

DEPARTMENT OF THE ARMY PERMIT

Permittee: **General Public, Government Agencies**

Permit No: **NE 98-20005, Amendment 2**

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:

Dredge or excavate accumulated sediment in manmade lakes or ponds created through impoundment or excavation. Dredging or excavation will not exceed elevations and contours at the time of pond/lake creation. Dredged/excavated material that is discharged into upland disposal sites will allow sufficient settling time before water returns to the lake or pond. Discharges into the lake or pond are allowed for the creation, enhancement, or restoration of fish or wildlife habitat, construction of sediment control facilities, shoreline stabilization, or fishing piers.

Project Location:

Manmade lakes and ponds in the State of Nebraska that meet waters of the United States criteria

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **January 31, 2014**. 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.

(DATE)

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

DAVID C. PRESS
COLONEL, CORPS OF ENGINEERS
(DISTRICT ENGINEER)

(DATE)

By:

Martha Chieply
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.

(DATE)

General Public, Government Agencies
NE 98-20005, General Permit 98-05

Special Conditions

1. Written concurrence for the use of this general permit will be required from the National Park Service for any projects located within the boundaries of any river or creek in the Wild and Scenic River system.
2. Compensatory mitigation will be required for the elimination of wetlands created or restored to provide compensatory mitigation for another Department of the Army permit.
3. Compensatory mitigation will be required for the elimination of wetlands that were constructed with Section 319 Clean Water Act funds.
4. Compensatory mitigation will be required for the elimination of wetlands that existed prior to lake construction or a lacustrine fringe wetland that formed following lake construction.
5. The return water from an upland dredge disposal site will meet Section 401 Clean Water Act standards.
6. Dredging or excavation will be timed and/or located to avoid adverse impacts on spawning or migration seasons.
7. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
8. No activity may adversely affect species listed as threatened or endangered or proposed for such designation under the Federal Endangered Species Act. The Corps of Engineers will consult with the U.S. Fish and Wildlife Service in making a determination of adverse impact.
9. No individual action under this GP 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.
10. Care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water. For all equipment operating in the water, the permittee shall require all contractors to conduct daily inspections for any fuel, lube oil, hydraulic, or antifreeze leaks. If leaks are found, the permittee shall require the contractor to immediately remove the equipment from service and repair or replace it.
11. Shoreline stabilization will be limited to areas of erosion that are devoid of a wetland fringe along the shoreline and without a vegetated bank.
12. Any riprap used in project construction will be covered with soil and seeded to native grasses if determined by the Corps of Engineers to be necessary for safety.

13. Prior to any construction work (including tree removal) occurring within the nesting season, the permittee will inspect the site for active nests of migratory birds. If active nests of migratory birds are observed within areas to be disturbed, construction work cannot commence in those areas. Contact the Corps of Engineers in such cases. The Corps of Engineers will consult with the U.S. Fish and Wildlife Service. Construction cannot proceed until the permittee is notified by the Corps of Engineers.

14. Concurrent with construction, silt curtains or other sediment control measures will be employed as needed to protect waters of the U.S. Upon completion of the project, upland seeding of areas adjacent to the lake will be completed by September 15 of the year of construction. Native plant species will be used for permanent cover. A temporary cover crop of non-native species may be used in the establishment of permanent cover. Smooth brome and reed canary grass are excluded. If seeding cannot be accomplished by this date, then properly installed erosion control best management practices with permanent seeding (e.g., erosion control blankets, hydroseed/hydromulch) will be carried out.

15. Steps will be taken to prevent materials spilled or stored on site from washing into the streams as a result of cleanup activities, natural runoff, or flooding, and that, during construction, any materials, which are accidentally spilled into these areas, will be retrieved.

16. All construction debris will be disposed of on land in such a manner that it cannot enter the streams.

17. All trees and shrubbery which are not specifically required to be cleared or removed for construction or operations purposes shall be preserved and shall be protected from any damage by construction operations and equipment.

Application Procedure

Applications will be submitted to the U.S. Army Corps of Engineers, 8901 South 154th Street, Omaha, Nebraska 68138 and must include the following information: (1) name, address, and telephone numbers of the applicant and agent (if applicable), (b) plan view and cross-section view scale drawings, (c) project purpose, (d) description of project, including cubic yards of dredged/excavated material, methods of dredging or excavating, disposal site, creation, enhancement, or restoration of fish and wildlife habitat (if applicable), sediment control facilities (if applicable), shoreline stabilization (if applicable), fishing piers (if applicable). The plan view drawings will show the boundaries of the dredging area(s), dredge disposal site(s), habitat creation sites, sediment control facilities, and wetlands. Wetlands that formed as a result of sedimentation following lake construction will be labeled and distinguished from wetlands that existed prior to lake construction or fringe wetlands that formed after lake construction. One or more cross-section view drawings of the lake or pond bed will be required, showing existing vs. proposed elevations and contours. The number of required cross-section drawings will be determined by the variability of dredging depths and contours. Additional plan view and cross-section view drawings may be necessary for sediment control facilities.

The Corps of Engineers will solicit comments from the following agencies: U.S. Fish and Wildlife Service, Environmental Protection Agency, Nebraska Game and Parks Commission, Nebraska State Historical Society. The agencies will be given 15 calendar days to respond. Notification of agencies will include the above information plus the area of wetlands to be eliminated by the project. Impacted wetlands will be identified on a plan view scale drawing and labeled according to dominant plant species.