



November 16, 2020

Major General William Graham  
Deputy Commanding General for Civil and Emergency Operations  
U.S. Army Corps of Engineers  
ATTN: CECW-CO-R  
441 G Street, NW  
Washington, DC 20314

Dear Major General Graham:

The U.S. Army Corps of Engineers (Corps) has issued a *Proposal To Reissue And Modify Nationwide Permits* (proposal). 85 Fed. Reg. 57,298 (Sept. 15, 2020). The proposal would renew and revise 52 nationwide permits (NWP) plus introduce 5 new NWP for work in wetlands and other waters that are regulated by Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. The American Public Power Association (APPA), the American Wind Energy Association (AWEA), the Cross-Cutting Issues Group, the Edison Electric Institute (EEI), the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (Boilermakers), the International Brotherhood of Electrical Workers (IBEW), the Large Public Power Council, the MJB&A Permitting and Infrastructure Coalition, the National Electrical Contractors Association (NECA), the National Rural Electric Cooperatives Association (NRECA), and the United Brotherhood of Carpenters and Joiners of America (UBC) (collectively, the Joint Electricity and Labor Trades) offer these comments on the proposal.

Driven by several factors—including customer demands, technology developments, and federal and state regulatory obligations—the electric power industry is undergoing a transition of its

electric generating fleet that will continue over the next decade and beyond. Concurrent with this transition, electric companies, public power utilities, and electric cooperatives are making significant investments to make the energy grid smarter, cleaner, more dynamic, more flexible, and more secure to integrate and deliver a balanced mix of central and distributed energy resources. Electric companies rely extensively on NWP 12 to provide timely and reliable installation of transmission and distribution powerlines to deliver essential electric supplies to homes, public institutions, defense critical facilities, infrastructure and businesses—and to perform maintenance on those lines which is critical to their reliability.

The Corps proposed to modify existing NWP 12 to limit it to oil and natural gas pipeline activities and to issue two new NWPs to authorize electric utility line and telecommunications activities (proposed new NWP C) and other utility line activities that convey other substances, such as potable water, sewage, wastewater, stormwater, brine, or industrial products that are not petrochemicals (proposed new NWP D). The Corps also proposed to reduce the number of thresholds that trigger the need for a preconstruction notice (PCN) from seven to two. The Corps' stated intent in issuing the new proposed NWPs is to tailor these NWPs to more effectively address differences in how various types of powerlines are constructed, maintained, and removed, and to potentially add industry-specific standards or best management practices as appropriate to help ensure that each of these NWPs authorizes only those activities that will result in no more than minimal individual and cumulative adverse environmental effects. The Joint Electricity and Labor Trades support the proposed modification to create a wholly distinct NWP C.

The Joint Electricity and Labor Trades note that the Corps has significant discretion in how it creates and delineates categories in the NWP program—the Corps has clear authority to create new NWPs and has done so repeatedly. *See, e.g., 82 Fed. Reg. 1,860 (Jan. 7, 2017) (adding NWPs 53 (Removal of Low-Head Dams) and 54 (Living Shorelines))*. The Corps has created new NWPs for activities previously authorized under other NWPs, such as the adoption of NWP 50 to authorize underground mining activities previously authorized under NWP 21. *See 72 Fed. Reg. 11,092 (March 12, 2007)*. The newly proposed NWP C is firmly within the Corps' discretion to create, and the Corps' proposal correctly notes that dredge and fill activities for transmission lines have significantly different impacts than other uses of NWP 12 and result in less overall disturbances to waters of the United States. This conclusion is well supported by the experience of the Joint Electricity and Labor Trades. Put simply, the techniques used to construct new powerlines are significantly different from the techniques used in constructing at least some types of oil and gas pipelines and generally result in less ground disturbance and fewer overall impacts to waters of the United States.

Further, the Corps rightly notes that as the scale of electrical energy generation from renewable energy sources (e.g., land-based renewable energy generation facilities authorized by NWP 51 that use solar and wind energy to generate electricity) and other zero-emitting sources increases, there will also be a need for additional electric transmission facilities to convey the electricity from the generation facilities to the end-users as part of the power sector's overall clean energy transition and transformation. The Joint Electricity and Labor Trades' members are on the forefront of this transformation in deploying zero-emitting generation resources and building the powerlines which would utilize NWP C.

