



US Army Corps  
of Engineers®  
St. Paul District

## DEPARTMENT OF THE ARMY

### MINOR DISCHARGES REGIONAL GENERAL PERMIT

PERMIT: Minor Discharges Regional General Permit

ISSUING OFFICE: U.S. Army Corps of Engineers, St. Paul District

EFFECTIVE DATE: February 20, 2023

EXPIRATION DATE: February 19, 2028

#### A. AUTHORIZATION AND APPLICABILITY

Regulated activities conducted in accordance with the terms and conditions of the Minor Discharges Regional General Permit (RGP or permit) are authorized in the States of Wisconsin and Minnesota and on Indian Reservations in Wisconsin and Minnesota, except for Section 404 activities in the following three 8-digit hydrologic unit codes (HUCs) in the Lake Superior Basin of Wisconsin: 04010301, 04010302, and 04020300. The excluded HUCs are also shown in a map attached to the end of this permit. This exclusion does not apply to Section 404 activities proposed within the exterior boundaries of the Bad River Reservation or the Red Cliff Reservation, regardless of HUC. Refer to the appropriate sections of this permit for a description of RGP procedures, eligible activities, conditions, exclusions, and application instructions.

1. **Regulatory Authority:** Section 404 of the Clean Water Act (33 U.S.C. 1344, Section 404) for discharges of dredged and fill material into waters of the US. Activities subject to Section 404 regulatory requirements are hereafter referred to as regulated activities.
2. **Eligible Activities:** Regulated activities associated with minor permanent and temporary discharges of dredged or fill material in waters of the US for a single and complete non-linear project. Discharges that would impound a tributary or lake, or are associated with utility, transportation, or pier or dock projects are not authorized by this permit.
3. **Activity Restrictions:**
  - a. The regulated discharge may not exceed 400 square feet of waters of the US. Losses of waters of the US and temporary impacts to waters of the US contribute toward the 400 square foot threshold (see Section C for additional information).
  - b. All tributary channel modifications are limited to the minimum necessary and cannot exceed 300 linear feet of loss (see Section C for additional information).
  - c. This category may not be used more than once by the permittee, property owner, or agent of a single permittee or property owner in a manner that would cumulatively impact more than 400 square feet of waters of the US.
4. **Pre-Construction Notification (PCN):** PCN is not required prior to the start of work. Applicant must meet ALL the terms and conditions of this permit.
5. **Exclusion:** The following activities are INELIGIBLE for Minor Discharges RGP authorization:
  - a. Regulated activities that would divert more than 10,000 gallons per day of surface or ground water into or out of the Great Lakes Basin.
  - b. Regulated activities that may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.
  - c. Regulated activities eligible for authorization under a valid Corps Special Area Management Plan (SAMP)

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general permit, see <http://www.mvp.usace.army.mil/Missions/Regulatory/Permitting-Process-Procedures> for more information on SAMPs.

- d. Regulated activities that would result in the loss of more than 300 linear feet of a tributary.
  - e. Regulated activities that would occur in a calcareous fen. A list of known Minnesota calcareous fens can be found at: [http://files.dnr.state.mn.us/eco/wetlands/calcareous\\_fen\\_list.pdf](http://files.dnr.state.mn.us/eco/wetlands/calcareous_fen_list.pdf). Information about calcareous fens in Wisconsin can be found at <http://dnr.wi.gov/topic/EndangeredResources/Communities.asp?mode=group&Type=Wetland>.
  - f. Regulated activities that would occur in a component of the National Wild and Scenic River System (St. Croix River in Minnesota and Wisconsin or the Wolf River in Wisconsin), 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.
  - g. Any regulated activity which might affect or 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 the critical habitat of such species.
  - h. Any regulated activity which might affect, or may have the potential to cause effects, to properties listed, or eligible for listing, in the National Register of Historic Places.
  - i. Regulated activities which require permission from the Corps pursuant to 33 U.S.C. 408 because they will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project.
  - j. Regulated activities that do not comply with applicable state dam safety criteria which have not been designed by qualified persons.
  - k. Regulated activities which would adversely affect public water supplies.
  - l. Activities within Section 10 waters.
6. **Expiration:** The time limit for completing work authorized by the permit ends upon the expiration date of the RGP. Activities authorized under this RGP that have commenced construction or are under contract to commence construction in reliance upon this RGP, will remain authorized provided the activity is completed within 12 months of the date of the RGP expiration, suspension, or revocation; whichever is sooner.
7. **Section 401 Water Quality Certification:** No RGP authorization is valid until a project proponent obtains a Clean Water Act Section 401 water quality certification (401 certification) or waiver from the appropriate water quality certifying agency; see general condition 18 in Section F below. This RGP does not obviate the need for other necessary federal, state, tribal, or local authorizations or permits.

