

Reference: RGL 86-02

Subject: CATEGORICAL EXCLUSIONS BuRec

**Title: NATIONWIDE PERMIT AT 33 CFR 330.5(A)(23):
CATEGORICAL EXCLUSIONS**

Issued: 01/17/86 Expires: 12/31/88

Originator: DAEN-CWO-N

Description: DESCRIBES ACTIVITIES THAT THE CORPS AND BUREAU OF RECLAMATION AGREE ARE CATEGORICALLY EXEMPT FROM NEPA & CAN BE EXCLUDED BY NATIONWIDE PERMIT.

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1. We have concurred with the determination made by the Bureau of Reclamation (BR) that those categorical exclusions which they have listed at 516 DM 6, Appendix 9 (48 FR 17151) which may be subject to Department of the Army permit authority as published in 49 FR 13568-9 (copy enclosed) comply with the provisions of the subject nationwide permit.
 2. We have notified the BR that we consider the term "unique geographical features," at item 2 in their checklist, to include "special aquatic sites," as defined at 40 CFR 230.40-230.45. BR also recognizes that under the nationwide permit the division engineer retains the authority to require an individual permit on a case-by-case basis. In order to accommodate this provision of our regulations, BR has agreed that in those cases where the decision on a project was close because of factors of regulatory concern to the Corps, but the project was categorically excluded, it will inform the appropriate Corps district office of the full scope of the proposed work. The district engineer may then seek discretionary authority as he deems necessary. These activities include those projects involving more than a shall amount of fill; activities with the potential to cause more than minor water quality impacts; and, activities involving the use of explosives near waters with significant fisheries resources. The district engineer should coordinate with the Bureau of Reclamation regional offices and other interested parties on what constitutes a "small amount of fill."

3. This guidance is applicable only in the 17 western states where the Bureau of Reclamation operates. This guidance expires 31 December 1988 unless sooner revised or rescinded.

FOR THE CHIEF OF ENGINEERS: