Montana Fish, Wildlife & Parks
SPECIAL PROVISIONS
Logan State Park – Boat Ramp Improvements
FWP #7136353

Contents:

1. PROJECT DESCRIPTION AND SCHEDULE

The Project involves construction work associated with:

Logan State Park – Boat Ramp Improvements
Fish, Wildlife & Parks (FWP) Project # 7136353
Located near Happy's Inn, Lincoln County, MT

Work includes improvement of an existing boat ramp, and sealing and re-striping of the existing asphalt parking lot.

The project duration will be Forty-Five (45) consecutive calendar days. Notice to proceed will be issued on April 1, 2020 and all work must be completed by May 15, 2020.

2. PROJECT RELATED CONTACTS

Project contacts are designated as follows:

Owner:
Montana FWP
1420 E. Sixth Ave.
PO Box 200701
Helena, MT 59620-0701

FWP Project Representative:
Jon Maxwell
FWP Project Manager
1522 9th Avenue
Helena, MT 59620
406-841-4002 (office)
406-461-3676 (cell)
406-841-4004 (fax)

3. SITE INSPECTION

All Bidders should satisfy themselves as to the construction conditions by personal examination of the site described in this document. Bidders are encouraged to make any investigations necessary to assess the nature of the construction and the difficulties to be encountered, see General Conditions, Article 3.

4. SOILS INFORMATION

Geotechnical investigation work has not been done for this Project. It is the responsibility of the Bidders to conduct all investigations and determine the soil type and digging conditions that may be encountered with this Project prior to bid preparation, see General Conditions, Article 3.

5. PROJECT REPRESENTATIVE, INSPECTIONS, AND TESTING

The Contractor's work will be periodically observed to ensure compliance with the Contract Documents. Complete payment will not be made until the Contractor has demonstrated that the work is complete and has been performed as required. If the Project Representative detects a discrepancy between the work and the requirements of the Contract Documents at any time, up to and including final inspection, such work will not be completely paid for until the Contractor has corrected the deficiency, see General Conditions, Article 9.

The Project Representative will periodically monitor the construction of work to determine if the work is being performed in accordance with the contract requirements. The Project Representative does not have the authority or means to control the Contractor's methods of construction. It is, therefore, the Contractor's responsibility to utilize all methods, equipment, personnel, and other means necessary to assure that the work is installed in compliance with the Drawings and Specifications, and laws and regulations applicable to the work. Any discrepancies noted shall be brought to the Contractor's attention, who shall immediately correct the discrepancy. Failure of the Project Representative to detect a discrepancy will not relieve the Contractor of his ultimate responsibility to perform the work as required, see General Conditions, Article 3.

The Contractor shall inspect the work as it is being performed. Any deviation from the Contract requirements shall be immediately corrected. Prior to any scheduled observation by the Project Representative, the Contractor shall again inspect the work and certify to the Project Representative that he has inspected the work and it meets the requirements of the Contract Documents. The Project Representative may require uncovering of work to verify the work was installed according to the contract documents, see General Conditions, Article 12.

The work will be subject to review by the Project Representative. The results of all such observations, and all contract administration, shall be directed to the Contractor only through the Project Representative.

5.1 Services Required by the Contractor. The Contractor shall provide the following services:

a. Any field surveys to establish locations, elevations, and alignments as stipulated on the Contract Documents. FWP reserves the right to set preliminary construction staking for the project. The Contractor is responsible to notify FWP for any construction staking discrepancies.

b. Preparation and certification of all required shop drawings and submittals as described in the General Conditions, Article 3.

c. All testing requiring the services of a laboratory to determine compliance with the Contract Documents shall be performed by an independent commercial testing laboratory acceptable to the Project Representative. The laboratory shall be staffed with experienced technicians properly equipped, and fully qualified to perform the tests in accordance with the specified standards.

d. Preparation and submittal of a construction schedule, including submittals, see General Conditions, Article 3. The schedule shall be updated as required, as defined in the Contract Documents.

e. All Quality Control testing as required by the Contractor’s internal policies.

f. All Quality Assurance testing and/or re-testing as stated in the Contract Documents, see General Conditions, Article 13.

5.2 Services Provided by the Owner. The Owner shall provide the following services at no cost to the Contractor except as required for retests as defined in the Contract Documents.

a. The Project Representative may check compaction of backfill and surfacing courses using laboratory testing submittal information supplied by the Contractor. These tests are to determine if compaction requirements are being fulfilled in accordance with the Contract

Documents. It is ultimately the responsibility of the Contractor to ensure that this level of compaction is constant and met in all locations.

b. Any additional Quality Assurance testing deemed appropriate by the Owner, at the Owner's expense.

6. ENGINEERING INTERPRETATIONS

Timely Engineering decisions on construction activities or results have an important bearing on the Contractor's schedule. When engineering interpretation affects a plan design or specifications change, it should be realized that more than 24 hours may be required to gain the necessary Owner participation in the decision process including time for formal work directive or change order preparation as required.

7. REJECTED WORK

Any defective work or nonconforming materials or equipment that may be discovered at any time prior to the expiration of the warranty period, shall be removed and replaced with work or materials conforming to the provisions of the Contract Documents, see General Conditions, Article 12. Failure on the part of the Project Representative to condemn or reject bad or inferior work, or to note nonconforming materials or equipment on the Contractors submittals, shall not be construed to imply acceptance of such work. The Owner shall reserve and retain all its rights and remedies at law against the Contractor and its Surety for correction of any and all latent defects discovered after the guarantee period (MCA 27-2-208).

Only the Project Representative will have the authority to reject work which does not conform to the Contract Documents.

8. UTILITIES

The exact locations of existing utilities that may conflict with the work are not precisely known. It shall be the Contractor's responsibility to contact the owners of the respective utilities and arrange for field location services.

The Contract Documents may show utility locations based on limited field observation and information provided to the Project Representative by others. **The Project Representative cannot guarantee their accuracy.** The Contractor shall immediately notify the Project Representative of any discrepancies with utility locations as shown on the Contract Drawings and/or their bury depths that may in any way affect the intent of construction as scoped in these specifications.

There will be no separate payment for exploratory excavation required to locate underground utilities.

8.1 Notification. The Contractor shall contact, in writing, all public and private utility companies that may have utilities encountered during excavation. The notification includes the following information:

a. The nature of the work that the Contractor will be performing.
b. The time, date and location that the Contractor will be performing work that may conflict with the utility.
c. The nature of work that the utility will be required to perform such as moving a

power pole, supporting a pole or underground cable, etc.

d. Requests for field location and identification of utilities.

A copy of the letter of notification shall be provided to the Project Representative. During the course of construction, the Contractor shall keep the utility companies notified of any change in schedule, or nature of work that differs from the original notification.

8.2 Identification. All utilities that may conflict with the work shall be the Contractor's responsibility to locate before any excavation is performed. Field markings provided by the utility companies shall be preserved by the Contractor until actual excavation commences. All utility locations on the Drawings should be considered approximate and should be verified in the field by the Contractor. The Contractor shall also be responsible for locating all utilities that are not located on the Drawings.

8.3 Removal or Relocation of Utilities. All electric power, street lighting, gas, telephone, and television utilities that require relocation will be the responsibility of the utility owner. A request for extending the specified contract time will be considered if utility owners cause delays.

8.4 Public Utilities. Water, sewer, storm drainage, and other utilities owned and operated by the public entities shall, unless otherwise specifically requested by the utility owner, be removed, relocated, supported or adjusted as required by the Contractor at the Contractor's expense. All such work shall be in accordance with these Contract Documents, or the Owner's Standard Specifications or written instructions when the work involved is not covered by these Specifications.

8.5 Other Utilities. Utilities owned and operated by private individuals, railroads, school districts, associations, or other entities not covered in these Special Provisions shall, unless otherwise specifically requested by the utility owner, be removed, relocated, supported or adjusted as required by the Contractor at the Contractor's expense. All work shall be in accordance with the utility owner's directions, or by methods recognized as being the standard of the industry when directions are not given by the owner of the utility.

8.6 Damage to Utilities and Private Property. The Contractor shall protect all utilities and private property and shall be solely responsible for any damage resulting from his construction activities. The Contractor shall hold the Owner and Project Representative harmless from all actions resulting from his failure to properly protect utilities and private property. All damage to utilities shall be repaired at the Contractor's expense to the full satisfaction of the owner of the damaged utility or property. The Contractor shall provide the Owner with a letter from the owner of the damaged utility or property stating that it has been repaired to the utility owner's full satisfaction.

8.7 Structures. The Contractor shall exercise every precaution to prevent damage to existing buildings or structures in the vicinity of his work. In the event of such damages, he shall repair them to the satisfaction of the owner of the damaged structure at no cost to the Owner.

8.8 Overhead Utilities. The Contractor shall use extreme caution to avoid a conflict, contact, or damage to overhead utilities, such as power lines, streetlights, telephone

lines, television lines, poles, or other appurtenances during the course of construction of this project.

8.9 Buried Gas Lines. The Contractor shall provide some means of overhead support for buried gas lines exposed during trenching to prevent rupture in case of trench caving.

