

Wyoming General Permit for Discharges of Dredged or Fill Material

FACT SHEET

Frequently Asked Questions

What are dredge/fill discharges?

- Dredge/fill are discharges of materials that have either been excavated from or imported to a surface water of the state that are used to create any structure or infrastructure where the permanent placement of the material has the effect of replacing any portion of or changing the elevations of a surface water of the state.

Why does the state need a permit to regulate dredge/fill discharges?

- Under 40 CFR Part 120.2, discharges of dredge/fill material to ephemeral waters, isolated wetlands and most ditches are not subject to regulation by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. As a result, regulation of dredge/fill discharges to these waters falls to the States to ensure that these waters meet state water quality standards in accordance with the Wyoming Environmental Quality Act and Wyoming Water Quality Rules.
- WDEQ's General Permit for Dredge/Fill Discharges will cover the majority of dredge/fill discharges to surface waters of the state that are not subject to federal jurisdiction.

Can the WDEQ regulate dredge/fill under current state authorities?

- Yes. Discharges of dredge/fill material are considered a pollutant under Wyoming Statutes.
- Yes. Wyoming Water Quality Rules, Chapter 2 already establishes dredge/fill as a pollutant with respect to regulation in isolated wetlands.

What types of activities are covered under the State General Permit for Discharges of Dredged or Fill Material?

- Building foundations, pads and attendant features associated with commercial, residential, industrial, scientific or similar activities
- Pipeline and other utility line crossings
- Bank stabilization and habitat enhancement
- Highway and road crossings
- Outfall structures
- Temporary structures and fills

What types of activities are not covered under the State General Permit for Discharges of Dredged or Fill Material?

- Discharges of dredged or fill material subject to regulation by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act

- Mining activities subject to regulation by the Wyoming Department of Environmental Quality – Land Quality Division
- Normal farming, ranching, and silviculture activities including maintenance
- Dredging contaminated sediments
- Emergency repairs or reconstruction that pose an unacceptable hazard to life or significant loss of property or economic hardship if immediate action is not taken
- Discharges of dredged/fill material ONLY to isolated wetlands that result in ≤ 1 -acre loss – these are permitted by rule in Chapter 2

How often will the State General Permit for Discharges of Dredged or Fill Material be used?

- We estimate at least 12 projects per year.

Are Chapter 2 mitigation requirements for isolated wetlands covered in the State General Permit for Discharges of Dredged or Fill Material?

- Yes. Any disturbance of natural wetlands or man-made wetlands used as part of mitigation requirements that exceed 1-acre requires compensatory mitigation under state rules. Note that this is different than the federal 0.1-acre threshold for compensatory mitigation.

Can WDEQ or other non-Corps entities make determinations on whether a water is under federal jurisdiction?

- No. Applicants will be required to consult and, if needed, request a jurisdictional determination (JD) from the U.S. Army Corps of Engineers to determine whether a proposed dredge/fill discharge will occur on a water of the United States. If the Corps determines the proposed activity will not occur on a water of the United States, that decision will be forwarded to the WDEQ and the applicant. The applicant will then need to seek coverage under the State General Permit for Discharges of Dredged or Fill Material.

Are there impact thresholds for activities that discharge dredged or fill material into surface waters of the state to qualify for coverage under General Permit?

- Yes, authorization to discharge dredged or fill material would occur via one of the three following pathways:

Thresholds	Authorization
Activity resulting in the loss or destruction of ≤1 cumulative acre of naturally occurring isolated wetlands , or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands.	Permitted by rule (Chapter 2, Section 7(f) of Wyoming Water Quality Rules and Regulations). Coverage under this general permit is not required.
Activity resulting in the loss or destruction of ≤500 linear feet of cumulative stream channel or shoreline length.	Small Discharge of Dredged or Fill Material Automatically authorized under the 'Wyoming General Permit for Discharges of Dredged or Fill Material'
Activity resulting in the loss or destruction of >1 cumulative acre of naturally occurring isolated wetlands , or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands; OR An activity resulting in the loss or destruction of >500 linear feet of cumulative stream channel or shoreline length.	Large Discharge of Dredged or Fill Material Requires submittal of Notice of Intent (NOI) under the 'Wyoming General Permit for Discharges of Dredged or Fill Material'

Why can't dredge/fill discharges be covered under existing WDEQ stormwater permits?

- A stormwater permit regulates pollutants contained within stormwater that may enter a surface water of the state to ensure compliance with state surface water quality standards. A dredge/fill permit regulates the permanent placement of material in a surface water of the state to ensure compliance with state surface water quality standards.
- Stormwater permits cover a large surface area that includes uplands, streams, and wetlands within the project area. Conversely, a dredge/fill permit is different in that it focuses only on direct disturbances to a stream or wetland.
- Stormwater permits function to keep sediment and other pollutants from entering streams, wetlands and other surface waters of the state. A dredge/fill permit is different in that it allows for regulated disturbances and placement of approved materials in a stream or wetland.
- Though there is some overlap with the goals of a stormwater permit's stormwater pollution prevention plan (SWPPP), a SWPPP does not fully control dredge/fill-related disturbances.

Why are we recommending a general permit rather than an individual permit?

- Most dredge/fill activities to waters of the state not subject to federal regulation are similar in nature and types of pollution, and can be effectively regulated under a standard set of effluent limits to comply with surface water quality standards.

- A general permit is better for both the state and the regulated community as it is largely self-implementing with only the submittal of a notice of intent to the agency to secure coverage.
- Though most dredge/fill activities to waters of the state would be regulated under this general permit, the WDEQ does have the option to require an individual permit where necessary to comply with the Wyoming Environmental Quality Act and Wyoming Water Quality Rules.

What WDEQ program will implement the State General Permit for Discharges of Dredged or Fill Material?

- The state general dredge/fill permit will be authorized through the WYPDES Program and implemented by both the WYPDES and Watershed Protection Programs.

How will applicants secure coverage under the State General Permit for Discharges of Dredged or Fill Material?

- If the activity qualifies as a Large Discharge of Dredged or Fill Material, applicants will submit a notice of intent (NOI) to the WDEQ. If it is determined that the activity can be covered under the general permit, the WDEQ will issue a letter of authorization (LOA) to the permittee.
- If the activity qualifies as a Small Discharge of Dredge or Fill Material, operators are automatically authorized under this General Permit. Operators need to meet conditions of the General Permit but do not need to submit an NOI or receive an LOA.

How long is the letter of authorization (LOA) valid under the State General Permit for Discharges of Dredged or Fill Material?

- The letter of authorization (LOA) is valid from the date of authorization until the anticipated completion date of the permitted activity or when the permittee submits a certification of completion for the permitted activity, whichever comes first.

