



Douglas A. Ducey  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera  
Director

October X, 2016

Reading File: SWGP16-0114

Applicant: U.S. Army Corps Of Engineers  
Regulatory Division (SPL-2009-00244-KWG)  
Kevin Grove  
3636 N. Central, Suite 900  
Phoenix, Arizona 85012

Subject: CWA 401 Water Quality Certification for the proposed  
**Regional General Permit No. 81: Routine Maintenance Activities Pima County, Arizona** impacting any waters of the United States located on non-tribal lands within Pima County.

U.S. Army Corps of Engineers (Los Angeles District) File No.:  
**SPL-2009-00244-KWG**

Dear Mr. Grove:

The Arizona Department of Environmental Quality (ADEQ) has reviewed the U.S. Army Corps of Engineers (USACE) reissuance of the RGP 81. Based on the information provided in the Public Notice dated August 18, 2016, ADEQ has conditionally certified the RGP as detailed below:

For the purposes of this Certification the following definitions apply:

- Waters of the U.S. as defined by the USACE and U.S. Environmental Protection Agency (EPA) under the Clean Water Act. This Certification applies only to activities within the Ordinary High Water Mark (OHWM) of a Waters of the U.S.
- 303[d]-listed Impaired Waters are surface waters that are identified pursuant to Clean Water Act Section 303[d] as impaired (e.g., not meeting surface water quality standards) and as a result merit special consideration. The current 303[d] list of Impaired Waters is available on the ADEQ website at [www.azdeq.gov](http://www.azdeq.gov).
- Outstanding Arizona Waters (OAW) are surface waters classified as an outstanding state resource water by the ADEQ Director pursuant to the Arizona Administrative Code (A.A.C.) R18-11-112. These waters are of exceptional quality and therefore merit special consideration. The current list of OAWs is available at [www.azdeq.gov](http://www.azdeq.gov)
- Other Waters: Surface waters not listed as impaired, non-attaining, or OAW, or are located greater than 1600 meters ( $\approx$  1 mile) upstream, or greater than 800 meters ( $\approx$   $\frac{1}{2}$  mile) downstream of an impaired water, non-attaining water, or OAW.
- Temporary means not longer than the time required to complete the subject activities.

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It is incumbent upon the applicant/permittee to check current rules and ADEQ publications to determine if any waterbody on their project site is named an "Outstanding Arizona Water", a 303[d] listed water or a non-attaining water. An Individual 401 Certification is required in every instance when a project has a potential to impact any of these waters.

#### **401 General Conditions**

The following 401 General Conditions apply to all waters of the State and all applicable RGP 81 for Pima County, Arizona:

1. Any discharge occurring as a result of activities certified for the subject project shall not cause a violation of WQS. Applicability of this condition is as defined in A.A.C. R18-11-102.
2. This certification does not authorize the discharge of wastewater, process residues or other waste to any WUS.
3. Runoff and seepage from activities certified herein shall not cause a violation of Arizona WQS for any WUS.
4. Except as allowed or specified in the RGP and this certification, activities herein certified shall be performed during periods of low flow (baseflow or less) in any watercourse or other WUS, or no flow in the case of ephemeral and intermittent waterbodies. No equipment or vehicles shall enter any WUS while flow is present regardless whether flow is in a channel or is surface runoff; e.g., sheet flow, unless all conditions herein are met.
5. The effectiveness of all control measures shall be reevaluated after each flow event and repaired/modified as needed.
6. Applicant must minimize clearing, grubbing, scraping or otherwise limit exposure of erodible surface to the minimum necessary for each construction phase or location.
7. Except as allowed or specified in the RGP and this certification, if activities certified herein are likely to create an erosion or sedimentation problem, operations shall cease until the problem is resolved or until control measures have been undertaken.
8. Except as allowed or specified in the RGP and this certification, erosion control, sediment control and/or bank protection measures shall be installed before construction and pre-operation activities, and shall be maintained during construction and post-construction periods to minimize channel or bank erosion, soil loss and sedimentation. Control measures shall not be constructed of uncemented or unconfined imported soil, or other materials easily transported by flow.
9. The applicant is responsible for ensuring construction material and/or fill (other than replacement of native fill or that necessary to support revegetation) including, but not limited to: rock, gabion fill or other channel-lining materials, placed within the OHWM of any WUS, shall not include materials; e.g., pollutant-contaminated soil, that can cause or contribute to pollution of a surface water. Material used to support vegetation rooting or growth shall be protected from erosion. Any fill material washing must occur outside of the OHWM of any WUS prior to placement and the rinsate from such washing shall be contained and treated, or otherwise prevented from contributing sediment or causing erosion to any WUS. Other than replacement of native fill or material used to support