8.10 Pavement Removal. Where trench excavation or structure excavation requires the removal of curb and gutter, concrete sidewalks, or asphalt or concrete pavement, the pavement or concrete shall be cut in a straight line parallel to the edge of the excavation by use of a spade-bitted air hammer, concrete saw, colter wheel, or similar approved equipment to obtain a straight, square clean break. Pavement cuts shall be 2 feet wider than the actual trench opening.

8.11 Survey Markers and Monuments. The Contractor shall use every care and precaution to protect and not disturb any survey marker or monuments, such as those that might be located at lot or block corners, property pins, intersection of street monuments or addition line demarcation. Such protection includes markings with flagged high lath and close supervision. No monuments shall be disturbed without prior approval of the Project Representative. Any survey marker or monument disturbed by the Contractor during the construction of the project shall be replaced at no cost to the Owner by a licensed land surveyor.

8.12 Temporary Utilities. The Contractor shall provide all temporary electrical, lighting, telephone, heating, cooling, ventilating, water, sanitary, fire protection, and other utilities and services necessary for the performance of the work. All fees, charges, and other costs associated therewith shall be paid for by the Contractor.

9. CONSTRUCTION SAFETY

The Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons (including employees and subcontractors) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The Contractor's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve them from compliance with the obligations and penalties set forth therein, see General Conditions, Article 10.

10. CONSTRUCTION LIMITS AND AREAS OF DISTURBANCE

10.1 Construction Limits. Where construction easements or property lines, are not specifically called out on the Contract Documents, limit the construction disturbance to ten (10) feet, when measured from the edge of the slope stake grading, or to the adjacent property line, whichever is less. Disturbance and equipment access beyond this limit is not allowed without the written approval of both the Project Representative and the Owner of the affected property. If so approved, disturbance beyond construction limits shall meet all requirements imposed by the landowner; this includes existing roads used and/or improved as well as the construction of new access roads. Special construction, reclamation, or post-construction reclamation or other closure provisions required by the landowner on access roads beyond the construction limits shall be performed by the Contractor at no additional cost to the Owner.

10.2 Areas of Disturbances. Approved areas of disturbance are those areas disturbed by construction activities within the construction limits and along designated or approved access routes. Such areas may require reclamation and revegetation operations, including grading to the original contours, top soiling with salvaged or imported topsoil, seeding, fertilizing, and mulching as specified herein. Other areas that are disturbed by the Contractor's activities outside of the limits noted above will be considered as site damage or unapproved areas of disturbance, see General Conditions, Articles 3 and 10. This includes areas selected by the Contractor outside the defined construction limits for mobilization, offices, equipment, or material storage.

11. DECONTAMINATE CONSTRUCTION EQUIPMENT

Power wash all construction equipment entering the project site to prevent the spread of noxious weeds and aquatic invasive species. This applies to all FWP projects, whether or not individual construction permits specifically address cleaning of equipment.

12. TREE PROTECTION AND PRESERVATION

The Contractor and the Owner shall individually inspect all trees within the project construction limits prior to construction. The Owner shall determine which trees are to be removed and which trees are to be preserved. Construction of the grading, utilities and various roadway facilities must not significantly damage the trees root system or hinder it's chances for survival. Reasonable variations from the Contract Documents, as directed by the Project Representative, may be employed to ensure the survival of trees.

13. CONSTRUCTION SURVEYS

The Contractor will be responsible for all layout and construction staking utilizing the Project Representative's existing control and coordinate data for the project. Dimensions and elevations indicated in layout of work shall be verified by the Contractor. Discrepancies between Drawings, Specifications, and existing conditions shall be referred to the Project Representative for adjustment before work is performed. The Project Representative may set location and grade stakes prior to construction; however, it is ultimately the responsibility of the Contractor to check and verify all construction staking for the project.

Existing survey control (horizontal and vertical) has been set for use in the design and ultimately the construction of these improvements. A listing of the coordinates and vertical elevation for each of these control points may be included in the project drawings.

The Contractor will be responsible for preserving and protecting the survey control until proper referencing by the Contractor has been completed. Any survey control obliterated, removed, or otherwise lost during construction will be replaced at the Contractor's expense.

Contractor shall be aware of property pins and survey monuments. Damage to these pins will require replacement of such by a registered land surveyor at no cost to the owner.

The Contractor shall provide construction staking from the Contractor's layouts and the control points. Contractor's construction staking includes at a minimum:

1. Slope stakes located at critical points as determined by the Project Representative.

2. Blue tops every longitudinally and transversely for subgrade and crushed base to verify finish grading of course.
3. Location and grade stakes for drainage features and retaining walls.
4. Location stakes for roadside safety items, permanent and temporary traffic control, and misc. items as determined by the Project Representative.

Original field notes, computations and other records take by the Contractor for the purpose of quantity and progress surveys shall be furnished promptly to the Project Representative and shall be used to the extent necessary in determining the proper amount of payment due to the Contractor.

14. MATERIAL SOURCES AND CONSTRUCTION WATER

The Contractor shall be responsible for locating all necessary material sources, including aggregates, earthen borrow and water necessary to complete the work. The Contractor shall be responsible for meeting all transportation and environmental regulations as well as paying any royalties. The Contractor shall provide the Project Representative with written approvals of landowners from whom materials are to be obtained, prior to approval.

The Contractor may use materials from any source, providing the materials have been tested through representative samples and will meet the Specifications.

Water for compaction efforts shall be supplied by the Contractor.

15. MATERIALS SALVAGE AND DISPOSAL

Notify the Owner for any material salvaged from the project site not identified in the Contract Documents. The Owner reserves the right to maintain salvaged material at the project site, compensate the Contractor for relocation of salvaged material, or agreed compensation to Owner for material salvaged by the Contractor.

Haul and waste all waste material to a legal site and obey all state, county, and local disposal restrictions and regulations.

16. STORED MATERIALS

Contractor shall use an approved storage area for materials. Materials and/or equipment purchased by the Contractor may be compensated on a monthly basis. For compensation, provide the Project Representative invoices for said materials, shop drawings and/or submittals for approval, and applicable insurance coverage, see General Conditions, Article 9.

17. STAGING AND STOCKPILING AREA

Contractor shall use staging and stockpiling sites for to facilitate the project as approved by the Owner. Contract Documents may show approved staging and stockpiling locations. Notify Owner within 24 hours for approval of staging and stockpiling sites not shown on the Contract Drawings.

18. SECURITY

The Contractor shall provide all security measures necessary to assure the protection of equipment, materials in storage, completed work, and the project in general.

19. CLEANUP

Cleanup for each item of work shall be fully completed and accepted before the item is considered final. If the Contractor fails to perform cleanup within a timely manner the Owner reserves the right to withhold final payment.

Review these Contract Documents for additional Final Cleanup specifications for specific measures, associated with Contractor responsibilities and final payment.

20. ACCESS DURING CONSTRUCTION

Provide access to all public and private roadways and approaches within the project throughout the construction period.

21. CONSTRUCTION TRAFFIC CONTROL

The Contractor is responsible for providing safe construction and work zones within the project limits by implementing the rules, regulations, and practices of the Manual on Uniform Traffic Control Devices, current edition.

22. SANITARY FACILITIES

Provide on-site toilet and trash facilities for employees of Contractor and Sub-Contractors and maintain in a sanitary condition.

23. CONTRACT CLOSEOUT

The Contractor's Superintendent shall maintain at the project site, a "Record Set of Drawings" showing field changes, as-built elevations, unusual conditions encountered during construction, and such other data as required to provide the Owner with an accurate "as constructed" set of record drawings. The Contractor shall furnish the "Record Set" to the Project Representative following the Final Inspection of the Project.

The Contractor's final payment will not be processed until the "Record Set" of drawings are received and approved by the Project Representative.

24. MEASUREMENT AND PAYMENT

Review these Contract Documents for additional Measurement and Payment specifications for definitions. Quantities are listed on the Bid Proposal for Payment Items. Additional material quantities, volumes, and measurements may be shown on the Contract Document drawings and/or specifications.

Unit Price quantities and measurements shown on the Bid Proposal are for bidding and contract purpose only. Quantities and measurements supplied, completed for the project, and verified by the Project Representative shall determine payment. Each unit price will be deemed to include an amount considered by the Contractor to be adequate to cover Contractor's overhead and profit for each bid item.

The Owner or Contractor may make a Claim for an adjustment in Contract Unit Price if the

quantity of any item of Unit Price Work performed by the Contractor differs materially and/or significantly (increase or decrease by 50%) from the estimated quantity indicated on the Bid Proposal.

Lump sum bid item quantities will not be measured. Payment for these lump sum bid proposal items will be paid in full amount listed on the Bid Proposal when accepted by the Project Representative, unless specified otherwise.

