate that the permittee has complied with Section 401(a) of the Clean Water Act. A copy of the letter is enclosed.

Special Conditions:

The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

Project Planning Requirements

1. **Preconstruction Notification.** The activities described in Section B that require Preconstruction Notification (PCN) shall be submitted to the Corps Regulatory Division at least 30 days prior to initiation of construction or maintenance activity. Verification from the Corps must be received prior to initiation of the activity. The PCN shall include the following for the Corps Regulatory Division to determine if the proposed activities comply with the terms and conditions of this permit:
 - a. A complete Request for Jurisdictional Determination (JD) or an aquatic resource delineation. This includes: project location (i.e., latitude/longitude coordinates of the approximate center point of the project in degrees/minutes/seconds format); U.S.G.S. 7.5 minute quadrangle name, location maps and delineation maps prepared using the South Pacific Division's Updated Map Standards (<https://www.spd.usace.army.mil/Missions/Regulatory/Public-Notices-and-References/Article/651327/updated-map-and-drawing-standards/>), wetland delineation report (if applicable), and any other site condition documentation. Per Regulatory Guidance Letter (RGL) 16-01, the Corps will only provide a JD when one is requested; For JD requests, RGL 16-01 Appendix 1 (Request for Corps JD)

should be provided. Otherwise a complete aquatic resource delineation may be provided with the PCN if a JD is not being requested.

- b. The RGP 96 Notification Form shall be used and include the following:
 - i. A narrative description of the stream. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and observed characteristics associated with an OHWM (e.g. bed and bank, wrack line, or scour marks); a description of the adjacent vegetation community and a statement regarding the wetland status of the associated vegetation community (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information.
 - ii. A brief description of the existing design features of the structure/facility/fill, proposed activities in Waters, an estimate of temporary impacts, an estimate of permanent impacts and permanent loss (if any), an estimate of excavation/fill quantities (in cubic yards), and type of materials proposed to maintain or repair the structure/facility/fill. Permanent and temporary impacts may be provided in acres, square feet, or linear feet (for bank protection).
 - iii. A narrative or drawings of the methods to divert water/dewater.
 - iv. A brief analysis of the proposed impacts to the waterbody which would include a written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to Waters. Refer to 40 CFR 230, Subparts C-F for the examples of adverse effects which may be associated with a discharge.
 - v. Drawings and or plans (when available) clearly depicting the location, size, and dimensions of the proposed activity as well as the location of delineated Waters on the site.
 - vi. Measures taken to avoid and minimize losses, including other methods of constructing the proposed project.
 - vii. A description of post-construction site restoration/revegetation.
 - viii. A statement of the proposed activities potential to affect cultural resources and a description of compliance with applicable federal regulations which protect these resources. See Special Condition 2a.
 - ix. A statement of the proposed activities potential to affect federally listed endangered or threatened species or designated critical habitat. See Special Condition 2b.
 - x. A mitigation plan describing how the unavoidable losses are proposed to be compensated, in accordance with 33 CFR Part 332. Alternatively, a statement may be submitted describing why mitigation should not be required.

2. **Preconstruction Notification Requirements for Activities which may affect Historic Properties or Endangered Species.** Pursuant to 23 USC 326-327 and a Memorandum of Agreement dated April 16, 2019 between the permittee and the Federal Highway Administration, the permittee has assumed responsibility for the environmental review and consultation required by applicable environmental laws for federally funded transportation projects (commonly known as NEPA assignment). Recognizing the permittee's assumption of this responsibility, the following conditions will apply for ESA and Section 106:

- a. **Historic Properties:** No activity is authorized under this RGP which may have the potential to cause effect to properties listed, or be eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (Section 106) have been satisfied.

For federally funded projects, the Permittee has been designated as the lead agency for Section 106 Compliance under NEPA assignment and the *Programmatic*

Agreement Pursuant to Section 106 of the National Historic Preservation Act Regarding Implementation of Federal-Aid Transportation Projects in the State of Arizona. For projects subject to these agreements, the Permittee will follow their own procedures for compliance with Section 106 and a PCN is not required for covered activities unless triggered by other requirements of this RGP. If a PCN is required, the Permittee shall provide Section 106 compliance documentation in the submittal for the Corps to review.

