

DEPARTMENT OF THE ARMY PERMIT

Permittee: **General Public**

Permit No: **NE 98-20004 General Permit 98-04**

Issuing Office: **Kearney 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 general permit will authorize the placement of fill material in intermittent and ephemeral streams in conjunction with a stream relocation project for the purpose of preventing significant damage to existing private or public structures (roads, buildings, bridges, etc). Stream relocation refers to any activity that moves, straightens, shortens, cut off or modifies the cross-section or fills a stream channel, whether the channel is natural or has been previously altered.

The GP will authorize only those projects that meet the following:

- 1. the total channel length reduction is less than 100 feet (net loss); AND,**
- 2. the project is necessary to prevent significant damage to private or public structures (roads, buildings, bridges, etc); AND**
- 2. no more than a total of 300 feet of channel can be impacted; AND,**
- 3. in the case of bank stabilization, standard bank stabilization methods have been determined to be impracticable; AND**
- 4. no other practicable alternatives are available.**

Project Location:

Intermittent and ephemeral streams of Nebraska

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **May 31, 2006**. 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.
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 Page 4

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.

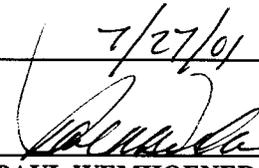
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(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)

By: 

PAUL WEMHOENER
Chief, Operations Division

7/27/01

(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)

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In addition the above, the following conditions must be adhered to:

- a) The cross-sectional area of the constructed channel shall be equal to or greater than that of the impacted channel.

- b) Buffer strips shall be set aside along the entire length of the constructed channel with a minimum width of 30 feet measured from the top of each side slope. The buffer strip shall be planted to appropriate permanent, native vegetation. The buffer strip must reach a minimum of 75% ground cover and shall remain in this condition. Trees/shrubs removed by the construction shall be replaced at a ratio of 2 (replanted) : 1 (removed). The trees/shrubs shall be planted within the buffer strip, extending up and downstream of the project area, if necessary. Tree/shrub survival rate must be 75% or greater. If the success rate of either the buffer strip or tree/shrub replacements is less than 75%, replanting shall be undertaken. The trees/shrubs &/or buffer strip shall be planted no later than the next growing season after completion of the project.

- c) The side slopes of the constructed channel shall be no steeper than three feet horizontal to one foot vertical [3'(h):1'(v)]. If steeper slopes are proposed, a registered professional engineer must certify their stability. In no case will unarmored slopes steeper than 2'(h):1'(v) be acceptable.

- d) The grade (slope) of the project area shall be determined. In this case, the project area shall encompass from two miles upstream to two miles downstream of the channel relocation site. For every one foot of increased slope, one-drop structure shall be installed. In general, if there is less than one foot of anticipated bed degradation, no drop structure will be required, however, this will be evaluated on a case-by-case basis. The upstream-most structure shall be located where the new channel begins.

- e) If special aquatic sites are adversely impacted by the project, the losses shall be mitigated by restoring or creating equivalent replacement habitat either on-site or at a suitable off-site location at a minimum ratio of 1 ½ acres of restored or created habitat for every one acre of impacted area.

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

If the applicant cannot or will not adhere to the above conditions or if there are more than minimal impacts to the aquatic environment, as determined by the Corps of Engineers, an Individual permit will be required.

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Application Procedure

1. 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/html/od-rne/frame.html>

2. The application must include:

- a. name, address, phone number of applicant;
- b. completed Information for Applications worksheet (below);
- c. additional information such as how the work will be accomplished, buffer strip plan, mitigation plan (trees &/or special aquatic site), if required, drop structure information, referenced photos of the area;
- d. if the project is agriculture-related, a copy of a certified wetland determination from the county NRCS office. On the aerial photo, the existing and proposed channel must be clearly marked.
- e. if the project is not agriculture-related, a plan view diagram of existing and proposed conditions shall be submitted, in addition to a wetland delineation.

3. A floodplain permit or a "no permit required" letter from the local floodplain authority shall be required for those projects located in FEMA-mapped floodplains.

INFORMATION FOR APPLICATIONS

(use additional sheets, if necessary)

CHANNEL REALIGNMENT PROJECTS:

1. Existing Channel

- a. total length:
- b. bottom width:
- c. depth:
- d. side slopes:
- e. grade:

2. Proposed Channel

- a. total length:
- b. bottom width:
- c. depth:
- d. side slopes:
- e. grade:

3. Fill Material

- a. will channel plugs be constructed?
 1. location:
 2. dimensions (length, bottom width, height):
 3. will they be armored? with what type of material?
- b. will abandoned channel be filled? with what type of material?
- c. will material from proposed channel be sidecast? where?
- d. if extra fill material is needed, what will be the source?

4. Other Construction (also give specific dimensions and location)

- a. temporary crossings?
- b. cofferdam
- c. grade control or drop structure

5. Additional bank protection

- a. location
- b. method and materials
- c. dimensions, type and amount of fill

6. Environmental Conditions

- a. species and number of trees removed, amount of grass removed, etc
- b. adjacent land use (both sides of channel)

7. Specific Purpose

8. Erosion and Sediment Control Measures

- a. list the measures that will be implemented to control erosion on all disturbed areas, including channel slopes, all fill and disposal sites and adjacent areas

9. Alternatives Considered

- list all other alternatives you have considered to accomplish the above stated project purpose and state why the alternatives were not chosen.