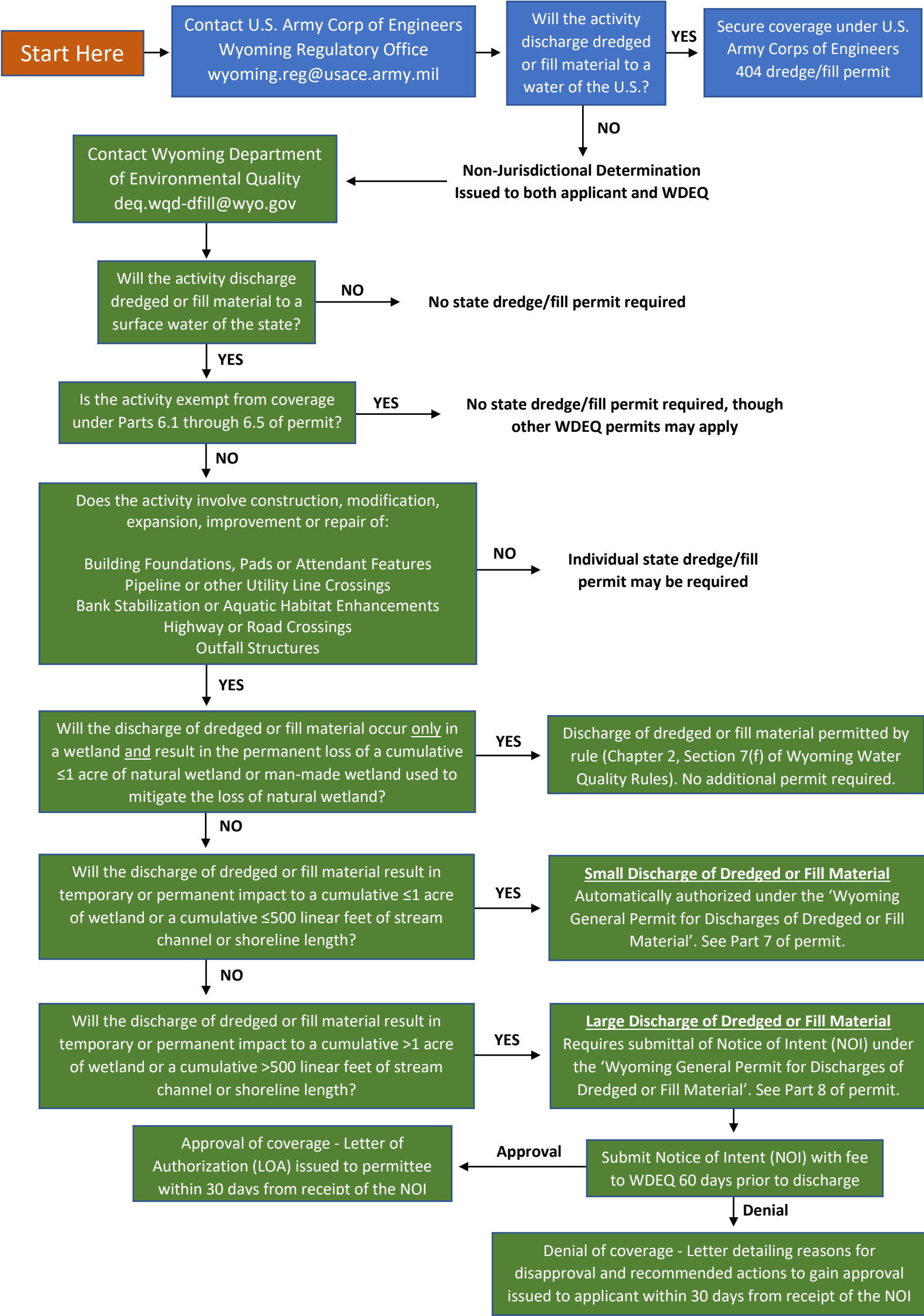
How will notifications and other information under the State General Permit for Discharges of Dredged or Fill Material be tracked?

- The WYPDES Program database will be used to issue permit numbers, issue fees, and track NOIs, LOAs, reporting, and enforcement actions under the general permit. The Watershed Protection Program will have access to all information associated with this general permit.

Will the State General Permit for Discharges of Dredged or Fill Material be subject to federal requirements under the Clean Water Act?

- No. This general permit will be authorized solely under the authorities provided in Wyoming statutes and the Wyoming Water Quality Rules and is not subject to federal oversight.

Do I need to get covered under the WDEQ State General Permit for Discharges of Dredged or Fill Material?

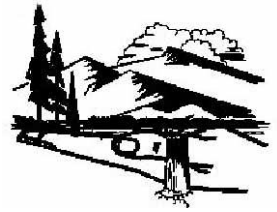




Mark Gordon, Governor

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Todd Parfitt, Director

General Permit for Discharges of Dredged or Fill Material Under the Wyoming Pollutant Discharge Elimination System (WYPDES)

In compliance with the provisions of Chapter 2 of the Wyoming Water Quality Rules and the Wyoming Environmental Quality Act, facilities located within the State of Wyoming that are discharging or may discharge dredged or fill material, are hereby authorized to discharge to surface waters of the State of Wyoming upon compliance with requirements of this permit.

This general WYPDES permit WYDF10000 is issued under the provisions of Wyoming Water Quality Rules Chapter 2.

This general permit shall become effective on the date of issuance below. This general permit shall expire on September 30, 2030.

Small discharges of dredged or fill material are authorized by this permit consistent with Part 7 of this permit. Large discharges of dredged or fill material are authorized under this permit only after submission of a Notice of Intent to, and receipt of a Letter of Authorization, from the Department of Environmental Quality-Water Quality Division. See Part 8 of the permit for additional information.

Jennifer Zygmunt
Administrator – Water Quality Division

Todd Parfitt
Director – Department of Environmental Quality

October 27, 2025

Date of Issuance

Contents

Scope of this General Permit	1
Part 1 – Purpose.....	2
Part 2 - Authorities.....	2
Part 3 - Jurisdictional Limits	2
Part 4 – Definitions	2
Part 5 – Discharges of Dredged or Fill Material Subject to Coverage under this General Permit	4
5.1 Building Foundations, Pads and Attendant Features - Construction	4
5.2 Pipeline and other Utility Line Crossings -	4
5.3 Bank Stabilization and Aquatic Habitat Enhancement -	5
5.4 Highway and Road Crossings -	5
5.5 Outfall Structures -	5
5.6 Temporary Structures and Fills -	5
Part 6 – Discharges of Dredged or Fill Material Not Covered under the General Permit	5
Part 7 – Authorization - Small Discharges of Dredged or Fill Material	6
7.1 Authorization to Discharge.....	6
Part 8 – Authorization - Large Discharges of Dredged or Fill Material (Notice of Intent)	6
8.1 Form of NOI Submission	7
8.2 Contents of the NOI	7
8.3 Deadline to apply.....	9
8.4 Review of NOI	9
8.5 Denial of coverage	9
8.6 Individual permit required.....	9
8.7 Criteria for approval of wetland mitigation plans	10
8.8 Processing and signing notices of intent	10
8.9 Agreement to comply	10
Part 9 – Effluent Limits	10
9.1 Fill Material	10
9.2 Dredging	10
9.3 Hazardous, Toxic and Deleterious Materials.....	11
9.4 In-water Construction Activity.....	11
9.5 Surface Water Intakes	12

9.6	Temporary Structures and Fills.....	12
9.7	Stockpiling and Staging of Fill and Dredged Material.....	13
9.8	Best Management Practices	13
9.9	Vegetation Protection and Restoration.....	14
9.10	Bank Stabilization and Aquatic Habitat Enhancement.....	14
9.11	Culverted Crossings	14
9.12	Oil, Gas, Electric, Communication, Water and other Utility Line Crossings	15
9.13	Consistency with a Total Maximum Daily Load (TMDL)	16
9.14	Aquatic Invasive Species.....	16
9.15	Other Limits	16
9.16	Duty to Secure Other Permits	17
Part 10	– Self Monitoring and Reporting Requirements	17
10.1	Project inspections and Reports	17
10.2	Reporting requirements.....	18
Part 11	– Termination of General Permit Coverage	19
11.1	Small Discharges of Dredged or Fill Material	19
11.2	Large Discharges of Dredged or Fill Material	19
Part 12	– Permit Fees.....	19
Part 13	– Notice of Transfer and Acceptance	19
Part 14	- Standard General Permit Conditions	20
14.1	Duty to comply.....	20
14.2	Penalties for violations of permit conditions.....	20
14.3	Need to halt or reduce activity not a defense	20
14.4	Duty to mitigate	21
14.5	Duty to provide information	21
14.6	Other information.....	21
14.7	Signatory requirements	21
14.8	Property rights	22
14.9	Other regulations.....	22
14.10	Severability.....	22
14.11	Transfers	23
14.12	State laws.....	23
14.13	Project operation and maintenance	23

14.14 Records 23

14.15 Availability of reports..... 23

14.16 Adverse impact 23

14.17 Upset Condition 23

14.18 Access..... 24

14.19 Access records..... 24

14.20 Permit actions 25

14.21 Reopener clause..... 25

14.22 Civil and criminal liability 25

Part 15 - Wyoming Executive Orders 2019-3 and 2020-1 25

Scope of this General Permit

Provided below are some key facts relating to the scope and intent of the Wyoming “General Permit for Dredged or Fill Material.”

A small discharge of dredged or fill material is one that results in a temporary or permanent impact to a cumulative one acre or less of wetlands or a cumulative 500 linear feet or less of stream channel or shoreline length. Note that a discharge of dredged or fill material that results *only* in the loss of a cumulative one acre or less of natural wetland or man-made wetland used to mitigate the loss of natural wetland is permitted by rule in accordance with Chapter 2, Section 7(f) of the Wyoming Water Quality Rules and not subject to coverage under this General Permit. A discharge of dredged or fill material to a stream channel that results in the cumulative loss or destruction of 500 linear feet or less of stream channel is not permitted by rule in Chapter 2, but is permitted automatically under this general permit, pursuant to Part 7 below.

