

## DEPARTMENT OF THE ARMY PERMIT

Permittee: **General Public**

Permit No: **NE 89-14008, Amendment #2, General Permit 89-05**

Issuing 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:

Construct temporary or permanent duck blinds and temporary dikes. Construct ponds and develop sandbars for purpose of waterfowl hunting.

(See page 4 for detailed project description.)

Project Location:

**Platte River, South Platte River, North Platte River, Loup River, North Loup River, Middle Loup River, South Loup River, Elkhorn River, Niobrara River (excluding Niobrara Scenic River)**

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **August 31, 2005**. 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.

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EDITION OF SEP 82 IS OBSOLETE.

(33 CFR 320-330)

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:**

See pages 4 and 5.

**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.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

\_\_\_\_\_  
(PERMITTEE)

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

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

MARK E. TILLOTSON  
COLONEL, CORPS OF ENGINEERS  
(DISTRICT ENGINEER)

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

By:

\_\_\_\_\_  
Paul R. Wemhoener, P.E.  
Chief, 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.

\_\_\_\_\_  
(TRANSFEREE)

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

\*U.S. GPO: 1988-520-324

### Detailed Project Description

**Dikes:**

1. Temporary dikes will be no higher than 2 feet above water level at the time of construction nor exceed a length of 150 feet. Maximum top width will be 8 feet. Dikes will be notched by the end of each hunting season so as to promote degradation of the structure.
2. Temporary dikes will be constructed from aggregate material obtained from the river channel or sandbars.
3. Temporary dikes will not completely block any channel and will be constructed according to drawings attached to the permit.

**Blinds:**

1. Fill for duck blinds will not restrict normal flows or expected high flows. No more than 150 cubic yards of fill material will be used for construction and maintenance of duck blinds. The blind dimensions will not exceed 16 feet long by 8 feet wide by 4 feet high.

**Ponding/Sandbar Development:**

1. Areas to be disturbed for pond construction or sandbar development will not exceed 200 feet long, 100 feet wide, and 1 foot below the normal flow elevation.

**Special Conditions**

1. Temporary or permanent fill activity will not adversely impact public water intakes, irrigation, power generating facilities, public facilities, or private facilities.
2. The District Engineer has the discretion to require an individual permit on a case-by-case basis for any of the activities authorized herein.
3. For the Platte River from Lexington to Chapman, activities authorized under this general permit must be conducted from August 20 to October 1 or from December 1 to the end of the yearly hunting season.
4. If interior least terns, piping plovers, or whooping cranes are observed in the project vicinity, then construction must cease immediately and the Corps of Engineers must be contacted. Construction may resume with approval from the Corps of Engineers.
5. All projects located within the critical habitat area of the whooping crane on the Platte River will be submitted to the U.S. Fish and Wildlife Service for approval prior to authorization under the general permit.
6. All projects resulting in depletions to the Platte River system will be submitted to the U.S. Fish and Wildlife Service for review and must comply with Section 7 of the Endangered Species Act.
7. All projects will be coordinated with the Nebraska Game and Parks Commission and the U.S. Fish

and Wildlife Service to ensure that no adverse impacts to the interior least tern, piping plover, or bald eagle will occur.

8. Clearing of trees greater than 3 inches diameter at breast height will not be allowed unless approval is received from the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service.

9. Temporary fills must be removed by March 15 of each year.

10. Any structures used for pond construction or sandbar formation (e.g. snow fence, tree trunks) will be removed by March 15 of each year. The site will be restored to pre-project contours and elevations by March 15 of each year.

11. Construction activities will employ measures to reduce erosion of land adjacent to the channel.

12. The permittee will notify the Corps of Engineers annually prior to commencement of temporary filling activities.

13. All construction debris will be placed in upland areas so as not to enter the channel.

14. Petroleum products, chemicals, or other deleterious materials will be prevented from entering the water.

15. All work in the channel will be performed in such a manner so as to minimize turbidity and suspended solids.

16. No discharge of dredged or fill material will consist of unsuitable material (e.g. metal, asphalt, chemically treated materials, etc.). Discharged material must be free from toxic pollutants in toxic amounts.

17. Filling activities will not cause the relocation of flows.

18. Any project will not restrict the floodway except for temporary, partial channel blockage. Any project shall not significantly affect the 100-year flood frequency elevation. All construction must conform to any local floodplain management standards, Executive Order 11988, and the Federal Disaster Protection Act of 1973.