25. PERMITS

Contractor shall comply with all permits issued for the Work. FWP-supplied permits are attached in Appendix A of these Special Provisions and include:

- Lincoln County, MT Lakeshore Construction Permit #2019-08-19-MTL dated October 30, 2019
- MT Dept. of Environmental Quality, Section 318 Authorization #MTB004320 dated November 19, 2019
- US Army Corps of Engineers, Section 404 Authorization #NWO-2008-00334-MTH dated January 10, 2020

APPENDIX A
FWP-Supplied Permits

LINCOLN COUNTY PLANNING DEPARTMENT
418 MINERAL AVE | LIBBY, MT. 59923 | P: (406) 283.2460 | F: (406) 293-5640
WEBSITE: HTTP://WWW.LINCOLNCOUNTYMT.US/PLANNING

LAKESHORE CONSTRUCTION PERMIT NO. 2019-08-19-MTL

Body of Water: Middle Thompson

Applicant: MT FWP
PO BOX 200701
Helena, MT 59620

Submitted: 8/19/2019
Planning Board Meeting: 9/17/2019
Governing Body Decision: 10/30/2019
Review Period Expires xx/xx/xx

Owner Name: Same **Contractor Name:**
Legal Description: SE, SW, Section 3, T 26 N, R 27 W
Physical Address: 77518 US Highway 2, Libby
TYPE OF PROJECT: Improve Boat Ramp

PRELIMINARY APPROVAL DATE 10/30/19 **EXPIRATION DATE** 10/30/20

This permit is hereby subject to the following conditions of approval:

1. Complete per the designs provided; any deviation from such design shall result in a violation of the Lincoln County Lakeshore Protection Regulations and could be subject to enforcement and fines;
2. The applicant agrees to avoid, repair, or mitigate any damage caused to live riparian vegetation or soil stability as a result of the construction of the project;
3. The applicant agrees to adhere to other local, state, and federal regulations and permit requirements;
4. Sign and Return the Letter of Completion, along with photos, within fifteen (15) days of completion of the Lakeshore Project for Final Review and Approval by the Lincoln County Planning Department.
5. There is to be no significant or unnecessary disturbance of the stability of the shoreline or riparian vegetation that would degrade water quality or change the existing ecosystem of the shoreline and subsequently increased liability involving public use, negative effects on the natural environment or FEMA Flood Insurance Rate Maps for that area. If the intrusion of impediments create a rise in the water level, more than half-a-foot; a floodplain permit is required.
6. If an alternate coffer dam method is proposed other that the bladder method, permit must be resubmitted to Lincoln county for additional review.
7. Seepage water must be treated for turbidity prior to discharge into the lake.

PRELIMINARY APPROVAL FOR LAKESHORE CONSTRUCTION:

Approved this 30 day of October 2019

Mark A Peck

Lincoln County Board of Commissioners, Chairperson

LINCOLN COUNTY PLANNING DEPARTMENT
418 MINERAL AVE | LIBBY, MT. 59923 | P: (406) 283.2460 | F: (406) 293-5640
WEBSITE: HTTP://WWW.LINCOLNCOUNTYMT.US/PLANNING

LAKESHORE CONSTRUCTION PERMIT NO. 2019-08-19-MTL

Applicant: MT FWP
PO BOX 200701
Helena, MT 59620

Body of Water: Middle Thompson
TYPE OF PROJECT: Boat Ramp

Owner Name: Same
Legal Description: SE, SW, Section 3 T 26 N, R 27 W
Physical Address: 77518 US Highway 2, Libby

Contractor Name: TBD

LETTER OF COMPLETION

This notice signifies that I, _____, the Agent for the property located at the above referenced legal description and physical address have completed the Lakeshore Project per the conditions of the above-referenced permit, issued _____ and in conformance with the following:

"Within fifteen (15) days of the date of completion of permitted work, the owner shall contact the Lincoln County Planning Department for final inspection of work. If the proposed work is deviated from any aspect of the preliminary lakeshore approval permit, you will be found in violation and any and all work will need to be removed and the ground be returned to its natural vegetative state."

"This approval is contingent on continued protection of the natural environment and water quality and strict adherence to the construction as proposed in the application. Any observed deviation from the construction specifications as proposed or significant contamination or negative effects on the natural environment of the lake or its environs due to this project within the twenty four (24) month period will void the approval and appropriate mitigation measures may be required as directed by Lincoln County and should be considered as a condition of approval."

Enclosed are pictures demonstrating completion. To the best of my ability and knowledge the Lakeshore Permit is completed per the conditions set within. I am also requesting a date for final inspection from the Lincoln County Planning Department.

Signed By: _____
Property Owner

Date:_____

DEQ
Montana Department
of Environmental Quality

November 19, 2019

Jon Maxwell, P.E.
FWP Design & Construction
P.O. Box 200701
Helena, MT 59620

RE: Authorization No. **MTB004320** Short Term Water Quality Standard for Turbidity Related to Construction Activity Pursuant to 75-5-318, MCA
VALID November 19, 2019 through November 19, 2020

Dear Mr. Maxwell:

The Montana Department of Environmental Quality Water Protection Bureau has completed our review of your project application to replace a concrete ramp apron at Logan State Park on Middle Thompson Lake in Section 10, Township 26 North, Range 27 West, Lincoln County, Montana. This activity herewith is qualified for a temporary surface water quality turbidity standard if it is carried out in accordance with the following conditions:

(1) Construction activities in or near the watercourse are to be limited to the minimum area necessary, and conducted so as to minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation,

(2) The use of machinery in the watercourse shall be avoided unless absolutely necessary. To prevent leaks of petroleum products into waterways, no defective equipment shall be operated in the watercourse or adjacent areas capable of contributing surface flow to the watercourse,

(3) Precautions shall be taken to prevent spillage of any petroleum products, chemicals or other deleterious material in or near the watercourse, and no equipment shall be fueled or serviced in adjacent areas capable of contributing surface flow to the watercourse,

(4) All disturbed areas on the streambank and adjacent areas created by the construction activity shall be protected with temporary erosion control during construction activities. These areas shall be reclaimed with appropriate erosion control measures and revegetated to provide long-term erosion control,

(5) Any excess material generated from this project must be disposed of above the ordinary high-water mark, not classified as a wetland, and in a position not to cause pollution to State waters,

(6) Clearing of vegetation will be limited to that which is absolutely necessary for construction of the project,

(7) The use of asphalt or petroleum-based products as riprap is strictly prohibited. Its use as fill material is also prohibited if it is placed in a location where it is likely to cause pollution of State waters,

(8) This authorization does not authorize a point source surface water discharge. A MPDES permit is required for said discharge, and

(9) The applicant must conduct all activities in full and complete compliance with all terms and conditions of any permit for this activity issued pursuant to the Montana Natural Streambed and Land Preservation Act (310 permit) or the Montana Stream Protection Act (124 permit), and any valid Memorandum of Agreement and Authorization (MAA) negotiated for this activity.

This authorization is valid for the period noted. No authorization is valid for more than a one-year period of time.

Any violations of the conditions of this authorization may be subject to an enforcement action pursuant to the applicable provisions of the Montana Water Quality Act.

This authorization is granted pursuant to 75-5-318, MCA, and only applies to the activity described by your application. Any modification of the activity described in your application which may result in additional turbidity in the stream must receive prior approval from the Department. You may contact me at (406) 444-5546.

Sincerely,

Jon Kenning, Chief
Water Protection Bureau
Water Quality Division

cc: Lincoln Conservation District
DEQ File

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
HELENA REGULATORY OFFICE
10 WEST 15TH STREET, SUITE 2200
HELENA, MONTANA 59626

REPLY TO
ATTENTION OF

January 10, 2020

Regulatory Branch
Montana State Program
Corps No. **NWO-2008-00334-MTH**

Subject: Montana Fish Wildlife & Parks - Middle Thompson Lake - Boat Ramp Improvements

MT Fish Wildlife and Parks D&C Bureau
ATTN: Jon Maxwell
PO Box 200701
Helena, Montana 59620

Dear Mr. Maxwell:

We are responding to your request for Nationwide Permit (NWP) verification for the above-mentioned project. The project is located at Latitude 48.03195°, Longitude -115.06682°, on Middle Thompson Lake, within Section 10, Township 26 N, Range 27 W, Lincoln County, Montana.

Specifically, you requested authorization for the following work in waters of the U.S.:

Work Item	Description
a.	Replacement of an existing 40-foot wide by 12-foot long concrete boat ramp with a new 40-foot wide by 35-foot long boat ramp, using 30 cubic yards of concrete and 25 cubic yards of 3/4 inch screened gravel.
b.	The work will be completed as detailed in the July 10, 2019, drawings entitled “Logan State Park - Ramp Improvements”.

Under the authority of Section 404 of the Clean Water Act (CWA), DA permits are required for the discharge of fill material into waters of the U.S. Waters of the U.S. include the area below the ordinary high water mark of stream channels and lakes or ponds connected to the tributary system, and wetlands adjacent to these waters. Isolated waters and wetlands, as well as man-made channels, may be waters of the U.S. in certain circumstances, which must be determined on a case-by-case basis.

Based on the information you provided, the proposed activity, permanently affecting approximately 1,400 square feet of lake bed, is authorized by NWP 3

Maintenance, found in the January 6, 2017, Federal Register (82 FR 1860), Reissuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this NWP and lists the General and Regional Conditions that must be adhered to for this authorization to remain valid. Please note that deviations from the original plans and specifications of your project could require additional authorization from this office.

You are responsible for ensuring that all work is performed in accordance with the terms and conditions of the NWP. If a contractor or other authorized representative will be conducting work on your behalf it is strongly recommended that they be provided a copy of this letter and the enclosed conditions. Failure to comply with the General and Regional Conditions of this NWP may result in the suspension or revocation of your authorization and may be subject to appropriate enforcement action.