A large discharge of dredged or fill material is one that results in a temporary or permanent impact to greater than one (1) cumulative acre of wetland or a cumulative stream channel or shoreline length greater than 500 linear feet.

This General Permit authorizes discharges of dredged or fill material from activities that are similar in nature and cause only minimal adverse environmental impacts to waters of the state separately or on a cumulative basis. Activities covered under this permit are building foundations, pads and attendant features; pipeline and other utility line crossings; bank stabilization and aquatic habitat enhancement; highway and road crossings; outfall structures; and temporary structures and fills.

This General Permit is designed to ensure that the discharge of dredged or fill material from an authorized activity will comply with applicable surface water quality standards in waters of the state.

Discharges of dredged or fill material that are used to create any structure or infrastructure where the permanent placement of the material has the effect of replacing any portion or changing the elevations of a surface water of the state are considered pollution.

In order to achieve compliance with this General Permit, the permittee is required to adhere to all effluent limits and standard permit conditions described in Parts 8 and 13 of this General Permit.

Authorization for a small discharge of dredged or fill material under this General Permit is terminated once the permitted activity is deemed complete or the permit is allowed to expire. The authorization for a large discharge of dredged or fill material under this General Permit is terminated once a certificate of completion has been received by the Department or the permit is allowed to expire.

Part 1 – Purpose

This General Permit authorizes point source discharges of dredged or fill material into surface waters of the State associated with certain activities. Authorizations under this General Permit are limited to a period not to exceed the duration of the proposed permitted activity.

Part 2 - Authorities

Point source discharges of dredged or fill material are considered “pollution” under Wyoming Statute (W.S.) § 35-11-103(c)(i) and Chapter 1, Section 2(a)(ix) of the Wyoming Water Quality Rules (WQR). The authority to regulate point source discharges of dredged or fill material into surface waters of the state is provided in W.S. §§ 35-11-301(a)(i) and (ii) and 35-11-302(a)(ii) and (iii).

Part 3 - Jurisdictional Limits

This General Permit applies to all Wyoming surface waters that are considered waters of the state pursuant to the W.S. § 35-11-103(c)(vi) and Chapter 1, Section 2(a)(xi) of the WQR but are not waters of the United States as defined under 40 CFR Part 120.2.

Part 4 – Definitions

The following definitions are used in this General Permit and supplement those contained in W.S. § 35-11-103; Chapter 1, Section 2 of the WQR; and Chapter 2, Section 3 of the Wyoming WQR. Access Roads – Private roads which are exclusively or primarily dedicated for use by the permittee.

- 4.2 Administrator – The Administrator of the Water Quality Division, Wyoming Department of Environmental Quality or their delegate.
- 4.3 Bankfull Elevation – The top of the stream bank where the floodplain begins. Where the tops of structures exceed the bankfull elevation, the structure and adjacent stream channel are susceptible to erosion due to higher convergence flow and shear stresses. Where the tops of structures are below one-half bankfull elevation, the structure and adjacent stream channel are susceptible to sediment aggradation.
- 4.4 Best Management Practices (BMPs) – A physical, structural and/or operational practice to prevent, reduce or treat the entry of pollutants into surface waters of the state. BMPs include treatment requirements, operating procedures, erosion and sediment controls, and pollution prevention measures that address project site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- 4.5 Certificate of Completion – An official form submitted by the permittee to the Administrator that documents compliance with conditions of this General Permit and completion of the permitted activity for large discharges of dredged or fill material. The certificate of completion shall also identify any incidents of noncompliance and corrective actions implemented. Receipt of a signed and completed certificate of completion by the Administrator terminates coverage under this General Permit.

- 4.6 Dredged Material – Material that is cleared, excavated or dredged from surface waters of the state. The redepositing of dredged material other than incidental fallback, including excavated or cleared material, into surface waters of the state, which is associated with any activity under Part 5 of this General Permit, is considered fill material and a point source discharge of pollution provided that it meets the definition under Part 4.7.
- 4.7 Fill Material – Materials that are authorized for use as “fill” in surface waters of the state. Fill materials include, but are not limited to, clean aggregate or other materials (including redeposited dredged material described under Part 4.6) that when placed, will not be eroded by normal or expected high flows, are not subject to leaching, and do not contain erodible components such as metal, paint, asphalt, garbage, trash, glass, paving materials or shingles. The placement of fill material into surface waters of the state, which is associated with any activity under Part 5 of this General Permit, is considered a point source discharge of pollution.
- 4.8 General Permit – The WYDEQ/WQD General Permit for Discharges of Dredged or Fill Material (WYDF100000) or the DDFM.
- 4.9 Incidental Fallback – The redeposit of small volumes of dredged material that is incidental to excavation activity in surface waters of the state when such material falls back to substantially the same place as the initial removal. Examples of incidental fallback include soil that is disturbed when dirt is shoveled and the back-spill that comes off a bucket when such volume of soil or dirt falls into substantially the same place from which it was initially removed.
- 4.10 Large Discharges of Dredged or Fill Material – Discharges of dredged or fill material associated with activities that temporarily or permanently impact greater than one (1) cumulative acre of wetland or a cumulative stream channel or shoreline length greater than 500 linear feet, require submittal of a Notice of Intent (NOI) followed by issuance of a Letter of Authorization (LOA) from the Administrator for coverage under the General Permit
- 4.11 Letter of Authorization (LOA) – An official document signed by the Administrator that authorizes coverage of a large discharge of dredged or fill material under the General Permit.
- 4.12 Notice of Intent (NOI) – An official form submitted to the Administrator from an applicant seeking individual authorization for a large discharge of dredged or fill material under the General Permit.
- 4.13 Permanent impact – Fill or alterations that will result in a loss or change to the physical or ecological character of the surface water of the state relative to pre-construction conditions or contours. Examples include but are not limited to loss of wetland acreage; loss of stream channel length; altered channel dimension, pattern or profile; and permanent placement of stream bank or in-channel structures or treatments.

- 4.14 Permittee – The person and/or entity named in the Letter of Authorization (LOA) authorizing discharges of dredged or fill material from the named activity. The permittee is responsible for all aspects of permit compliance.
- 4.15 Small Discharges of Dredged or Fill Material - Discharges of dredged or fill material associated with activities that temporarily or permanently impact a cumulative one (1) acre or less of wetlands or a cumulative 500 linear feet or less of stream channel or shoreline length, are automatically covered under the General Permit and do not require submittal of a Notice of Intent (NOI).
- 4.16 Stream bed – The substrate of the stream channel. The substrate may be bedrock or inorganic particles that range in size from clay to boulders.
- 4.17 Temporary impact – Fill or alterations that occur in surface waters of the state that within a reasonably short duration are restored to preconstruction contours and conditions when project construction activities are complete.
- 4.18 Total Maximum Daily Load – The maximum amount of a specific pollutant that can be assimilated by a surface water without causing an impairment of designated uses or violating water quality criteria. The allowable amount considers all sources of that pollutant in a watershed, including point sources and non-point sources, and requires a portion to be set aside as a margin of safety.
- 4.19 Upland – Non-surface waters of the state.
- 4.20 Utility Line – Any pipe or pipeline for transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, internet, radio and television communication.