vegetation rooting or growth, fill placed in locations subject to scour must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.

For purposes of this RGP, native material/fill is defined as pollutant-free soil, sand, gravel, etc. that makes up the streambed or adjacent banks in the immediate area of the permitted work.

10. Except as allowed or specified in the RGP, any dredged material is to be placed and retained in areas outside the OHWM of any WUS. Runoff from this material/area is to be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) to any WUS.
11. Except as allowed or specified in the RGP and this certification, upon completion of construction the applicant shall ensure no adverse change due to the subject project has occurred in the stability (with respect to stream hydraulics, erosion and sedimentation) of any WUS including upstream and downstream from the project. If such change has occurred, the applicant shall take steps to restore the pre-project stability of any impacted segments.
12. Except where the activities certified herein are intended to permanently alter any WUS, all disturbed areas shall be restored and (re)vegetated as allowed or specified in the RGP. Denuded areas shall be revegetated as soon as possible. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion.
13. If retention/detention basins are included in or added to the project, then no later than immediately following initial land clearing or rough grading, applicant will complete the grading necessary to direct runoff towards retention/detention basins sized to accept storm runoff and capture sediment prior to it entering any WUS. Detention basins will provide detention through the use of controlled outflow spillways and shall cause no significant change to the hydraulic conditions of the upstream or downstream WUS outside of the project boundaries. The basins shall be maintained; e.g., have sediment removed, as required to maintain their function.
14. Except as allowed or specified in the RGP and this certification, when flow is present in any WUS within the project area, the applicant and any contractor will not divert, impede, restrict, or stop the flow by any means except to prevent erosion or pollution of any WUS.
15. Except as allowed or specified in the RGP and this certification, silt-laden or turbid water resulting from project activity shall be settled, filtered or otherwise treated to ensure no violation of Arizona WQS in any WUS.
16. When flow (including sheet flow or other surface runoff) in any WUS in the work area is sufficient to erode, carry or deposit material, activities certified herein shall cease until:
  - a. the flow decreases below the point where sediment movement ceases, or
  - b. until control measures (e.g., equipment and materials easily transported by flow protected with non-erodible barriers or moved outside the flow area) have been undertaken.
17. Work shall be conducted and monitored to ensure that pollution from the activities certified herein including, but not limited to: earthwork, concrete mixing and placement and

equipment maintenance and washing does not cause an exceedance of Arizona WQS in any WUS.