The Montana Department of Environmental Quality has provided the enclosed CWA Section 401 water quality certification for this NWP which includes General Conditions, all of which must be complied with for that certification to remain valid. This does not eliminate the need to obtain other permits that may be required by that agency.

This verification is valid until March 18, 2022, when the existing NWPs are scheduled to be modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified, reissued or revoked, you will have twelve (12) months from the date of the modification, reissuance or revocation of the NWP to complete the activity under the present terms and conditions unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d). Activities completed under the authorization of an NWP which was in effect at the time the activity was completed continue to be authorized by that NWP.

In compliance with General Condition 30, we have enclosed a "compliance certification" form, which must be signed and returned within 30 days of completion of the project, including any required mitigation. Your signature on this form certifies that you have completed the work in accordance with the terms and conditions of the NWP.

The Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at: http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

Please refer to identification number **NWO-2008-00334-MTH** in any correspondence concerning this project. If you have any questions, please contact

Nathan Green at the Missoula Regulatory Office, 1600 North Avenue West, Suite 105, Missoula, Montana 59801, by email at *Nathan.J.Green@usace.army.mil*, or telephone at (406) 439-7265.

Sincerely,

Nathan Green
Senior Project Manager

Enclosures:
Compliance Certification
NWP 3 Maintenance Fact Sheet with Regional Conditions
Montana DEQ CWA Section 401 Water Quality Certification

COMPLIANCE CERTIFICATION

Corps File Number: NWO-2008-00334-MTH

Permit Type: NWP 3 Maintenance

Name of Permittee: MTFWP/Jon Maxwell

County: Lincoln County, Montana

Date of Issuance: January 10, 2020

Corps Project Manager: Nathan Green

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US Army Corps of Engineers
Omaha District
Missoula Regulatory Office
1600 North Ave West, Suite 105
Missoula, Montana 59801

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the conditions of this permit, you are subject to permit suspension, modification, or revocation.

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I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

_____
Signature of Permittee

_____
Date

DEQ
Montana Department
of Environmental Quality

March 6, 2017

Robert Cole
Corps of Engineers, Helena Regulatory Office
10 West 15th Street, Suite 2200
Helena, Montana 59626

Re: Montana Department of Environmental Quality 401 Water Quality Certification (COE-2015-0017 RIN 0710-AA73-2017 Nationwide Permit Reissuance-Federal Register Vol. 82 No. 4)

Dear Mr. Cole:

The attachment to this letter (Parts A-E) constitutes the Montana Department of Environmental Quality's position on the subject Nationwide Permits. It should not result in an undue burden to either of our agencies, while still providing adequate water quality protection. Also, please find enclosed the Montana Department of Environmental Quality's December 5, 2000, guidelines for materials for stream bank stabilization as referenced in the attached certification.

We look forward to continuing the close cooperation and coordination between our two agencies. Please do not hesitate to contact myself (444-0240 JKenning@mt.gov) or Jason Garber (444-2734 JGarber2@mt.gov) if you have any questions.

Sincerely,

Jon Kenning-Chief
Water Protection Bureau

Cc: Tony Ott-EPA w/ Attachments

Water Quality Certification in Accordance With Section 401 of the Clean Water Act for the 2017 Nationwide Permits in Montana

A. Certification

DEQ is granting Section 401 Water Quality Certification (certification) for Nationwide Permits 1, 2, 4-11, 15-22, 24-27, 28-36, 38-44 and 46-50.

B. Special Conditions for Specific Nationwide Permits

1) DEQ is granting certification for Nationwide Permits #3, #14, and #23 with the following additional condition: DEQ Water Protection Bureau – Discharge Permitting Program must be notified by the permittee within 48 hours of commencement of the regulated activity. Notification must be sent to DEQWPBPublicComments@mt.gov. Notification shall include at minimum (a) the permittee name, (b) the project name, (c) the Nationwide Permit used for the project, (d) the Township, Range and Section, and (e) the project or regulated activity location in decimal latitude and longitude to the millionth degree (six significant figures to the right of the decimal point).

2) DEQ is granting certification of Nationwide Permit #12 (utility line activities) for projects where a static or vibratory plow is used and for projects where Horizontal Directional Drilling technology is implemented and no permanent impacts to State waters will occur. For all other projects that qualify under this Nationwide Permit, DEQ denies certification.

3) DEQ is granting certification of Nationwide Permit #13 (bank stabilization), Nationwide Permit #37 (emergency watershed protection and rehabilitation), and Nationwide Permit #45 (repair of uplands damaged by discrete events) for all projects equal to or less than 300 linear feet.

C. Waiver

Nationwide Permit 54 (living shorelines) is waived as this Nationwide Permit only applies to coastal shorelines and the Great Lakes.

D. Denial

Nationwide Permit #51 (land based renewable energy generation facilities), and Nationwide Permit #52 (water based energy renewable energy generation facilities). Nationwide #53 (removal of low head dams) is denied for the five year cycle so that DEQ can determine if the application of this new Nationwide Permit has detrimental effects on water quality.

E. General Conditions for Nationwide Permits

The following general conditions apply to all certified Nationwide Permits as provided in A and B above.

1) This certification does not authorize the placement or construction of septic/leach systems or other sewage treatment facilities in wetlands.

2) This certification does not authorize construction of dams, except for aquatic restoration projects and temporary dams associated with construction activity.

3) This certification requires that materials used in stream bank or shore stabilization projects adhere to the Montana Department of Environmental Quality's December 5, 2000 guidelines for materials for stream bank stabilization. Tires may not be used to stabilize any banks in state waters.

4) This certification requires that all equipment be inspected for oil, gas, diesel, anti-freeze, hydraulic fluid and other petroleum leaks. Equipment cannot continue operating in or near the water if a leak is discovered. All such leaks will be properly repaired prior to equipment being allowed on the project site. Leaks that occur after the equipment is moved to the project site will be fixed that same day or the next day or be removed from the project area. If equipment is to be operated in or near water, a spill containment kit shall be available at the project site and DEQ shall be notified of spills.

5) This certification requires that all permittees shall, to the maximum extent practicable, incorporate and construct design features that eliminate bridge deck run-off containing sediment, salt, or other pollutants from discharging directly into state water. To the extent practicable, bridge deck run-off, should be directed to a detention basin of unspecified size prior to continuing into state waters.

6) This certification requires that riprap projects, to the extent practicable, avoid the use of geotextile fabric as riprap bedding material. To the extent practicable, riprap voids shall incorporate approximately 30-50% fines/soil and dormant plant material and/or root-stock.

F. Reopener Clause

DEQ reserves the right to add or alter terms and conditions as appropriate to carry out its responsibilities with respect to water quality throughout the five year Nationwide Permit Cycle.

Policy on Streambank Stabilization

This policy outlines the guidelines for approved materials to be used for streambank stabilization in Montana. This policy and a draft Environment Assessment were provided to the public for comment via public notice MT-00-10 issued September 18, 2000. Comments were accepted until October 17, 2000. The draft Environmental Assessment is adopted as the final Environmental Assessment with the Responses to Comments incorporated.

Signed into policy 12/05/00 by Bonnie Lovelace, Chief, Water Protection Bureau and 12/06/00 by Jan Sensibaugh, Administrator, Permitting & Compliance Division.

GUIDELINES FOR MATERIALS FOR STREAMBANK STABILIZATION

The following guidelines represent the efforts of a work group composed of Conservation District representatives, natural resource consultants, environmental interests, and state and federal regulatory agencies. They are suggested by the Montana Department of Environmental Quality and not necessarily endorsed by all the work group members. These guidelines are only for use in areas where the use of high- density, angular rock is not practicable. (The term "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes [40 CFR 230.3(q)]). Sandstone or broken concrete may be acceptable alternatives to high-density, angular rock in certain situations, although local regulation may prohibit their use. The use of any river training device/structure may directly or cumulatively alter the ecology of Montana rivers and streams. Cumulative impact considerations may preclude the use of any river training device.

Bank stabilization projects are sometimes authorized under the following jurisdictions: Local Conservation District -Natural Streambed & Land Conservation Act (310); Montana Department of Fish Wildlife and Parks – Stream Protection Act (SPA124); County Floodplain Administrator -Floodplain Permit; U.S. Army Corps of Engineers – Section 404/10 Permit; Montana Department of Environmental

Quality -75-5-318, MCA Authorization; Montana Department of Natural Resources and Conservation - Navigable Rivers Land Use License/Easement.

The following optional design concepts should be considered in conjunction with the guidelines to minimize environmental/aesthetic concerns:

- Utilize rock only in the lower* portion or toe of the riprap with woody structures/features, biodegradable fabric, etc. in the upper* portions.
  * The elevation at which the mean annual flow occurs is the division between "upper" and "lower."
- Incorporate soil in the upper portions of the project with appropriate woody (usually willow) plantings as near average water elevations as possible and herbaceous plantings elsewhere.
- Provide a temporary or permanent buffer strip (streamside area where protection promotes growth and sustenance of woody vegetation) along the project length to provide for vegetation stability where grazing or recreational use may impact plant growth.
- Preferably, plantings should be on slopes of 3:1 or flatter and irrigated, if possible.

(Note: Numerous documents with more detailed information are available. Contact the Natural Resource Conservation Service or the Department of Natural Resources and Conservation for their "Stream Project Manual.")

COMPLIANCE CERTIFICATION

Project: (Please attach copy of the completed "Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies.")

Upon completion of project activity, sign this certificate and return it to the following address:

Montana Department of Environmental Quality

Permitting & Compliance Division/Water Protection Bureau

Box 200901

Helena, MT 59620-0901

Please answer the following questions:

1. What is the source of the concrete rubble?

2. What is the type of concrete rubble (curb/gutter, foundation, etc.)?

3. What was the cost of the rubble?
   (The recipient of the rubble cannot be compensated for accepting the rubble without a landfill license.)

I hereby certify that the project work performed is in compliance with all applicable permits and in compliance with the "Guidelines for Materials for Streambank Stabilization."

_____

Signature of Project Owner Date

I hereby certify that I provided the concrete rubble used in the project and that I did not compensate the owner for accepting the rubble.

_____

Signature of Concrete Rubble Provider Date

Nationwide Permit 33

Temporary Construction, Access, and Dewatering

Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard. This NWP also authorizes temporary structures, work, and discharges, including cofferdams, necessary for construction activities not otherwise subject to the Corps or U.S. Coast Guard permit requirements. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if the district engineer determines that it will not cause more than minimal adverse environmental effects. Following completion of construction, temporary fill must be entirely removed to an area that has no waters of the United States, dredged material must be returned to its original location, and the affected areas must be restored to pre-construction elevations. The affected areas must also be revegetated, as appropriate. This permit does not authorize the use of cofferdams to dewater wetlands or other aquatic areas to change their use. Structures left in place after construction is completed require a separate section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322.)

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the activity is conducted in navigable waters of the United States (i.e., section 10 waters) (see general condition 32). The pre-construction notification must include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre- project conditions.

(Authorities: Sections 10 and 404)

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/ or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

Nationwide Permit 3

Maintenance

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. 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. This NWP also authorizes the removal of previously authorized structures or fills. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those 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 two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization.

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

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre- construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals.

(Authorities: Section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act (Sections 10 and 404))

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/ or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
(c) 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.

2. Aquatic Life Movements.

No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas.

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas.

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

5. Shellfish Beds.

No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material.

No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes.

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

8. Adverse Effects from Impoundments.

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

9. Management of Water Flows.

To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre- construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains.

The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment.

Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls.

Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills.

Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance.

Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project.

The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ‘‘study river’’ for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ‘‘study river’’ for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.
(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights.

No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which ‘‘may affect’’ a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.
(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre- construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7

consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.
(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity ‘‘may affect’’ or will have ‘‘no effect’’ to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non- Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have ‘‘no effect’’ on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species- specific permit conditions to the NWPs.
(e) Authorization of an activity by an NWP does not authorize the ‘‘take’’ of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with ‘‘incidental take’’ provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where ‘‘take’’ means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word ‘‘harm’’ in the definition of ‘‘take’’ means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district

engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.
(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide Web pages at http://www.fws.gov/ or http:// www.fws.gov/ipac and http:// www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles.

The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether ''incidental take'' permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

(a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.
(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre- construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include

background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non- Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

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

21. <u>Discovery of Previously Unknown Remains and Artifacts.</u>

If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the

Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters.

Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.
(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.
(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation.

The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:
(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre- construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre- construction notification, the district engineer may determine on a case-by- case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.
(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity

results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult- to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns.

Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

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

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the

district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2- acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee- responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee- responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

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

24. <u>Safety of Impoundment Structures.</u>

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

25. <u>Water Quality.</u>

Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management.

In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions.

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits.

The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications.

If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

> When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide

permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ (Transferee) ____
_____ (Date)

30. Compliance Certification.

Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:
(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
(c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States.

If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a ‘‘USACE project’’), the prospective permittee must submit a pre- construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

(a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the

information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is ''no effect'' on listed species or ''no potential to cause effects'' on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district

engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act.

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the ''study river'' (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre- construction notification. The district fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or

economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre- construction notifications to expedite agency coordination.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

2017 NATIONWIDE PERMITS
REGIONAL CONDITIONS
OMAHA DISTRICT
STATE OF MONTANA

1. **PCN Requirement.** For all NWPs, permittees must notify the Corps in accordance with General Condition No. 32 (PCN) for regulated activities, located within or comprised of the following:

   a. Wetlands Classified as Peatlands. Peatlands are seasonally waterlogged areas with a surface accumulation of peat (organic matter) 30 centimeters (12 inches) or more thick. Any peat-covered areas, including fens, bogs, and muskegs, are all peatlands.

      i. PCN required for NWP 3, 5, 6, 20, 27, 32, and 38.

      ii. All NWPs not listed above are revoked for use in peatlands.

   b. Waters Adjacent to Natural Springs. Any projects located within 100 feet of the water source in natural spring areas. A spring is defined as any location where there is groundwater flow emanating from a distinct point. Springs do not include seeps or other groundwater discharge areas where there is no distinct point source.

   c. Bank Stabilization Activities. Any project that involves bank stabilization greater than 300 linear feet or includes features that extend out from the existing bank line greater than 25% of the bankfull channel width.

   d. Channel Straightening and Relocation Activities. Any project that involves straightening, relocating and/or shortening an existing perennial stream channel.

   e. Tribal Reservations and Tribal Trust Lands. Any projects within the boundaries of any Tribal Reservation or Tribal trust lands.

   f. Specific Waterways Requiring PCN. Any projects within the following waterways and their impoundments:

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

2. **Bank and Shoreline Stabilization Activities.** The following additional requirements apply to all bank and shoreline stabilization:

   a. The revetment must conform to the existing bankline; must not extend above the top of the bank (i.e. no new levees); and the slopes must be flatter than the angle of repose for the selected revetment material (i.e. rock riprap normally needs to be placed on a slope flatter than 1.5 Horizontal to 1 Vertical

(1.5H:1V).

b. The revetment must not wholly or partially block flows from entering a side channel or an overflow channel.

3. **Counter-Sinking Riprap Associated with Culvert Installation.** When riprap inlet and outlet protection is used below the OHWM (OHWM), it must be placed to match the adjacent culvert bottom elevations. Where culvert bottom elevations are lower than the stream bed elevation, the riprap must match the culvert elevation.

4. **Placement and Removal of Temporary Fills.** Temporary fills in wetlands must be placed on a horizontal marker layer, such as fabric or certified weed-free straw, to delineate the pre-project ground elevation and facilitate complete fill removal and site restoration.

5. **Erosion and Sediment Control Blanket.** All erosion control blanket or fabric used in or adjacent to waters of the U.S. must be comprised of degradable material to ensure decomposition. Do not use material that includes stabilized netting or stabilized open mesh, as these products take a long time to degrade and they can trap small animals, birds, amphibians and fish. This prohibition also applies to mesh materials used for wattles, rolled materials, and bank wraps. Erosion control blanket or fabrics that break down within 24 months are acceptable. Non-degradable blankets or fabric may be allowed on a case-specific basis if it will be buried beneath riprap or structures and it is not likely to be exposed. Non-degradable blanket or fabric that becomes exposed within waters of the U.S. must be removed.

6. **Suitable Material.** NWP General Condition No. 6 prohibits the use of unsuitable material. Specific criteria can be found in the Omaha District's "Generic Prohibitions Regarding the Use of Certain Materials as Fill in Waters of the United States" and MT Department of Environmental Quality's (DEQ) "Specifications for use of Concrete Riprap for Streambank Stabilization," which apply to proposed work in jurisdictional waters.

REGIONAL CONDITIONS APPLICABLE TO SPECIFIC NATIONWIDE PERMITS

7. **NWP-3 – Maintenance and NWP-45 – Repair of Uplands Damaged by Discrete Events.** The definition of "discrete event," as used in these permits, includes, but is not limited to, unexpected natural and human-caused events such as fires, storms, landslides, avalanches, earthquakes, accidents, debris or ice jams, and floods. For the purpose of the NWPs, discrete event floods are stream flow events that overflow the OHWM.

8. **NWP-7 – Outfall Structures and Associated Intake Structures and NWP-12 – Utility Line Activities.** Inlet screens for intakes in the Yellowstone River or the Missouri River in Blaine, Chouteau, Custer, Dawson, Fergus, Garfield, McCone,

Petroleum, Phillips, Prairie, Richland, Roosevelt, Valley and Wibaux Counties must be installed on all pump intakes with a screen mesh opening size no larger than 0.25 inch. Water intake velocities must not exceed 0.5 foot per second through the mesh. Intakes must be located in the deepest water available and be elevated off the bottom of the river bed.

REGIONAL CONDITIONS APPLICABLE ONLY TO THE SPECIAL RIVER MANAGEMENT ZONE OF THE UPPER YELLOWSTONE RIVER

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

In addition to Regional Conditions 1 through 8, the following Regional Conditions 9 through 24 apply within the SRMZ described above:

9. **SRMZ – Notification – All NWPs.** Permittees must notify the Corps in accordance with General Condition No. 32 (PCN) for any regulated activity in waters of the U.S. within the SRMZ. This includes all activities within the Yellowstone River, the portions of tributaries within the SRMZ, and wetlands within the SRMZ.

10. **SRMZ – Emergency Work.** Activities requiring a Department of the Army (DA) Permit that is necessary to prevent imminent loss of life or property is allowed within the SRMZ. Contact the Corps as soon as reasonably possible by telephone at 406-441-1375 and/or by Fax at 406-441-1380. Contact may also be made in person or by sending an e-mail to: CENWO.ODRMT@usace.army.mil. All such work will be fully reviewed under the SAMP provisions.

11. **SRMZ - NWPs Revoked for Use.** The following NWPs have been revoked for all waters and activities within the 48-mile SRMZ:
    NWP 17 - Hydropower Projects
    NWP 21 - Surface Coal Mining Activities
    NWP 29 - Residential Developments
    NWP 39 - Commercial and Institutional Developments
    NWP 42 - Recreational Facilities
    NWP 43 - Stormwater Management Facilities
    NWP 44 - Mining Activities
    NWP 45 - Repair of Uplands Damaged by Discrete Events
    NWP 49 - Coal Remining Activities

NWP 50 - Underground Coal Mining Activities

12. **SRMZ – Activities Requiring Individual Permit Review.** The following project activities are not authorized under a NWP in the SRMZ. These projects typically have more than minimal adverse impacts and must be reviewed under standard (individual) permit procedures.

    a. New dams, new diversions, and/or new impoundments for any purpose;
    b. Construction of ponds and new artificial stream channels, unless they are necessary and appropriate elements of a stream or wetland restoration project;
    c. Hydraulic dredging and mining and mechanical excavation to obtain aggregate, fill material, or minerals, including gold. Processing of material for the purpose of obtaining select minerals or a specific gradation of material, where only a portion of the sediment or alluvium is removed and the remainder returned to the SRMZ, is not allowed under a NWP in the SRMZ.

13. **SRMZ - Bank Stabilization Activities - All NWPs.** For bank stabilization activities associated with any NWP, including maintenance of bank stabilization, the following Regional Conditions apply:

    For bank revetments such as riprap, root wads, bioengineered revetments, or combination revetments, a. through e. apply:

    a. Revetments must conform to the existing eroded or eroding bankline, unless such work is determined by the Corps to be biologically or geomorphically beneficial for the upper Yellowstone River.
    b. Revetment slopes must be flatter than the angle of repose for the selected revetment material. For example, rock riprap normally needs to be placed on a slope flatter than 1.5H:1V.
    c. Revetments are only permittable under NWPs if they are parallel to and near the lateral boundaries of the SRMZ.
    d. Revetments must not extend above the elevation of the adjacent natural bank height (i.e., no new levees).
    e. Revetments must not wholly or partially block flows from entering a side channel, secondary channel, or an overflow channel, unless such work is determined by the Corps to be necessary for maintaining or restoring the geomorphic integrity of the upper Yellowstone River.

    For bank stabilization structures that project into the stream, such as weirs, barbs, vanes, or hard points, f. through k. apply:

    f. Bank stabilization structures must not wholly or partially block flows from entering a side channel, secondary channel, or an overflow channel, unless such work is determined by the Corps to be necessary for maintaining or restoring the geomorphic integrity of the upper Yellowstone River.

g. Bank stabilization structures are only permittable under NWPs if they result in an effective bankline that is approximately parallel to and near the lateral boundaries of the CMZ.
h. Bank stabilization structures must be keyed into the bank far enough to prevent flanking.
i. Bank stabilization structures cannot occupy more than 10% of the bankfull channel area. Bankfull channel area pertains to the specific primary or secondary channel in question, and is not the aggregate channel area of all primary and secondary channels in multi-channel reaches.
j. Bank stabilization structures must not present hazardous obstructions to boating, floating, or other river uses.
k. Bank stabilization structures that are low in elevation, project only a short distance out from the bank, and angle upstream are more likely to qualify for NWPs because they typically result in less adverse impact on aquatic resources than structures that are tall, long, and point downstream.

14. **SRMZ – Temporary Bank Stabilization – All NWPs.** Temporary bank stabilization is prohibited during seasonal high flows.

15. **SRMZ – Sediment Management – All NWPs.** Sediment removal is allowable only to maintain function of existing facilities and structures, or as necessary to maintain or restore the geomorphic integrity of the upper Yellowstone River. Diversion or removal of sediment or alluvium from the river channel and adjacent wetlands for other purposes is not allowed in the SRMZ under any NWP.

16. **SRMZ – Temporary Vegetation Impacts – All NWPs.** Limit clearing of riparian or wetland vegetation to the absolute minimum necessary. Where temporary riparian or wetland vegetation impacts are unavoidable, mow or cut off the vegetation above the ground, leaving the topsoil and root mass intact. Restore temporarily disturbed areas to original contours and use seeding and planting as necessary to re-establish desirable vegetative cover, utilizing native species in areas where native species were impacted.

17. **SRMZ – NWP-11 – Temporary Recreational Structures.** Temporary recreational structures can be installed no earlier than seven (7) calendar days in advance of an event and must be removed no later than seven (7) calendar days after the event concludes.

18. **SRMZ – NWP-12 – Utility Line Activities.** Trench excavation and backfill for utility lines is prohibited within the OHWM of main and secondary flow channels and in adjacent wetlands.

19. **SRMZ – NWP-13 – Bank Stabilization.** Construction of temporary or permanent levees is prohibited. Only bank stabilization that is parallel to and adjacent to the valley wall and/or SRMZ boundary is allowed. All other bank stabilization must be reviewed under standard (individual) permit procedures. Bank stabilization along

existing roads, ditches, fills, and structures already located along the valley wall is allowed under this Permit.

20. **SRMZ – NWP-14 – Linear Transportation Projects.** The construction of new transportation facilities in waters of the U.S. is prohibited under this NWP and must be reviewed under standard (individual) permit procedures. The expansion, modification, improvement, replacement, reconstruction, and upgrading of existing transportation facilities are allowed under this NWP within the SRMZ.

21. **SRMZ – NWP- 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities.** The construction of water control structures, dikes, berms, current deflectors, bank stabilization, and ponds is prohibited within the CMZ of the upper Yellowstone River unless it is demonstrated the proposed features contribute to the restoration or rehabilitation of previously lost or impaired functions of the upper Yellowstone River and adjacent aquatic areas.

22. **SRMZ – NWP-30 – Moist Soil Management for Wildlife.** Fire breaks within the CMZ of the upper Yellowstone River must be reclaimed and restored within six (6) months after the fire event ends.

23. **SRMZ – NWP-33 – Temporary Construction, Access, and Dewatering.** Construction of temporary levees and other structures or fills in waters of the U.S. that prevent or reduce overbank flow is prohibited.

24. **SRMZ – NWP 40 – Agricultural Activities.** Only those activities associated with the reduction of existing adverse impacts on the upper Yellowstone River may be authorized by this NWP. Examples of potentially allowable projects include work associated with livestock management; moving livestock watering areas off the river or out of the CMZ; removal of irrigation systems from the CMZ; and the removal or conversion of irrigation systems from flood irrigation to sprinkler irrigation.

Montana Fish, Wildlife & Parks

SPECIFICATIONS FOR WORK

Incorporation of Montana Public Works Technical Specifications

The Technical Specifications as found in Divisions 2 and 3 of the Montana Public Works Standard Specifications (MPWSS), Sixth Edition, April 2010 and/or current Addendums or Revisions, are hereby incorporated by reference and made a part of this Contract.

Incorporation of Montana Fish, Wildlife & Parks Technical Specifications and Modifications to MPWSS Technical Specifications

In addition to the MPWSS Technical Specifications identified above, the following Montana Fish, Wildlife & Parks Technical Specifications (and modifications to MPWSS Technical Specifications) are hereby incorporated by reference and made part of this Contract:

SECTION 01090-	References
SECTION 01450 -	Mobilization/Demobilization
SECTION 01750 -	Final Cleanup
SECTION 01800 -	Erosion and Sediment Control
SECTION 01900-	Dewatering
SECTION 02230 -	Excavation, Backfill, and Compaction
SECTION 02236-	Gravel Leveling Course
SECTION 02503-	Crack Seal
SECTION 02505-	Construction Seal
SECTION 02581-	Pavement Markings and Markers
SECTION 03310-	Structural Concrete

SECTION 01090

REFERENCES

All applicable portions of this specification section in the MPWSS shall apply with the following additions, deletions and/or modifications.

PART 1 GENERAL

1.2 DEFINITIONS

A. Delete this paragraph and add the following:

These specifications use "Article 1 – General Provisions" of the General Conditions of the Contract for Construction, prepared and issued by the Montana Fish, Wildlife and Parks, for the definition of terms herein. Changes to definitions are by either substitution for the article or in Supplementary Conditions.

END OF SECTION 01090

SECTION 01450

MOBILIZATION/DEMOBILIZATION

Added Section.

PART 1 GENERAL

1.1 DESCRIPTION

A. This item shall consist of the prepatory work and operations necessary performed by the Contractor for the movement of personnel, equipment, supplies, and incidentals to and from the work site. The work includes those actions necessary for obtaining necessary permits required for mobilization; for the establishment of all offices and facilities necessary to work on the project; for premiums on contract bonds; for insurance for the contract; and for other work on the various items on the project site. Mobilization costs for subcontracted work shall be included.