Part 5 – Discharges of Dredged or Fill Material Subject to Coverage under this General Permit

Unless specified otherwise in this General Permit, discharges of dredged or fill material to surface waters of the state associated only with activities listed in 5.1 through 5.6 are covered under this General Permit:

- 5.1 Building Foundations, Pads and Attendant Features - Construction or repair of permanent building foundations, building pads and attendant features along with non-structural fills associated with commercial, residential, industrial, scientific, or other similar activities including, but not limited to, driveways, hydrological stations, parking lots, garages, yards, stormwater management facilities, wastewater treatment facilities, septic fields, and recreation facilities;
- 5.2 Pipeline and other Utility Line Crossings - Crossings of waters of the state associated with the construction, maintenance, or repair of oil and gas pipelines, communication and power lines, water and wastewater pipelines, affiliated substations and foundations for overhead utility line

towers, poles and anchors. Construction, maintenance or repair includes trenching, side-casting and backfilling of material in surface waters of the state;

- 5.3 Bank Stabilization and Aquatic Habitat Enhancement - Activities necessary for erosion control or prevention within surface waters of the state, including but not limited to vegetative stabilization, bioengineering, sills, rip-rap, revetment, gabion baskets, stream barbs, toe-wood, and bulkheads, or combinations of bank stabilization techniques using allowable fill materials. Includes activities associated with aquatic habitat enhancements designed to provide a net increase in aquatic resources including but not limited to channel spanning structures, riparian floodplain treatments, and hardened riffles using allowable fill materials;
- 5.4 Highway and Road Crossings - Crossings (e.g., bridge, culvert, low-water, causeway) of waters of the state associated with the construction, expansion, modification, repair, or improvement of roads, highways, railways, trails, pathways and airport runways;
- 5.5 Outfall Structures - Construction or modification of outfall structures and associated intake structures within a water of the state, where effluent from the outfall is authorized, or specifically exempted by, or otherwise in compliance with a permit issued by the Wyoming Pollutant Discharge Elimination System (WYPDES) Program pursuant to WQR Chapter 2 and the Wyoming Environmental Quality Act;
- 5.6 Temporary Structures and Fills - Temporary structures and fills necessary for construction activities, dewatering, spill-response or similar activities that include but are not limited to cofferdams, berms, shoring, scaffolding, ramps, platforms, and earth-retaining structures.

Part 6 – Discharges of Dredged or Fill Material Not Covered under the General Permit

Activities identified under Parts 6.1 through 6.5 are exempt from coverage under this General Permit pursuant to Chapter 2, Section 2(a)(iii) and 2(b) of the Wyoming WQR. The activities identified in Part 6.6 are permitted by rule pursuant to Chapter 2, Section 7(f) of the Wyoming WQR and do not require coverage under this General Permit:

- 6.1 Any discharge of dredged or fill material that is subject to regulation by the United States Army Corps of Engineers under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899;
- 6.2 Any discharge of dredged or fill material that is subject to authorization from the Wyoming Department of Environmental Quality, Land Quality Division for mining activities;
- 6.3 Discharge of a pollutant that is not considered dredged or fill material;
- 6.4 Dredging of contaminated bed sediments;
- 6.5 Discharges of dredged or fill material:

- a) from normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;
- b) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, headwaters, causeways, and bridge abutments or approaches and transportation structures;
- c) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;
- d) for the purposes of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into a surface water of the state;
- e) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of surface waters of the state are not impaired, that the surface water of the state is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;
- f) for the purpose of emergency actions where there is an unacceptable hazard to life, aquatic life or a significant loss of property or economic hardship will occur if immediate action is not taken; Including, but not limited to: Firefighting and emergency rescue activities, flood control measures, clearing roadways and waterways of debris from natural catastrophes.

6.6 Activities that result in a discharge of dredged or fill material that cause the loss of a cumulative one (1) acre or less of naturally occurring wetlands or man-made wetlands used to mitigate the loss of naturally occurring wetlands.

Part 7 – Authorization - Small Discharges of Dredged or Fill Material

Small discharges of dredged or fill material associated with the activities listed in Part 5 are discharges that temporarily or permanently impact a cumulative 500 linear feet or less of stream channel or shoreline length. Filing a notice of intent to the Administrator for coverage under this General Permit is not required for small discharges of dredged or fill material.

- 7.1 Authorization to Discharge - Authorization for small discharges of dredged or fill material under this General Permit is achieved by complying with the requirements of Parts 9, 10.1, 11.1, 13.1, 13.2, 14 and 15 of this General Permit.

Part 8 – Authorization - Large Discharges of Dredged or Fill Material (Notice of Intent)

Large discharges of dredged or fill material associated with the activities listed in Part 5 are discharges that temporarily or permanently impact a cumulative greater than one acre of any wetland, or a cumulative stream channel or shoreline length greater than 500 linear feet.

Authorization for large discharges of dredged or fill material associated with the activities listed in Part 5 is achieved by filing a Notice of Intent (NOI) with the Administrator that shall contain, at a minimum, all of the following requirements:

- 8.1 Form of NOI Submission – All notices of intent shall be submitted electronically using the standard NOI form available for this general permit. A Notice of Intent is submitted electronically, either by upload on the agency web site to:
<https://app.smartsheet.com/b/form/87c4d7eb3c524d6e89c9dfe7bc94d70e>,
Or in the WYPDES on-line database (WYIMS). WYIMS requires an account. Go to <https://wyims.wyo.gov/ncore/external.home> to and click on the blue 'Create a WYIMS Account' button at the bottom of the webpage to set up an account. WYIMS can also be used to upload relevant documents and review facility records;
- 8.2 Contents of the NOI – Using the form described in 8.1, the notice of intent shall contain the following information:
 - 8.2.1 Name, address, telephone number and email of company, entity, or individual seeking authorization;
 - 8.2.2 Authorization of a duly authorized representative under the signatory requirements described in Part 14.7 of this General Permit;
 - 8.2.3 Name, address and telephone number(s) of landowner(s) who may be affected by the activity;
 - 8.2.4 Location of the project area where the proposed discharge of dredged or fill material will occur, expressed as latitude and longitude using decimal degrees to a minimum of 5 decimal places and as a legal description using the public land survey system (quarter-quarter, section, township, range). For linear projects, provide the start and end locations. For dispersed projects, provide the center location;
 - 8.2.5 Identification of the General Permit activity category under Part 5 to authorize the proposed discharge;
 - 8.2.6 Name(s) of the surface waters of the state where the discharge of dredged or fill material will occur. Include unnamed surface waters of the state in this description;
 - 8.2.7 Identify whether any surface waters of the state where discharge will occur are listed on the state's 303(d) list of impaired waters or have an approved TMDL. The state's most recent 303(d) list as well as a list of all approved TMDLs can be found in the current Integrated 305(b) and 303(d) Report located at <https://deq.wyoming.gov/water-quality/watershed-protection/water-quality-assessment/>
 - 8.2.8 Estimated project construction start and end dates;

- 8.2.9 A description of the proposed project activity conducted by the applicant which require the applicant to obtain coverage under this General permit; the project's purpose;
- 8.2.10 Estimated acres of wetland impact and estimated linear length of stream channel or shoreline impact—impacts include both temporary and permanent;
- 8.2.11 A description of any proposed measures intended to reduce the adverse environmental effects caused by the proposed activity;
- 8.2.12 Identification of the general types of material (e.g., rip-rap, boulder, stream bed material, etc.) proposed for discharge;
- 8.2.13 Expected quantity for each type of material in the proposed discharge in cubic yards, including any material dredged, excavated or cleared from the channel, banks or wetland that will be redeposited in a surface water of the state;
- 8.2.14 An aerial photograph and topographic map of the project area that shows the location of the project; proposed discharge location(s); treatment, storage or disposal facilities; surface waters of the state; delineations of temporary and permanent wetland and stream channel or shoreline impacts; representative photos of the area(s) proposed for discharge; surface water drinking intakes listed in public records or otherwise known by the applicant in the map area;
- 8.2.15 A map showing DEQ legal access route(s) to the project area;
- 8.2.16 Applicants shall determine if any part of their project is in the Sage Grouse Core Area (SGCA), Connectivity Area, Winter Concentration Area, or within two miles of a Non-core Area sage-grouse lek as determined under the Governor's Executive Order 2019-3. See Part 15 of this General Permit for more information;
- 8.2.17 Applicants shall also determine if any part of their project falls within a migration corridor designated under the Mule Deer and Antelope Migration Corridor Protection Executive Order 2020-1 (MCEO). See Part 15 of this General Permit for more information;
- 8.2.18 If the proposed discharge will result in the loss of greater than a cumulative one (1) acre of naturally occurring wetland or man-made wetlands used to mitigate the loss of naturally occurring wetlands, the applicant shall also submit a detailed wetland mitigation plan as part of the notice of intent, to the Administrator to offset the loss of wetland functions and values. Mitigation plans submitted to the Administrator shall contain the following supplemental information:
 - 8.2.18.1. Description of actions to be taken to fully offset damage to the impacted wetland. The proposed mitigation shall be at least commensurate with the loss of wetland size, function and values;

