



## **DEPARTMENT OF THE ARMY PERMIT**

**Permittee:** General Public

**Permit No.:** GP-00-02 (Corps File No. NWO-2000-21-002-MTH), Amendment 4

**Issuing Office:** US Army Corps of Engineers, Omaha District, Helena Regulatory Office

**NOTE:** The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

### **Project Description:**

**FISH BARRIERS & FISH SCREENS WITHIN THE STATE OF MONTANA**  
Appendix A lists application information.

Structures or fills designed to permanently or temporarily isolate fish populations for fish management purposes shall be authorized under this general permit. Proposals for permanent barriers must include an evaluation of maintenance needs associated with the screen or barrier, including bedload/debris accumulation. Construction of fish screens or barriers to prevent fish and aquatic species entrainment in irrigation facilities, hydroelectric facilities, water intakes, etc. are also authorized by this general permit.

**Project Location:** Jurisdictional waters of the United States in Montana

This Regional General Permit expires on August 31, 2021.

### **Permit Conditions:**

1. The time limit for completing the work authorized ends two (2) years from the date authorization of each project. If you find that you need more time to complete the authorized

activity, submit your request for a time extension to this office for consideration at least 45 days prior to the expiration date.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 19 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. 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.
4. If threatened or endangered species are sighted at or near the project site, particularly during construction, work must cease and the U.S. Fish and Wildlife Service contacted immediately at (406) 449-5225.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification will be attached if approved.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. All construction debris will be disposed of on land in such a manner that it cannot enter a waterway, wetland, or other aquatic area.
8. Equipment for handling and conveying materials during construction must be operated to prevent unplanned and unapproved dumping or spilling of material into the waterway. All equipment must be cleaned of any oil, grease and debris prior to entering waterway.
9. Prevent materials spilled or stored on shore from washing into the water as a result of cleanup activities, natural runoff, or flooding.

10. Perform all work in the waterway in a manner that minimizes suspended solids and turbidity.
11. Utilize only clean material free from excessive fines in order to avoid excessive local turbidity, unless the approved fill material is fine-grained.
12. All erosion control blanket or fabric used in or adjacent to waters of the U.S. must be biodegradable to ensure decomposition. Do not use material that includes a stabilized netting or open mesh, as those products take a long time to degrade and 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 must break down within 24 months Use of non-degradable fabric can be allowed on a case-by-case basis if it is buried and is unlikely to be exposed.
13. Limit clearing of riparian or wetland vegetation to the absolute minimum necessary. Where temporary riparian or wetland vegetation impacts are unavoidable, it must be mowed or cut off above the ground and the topsoil and root mass must be left intact. The ground must then be restored to its original contours. Utilize seeding and planting as necessary to reestablish desirable vegetative cover, utilizing native species in areas where native species were impacted.
14. Mitigation will be required for unavoidable adverse impacts to jurisdictional wetlands. The permittee will be required to mitigate wetland loss in accordance with the most recent Corps guidance and policy.
15. Disturbed areas shall be monitored following the project construction and noxious weeds (i.e., Canada thistle, purple loosestrife, leafy spurge and other invasive exotic species) controlled in accordance with Montana State law.
16. Place all dredged or excavated materials, with the exception of that authorized herein, on upland areas and in such a manner as to not re-enter any aquatic area.
17. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
18. The permittee is responsible for all work accomplished in accordance with the terms and conditions of this authorization. If a contractor or other authorized representative will be

accomplishing the work hereby authorized in behalf of the permittee, such parties shall be provided a copy of this authorization so they are aware of the terms and conditions. An activity which fails to comply with the terms and conditions of this authorization will be considered unauthorized and all responsible parties will be subject to appropriate enforcement action.

19. To protect the interests of the United States under Section 10 of the Rivers and Harbors Act in Montana's **navigable waters** (Missouri River, Yellowstone River, and a portion of the Kootenai River), 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 such removal or alteration.
20. If the permittee sells the property associated with this RGP, the permittee may transfer the permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the RGP 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 RGP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."
21. This verification is valid for two years from the date of issuance or until August 30, 2021. If you commence or are under contract to commence this activity before the date that this RGP is modified, reissued or revoked, you will have twelve (12) months from the date of the modification, reissuance or revocation of the RGP 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).

