Posey Project
Revised February 9, 2026
Posey County, IN

Oil & Gas Program | Reclamation Division
Jocelyne Brower | Orphan Well Program Manager
jobrower@dnr.IN.gov | 463-304-1804

Permit	IGS_ID	Status	CompType	County	Operator_Name	Lease_Name	Well #	Twp #	Twp D	Rng #	Rng	Land #	Utmx	Utmy
34858	154837	Revoked	Oil	Posey	Flowline Specialties, Inc	W.W. Gray Estate	1	8	S	14	W	17	411230	4186873
36263	154830	Revoked	Oil	Posey	Flowline Specialties, Inc	W.W. GRAY ESTATE	4	8	S	14	W	17	411415	4186681
36290	154832	Revoked	Oil	Posey	Flowline Specialties, Inc	W.W. Gray Estate	6	8	S	14	W	17	411617	4186892
40027	154834	Revoked	Oil	Posey	Flowline Specialties, Inc	W.W. GRAY ESTATE	9	8	S	14	W	17	411641	4186665
41045	154835	Revoked	Oil	Posey	Flowline Specialties, Inc	W.W. GRAY ESTATE	11	8	S	14	W	17	411639	4187262
42357	154836	Revoked	Oil	Posey	Flowline Specialties, Inc	W.W. GRAY ESTATE	12	8	S	14	W	17	411645	4187479
45612	154807	Revoked	Oil	Posey	Wm. E. Hill dba Hill Oil Co.	Cordelia Richardt	1	8	S	14	W	20	410754	4185824
49447	154826	Revoked	Enhanced Recovery	Posey	Flowline Specialties, Inc	Gray Estate	3	8	S	14	W	17	411423	4186883

Local Oil & Gas Inspector
Ian Doss
812-459-4874
idoss@dnr.in.gov

Field Supervisor
Kevin York
812-459-4864
kyork@dnr.in.gov

Maps and access are included in attachment. This document will serve to demonstrate the most recent witnessed condition of accessed wells.

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34858



36263



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36290



40027



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41045



42357



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49447



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45612 (aerial drone image of tank adjacent to well)



Price sheet terms and definitions:

- Bit– 4” or 6” drill bit as needed to drill through casing to ensure full depth of cement plug
- Rig Operation (including tubing and labor)– billable hours when rig equipment is actively being operated during plugging process. This does not include down time when repairs are required.
- Rig Operation with Power Swivel (including mud pump, tubing, and labor) or Spudder– billable hours when rig equipment with necessary power swivel attachment is actively being operated during plugging process. This does not include down time when repairs are required.
- Drill Collars (whole project)– billable charge if drill collars are required during power swivel operation
- Tank Truck– billable hours when tank truck is actively being operated during plugging process. This does not include transit time to/from site
- Bulk Truck– billable hours when bulk truck is actively being operated during plugging process. This does not include transit time to/from site
- Backhoe/Mini Excavator– billable hours when backhoe/mini excavator is actively being used by an operator during well site preparation and plugging/restoration activities
- Dozer/Cat– billable hours when dozer/cat is actively being used by an operator during well site preparation and plugging/restoration activities
- Winch Truck– billable hours when winch truck is actively being used during well site preparation and restoration. This does not include transit time to/from site.
- Liquid Oil Field Waste Disposal– this is the per-barrel cost for disposal of produced water and other fluids generated during well plugging
- Cement Pump Truck and set up charge– one set up charge allowed per well, including travel time
- Cement– per-sack cost for any cement approved to be used in oil well plugging per 312 IAC 29-33-5
- LCM Cement additive– one “lost circulation material” per bag cost
- Cal Seal– one “calcium chloride” per sack cost
- Wireline Service Set up– one setup charge allowed per well for the purpose of CIBP, CBL, and perforation activities, including travel time
- Cement Bond Log– where specified on the well plugging plan, a cement bond log will be run to determine presence/depth of cement in annular space
- Perforations– first perforation execution at required depths for applicable top/bottom plug as specified on well plugging plan
- Extra Shots to perforate well– additional perforation execution at required depths when bottom plug perforations have already been executed on the same well during plugging process, or additional top plug perforations to attain circulation on annular side of casing to surface
- Dump Bailer run– cement dump bailer load/run for depositing cement on top of CIBP
- Mobilization– one mobilization charge per project: must include expected travel time for rig, heavy trucks, support trucks, lodging/per diem allowances, and other charges related to getting personnel and

equipment into position in project area. Also includes cost of demobilization of all equipment from project area after completion.

- Roustabout work– personnel billable hours for site clearing and cleanup as needed where personnel is not billing to rig or other equipment
- Welder/Torch– billable hours for all welding and cutting work necessary to proceed with plugging activities
- Performance Bond– cost of bonding based on bid price if bid is over $150,000
- Lined pit/surface pit– each well will require a plastic lined earthen pit or steel surface pit to collect produced fluids from plugging process
- Cast iron bridge plug– where well plugging plan indicates that the well may be flowing, a “cast iron bridge plug” or CIBP will be required at the diameter appropriate to the casing size encountered
- Land/crop damages– damages must be paid to farmer/landowner where losses to live crops may be expected due to the plugging process, includes improvements to surface by statutory requirements
- Rig mat/mud boat– where appropriate depending on the weather and site conditions, approved weight-distributing materials may be used to facilitate equipment access to/from well site
- Extra items– attach additional pages as needed to describe any equipment or materials needed for plugging activities that are not accounted for in previous line items. Please specify why these items are needed in lieu of or in addition to the previous line items. (Examples: fishing tools for 2” tubing collar, 4’ section of 4.5” casing to bring to surface)

UNIT PRICE SHEET

The Contract is based on the following unit prices. The prices are installed, including, but not limited to labor and materials.

ITEM/Activity	BASE BID	COST/UNIT		TOTAL
Bit (including changeovers for whole project)	2	$	/ea	$
Rig Operation (including tubing & labor)	192	$	/hour	$
Rig Operation with Power Swivel (including Mud pump, tubing & labor) or Spudder	64	$	/hour	$
Drill collars (for whole project)	2	$	/ea	$
Tank Truck	64	$	/hour	$
Bulk Truck	64	$	/hour	$
Backhoe/ Mini-Excavator	60	$	/hour	$
Dozer/ Cat	34	$	/hour	$
Crane	84	$	/hour	$
Winch Truck	68	$	/hour	$
Liquid Oil Field Waste Disposal	200	$	/bbl	$
Cement Pump Truck & set up charge	8	$	/well	$
Cement	1600	$	/sack	$
LCM cement additive	8	$	/sack	$
Cal seal	8	$	/sack	$
Wireline Service Set-up	8	$	/well	$
Cement Bond Log	1	$	/ea	$
Perforations	10	$	/set	$
Extra Shots to perforate well	2	$	/ea	$
Dump bailer run	12	$	/ea	$
Mobilization	1	$	/ea	$
Roustabout work per person	64	$	/hour	$
Welder / Torch	60	$	/hour	$
Performance Bond	1	$	/total	$
Lined pit/surface pit	8	$	/ea	$
Cast iron bridge plug 4.5”	1	$	/ea	$
Cast iron bridge plug 5.5”	7	$	/ea	$
Land/crop damages	4	$800	/acre	$3200
Rig mat/mud boat	60	$	/day	$
Blowout/Spill control and Countermeasures	1	$80,000	/LS	$80,000
UHMWPE Rig Mats for well 45612	45	$	/day	$
Extra items not on bid/details		$	/total	$

