

DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public, government Agencies

Permit No: NE 1998-20005 Regional General Permit 98-05 (GP 98-05)

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 U.S. Army 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 dredging/filling activities associated with lake maintenance projects.

This permit will authorize the removal from and the discharge of certain materials into the water body in conjunction with the hydraulic or mechanical dredging or excavating of lakebed sediment that has accumulated in the water body over time. The use of bulldozers to remove accumulated sediments is also authorized. The dredged/excavated material may be used in the construction of sediment control facilities, shoreline stabilization structures, fish & wildlife habitat improvement structures and other similar activities. No additional material (from an off-site location), other than the armoring material, may be hauled in to be used as fill material. The original depths, elevations, contours and size of the water body shall not be exceeded as a result of the maintenance activities.

Authorized Uses of Dredged/Excavated Material

1. The dredged/excavated material may be used in the construction of sediment detention facilities or structures designed to lessen the amount of sediment entering the water body.
2. a. The dredged/excavated material may be used to re-build eroded bank lines, provided thy toe of the new slope does not exceed that of the original bank toe. The discharged material must be armored to prevent the dredged/excavated material from re-entering the water body. Additionally, an eroded bank line may be armored without first re-building it. Armoring material will be approved on a case-by-case basis.
- b. The top of the revetment shall not exceed the height of the top bank.
- c. If riprap is used to armor a new or existing bank line, the following will apply:
 - i. All riprap shall be covered, from the top of the structure down to the expected high water wave/splash line, with a minimum of six inches of soil compacted into the voids to the riprap. The riprap structures shall be vegetated 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.
 - ii. Slab material, regardless of the source, shall be broken before placement so that the dimension of the largest slab is not more than 3 1/2 times the dimension of the smallest slab. The material shall be free of asphalt paving material, paint, other erodible materials, exposed rebar, wire, wire mesh and like materials.

iii. If broken concrete is proposed, it shall range in size from 6-36 inches and shall be approved for use on a case-by-case basis.

3. The dredged/excavated material may be used as the foundation/core of jetties, breakwaters, hard points, fishing piers or similar features that attenuate wave action. The discharged material must be armored or covered to prevent the dredged/excavated material from re-entering the water body. Alternatively, these structures may be constructed entirely of rock riprap.

4. The dredged/excavated material may be used for other similar activities and structures on a case-by-case basis.

5. The dredged/excavated material may be used to construct temporary structures such as coffer dams, causeways, work platforms or similar features. The temporary structures must be armored or covered to prevent the dredged/excavated material from re-entering the water body. Immediately upon the completion of the construction activity, all temporary fill material shall be removed in its entirety from the water of the U.S., placed in an upland area and stabilized such that it cannot re-enter the water body. The area in which the temporary structure was placed shall be restored to its pre-construction condition.

Other Information

1. If the dredged/excavated material is discharged into an upland site and return water to the water body is expected, the upland site must be diked, bermed or otherwise contained to allow for sufficient settling before any water returns to the water body.

2. This GP shall not authorize structures used to protect yards, homes, private beaches, boat docks and similar features.

3. Project-specific special conditions may be incorporated into project specific permits to further minimize impacts.

Special conditions may be added to a specific project, on a case-by-case basis, to further ensure minimal impacts to the aquatic environment.

Project Location:

Man-made lakes, impoundments and ponds in the State of Nebraska, excluding lakes or ponds designated Class A State Resource Waters as defined in Title 117 of the Nebraska Surface Water Quality Standards.
All Counties in Nebraska

Permit Conditions:

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 April 30, 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.

Special 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 each discrete activity is five years from the date of its individual authorization. **If** additional time is required to complete the authorized activity, a written request for a time extension must be submitted at least one month prior to the five-year deadline.
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. Mitigation

It is expected that wetlands may be impacted at some of the individual construction sites. A wetland delineation will be required to determine the presence of wetlands and the impacts to wetlands.

Compensatory mitigation will be required if impacts to the following special aquatic sites exceed 1/10 acre:

1. Wetlands that have formed naturally as a lacustrine fringe;
2. Wetlands that are part of a required mitigation site;
3. Wetlands that were created with Section 319 of the Clean Water Act funds; or
4. Wetlands that existed on the site prior to lake/pond construction.

If other special aquatic sites are impacted, compensatory mitigation will be determined on a case-by-case basis. The mitigation plan must be prepared in accordance with the twelve components of the mitigation rule found in 33 CFR Part 332.4(c)(2-14).

7. The requirement to cover and seed a structure other than a lake shore revetment (breakwater jetty, dam face, etc) will be made on a case-by-case basis.

8. This GP is not applicable on lakes or ponds designated Class A State Resource Waters as defined in Title 117 of the Nebraska Surface Water Quality Standards.

9. All areas 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. 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.

10. Dredging &/or excavation will be timed &/or located to avoid adverse impacts on spawning areas and migration routes.

11. No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

12. No activity shall adversely affect threatened or endangered species or species proposed as such designation under the Federal Endangered Species Act.

13. 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.

14. Clearing of vegetation shall be limited to that which is absolutely necessary for construction of the project.

15. Measures will be employed prior to filling activity in waters of the US to reduce soil erosion and sedimentation into channels/wetlands. These may include silt curtains, temporary sediment basins, berms, erosion control blankets, turf reinforcement, vertical track walking and grass seeding. The amount of sediment entering channels/wetlands and leaving the site shall be reduced to the maximum extent practicable. If the Permittee fails to institute all appropriate measures, the Corps of Engineers reserves the option to halt all earthmoving operations until erosion/sedimentation problems are corrected.

16. 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.

17. 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.

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

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

20. 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 River and Harbors Act of 1899 (33 U.S.C. 403).
 - 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

Date: 5/27/2014

By: (signature on file)
Martha S. Chieply
Chief, Regulatory Branch
Operations Division

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