- 8.2.18.2. Where the proposed mitigation involves the construction of replacement wetlands or the enhancement of existing wetlands, the applicant shall provide location and description of the mitigation area including the name and address of the landowner(s), construction plans, maps, water sources and construction time tables;
- 8.2.18.3. Where the proposed mitigation involves the use of wetland credits recorded in the “Wyoming Statewide Mitigation Bank” a written authorization signed by the credit owner referencing the wetland credit file number and the amount of credit authorized for use;
- 8.2.18.4. List of related permissions and/or authorizations necessary to successfully complete the planned mitigation including but not limited to water rights, easements, and associated federal, state or local permits;
- 8.3 Deadline to apply – A notice of intent for coverage under this General Permit for large discharges of dredged or fill material to surface waters of the state shall be submitted to the Administrator within 60 days of the anticipated first date of discharge;
- 8.4 Review of NOI – After review of the notice of intent, the Administrator may:
 - 8.4.1 Issue a Letter of Authorization (LOA) allowing the large discharge of dredged or fill material from the covered activity in compliance with the terms and conditions of this General Permit;
 - 8.4.2 Request additional information necessary to evaluate the discharge;
 - 8.4.3 Require additional time for review;
 - 8.4.4 Notify the applicant if additional terms and conditions are necessary, or;
 - 8.4.5 Deny authorization where a discharge is not eligible for coverage under this General Permit.
 - 8.4.6 NOIs that are incomplete will not be processed and will be returned. The applicant may re-apply with a new complete NOI;
- 8.5 Denial of coverage – The Administrator shall notify the applicant of the approval or disapproval of coverage under this General Permit within 30 days of receipt of the NOI. In the case of disapproval, the Administrator shall specify in writing the reasons for the disapproval and actions, if any, that the applicant can take to gain approval;
- 8.6 Individual permit required – If, after evaluation of the NOI and any additional information requested for the evaluation, it is found that this General Permit is not applicable to the

activity, the proposed activity will be processed as an application for an individual permit. The applicant will be notified of the Administrator's decision to deny authorization under this General Permit and require coverage under an individual permit. Additional information may be required and a minimum of 120 days will be required to process the application and issue the individual permit;

8.7 Criteria for approval of wetland mitigation plans where applicable under Part 8.2.18:

- 8.7.1 The Administrator shall approve all wetland mitigation plans in accordance with the "Wyoming Statewide Wetland Mitigation Bank – Guidelines for Interpretation and Implementation," April 1995;
- 8.7.2 The Administrator shall approve all wetland mitigation plans involving the creation of new replacement wetlands, the restoration of degraded wetlands, or the enhancement of existing wetlands that are not recorded in the Statewide Wetland Mitigation Bank but meet the substantial elements of the wetland banking guidelines;
- 8.7.3 The Administrator may approve types of mitigation other than those described in the April 1995 Wetland Mitigation Bank Guidelines on a case-by-case basis after consideration of the ecological function and wetland values of the impacted wetlands and the net environmental benefit of the proposed mitigation. Such types of mitigation may include but are not limited to the acquisition of conservation easements, contributions to specific private or public habitat improvement projects, or modifications to the geographic and ecological limitations expressed in the wetland banking guidelines;

8.8 Processing and signing notices of intent – Shall be in accordance with the procedures outlined in Part 14.7 of this General Permit;

8.9 Agreement to comply – Submission of the NOI to the Department constitutes full agreement by the applicant to meet and comply with all the requirements in Parts 9, 10, 11.2, 12, 13, 14 and 15 of this General Permit;

Part 9 – Effluent Limits

To qualify for coverage under this General Permit, the prospective permittee of an activity that is eligible under Part 5 of this General Permit must comply with the following effluent limits, as applicable, to ensure compliance with Chapters 1 and 2 of the Wyoming WQR.

9.1 Fill Material

9.1.1 Only fill material as defined in Part 4.9 of this General Permit shall be discharged to surface waters of the state;

9.2 Dredging

9.2.1 Dredging, which includes excavation and clearing, shall be accomplished in a manner that minimizes disturbance of the watercourse bottom and banks and minimizes turbidity levels in the water column;

9.2.2 If evidence of impaired water quality, such as a fish kill, is observed during the dredging, dredging operations shall cease, and the Department shall be notified immediately;

9.3 Hazardous, Toxic and Deleterious Materials

9.3.1 All equipment must be inspected daily for oil, gas, diesel, anti-freeze, hydraulic fluid and other petroleum leaks. All such leaks shall be properly repaired and equipment cleaned prior to being brought on-site. Leaks that occur after the equipment is on-site shall be repaired within one day or removed from the project area. The equipment is not allowed to continue operating upon discovery of a leak;

9.3.2 Equipment and machinery shall not be located in a wetland or watercourse during refueling, repair and/or maintenance;

9.3.3 Petroleum products and hazardous, toxic and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of a surface water of the state. Adequate measures and controls must be in place to ensure those materials will not enter a surface water of the state as a result of high water, precipitation runoff, wind, storage facility failure, or accidents in operation;

9.3.4 Emergency spill and release procedures shall be kept on the job-site and readily available for review. Appropriate emergency spill/release response materials (e.g. booms, pads, socks, absorbents, floats) shall be kept on the job-site at all times for the duration of project;

9.3.5 In the event of an unauthorized release or spill of hazardous, toxic or deleterious materials and there is a likelihood that the material will enter a wetland or watercourse, the responsible party shall:

9.3.5.1 Immediately take appropriate action to abate and stop the release or spill;

9.3.5.2 Immediately take appropriate action to contain the release or spill in such a manner that it will not reach a surface water;

9.3.5.3 Notify the WDEQ-WQD immediately at 307-777-7781;

9.3.5.4 Refer to Wyoming Water Quality Rules, Chapter 4 for additional requirements on spills notification, reporting, and containment;

9.4 In-water Construction Activity

9.4.1 Construction equipment shall not operate below the existing water surface except as follows:

- 9.4.1.1 Fording at one location is acceptable; however, vehicles should not push or pull material along the bed or banks below the existing water level. Impacts from fording must be minimized;
- 9.4.1.2 Work below the waterline which is essential must be carried out in a manner which minimizes impacts to the aquatic system and water quality;
- 9.4.2 Work must be conducted during low flow or low water conditions except for unique circumstances where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur if immediate action is not taken;
- 9.4.3 If stream channel relocation is required, all work in surface waters of the state shall be done in the dry, unless otherwise authorized by the Administrator, and all flows shall be diverted around the relocation area until the new channel is stabilized;
- 9.4.4 Where applicable and to minimize excess sediment transport, stream channel and/or stream bank stabilization must be completed prior to returning water to a dewatered segment;
- 9.4.5 The timing and duration of construction must minimize conflicts with fish spawning where practicable. Site specific information on spawning seasons and spawning areas for all fish species can be obtained from fisheries supervisors at Wyoming Game and Fish Department (WGFD) Regional Offices;
- 9.5 Surface Water Intakes
 - 9.5.1 For activities that occur within ten stream miles of a downstream public water supply intake, the responsible parties for the public water supply intake shall be notified and all concerns addressed prior to the commencement of the activities. Documentation of this notification and how concerns were addressed shall be kept on file and be made available upon request;
 - 9.5.2 Discharges of dredged or fill material shall not occur in close proximity to a surface water supply intake, shall not limit the ability of any existing diversion structure to appropriate water, shall not impair the ability to deliver legal water rights, and shall not adversely impact a stream gauging station;
- 9.6 Temporary Structures and Fills
 - 9.6.1 Any temporary crossings, bridge supports, cofferdams or other structures and fills must be designed to handle high flows/water anticipated to occur while these structures are present. All temporary structures and fills (e.g. construction pads) must be completely removed from the waterbody at the conclusion of the permitted activity and the area restored to a natural appearance;

9.7 Stockpiling and Staging of Fill and Dredged Material

9.7.1 All excess stockpiled, dredged or excavated material shall be disposed of at an upland site, not in a surface water of the state. All measures and precautions shall be taken to prevent entry of said material into a surface water of the state during high water/flow events;

