

**U.S. Army Corps of Engineers - Charleston District  
Checklist for 2012 Nationwide Permit Review  
Nationwide Permit 32**

**Completed Enforcement Actions  
(10/404)**

SAC #: \_\_\_\_\_

Applicant Name: \_\_\_\_\_

Waterway/Location: \_\_\_\_\_

Project Name: \_\_\_\_\_

1. Is the structure, work, or discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with either:
- (i) The terms of a final written Corps non-judicial settlement agreement resolving a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or the terms of an EPA 309(a) order on consent resolving a violation of Section 404 of the Clean Water Act, provided that: (a) The unauthorized activity affected no more than 5 acres of non-tidal waters or 1 acre of tidal waters; (b) The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity that is authorized by this NWP; and (c) The district engineer issues a verification letter authorizing the activity subject to the terms and conditions of this NWP and the settlement agreement, including a specified completion date; or
  - (ii) The terms of a final Federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the United States under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or
  - (iii) The terms of a final court decision, consent decree, settlement agreement, or non-judicial settlement agreement resulting from a natural resource damage claim brought by a trustee or trustees for natural resources (as defined by the National Contingency Plan at 40 CFR subpart G) under Section 311 of the Clean Water Act, Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, Section 312 of the National Marine Sanctuaries Act, Section 1002 of the Oil Pollution Act of 1990, or the Park System Resource Protection Act at 16 U.S.C. 19jj, to the extent that a Corps permit is required?

Yes      \_\_\_ No

2. Is this NWP intended to apply to activities occurring after the date of the decision, decree or agreement that are not for the purpose of mitigation, restoration, or environmental benefit?

\_\_\_ Yes       No

3. Prior to reaching any settlement agreement, has the Corps ensured that the activity is in compliance with the provisions of 33 CFR part 326 and 33 CFR 330.6 (d)(2) and (e)?

Yes      \_\_\_ No

4. Will the permittee comply with the NWP or the court decision, consent decree, or judicial/non-judicial settlement agreement? (Note: Any authorization under this NWP is automatically revoked if the permittee does not comply with the terms of this NWP or the terms of the court decision, consent decree, or judicial/non-judicial settlement agreement.)

Yes      \_\_\_ No

5. Does the activity comply with all of the NWP General and Regional Conditions, including mitigation, endangered species, and cultural resources, and if any Federally listed species and/or designated critical habitat occurs in the action area, have you made an effect determination and properly documented it in the administrative record?

Yes      \_\_\_ No

TO QUALIFY FOR THE NWP, UNLESS OTHERWISE NOTED, EVERY NUMBERED ITEM MUST HAVE A CHECKED BOX.

Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_