



**US Army Corps  
Of Engineers**  
Omaha District

# PUBLIC NOTICE

**Application Number:** NE 1998-20005, General Permit 98-05 Amendment #3

**Applicant:** General Public, Government Agencies

**Waterway:** Man-made Lakes, Impoundments and Ponds

**Issue Date:** January 6, 2014

**Expiration Date:** January 21, 2014

**15-DAY NOTICE**

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Reply To:

Kearney Regulatory Office

2214 2<sup>nd</sup> Avenue Kearney, NE 68847-5315

(308) 234-1403

<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Nebraska.aspx>

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**JOINT PUBLIC NOTICE:** This public notice is issued jointly by the U. S. Army Corps of Engineers, Omaha District, and the Nebraska Department of Environmental Quality (NDEQ). The NDEQ, PO Box 98922, Lincoln, Nebraska 68509-8922 will review the proposed project for state certification in accordance with the provisions of Section 401 of the Clean Water Act. NDEQ hereby incorporates this public notice as its own public notice and procedures by reference thereto. For the purposes of NDEQ, this public notice will expire 30 days from the above issue date.

In accordance with Title 33 CFR 325.5(c) as published November 13, 1986, in the Federal Register, Volume 51, Number 219, the District Engineer, US Army Corps of Engineers, Omaha District proposes to amend an established regional general permit (GP) for the placement of fill material in waters of the United States in conjunction with **the maintenance of man-made lakes, impoundments and ponds. Permitted activities involve sediment control, shoreline stabilization and fish & wildlife habitat improvement** in the State of Nebraska under Section 404 of the Clean Water Act. Section 404 regulates the discharge of dredged or fill material in the nation's waters. **This amendment will 1) clarify the types of material that may be used in the construction of authorized structures; 2) clarify the types of structures that may be authorized; 3) eliminate the need to coordinate with agencies prior to permit verification; 4) clarify the mitigation requirements.**

This permit is in accordance with regulations governing the Corps' regulatory program. The regulations provide that the District Engineer may issue a general permit for certain clearly described categories of structures or work requiring Department of the Army permits, which are substantially similar in nature and that cause only minimal adverse individual or cumulative effects on the aquatic environment. The GP will result in avoiding unnecessary duplication of regulatory control exercised by other Federal, State or Local agencies provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal [33 CFR 323.2(h)].

If amended, this GP will be subject to reconsideration at any time, but at least every five years.

**AUTHORITY:** Section 404 of the Clean Water Act (33 USC 1344).

**APPLICANT:** General public and government agencies.

**PROJECT LOCATION:** Man-made lakes, impoundments and ponds in the State of Nebraska.

**PROJECT DESCRIPTION:** Sediment accumulates in the water body reducing its functions because of decreasing depths and poor water quality. This permit will authorize the discharge of certain material 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 activities and other similar activities. 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. The dredged/excavated material may be used to re-build eroded bank lines, provided the 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.

If riprap is used to armor a new or existing bank line, the following will apply:

- a. 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.
- b. Slab material, regardless of the source, shall be broken before placement so that the dimension of the largest slab is not more than 3½ 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.
- c. If broken concrete is used, it shall range in size from 6-36 inches.
- d. The top of the revetment shall not exceed the height of the top bank.

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, the 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.

**PROJECT PURPOSE:**

Basic Project Purpose: The basic project purpose, as defined by the Corps, is lake, impoundment and pond maintenance.

Overall Project Purpose: The overall project purpose, as defined by the Corps, is to use dredged/excavated sediments from lake maintenance projects and other hard materials to construct structures that will extend the lifespan of the water body as well as improve fish & wildlife habitat.

**SPECIAL AQUATIC SITES/MITIGATION:**

Compensatory mitigation will not be required for impacts to wetlands formed as a result of erosion or sedimentation.

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.

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).

**CULTURAL RESOURCES:** No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C.

**ENDANGERED SPECIES:** In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the US Fish and Wildlife Service and other interested agencies and individuals.

**FLOODPLAIN:** This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain. Flood plain permits will be required for any work in FEMA-mapped floodplains.

**WATER QUALITY CERTIFICATION:** Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of

the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

**PUBLIC INTEREST REVIEW:** The decision whether to issue the Corps' permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed/completed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against their reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R. Part 230).

**COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State, and Local agencies and officials, Indian Tribes and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

Anyone whose interests may be affected by the proposed work is invited to submit favorable or unfavorable written comments to the **Kearney Regulatory Office 2214 2<sup>nd</sup> Avenue Kearney, NE 68847** or **send an e-mail to [barbara.j.friskopp@usace.army.mil](mailto:barbara.j.friskopp@usace.army.mil)**. The District Engineer is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic system's functional values, cumulative and secondary effects and endangered species. All comments received will be considered public information; copies of all comments, including names and addresses of commentors, may be provided to the applicant unless confidentiality is requested. Comments must be submitted on or before the expiration date (located at the top of the first page) of this notice to be considered in the subsequent actions on this application.

**PUBLIC HEARING:** Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the reason(s) for holding a public hearing. If the District Engineer determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

**ADDITIONAL INFORMATION:** For additional information, please **call Mrs. Barb Friskopp at (308) 234-1403**.