9.7.2 To the maximum extent practicable, all stockpiling and staging areas of fill or dredged material shall be placed at an upland site, not in a surface water of the state. All measures and precautions shall be taken to prevent entry of said material from the stockpiling or staging area into a surface water of the state as a result of high water or precipitation events;

9.8 Best Management Practices

9.8.1 Redistribution of existing stream substrate for purposes of erosion control is prohibited;

9.8.2 Adequate stabilization and erosion control measures are required for all treatments and structures to minimize their erosion during high flows or high water;

9.8.3 All construction debris shall be properly disposed of at an upland site in accordance with applicable local, state and federal laws; not in a surface water of the state;

9.8.4 All fill material should be placed and compacted and subsequently protected from erosion. Where applicable, areas proposed for fill should be cleared of all vegetation, debris and other materials that may destabilize the fill. Maximum fill slopes shall be such that material is structurally stable once placed and does not slough into a surface water of the state during construction, during periods prior to revegetation, or after vegetation has established;

9.8.5 Containment measures such as silt curtains, geotextile fabrics, silt fences or other best management practices must be implemented and properly maintained to minimize, prevent or treat erosion, sediment and other pollutant entry, instream sediment suspension and resulting turbidity during project implementation to the lowest practical level. Best management practices shall be properly installed, maintained, and functional at all times during project implementation;

9.8.6 Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material, to minimize soil disturbance to the maximum extent practicable;

9.8.7 In circumstances where dredged material dewatering is necessary prior to redepositing into a surface water of the state, the dredged material shall be placed in a dewatering area. Dredged material dewatering areas shall be of adequate size to contain the dredged material and to allow for adequate dewatering and settling of sediment prior to discharge back into surface waters of the state. The dredged material dewatering area shall utilize an earthen berm or straw bales covered with filter fabric along the edge of the area to contain the dredged material, filter bags, or other similar filtering practices, any of which

shall be properly stabilized prior to placing the dredged material in the containment area.
Overtopping of dredged material containment berms is prohibited;

9.9 Vegetation Protection and Restoration

9.9.1 Vegetation must be protected except where its removal is absolutely necessary for completion of the work. Vegetation removal shall not cause in-channel or bank degradation beyond what existed prior to construction;

9.9.2 All disturbed areas shall be returned to pre-construction elevations and contours with topsoil from the impacted area where practicable. Re-vegetate disturbed soil in a manner that optimizes plant establishment for that specific site. Revegetation may include topsoil replacement, planting, seeding, fertilization and weed-free mulching as necessary. Re-vegetate cut and fill slopes with appropriate species to prevent erosion;

9.10 Bank Stabilization and Aquatic Habitat Enhancement

9.10.1 Structures used for bank stabilization or aquatic habitat enhancement must meet the following requirements where applicable:

- 9.10.1.1 The hydraulic drop over the structure crest should not exceed 0.5 feet to maintain fish passage. For hydraulic drops that exceed 0.5 feet, a demonstration that the structure will maintain fish passage is required;
- 9.10.1.2 The tops of all in-stream structures should intercept the bank at a height between one-half bankfull elevation and bankfull elevation;
- 9.10.1.3 Placement of rocks in the channel for aquatic habitat enhancement shall be done in a way that minimizes lateral convergence scour on stream banks and bar formation;
- 9.10.1.4 All in-stream structures for aquatic habitat enhancement must allow for passage of all fish species present in the drainage;
- 9.10.1.5 Structure vane angles should not exceed 30 degrees as measured upstream from the vane arm to the tangent line where the vane intercepts the bank;
- 9.10.1.6 Structures shall be spaced appropriately to function as a single unit and prevent scouring of the bank between structures;
- 9.10.1.7 Bank stabilization and aquatic habitat enhancement must allow for effective transport of flow and sediment while maintaining a stable channel without excessive degradation or aggradation relative to pre-construction conditions;

9.11 Culverted Crossings

9.11.1 Culverted stream crossings must meet the following requirements:

- 9.11.1.1 Culverts shall be placed in a relatively straight section of channel and outflows shall not be directed into a stream bank;

- 9.11.1.2 Culvert dimensions shall not create water depths or velocities that prohibit upstream fish migration;
 - 9.11.1.3 Culvert slope shall be no steeper than the channel gradient immediately upstream and downstream of the culvert, and generally should match the overall channel or wetland gradient;
 - 9.11.1.4 Culvert outlet elevations or downstream bed scour shall not prohibit upstream fish migration;
 - 9.11.1.5 Culverts shall be adequately sized to handle all expected high flows anticipated to occur while these structures are present without degradation to aquatic habitat or water quality;
- 9.12 Oil, Gas, Electric, Communication, Water and other Utility Line Crossings
- 9.12.1 Material resulting from trench excavation within surface waters of the state may be temporarily side-cast adjacent to the trench excavation provided that:
 - 9.12.1.1 Side-cast material is not placed within a stream, river, lake, reservoir, or other similar waterbody;
 - 9.12.1.2 Side-cast material that is placed in a wetland shall be removed from the site prior to project completion or used as backfill;
 - 9.12.2 Backfill material used within a trench that crosses a surface water of the state shall be clean aggregate that will not cause utility line damage during placement or chemical corrosion in place that could increase the risk of degradation to water quality;
 - 9.12.3 Use of directional drilling to install utility lines below surface waters of the state is authorized provided that:
 - 9.12.3.1 All pits and other containment basins are not located within a surface water of the state;
 - 9.12.3.2 All drilling fluids shall be adequately contained such that they cannot cause a discharge to a surface water of the state and properly disposed in accordance with applicable state and federal regulations;
 - 9.12.4 Utility line crossings shall be aligned as perpendicular as possible to a stream or river where practicable;
 - 9.12.5 Where practicable, avoid placement of utility line crossings at meander bends or any other inherently erodible areas;

- 9.12.6 Where practicable, underground utility line crossings shall be installed below the maximum scour depth of the watercourse to prevent natural scouring of the streambed from exposing the utility line;

9.13 Consistency with a Total Maximum Daily Load (TMDL)

- 9.13.1 Discharges of dredged or fill material regulated under this General Permit to a surface water of the state that has an approved TMDL for sediment, total suspended solids (TSS), turbidity or physical habitat alteration/degradation must be consistent with the TMDL and any associated waste load allocation (WLA) for dredge/fill discharges. In most cases compliance with this General Permit will be considered adequate, unless otherwise notified by the Department. The Department may require an individual permit should compliance with the General Permit be insufficient to meet relevant WLAs;

9.14 Aquatic Invasive Species

- 9.14.1 The following measures to prevent the spread of aquatic invasive species will be followed:

- 9.14.1.1 Equipment previously used in a high-risk infested water (a water known to contain zebra/quagga mussels) must be inspected by an authorized aquatic invasive species inspector recognized by the State of Wyoming prior to its use in any Wyoming water. A list of high-risk infected waters and locations in Wyoming to obtain an aquatic invasive species inspection can be found at <https://wgfd.wyo.gov/>;
- 9.14.1.2 Any equipment entering the state from March through November (regardless of where it was last used) must be inspected by an authorized aquatic invasive species inspector recognized by the State of Wyoming prior to its use in any Wyoming water;
- 9.14.1.3 If aquatic invasive species are found, the equipment must be decontaminated by an authorized aquatic invasive species inspector recognized by the State of Wyoming, prior to the equipment being used or placed on site;
- 9.14.1.4 Documentation of the aquatic invasive species inspection, and whether decontamination was necessary, shall be kept on file and made available upon request;

9.15 Other Limits

- 9.15.1 There shall be no discharges of substances in amounts, concentrations or combinations thereof into a surface water of the state which:

- 9.15.1.1 Can settle to form sludge, bank or bottom deposits; or
- 9.15.1.2 Form floating or suspended solids; or
- 9.15.1.3 Produce color, odor, or other conditions; or
- 9.15.1.4 Are toxic to humans, animals, aquatic life, plants; or

