

DEPARTMENT OF THE ARMY PERMIT

Permittee: **Nebraska Game and Parks Commission**

Permit No: **NE 197926001, Amendment #6, General Permit 79-01**

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 ten fish habitat structure designs using tires, concrete blocks, woody plants, wood pallets, and plastic barrels. (See pages 5 and 6 for a detailed project description.)

Project Location:

Lakes designated as waters of the United States within the State of Nebraska

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **March 31, 2010**. 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EDITION OF SEP 82 IS OBSOLETE.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 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.

JEFFREY A. BEDEY
COLONEL, CORPS OF ENGINEERS
(DISTRICT ENGINEER)

(DATE)

By:

Russell W. Rocheford
Chief, Regulatory Branch

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

SPECIAL CONDITIONS

1. All unused and leftover construction material will be removed from the project area.
2. Any areas adjacent to the water body that are disturbed by construction activity will be revegetated and maintained.
3. All floatable material will be weighted with concrete or rock or otherwise secured to prevent resurfacing.
4. All tires will have holes drilled in them to avoid the possibility of air pockets.
5. For methods I through IX, the highest point of the structure will be at least 5 feet below the average annual low water elevation. For method X, the highest point of the structure will be at least 1 foot below the average annual low water elevation. Areas within lakes already designated as “boating hazard” or “5 mph” will be exempt from this condition.
6. Fish habitat structures will be located outside of major boating channels or designated swimming areas.

Detailed Project Description

Method I-Automobile tires will be put in sets of two, with the inside tire cabled to the outside tire. The sets will be secured with stainless steel cable or wire or Number 9 wire.

Method II-Three automobile tires will be assembled to form a triangle and will be fastened together with stainless steel cable or wire or Number 9 wire. Concrete blocks will be secured to the bundle to prevent floating.

Method III-Woody plants will be tied together in a bundle using 5/16-inch cable, Number 9 wire, or 3/8-inch polyethylene rope.

Method IV-Concrete blocks will be placed in a windrow.

Method V-Wood pallets will be nailed together in various configurations, then secured with metal fence posts, or weighted with concrete blocks to the lake bottom.

Method VI-Plastic barrels (30-50 gallon) will have holes, and concrete blocks will be placed inside. The barrels will be placed in 5 to 8 feet of water and can be removed if needed. This is designed to aid in the spawning of both channel and flathead catfish.

Method VII-Three automobile tires will be fastened together with stainless steel cable or wire or Number 9 wire in a vertical arrangement by using 2-liter soda bottles for flotation in the top tire and a 28-pound cement cylinder in the bottom tire. Four or five of these units will be arranged together and connected with stainless steel cable or wire or Number 9 wire through the base tires.

Method VIII-Three automobile tires will be nested within each other and encircled by a fourth tire. The tires will be fastened together with plastic rivets. Sidewalls will be removed from all four tires prior to assembly.

Method IX-Three tractor tires will be arranged to form a triangle, then fastened together with 3/8-inch carriage bolts, 2 flat washers, and nuts. One-half inch holes will be drilled in each tire side wall.

Method X-Automobile tires will be fastened to trees with three 16-penny nails and two 3-inch deck screws with washers. All tires will then be secured with stainless steel cable or wire or Number 9 wire around the tree trunk. Small branches can be inserted into the tire openings. Tires will be at least 1 foot above the lake bottom and no higher than 1 foot below average annual low water elevation.