U.S. Department of Energy
Categorical Exclusion Determination Form

Proposed Action Title: Henderson-Mead #1 230-kV Transmission Line Access Road Maintenance, Structures 2/4 to 7/1

Program or Field Office: Western Area Power Administration, Desert Southwest Regional Office
Location(s) (City/County/State): Boulder City, Clark County, Nevada

Proposed Action Description:
Western proposes to conduct access road maintenance along the existing Henderson-Mead #1 230-kV transmission line. The project is located in the River Mountains north of US 93 in Clark County, Nevada. The project is on private lands and lands managed by the National Park Service at Lake Mead National Recreation Area in Sections 26-30 of Township 22 South, Range 64 East (Mount Diablo Baseline and Meridian). Access roads in the project area have become degraded and impassable. The purpose of the project is to ensure safe and reliable access to existing infrastructure to support the continued operation and maintenance of the bulk transmission system.

The undertaking entails conducting access road repairs and maintenance between Lakeshore Road west to River Mountain, between structures 2/4 and 7/1. The project area consist of approximately 6.1 miles of access road, including 4.1 miles of existing road that will likely not need maintenance, approximately 1.6 miles of existing roads that will require maintenance, and approximately 0.2 miles of proposed new spur roads (roads from the existing primary access road to structures). The access road improvement work involves using a dozer with a grader attachment. Construction of new spur roads would involve removing existing vegetation with a cut, shovel, dozer and/or chainsaw and running a grader along the length of the access road to smooth and finish the roadway. Access roads are typically 12 to 16 feet wide. Crew trucks, bulldozer, grader, flatbed trailers will be used for project work. The work is anticipated to begin no sooner than August 1, 2014, and be completed no later than October 1, 2014.

REFER TO SPECIAL CONDITIONS AND PERMIT REQUIREMENTS (ATTACHED)

Categorical Exclusion(s) Applied:
B1.3 - Routine maintenance

For the complete DOE National Environmental Policy Act regulations regarding categorical exclusions, including the full text of each categorical exclusion, see Subpart D of 10 CFR Part 1021.

Regulatory Requirements in 10 CFR 1021.410(b): (See full text in regulation)

☐ The proposal fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D.

To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, syntheic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

☐ There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal.

☐ The proposal has not been segmented to meet the definition of a categorical exclusion. This proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1)), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or 10 CFR 1021.211 concerning limitations on actions during preparation of an environmental impact statement.

Based on my review of the proposed action, as NEPA Compliance Officer (as authorized under DOE Order 451.1B), I have determined that the proposed action fits within the specified class(es) of action, the other regulatory requirements set forth above are met, and the proposed action is hereby categorically excluded from further NEPA review.

NEPA Compliance Officer: [Signature] Date Determined: [Date]
### Application of Categorical Exclusions (1021.410)

<table>
<thead>
<tr>
<th>Application</th>
<th>Disagree</th>
<th>Agree</th>
<th>Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b)(1) The proposal fits within a class of actions that is listed in appendix A or B to subpart D.</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)(2) There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternate uses of available resources</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)(3) The proposal has not been segmented to meet the definition of a categorical exclusion. Segmentation can occur when a proposal is broken down into small parts in order to avoid the appearance of significance of the total action. The scope of a proposal must include the consideration of connected and cumulative actions, that is, the proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or § 1021.211 of this part concerning limitations on actions during EIS preparation.</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### B. Conditions that are Integral Elements of the Classes of Actions in Appendix B:

<table>
<thead>
<tr>
<th>Condition</th>
<th>NO</th>
<th>YES</th>
<th>UNKNOWN</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety and health, or similar requirements of DOE or Executive Orders.</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, state, or local government, or a federally recognized Indian tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(i) Property (such as sites, buildings, structures, and objects) of historic, archaeological, or architectural significance designated by a Federal, state, or local government, or property determined to be eligible for listing on the National Register of Historic Places;  

(ii) Federally-listed threatened or endangered species or their habitat (including critical habitat) or Federally-proposed or candidate species or their habitat (Endangered Species Act); state-listed or state-proposed endangered or threatened species or their habitat; Federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise Federally-protected species (such as under the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);  

(iii) Floodplains and wetlands (as defined in 10 CFR 1022.4, —Compliance with Floodplain and Wetland Environmental Review Requirements: “Definitions,” or its successor);  

(iv) Areas having a special designation such as Federally- and state-designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;  

(v) Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), —Farmland Protection Policy Act: Definitions,|| or its successor;  

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and  

(vii) Tundra, coral reefs, or rain forests.; or  

(5) Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, the Environmental Protection Agency, and the National Institutes of Health.
Henderson-Mead Access Road Maintenance Project

Biological Resource Conditions – applicable everywhere at all times

1. Contact NPS at least 14 days prior to work within the Lake Mead National Recreation Area (see Sensitive Resources maps for NPS boundaries in relation to project area).

