

Colorado's Dredge and Fill Program and Implementation

Colorado Cattlemen's Association Presentation

April 7, 2026

Colorado Department of Public Health & Environment
Water Quality Control Division



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Agenda for Today's Presentation

- Define Dredge and Fill;
- Current Status of the program;
- Implementation of the Dredge and Fill Program;
 - Website;
 - Exemptions and Exclusions;
 - Ditches;
- Temporary Authorizations;
- Isolated State Waters General Authorization;
- General Authorizations;
- Individual Authorizations;
- Compliance & Enforcement;
- Fees overview.



What is Dredge and Fill?



Dredge and Fill

- Dredge: excavation of materials such as sediment to deepen waterways, infrastructure development, or environmental clean up.
- Fill: deposition of materials like sand, soil, or work into wetlands, rivers, and other waters.
 - Fill replaces aquatic areas for construction or development.
- Why is this important to regulate?
 - Dredge and fill activities may destroy habitats and degrade water quality if not properly managed, which is why permits and mitigation strategies are required.
 - Wetlands provide a number of beneficial functions (flood management, pollutant filtration, habitats)



Dredging Operation

Mechanized dredging



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Fill Material - discharged into waterbody to construct well pad



Streambed and Bank Alterations



Status Update



Current Status of State Program Implementation

Jan. 1, 2025:

- The division started to issue Temporary Authorizations for the discharge of dredge and fill materials into state waters.

February 6, 2026:

- The General Authorization for Discharge of Dredged and Fill Materials into Isolated State Waters became effective.

April 1, 2026:

- Regulation 87 became effective;
- The division placed General Authorizations and Conditions for 30-day public comment.

September 1, 2026:

- The division will begin issuing Notices of Coverage under General Authorizations



April 1, 2026

- General Conditions and General Authorization's Batch one (1) out for public comment.
- Where can I comment?
<https://cdphe.colorado.gov/water-quality/clean-water/dredge-and-fill/general-authorizations>



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Implementation

Colorado's Dredge and Fill Program



Dredge and Fill Website



Our website was recently updated;

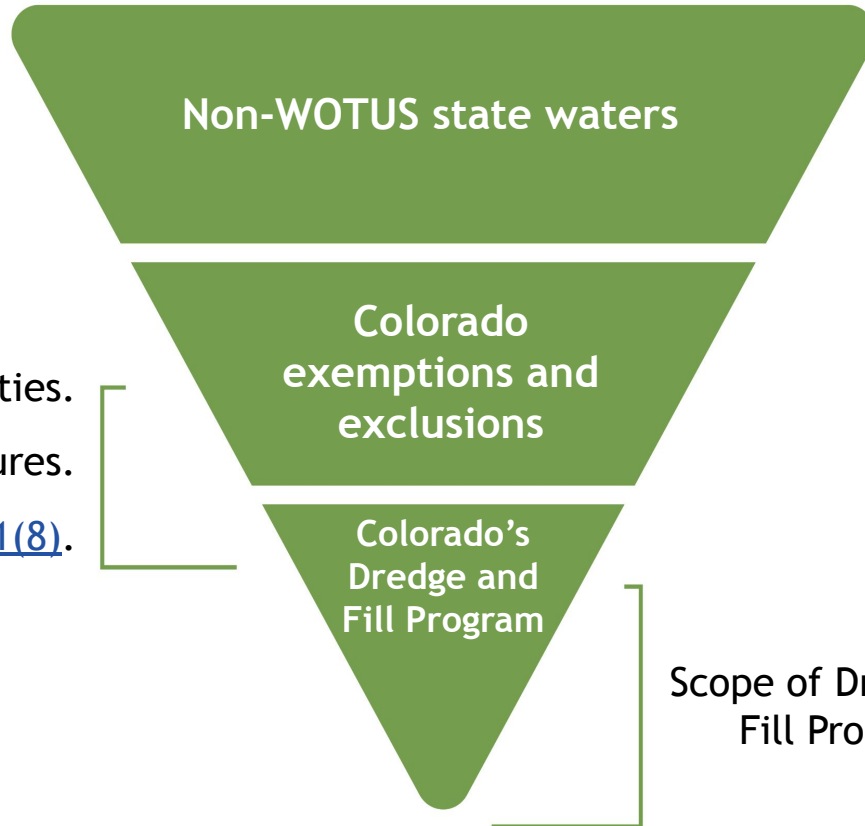
Link to the Dredge and Fill website:

<https://cdphe.colorado.gov/dredge-and-fill>



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Exemptions and Exclusions



14 Exempted activities.

11 Excluded water features.

Review in [C.R.S 25-8-205.1\(8\)](#).