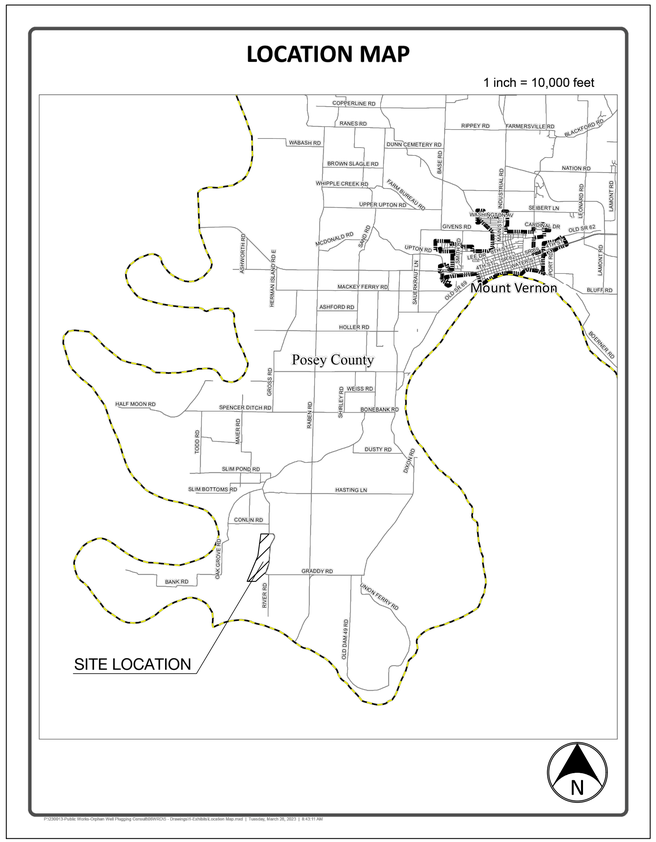
Allowances: will need approval for additional charges

Additional Liquid Oil Field Waste Disposal for tank at 45612	120	$	/bbl	$
Causeway allowance for 45612	1	$100,000	/LS	$100,000

Note: Equipment should only be billed for hours actively in use with an operator.

Cost of Project not to exceed the **TOTAL LUMP SUM BID** **$_____**

Other materials, specialty rental tools, and equipment, as ordered by the division, necessary to complete the required work shall be paid at cost to the CONTRACTOR (invoice required) plus 10% (to defray transportation costs). Fair market value for equipment of value recovered must be reflected as a credit on invoice.



NOTES:

1) ALL CLEARING, PROPOSED ACCESS ROADS AND CAUSEWAY WIDTHS TO BE MINIMIZED TO LIMIT IMPACTS TO SENSITIVE AREAS.

2) ACCESS TO WELLS 36263, 36290, 40027, AND 49447 SHALL REQUIRE CRANE MATTING OR SIMILAR PROTECTIVE DEVICE. NO FILL OR GRAVEL MATERIAL WILL BE ALLOWED.

3) SEE PERMIT REQUIREMENTS FOR INSTALLATION OF MATTING/CAUSEWAYS.

4) MATS SHOULD BE ULTRA HIGH MOLECULAR WEIGHT POLYETHYLENE (UHMWPE) CAPABLE OF FLOATING ON HIGH WATER, SUCH AS SIGNATURE MEGADECK HD+ OR EQUAL. MATS MUST BE CAPABLE OF UP TO 600 PSI. MULTIPLE MATS MAY BE STACKED ON TOP OF EACH OTHER AS NEEDED TO CREATE A STABLE ACCESS ROAD/CAUSEWAY. UHMWPE MATS MUST BE INERT AND NOT ABSORB OR TRANSFER ANY CONTAMINANTS OR INVASIVE SPECIES TO THE SENSITIVE AREAS. NO MAT THAT WOULD LEAVE ANY SMALL PIECES OF MATERIAL BEHIND IF BROKEN (INNER BEADS, SMALL PE PIECES, ETC) WILL BE CONSIDERED EQUAL. AILL MATTING MUST BE REMOVED IMMEDIATELY UPON COMPLETION OF OF PROJECT AND RESTORATION COMPLETED AS MATS ARE REMOVED.

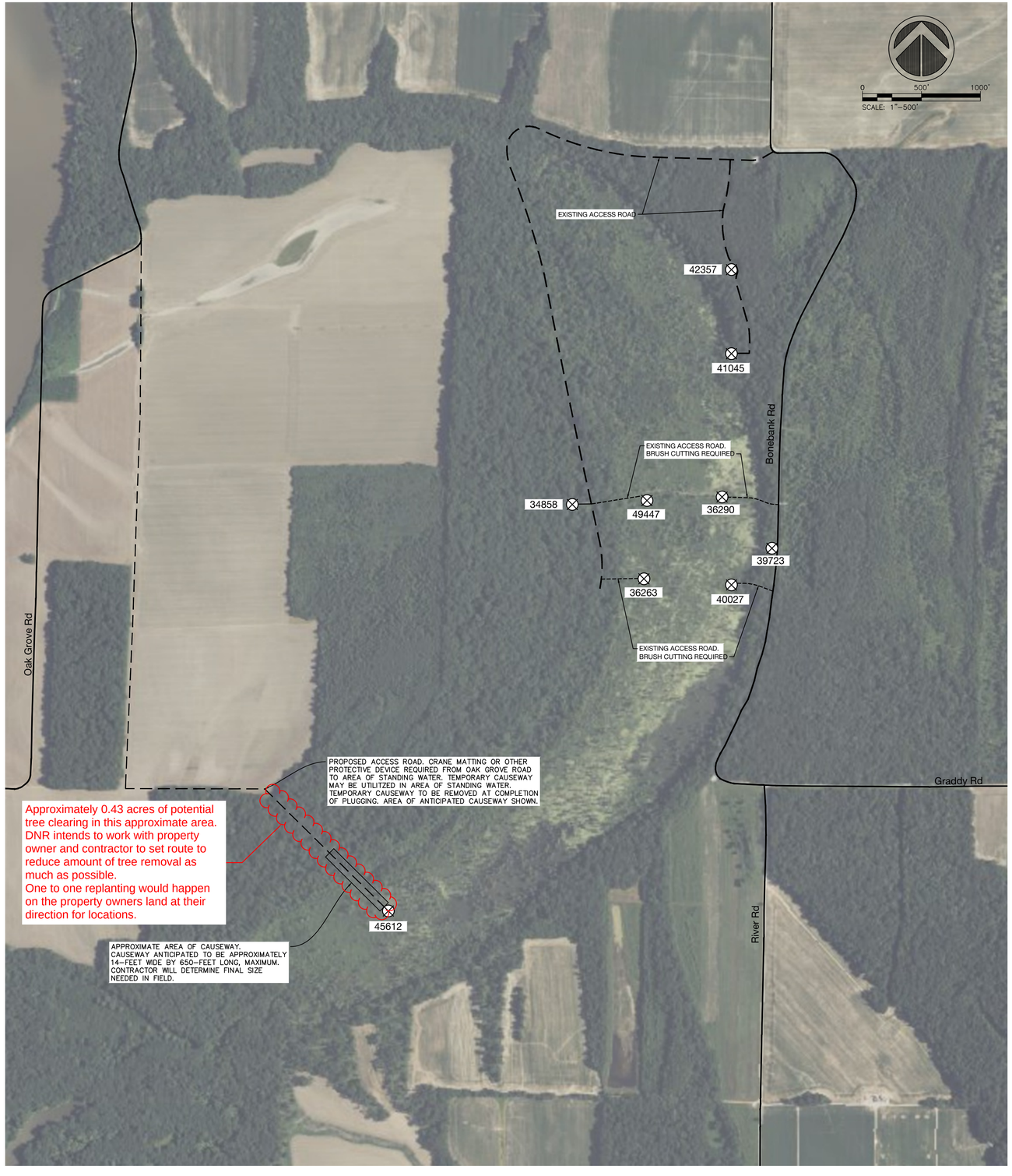
5) IF CONDITIONS ARE DRY, UHMWPE MATS MUST BE USED TO ACCESS ALL WELLS. MATS CAN BE STACKED FOR ADDITIONAL SUPPORT. CONTRACTOR SHALL WORK WITH MAT MANUFACTURERS ENGINEERING STAFF TO ENSURE A SYSTEM DESIGN TO SUPPORT ALL PROPOSED EQUIPMENT FOR SITE CONDITIONS AT THE TIME OF WELL CLOSURES.