   Mike Boyles
   Environmental Compliance Specialist
   (702) 293-8978

2. Limited disturbance area: Limit the mechanical disturbance of previously undisturbed desert shrubland habitat (including soils) and to all rock formations (outcrops, crevices, and overhangs) to the greatest extent practicable. Wherever feasible, confine work areas and vehicle access routes, to graded areas, such as roadways, turnouts, and similar disturbed areas.

3. Biological Monitor: Due to the possibility that desert tortoise or nesting birds may be found on parts of the project alignment, a Biological Monitor will be present during all project activities that may disturb soil, vegetation, and wildlife. Based on the size of the project alignment, one qualified Biological Monitor will be sufficient to monitor project activities; at Western’s option, it may wish to designate an assistant to the Biological Monitor. The Biological Monitor’s responsibilities will include, but will not be limited to (1) inspection of locations of any tortoise burrows or sign, or active bird nests, that were located during the pre-construction survey (below); (2) monitoring activity of these species on or near the project alignment; (3) regular inspection of the work areas, including access routes and other areas related to project activities, for desert tortoise and nesting birds; and (4) regular inspection beneath vehicles and equipment to ensure that they do not present potential hazards to wildlife, including desert tortoises. The Biological Monitor will be authorized by Western to temporarily halt construction activity if needed to prevent harm to desert tortoise or nesting birds. The work supervisor will coordinate with the Biological Monitor on planned or ongoing activities in desert shrubland habitat and any specific monitoring requirements for each activity in those areas.

4. Pre-construction clearance survey: No more than 7 days prior to project construction at any location, a qualified biologist will survey the project alignment, including transmission line access road and associated work sites (e.g., equipment staging areas) for desert tortoise, tortoise burrows or other sign, and nesting birds, including burrowing owl. Outside the nesting season, the scope of these bird surveys may be limited to searching for occupied burrowing owl burrows. The biologist will provide these survey results in a memo to Western prior to the onset of construction activities, with any appropriate recommendations to avoid impacts to these resources.

5. Desert tortoise: No construction activities will take place in the vicinity of a desert tortoise. If a desert tortoise is observed, it will be left to move away from the work site on its own. The Biological Monitor and all workers shall regularly observe the work areas for desert tortoise. At any time a desert tortoise is seen within or near any work area (including access road, turnouts, staging areas, etc.), the Biological Monitor and project supervisor will be immediately notified. Only an Authorized Biologist (as authorized by USFWS; 2008) may handle a desert tortoise; unauthorized handling of a desert tortoise could constitute “take” as defined in the ESA. Additional conservation measures such as habitat compensation may be developed in consultation with the USFWS (required permits, below).
6. **Nesting birds:** Project activities will either be conducted outside the breeding bird season, or, for activities during the breeding season, work sites will be cleared by pre-construction surveys prior to beginning work (see clearance surveys, above). To avoid disturbance to nesting birds, project activities taking place between 1 January and 31 August will be subject to pre-construction surveys. Project activities may not disturb an active bird nest. If an active bird nest is located on or adjacent to the site, the Biological Monitor (above) will designate and flag an appropriate buffer area around the nest where activities will not be permitted. The buffer area will be based on the bird species and nature of project activity.

7. **Burrowing owl:** If an active burrowing owl burrow is observed within the project alignment at any time of year, the Biological Monitor will designate and flag an appropriate buffer area around the burrow where activities will not be permitted. The buffer area will be based on the nature of project activity.

8. **Nelson’s bighorn sheep:** If a bighorn sheep is observed, it will be left to move away from the work site on its own. Project workers, including the biological monitor, will not approach, disturb, or harass a bighorn sheep at any time.

9. **Worker training:** The Biological Monitor will conduct employee training to ensure that all workers on the project site (including contractors) are aware of all applicable avoidance measures for biological resources. Specifically, workers will be required to (1) limit all activities to approved work areas; (2) check beneath and around vehicles and equipment before moving them; (3) report any desert tortoise, Gila monster, bighorn sheep, or bird nest observation in the project area and access routes, to the supervisor or biological monitor; (4) avoid contact with any wildlife that may approach a work area and be aware of potential venomous reptile bites from carelessness or unnecessary harassment; (5) pick up and properly dispose of any food, trash or construction refuse; and (6) report any spilled materials (oil, fuel, solvent, engine coolant, raw concrete, or other material potentially hazardous to wildlife), to the supervisor or biological monitor. In addition, all workers will be informed of civil and criminal penalties for violations of the federal ESA, the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and State of Nevada protections for banded Gila monster.

