

DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public

Permit No.: 11-02 (2011-2364)

Issuing Office: Omaha District, Nebraska Regulatory Office

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 following flood protection, reconstruction and repair work for flood damaged areas:

- (1) Repair and reconstruction of existing roads.
- (2) Construction of temporary roads.
- (3) Construction of temporary levees, dikes and berms.
- (4) Repair of levees including breach closures.
- (5) Protection (e.g. armoring) and/or repair of bridge and linear transportation embankments.
- (6) Protection and/or repair of utility structures.
- (7) Placement of suitable material for bank stabilization.
- (8) Construction of temporary drainage ditches to facilitate the removal of flood water, sheetwater, or excess water.
- (9) Restoration of channels and ditches to pre-flooding alignment and capacity.
- (10) Protection and restoration of intake and outfall structures.
- (11) In-stream disposal of flood-deposited sand/silt material up to 100,000 cubic yards of material per activity. Authorization of in-stream disposal of flood-deposited sand/silt material will be determined on a case-by-case basis. Issues considered will include total and daily amounts of proposed disposal, method of disposal, location of disposal, concurrent disposal activities, time of year and flow rates.

Project Location: Waters of the United States, including wetlands, in the State of Nebraska and the Missouri River in the State of Iowa

This Regional General Permit expires on March 31, 2017

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **See Special Condition 1 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.

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. 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.

ROBERT J. RUCH
District Commander
Colonel, Corps of Engineers

By: _____
MARTHA S. CHIEPLY
Chief, Regulatory Branch
Operations Division

Date: _____

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APPLICATION PROCEDURES

All interested parties proposing work under this Regional General Permit are required to contact:

U.S. ARMY CORPS OF ENGINEERS
NEBRASKA REGULATORY OFFICE – WEHRSPANN
8901 SOUTH 154TH STREET, SUITE 1
OMAHA, NEBRASKA 68138-3621

FAX: 402-896-0997

The following information is required:

1. Name, address, and telephone number of the landowner and the person responsible for the work if other than the landowner.
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 fill and/or excavated material; borrow site for fill material; types of equipment to be used; and impacts to wetlands, streams or other waters of the United States.
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 identified on an aerial map, including the disposal site locations.
 - b. A plan or top view of the project area.
 - c. A typical cross-section or side view of the project area.
 - d. Photographs of the project area.
 - e. As applicable, a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.
6. Mitigation to offset impacts to wetlands and streams may be required. The Nebraska Regulatory Office will make this determination at the appropriate time.
7. For all activities located on tribal land, the Nebraska Regulatory Office will coordinate the project with the applicable tribe prior to authorization.
8. No project may proceed until notification approval has been received from the Nebraska Regulatory Office that the proposal meets the Regional General Permit criteria.

NOTE: Permittees proposing work in the Missouri River in the State of Iowa should also submit the above information to the Iowa Department of Natural Resources. It is recommended the information be submitted using the Joint Application Form, "Protecting Iowa Waters", found at: <http://floodplain.iowadnr.gov>

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SPECIAL CONDITIONS

Any authorization granted under this Regional General Permit is subject to the following conditions:

1. Upon receiving approval to perform work under this RGP, the permittee will have 180 days to complete the work. If additional time is needed to complete the authorized activity, a written request for a time extension must be submitted to the Nebraska Regulatory Office.
2. This RGP authorizes the discharge of dredged or fill material and other work associated with flood protection measures and restoration, repair or reconstruction measures performed in waters of the U.S. within the States of Nebraska and Iowa as a result of damages caused by flooding. The work will be limited to that authorized by the Corps through the issuance of the RGP.
3. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency (e.g., National Park Service) with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

The following link provides a map showing the location of the Niobrara National Scenic River:

<http://www.nps.gov/carto/PDF/NIOBmap1.pdf>

The following link provides a map showing the location of the Missouri National Recreational River:

<http://www.nps.gov/mnrr/planyourvisit/maps.htm>

The following link provides a map showing the location of the Nebraska rivers listed on the National River Inventory list:

<http://www.nps.gov/ncrc/programs/rtca/nri/states/ne.html>

4. All channel restoration work will be limited to restoring the area to pre-flood conditions and verified using U.S. Department of Agriculture, Natural Resource Conservation Service aerial photographs, or other qualifiable data, plans, etc.
5. Repair measures authorized herein do not allow for improved drainage of legally drained wetlands or new, permanent drainages that would result in the lowering of basin water retention capacity and/or impacts to the wildlife value of that wetland.
6. All temporary drainage ditches must be restored to pre-flood conditions within 90 days of the end of the flooding conditions.
7. Repair measures authorized herein are to restore areas to pre-flood conditions. Minor deviations may be authorized.
8. Repair and protection measures authorized herein do not allow for the construction of structures (e.g. jetties) which would result in any further stream channel constriction or in the redirection of flows in such a way as to cause upstream or downstream erosion.
9. Temporary levees, accesses, and other fills must involve the least damaging and minimum amount of disturbance/impacts to waters of the United States. Appropriate measures must be taken to maintain near normal downstream flows to minimize flooding.
10. All sediment disposed of in-stream must be free of large wood or other debris.
11. All fill must be of suitable materials and placed in such a manner that the material will not be eroded by expected high flows.
12. All fill material will be obtained from a non-wetland, upland source.
13. The permittee is responsible for ensuring that the Corps is notified of the location of any borrow site that will be used in conjunction with the construction of the authorized activity so that the Corps may evaluate the site for potential impacts to aquatic resources, historic properties, and endangered species. For projects where there is another lead Federal agency, the

permittee shall provide the Corps documentation indicating that the lead Federal agency has complied with the National Historic Preservation Act and Endangered Species Act for the borrow site. The permittee shall not initiate work at the borrow site in conjunction with the authorized activity until approval is received from the Corps.