B. Contractor's cost for administration, bonding, insurance, and site documents shall be included in mobilization and shall not be paid as a separate item.

C. All equipment moved to the project sites shall be in good mechanical condition and free of fuel, oil, lubrication, or other fuel leaks. The Contractor shall immediately remove any leaking equipment from the work site.

D. All equipment moved to the project sites shall be thoroughly cleaned before it is brought to the sites to prevent the introduction of weed seeds. Equipment removed from the sites may not be returned to the sites again until it is thoroughly cleaned again.

PART 2 PRODUCTS – NOT USED

PART 3 EXECUTION – NOT USED

PART 4 MEASUREMENT AND PAYMENT

4.1 MEASUREMENT

A. There will be no direct measurement of this item.

4.2 PAYMENT

A. Partial payments for mobilization/demobilization will be made based on the lump sum bid price as follows:

- 50% of the amount bid for mobilization/demobilization when the Contractor has moved on-site and begun construction activities.
- Remaining 50% of the amount bid for mobilization/demobilization on the final pay request, after site cleanup and demobilization has been completed and Final Acceptance has been issued.

END OF SECTION 01450

SECTION 01750
FINAL CLEANUP

Added Section.

PART 1 GENERAL

1.1 DESCRIPTION

A. This work consists of final cleanup of the project site prior to final acceptance.

PART 2 PRODUCTS – NOT USED

PART 3 EXECUTION

3.1 CONTRACTOR RESPONSIBILITES

The contractor shall be responsible for final clean up at the end of the project to a level satisfactory to the Owner. All construction debris and left-over materials shall be collected and removed from the site. All wheel ruts shall be filled in and be leveled to match the adjacent grade and material. Re-seeding or re-sodding, or other re-surfacing may be necessary to repair any construction related impacts or damage.

All final surfaces shall be dressed manually to remove debris and oversized material. Soil surfaces shall be hand raked to provide a uniform appearance. Gravel, pavement and concrete edges shall be dressed to eliminate abrupt edges and provide a smooth transition. Dirt and debris shall be swept from all paved or concrete areas affected by the work.

All construction related temporary sediment control devices shall be removed as soon as practical.

PART 4 MEASUREMENT AND PAYMENT

4.1 PAYMENT

Unless specifically noted otherwise, all final cleanup work shall be incidental to other work items in the contract and no separate payment shall be made.

END OF SECTION 01750

SECTION 01800
EROSION AND SEDIMENT CONTROL

Added Section.

PART 1 GENERAL

1.1 DESCRIPTION

A. This work consists of implementing Best Management Practices (BMPs) by furnishing, installing, and maintaining erosion control and sediment control measures shown on the project drawings and/or as required to comply with project related construction permits and local, state and federal agency regulations.

PART 2 PRODUCTS

2.1 GENERAL

A. Temporary and erosion control products utilized include but are not limited to backfill material; berms; brush barriers; erosion control blankets, bales, wattles, logs, rolls; erosion control culvert pipe; detention basins; fertilizer; geotextile; mulch; plastic lining; riprap; sandbags; seed; silt fence; and water.

2.2 EROSION CONTROL WATTLES

A. Provide a sediment retention product made from straw and coconut fiber reinforced with a 100% bio-degradable netting. Use wood stakes to secure sediment retention product in place, spacing per the manufacturer's recommendations. An acceptable product is *Sediment Stop*, manufactured by *North American Green*, or approved equal.

2.3 EROSION CONTROL BLANKETS

A. Provide a sediment retention product made from straw and coconut fiber reinforced with a 100% bio-degradable netting. Use wood stakes to secure sediment retention product in place, spacing per the manufacturer's recommendations. An acceptable product is *BioNet® S150BN™*, manufactured by *North American Green*, or approved equal.

2.4 SILT FENCE

A. Provide commercially available silt fencing and install in accordance with manufacturer's recommendations. Silt fence shall not be utilized as a permanent sediment control measure and shall be removed when Work is completed and/or permanent measures are implemented.

2.5 STRAW BALES

A. Straw bales must be certified weed free. Provide copy of certification to Project Representative prior to installation.

PART 3 EXECUTION

3.1 INSTALLATION

A. Implement permanent and temporary erosion control measures to minimize erosion and sedimentation during and after construction according to the contract erosion control plan, environmental permits, and as directed by the Project Representative. These erosion control measures shall be designed, implemented, and maintained by the Contractor in accordance with Best Management Practices (BMPs) to control erosion and sediment release from the work site.

B. Install permanent and temporary erosion control measures according to the Storm Water Pollution Prevention Plan (SWPPP), if applicable, approved construction permits, and erosion control drawings.

C. When erosion control measures are not functioning as intended, immediately take corrective action.

PART 4 MEASUREMENT AND PAYMENT

4.1 MEASUREMENT AND PAYMENT

A. All items in this section are incidental to the work and no separate payment is made for these items.

END OF SECTION 01800

SECTION 01900

DEWATERING

Added Section.

PART 1 GENERAL

1.1 DESCRIPTION

A. The Contractor shall furnish all labor, equipment and appurtenances, and materials necessary for the satisfactory dewatering of excavations and other work areas specified in the Contract Drawings and Technical Specifications.

B. The Work covered by this Section includes dewatering of excavations, trenches, sumps, and any other areas where water has collected and must be removed before the Work can progress.

1.2 REGULATORY REQUIREMENTS

A. The Contractor is required to comply with all rules and regulations stipulated under the permits for the project. The Contractor shall be responsible for all violations, fines, remediation, etc. imposed by local, state and/or federal agencies responsible for the monitoring, inspection, and enforcement of the permits issued for the site construction.

PART 2 PRODUCTS

2.1 EQUIPMENT

A. Water-inflated bladder type cofferdams of sufficient size to isolate work area.
B. Pump(s) as necessary to initially dewater work area and continuously control seepage.

PART 3 EXECUTION

3.1 DEWATERING

A. Contractor shall keep excavations and other work areas free from running or standing water while Work is in progress. The Contractor shall provide and install cofferdams, pumps of sufficient capacity, sediment removal devices and other items necessary for dewatering the Work area(s), including but not limited to lowering the water table below the bottom of excavations by temporary trenches or sumps, or other approved means.

B. Dewater excavations prior to placing concrete. Remove water that has accumulated in the excavation after final inspection and prior to concrete placement, using approved methods.

C. The Contactor shall dispose water removed from excavations and other work areas in an approved manner. The disposal shall neither be a detriment to public health, public or private properties, or work completed or in progress, nor produce any impediment or contamination to roadways, watercourses, wetlands, or storm and sanitary sewers. Water pumped from excavation areas, trenches, sumps and other work areas shall be filtered, pumped, and conveyed to approved discharge locations.

D. Best Management Practices (BMPs) such as erosion, sediment and pollution controls shall be implemented prior to beginning Work.

PART 4 MEASUREMENT AND PAYMENT

4.1 MEASUREMENT

A. There will be no direct measurement of this item.

4.2 PAYMENT

A. Partial payments for mobilization/demobilization will be made based on the lump sum bid price as follows:

- 50% of the amount bid for Dewatering when the site is initially dewatered and construction activities have started.
- Remaining 50% of the amount bid for Dewatering on the final pay request, after site cleanup and demobilization has been completed and Final Acceptance has been issued.

END OF SECTION 01900

SECTION 02230
EXCAVATION, BACKFILL AND COMPACTION

All applicable portions of this specification section in the MPWSS shall apply with the following additions, deletions and/or modifications.

PART 1 GENERAL

1.3 DENSITY CONTROL TESTING

A. FIELD DENSITY TESTING

Delete this section and add the following:

In-place field density tests for quality assurance are at Contractor's expense meeting AASHTO T238 (ASTM D2922) and AASHTO T239 (ASTM D3017), Nuclear Densometer Methods. Quality assurance field density testing frequency is once per 1000 SF of compacted lift, or as directed by Engineer.

Retesting of failing areas is at the expense of the Contractor.

B. LABORATORY MAXIMUM DENSITY and OPTIMUM MOISTURE

Delete this section and add the following:

Quality assurance tests will be made by the Contractors independent testing laboratory for each on-site natural soil or each source of off-site material, including borrow material, to determine the laboratory maximum density values and optimum compaction moisture content under AASHTO T99 or ASTM D698.

PART 4 MEASUREMENT AND PAYMENT

4.1 METHOD OF MEASUREMENT AND PAYMENT

Delete this section and add the following:

B. EXCAVATION AND EMBANKMENT

1. Excavation and embankment will not be measured for payment and is considered incidental to other work items in this Contract.

END OF SECTION 02230

SECTION 02236
GRAVEL LEVELING COURSE

Added Subsection.

PART 1 GENERAL

1.1 DESCRIPTION

B. This work also consists of placing clean, screened gap-graded gravel leveling course beneath concrete boat ramp slab.

PART 2 PRODUCTS

2.1 GRAVEL LEVELING COURSE GRADATION

A. Furnish gravel leveling course that is crushed aggregate as shown in Table 1. The gravel leveling course must not contain other deleterious material, such as shale, alkali, mica, or soft flaky particles.