Scope of Dredge and Fill Program.



Exempted Activities

- Activities covered under 404 permits and activities that had prior AJDs.
- Normal farming and ranching activities.
- Maintenance (including emergency reconstruction) of structures such as dikes, dams, levees, lagoons, transportation structures.
- Construction and maintenance of specified structures and features.
 - Construction of: Farm ponds, stock ponds, farm lagoons, springs, recharge facilities located in uplands, and irrigation ditches or acequias.
 - **Work to construct, extend, expand, or relocate an existing irrigation ditch or acequia for municipal or industrial purposes is not an exempt activity.**
 - Maintenance of: All of the above structures, PLUS all types of ditches.



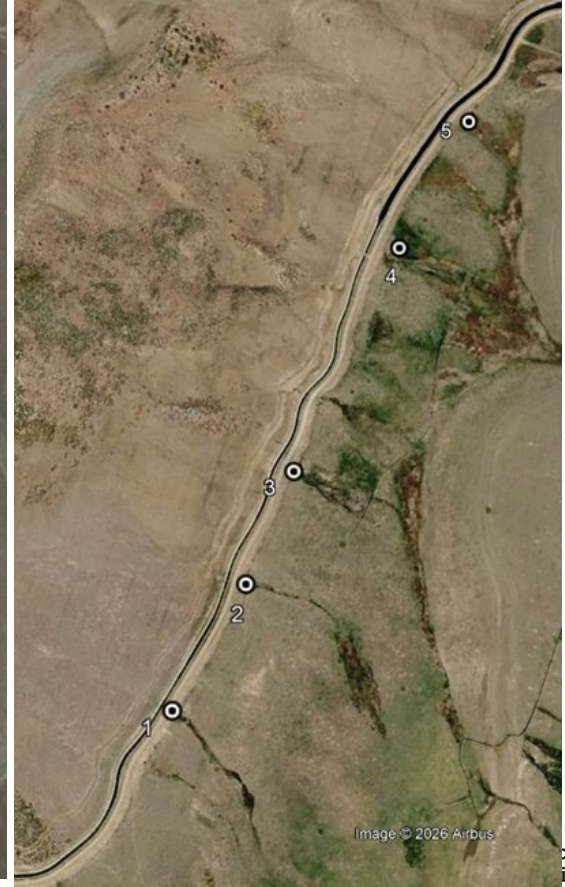
Excluded Types of Waters

- Ditches and canals in upland.
- Stormwater control features in upland.
- Artificially irrigated areas that would otherwise revert to upland.
- Artificial lakes, lagoons, or ponds created in upland used for stock watering, irrigation, etc.
- **Wetlands adjacent to a ditch or canal that are supported by the water in the ditch or canal.**
- **Recharge ponds in upland.**
- Artificial reflecting or swimming pools in upland.



Excluded Types of Waters

- Wetlands adjacent to a ditch or canal that are supported by the water in the ditch or canal.
- Picture on the left is from 2002 and picture on the right is from 2025



Excluded Types of Waters

- Water-filled depressions incidental to mining or construction activities (gravel pits) in upland, until abandoned.
- Swales and erosional features, such as gullies, small washes, and rills, that do not contain wetlands or an ordinary high water mark.
- Groundwater.
- Prior converted cropland.
 - Incorporates 2020 NWPR preamble definition of prior converted cropland.
 - Exception for abandonment → “Abandoned” means the land has not been used for agricultural purposes at least once in the previous five years.



What is a ditch?

- As defined by the EPA, a ditch is constructed or excavated channel used to convey water.
- Regulation No. 87 further defines:
“drainage ditch” means a ditch that is designed for at least the partial purpose of increasing drainage of a particular land area or infrastructure for purposes including agriculture; transportation, including roadside and railroad transportation; mosquito abatement; and stormwater management.
- “irrigation ditch or acequia” includes a human-made feature or a maintained natural feature if use of the maintained natural feature existed on January 1, 2024, and an upland swale that moves or conveys water to an ultimate irrigation use or place of use, or moves or conveys irrigation water, also known as “runoff,” away from irrigated lands.



When is a ditch excluded or exempted?

The State's exemption includes maintenance on the following types of ditches:

- Drainage ditches, roadside ditches, ditches or canals conveying wastewater or water for irrigation, municipal purposes, domestic purposes, industrial purposes, commercial purposes, augmentation, recharge, wildlife, recreation, compact compliance, or any other purpose
 - The exemption does not include new work (construction) to extend, expand, or relocate an existing irrigation ditch or acequia for municipal or industrial purposes.