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(Transferee)

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - a. You fail to comply with the terms and conditions of this permit.
  - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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

John W. Henderson  
(DISTRICT ENGINEER) (DATE)  
COLONEL, CORPS OF ENGINEERS  
DISTRICT COMMANDER BY: \_\_\_\_\_  
MARTHA CHIEPLY  
Chief, Regulatory Branch

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

\_\_\_\_\_  
(TRANSFeree) (DATE)

APPENDIX A  
STATE OF MONTANA-GENERAL PUBLIC  
REGIONAL GENERAL PERMIT 00-02, Amendment 4

All applications for consideration under this Regional General Permit will be reviewed by the Corps of Engineers from a hydraulic viewpoint with the intent of requiring individual permit processing for any project which may reasonably be expected to initiate or accelerate bank erosion.

APPLICATION PROCEDURES

1. To receive consideration under this Regional General Permit, the applicant will be required to submit a Notice of Intent to construct a particular project to the:

US ARMY CORPS OF ENGINEERS  
HELENA REGULATORY OFFICE  
10 WEST 15TH STREET SUITE 2200  
HELENA, MT 59626

PHONE: (406) 441 - 1375 (FAX) 441 -1380

2. The Notice of Intent, submitted by the applicant must clearly describe the proposed work so the Montana Program Manager can clearly determine whether or not the proposed work complies with the terms, conditions, and limitations of this General Permit, and must contain the following information.

- a. A cover letter describing the proposed work and indicating how the anticipated work will be accomplished.
- b. A drawing or sketch showing the size and location of the proposed structures and their relationship to other proposed or existing structures.
- c. A clearly marked site location map.

3. Prior to submitting a Notice of Intent to the Corps of Engineers, any work proposed by a private party must be coordinated with and approved by the Montana Department of Fish, Wildlife, & Parks (MTFW&P). Verification of the MTFW&P's approval should accompany the Notice of Intent to the Helena Regulatory Office.

Applicants can seek approval from the MTFW&P office nearest the project site.

- a. Region 1 - 490 North Meridian Road, Kalispell, MT 59901
- b. Region 2 - 3201 Spurgin Road, Missoula, MT 59804
- c. Region 3 - 1400 South 19th, Bozeman, MT 597 1 8
- d. Region 4 - 4600 Giant Springs Rd, Great Falls, MT 59405
- e. Region 5 - 2300 Lake Elmo Drive, Billings, MT 59105
- f. Region 6 - Route 1 - 42 10, Glasgow, MT 59230
- g. Region 7 - P.O. Box 1630, Miles City, MT 59301

4. For projects within the boundaries of the Indian Reservations, the Tribal Natural Resource Department will fulfill the role of the MTFW&P as described above.

## **CRITERIA**

ENG FORM 1721, NOV 86  
EDITION OF SEP 82 IS OBSOLETE.

(33 CFR 320-330)

The following criteria will govern the duration, utilization and applicability of this Regional General Permit.

1. The cumulative impacts of this Regional General Permit may be subject to reevaluation at the discretion of the District Engineer at any time, but will be reevaluated at least every five (5) years.
2. Projects that otherwise meet the terms of this Regional General Permit will not be authorized if they adversely impact any of the following resources:
  - a. Historic, cultural, or archeological sites or practices as provided in the National Historic Preservation Act of 1966.
  - b. Sites included in the National Register of Natural Landmarks which are published periodically in the Federal Register.
  - c. Sites included in the most current listing of the National Register of Historic Places or sites known to be eligible for such listing and all monthly supplements as published periodically in the Federal Register.
  - d. Projects which would cut off or block tributaries, oxbows, side channels, chutes or other backwater areas unless such blockage is designed to isolate fish populations for beneficial fish management purposes.
  - e. Projects on Federally designated Wild and Scenic Rivers (unless written approval is granted by the managing agency).