6) IF , DUE TO CONDITIONS, AN OWNERS ALLOWANCE FOR A DRAINED CAUSEWAY IS APPROVED, CONTRACTOR MUST SUBMIT ANY PERMIT AMENDMENTS AND PROVIDE ANY DOCUMENTATION REQUIRED/REQUESTED BY PERMIT AGENCIES. COFFER DAMS MAY BE REQUIRED TO ISOLATE AN AREA FOR THE CAUSEWAY TO BE CONSTRUCTED. COFFER DAMS CANNOT BE CREATED BY SIMPLY DUMPING STONE OR CLAY TO CREATE A DYKE. COFFER DAMS SHOULD BE CONSTRUCTED OF INTERLOCKING STEEL PILES OR WATER BAGS SUCH AS AQUA–BARRIERS, OR APPROVED EQUAL. NO COFFER DAM THAT MAY RESULT IN THE INTRODUCTION OF PARTICULATE OR OTHER MATERIAL INTO THE SENSITIVE AREA WILL BE ALLOWED. ANY WATER PUMPED FROM INSIDE THE COFFER DAM MUST BE PUMPED IMMEDIATELY DOWNSTREAM OF THE DAM AND MUST BE PUMPED THROUGH A FILTER BAG TO ENSURE NO SILT OR SEDIMENT IS TRANSPORTED OUTSIDE OF THE COFFERED AREA. THE CAUSEWAY MUST BE CONSTRUCTED OF GEO–FABRIC, GEO–GRID, AND NUMBER 2 STONE PER INDOT SPECIFICATIONS FOR CONSTRUCTION ACCESS DRIVES. UNLESS CONTAMINATED DURING THE PLUGGING PROCESS, ALL MATERIALS MUST BE REMOVED AND DISPOSED OF OR REPURPOSED. ANY CONTAMINATED MATERIALS MUST BE REMOVED IMMEDIATELY AND DISPOSED OF ACCORDINGLY.

7) CONTRACTOR MUST CHECK EQUIPMENT DAILY FOR SIGNS OF LEAKING FLUIDS. NO EQUIPMENT SHALL BE LEFT PARKED OVERNIGHT IN THE SENSITIVE AREA WITHOUT DRIP PANS IF OUTSIDE OF THE LINED PIT AREA. CONTRACTOR MUST KEEP A SPILL CONTAINMENT KIT AT EACH SITE IN CASE OF EQUIPMENT FAILURES. KITS MUST INCLUDE OIL ONLY ABSORBENT MATERIALS DESIGNED TO ABSORB OILS AND FUELS BUT NOT WATER. CONTRACTOR MUST ALSO HAVE QUICK ACCESS TO LARGER QUANTITIES OF SPILL CONTAINMENT MATERIALS IN THE EVENT THAT A BLOW OUT OCCURS FROM A WELL UNDER PRESSURE.

8) CAUSEWAY MATERIALS MUST BE DISPOSED OF OFF-SITE. NO MATERIALS MAY BE DISPOSED OF OR LEFT WITHIN THE WATERWAYS OR WETLAN AREAS. CONTRACTOR MUST PROVIDE DNR WITH DISPOSAL LOCATION INFORMATION PRIOR TO DISPOSAL.

9) TREE RESTORATION PLANTING IS ANTICIPATED TO OCCUR AS NECESSARY AT THE CLEARING LOCATIONS REQUIRED FOR WELL ACCESS.



SITE ACCESS PLAN

egis

REVISIONS AND ISSUES	DATE	BY

CONSTRUCTION PLANS FOR:
HOVEY LAKE/CYPRESS SLOUGH ORPHAN WELL PLUGGING
POSEY COUNTY, INDIANA S20, T8S, R14W
INDIANA DEPARTMENT OF NATURAL RESOURCES
INDIANAPOLIS, INDIANA

SITE ACCESS PLAN

PLAN DATE: 02 / 19 / 2026

DESIGN BY:	DRAWN BY:	CHECK BY:
RLG	RLG	RLG

PROJECT NO. 230013

SHEET NO. 1

P:\230013-Public Works-Orphan Well Plugging Consult\06WRD\S - Drawings\230013 Overview Map 04.20.26.dwg, Monday, April 20, 2026 3:38:20 PM

WELL PLUGGING PLAN

State Form 54872 (R4 / 3-20) Form No. P2

INDIANA DEPARTMENT OF NATURAL RESOURCES
Division of Oil and Gas
402 West Washington Street, Room W293
Indianapolis, IN 46204
Telephone: (317) 232-4055
Internet: http://www.in.gov/dnr/dnroil

FOR STATE USE ONLY	
Date Received (month, day, year) 8/25/2025	Initials KPG
Date Approved (month, day, year) 9/2/2025	Initials KPG
Date Denied (month, day, year)	Initials
Date Modified (month, day, year)	Initials

PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: W.W. Gray Estate #11 | Well Type: Oil | Permit Number: 41045

County: Posey | Scheduled plugging date: (month, day, year) | Section: 17 | Township: 8S | Range: 14W | 1/4's: NE SE NE

Surface:

Size	Length	Hole	Cement
8.675	139		220

Long String:

Size	Length	Hole	Cement
5.5	2614	7.875	150

Liner / Intermediate Casing:

Size	Length	Hole	Cement

Estimate top of cement (TOC): 1695

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

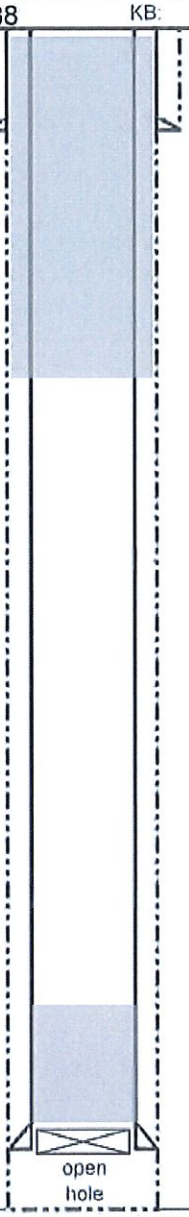
Existing Perforations:
From 2542 To 2562
From To
From To

Proposed Perforations:
From 388 To 387
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes
Plug #1
Cmt Type CIBP, class A Volume ≥2
Plug #2
Cmt Type A Volume ≥110
Plug #3
Cmt Type Volume
Plug #4
Cmt Type Volume

*CIBP



USDW Depth: 338
Well flowing? ☐ Yes ☑ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:
Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

Put CIBP as bottom plug

Access/plug wells with minimal disturbance
Wells are in cypress slough and accessed during dry time
Surface pits will be required due to persistently wet conditions

Bottom plug CIBP with ≥2sx at 2530'

Top plug: perforate as needed to circulate full 388'-0'

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent | Date signed (month, day, year)

Cement ▬ CIBP ☒ Packer ☒ Spacer

WELL PLUGGING PLAN

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PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: W.W. Gray Estate #1 | Well Type: Oil | Permit Number: 34858

County: Posey | Scheduled plugging date: (month, day, year) | Section: 17 | Township: 8S | Range: 14W | 1/4's: SW NW SW

Surface:

Size	Length	Hole	Cement
8.675	129		150

Long String:

Size	Length	Hole	Cement
5.5	2544	7.875	150

Liner / Intermediate Casing:

Size	Length	Hole	Cement

Estimate top of cement (TOC): 1625

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

Existing Perforations:

From 2544 To 2564
From To
From To

Proposed Perforations:

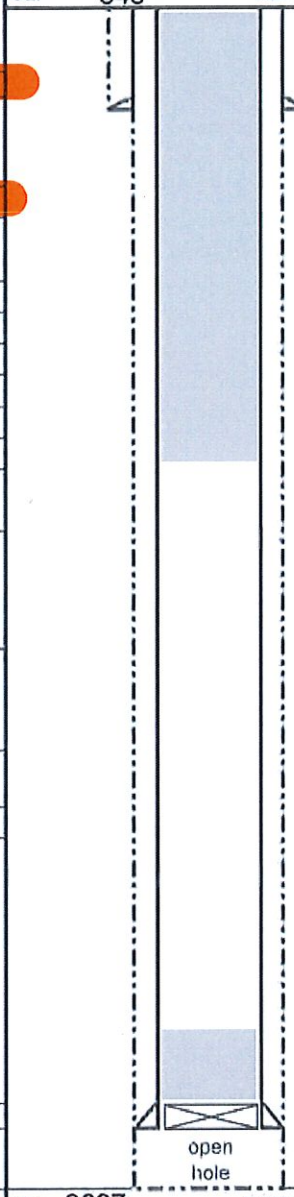
From 389 To 388
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes

Plug #1
Cmt Type CIBP, class A Volume 2
Plug #2
Cmt Type A Volume 110
Plug #3
Cmt Type Volume
Plug #4
Cmt Type Volume

*CIBP



USDW Depth: 339
Well flowing? ☐ Yes ☑ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:

Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

Well has pressure, put CIBP as bottom plug

Access/plug wells with minimal disturbance Wells are in cypress slough and access is challenging most of the year, liners will be required for all earthen pits, surface pits may be required

Bottom plug CIBP with 2sx at 2535' w/2sx

Top plug: perforate as needed to circulate full 389'-0'

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent	Date signed (month, day, year)

Cement ▬ CIBP ☒ Packer ☒☒ Spacer

WELL PLUGGING PLAN

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Date Modified (month, day, year)	Initials

PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: W.W. Gray Estate #4 | Well Type: Oil | Permit Number: 36263

County: Posey | Scheduled plugging date: (month, day, year) | Section: 17 | Township: 8S | Range: 14W | 1/4's: SW NE SE

Surface:

Size	Length	Hole	Cement
8.675	114		250

Long String:

Size	Length	Hole	Cement
5.5	2540	7.875	150

Liner / Intermediate Casing:

Size	Length	Hole	Cement

Estimate top of cement (TOC): 1621

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

Existing Perforations:

From 2359 To 2361
From To
From To

Proposed Perforations:

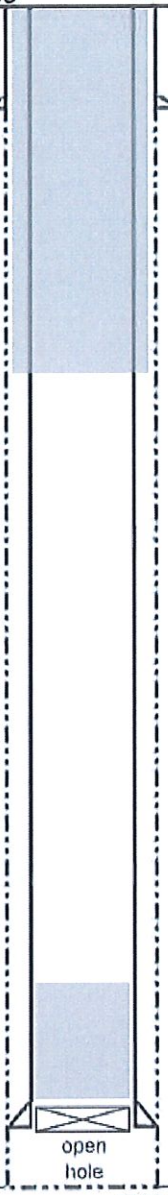
From 389 To 388
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes

Plug #1
Cmt Type CIBP, class A Volume ≥2
Plug #2
Cmt Type A Volume ≥110
Plug #3
Cmt Type Volume
Plug #4
Cmt Type Volume

*CIBP



USDW Depth: 339
Well flowing? ☑ Yes ☐ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:
Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

Well is flowing, put CIBP as bottom plug

Access/plug wells with minimal disturbance
Wells are in cypress slough and accessed during dry time

Surface pits will be required

Bottom plug CIBP with ≥2sx at 2350'

Top plug: perforate as needed to circulate full 389'-0'

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent	Date signed (month, day, year)

Cement ▬ CIBP ☒ Packer ☒☒ Spacer

WELL PLUGGING PLAN

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Date Denied *(month, day, year)*	Initials
Date Modified *(month, day, year)*	Initials

PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: W.W. Gray Estate #12 | Well Type: Oil | Permit Number: 42357

County: Posey | Scheduled plugging date: *(month, day, year)* | Section: 17 | Township: 8S | Range: 14W | 1/4's: SE NE NE

Surface:

Size	Length	Hole	Cement
8.675	166		180

Long String:

Size	Length	Hole	Cement
5.5	2721	7.875	100

Liner / Intermediate Casing:

Size	Length	Hole	Cement

Estimate top of cement (TOC): 2108

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

Existing Perforations:
From 2575 To 2588
From To
From To

Proposed Perforations:
From 404 To 403
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes

Plug #1
Cmt Type CIBP, class A Volume ≥2
Plug #2
Cmt Type A Volume ≥115
Plug #3
Cmt Type Volume
Plug #4
Cmt Type Volume

*CIBP



USDW Depth: 354
Well flowing? ☐ Yes ☑ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:
Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

Put CIBP as bottom plug

Access/plug wells with minimal disturbance
This well is not in slough waters, however lined pits will be required due to proximity to slough

Bottom plug CIBP with ≥2sx at 2565'

Top plug: perforate as needed to circulate full 404'-0'

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent	Date signed *(month, day, year)*

Cement ▬ CIBP ☒ Packer ☒ Spacer

WELL PLUGGING PLAN

State Form 54872 (R4 / 3-20) Form No. P2

INDIANA DEPARTMENT OF NATURAL RESOURCES
Division of Oil and Gas
402 West Washington Street, Room W293
Indianapolis, IN 46204
Telephone: (317) 232-4055
Internet: http://www.in.gov/dnr/dnroil

FOR STATE USE ONLY	
Date Received (month, day, year) 8/25/2025	Initials KPG
Date Approved (month, day, year) 9/3/2025	Initials KPG
Date Denied (month, day, year)	Initials
Date Modified (month, day, year)	Initials

PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: W.W. Gray Estate #6 | Well Type: Oil | Permit Number: 36290

County: Posey | Scheduled plugging date: (month, day, year) | Section: 17 | Township: 8S | Range: 14W | 1/4's: NE NE SE

Surface:

Size	Length	Hole	Cement
8.675	125		220

Long String:

Size	Length	Hole	Cement
5.5	2530	7.875	100

Liner / Intermediate Casing:

Size	Length	Hole	Cement

Estimate top of cement (TOC): 1917

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

Existing Perforations:
From 2532 To 2560
From To
From To

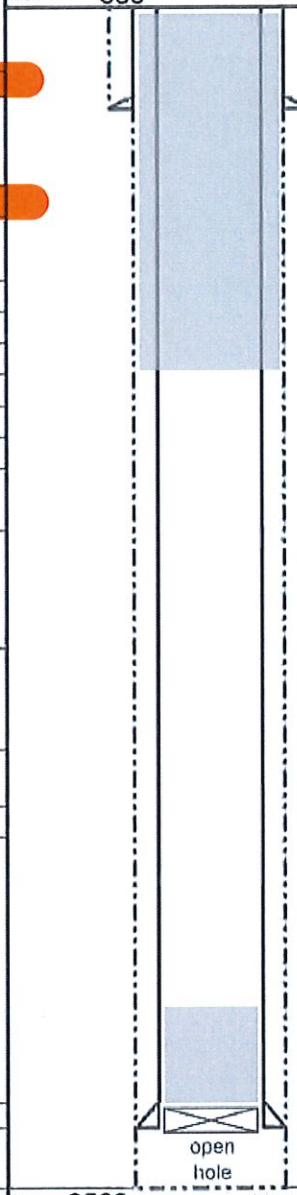
Proposed Perforations:
From 386 To 385
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes

Plug #1
Cmt Type CIBP, class A Volume ≥2
Plug #2
Cmt Type A Volume ≥110
Plug #3
Cmt Type Volume
Plug #4
Cmt Type Volume

*CIBP



USDW Depth: 336
Well flowing? ☐ Yes ☑ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:
Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

Put CIBP as bottom plug

Access/plug wells with minimal disturbance
Wells are in cypress slough and accessed during dry time
Surface pits will be required due to persistently wet conditions

Bottom plug CIBP with ≥2sx at 2520'

Top plug: perforate as needed to circulate full 386'-0'

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent | Date signed (month, day, year)

Cement | CIBP | Packer | Spacer

WELL PLUGGING PLAN

State Form 54872 (R4 / 3-20) Form No. P2

INDIANA DEPARTMENT OF NATURAL RESOURCES
Division of Oil and Gas
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Indianapolis, IN 46204
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Date Approved (month, day, year) 9/3/2025	Initials KPG
Date Denied (month, day, year)	Initials
Date Modified (month, day, year)	Initials

PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: W.W. Gray Estate #9 | Well Type: Oil | Permit Number: 40027

County: Posey | Scheduled plugging date: (month, day, year) | Section: 17 | Township: 8S | Range: 14W | 1/4's: SE NE SE

Surface:

Size	Length	Hole	Cement
8.675	132		175

Long String:

Size	Length	Hole	Cement
5.5	2662	7.875	150

Liner / Intermediate Casing:

Size	Length	Hole	Cement

Estimate top of cement (TOC): 1743

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

Existing Perforations:
From 2535 To 2560
From To
From To

Proposed Perforations:
From 386 To 385
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes

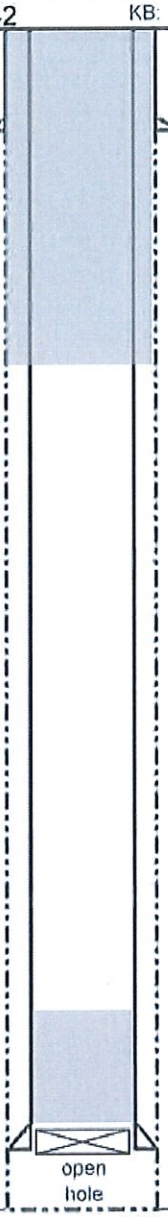
Plug #1
Cmt Type CIBP, class A Volume ≥2