14. The use of small aggregate, such as streambed material, for bank stabilization and erosion control is prohibited. All erodible fill material associated with bank stabilization must be stabilized.

15. Mitigation plans will be developed in accordance with the 2008 Mitigation Rule and coordinated with the applicable resource agencies on a case-by-case basis.

16. All temporary fills, including sandbags, in waters of the United States must be completely removed and the area restored to pre-flood conditions within 90 days of the end of flooding conditions.

17. Only clean riprap materials will be utilized in order to avoid the percolation of fines that would result in excessive local turbidity.

18. All areas adjacent (contiguous, bordering, neighboring) to jurisdictional waters disturbed by construction shall be revegetated with appropriate perennial native grasses and forbs and maintained in this condition. *Phalaris arundinacea* (Reed Canary Grass), *Lythrum salicaria* (Purple Loosestrife), *Bromus inermis* (Smooth Brome), *Phragmites, sp.* (Common Reed, River Reed) and *Tamarix, sp.* (Salt Cedar), are *NOT* appropriate choices of vegetation. A cover crop may be planted to aid in the establishment of native vegetation. The disturbed areas shall be reseeded concurrent with the project or immediately upon completion. Revegetation shall be acceptable when ground cover of desirable species reaches 75%. If this seeding cannot be accomplished by September 15 the year of project completion, then an erosion blanket shall be placed on the disturbed areas. The erosion blanket shall remain in place until ground cover of desirable species reaches 75%. If the seeding can be accomplished by September 15, all seeded areas shall be properly mulched to prevent additional erosion. When the vegetation has become established, all temporary erosion control materials shall be removed from the project site. Biodegradable or photodegradable materials need not be removed.

19. For bank protection activities, the riprap revetment shall be covered, from the top of the structure down to the annual ordinary high water line, with a minimum of six inches of soil compacted into the voids of the riprap and immediately seeded with either annual rye grass, oats and/or wheat (nurse crop) plus a mixture of native grass species. The Corps must be notified that this has been completed with photo documentation and seed tags.

20. The clearing of vegetation, including trees located in or immediately adjacent to waters of the United States, will be limited to that which is absolutely necessary for construction of the project.

21. All construction debris will be disposed of on an approved upland site in such a manner that it cannot enter a waterway or wetland. The permittee will establish and carry out a plan for immediate removal of debris during construction in order to prevent the accumulation of unsightly, deleterious and/or potentially polluted materials.

22. Equipment for handling and conveying materials during construction will be operated to prevent dumping or spilling materials into the water except as approved herein.

23. All dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.

24. Concrete trucks will be washed at a site and in such a manner that washwater cannot enter the waterway.

25. During construction, no petroleum products, chemicals, or other deleterious materials shall be allowed to enter or be disposed of in such a manner so that they could enter the water and that precautions be taken to prevent entry of these materials into the water.

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26. All work in the waterway will be 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.
27. All earthwork operations on shore will be carried out in such a manner that sediment runoff and soil erosion to the waterbody are controlled.
28. If and 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.
29. The use of machinery in the waterway will be kept to a minimum.
30. A discharge of material may not occur in the proximity of a public water supply unless appropriate approval is given and mitigation measures are identified to offset any adverse effects.
31. If the Corps is notified that work being performed does not comply with, or fall within the scope of, this RGP, the responsible party will take immediate steps, as directed by the Corps, to bring the work into compliance with this permit.
32. If threatened or endangered species are sighted at or near the project site, particularly during construction, work must cease and the Nebraska Regulatory Office and U.S. Fish and Wildlife Service contacted immediately.
33. The permittee, the permittee's contractor or any of the employees, subcontractors or other person working in the performance of the contract shall immediately report the discovery of subsurface features, possible scientific, prehistorical, historical, or archeological data, giving the location and nature of the findings to the State Historic Preservation Officer and the Nebraska Regulatory Office. If discoveries occur on an Indian Reservation, the applicable Tribal Historic Preservation Officer and Nebraska Regulatory Office shall be notified. The permittee shall cease construction or operation at the site of any cultural resource discovery. Work shall not begin until notified by the Nebraska Regulatory Office.
34. 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.
35. Modification of any existing Federal navigation structure (e.g., revetment, dike, levee, etc.) is NOT authorized by this RGP.
36. Due to public safety concerns and potential structural instability, no equipment shall be staged on Federal navigation structures.
37. The District Commander may require additional special conditions be included in any authorization issued under this RGP to avoid or minimize adverse environmental impacts. The District Commander may also require the processing of an individual permit for an activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.