DEPARTMENT OF THE ARMY PERMIT

Permittee: **General Public**

Permit No: **NE 99-20004, General Permit 99-04**

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:

I. Place fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable fill or fill authorized by 33 CFR 330.3, provided the fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the filled area are permitted, provided the adverse environmental effects are minimal.

II. Place fill for the construction of revetments or bulkheads (sea walls) constructed of the following materials: (1) broken concrete, (2) rock, (3) concrete bags, (4) fabriform, (5) sheet metal with metal or wood pilings, (6) timber. The maximum shoreline length that each lake resident will be authorized to stabilize is 300 feet. Each lake association will be authorized to stabilize 500 feet per project. Prior to construction of a revetment or bulkhead, fill material up to 10 feet from the existing shoreline may be placed to eliminate any indentations.

Project Location:

Lake McConaughy, Lake Maloney, Jeffrey Reservoir, Central Midway Lake, East Midway Lake, Plum Creek Reservoir, Johnson Lake

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **July 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 pages 4-6.

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)

7/29/01
(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

APPLICATION PROCEDURE

This programmatic general permit (PGP) is based on permitting programs of NPPD and CNPPID for leaseholders on their respective lakes. For NPPD, the Land Management Coordinator will review and coordinate permit applications, with approval, inspection, and compliance by the Senior Environmental Specialist. For CNPPID, the Real Estate Administrator or the Assistant Real Estate Administrator will review and approve the permit applications. Inspections and compliance will be the responsibility of the Gothenburg Division Manager or the Kingsley Dam Superintendent. At a minimum, each project site will be inspected twice; once before construction and once after construction. Applicants are not required to notify the Corps of Engineers for projects authorized by this PGP. Any violations of permit conditions will be the responsibility of the Corps of Engineers. Any violations identified by NPPD or CNPPID will be reported to the Corps of Engineers within 14 days. Applicants will either contact the Real Estate Administrator (CNPPID) at 308-995-8601, the Assistant Real Estate Administrator (CNPPID) at 308-537-3582, or the Land Management Coordinator (NPPD) at 308-532-9200 for specific instructions and appropriate application forms.

COORDINATION PROCEDURES

CNPPID and NPPD will provide a copy of each authorization letter to the Nebraska Regulatory Office, 8901 South 154th Street, Omaha, Nebraska 68138-3621. This will be done on a weekly basis. The letter will include the permittee's name and address, project description, type of revetment (if applicable), project dimensions, latitude/longitude (degrees, minutes, seconds) and legal description to quarter section. With each authorization letter will be an attached letter from the Corps stating that the project meets the terms of this PGP and complies with Section 404 of the Clean Water Act. The Corps may select individual authorizations for compliance inspections that will be coordinated with either NPPD or CNPPID.

SPECIAL CONDITIONS

(1) The PGP will expire 5 years after the issuance date. Individual projects must be completed within 2 years of authorization. If more time is required to complete a project, the permittee may submit a time extension request at least one (1) month prior to the two-year deadline. Project construction that overlaps the July 31, 2006 expiration date of this general permit must receive an extension of authorization, not to extend past July 31, 2007, in order to remain valid.

(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. CNPPID and NPPD will consult the Corps of Engineers if it is questionable that a proposed activity can be authorized under this PGP.

(3) All authorizations will be subject to the terms and conditions of the Cultural Resource Management Plan of each permittee when approved by the Federal Energy Regulatory Commission, through consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation. Consult the Corps of Engineers prior to authorization if a proposed activity may affect a cultural resource that is listed or eligible for listing in the National Register of Historic Places.

(4) No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

(5) No activity is authorized under this PGP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Authorization of an activity by this PGP does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. NPPD authorizations will comply with the "Plan to Protect Eagle Perch and Roost Sites on Project 1835 Lands". CNPPID authorizations will comply with all terms and conditions of endangered species protection contained in the May, 2000 draft of the Land and Shoreline Management Plan and any revisions in the final plan approved by the Federal Energy Regulatory Commission.

(6) No individual action under this Programmatic General Permit shall be allowed if it jeopardizes the continued existence, or results in the take, of state-listed threatened or endangered species described as Key Species in Title 117-Nebraska Surface Water Quality Standards.

(7) No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts.

(8) Exposed reinforcing bar or mesh will be removed from broken concrete.

(9) No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area.

(10) When the District Engineer has been notified by a resource agency that a permitted project is adversely affecting fish or wildlife resources or the harvest thereof, the District Engineer will require immediate compliance with any necessary remedial measures.

(11) Measures will be taken to prevent any petroleum products, chemicals or other deleterious materials from entering the lake. Any materials which are accidentally spilled into the lake during construction will be immediately retrieved.

(12) All work in the lake will be performed in such a manner so as to minimize increases in suspended solids and turbidity, which may degrade water quality and damage aquatic life outside the immediate area of construction.

13) Vegetation clearing in or adjacent to the lake will be held to a practicable minimum. Upland vegetation disturbed by construction will be re-established if needed to prevent sedimentation into the lake.

(14) If the Corps is notified that the work performed under this PGP does not comply with permit conditions, then the responsible party will take immediate steps to bring the project into compliance with permit conditions.

(15) Fill material for the construction of revetments and bulkheads will not exceed one cubic yard per linear foot below the ordinary high water mark. This does not include any fill material placed beforehand for the purpose of eliminating indentations.

(16) A copy of the PGP will be presented and explained by NPPD or CNPPID to each contractor involved with an authorized fill activity.

(17) No fill for the construction of new revetments will be discharged into wetlands or spawning areas.

(18) When fill is discharged in wetlands for activities under "I." of the "Project Description, consult with the Corps of Engineers prior to authorization. Activities in this situation that are not water-dependent will not be authorized under this PGP.

(19) When not in use, all construction materials, equipment, and/or petroleum products will be stored above the anticipated high water level.

(20) Prior to implementation of the programmatic general permit, all personnel of both power districts involved with permitting will meet with the Corps of Engineers and receive training.

(21) Construction activities will employ controls to reduce the erosiveness of land adjacent to the lake. This includes revegetating disturbed areas and maintaining the controls.

(22) Materials may not be used that are PCP-impregnated. Any creosote or copper chromate arsenic (CCA) treated wood must be installed so that it cannot leach toxins into the water. Aged creosote-treated material, such as old railroad ties, which is not likely to leach creosote and its by-products into the water may be used. Freshly treated creosoted wood and CCA-treated wood can only be installed above the ordinary high water mark of the lake.

(23) All fill material must be permanently stabilized at the earliest practicable date.