

## DEPARTMENT OF THE ARMY PERMIT

Permittee General Public

Permit No. Regional General Permit 0401-01

Issuing Office Corps of Engineers, Omaha District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: This Regional General Permit authorizes the extension and construction of boat ramps and the following activities if associated with boat ramps: dredging, erosion protection, bank stabilization, turn-around areas, roadways, parking areas, and cofferdams. See page 4 for a detailed description of authorized activities.

Project Location: Lake Sakakawea from Garrison Dam, upstream to river mile 1568.0; and Lake Oahe from the North Dakota-South Dakota state line, upstream to river mile 1303.0.

**This Regional General Permit expires March 31, 2014.**

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on See Special Condition a. on page 5. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and

forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**See pages 5 thru 7 for Special Conditions.**

After a detailed and careful review of all of the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps of Engineers, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit and the permittee will comply fully with all the terms of the permit conditions.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( X ) Section 10 of the River and Harbors Act of 1899 (33 U.S.C. 403).

( X ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. 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.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. 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 325.7 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 you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail 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 you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

DAVID C. PRESS  
Colonel, Corps of Engineers  
District Commander

BY: \_\_\_\_\_  
MARTHA S. CHIEPLY  
Chief, Regulatory Branch, Operations Division

DATE: \_\_\_\_\_

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEEE)

(DATE)

## DETAILED DESCRIPTION OF AUTHORIZED ACTIVITIES

This Regional General Permit authorizes the extension and construction of boat ramps and the following activities if associated with boat ramps: dredging, erosion protection, bank stabilization, turn-around areas, roadways, parking areas, and cofferdams. Activities authorized under this Regional General Permit include the following:

- (1) Boat Ramps: Extensions and new ramps shall be constructed of poured concrete, pre-cast concrete planks, slabs, gravel into forms, or steel mesh sections not exceeding eight (8) inches in thickness. Bedding material, if required, will consist of rock, crushed stone, gravel, stone spall, or other suitable type material and shall typically not exceed two (2) feet in thickness. In areas of existing ramps, bedding material may exceed 2 feet in thickness if necessary due to existing conditions (e.g., steep slopes created from erosion). The minimum amount of fill to cross cut-banks is also authorized. No boat ramp shall exceed 500 feet in length or 80 feet in width (for extensions, existing dimensions will not be included in the 500 and 80-foot limitations).
- (2) Ramp Erosion Protection: Boat ramps may need to be protected from wind, water, wave and other forms of erosion by the discharge and placement of suitable riprap material on all sides of a ramp. A maximum of three (3) cubic yards of riprap material per linear foot of ramp may be placed, or the minimum necessary, for the purpose of preventing erosion of a ramp.
- (3) Bank Stabilization: Bank stabilization activities necessary for erosion prevention, in conjunction with ramp activities, may be authorized which include the discharge and placement of suitable riprap material in an area measuring, and not to exceed, one hundred and fifty (150) linear feet on each side of a ramp. A maximum of three (3) cubic yards of riprap per linear foot of shoreline may be authorized. The use of filter fabric beneath the rock structure is not required.
- (4) Access Roads, Turn-around & Parking Areas: New roadway work shall not exceed 24 feet in width. Turn-around areas shall not impact more than one half- (½) acre of waters of the U.S. Temporary parking areas shall not impact more than two (2) acres of waters of the U.S. Granular/earthen surfacing for access roads, turn-around areas, and parking areas shall not exceed eight (8) inches in thickness and the base material shall not exceed two (2) feet in thickness. The minimum amount of fill to cross cut-banks is also authorized. These areas shall be minimally constructed to safely accommodate the public. Modification, maintenance, expansion and/or improvement to existing access roadways and parking areas may also be authorized.
- (5) Sediment/Debris Removal & Dredging for Ramp Access (Access Channels): Excavation/removal of accumulated sediment/debris, dredging to provide ramp access, and dredging to provide or maintain access channels to ramps may be authorized. Dredging for the aforementioned purposes shall not exceed ten thousand (10,000) cubic yards per ramp facility. Silt curtains will be required to isolate any anticipated turbidity for dredging exceeding 200 cubic yards.
- (6) Cofferdams: Cofferdams, necessary for construction activities, will be limited to the minimum necessary to construct, extend or repair a ramp, to facilitate the removal of sediment/substrate, or to facilitate necessary dredging activities. Cofferdams will be removed in their entirety upon completion of construction activities and the affected lake bottom will be restored to its pre-construction condition.
- (7) Disposal Sites: Construction debris and dredged spoil material will be disposed of at a location approved by the District Commander prior to any disposal activities.

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- a. The time limit for completing the work authorized is one year from each permit determination. If additional time will be needed to complete the authorized activity, a written request for a time extension must be submitted to the Corps.
- b. In issuing this permit and giving approval to perform work under this permit, the Federal Government does not assume any liability for 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; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; design or construction deficiencies associated with the permitted work; or damage claims associated with any future modification, suspension, or revocation of this permit.
- c. That no attempt shall be made by the Permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.
- d. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- e. That this permit shall authorize only the proposed work described within the permit instrument.
- f. That the Permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have full knowledge of the terms and conditions of the authorization and that a copy of the permit instrument is at the project site throughout the period work is underway.
- g. That the Permittee agrees to make every reasonable effort to prosecute the construction or work authorized herein in a manner so as to minimize any adverse impact of the construction or work on fish, wildlife, and natural environmental values.
- h. That all construction debris will be disposed of on land in such a manner that it cannot enter a waterway or wetland.
- i. That the Permittee shall establish and carry out a program for immediate removal of debris during construction in order to prevent the accumulation of unsightly, deleterious and/or potentially polluted materials.
- j. That equipment for handling and conveying materials during construction shall be operated to prevent dumping or spilling the materials into wetlands or the waterway, except as approved herein.
- k. That steps will be taken to prevent materials spilled or stored on site from washing into the wetlands or waterway as a result of cleanup activities, natural runoff, or flooding, and that, during construction, any materials, which are accidentally spilled into these areas, will be retrieved.
- l. That care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water.