Plug #2
Cmt Type A Volume ≥110

Plug #3
Cmt Type Volume

Plug #4
Cmt Type Volume

*CIBP



USDW Depth 342
Well flowing? ☐ Yes ☑ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:
Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

Put CIBP as bottom plug

Access/plug wells with minimal disturbance
Wells are in cypress slough and accessed during dry time
Surface pits will be required due to persistently wet conditions

Bottom plug CIBP with ≥2sx at 2525'

Top plug: perforate as needed to circulate full 392'-0'

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent | Date signed (month, day, year)

Cement | CIBP | Packer | Spacer

WELL PLUGGING PLAN

State Form 54872 (R4 / 3-20) Form No. P2

INDIANA DEPARTMENT OF NATURAL RESOURCES
Division of Oil and Gas
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FOR STATE USE ONLY	
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Date Approved *(month, day, year)* 9/3/2025	Initials KPG
Date Denied *(month, day, year)*	Initials
Date Modified *(month, day, year)*	Initials

PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: W.W. Gray Estate #3 | Well Type: Enh. Recovery | Permit Number: 49447

County: Posey | Scheduled plugging date: *(month, day, year)* | Section: 17 | Township: 8S | Range: 14W | 1/4's: NW NE SE

Surface:

Size	Length	Hole	Cement
8.675	127		255

Long String:

Size	Length	Hole	Cement
5.5	2532	7.875	116

Liner / Intermediate Casing:

Size	Length	Hole	Cement
packer	2450		

Estimate top of cement (TOC): 1821

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

Existing Perforations:
From 2540 To 2560
From To
From To

Proposed Perforations:
From 389 To 388
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes

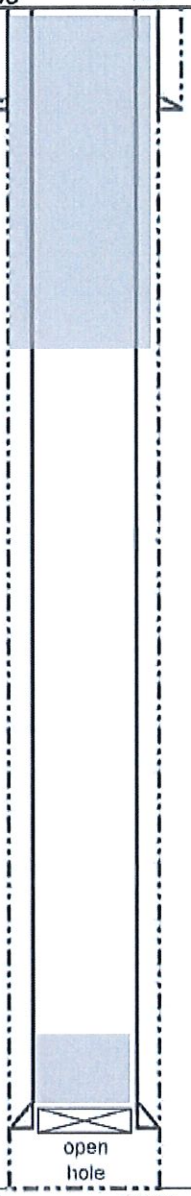
Plug #1
Cmt Type CIBP, class A Volume 2

Plug #2
Cmt Type A Volume 110

Plug #3
Cmt Type Volume

Plug #4
Cmt Type Volume

*CIBP



USDW Depth: 339
Well flowing? ☑ Yes ☐ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:
Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

Well has pressure, put CIBP as bottom plug

Access/plug wells with minimal disturbance
Wells are in cypress slough and accessed during dry time
Did not pass last MIT so may have holes in tubing or casing, notes state that well was equipped with seal tight tubing
Surface pits will be required

Bottom plug CIBP with 2sx at 2530'

Top plug: perforate as needed to circulate full 389'-0'

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent | Date signed *(month, day, year)*

Cement ▬ CIBP ☒ Packer ☒☐☒ Spacer

WELL PLUGGING PLAN

State Form 54872 (R4 / 3-20) Form No. P2

INDIANA DEPARTMENT OF NATURAL RESOURCES
Division of Oil and Gas
402 West Washington Street, Room W293
Indianapolis, IN 46204
Telephone: (317) 232-4055
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Date Denied (month, day, year)	Initials
Date Modified (month, day, year)	Initials

PART I GENERAL INFORMATION

Operator: Orphan Well | Telephone Number: | E-mail:

Lease-Well Number: Cordelia Richardt #1 | Well Type: Oil | Permit Number: 45612

County: Posey | Scheduled plugging date: (month, day, year) | Section 20 | Township 8S | Range 14W | 1/4's SE SE NW

Surface:

Size	Length	Hole	Cement
10 3/4	128		250

Long String:

Size	Length	Hole	Cement
4.5	2702	8.75	400

Liner / Intermediate Casing:

Size	Length	Hole	Cement

Estimate top of cement (TOC): 1319

Well Orientation: Vertical: ☑ Yes; Horizontal: ☐ Yes

Existing Perforations:

From 2635 To 2641
From 2556 To 2570
From To

Proposed Perforations:

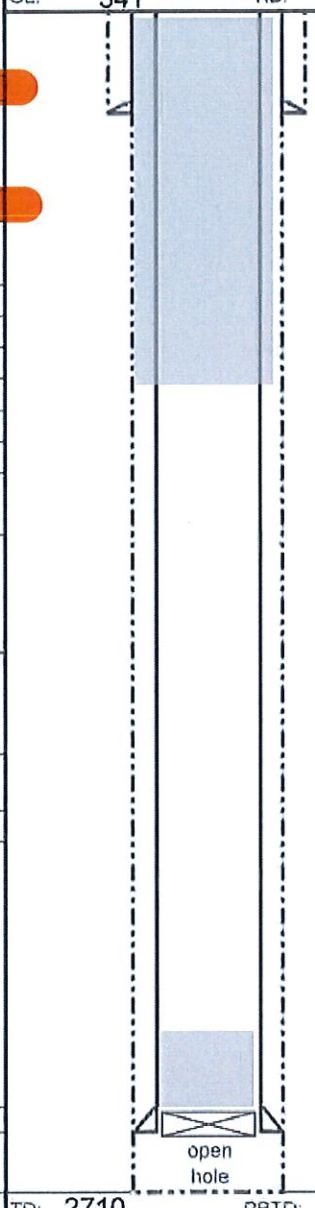
From 391 To 390
From To
From To

Proposed Casing to Pull - Amount:

Proposed cement types and volumes

Plug #1
Cmt Type A Volume 28≤
Plug #2
Cmt Type A Volume 150
Plug #3
Cmt Type Volume
Plug #4
Cmt Type Volume

*CIBP



USDW Depth: 341
Well flowing? ☑ Yes ☐ No

Will you be disposing of NORM related waste during this plugging? ☐ Yes ☑ No
If yes, see Part III below.

Is well located in a commercially minable coal resource area? ☐ Yes ☑ No
If so, was the entity with rights to the coal rights notified? ☐ Yes When?
Who was notifed?

Comments:
Well is in Fish & Wildlife area, will pull rods and tubing and plug according to plan.

If well is flowing at time of plugging, put CIBP as bottom plug

Access/plug wells with minimal disturbance
Wells are in cypress slough and access is challenging most of the year, surface pits will be required

Bottom plug 2691' - 2306' or CIBP with 2sx

Top plug: perforate as needed to circulate full 391'-0'

Note: this well is completely surrounded by water
Additional measures for access will be required

PART II AFFIRMATION

I affirm under penalty of perjury that the information provided in this plan is true and correct to the best of my knowledge and belief. Furthermore, I understand that this plan will not be valid until approved by the Division of Oil and Gas and that upon said approval, it will remain valid for a period of not more than 180 days thereafter, unless the construction of the well has changed which also voids the plan.

Signature of operator or authorized agent	Date signed (month, day, year)

Cement | CIBP | Packer | Spacer

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, LOUISVILLE DISTRICT
220 WEST MAIN STREET
LOUISVILLE KY 40202

July 27, 2026

Regulatory Division
South Branch
ID#: LRL-2026-00095

Ms. Jocelyn Brower
Indiana Department of Natural Resources, Oil and Gas Program
Division of Reclamation
402 W Washington Street
Indianapolis, Indiana 46204
Via Email: jobrower@dnr.IN.gov

Dear Ms. Brower:

This letter is in response to the Pre-Construction Notification (PCN) you submitted to the Louisville District, on February 9, 2026, for a Department of the Army Nationwide Permit (NWP) verification. This project has been assigned the file number LRL-202600095 and is known as Hovey Lake Orphan Well Plugging. This file number should be referenced in all correspondence concerning this project.

