

Appendix D.

USACE Nationwide permit



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
4101 JEFFERSON PLAZA NE
ALBUQUERQUE, NM 87109

June 5, 2023

Regulatory Division

SUBJECT: Nationwide Permit Verification (SPA-2022-00054)

NM Abandoned Mine Land Program

Attn: Leeland Murray

1220 South St. Francis Drive

Santa Fe, NM 87505

Leeland.Murray@state.nm.us

Dear Mr. Murray:

We are responding to your preconstruction notification (PCN), dated April 18, 2023, submitted to us for verification of authorization under a Nationwide Permit (NWP) for the Madrid Stormwater and Erosion Control Project. The project site is located in the Madrid Arroyo at approximately latitude 35.407551, longitude -106.152763, community of Madrid, Santa Fe County, New Mexico.

Based on the information provided, we have determined that the Madrid Stormwater and Erosion Control Project involves the discharge of dredged or fill material into waters of the United States, subject to Section 404 of the Clean Water Act. The specific activities that require Corps authorization are installation of two concrete box culverts (0.01 acre of impact and 40 cy) to cross the Madrid Arroyo. Re-grading the arroyo (0.41 acre and 1271 cy of fill) and installing rock and soil deflectors (0.02 acre and 128 cy) to prevent lateral erosion and direct the stormwater into the west channel. The arroyo would be reseeded with a native seed mix to stabilize areas disturbed by grading. The project will permanently impact approximately 0.44 acre of ephemeral channel and will be conducted as described in the referenced PCN.

We have determined that activities associated with the project are authorized by 2021 NWP 37 Emergency Watershed Protection and Rehabilitation. A summary of this NWP and the 2021 New Mexico Regional Conditions are available on our website at www.spa.usace.army.mil/reg/nwp. Failure to comply with all terms and conditions of this NWP may result in the suspension or revocation of this authorization. As required by General Condition 30, you shall sign the enclosed Compliance Certification (Enclosure 1) and return it to this office within 30 days after completion of the authorized work. For specific information regarding compliance with water quality certification (WQC) requirements, please refer to our website at www.spa.usace.army.mil/reg/wqc.

Our review of this project also addressed its effects on threatened and endangered species and historic properties in accordance with General Conditions 18 and 20.

Based on the information provided, we have determined that this project will have no effect federally listed species or their critical habitat. Additionally, this undertaking may adversely affect the Madrid Historic District, archaeological sites LA 115534, LA 117777, LA 170805, LA 195467, LA 195468, LA 195469, LA 197066, LA 197068, and LA 197067. To resolve these adverse effects a Memorandum of Agreement has been signed between Office of Surface Mining, New Mexico Department of Energy, Minerals, and Natural Resources, Mining and Minerals Division, Abandoned Mine Land Program, USACE, Advisory Council on Historic Preservation, and State Historic Preservation Officer, agreement No. 23-521-0600-0176. However, these determinations may be invalidated if the project is not completed as authorized or you did not provide accurate information in your PCN.

This permit verification is valid until March 14, 2026, unless the NWP(s) is/are modified, suspended, reissued, or revoked prior to that date. Continued confirmation that an activity complies with the terms and conditions, and any changes to the NWP, is the responsibility of the permittee. Activities that have commenced, or are under contract to commence, in reliance on an NWP will remain authorized provided the activity is completed within 12 months of the date of the NWP's expiration, modification, or revocation.

This letter does not constitute approval of the project design features, nor does it imply that the construction is adequate for its intended purpose. This permit does not authorize any injury to property or invasion of rights or any infringement of federal, state, local, or tribal laws or regulations. The permittee and/or any contractors acting on behalf of the permittee must possess the authority and any other approvals required by law, including property rights, to undertake the proposed work.

The landowner must allow Corps representatives to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been, accomplished in accordance with the terms and conditions of the permit.

We would appreciate your feedback on this permit action including your interaction with our staff or suggestions for improving our program. For more information about our program or to complete our Regulatory Program national customer service survey, visit our website at <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/>.

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Please refer to identification number SPA-2022-00054 in any correspondence concerning this project. If you have any questions, please contact me by email at Forrest.Luna@usace.army.mil, or telephone at (505) 342-3678.

Sincerely,

Forrest Luna
Regulatory Specialist

Enclosure

COMPLIANCE CERTIFICATION

Action Number: SPA-2022-00054

Name of Permittee: NM Abandoned Mine Land Program, Leeland Murray

Nationwide Permit: 37 Emergency Watershed Protection and Rehabilitation

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

Regulatory Division
U.S. Army Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109
SPA-RD-NM@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

Please enclose photographs showing the completed project (if available).

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Date Work Started _____

Date Work Completed _____

Signature of Permittee

Date