

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Papio-Missouri River Natural Resources District

**Permit Number:** Regional General Permit 88-04

**Issuing Office:** U.S. Army Engineer District, Omaha

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 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 RGP will authorize the placement of fill material in Big Papillion Creek and its tributaries for maintenance activities associated with the existing flood control and protection facility (levee), flood damage restoration (repair work), and maintenance of existing levee infrastructure into "waters of the United States (U.S.," located within 12-digit Hydrologic Unit Code (HUC) watershed 102300060204/06 (Big Elk Creek-Big Papillion Creek); watershed 102002020206 (Turtle Creek); 102002020211 (Zwiebel Creek-Platte River); and 8-digit HUC 10230006 (Big Papillion-Mosquito).

**MITIGATION:** Impacts to waters of the U.S. will be avoided to the extent practicable. Permit conditions will ensure unavoidable impacts are minimal. The amount and type of mitigation required will be determined by the Corps on a project by project basis and any requirements included in the terms and conditions of the authorization when deemed necessary.

**Project Location:**

Big Papillion Creek and its tributaries located in the following areas:

**Sarpy County, Nebraska:**

Sec. 4 - T13N-R12E  
Sec. 3, 10, 11, 13, 14, 23, 24 - T13N - R13E  
Sec. 14, 23, 33, 34 - T14N-R11E  
Sec. 13, 17, 18, 20, 21, 22, 25, 26, 27, 33 - T14N-R12E  
Sec. 18, 19, 27, 28, 29, 30, 32, 33, 34 - T14N-R13E

**Douglas County:**

Sec. 1 - T14N-R11E  
Sec. 1, 2, 12 - T14N-R12E  
Sec. 27, 35, 36 - T15N-R11E  
Sec. 3, 5, 6, 8, 10, 14, 15, 17, 20, 21, 23, 24, 25, 27, 28, 34, 35, 36 - T15N-R12E  
Sec. 9, 10 - T16N-R11E  
Sec. 31 - T16N-R12E

**Permit Conditions:**

**General Conditions:**

1. See **Special Condition #4** for the time limit for completing the authorized activity. 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 permit expires on September 30, 2020.
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 from 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.
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 with the terms and conditions of your permit.

**Special Conditions:**

1. A records review indicated recorded archaeological sites occurred within the following locations: S23-T14N-R11E; S29, 30, 32-T14N-R13E; S27-T15N-R11E; and S9-T16N-R11E. Any proposed projects within these locations must be surveyed by qualified archaeologists to determine if these or unreported sites are present and could possibly be affected by any proposed activities.
2. After a detailed and careful review of all of the conditions contained in this permit, the Permittee does acknowledge 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.
3. The Permittee shall provide the District Engineer a Pre-Construction Notification, 60 days prior to construction of a specific project to verify that the project is authorized by this RGP. The District Engineer retains the authority to over-ride this RGP on a case-by-case basis and to require an Individual Permit. The PCN shall include the following information:
  - a. Name, address, and telephone number of the landowner and the person responsible for the work if other than the landowner.
  - b. 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.
  - c. A written legal description of the project location including section, township, range, and county.
  - d. Names, addresses, and telephone numbers of adjacent property owners.
  - e. A set of drawings on 8 1/2 by 11 inch paper, with dimensions of the proposed work, showing:
    - i. The project location identified on an aerial map, including the disposal site locations.

- ii. A plan or top view of the project area.
- iii. A typical cross-section or side view of the project area.
- iv. Photographs of the project area.
- v. As applicable, a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions and a delineation completed.
- f. Mitigation to offset impacts to wetlands and streams may be required. The Nebraska Regulatory Office will make this determination at the appropriate time.
- g. For all activities located on tribal land, the Nebraska Regulatory Office will coordinate the project with the applicable tribe prior to authorization.
- h. No project may proceed until notification of approval has been received from the Nebraska Regulatory Office that the proposal meets the Regional General Permit criteria.

The PCN shall be submitted to:

US Army Corps of Engineers  
Nebraska Regulatory Office  
8901 South 156th Street Suite 1  
Omaha, NE 68138-3621

- 4. The time limit for completing each discrete activity is three (3) years from the date of individual authorization. If additional time is required to complete the authorized activity, a written request for a time extension must be submitted to this office for consideration at least one month prior to the three-year deadline.
- 5. If using any riprap other than quarry graded/sized rock riprap, the following conditions will apply:
  - a. All riprap, including broken concrete, must meet the requirements in gradation conditions below and must be acceptable material, free of protruding reinforcing steel or wire mesh or other construction debris (i.e., lath, plaster, asphalt, scrap iron, etc.) and from a non-streambed source.
  - b. Any material used shall be reasonably well-graded material to create a dense erosion resistant structure.
  - c. The material shall range in size from 6 to 36 inches in maximum dimension. The average mean dimension shall be approximately 13 inches and the protection layer thickness shall be 1.0 to 1.5 times the largest rock dimension. Variations to this gradation can be considered on a case by case basis, but must be accompanied by a design analysis that supports the variation.
  - d. The material shall be angular in shape. No more than 30% of the material shall have the maximum dimension more than 2.5 times the minimum dimension and no material shall have the maximum dimension more than 3.5 times the minimum.
  - e. Encroachment of riprap into the channel shall be kept to a minimum.
  - f. The top elevation of the riprap shall not exceed the top elevation of the bank.
- 6. The riprap shall be covered, from the top of the structure down to the annual ordinary high watermark (OHWM), with a minimum of 6 inches of soil compacted into the voids of the riprap and immediately seeded with an annual cover crop and a mixture of native grass species.
- 7. If any activity occurs in the sections of land highlighted in red in the above "Project Location" (Page 1 of the permit document), the Permittee shall notify the Nebraska Regulatory Office prior to construction. The Nebraska Regulatory Office will confer with the Nebraska SHPO to ascertain if any archaeological resources will be impacted.

8. The Permittee and/or the Permittee's contractor or any of the employees, subcontractors or other persons working in the performance of a contract or contracts to complete the work authorized herein, shall cease work and report the discovery of any previously unknown historic or archeological remains to the Nebraska Regulatory Office. Notification shall be by telephone or FAX within 24 hours of the discovery and in writing within 48 hours. Work shall not resume until the Permittee is notified by the Nebraska Regulatory Office.
9. The Permittee agrees to make every reasonable effort to complete 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.
10. All construction debris shall be disposed of on land in such a manner that it cannot enter a waterway or wetland.
11. 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.
12. 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.
13. 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, to prevent the return of such materials to the waterway.
14. Steps shall 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.
15. Care shall be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the waterway or wetlands.
16. The use of machinery in the waterway shall be kept to a minimum.
17. Measures shall be employed to prevent wet concrete from entering the waterway or wetlands. Additionally, any concrete trucks that will be washed at the site shall be done so in such a manner that wash water cannot enter the waterway or wetlands.
18. All temporary fill shall be removed in their entirety and the area restored to its preconstruction contours.
19. The Permittee shall be fully responsible for signage, fencing or other precautions necessary to discourage unauthorized access to the project site and promote public safety.

**Further Information:**

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

( ) Section 10 of the Rivers 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 the 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 measure 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 you 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.

\_\_\_\_\_  
John W. Henderson  
Colonel, Corps of Engineer  
District Commander

\_\_\_\_\_  
(DATE)

  
\_\_\_\_\_  
By: Martha Chieply  
Chief, Regulatory Branch, Operations Division

10/05/2015  
\_\_\_\_\_  
(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.

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(DATE)