A review of the information provided indicates that the proposed work would include the temporary installation of High-Density Polyethylene Construction Matting, the temporary installation of a 650 linear foot stone causeway, and tree removal in 1.02 acres of Palustrine Forested (PFO) Wetlands (Wetlands A and B) to access and plug eight orphan wells. The proposed project area is part of the Opilwalacha Cypress Slough located within the Hovey Lake Fish and Wildlife Area, at Latitude 37.825116 N and Longitude -88.005447 W; in Posey County, Indiana.

We have determined that the proposed work is authorized by 33 CFR 330 Nationwide Permit (NWP) No. 33 (Temporary Construction, Access, and Dewatering), as published in the Federal Register January 8, 2026, pursuant to authorities under Section 404 of the Clean Water Act (33 U.S.C. § 1344). The proposed work must be accomplished in strict accordance with the general permit conditions, any regional conditions, the special conditions listed in this letter, the application materials, and the enclosed plans “Forested Restoration Plan”. If the extent of the project area and/or

nature of the authorized impacts to waters are modified, a revised PCN must be submitted to this office for written approval before work is initiated.

This verification is valid until March 15, 2031, unless prior to this date the subject NWP(s) is suspended, revoked, or is modified such that the activity no longer complies with the terms and conditions of this NWP. If you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have 12 months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

Project Specific Special Conditions:

1. The Permittee shall comply with all conditions of Section 401 Water Quality Certification No. WQC001440, issued by the Indiana Department of Environmental Management (IDEM) on May 7, 2026, which are incorporated herein by reference.

2. Tree clearing shall not occur during the occupied timeframe (April 1 to September 30) to minimize adverse effects to the federally listed Indiana Bat.

3. All temporary structures including site access matting and causeway shall be removed immediately after project completion, and all materials shall be disposed of in an upland location outside of the Opilwalacha Cypress Slough and Hovey Lake Fish and Wildlife Area. All disturbed wetland areas shall be returned to preconstruction contours and elevations.

4. The impacted areas (1.02 acres of forested wetlands) shall be seeded and planted immediately after project completion, in accordance with the restoration plan titled, “Forested Wetland Restoration Plan” provided on 5-29-2026.

5. The Permittee shall provide an as-built plan/mapping showing all re-forested areas and document all species that were planted along with tree planting and seeding rates within 60 days of the completion of the restoration activities. The mapping would show at least one photo station for each planted area to indicate where future photos would be taken during monitoring.

6. The Permittee shall complete annual monitoring reports for two years, beginning after the first full growing season of the planted trees. The reports shall be submitted to the U.S. Army Corps of Engineers, Louisville District, Newburgh Office by December 31 of each year.

7. The reforested sites must meet the following success criteria for the planted trees:

No one species may make up more than 20% of initial planting.

No one species may make up more than 25% of final stock.

There shall be a minimum of 50% survival rate of initial stock and volunteer species may not be counted toward meeting this requirement (unless volunteers are of the same species in the approved Forested Wetland Restoration Plan).

If these conditions are not met after the final monitoring period, the Permittee shall provide information as to why the site did not meet the success criteria and shall work with the Corps to establish a contingency plan that would include replanting the site with different native wetland tree species.

The enclosed Compliance Certification (ENG 6285) 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. Please note that we also perform periodic inspections to ensure compliance with our permit conditions and applicable Federal laws.

This NWP verification does not preclude the necessity to obtain any other Federal, State, or local permits, licenses, and/or certifications, which may be required.

If you have any questions related to this verification or have issues accessing documents referenced in this letter, please contact Darrin Parrent, Newburgh Regulatory Office at 812-853-7632, or by email at darrin.s.parrent@usace.army.mil.

Sincerely,

Darrin Parrent, Project Manager
Regulatory Division

Enclosures

WQC from IDEM
Forested Wetland Restoration Plan
NWP 33 Summary and Conditions
Compliance Certification

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • Fax (317) 233-6647 • www.idem.IN.gov

Mike Braun
Governor

Clint Woods
Commissioner

Section 401 Water Quality Certification

IDEM Permit Number:	WQC001440
USACE Number:	
Project Name:	Hovey Lake Orphan Well Plugging
Authority:	327 IAC 2. CWA Sections: 301, 302, 303, 306, 307, & 401
County:	Posey
Date of Issuance:	May 7, 2026
Impacts must be completed by:	May 7 2028

Approved:

Amari Farren, Branch Chief
Surface Water and Operations
Office of Water Quality

Applicant / Permittee:

Indiana Department of Natural Resources
Attention: Jocelyn Brower
402 W WASHINGTON ST
INDIANAPOLIS, IN, 46204-2243

Agent:

Egis BLN USA Inc.
Attention: Brian Shaw
8320 CRAIG ST
INDIANAPOLIS, IN, 46250-3593

Project Location: Latitude: 37.82511
Longitude: -88.00544

Project Description:

This project will plug eight abandoned wells in the Hovey Lake Fish and Wildlife Area to reduce methane emissions and prevent possible water contamination. Work crews will access each well using existing roads and temporary HDPE mats to minimize disturbance. One well may also require a temporary stone path, which will be removed once the project is complete. No permanent impacts to wetlands or waterways will occur; only small, temporary wetland disturbances are expected. After the wells are filled with concrete and equipment is removed, all disturbed areas will be restored and reseeded to match the surrounding landscape.

Authorized Impacts

WETLAND & OPEN WATER IMPACT(S)			**Area of Impact (acres)**			
Wetland Name/Waterbody Name	**Type of Impact:**	**Permanent Impact:**	**Open Water**	**Emergent**	**Scrub/ Shrub**	**Forested**
Wetland A	Vegetation Alterations	No, temporary				0.76
Wetland A	Other	No, temporary				0.24
Wetland B	Vegetation Alterations	No, temporary				0.02

Application Signed: February 06 2026

Application Received: February 06 2026

Based on available information, it is the judgment of this office that the impacts from the proposed project as outlined by this Section 401 Water Quality Certification and described in your application will comply with the applicable provisions of 327 IAC 2 and Sections 301, 302, 303, 306, and 307 of the Clean Water Act if you comply with the

conditions set forth below. Therefore, subject to the following conditions, the Indiana Department of Environmental Management (IDEM) hereby grants Section 401 Water Quality Certification for the project described in your application. Any changes in project design or scope not detailed in the application described above or modified by this Section 401 Water Quality Certification are not authorized.

Failure to comply with the terms and conditions of this Section 401 Water Quality Certification may result in enforcement action against you. If an enforcement action is pursued, you could be assessed up to $25,000 per day in civil penalties. You may also be subject to criminal liability if it is determined that the Section 401 Water Quality Certification was violated willfully or negligently.

Conditions of the Section 401 Water Quality Certification

1.0 General

(a) Implement the project as depicted and described in the application for Section 401 Water Quality Certification as modified by the conditions of this certification.

(b) Per 33 CFR 325.6(c), 327 IAC 5-2-6, IC 13-15-3-2 the federal license shall have an established timeframe. Therefore, all approved discharges must be completed within the term of the valid federal permit.

(c) Per IC 13-14-2-2, the department may inspect public or private property to inspect for and investigate possible violations of environmental management laws. Therefore, the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials must be allowed:

(1) to enter your property, including impact and mitigation site(s);
(2) to have access to and copy at reasonable times any records that must be kept under the conditions of this certification;
(3) to inspect, at reasonable times, any monitoring or operational equipment or method; collection, treatment, pollution management or discharge facilAity or device; practices required by this certification; and any mitigation wetland site;
(4) to sample or monitor any discharge of pollutants or any mitigation site.

2.0 Erosion and Sediment Control

Per 40 CFR 122.26, 327 IAC 15; 327 IAC 2-1; 327 IAC 2-1.5, the use of appropriate stormwater control measures and maintenance thereof will prevent any sediment laden water from migrating off site and entering waterways and wetlands, potentially impairing water quality. Therefore, the following erosion and sediment control steps must be completed.

(a) Implement erosion and sediment control measures on the construction site prior to land disturbance to minimize soil from leaving the site or entering a waterbody. Erosion and sediment control measures shall be implemented using an appropriate order of construction (sequencing) relative to the land-disturbing activities associated with the project. Appropriate measures include, but are not limited to, silt fence, diversions, and sediment traps.

(b) Monitor and maintain erosion control measures and devices regularly, especially after rain events, until all soils disturbed by construction activities have been permanently stabilized.