For state funded projects, a PCN must be submitted for any project which may have the potential to effect historic properties listed (or be eligible for listing) on the NRHP. Prior to the submittal of a PCN, the applicant shall conduct a Phase I (Class III) Survey of the project site in accordance with all applicable standards and requirements. This survey shall be provided as an attachment to the required PCN. The Permittee should request approval via email of their scope of work prior to initiation of the survey. If, based on the review of this information by the Corps, it is determined that the project has the potential to impact a property that is listed or eligible for listing on the NRHP, the Corps will complete all coordination required by Section 106 of the NHPA prior to making a decision as to whether the project can proceed under this RGP 96.

- b. **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 species proposed for such designation, as identified under the ESA, or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. 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.” In order to legally take a listed species, separate authorization under the ESA (e.g. Section 10 permit, or a Biological Opinion under Section 7, with "incidental take" provisions with which you must comply) is required. No activity is authorized under this RGP until the requirements of the Endangered Species Act are met.

For federally funded projects, the Permittee has been designated the lead agency for the Corps for compliance with Section 7 of the ESA pursuant to NEPA assignment and any programmatic consultations which may be applicable to the activity. For federally funded/covered projects where the Permittee is the lead agency, the Permittee shall follow their own procedures for complying with the requirements of the ESA and a PCN is not required unless triggered by other requirements of this RGP. If a PCN is required for a federally funded project, the Permittee shall provide Section 7 Consultation documentation in the submittal for the Corps to review.

For state funded projects, a PCN must be submitted for any project which may effect a threatened or endangered species (or species proposed for listing) or designated or proposed critical habitat. The permittee shall include with the PCN the results from the U.S. Fish and Wildlife Service’s Information for Planning and Consultation (IPaC) Report, results from the Arizona Game and Fish Online Environmental Review Tool, and/or a biological evaluation which references these items. If, based on the review of this information by the Corps, it is determined that the project has the potential to affect a listed species or critical habitat, the Corps will complete Section 7 consultation with the U.S. Fish and Wildlife Service.

3. **Activities Affecting Structures or Works Built by the United States.** If an activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a federally authorized Civil Works project (a "Corps project"), the prospective permittee must submit a PCN. An activity that requires section 408 permission and/or review is not authorized until the Los Angeles District issues the section 408 permission or completes its review to alter, occupy, or use the Corps project, and the district engineer issues an authorization to the permittee. Reference the Los Angeles District Permitting Webpage (<https://www.spl.usace.army.mil/Missions/Permitting/>) to determine if a project authorized by this RGP may require Section 408 Permission.
4. **Mitigation.** Routine transportation activities authorized under this permit are expected to involve temporary impacts to Waters, including special aquatic sites, and adjacent riparian areas, and permanent impacts may occur. Temporary and permanent impacts to Waters and special aquatic sites, if not avoided or minimized, shall be mitigated in accordance with the Corps Mitigation Rule (33 CFR 332, April 2008). Temporary and permanent mitigation proposals shall be approved by the Corps Regulatory Division prior to initiating routine transportation activities in Waters.
5. **Use of Multiple Permits.** This RGP cannot be combined with other Section 404 authorizations including Nationwide Permits, other RGPs, or individual permits to increase scope of work, the area of impacts to Waters, or the limits to the discharge of fill material at a specific or proximal location for a single and complete project. Geotechnical activities (i.e. survey activities), when required for project design, are considered a single and complete project.
6. **Permit Availability.** The Permittee shall provide a copy of this permit to all field staff, contractors, subcontractors, and equipment operators. Copies of this permit shall always be readily available at the work site during periods of active work and shall be presented to any Corps Regulatory Division personnel upon request.

Project Implementation:

7. **Project Boundaries.** Prior to initiating construction activities in Waters, the Permittee shall clearly mark the work area limits by at a minimum marking the four corners of the OHWM with flagging or similar measures to ensure mechanized equipment and personnel do not enter Waters, special aquatic sites and adjacent riparian areas outside of permitted work area for the duration of routine transportation activities in or adjacent to Waters. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial compensatory mitigation requirements.
8. **Sediment Removal.** Sediment removal activities authorized under this RGP 96 shall not occur more than once annually per location unless severe flow events result in a public safety issue. The applicant shall provide a written justification to the Corps with the appropriate notification level due to acreage impacts if public safety issues exceed this condition. All sediment removal activities shall be completed within 90 calendar days of onset of the activity at a specific location.
9. **Suitable Materials.** No debris, soil, sand, bark, slash, sawdust, rubbish, cement or washings thereof, asphalt, oil or petroleum products, or any other material that may be harmful to fish or wildlife, that results from routine transportation activities and associated activities shall be allowed to enter or be placed where it may be washed by rainfall or runoff into Waters. Secured features and structures that are intended for shoring or control of erosion and sediment may remain in Waters for the necessary duration of project activities. When project activities are completed, all excess materials, and/or debris shall be removed from the work area to an approved off-site disposal area, outside of Waters.