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- m. That use of machinery in the waterway will be kept to a minimum.
- n. That when the District Commander has been notified that a dredging or filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Commander subsequently directs remedial measures, the Permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.
- o. That the clearing of vegetation will be limited to that which is absolutely necessary for construction and operation of the project.
- p. That the Permittee agrees that it will prosecute the construction of work authorized herein in a manner so as to minimize any degradation of water quality.
- q. That all work in the waterway is performed in such a manner so as to minimize increases in suspended solids and turbidity that may degrade water quality and damage aquatic life outside the immediate area of operation.
- r. That owners of water supply intakes, or other activities that may be affected by suspended solids and turbidity increases caused by construction activity in the watercourse, shall be given sufficient notice to allow preparation for any changes in water quality.
- s. That for dredging of 200 cubic yards or greater, turbidity controls in the form of silt curtains or similar type cloth material shall be installed downstream from the activity authorized herein and shall remain in place and maintained until construction is complete.
- t. All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place and be maintained until construction is completed and the area is stabilized.
- u. That the Permittee and the Permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of the contract, shall immediately cease work and report the discovery of surface or subsurface historic or pre-historic artifacts to the Corps, appropriate Tribal Historic Preservation Officer if on reservation property, and State Historic Preservation Officer. Work shall not resume until notified by the Corps.
- v. An activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, is not authorized by this RGP until the Corps has complied with the provisions of Title 33, CFR Part 325, Appendix C.
- w. That if threatened or endangered species are observed at the project site, the Permittee and the Permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of the contract, shall cease construction activities immediately and contact the U.S. Fish and Wildlife Service within 48 hours.
- x. That the Permittee shall notify the District Commander at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Commander may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.
- y. That the Corps shall be notified, in writing, of any proposed changes in the project design. No changes in design shall be undertaken without Corps authorization.

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z. That all dredged or excavated materials, with the exception of that authorized herein, shall be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, native prairie, or woodland, to prevent the return of such materials to the waterway.

aa. That only clean riprap material shall be utilized in order to avoid the percolation of fines which would result in excessive local turbidity.

bb. That the fill material shall be free of fines, oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.

cc. All temporary fill shall be removed in their entirety and the area restored to its preconstruction contours.

dd. Upon notification from the Corps that work being performed does not comply with, or fall within the scope of this permit, the responsible party will take immediate steps, as directed by the Corps, to bring the work into compliance with this authorization.

The following criteria would govern the duration, utilization, and applicability of this RGP:

On Lake Sakakawea, this RGP would only be used when the lake elevation is at or below 1830 feet msl.

On Lake Oahe, this RGP would only be used when the lake elevation is at or below 1605 feet msl.

All interested parties proposing work under this RGP are required to contact the U.S. Army Corps of Engineers, at either the Garrison Project Office for work on Lake Sakakawea (PO Box 527, Riverdale, ND 58565; tel 701-654-7411; fax 701-654-7691) or the Oahe Project Office in Bismarck for work on the North Dakota portion of Lake Oahe (1513 South 12th Street, Bismarck, North Dakota, 58504; tel 701-255-0015; fax 701-255-4917). Contact with one of these offices is required in advance so that a determination can be made that the work meets the terms and conditions of the RGP. No project may proceed until notification approval has been received from the Corps that the proposal meets the RGP criteria.

The following information is required:

1. Name, address, and telephone number of the applicant responsible for the work and the owner of the affected land, if other than the applicant.
2. A written description of the proposed work including the purpose and need; type, composition and volume of fill and/or excavated material; length, width and depth of fill material and/or excavation area; disposal site for the excavated material; types and numbers of equipment to be used; impacts to wetlands, streams or other waters of the United States; and any other pertinent, supporting data.
3. A written legal description of the project location including section, township, range, and county.
4. Names, addresses, and telephone numbers of adjacent property owners.
5. A set of drawings on 8 1/2 by 11 inch paper, with dimensions of the proposed work, showing:
  - a. The project location, including the disposal site locations. A photocopy excerpt from a USGS quadrangle, county road map, or FSA map is acceptable. (Photographs would be helpful.)
  - b. A plan or top view of the project area.
  - c. A typical cross-section or side view of the project area.
6. Identification of borrow sites.
7. Demonstration that the project complies with Northwestern Division's *Land Development Guidance at Corps Reservoir Projects* (NWDR 1110-2-5).

For the construction of new facilities, the Corps will coordinate with the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, signatory tribes of the Programmatic Agreement, North Dakota Game and Fish Department, North Dakota Department of Health, and North Dakota State Historic Preservation Officer, Standing Rock Sioux Tribe Tribal Historic Preservation Officer, or Mandan-Hidatsa-Arikara Nation Tribal Historic Preservation Officer prior to permitting construction. These agencies will be provided a copy of the new construction proposal and given five (5) working days to provide comments to the North Dakota Regulatory Office.