- 9.15.1.5 Cause harmful accumulations of radioactivity in aquatic life, animals, plants; or
 - 9.15.1.6 Cause harmful acute or chronic effects to aquatic life; or
 - 9.15.1.7 Adversely alter the structure or function of indigenous or intentionally introduced aquatic communities; or
 - 9.15.1.8 Which could result in degradation of the water quality necessary to support fisheries, aquatic life other than fish, drinking water, recreation, fish consumption, agriculture, industrial and/or scenic uses of the water;
- 9.16 Duty to Secure Other Permits
- 9.16.1 **WYPDES Temporary Discharge Permit** - For any point source discharges to surface waters of the state not related to storm water runoff or dredge/fill material such as discharges from gravel crushing and washing operations, cofferdam or site dewatering, vehicle or machinery washing, or other material processing operations, coverage under a separate WYPDES discharge permit may be required. Depending on the type of operation, the length of operation, and the type of discharge, either a general temporary discharge permit or an individual discharge permit may be required from the Department. The WYPDES Program should be contacted for guidance. More information can be found at <http://deq.wyoming.gov/wqd/discharge-permitting/>;
 - 9.16.2 **WYPDES Stormwater Permit** - For activities that will clear, grade or otherwise disturb one or more acres and there is a potential for discharge of storm water to surface waters of the state, coverage under a WYPDES storm water permit must be obtained from the Department. Disturbance includes construction of the project and associated access roads, construction of wetland mitigation sites, borrow and stockpile areas, and equipment staging and maintenance areas. The WYPDES Program should be contacted for guidance. More information can be found at <http://deq.wyoming.gov/wqd/storm-water-permitting/>.
 - 9.16.3 **Temporary Turbidity Waiver** - Discharges and associated construction activities shall not increase turbidity by more than 10 nephelometric turbidity units (NTUs) in all cold-water fisheries and/or drinking water supplies (Classes 1, 2AB, 2A and 2B) or by more than 15 NTUs in all warm water or nongame fisheries (Classes 1, 2ABww, 2Bww and 2C). However, the Department may authorize short-term increases in turbidity above the limits described on a case-by-case basis for construction related activities through the issuance of a temporary turbidity waiver. The application for a temporary turbidity waiver can be found at <https://deq.wyoming.gov/water-quality/watershed-protection/cwa-section-401-turbidity-wetland/>

Part 10 – Self Monitoring and Reporting Requirements

- 10.1 Project inspections and Reports – The permittee shall provide qualified personnel to conduct inspections of the project area to ensure best management practices are properly implemented and maintained and that discharges of dredged or fill material are compliant with

the effluent limits described in Part 9 of this General Permit. At a minimum, qualified personnel shall perform inspections daily and within 24 hours following any precipitation or snow melt runoff event.

10.1.1 Some best management practices may require more frequent inspection based on location or as a result of recurring maintenance issues. All best management practices found in need of maintenance must be repaired or supplemented with appropriate controls within 24 hours of the identified issue;

10.1.2 Areas of the project that need to be inspected include, but are not limited to, 1) all surface waters of the state in the project area where discharges of dredged or fill material will occur, 2) all best management practices that includes erosion and sediment controls, 3) stockpiling and staging areas of dredged or fill material, 4) all water crossings of construction equipment and areas of in-water construction activity and 5) all areas of stream bank, shore and wetland disturbance.

10.1.3 The permittee shall keep a record of all inspections, maintenance and corrective actions associated with the activity in inspection reports that can be made available upon request. Inspection reports shall be completed within 24 hours of each inspection. Inspection reports shall be retained by the permittee for a minimum of three years from the date permit coverage expires or is terminated. Each inspection report shall include:

10.1.3.1 Date and time of inspection;

10.1.3.2 Name(s) of personnel conducting the inspection;

10.1.3.3 Findings of the inspector(s) including locations of best management practices that need to be maintained, repaired or replaced; and non-compliance with any of the effluent limits described in Part 9 of this permit;

10.1.3.4 A description of the corrective actions taken;

10.1.3.5 When an inspection does not identify any incidents of non-compliance, the report shall contain a signed statement that the activity is in compliance with the permit;

10.2 Reporting requirements - No later than 60 days following completion of the activity, the permittee must submit a completed certificate of completion form to the Administrator to document compliance with the conditions of the General Permit and completion of the project. A standard certification of completion form for this General Permit is available on the Department's website. The certification of completion shall also identify any incidents of noncompliance with conditions of the General Permit and corrective actions that were implemented. The certificate of completion shall be signed in accordance with the procedures outlined in Part 14.7 of this General Permit;

Part 11 – Termination of General Permit Coverage

- 11.1 Small Discharges of Dredged or Fill Material – The applicable terms and conditions of this General Permit must be implemented until the permitted activity is completed;
- 11.2 Large Discharges of Dredged or Fill Material – The terms and conditions of this General Permit must be implemented until the Administrator receives a completed and signed certificate of completion in accordance with Part 10.2 of this General Permit;

Part 12 – Permit Fees

Payment of permit fees for General Permit authorizations is required to be submitted with the notice of intent (NOI) for large discharges of dredged or fill material.

- 12.1 The fee must be submitted with the NOI for coverage under the General Permit for Discharges of Dredged or Fill Material unless alternative instructions are provided on the WDEQ/WQD website;
- 12.2 The expiration date provided on the NOI should reflect the date the project is expected to be completed;
- 12.3 As of July 1, 2020, permit fees are \$200 per year of the permit term with portions of a year charged the full \$200 annual fee. For example, a six-month authorization costs \$200, the same as a 12-month authorization;
- 12.4 Permit fees are not required for full permit transfers or modifications;
- 12.5 New permit fees are required for renewals, new NOIs, and partial transfers (new permittee only);
- 12.6 Reimbursements will not be made for unused portions of a permit term in the event of early termination;

Part 13 – Notice of Transfer and Acceptance

- 13.1 Transfer of permitted activity – When operational control over an entire permitted activity changes to another operator, the current permittee must transfer General Permit coverage to the new operator;
- 13.2 The permittee relinquishing coverage shall provide the new permittee with copies of inspection and maintenance records that are kept in accordance with Part 10.1;
- 13.3 A Notice of Transfer and Acceptance (NOTA) must be submitted to the Department within 14 days of the transfer of operational control for authorizations of large discharges of dredged or fill material. The NOTA must be completed and signed by both parties. A NOTA form is available on the Department website and must be submitted electronically;

13.3.1 Upon submission of a complete NOTA, the Department will issue a new letter of authorization to the new permittee and confirming correspondence to the relinquishing party;

13.3.2 The operator on record as permittee remains responsible for compliance with the terms of this General Permit, including fees and/or violations, until the transfer has been completed by the Department;

13.3.3 Late submittals will not be rejected; however, the Department reserves the right to take enforcement for any unpermitted discharges or permit noncompliance;

13.4 Permittee name changes – When the name of a permitted entity changes for authorizations of large discharges of dredged or fill material, the permittee shall submit a NOTA with the updated information to the Department. Upon processing a complete NOTA, the Department will provide an updated letter of authorization (LOA) to the permittee;

Part 14 - Standard General Permit Conditions

To qualify for coverage under this General Permit, the prospective permittee of a project that is eligible under Part 5 of this General Permit must comply with the following standard General Permit conditions to ensure compliance with Chapters 1 and 2 of the Wyoming WQR:

14.1 Duty to comply – The permittee must maintain General Permit coverage and comply with all conditions of this General Permit for as long as the discharge of dredged or fill material associated with the activities described in Part 5 are possible. The permittee is responsible for ensuring all subcontractors, employees or other persons associated with the construction activity comply with all conditions of this General Permit. Any permit noncompliance constitutes a violation of Chapters 1 and 2 of the Wyoming WQR and the Wyoming Environmental Quality Act and may be grounds for enforcement action, permit termination, revocation, or modification. The permittee shall give the Administrator of the Water Quality Division advanced notice of any activity that may result in permit noncompliance;

14.2 Penalties for violations of permit conditions – Article 9 of the Wyoming Environmental Quality Act provides significant penalties for any person who violates a permit condition. Any person who violates any applicable condition of this permit is subject to a civil penalty not to exceed \$10,000 per day of such violation, as well as other relief. Knowingly or willfully violating the permit may result in criminal penalties of up to \$25,000 per day of violation and/or imprisonment for up to one year. Criminal penalties for subsequent knowing or willful violations of the permit may be up to \$50,000 per day of violation and/or imprisonment for up to two years;

14.3 Need to halt or reduce activity not a defense – It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this General Permit;