(c) Use run-off control measures, including but not limited to diversions and slope drains. These measures are effective for directing and managing run-off to sediment control measures and for preventing direct run-off into waterbodies.

(d) Install and make appropriate modifications to erosion and sediment control measures based on current site conditions as construction progresses on the site. The Indiana Storm Water Quality Manual or similar guidance documents are available to assist in the selection of measures that are applicable to individual project sites.

(e) Stabilize and re-vegetate disturbed soils as final grades are achieved. Initiation of stabilization must occur immediately or, at a minimum, within the requirements of a construction site run-off permit after work is completed. Use a mixture of herbaceous species beneficial for wildlife or an emergent wetland seed mix wherever possible and appropriate. Tall fescue may only be planted in ditch bottoms and ditch side slopes and must be a low endophyte seed mix. Stabilize the channel before releasing stream flows into the channel.

(f) As work progresses, re-vegetate areas void of protective ground cover. Areas that are to be re-vegetated shall use seeding and anchored mulch. **If alternative methods are required to ensure stabilization, erosion control blankets may be used that are biodegradable, that use loose-woven/leno-woven netting to minimize the entrapment and snaring of small-bodied wildlife such as snakes and turtles (follow manufacturer's recommendations for selection and installation).**

(g) Anchor mulch. Anchoring shall be appropriate for the site characteristics such as slope, slope length, and concentrated flows. **Anchoring methods may not include loose netting over straw, but can range from crimping of**

straw, erosion control blankets as specified above that minimize wildlife entrapment, or net free blankets. Tackifiers with mulch and hydro-mulch are acceptable and shall be applied to the manufacturer specifications.

8.0 Construction

Per 327 IAC 2-1-6(b)(4) the protection of existing uses for aquatic life is required and, per 327 IAC 2-1.3-2 (4) the utilization of best management practices helps ensure the protection of existing uses. Therefore, the following best management practices are required.

(a) Clearly mark wetlands and streams that are to remain undisturbed on the project site.

Other Applicable Permits

Option 2. Extent of land disturbance may or may not be greater than 1 acre

If the land disturbance for the overall project will disturb one (1) acre or more, a construction stormwater general permit is required for the project. Permit coverage must be obtained prior to the initiation of land-disturbing activities. Information related to obtaining permit coverage is available at www.in.gov/idem/stormwater or by contacting the IDEM, Stormwater Program at 317-233-1864 or via email at Stormwat@idem.IN.gov.

This certification does not relieve you of the responsibility of obtaining any other permits or authorizations that may be required for this project or related activities from IDEM or any other agency or person. You may wish to contact the Indiana Department of Natural Resources at 317-232-4160 (toll free at 877-928-3755) concerning the possible requirement of natural freshwater lake or floodway permits.

This certification does not:

(1) Authorize impacts or activities outside the scope of this certification;
(2) Authorize any injury to persons or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations;
(3) Convey any property rights of any sort, or any exclusive privileges;
(4) Preempt any duty to obtain federal, state or local permits or authorizations required by law for the execution of the project or related activities; or
(5) Authorize changes in the plan design detailed in the application.

Notice of Right to Administrative Review

If you wish to challenge this 401 Water Quality Certification, you must file a Petition for Administrative Review with the Indiana Office of Administrative Law Proceedings (OALP), and serve a copy of the petition upon IDEM. The requirements for filing a Petition for Administrative Review are found in IC 4-21.5-3-7, IC 13-15-6-1 and 315 IAC 1-3-2. A summary of the requirements of these laws is provided below.

A Petition for Administrative Review must be filed with the Indiana Office of Administrative Law Proceedings (OALP) within fifteen (15) days of the issuance of this notice (eighteen (18) days if you received this notice by U.S. Mail), and a copy must be served upon IDEM. Addresses are:

Director
Office of Administrative Law Proceedings
Indiana Government Center North
100 North Senate Avenue, Room N802
Indianapolis, Indiana 46204

Commissioner
Indiana Dept. of Environmental Management
Indiana Government Center North
100 North Senate Avenue, Room 1301
Indianapolis, Indiana 46204

The petition must contain the following information:

1. The name, address and telephone number of each petitioner.
2. A description of each petitioner's interest in the 401 Water Quality Certification.
3. A statement of facts demonstrating that each petitioner is:
    a) a person to whom the order is directed;
    b) aggrieved or adversely affected by the 401 Water Quality Certification; or
    c) entitled to administrative review under any law.
4. The reasons for the request for administrative review.
5. The particular legal issues proposed for review.
6. The alleged environmental concerns or technical deficiencies of the 401 Water Quality Certification.
7. The 401 Water Quality Certification terms and conditions that the petitioner believes would be appropriate and would comply with the law.
8. The identity of any persons represented by the petitioner.
9. The identity of the person against whom administrative review is sought.
10. A copy of the 401 Water Quality Certification that is the basis of the petition.
11. A statement identifying petitioner's attorney or other representative, if any.

Failure to meet the requirements of the law with respect to a Petition for Administrative Review may result in a waiver of your right to seek administrative review of the 401 Water Quality Certification. Examples are:

1. Failure to file a Petition by the applicable deadline;
2. Failure to serve a copy of the Petition upon IDEM when it is filed; or
3. Failure to include the information required by law.

If you seek to have a 401 Water Quality Certification stayed during the administrative review, you may need to file a Petition for a Stay of Effectiveness. The specific requirements for such a Petition can be found in 315 IAC 1-3-2 and 315 IAC 1-3-2.1.

Pursuant to IC 4-21.5-3-17, OALP will provide all parties with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action. If you are entitled to notice under IC 4-21.5-3-5(b) and would like to obtain notices of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action without intervening in the proceeding you must submit a written request to OALP at the address above.

For additional information on filing a petition with OALP, visit their website at https://www.in.gov/oalp/

If you have any questions about this certification, please contact Ryland Barton, Project Manager, by email at RyBarton@idem.IN.gov or by phone at 317-903-6228.

cc: USACE – Darrin Parrent, Louisville District
Brian Shaw, Egis BLN USA Inc.

2026 Nationwide Permit Summary

US Army Corps of Engineers®

~~Effective: March 15, 2026 Expires: March 15, 2031~~

Nationwide Permit 33. Temporary Construction, Access, and Dewatering
https://www.federalregister.gov/d/2026-00121/p-1396

Temporary structures, work, and discharges of dredged or fill material, 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 of dredged or fill material, 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
https://www.federalregister.gov/d/2026-00121/p-1563

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 or her 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, including tidal flows. The activity must not restrict or impede the passage of normal or high flows, including tidal 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. If mats are used to minimize soil disturbance, the affected areas must be returned to pre-construction elevations, and revegetated as appropriate. In circumstances where the use of mats has caused significant soil compaction, efforts using techniques (*e.g.,* soil reaeration techniques) to break up the compaction should be employed to return the soil to a pre-construction state prior to returning to preconstruction elevations.

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 Structures and Fills.*** Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction 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. Permittees 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 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.*** (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 designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). 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 species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, 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 species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the preconstruction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) 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 nonfederal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) 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 species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference 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 or conference 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 nonfederal permittee 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 nonfederal 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 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 that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects 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) No activity is authorized under any NWP which may have the potential to cause effects on properties listed, or eligible for listing, in the National Register of Historic Places 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 (see 33 CFR 330.4(g)(1)). If preconstruction 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 on 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 preconstruction 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 commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or 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 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.

(d) Where the non-federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has 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 on historic properties or that NHPA section 106 consultation has been completed. 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 nonfederal 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. ***Discovery of Previously Unknown Remains and Artifacts.*** Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activities authorized by NWPs, must immediately notify the district engineer of what they 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, 52, 57 and 58 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 by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines 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 preconstruction 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 activityspecific 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) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100 -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 activityspecific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100 -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.

Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, because 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. If restoring riparian areas involves planting vegetation, only native species should be planted. 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)). If permitteeresponsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(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. ***Safety of Impoundment Structures.*** 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 or

federal, 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. ***Water Quality.*** (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed activity which may result in any discharge from a point source into waters of the United States must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by the certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed activity which may result in any discharge from a point source into waters of the United States in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires preconstruction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed activity which may result in any discharge from a point source into waters of the United States is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge into waters of the United States, the permittee must submit a copy of the certification to the district engineer. The discharge into waters of the United States is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied (*i.e.,* by the issuance of a water quality certification or a waiver and completion of the Section 401(a)(2) process).