Table 1. Gravel Leveling Course Gradation

Sieve Size	Percent Passing
1”	100
3/4”	90-100
3/8”	20-55
No. 4	0-10
No. 8	0-5

PART 3 EXECUTION

3.1 PLACEMENT AND SPREADING

A. Place material to specified depth as indicated on the project drawings. Deposit and spread the material in a uniform layer and screed to make a uniform surface at the specified boat ramp grade as indicated on the project drawings.

B. Perform compaction efforts by mechanical tamping as approved by the Project Representative.

PART 4 MEASUREMENT AND PAYMENT

4.1 GRAVEL LEVELING COURSE

A. Gravel Leveling Course will not be measured for payment and is considered incidental to other work items in this Contract.

END OF SECTION 02236

SECTION 02503

CRACK SEAL

Added Section.

PART 1 GENERAL

1.1 DESCRIPTION

A. The Contractor shall furnish all labor, equipment and appurtenances, and materials necessary for crack sealing asphalt areas specified on the Contract Drawings.

PART 2 PRODUCTS

2.1 SEAL MATERIAL

A. Crafco 522 crack sealant (or equivalent).

B. Provide equivalent material that meets or exceeds the following specifications:

Cone Penetration, 77°F (25°C) (ASTM D5329)	100-150
Cone Penetration, 0°F (-18°C) (ASTM D5329 modified)	25 min.
Flow, 140°F (60°C), 5h (ASTM D5329)	10 mm max.
Resilience (ASTM D5329)	30-60%
Bond, -20°F (-29°C), 200% ext. (1/2" (12.7mm) thick specimen (ASTM D5329)	Pass 3 cycles
Asphalt Compatibility (ASTM D5329)	Pass
Recommended Application Temperature	380°F (193°C)
Maximum Heating Temperature	400°F (204°C)

PART 3 EXECUTION

3.1 ROUTERING AND SEALING CRACKS

A. Router all new cracks to a minimum of ½" wide.

B. Remove any loose material, vegetation, or debris from every crack and adjoining surface before applying sealant by brooming, air blowing or flushing with pressurized water.

C. All cracks shall be dry before sealant is applied.

D. Surface temperature shall be a minimum of 35 F and rising.

E. Ensure that the sealant fills the entire reservoir that was created by the routing and is flush with the adjacent asphalt surface.

F. Cracks or open joints adjoining any concrete shall be sealed.

G. Any concrete surfaces that have excess crack sealant (>1" overlap) shall be removed at contractor's expense.

PART 4 MEASUREMENT AND PAYMENT

4.1 MEASUREMENT

A. There will be no direct measurement of this item.

4.2 PAYMENT

A. Crack seal will not be measured for payment and is considered incidental to other work items in this Contract.

END OF SECTION 02503

SECTION 02505
CONSTRUCTION SEAL

All applicable portions of this specification section in the MPWSS shall apply with the following additions, deletions and/or modifications.

PART 4 MEASUREMENT AND PAYMENT

4.1 CONSTRUCTION SEAL

Delete this section and add the following:

A. Parking Lot Seal will be measured and paid for by the square yard (SY) of seal applied including all labor, equipment, materials, and incidentals required for the completion of the work. Crack sealing is incidental and will not be measured or paid separately.

END OF SECTION 02505

SECTION 02581
PAVEMENT MARKINGS AND MARKERS

All applicable portions of this specification section in the MPWSS shall apply with the following additions, deletions and/or modifications.

PART 4 MEASUREMENT AND PAYMENT

4.1 GENERAL

Delete this section and add the following:

A. There will be no direct measurement of this item.

B. Payment for Parking Lot Striping will be at the lump sum bid price including all labor, equipment, materials, and incidentals required for the completion of the work.

END OF SECTION 02581

SECTION 03310

STRUCTURAL CONCRETE

All applicable portions of this specification section in the MPWSS shall apply with the following additions, deletions and/or modifications.

PART 1 GENERAL

1.1 DESCRIPTION

Add the following:

B. FWP will provide a grooving tool(s) for producing a grooved finish on the concrete surface. The tool(s) provided by FWP shall be returned cleaned. The finishing tool surfaces shall be free of hardened concrete and in good condition. A cleaning cost of $250.00 will be retained if the tool(s) are returned not cleaned or poorly cleaned. Additional costs for repair or replacement of damaged tools may also be retained.

1.3 QUALITY ASSURANCE

B. Delete entire paragraph and add the following:

Concrete Testing: The Contractor shall employ at his expense an independent testing laboratory acceptable to the Owner to perform material evaluation tests and/or perform the mix design prior to placing concrete. The testing laboratory will perform all acceptance testing during the onsite placement of the concrete in accordance with Part 3.7. All references to Engineer in Part 3.7 refer to the testing laboratory. Results of all tests and evaluations shall be provided to Owner.

PART 2 PRODUCT

2.1 CLASSIFICATION

Add the following to Subsection A.1:

1. Use M-4000 concrete for all work.

PART 3 EXECUTION

3.4 PLACING CONCRETE

A. Delete the last sentence.

Add the following:

B. Provide written and/or verbal communication notice to the Project Manager three (3) working days, excluding Saturday and Sunday, prior to any project concrete pour, regardless of pour quantity. Failure to provide notification and receive acknowledgement from the Project Manager will result in a deduct of pour quantity from the associated bid item. Lump sum bid items will be deducted based on the concrete placed percentage.

3.4A CONCRETE V-GROOVE FINISHING

A. Required Accuracy

1. The Contractor shall construct all specified work as shown on the project drawings within the specified tolerances, shown in Table 1. The following are reasonable tolerances that allow for a maximum specified deviation which may occur in the field during construction. Deviations beyond any values listed below may result in reduction in payment, or rejection, in part due to poor aesthetics, loss of functionality, or does not meet desired design criteria.

2. If the Contractor fails to meet specified tolerances, that portion of the work area, as specified below, may be reduced in payment or rejected, removed and replaced in accordance with General Conditions, ARTICLE 12 – UNCOVERING AND CORRECTION OF WORK.

Table 1. V-Groove Finish Tolerances

Criteria	**Tolerance**
V-Groove Angle Orientation	+/- 15 degrees
V-Groove Depth	0.25”
V-Groove Connections (End to End Alignment)	0.5”

B. Concrete V-Groove Finish

1. Provide a v-groove finish on all ramp surfaces as shown in the project drawings or directed by the Project Representative. Provide adequate laborers to begin concrete v-groove finish during concrete placement. Timing of v-grooving finish is critical.

2. Factors that may influence the v-groove finish and concrete performance include air content, water content, add-mixtures and strength. Some Contractors delay starting the finish, or may have a tendency to add water to the concrete surface, in order to achieve a “perfect” ramp finish. This must be avoided, as significant amounts of water in the surface layer will result in weak strength of the v-grooves, which at best contain less quantity of large aggregate due to the nature of the finish process. Other influential factors

including, but not limited to: mix design, mixing and placement time, weather, correct placement of rebar, and correct thickness of ramp.

C. V-Groove Rating Score

1. The following rating score shall be used to determine allowable tolerances for all v-groove concrete finishes. The Project Representative shall make the final determination on any deficient or unacceptable area, determine the rating score, and conduct measurements as deemed necessary for evaluation. Three

(3) v-grooving evaluation criteria will be considered in determining the rating score including: appearance; angle orientation; and depth. A criteria rating score will be assigned for each based on the V-Groove Rating System, shown in Table 2. An overall, or final, rating score is made by averaging the three criteria rating scores. Final rating scores will be rounded to the nearest whole number.

Rating Score

1 Unacceptable, Contractor shall replace that portion of the ramp.
2 Poor, Reduction of 50% in payment for that portion of the ramp, or Contractor shall replace that portion of the ramp.
3 Fair, Minimum acceptance range.
4 Good.
5 Excellent, Letter of commendation to Contractor.

Table 2. V-Groove Evaluation Rating System

Evaluation Criteria	Criteria	Area	Score
V-Groove Appearance (top or bottom of groove)	Shallow, Uneven, Rough, Torn	40+ sf	-5
	Rounded, Flat, Semi-Rough	80+ sf	0
	Sharp, Crisp, Clean, Smooth		5
V-Groove Angle Orientation	0-5 or >56 degrees	40+ sf	1
	6-10 or 51-55 degrees	40+ sf	2
	11-15 or 46-50 degrees	80+ sf	3
	16-24 or 41-34 degrees	80+ sf	4
	25-35 degrees		5
V-Groove Depth	0.00” to 0.20”	40+ sf	1
	0.21” to 0.40”	40+ sf	2
	0.41” to 0.50”	80+ sf	3
	0.51” to 0.60”	80+ sf	4
	0.61” to 0.75”		5

PART 4 MEASUREMENT AND PAYMENT

4.1 GENERAL

Delete this section and add the following:

A. Cast-in-Place Concrete Boat Ramp will be measured and paid for by the square foot (SF) of ramp in place including all labor, equipment, materials, and incidentals required for the completion of the work. Construction of ribbon curbs along edge of existing asphalt parking lot is incidental and will not be measured or paid separately.

END OF SECTION 03310