We therefore urge the Corps to finalize new NWP C to authorize electric utility line and telecommunications activities, which is both well within the Corps' legal authority and well-supported by the underlying factual record. The creation of this new NWP would help support the needs of the Joint Electricity and Labor Trades' members as they continue to provide both safe, reliable, affordable, and increasingly clean energy to their customers.

Sincerely,

- The American Public Power Association
- The American Wind Energy Association
- The Cross-Cutting Issues Group
- The Edison Electric Institute
- The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
- The International Brotherhood of Electrical Workers
- The Large Public Power Council
- The MJB&A Permitting and Infrastructure Coalition
- The National Electrical Contractors Association
- The National Rural Electric Cooperative Association
- The United Brotherhood of Carpenters and Joiners of America

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The American Public Power Association (APPA) is the national service organization representing the interests of over 2,000 community-owned, not-for-profit electric utilities. These utilities include state public power agencies, municipal electric utilities, and special utility districts that provide low-cost, reliable electricity and other services to over 49 million Americans.

The American Wind Energy Association (AWEA) is a national non-profit trade association representing a broad range of entities with a common interest in encouraging the deployment and expansion of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers and customers.

The Cross-Cutting Issues Group is a voluntary ad hoc coalition of more than 20 electric generating companies with diverse portfolios of generating assets located throughout the country.

The Edison Electric Institute (EEI) is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for more than 220 million Americans, and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than 7 million jobs in communities across the United States. In addition to our U.S. members, EEI has more than 65 international electric companies, with operations in more

than 90 countries, as International Members, and hundreds of industry suppliers and related organizations as Associate Members.

The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (Boilermakers) is a diverse union representing over 60,000 workers in the construction, shipbuilding, railroad, manufacturing, metalwork, and cement and mining industries throughout the United States and Canada.

The International Brotherhood of Electrical Workers (IBEW) represents approximately 775,000 members and retirees who work in a wide variety of fields, including construction, utilities, manufacturing, telecommunications, broadcasting, railroads and government.

The Large Public Power Council (LPPC) is comprised of 27 of the nation's largest public power systems that serve 30 million Americans, about 10 percent of the U.S. population. LPPC members are locally governed and directly accountable to consumers. We are not-for-profit and committed to reliability, affordability and environmental stewardship for the consumers and communities we serve. LPPC advocates for policies that allow public power systems to build infrastructure, invest in communities and provide reliable service at affordable rates.

The MJB&A Permitting and Infrastructure Coalition is comprised of member companies that collectively engage the Administration and agencies on potential permitting modernization as well as regulatory and legislative opportunities to ensure energy infrastructure projects can proceed in a timely and cost-effective manner. The member companies design, permit, and operate fossil fuel-fired and nuclear power plants; electric and natural gas transmission and distribution systems; and solar, wind, and other renewable generation projects.

The National Electrical Contractors Association (NECA) is the voice of the \$171 billion electrical construction industry that brings power, light and communication technology to buildings and communities across the Country. NECA's 4,000 contractor companies, are the technical professionals responsible for the most innovative and safest electrical construction in America.

The National Rural Electric Cooperative Association (NRECA) is the national service organization for more than 900 not-for-profit electric utilities that provide electricity service to approximately 42 million consumers. NRECA members own and maintain 2.6 million miles, or 42 percent, of the nation's electric distribution lines and account for 11 percent of the total kilowatt-hours in the U.S. each year. With a commitment to contribute to the vitality and prosperity of the communities served by our members, electric cooperatives are dedicated to a healthy environment, building vibrant rural communities, and providing reliable and affordable electricity to our cooperative consumer.

The United Brotherhood of Carpenters and Joiners of America (UBC) is one of North America's largest building trades unions, with over a half-million members. With pride in our more than 135-year history, we lead the way in training, educating, and representing the next generation of skilled construction professionals.