## B. USE OF MULTIPLE GENERAL PERMITS

Activities authorized under the Minor Discharges RGP may not be combined or stacked with any other general permit (nationwide, programmatic, or regional general permit) authorization. All regulated activities authorized by this permit must be for one single and complete non-linear project that does not require any additional Corps permit.

## C. CALCULATING IMPACTS TO WATERS OF THE UNITED STATES

1. **Waters of the US** may include waterbodies such as streams, rivers, lakes, ponds, and wetlands (see Definitions, Section G).
2. **Loss of waters of the US** is the sum of all permanently adversely affected jurisdictional waterbodies for a single and complete project. Temporary impacts to waters of the US, discussed below, are calculated separately from losses of waters of the US and do not contribute to loss thresholds. However, temporary impacts do contribute toward

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the 400 square foot threshold for the Minor Discharges RGP, as described in Section A.3.a. Permanent adverse effects include filling, flooding, excavation, or drainage in waters of the US as a result of the regulated activity. Permanent adverse effects to waters of the US include regulated activities that change a waterbody to dry land, increase the bottom elevation of a waterbody, decrease the bottom elevation of a waterbody (e.g. excavation of a sedge meadow wetland to shallow marsh), or change the use of a waterbody.

- a. Losses of wetlands must be reported in either acres or square feet, as appropriate.
  - b. Losses of tributaries, ponds, and lakes must be reported in acres or square feet and linear feet below the plane of the ordinary high water mark. If regulated activities are proposed at multiple locations, they are added together to determine the overall amount of linear loss to waters of the US.
3. **Temporary impacts to waters of the US** include the sum of all regulated impacts to waters of the US for a single and complete project which are restored to pre-construction contours and elevations after construction. Examples of temporary impacts to waters of the US may include the placement of timber matting, installation of coffer dams, trenching and backfilling, and in many cases, mechanized land-clearing.
- a. Temporary impacts to wetlands must be reported in either acres or square feet, as appropriate.
  - b. Temporary impacts to tributaries, ponds, and lakes must be reported in acres or square feet and linear feet below the plane of the ordinary high water mark. If regulated activities are proposed at multiple locations, temporary impacts must be added together to determine the overall amount of temporary linear impact.
4. **Losses and temporary impacts to waters of the US do not include** 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.
5. The measurements of loss and temporary impact to waters of the US are for determining whether a project may qualify for the RGP and are not reduced by compensatory mitigation.

#### D. PRE-CONSTRUCTION NOTIFICATION (PCN) INFORMATION

No activities authorized by this RGP require pre-construction notification (PCN). Individuals intending to conduct RGP activities should carefully review the description and limits of the authorization, restrictions and exclusions, and general conditions of the RGP to determine whether the work meets ALL the terms and conditions of the permit. PCN is not required prior to the start of work. Applicants may contact the appropriate Corps office with questions about RGP usage. Contact information is available at <https://www.mvp.usace.army.mil/Missions/Regulatory/District-Boundaries-Contact/>.

#### E. MITIGATION

In accordance with the Federal Mitigation Rule (33 CFR part 332), the Section 404(b)(1) guidelines (40 CFR part 230), and current Corps policies and guidelines for compensatory mitigation, regulated activities 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).

#### F. GENERAL CONDITIONS

To qualify for this RGP authorization, the prospective permittee must comply with the following conditions, as applicable.