10. **Management of Water Flows.** Appropriate measures, including but not limited to temporary dewatering practices and temporary diversion dams, must be taken to maintain near normal downstream flows and to minimize flooding only during project activities in Waters. Flows shall not be diverted outside of the OHWM of any Waters unless approved by the Corps on a case-specific basis. Fill materials must be of a type, and be placed in a manner, which will not result in erosion by high flows.
11. **Staging and Stockpiling.** Staging and storage areas for equipment and construction materials shall be located in uplands and where possible, a minimum of 100 feet from Waters. Storage areas located less than 100 feet from Waters shall be approved by the Corps Regulatory Division, and these areas shall be shown on construction plans. Temporary stockpiling in Waters is authorized only where it is specifically stated in the covered activities; all temporary stockpiling shall be removed within two weeks of completion of the activity (i.e. erosion repair and bridge scour retrofits).
12. **Temporary Fills in Special Aquatic Sites.** Temporary fills in special aquatic sites are not allowed unless specifically authorized by the Corps Regulatory Division. Following completion of the routine transportation activity, temporary fills must be entirely removed to an upland location, outside Waters, and the affected area must be restored to the pre-project condition in accordance with the provision of the Corps Mitigation Rule (33 CFR 332).
13. **Sediment and Erosion Control.** The Permittee is authorized perform the work described in this RGP 96 provided that upstream and downstream Waters are not degraded by such activities. Routine transportation activities may include, but are not limited to, the repair of bridge piers, bridge abutments, and repair or replacement of inlet and outlet structures. Where temporary water diversion, grading, filling, or excavation occurs as part of the repair or replacement, the Permittee shall ensure standard Best Management Practices are in place to minimize turbidity within the affected waterbody. Standard BMPs are provided in the *ADOT Erosion and Pollution Control Manual for Highway Design and Construction*, available on the ADOT website.
14. **Low Flow Conditions.** Work in streams or rivers with ephemeral or intermittent flows shall be performed during periods when the channel is dry or flows are absent or minimal. Work within waterways with perennial flow shall be performed during the driest period of the year and during low flow conditions, generally April through June. When work in flowing or standing water is unavoidable, standard best management practices shall be implemented to minimize turbidity within the affected waterbody, and appropriate measures must be taken to minimize flooding and erosion on adjacent properties. Equipment working in wetlands shall be placed on mats (or equivalent) to minimize soil disturbance and compaction.

Resource Protection:

15. **Discovery of Previously Unknown Artifacts or Remains.** Pursuant to 36 C.F.R. Section 800.13, if previously unidentified archaeological or architectural properties are discovered, or unanticipated effects to known properties occur during construction, the Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume work in the area surrounding the potential cultural resources until the Corps re-authorizes project activities if the project is State Funded. If the project is Federally Funded, per 23 USC 326 and 23 USC 327 please contact the ADOT Historical Preservation Team and do not commence work until you have been so authorized. In addition, the following procedures shall be followed for State Funded projects:

