

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** General Public

**Permit No:** NE 1989-23005 Regional General Permit 89-05 (GP 89-05)

**Issuing Office:** Nebraska Regulatory Office Omaha District Corps of Engineers

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 (GP) authorizes filling activities associated with the construction of temporary and permanent hunting blinds, the excavation of small ponds and the clearing of vegetation from islands/sandbars.

### **Authorized Activities:**

For all activities outlined below, other than the 400 square-foot area of the hunting blind, the original elevation of the island/sandbar cannot be raised more than 12 inches over the lifespan of the hunting blind. Material may be spread on the island/sandbar not to exceed a total depth of 12 inches cumulatively over time.

#### **A. Hunting Blinds**

The blind structure and any associated fill material shall not restrict normal or expected high flows. Once the blind is constructed not to exceed the specifications below, it shall not be made larger nor will the material around the blind be made deeper nor will the original elevation of the island/sandbar be raised more than 12 inches cumulatively over time.

The footprint of the blind structure, which includes the blind itself, all of the material used in the construction of the blind as well as the material used to cover the blind, shall not exceed 400 square feet. Any material used in covering the blind shall be graded evenly from the top of the blind outward, not to exceed a total footprint of 400 square feet (blind and cover material). The top of the blind structure shall not be higher than six feet above the original/existing island/sandbar elevation. No material shall be excavated from the river bed. Photo documentation of the finished blind shall be submitted to the Nebraska Regulatory office immediately upon completion.

#### **B. Shallow Pond Construction**

A pond may be excavated on an island/sandbar one time per calendar year pursuant to the construction schedule below (D). Even if high flows fill the pond with sand/sediment, additional excavation shall not be allowed during the same calendar year as construction. The area of the pond shall not exceed 1/10 acre. The depth of the pond shall not exceed 12 inches. The excavated material may be disposed of in the river channel such that the excavated material does not block or divert flows. The excavated material cannot be used in the construction of a berm, dike, deflector or other similar structure. The excavated material may be spread out evenly across the island/sandbar, however, the original elevation of the island/sandbar cannot be raised more than 12 inches over the lifespan of the hunting blind. Material may be spread on the island/sandbar not to exceed a total depth of 12 inches cumulatively over time.

The excavated material may be used in the construction of the blind structure pursuant to conditions listed in (A) above. Photo documentation of the finished pond shall be submitted to the Nebraska Regulatory office immediately upon completion.

**C. Island/Sandbar Vegetation Clearing**

Provided the island/sandbar is a jurisdictional water of the U.S., herbaceous vegetation less than 24 inches in height may be cleared and disposed of in the river channel such that the excavated material/vegetation does not block or divert flows.

The vegetation may be stockpiled and burned or may be spread out evenly across the island/sandbar, however, the original elevation of the island/sandbar cannot be raised more than 12 inches over the lifespan of the hunting blind. Material may be spread on the island/sandbar not to exceed a total depth of 12 inches cumulatively over time. Vegetation exceeding 24 inches in height must be mowed/shredded prior to disposal into the river channel.

Disking and using a brush hog/mower are not regulated activities and a Section 404 permit is not required for these methods of clearing.

**D. The above activities may take place pursuant to the following time frames:**

August 21 through September 15: Construction activities may take place.

September 16 through November 30: No construction activities allowed.

December 1 through February 15: Construction activities may take place.

February 16 through August 20: No construction activities allowed.

**E. The following activities are NOT authorized by this GP:**

1. Construction of any type of berm/dike/diversion or similar structure.

2. Bank protection/revetment/armoring of any kind (soft or hard) on stream banks or sandbars/islands.

3. Diverting or blocking any channels with any type of material.

**F. Special conditions may be added to an individual activity on an as-needed basis.**

**Project Location:**

Waters of the US in Nebraska

All Counties in Nebraska

**Permit Conditions:**

1. 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.

2. The Permittee shall notify the Nebraska Regulatory Office when work on the project commences and immediately upon project completion.

3. The District Engineer has the discretion to require an Individual permit on a case-by-case basis for any of the activities authorized herein.

4. The time limit for completing any specific activity authorized herein is three (3) years from the date of authorization. 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 at least one month before the expiration date is reached.

5. Application Procedure

a. To apply for consideration under this general permit, the applicant shall provide an ENG Form 4345 application to construct the project at least 45 days prior to any anticipated construction to the following address:

US Army Corps of Engineers  
8901 South 154th Street  
Omaha, NE 68138-3621

ENG Form 4345 can be obtained at the Nebraska Regulatory Office web site located at:

<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Nebraska.aspx> or call one of our offices at (402) 896-0896 or (308) 234-1403.

b. The application must include:

- a. Name, address, phone number of landowner;
- b. Name(s), address, phone number of those using the blind;
- c. Current aerial photo of the project site with the project location clearly marked;
- d. Detailed project description, including all dimensions of all proposed work (including access routes);
- e. Plan view sketch of the project area with all proposed structures drawn in; sketch can be made on the aerial photo;
- f. Wetland delineation of the project site;
- g. Pre-construction photographs of the site.

6. All activities proposed to be conducted in the whooping crane critical habitat segment of the Platte River will be coordinated with the US Fish & Wildlife Service. Whooping crane critical habitat is defined as: An area of land, water and airspace in Dawson, Buffalo, Hall, Phelps, Kearney and Adams Counties with the following boundaries: a strip of river bottom with a north-south width of three miles, a south boundary paralleling Interstate 80, beginning at the junction of US Highway 283 and Interstate 80 near Lexington, NE and extending eastward along Interstate 80 to the interchange for Shelton and Denman, NE near the Buffalo-Hall County line.

7. All activities proposed to be conducted on a component of the National Wild & Scenic River System, including National Rivers Inventory rivers, will be coordinated with the National Park Service.

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 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.

10. All construction debris shall be disposed of on land in such a manner that it cannot enter a waterway or wetland.

11. 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.

12. 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.

13. Care shall be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the waterway or wetlands.

14. The use of machinery in the waterway shall be kept to a minimum.

**General Conditions:**

1. The time limit for completing the work authorized ends on **See Special Condition #4**. 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. **This Regional General Permit expires on March 31, 2019.**

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:  
( ) 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, tribal, 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:

**DISTRICT ENGINEER**  
**Joel R. Cross**  
**Colonel, Corps of Engineers**  
**District Commander**

By: Martha S. Chieply  
**Martha S. Chieply**  
**Chief, Regulatory Branch**  
**Operations Division**

Date: 10 April 2014

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.

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**TRANSFEEE**

**DATE**