1. **Compliance:**
  - a. The permittee is responsible for ensuring that whoever performs, supervises, or oversees any portion of the physical work associated with the construction of the project has a copy of and is familiar with all the terms and conditions of the RGP.

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- b. The activity must also comply with any special conditions added by the state, tribe, or U.S. EPA in its Section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination. The permittee is ultimately responsible for ensuring compliance with all the terms and conditions of the RGP.
  - c. Any authorized structure or fill must be properly maintained, including maintenance to ensure public safety and compliance with applicable RGP general conditions.
2. **Site Inspection:** The permittee shall allow representatives from the Corps to inspect the proposed project site and the authorized activity to ensure that it is being, or has been, constructed and maintained in accordance with the RGP authorization.
3. **Migratory Birds and Bald and Golden Eagles:** The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service (FWS) to determine applicable measures to reduce impacts 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.
4. **Discovery of Previously Unknown Remains and Artifacts:** If any previously unknown historic, cultural, or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the Corps must immediately be notified of the findings. To the maximum extent practicable, construction activities must be avoided that may affect the remains and artifacts until the required coordination has been completed. The Corps 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.
5. **Burial Sites:** Burial sites, marked or unmarked, are subject to state law (Wisconsin Statute 157.70 and Minnesota Statutes 306 and 307.08). Native American burial sites on federal or tribal land are subject to the provisions of Native American Graves Protection and Repatriation Act (NAGPRA). Regulated activities may not result in disturbance or removal of human remains until disposition of the remains has been determined by the appropriate authority under these laws. Regulated activities which result in an inadvertent discovery of human remains must stop immediately, and the Corps, as well as the appropriate state and tribal authority, must be notified. Regulated work at inadvertent discovery sites requires compliance with state law and NAGPRA, as appropriate, prior to re-starting work.
6. **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.
7. **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).
8. **Restoration of Temporary Impacts:** All temporary impacts in waters of the US, including discharges resulting from side casting material excavated from trenching, that occur as a result of the regulated activity must be fully contained with appropriate erosion control or containment methods, be restored to pre-construction contours and elevations, and, as appropriate, revegetated with native, non-invasive vegetation. All temporary access roads constructed in waters of the US must be properly bridged or culverted to maintain surface flows. In temporarily excavated wetlands, the top 6 to 12 inches of the excavation should normally be backfilled with topsoil originating from the wetland. No temporary excavation area, including, but not limited to trenches, may be constructed or backfilled in such a manner as to drain waters of the US (e.g., backfilling with extensive gravel layers, creating a French drain effect).
9. **Duration of Temporary Impacts:** Temporary impacts in waters of the U.S., including wetlands, must be avoided and limited to the smallest area and the shortest duration required to accomplish the project purpose. Temporary impacts may not remain in place longer than 90 days between May 15 and November 15. Before those 90 days have elapsed, all temporary discharges must be removed in their entirety and restoration activities, as required by

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general condition 8, must be undertaken as applicable.

10. **Best Management Practices (BMPs):** To minimize adverse effects from soil loss and sediment transport that may occur as a result of the authorized work, appropriate BMPs must be implemented and maintained. For authorized work above an OHWM, the BMPs must remain in place until the affected area is stabilized with vegetation or ground cover. For all authorized work below an OHWM, BMPs are required and must prevent or minimize adverse effects (e.g., total suspended solids or sedimentation) to the water column outside of the authorized work area. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance. All BMPs must be inspected and properly maintained following storm events to ensure they are operational. All exposed slopes and stream banks must be stabilized within 24 hours after completion of all regulated work.
11. **Culverts and Crossings:** Replacement and installation of culverts or crossings authorized by an RGP are to follow (or be restored to) the natural alignment and profile of the tributary. The culverts or bridges must adequately pass low flow and bankfull events, bedload, sediment load, and provide site-appropriate fish and wildlife passage. Example design elements include recessing single culverts to accommodate natural bankfull width and adjusting additional culvert inverts at an elevation higher than the bankfull elevation.
12. **Aquatic Life Movements:** No regulated 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.
13. **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 sedimentation) of a designated or known spawning area are not authorized.
14. **Hard Armoring:** Only suitable material must be used and be of a size and configuration sufficient to prevent its movement from the authorized alignment by natural forces under normal or high flows.
15. **Pollutant or Hazardous Waste Spills:** The permittee is responsible for removing pollutants and hazardous materials and for minimizing any contamination resulting from a spill in accordance with all applicable state, tribal, and federal laws. In accordance with applicable state, tribal, and federal laws and regulations, if a spill of any potential pollutant or hazardous waste occurs, it is the responsibility of the permittee to immediately notify the National Response Center at 1-800-424-8802 or [nrc.uscg.mil](http://nrc.uscg.mil) AND  
IN WISCONSIN: the WI DNR Spills Team at 1-800-943-0003; or  
IN MINNESOTA: the Minnesota State Duty Officer at 1-800-422-0798.
16. **Clean Construction Equipment:** To prevent the spread of invasive species, all construction equipment must be clean prior to entering and before leaving the work site.
17. **Fills Within 100-Year Floodplains:** The regulated activity must comply with applicable FEMA-approved state or local floodplain management requirements.
18. **Section 401 Clean Water Act Water Quality Certification:** All regulated activities authorized by this RGP require Section 401 Clean Water Act certification or waiver to be considered valid.

## G. 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.

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Discharge: The term discharge of dredged material is defined at 33 CFR 323.2(d) and the term discharge of fill material is defined at 33 CFR 332.2(f).

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 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.

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

Ordinary high water mark (OHWM): A line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas.

Overall project: The aggregate of all single and complete projects related to the same purpose, including both linear and non-linear activities with regulated losses and temporary impacts to waters of the US.

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 (PCN): A request submitted by the project proponent to the Corps for confirmation that a particular activity is verified by a general permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. PCN may be required by the terms and conditions of this regional general permit.

Protected tribal resources: Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by, or reserved by or for, Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

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 overall 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. Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an RGP authorization. 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.

Tribal lands: Any lands which are 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.

Tributary: For the purposes of this permit, a water that contributes flow, either directly or through another water to a traditionally navigable water or interstate water (including wetlands) and that is characterized by the presence of the physical indicators of bed and banks and ordinary high water mark. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches.