10. **Animals:** No pets will be permitted on the work site. Workers will not be permitted to feed, harm, approach, harass, or handle wildlife at any time, except to move animals out of harm’s way, and only as directed by a supervisor (but note that only a biologist authorized by USFWS may handle a desert tortoise). This condition will not exempt workers, including the Biological Monitor, from any Western safety policy with regard to venomous reptiles.

11. **Trash, refuse, concrete, and other materials:** All trash and food materials will be properly contained within vehicles or closed refuse bins while on the site, and will be removed regularly from the site (at least on a weekly basis) for proper disposal. All construction refuse will be removed from the site upon completion of construction. No raw cement/concrete or washings thereof, asphalt, paint, oil, solvents, or other petroleum products, or any other substances that could be hazardous to vegetation or wildlife resources, shall be disposed of on-site or allowed to spill onto soil. Cleanup of any spilled material shall begin immediately.

12. **Avoid wildlife hazards or attractants:** No potential wildlife pitfalls (trenches, bores, temporary detention basins, and other excavations) will be left uncovered. If covering or backfilling are not feasible, excavations shall be sloped at 3:1 at the ends to provide wildlife escape ramps, or fully enclosed with safety / wildlife exclusion fencing. All open trenches, bores, temporary detention basins, and other excavations shall be inspected periodically throughout the day and at the end of
each workday. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed. All pipes, culverts, survey markers, or similar materials will be covered or capped to prevent wildlife (including desert tortoise or migratory birds) from entering or becoming entrapped within them.

13. Minimize standing water: Within desert shrubland habitat, water applied to dirt roads and construction areas (trenches or spoil piles) for dust abatement shall use the minimal amount needed to meet safety and air quality standards, to prevent the formation of puddles, which could attract desert tortoises and other wildlife to construction sites. The Biological Monitor shall patrol these areas to ensure water does not puddle and shall take appropriate action to reduce water application where necessary.

14. Avoid spreading/introducing invasive plant species. At the request of the NPS, all construction equipment will be thoroughly washed prior to entering the NPS lands. A NPS employee will inspect all equipment prior to work to ensure that the undersides of all equipment are free of soil and plant matter.

Cultural Resource Conditions – applicable everywhere at all times

1. GENERAL: Do not remove or alter cultural artifacts or paleontological resources (fossils). Cultural artifacts may be of scientific or cultural importance and includes, but is not limited to bones, pottery, glass, projectile points (arrowheads), other stone or metal tools, historic buildings, and features. Paleontological resources can be of scientific importance and include mineralized animals and plants or trace fossils such as footprints. Both cultural and paleontological resources are protected by Federal Regulations during Federal construction projects. Contractor shall restrict all ground disturbing activities to areas that have been surveyed by Western

2. UNKNOWN CULTURAL OR PALEONTOLOGICAL SITES: On rare occasions cultural or paleontological sites may be discovered during excavation or other earth-moving activities.
   a. Reporting: If evidence of a cultural or paleontological site is discovered, cease work in the area immediately and notify the COR of the location and nature of the findings. If a monitor is present, the monitor should also be notified. Stop all activities within a 200-foot radius of the discovery and do not proceed with work within that radius until directed to do so by the COR.
   b. Care of Evidence: Protect the area. Do not remove, handle, alter, or damage artifacts or fossils uncovered during construction.

401 Permit Conditions – applicable in Drainages (see maps) at all times

Contact: NV Division of Environmental Protection, Jeanmarie Stone (775) 687-9456

1. Photographs which document conditions before, during and after construction should be submitted to the Bureau of Water Quality Planning (BWQP) 30 days following project completion. Photos must include BMPs used to prevent erosion, control sediment and protect water quality.

2. If straw bales are selected as BMPs they should be certified as weed free.

Work in Waterways Permit Conditions – applicable in Drainages (see maps) at all times

Contact: NV Bureau of Water Pollution Control, Peter Lassaline (775) 687-9569
Temporary Permit # NVW39512

The permit covers the project activities in Clark County, Nevada. The temporary permit is in effect from July 28, 2014 to January 23, 2015.

The first Quarterly Report is due November 28, 2014. The final narrative report and photo documentation is due February 28, 2015, or by the 28th day of the month following project completion, whichever comes first.