(c) The district engineer or certifying authority 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)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. 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 CWA 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 authorized, subject to the following restrictions:

(a) The total acreage loss of waters of the United States for a single and complete project cannot exceed the acreage limit of the NWP with the highest specified acreage limit when multiple NWPs are used to authorize an activity.

(b) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States for that single and complete project cannot exceed that specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14 (which has an acreage limit of 1/3 acre in tidal waters), with associated bank stabilization authorized by NWP 13 (which does not have a specified acreage limit), the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3 acre.

(c) If two or more of the NWPs used to authorize the single and complete project have specified acreage limits, the acreage loss of waters of the United States authorized by each of those NWPs cannot exceed the specified acreage limits of each of those NWPs. For example, if a commercial development is constructed under NWP 39 (which as a 1/2 -acre limit), and the single and complete project includes the filling of a ditch authorized by NWP 46 (which has a 1-acre limit), the maximum acreage loss of waters of the United States for the construction of the commercial development under NWP 39 cannot exceed 1/2 -acre, and the total acreage loss of waters of United

States caused by the combination of the NWP 39 and NWP 46 activities cannot exceed 1 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 successful completion 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 review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a 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 and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review 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 species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) 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. 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) (i) 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 preconstruction 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.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, 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 (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) 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 waters, wetlands, and other special aquatic sites 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. For NWP 27 activities that require PCNs because of other general conditions or regional conditions imposed by division engineers, see Note 2 of that NWP;

(6) If the proposed activity will result in the loss of greater than 1/10 -acre of wetlands or 3/100 -acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the compensatory 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 species proposed for listing) or designated critical habitat (or critical habitat proposed for such

designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) 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 NWP activity that requires permission from, or review by, 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, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit preconstruction notification form (Form ENG 6082) should be used for NWP PCNs. 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 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 (iii) 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 preconstruction notification. The district engineer will 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 that 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 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 MagnusonStevens 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.

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (*e.g.,* partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (*e.g.,* watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add activity-specific conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed NWP activity requires a PCN and will result in a loss of greater than 1/10 -acre of wetlands or 3/100 -acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. However, compensatory mitigation shall not be required for activities authorized by NWP 27 because those activities must result in net increases in aquatic resource functions and services (see the text of NWP 27). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal when determining whether the net adverse environmental effects of the proposed NWP activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the proposed activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activityspecific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences 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. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The

district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed NWP activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45day PCN review period (unless additional time is required to comply with general conditions 16, 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. **E. 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).

F. Nationwide Permit Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

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

Ecological reference: A model used to plan and design an aquatic ecosystem restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on: (1) the structure, functions, and dynamics of an aquatic ecosystem type or a riparian area type that currently exists in the region; (2) the structure, functions, and dynamics of an aquatic ecosystem type or riparian area type that existed in the region in the past; and/or (3) indigenous and local ecological knowledge that apply to the aquatic ecosystem type or riparian area type (*i.e.,* a cultural ecosystem). Cultural ecosystems are ecosystems that have developed under the joint influence of natural processes and human management activities (*e.g.,* fire stewardship). An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of

selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Nature-based solutions: Actions to protect, sustainably manage, and restore natural or modified ecosystems, that address societal challenges effectively and adaptively, simultaneously providing human wellbeing and biodiversity benefits.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (*i.e.,* spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank,

shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where preconstruction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: reestablishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (*i.e.,* spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (*i.e.,* a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total

project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (*i.e.,* by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. The substrate may also be comprised, in part, of organic matter, such as large or small wood fragments, leaves, algae, and other organic materials. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

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

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: (1) held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

Forested Wetland Restoration Plan

There is 2.584 acres of Palustrine Forested (PFO) wetlands within the project area, with 1.02 acres of temporary impact. There will be no permanent wetland impacts associated with the project. Upon completion of the project work tasks, all temporary structures, including the stone causeway, equipment, material, and the HDPE matting and temporary erosion control measures will immediately be removed from the site. The disturbed areas will be graded as needed to pre-disturbance elevations and contours. The disturbed areas will be planted with canopy trees and shrubs from Table 1 and reseeded with a wetland seed mix from Table 2.

Table 1. Wetland Restoration Tree and Shrub Planting

BOTANICAL NAME	COMMON NAME	TYPE
Quercus Bicolor	Swamp White Oak	Large Canopy Tree
Taxodium distichum	Southern Bald Cypress	Large Canopy Tree
Carya ovata	Shagbark Hickory	Large Canopy Tree
Carya Laciniosa	Shellbark Hickory	Large Canopy Tree
Quercus Palustris	Pin Oak	Small Canopy Tree
Salix interior	Sandbar Willow	Small Canopy Tree
Cephalanthus occidentalis	Common Buttonbush	Medium Shrub
Iolex Verticillata	Common Winterberry	Medium Shrub
Physocarpus opulifolius	Common Ninebark	Small Shrub

Notes:

1. Do not plant a single species in the same general area.
2. Space canopy trees at approximately 12 feet and stagger planting to simulate natural stocking.
3. Plant shrubs between every other canopy tree
4. Plant some tress and shrubs within 10 feet of the clearing limits to allow for canopy closure over time.
5. Do not plant saplings in frozen ground.

Restoration trees and shrubs will be container-grown. Trees will be planted at a rate of 200 containers per acre. entire life or at least for several growing seasons. Container-grown trees/shrubs are specified due to their fully intact, fibrous root system that allows for flexible, year-round planting with a lower risk of transplant shock and thus having a faster growth rate and better survivability in the first 1-2 years after planting.

It is anticipated that there will be required monitoring of the restored areas included as a part of the conditions in the approved 401-404 permits.

Wetland Seed Mix:
The restored areas will also be planted with wetland herbaceous species. Seed quantities specified below are based on pure live seed (PLS). All seed to be used on the site shall be properly tagged to identify PLS percentage.

The wetland seed mix shall be as listed in Table 2. This work shall consist of performing all seedbed preparation and seeding of herbaceous ground cover in accordance with 105.03 and 621. All seed mixtures shall be obtained from nurseries within ANSI Plant Hardiness Zones 5 or 6. Seed quantities specified below are based on pure live seed, PLS. All seed to be used on the site shall be properly tagged to identify PLS percentage. Seed mixtures shall be native stock. Cultivars or species variations will not be accepted.

The wetland seed mix shall be as listed below, or a comparable seed mix consisting of at least six of the native permanent grass and sedge species and at least 10 of the native forb species shall be used.

Table 2: Wetland Seed Mix

Common Name	Botanical Name	Application Rate
Permanent Grasses /Sedges:		
Common Lake Sedge	*Carex lacustris*	0.25
Bottlebrush Sedge	*Carex lurida*	4.00
Brown Fox Sedge	*Carex vulpinoidea*	6.00
Great Spike Rush	*Eleocharis palustris*	16.00
Common Rush	*Juncus effusus*	1.00
Rice Cut Grass	*Leersia oryzoides*	3.00
Softstem Bulrush	*Schoenoplectus tabernaemontani*	6.00

Temporary Cover:		
Common Oat	*Avena sativa*	360.00
Annual Rye	*Lolium multiflorum*	100.00
Forbs:		
Water Plaintain Mix	*Alisma spp.*	2.00
Swamp Milkweed	*Asclepias incarnata*	1.50
Buttonbush	*Cephalanthus occidentalis*	6.00
Blue Flag	*Iris virginica*	6.00
Cardinal Flower	*Lobelia cardinalis*	0.25
Great Blue Lobelia	*Lobelia siphilitica*	0.25
Common Water Horehound	*Lycopus americanus*	0.25
Monkeyflower	*Mimulus ringens*	1.00
Ditch Stonecrop	*Penthorum sedoides*	0.50
Common Arrowhead	*Sagittaria latifolia*	2.00
Common Bur Reed	*Sparaganium eurycarpum*	6.00
Blue Vervain	*Verbena hastata*	1.00

If not, all species listed in the seed mix table are used, the seeding rate of each species used and the overall seeding rate shall be at a rate equal to or greater than that listed in the table. The seeding rate for any substituted species or seed mix shall be sufficient to provide a seed count equivalent to or greater than that of the specified seed mix.