- 14.4 Duty to mitigate – The permittee shall take all reasonable steps to minimize or prevent any discharges in violation of this General Permit which has a reasonable likelihood of adversely affecting human health or the environment;
- 14.5 Duty to provide information - The permittee shall furnish to the Administrator, within a reasonable time, any information which the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating authorization under this General Permit, or to determine compliance with this General Permit. The permittee shall also furnish to the Administrator, upon request, copies of records required to be kept by this General Permit;
- 14.6 Other information – When the permittee becomes aware that he or she failed to submit any relevant facts in a notice of intent or any report to the Administrator, the permittee shall promptly submit such facts or information;
- 14.7 Signatory requirements – All notice of intents, certificates of completion, reports and other information submitted to the Administrator shall be signed and certified;
- 14.7.1 All notices of intent and certificates of completion shall be signed by a legally responsible person defined as follows:
- 14.7.1.1 For a corporation, a principal executive officer of at least the level of vice president, or the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the overall operation of the project area from which the discharge originates;
- 14.7.1.2 For a partnership or sole proprietorship, by a general partner or the proprietor respectively;
- 14.7.1.3 For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official;
- 14.7.2 All reports or other information required by this General Permit or requested by the Administrator shall be signed by a person described in Part 14.7.1 or by a duly authorized representative of that person. A person is a duly authorized representative if:
- 14.7.2.1 The authorization is made in writing by a legally responsible person described in Part 14.7.1 and submitted to the Administrator; and

- 14.7.2.2 The authorization specifies a duly authorized representative which is either a named individual or an individual occupying a named position having responsibility for the overall operation of the regulated activity;
- 14.7.3 If an authorization under Part 14.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the activity, a new authorization satisfying the requirements of Part 14.7.2 must be submitted to the Administrator prior to or together with any reports, information, notices of intent or certificates of completion signed by an authorized representative;
- 14.7.4 Any person signing documents required by this General Permit shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. Additionally, I certify that I have secured and shall maintain permission for Wyoming Department of Environmental Quality personnel and their invitees to access the permitted facility, including (i) permission to access the land where the facility is located, (ii) permission to collect resource data as defined by Wyoming Statute § 6-3-414, and (iii) permission to enter and cross all properties necessary to access the facility if the facility cannot be directly accessed from a public road. Additionally, I certify that I am aware and will comply with all of the terms, conditions and effluent limits of the General Permit for Discharges of Dredged or Fill Material (DDFM).";

- 14.8 Property rights – The issuance of this General Permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations;
- 14.9 Other regulations - This General Permit does not preempt or supersede the authority of other agencies to prohibit, restrict, or control discharges of dredged or fill material within their jurisdictions and authorities;
- 14.10 Severability - The provisions of this General Permit are severable, and if any provision of this General Permit, or the application of any provision of this General Permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this General Permit shall not be affected thereby;

- 14.11 Transfers - This General Permit is not transferable to any person except after notice to the Administrator. The Administrator may require the operator to apply for and obtain an individual WYPDES Permit;
- 14.12 State laws - Nothing in this General Permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state or federal law or regulation;
- 14.13 Project operation and maintenance - The permittee shall at all times operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the effluent limits and conditions of this General Permit. Proper operation and maintenance requires the operation of backup or auxiliary facilities or systems, installed by the permittee when necessary, to achieve compliance with the effluent limits and conditions of this General Permit;
- 14.14 Records – The permittee shall retain all records associated with the activity including inspections, records of corrective actions, copies of all reports required by this General Permit, and records of all information used to complete the notice of intent for this General Permit, for a period of at least three years from the date of the General Permit authorization;
- 14.15 Availability of reports - All reports prepared in accordance with the terms of this general permit shall be made available for public inspection at the offices of the Department;
- 14.16 Adverse impact - The permittee shall take all reasonable steps to minimize any adverse impact to surface waters of the state resulting from noncompliance with any effluent limits or conditions of this General Permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge;
- 14.17 Upset Condition – An upset means an exceptional incident in which there is unintentional and temporary noncompliance with the conditions of this General Permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improper designs or implementation of best management practices or structures, lack of preventative maintenance; or careless or improper operation;
- 14.17.1 The permittee shall submit notice of an unanticipated upset orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the upset and its cause; the period of the upset, including exact dates and times, and if the upset has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence;

14.17.2 A permittee who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

14.17.2.1 An upset occurred and the permittee can identify the specific cause(s) of the upset;

14.17.2.2 The permitted activity at the time was being properly operated;

14.17.2.3 The permittee submitted notice of the upset as required under paragraph 12.17.1; and

14.17.2.4 The permittee complied with any remedial measures directed by the Administrator;

14.17.3 In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

14.18 Access - The permittee shall allow the Department personnel and their invitees to enter the premises where the activity is located, or where records are kept under conditions of this General Permit, and collect resource data as defined in W.S. § 6-3-414, inspect and photograph the activity, collect samples for analysis, review records, and perform any other function authorized by law or regulation. The permittee shall secure and maintain such access for the duration of this General Permit;

If the activity is located on property not owned by the permittee, the permittee shall also secure and maintain from the landowner upon whose property the activity is located permission for Department personnel and their invitees to enter the premises where a regulated activity is located, or where records are kept under the conditions of this General Permit, and collect resource data as defined in W.S. § 6-3-414, inspect and photograph the facility, collect samples for analysis, review records, and perform any other function authorized by law or regulation. The permittee shall secure and maintain such access for the duration of this General Permit;

If the activity cannot be directly accessed using public roads, the permittee shall also secure and maintain permission for Department personnel and their invitees to enter and cross all properties necessary to access the facility. The permittee shall secure and maintain such access for the duration of this General Permit;

14.19 Access records - The permittee shall maintain in its records documentation that demonstrates that the permittee has secured permissions for Department personnel and their invitees to access the permitted activity, including (i) permission to access the land where the activity is located, (ii) permission to collect resource data as defined in W.S. § 6-3-414, and (iii) permission to enter and cross all properties necessary to access the activity if the activity

cannot be directly accessed from a public road. The permittee shall also maintain in its records a current map of the access route(s) to the facility and contact information for the owners or agents of all properties that must be crossed to access the activity. The permittee shall ensure that the documentation, map, and contact information are current at all times. The permittee shall provide the documentation, map, and contact information to Department personnel upon request. On closure of the activity, the permittee shall maintain such records for a period of three years after the date of termination of coverage;

14.20 Permit actions - This General Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by a permittee for a General Permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any General Permit condition;

14.21 Reopener clause - For good cause the Administrator may, at any time, require a permittee covered under this General Permit to obtain an individual permit, coverage under an alternative General Permit, or this General Permit may be modified to include different limitations and/or requirements. General permit modification or revocation will be conducted in accordance with WQR, Chapter 2;

14.22 Civil and criminal liability - Nothing in this General Permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

Part 15 - Wyoming Executive Orders 2019-3 and 2020-1

This Part applies only to projects that will cause disturbance in core areas and non-core population areas subject to Sage-Grouse Executive Order 2019-3 (SGEO) and in areas subject to the Mule Deer and Antelope Migration Corridor Protection Executive Order 2020-1 (MCEO). The SGEO and MCEO require development activities to be conducted in accordance with certain practices and stipulations specified in the respective Executive Orders and in any additional correspondence from the WGFD. Projects subject to the SGEO and/or MCEO shall:

15.1 Consult with the WGFD about the project and its potential impacts within the affected areas;

15.2 The consultation process with the WGFD will result in either a letter of consistency with the SGEO/MCEO or documentation that the project is considered *de minimus*. Letters of consistency or *de minimus* must be maintained with the permittee and contractor;

15.3 Construction activities that are covered under this General Permit must be in accordance with all relevant requirements and stipulations in the SGEO 2019-3, the MCEO 2020-1, and any additional stipulations provided through the consultation process with the WGFD;

15.4 Projects that are determined by the WGFD to not be compliant with the SGEO and/or the MCEO will not be eligible for coverage under this General Permit. Applicants may either modify their project to become compliant with the SGEO/MCEO and any additional WGFD stipulations or they may apply for coverage under an individual permit that will contain all relevant requirements from the SGEO and any additional stipulations deemed necessary by the WGFD.