**Monitoring Requirements:**

1. Narrative and Photo Documentation: Project monitoring shall be conducted by means of a concise narrative report describing the project and a series of photos documenting the project activities as presented to NDEP, including the implementation of Best Management Practices (BMPs). The “before, during and after” photos, shall document all transmission line installation-related activities, as well as restoration activities. The photos shall be taken from established photo points. The photos, along with the narrative report of the project activities, shall be submitted to the Division quarterly, by the 28th day of the month following the end of the quarter, or conclusion of the project, whichever is less.

**Sampling and Monitoring:**

a. Turbidity: For all streams with flows greater than a foot wide or a foot deep at the time a project activity crosses that waterbody, turbidity monitoring is required. For each project activity that involves work in or near the above described waterbodies, a background sample shall be collected for turbidity, in the centroid of flow, approximately 100 feet upstream of the proposed activity. The Permittee or designated contractor shall identify potential upstream and downstream sampling points for each of the affected waterbody crossings in the event of required sampling. During the project activity, if a visible turbidity plume is generated, a grab sample shall be obtained from the center of the plume, approximately 200 feet downstream of the activity causing the plume, and analyzed with a handheld meter. If the reading is ≥10 Nephelometric Turbidity Units (NTUs) over background for greater than 15 minutes, the Permittee shall re-evaluate the BMPs, make adjustments and notify the Division by calling the permit writer within 48 hours the incident. All readings shall be recorded in a separate water quality logbook, with other essential information (time, flow (or stream width and depth), plume length, width and depth, and identification of the project activity likely responsible for the plume, what BMPs were in place at the time, and what BMPs are proposed to alleviate the plume, and any other pertinent information). If the plume persists for longer than 30 minutes, the plume-causing activity shall cease, and the Division shall be notified immediately.

b. Petroleum Hydrocarbons: In all waterbodies, if a petroleum hydrocarbon (fuel, grease, solvent, etc.) sheen is evident, then a grab sample shall be obtained from the sheen, and sent to a Nevada State Certified laboratory for analyses of TPH –full range organics. If a fuel leak or other equipment failure causes a sheen, the NDEP spill line shall be notified within 24 hours of occurrence at 1-888-331-6337.

Specific Conditions:

3. For or any heavy equipment used in the project areas in and near all of the unnamed ephemeral washes in Clark County, Nevada, the operations shall be conducted in accordance with the plans information, the specifications submitted to the Division, and the following terms and conditions:
   
a. Any heavy equipment to be used in the project areas must be steam cleaned at least once before work in and near the water bodies. All equipment shall be inspected for leaks daily prior to use. All leaks shall be repaired immediately. All equipment fueling and storage of fuels shall be conducted off-site and at least 100 feet away from the water bodies.

b. Best Management Practices (BMPs) shall be applied and precautions shall be taken to prevent and control releases of: debris, sediment, any transport of sediments, and to prevent and control turbidity in the water bodies during the construction activities.

c. A record shall be kept of each day’s use of heavy equipment in the project areas.

d. Every precaution must be taken in site stabilization of the area by the replacement of vegetation as applicable and practicable.

e. The Permittee, Western Area Power Administration, bears the responsibility to ensure that the requirements of this temporary permit are fully satisfied.

Quarterly Report and Final Report:

4. A Quarterly Report containing the information recorded in the water quality logbook, if any, and a brief narrative of the first quarter’s project activities, shall be submitted as described in Monitoring Requirements, above.

5. The final report with photos describing and documenting the results of the project’s activities shall be submitted after the end of the permit. The report shall also contain the water quality logbook containing all the data and information related to water quality exceedances and corrective actions as described in Monitoring Requirements, above. The report shall contain the original signature of the Engineer-In-Charge of the project. The final report shall be received, at the address given below, by the 28th day of the month following project completion or permit expiration, whichever comes first.

   Nevada Division of Environmental Protection
   Bureau of Water Pollution Control
   901 South Stewart Street, Suite 4001
   Carson City, Nevada 89701-5249

6. Water Quality Standards: There shall be no discharge of substances that would cause a violation of water quality standards of the State of Nevada.

7. Sediment Discharge: There shall be no discharge of sediment in other than trace amounts.

8. Odors: There shall be no objectionable odors generated in the conduct of this project.

9. Authorized Project Activities: There shall be no water management or rolling stock activities undertaken except those as authorized by this permit.

10. Plan Approval: The project elements/components/activities shall be constructed and or conducted in accordance with the plans submitted to and approved by the Division. If at any
time after the permit is issued the route changes, a new route, identifying the changes in the waterbody crossings, shall be submitted to the Division for approval. The plans must be approved by the Division prior to the start of construction. All changes to the approved plans must be approved by the Division.