18. Except as allowed or specified in the RGP and this certification, the applicant will erect any barriers, covers, shields and other protective devices as necessary to prevent any construction materials, equipment or contaminants/pollutants from falling, being thrown or otherwise entering any flowing WUS.
19. Upon completion of the activities certified herein (except as noted in condition 24 -concrete curing), areas within the OHWM of all WUS at the project site shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions. Any debris including, but not limited to: soil, silt, sand, rubbish, cement, bituminous material, oil or petroleum products, organic materials, tires or batteries, derived from the activities certified herein shall not be stored at any site where it may be washed into a WUS and shall be properly disposed of after completion of the work.
20. The applicant must designate area(s) for equipment staging and storage located entirely outside of the OHWM of any WUS. Any equipment maintenance, washing or fueling that cannot be done offsite will be done in the designated area. The spill containment plan (condition 21) shall include this (these) area(s). Material specifically manufactured and sold as spill containment and adsorbent/absorbent will be on hand to control small spills. All equipment and workboats shall be inspected for leaks prior to use within the OHWM of any WUS. All leaks shall be repaired and all equipment and workboats will be cleaned (using steam or a pressure washer) to remove any fuel or other fluid residue prior to use in any WUS.
21. The applicant shall have a spill containment plan onsite to ensure that pollutants are prevented from entering any WUS. In addition, the applicant must designate areas, located entirely outside of the OHWM of any WUS, for chemical and petroleum storage, and solid waste containment. All materials stored onsite will be stored in appropriate containers or packaging. Any pollutant produced by activities certified herein shall be properly disposed of in accordance with applicable regulations. A spill response kit will be maintained in this (these) area(s) to mitigate any spills. The kit will include material specifically manufactured and sold as spill adsorbent/absorbent and spill containment. The applicant will ensure that whenever there is activity on the site, that there are personnel on site trained in the proper response to spills and the use of spill response equipment.
22. Except as allowed or specified in the RGP and this certification, permanent and temporary pipes, and culverted crossings shall be adequately sized to handle expected flow and properly set with end section, splash pads, or headwalls that dissipate water energy to control erosion.

Temporary; i.e., intended to be used for no longer than the period of permitted activity at the site of their construction, structures constructed of imported materials and all permanent structures, including but not limited to, access roadways, culverted and unculverted crossings, staging areas, material stockpiles and pads shall be constructed so as to accommodate the overtopping of the fill by streamflow and fill must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation,

or other armoring. Temporary structures constructed of imported materials are to be removed no later than upon completion of the permitted activity.

Temporary structures constructed of native materials, if they provide an obstacle to flow or can contribute to or cause sedimentation or erosion, are to be removed no later than upon completion of the permitted activity.

23. Acceptable construction materials that will or may contact water in any WUS are: crushed stone, native fill (meeting the requirements in condition 9), concrete, steel (including galvanized), plastic, or aluminum and other materials specifically approved in writing by ADEQ.
24. If fully, partially or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete, applicant will take steps; e.g., sheet piling or temporary dams (earth-filled cofferdams are not allowed), to prevent contact between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or otherwise cease to be available; i.e., are no longer a pollutant threat. Where possible, construction work will be during extreme low water conditions or at a time and season with the highest probability of ensuring work is done in "the dry".
25. For portions of the project utilizing potable water or groundwater for irrigation, direct runoff of irrigation water and overflows from runoff detention and/or retention areas into any WUS shall be limited to the extent practicable and shall not cause downstream erosion or flooding.
26. For portions of the project utilizing reclaimed wastewater for irrigation, direct runoff of irrigation water and overflow from retention/detention structures or storage impoundments into any WUS is prohibited without the proper permits including, but not limited to, Arizona's Reclaimed Wastewater Permit and, if within the wetted area of a 25-year flood event (or within the floodplain in some cases), an AZPDES permit.

ADEQ's CWA 401 Water Quality Certification of these activities to operate under the terms (including the conditions herein) of the applicable USACE CWA RGP 81 does not affect or modify in any way the obligations or liability of any person for any damages, injury, or loss, resulting from these activities. This Certification is not intended to waive any other federal, state or local laws.

Thank you for your efforts to comply with Arizona's environmental requirements. Should you have any comments or questions regarding this matter, please do not hesitate to contact me at 602-771-4409 or via email at [ls7@azdeq.gov](mailto:ls7@azdeq.gov).

Sincerely,

Rosi Sherrill  
Water Quality Division

electronic copies: USEPA, Wetlands Regulatory Office