- a. If the discovery is on state, county, municipal, or private lands, and does not include human remains, the Permittee shall notify the State Historic Preservation Office at 602-542-7120 and the Corps of Engineers' Archaeology Staff (Danielle Storey (213) 452-3855) within 24 hours. If the discovery is on state, county, or municipal land, ADOT shall also notify the Director of the Arizona State Museum (ASM) per ARS § 41-844.
 - b. If the discovery is on state, county, municipal, or private lands, and does include human remains or objects of national or Tribal patrimony, the Permittee shall notify the State Historic Preservation Office at 602-542-7120, the Director of ASM, and the Corps of Engineers' Archaeology Staff (Danielle Storey (213) 452-3855) within 24 hours, and shall follow the requirements of ARS § 41-844. The Permittee shall also notify the state agency or local government with jurisdiction, if any.
 - c. If the discovery is on federal land and does not include human remains, the Permittee shall notify the State Historic Preservation Office at 602-542-7120, the federal land manager, and the Corps of Engineers' Archaeology Staff (Danielle Storey (213) 452-3855) within 24 hours.
 - d. If the discovery is on federal land and includes human remains or objects of national or Tribal patrimony, the Permittee shall notify the State Historic Preservation Office at 602-542-7120, the federal land manager, and the Corps of Engineers' Archaeology Staff (Danielle Storey (213) 452-3855), and shall follow the provisions of any Native American Graves and Repatriation Act (NAGPRA) Plan of Action (POA) that is in effect.
16. **Vegetation Removal.** Native trees with a diameter at breast height (dbh) of six inches or greater shall not be removed unless they are no longer upright, present a significant flow obstruction or a safety hazard.
17. **Migratory Bird Treaty Act.** This permit does not authorize you to take any migratory birds pursuant to the Migratory Bird Treaty Act. Vegetation shall not be removed from 1 March to 31 August to avoid impacts to nesting birds unless the results of a pre-project bird survey by a qualified biologist indicates no nesting birds are present in the project area. If vegetation clearing will occur during the migratory bird breeding season (1 March – 31 August), Pre-project surveys shall be conducted within two weeks of the proposed vegetation removal. If nesting birds are present, no work shall occur until the young have fledged and would no longer be impacted by the project or the nest is relocated by a permitted individual holding a US Fish and Wildlife Service Migratory Bird Treaty Act Special Purpose permit.
18. **Invasive and Noxious Plant Species.** Invasive and noxious plant species removed during routine transportation activities shall be disposed at an approved off-site location, outside Waters Plants to be controlled shall include those listed in the State and Federal Noxious Weed and the State Invasive Species list in accordance with State and Federal Laws and Executive Orders.
19. **Water Quality.** Work undertaken by this project shall not cause more than minimal degradation of water quality, more than minimal changes to the flow characteristics of the stream or increase flooding on adjacent properties or downstream of the proposed routine transportation activity. Any work undertaken shall not excavate, fill, or grade in the watercourse outside of the minimum area needed to accomplish the activity and shall not exceed the limits provided by this RGP 96.
20. **Hazardous Material Spills.** The Corps Regulatory Division project manager shall be notified within 12 hours of detection of any accidental spill of hazardous materials to Waters. Notification may be in the form of an electronic mail message, telephone, or facsimile. Notification shall include the reason for the spill, the exact location of the spill, the type and approximate quantity of the materials spilled, and the extent of measures taken to

control and clean up the spilled materials. The permittee shall perform immediate scoop and remove of any accidental spill of hazardous materials to Waters without prior permit authorization

Other Requirements:

- 21. **Permit Expiration.** If on the expiration date of this permit you have commenced or are under contract to commence the permitted activity you will have an additional twelve (12) months to complete the activity under the present RGP 96 terms and conditions. However, if the Corps discovers noncompliance or unauthorized activities associated with the permitted activity the Corps may request the use of discretionary authority in accordance with procedures in 33 CFR § 330.4(e) and 33 CFR § 330.5(c) or (d) to modify, suspend, or revoke this specific verification at an earlier date.

- 22. **Annual Reporting.** Within three months of permit issuance, ADOT shall develop and maintain an internal tracking system that includes all completed non-notification construction and maintenance activities in Waters, or special aquatic sites, covered by this permit. Maintenance project documentation shall include activity description, the start and end dates of the work, and project coordinates. Construction project documentation shall include that listed above for maintenance plus temporary and permanent impact amounts, site restoration/revegetation activities and date installed, if applicable, at least one before and one after photo of the construction and revegetation area, and a brief discussion of any problems and corrective measures taken. Due to extended project durations and variability in scheduling, construction projects will be reported on a cumulative basis. Due to extended project durations and variability in scheduling, construction projects will be reported on a cumulative basis (i.e. the summary and status of all previously completed and ongoing construction projects will be carried over to each subsequent year's report). Beginning in 2021, ADOT shall provide a copy of the tracking system report to Corps Regulatory Division once per year, by September 30 for the period July 1 through June 30.

F. Further Information

- 1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1314).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

- 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 project.

- 3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

- d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
 5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. Failure to comply with the terms and conditions of this permit.
 - b. The information provided by the Permittee in support of the permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - b. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
 - c. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
 6. Extensions. Work/activities authorized under RGP 96 expire on the date noted in Section A. It is expected that the RGP can be reissued for an additional five years by sending the Corps a letter and requesting reissuance. To reissue the RGP, the Corps must determine if individual and cumulative impacts were and are expected to remain minimal.