11. Presumption of Possession and Compliance: Copies of this permit, any subsequent modifications shall be maintained at the permitted project site at all times.

12. See permit text for additional reporting requirements including content format and certification; noncompliance procedures, and process for requesting changes to project parameters or permit conditions.

404 Permit Conditions – applicable in Drainages (see maps) at all times

Contact: U.S. Army Corps of Engineers, Sacramento District, Patricia McQueary (435) 986-3979

Permit File #: SPK-2012-01067-SG

1. You shall notify the Corps of the start and completion dates for each phase of the authorized work within 10 calendar days prior to initiation of construction activities within waters of the U.S. and 30 calendar days following completion of construction activities.

2. A Pre-Construction Notification (PCN) is required. See permit text for pre-construction notification content, and timing.

3. Prior to initiation of any construction activities within waters of the U.S., you shall employ construction best management practices (BMPs) onsite to prevent degradation to on-site and off-site waters of the U.S. Methods shall include the use of appropriate measures to intercept and capture sediment prior to entering waters of the U.S., as well as erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. All BMPs shall be in place prior to initiation of any construction activities and shall remain until construction activities are completed. You shall maintain erosion control methods until all onsite soils are stabilized. You shall submit a description of and photo-documentation of your BMPs to our office within 30 days of commencement of construction. Photos may be submitted electronically to patricia.l.mcqueary@usace.army.mil.

4. The National Park Service requires that all heavy equipment used in ground disturbing activities be pressure washed in such a manner that will remove all foreign soil and vegetative matter prior to being used within Lake Mead National Recreation Area or Bureau of Reclamation Lands. This practice is designed to minimize the introduction and spread of non-native plants into the ecosystem.

5. The project proponent will notify the following Federal Agency Representative a minimum of 14 days’ prior to commencing ground disturbing activities on lands under their jurisdiction:

   Mike Boyles
   Environmental Compliance Specialist
   Lake Mead National Recreation Area
   601 Nevada Way
   Boulder City, NV 89005
   (702) 293-8978

* Changed from 3 days as stated in 404 permit to 14 days at the request of NPS
6. You and your authorized contractor shall allow representatives from the Corps and/or National Park Service to inspect the authorized activity area at any time deemed necessary to ensure that work is being or has been accomplished in accordance with the terms and conditions of this permit verification.

7. **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.

8. **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).

9. **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.

10. **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.

11. **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 and storm water management activities, 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).

12. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

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

14. **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.

15. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The affected areas must be revegetated, as appropriate.

16. **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.

17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. **Endangered Species.** Authorization of an activity by a 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 U.S. 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.

19. Utilize material consisting of clean and washed gravel.

20. Place a horizontal marker (e.g. fabric, certified weed free straw, etc.) to delineate the existing ground elevation of the waters temporarily filled during construction; and

21. Remove all temporary fill within 30 days following completion of construction activities.

22. Road crossings shall be designed to ensure that no more than minor impacts would occur to fish and wildlife passage or expected high flows, following the criteria listed in Regional Condition 6(a).

23. Culverted crossings that do not utilize a bottomless arch culvert with a natural stream bed may be authorized for waters that do not contain suitable habitat for Federally listed fish species, if it can be demonstrated and is specifically determined by the Corps, that such crossing will result in no more than minor impacts to fish and wildlife passage or expected high flows;

24. No construction activities shall occur within standing or flowing waters. For ephemeral or intermittent streams, this may be accomplished through construction during the dry season. In perennial streams, this may be accomplished through dewatering of the work area. Any proposed dewatering plans must be approved, in writing, by the Corps prior to commencement of construction activities; and

25. In no case shall stream crossings result in a reduction in the pre-construction bankfull width or depth of perennial streams or negatively alter the flood control capacity of perennial streams.

26. The permittee is responsible for all authorized work and ensuring that all contractors and workers are made aware and adhere to the terms and conditions of the permit authorization. The permittee shall ensure that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all construction activities are completed.

27. The permittee shall clearly identify the limits of disturbance in the field with highly visible markers (e.g. construction fencing, flagging, silt barriers, etc.) prior to commencement of construction activities within waters of the U.S. The permittee shall maintain such identification properly until construction is completed and the soils have been stabilized. The permittee is prohibited from any activity (e.g. equipment usage or materials storage) that impacts waters of the U.S. outside of the permit limits (as shown on the permit drawings).

28. No in-stream grouted outfall structures or grouting of stream bottoms shall be authorized under any NWP, unless the Corps determines that such structures are necessary and the permittee demonstrates, and the Corps concurs, that such structures would result in only minor impacts to waters of the U.S.