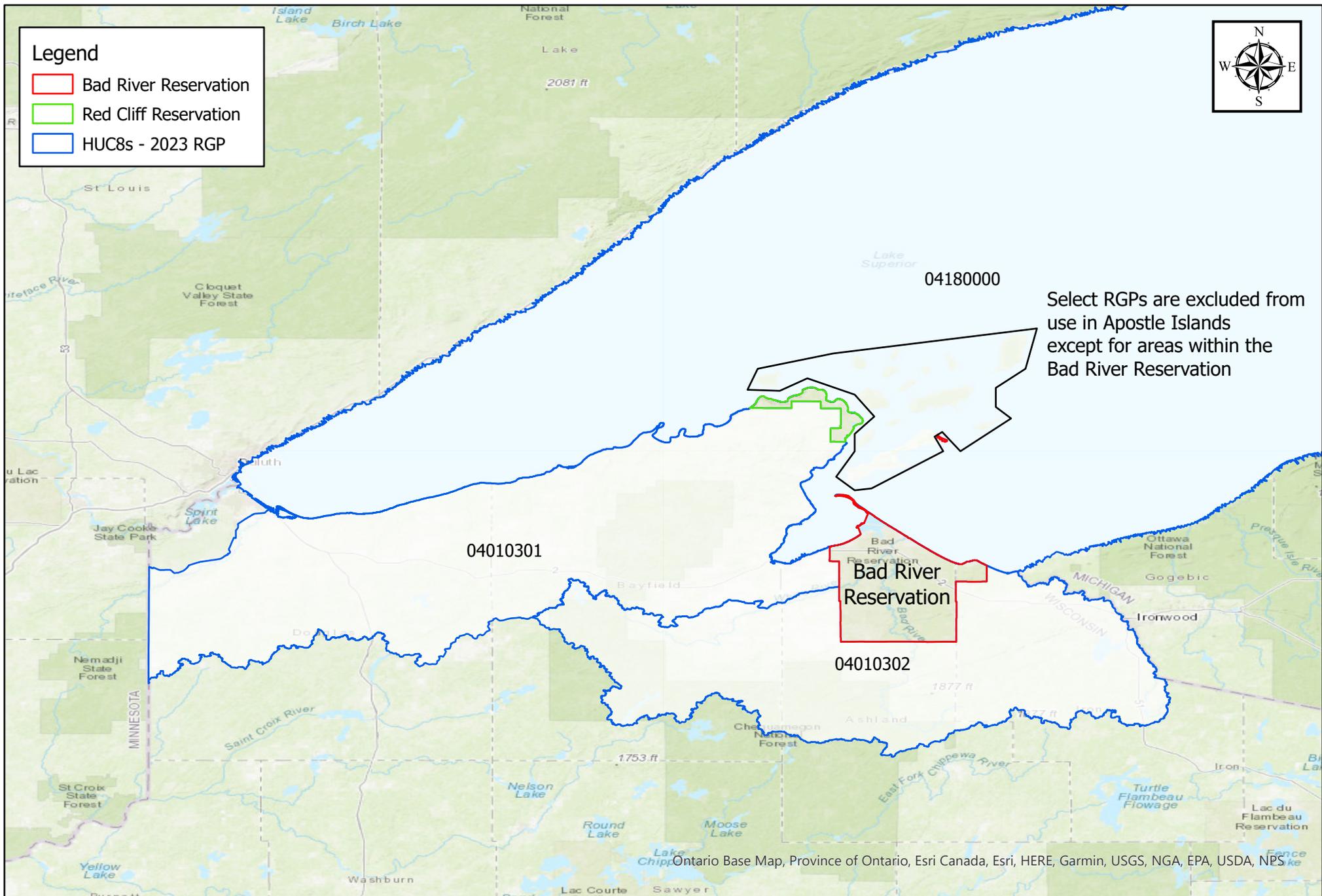
Waterbody: For purposes of this RGP, a waterbody is a jurisdictional water of the US. Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

## H. FURTHER INFORMATION

1. Congressional authorities: The permittee has been authorized to undertake the activity described above pursuant to Section 404 of the Clean Water Act (33 U.S.C 1344).
2. The Corps retains discretionary authority to require an individual permit for any activity eligible for authorization by an RGP based on concern for the aquatic environment or for any other factor of the public interest.
3. Limits of this authorization:
  - a. This RGP does not obviate the need to obtain other federal, state, or local authorizations required by law;
  - b. This RGP does not grant any property rights or exclusive privileges;
  - c. This RGP does not authorize any injury to the property or rights of others; and
  - d. This RGP does not authorize interference with any existing or proposed federal project.
4. Limits of federal liability: In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes;
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
  - d. Design or construction deficiencies associated with the permitted work; or
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
5. Reliance on permittee's data: The determination of this office that an activity is not contrary to the public interest will be made in reliance on the information provided by the project proponent.
6. Re-evaluation of decision: This office may reevaluate its decision for an individual verification under this general permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - a. The permittee fails to comply with the terms and conditions of this permit;
  - b. The information provided by the permittee in support of the pre-construction notification proves to have been false, incomplete, or inaccurate (See 5 above); or
  - c. Significant new information surfaces which this office did not consider in reaching the original decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of their permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and if the permittee fails to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.
7. This office may also reevaluate its decision to issue this RGP at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.

**Legend**

-  Bad River Reservation
-  Red Cliff Reservation
-  HUC8s - 2023 RGP



Select RGPs are excluded from use in Apostle Islands except for areas within the Bad River Reservation



**HUC8s excluded in 2023 RGPs**



Map Center: 80.148784°W 35.690807°N

MVP Regulatory

Date: 2/16/2023

Coordinate System: GCS WGS 1984  
Datum: WGS 1984