G. Signatures

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

DocuSigned by:


 2C8E28BDDC4A2

Steve Boschen
 Infrastructure Delivery and Operations Director
 Arizona Department of Transportation (ADOT)

5/7/2021

(DATE)

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



David J. Castanon
 Chief, Regulatory Division
 (for the District Engineer)

10 MAY 2021

(DATE)

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

(TRANSFEEE)

(DATE)

APPENDIX 1: DEFINITIONS

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

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

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

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.

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). Enhancement does not result 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)

Intermittent stream: An intermittent stream has surface water flowing continuously during certain times of the year and more than in direct response to precipitation (e.g., seasonally when the groundwater table is elevated or when snowpack melts).

LPA ROW/EASEMENT: Local Public Agency projects federally funded by Federal Highway Administration that are bid and administered by Arizona Department of Transportation.

Ordinary High Water Mark: An ordinary high water (OHWM) mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow

Permanent Impact: Waters that are permanently adversely affected by filling, flooding, excavation, or drainage 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 permanent impacts to Waters is a threshold measurement of the impact to Waters for determining whether a project may qualify for the 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. Permanent impacts to stream bed include the linear feet of stream bed that is filled or excavated. Waters temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of permanent impact. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating permanent impacts to Waters.

Permanent Loss: A type of permanent impact which results in the conversion of a Water to dry land or complete loss of aquatic functions. Examples include placement of road fill which converts a wetland to dry land or the piping/enclosure of a stream for considerable distances.

Permanent Mitigation: Compensatory mitigation that is purchased once to attain permanent water.

Special Aquatic Sites: A waterbody that is identified as a special aquatic site under subpart E of the 404(b)1 guidelines. Special aquatic sites covered by this RGP include sanctuaries and refuges, wetlands, mud flats, vegetated shallows, and riffle and pool complexes. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region.

Stream bed: The substrate of the stream channel between the OHWMs. 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 OHWM, are not considered part of the stream bed

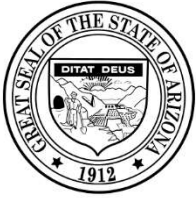
Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, , permanent mooring structure, power transmission line, permanently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

Temporary Impact: Waters temporarily affected by filling, flooding, excavation, or drainage because of the regulated activity. Temporary impacts include discrete impacts that may occur only once or occasionally during construction and extended temporary impacts that may occur for the duration of construction. Waters affected by temporary impacts are restored to pre-construction contours and elevations after construction.

Temporary Mitigation: Compensatory mitigation must be purchased on an annual basis

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 individuals; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Waterbody: For purposes of this RGP 96, a waterbody is a jurisdictional Waters. If a wetland is adjacent to a waterbody determined to be a Waters, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.



Douglas A. Ducey
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera
Director

March 12, 2021

Arizona Department of Transportation
Steve Boschen, Director, Infrastructure Delivery and Operations
1801 W. Jefferson Street, Suite 120
Phoenix, Arizona 85007

Re: Clean Water Act §401 Water Quality Certification for the proposed reissuance of
Regional General Permit No. 96 (RGP96) for Routine Transportation Activities;
U.S. Army Corps of Engineers File No.: SPL-2014-00625

Dear Mr. Boschen:

The Arizona Department of Environmental Quality (ADEQ) has reviewed the Arizona Department of Transportation (ADOT) certification request dated December 1, 2020 and the U.S. Army Corps of Engineers (USACE) public notice dated December 29, 2020 for the reauthorization of Regional General Permit No. 96 (RGP96). Based on the activities and conditions contained within these documents, ADEQ certifies the RGP96 with the request that ADEQ receives notification if the proposed activity will occur within the ordinary high water mark of an outstanding Arizona water, an impaired or not-attaining water, or a lake. Information on these waters can be found on ADEQ's website at www.azdeq.gov, keywords "monitoring and assessment" or using ADEQ's EMAPS.

Sincerely,

Trevor Baggione (Mar 15, 2021 11:23 PDT)

Trevor Baggione, Director
Water Quality Division

electronic copies: ADOT – Attn.: Israel Garcia
USACE, Regulatory Branch – Attn: Jesse Rice
USEPA, Wetlands Regulatory Office

Main Office

1110 W. Washington Street • Phoenix, AZ 85007
(602) 771-2300

Southern Regional Office

400 W. Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

www.azdeq.gov

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