
PUBLIC NOTICE



**US Army Corps
of Engineers**

Omaha District

Application No: NE 89-05, NE 198923005, Amendment #3
Applicant: General Public
**Waterway: Platte River, North Platte River, South Platte
River, Loup River, Elkhorn River, South Loup River, Middle
Loup River, North Loup River, Niobrara River**
Issue Date: February 18, 2005
Expiration Date: March 11, 2005

21 DAY NOTICE

Reply To:
NEBRASKA REGULATORY OFFICE – KEARNEY
1430 CENTRAL AVENUE, KEARNEY, NEBRASKA 68847

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). NDEQ P. O. 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.

The District Engineer, U.S. Army Corps of Engineers, Omaha District proposes to issue a regional general permit for duck blind construction and related activities to the general public. This permit is in accordance with regulations governing the Corps of Engineers 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 environment.

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

APPLICANT: General Public

PROJECT LOCATION: State of Nebraska on the following rivers: Platte River, North Platte River, South Platte River, Loup River, South Loup River, Middle Loup River, North Loup River, Elkhorn River, Niobrara River (excluding the reach designated as the Niobrara Scenic River).

BACKGROUND: General Permit 89-05 was initially issued in 1989 and reissued as Amendment #1 and Amendment #2. To date, 61 projects have been authorized; 26 under Amendment #2. Of the 26 projects authorized, 19 were located on the Platte River, 6 on the North Platte River, and 1 on the South Platte River. No changes from Amendment #2 are proposed in Amendment #3.

Project Purpose and Specifications: The purpose of this general permit is to authorize minor filling activities associated with construction of duck blinds, construction of temporary impoundments, and discharges associated with ponding activities and island creation.

Dikes:

- 1) The temporary fill activity will not completely block any channel.
 - 2) The temporary fill activity will not adversely impact public water supply intakes, irrigation, transportation, power generating, public, or private facilities.
 - 3) Temporary dike structures 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. The dike will be notched by the end of the hunting season to allow for degradation of the structure.
- 1) Temporary dikes authorized under this general permit will be constructed of sand or other material obtained from the river bottom or adjacent sand bars.

Blinds:

- 1) Temporary or permanent fill activity will not completely block any channel.
- 2) Temporary or permanent fill activity will not adversely impact public water supply intakes, irrigation, transportation, power generating, public, or private facilities.
- 3) No more than 150 cubic yards of temporary and/or permanent 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/Sand Bar Development:

- 1) Areas to be disturbed for ponding purposes or sand bar development will not exceed 200 feet long, 100 feet wide, and 1 foot below the ordinary high water mark (normal flow elevation). **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 U. S. Department of Interior, 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.

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/completed work is invited to submit favorable or unfavorable written comments to the **Nebraska Regulatory Office, 1430 Central Avenue, Kearney, Nebraska 68847** or send an e-mail to **dwright.k.tillotson@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 commenter, 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 **Keith Tillotson at 308-234-1403**.

REQUEST TO POSTMASTERS: Please post this notice conspicuously and continuously until the expiration date specified at the top of page one.

NOTICE TO EDITORS: This notice is provided as background information for your use in formatting news stories. This notice is not a contract for classified display advertising.

SPECIAL CONDITIONS

- (1) The District Engineer has the discretion to require an individual permit on a case-by-case basis for any of the activities authorized herein.
- (2) Activities authorized under this GP must be conducted from August 20 through October 1, or after November 15. **This condition only applies to the Platte River from Lexington to Chapman.**
- (3) No construction or maintenance activities will be authorized between the close of each yearly hunting season and August 20.
- (4) Temporary fills authorized under this GP must be completely removed by March 15.

- (5) Any structures used for ponding or sand bar formation (e.g. snow fence, tree trunks) will be removed, and the sand bar leveled, by March 15.
- (6) Construction activities should employ controls to reduce the erosiveness of land adjacent to the channel.
- (7) The permittee will notify the Corps of Engineers annually prior to commencement of temporary filling activities.
- (8) All construction debris will be placed on upland areas so as not to enter the channel.
- (9) Construction equipment shall be operated in such a manner to prevent dumping of fill material except as permitted.
- (10) Petroleum products, chemicals, or other deleterious materials will be prevented from entering the water.
- (11) All work in the channel(s) will be performed in such a manner so as to minimize increases in turbidity and suspended solids which may degrade water quality and damage aquatic life outside the immediate area of operation.
- (12) No discharge of dredged or fill material may consist of unsuitable material (e.g. trash, debris, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts.
- (13) Filling activities will not restrict the movement of aquatic species.
- (14) Filling activities will not restrict normal or expected high flows.
- (15) Filling activities will not cause the relocation of flows.
- (16) Any project authorized under this GP will not unduly restrict the floodway except for temporary, partial channel blockage. It shall not significantly affect the 100-year frequency flood elevation, and all construction must conform to the requirements of applicable state and local floodplain management standards, Executive Order 11988, and the Federal Disaster Protection Act of 1973.

APPLICATION PROCEDURE

(1) To apply for consideration under this GP, the applicant will provide a written Notice of Intent to construct a particular project at least thirty (30) days prior to any anticipated construction to the following office: US Army Corps of Engineers, 8901 South 154th Street, Omaha, Nebraska 68138-3621, (402) 896-0896.

(2) The Notice of Intent must clearly describe the proposed work so that it can be determined whether or not the proposed work complies with the conditions, criteria and limitations of this general permit, and must contain the following information:

- a.** A written description of the project that includes (1) construction methods, (2) all dimensions and volumes of material, (3) applicant's name, address, telephone number, (4) river, (5) legal description to quarter section;
- b.** A drawing of the proposed project showing construction dimensions;
- c.** Location marked on aerial photograph or topographic map.