The State's exclusion for ditches are for the following:

- Ditches and canals in upland
- Wetlands adjacent to a ditch or canal that are supported by the water in the ditch or canal.



Temporary Authorizations





Temporary Authorizations

Temporary Authorizations are **required** for projects that occur in non-WOTUS state waters and meet **one or more** of the following criteria:

- Require pre-construction notification; or
- Require compensatory mitigation.

Temporary Authorizations are **not required** for projects that meet **one or more** of the following criteria:

- Occur in Waters of the United States;
- Qualifies for the isolated state waters General Authorization;
- Can proceed without pre-construction notification under the relevant NWP or RGP;
- Constitute exempted activities or an excluded water features

Isolated State Waters General Authorization

Overview



Isolated State Waters General Authorization

- “**Isolated**” means outside of the 100-year floodplain or beyond 1,500 feet of an OHWM of other state waters.
- The ISWGA applies to isolated:
 - Wetlands;
 - Ponds and impoundments; and
 - Ordinary high water mark reaches.
- Projects with unavoidable adverse impacts to the isolated water feature/isolated wetland exceeding 1/10th (0.1) of an acre of wetland or 3/100th (0.03) of an acre of streambed are not eligible for coverage.
- The ISWGA does not apply to fens or peatlands, and kettle ponds.



Isolated State Waters General Authorization

Key components of the Isolated State Waters General Authorization (ISWGA):

- Pre-construction notification (i.e., an application) is not required, but certain project information must be submitted within 90 days after project completion.
- Incorporates best management practices for environmental protection.
- We are asking that project proponents to fill out a project completion form within 90 days of completion.



General Authorizations

Overview



General Authorizations *(beginning in 2026)*

- By no later than Sept. 1, 2026, the division must issue its own General Authorizations for specific categories of dredge and fill activities.
- General Authorizations will replace Temporary Authorizations.
- General Authorizations must correspond with the various Nationwide and Regional General Permits issued by the U.S. Army Corps of Engineers (USACE).
- The division may tailor the terms of certain Nationwide or Regional General Permits or create additional General Authorizations to achieve greater efficiency and address Colorado-specific needs.



Individual Authorizations

Overview



Individual Authorizations

- Individual Authorizations will be required for larger projects that do not fall within the scope of a General Authorization.
- Individual Authorizations required for the following types of projects:
 - Activities that result in the permanent loss of state waters (typically 0.5 acres wetlands), or
 - Upon the division's determination that the project will result in more than minimal individual or cumulative adverse impacts to the aquatic resource.
- Restoration projects will most commonly be covered under a General Authorization.



Individual Authorizations *(beginning in 2026)*

- The division is now authorized to accept applications for Individual Authorizations now that Regulation No. 87 has become effective.
- The Water Quality Control Commission adopted rules for Individual Authorizations, including:
 - Application requirements;
 - A least environmentally damaging practicable alternative (LEDPA) requirement;
 - Water quality protection requirements/conditions (i.e., 401 certification); and
 - Monitoring, recordkeeping, and reporting requirements.



Compliance Assistance, Oversight, and Enforcement



Compliance

- **Compliance assistance**
 - Questions about scope of the program
 - Exemption and exclusions requests (via webform)
 - 2 hours of free consultation for project specific questions
 - Guidance documents and training materials
- **Compliance oversight**
 - Inspections
 - Complaint response
 - Coordination with the US Army Corps of Engineers
- **Enforcement**
 - Corrective actions and after the fact permitting
 - Notices of Violation
 - Penalties



Fees

Overview



Fees *(began April 1, 2026)*

Fee Structure

Description	Fee
Temporary and General Authorizations <u>without</u> Mitigation	\$4,320 per project per year
Temporary and General Authorizations <u>with</u> Mitigation	\$9,000 per project per year
Consultation	\$180 per hour (first 2 hours at no cost)
Individual Authorizations	\$180 per hour, \$9,000 per year
Restoration Projects	\$500 per project per year





Requests for Certification of Project Completion

- Project proponent submits written request for Certification of Project Completion (likely a digital form).
- Requests granted where the project proponent demonstrates that
 - The discharge has been completed
 - Temporary impacts are restored
 - All conditions of the authorization, including compensatory mitigation, are satisfied

Once the division issues a Certification of Project Completion, no further annual fees will be assessed.

Thank you!

I am happy to answer any questions at this time.



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