



**US Army Corps
of Engineers**

Omaha District

PUBLIC NOTICE

Application Number: NE 1992-20004 PGP 99-04 Amendment #3

Applicant: Central NE Public Power & Irrigation District and
NE Public Power District

Waterway: See below

Issue Date: April 8, 2011

Expiration Date: April 29, 2011

21 DAY NOTICE

Reply To:

Kearney Regulatory Office

2214 2nd Avenue

Kearney, NE 68847-6856

JOINT PUBLIC NOTICE: This public notice is issued jointly by the U.S. Army Corps of Engineers (Corps), Omaha District and the Nebraska Department of Environmental Quality (NDEQ). The NDEQ, PO Box 98922, Lincoln, Nebraska 68509-8922 will review the proposed amendment 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.

In accordance with Title 33 CFR 325.5(c) as published November 13, 1986, in the Federal Register, Volume 51, Number 219, the District Engineer, U.S. Army Corps of Engineers, Omaha District proposes to **re-issue this programmatic general permit (PGP)** authorizing the placement of fill material in waters of the United States in conjunction with **bank protection activities and maintenance of existing structures on lakes owned and/or operated by Central NE Public Power & Irrigation District (CNPPID) or NE Public Power District (NPPD)** in the State of Nebraska under Section 404 of the Clean Water Act. Section 404 regulates the discharge of dredged or fill material in the nation's waters.

The term "general permit" means a Department of the Army authorization under Section 404 of the Clean Water Act that is issued on a nationwide or regional basis for a category of activities when: (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or (2) the general permit would result in avoiding unnecessary duplication of regulatory control exercised by another federal, state or local agency, provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal [33 CFR 323.2(h)].

Programmatic general permits are a type of general permit founded on an existing state, local or other Federal agency program and designed to avoid duplication with that program. The program the permit is

based upon must provide for protection of the aquatic environment in a manner equivalent to the Section 404 regulatory program administered by the Corps.

The alternative to the PGP is for each agency to evaluate these minimal impact projects independently, which will result in unnecessary administrative costs on the part of the federal government and potential delays and duplicative agency coordination for the applicant.

This PGP is in accordance with regulations governing the Corps' 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 aquatic environment. The general permit would result in avoiding unnecessary duplication of regulatory control exercised by other Federal, State or Local agencies provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal [33 CFR 323.2(h)].

The PGP was first issued to CNPPID and NPPD on July 29, 2001. The PGP was amended on February 6, 2002 and again on July 13, 2006. The PGP will expire on July 31, 2011. CNPPID and NPPD have applied for Amendment #3. The PGP is based on permitting programs of CNPPID and NPPD. The applicants are not required to notify the Corps for projects authorized by this PGP.

If re-issued, this general permit will be subject to reconsideration at any time, but at least every five (5) years.

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

APPLICANT: Central NE Public Power & Irrigation District and NE Public Power District

PROJECT LOCATION: Lake McConaughy, Jeffrey Reservoir, Central Midway Lake, East Midway Lake, Plum Creek Canyon Reservoir, Johnson Lake, Little Knapple Lake, Lake Maloney

PROJECT DESCRIPTION: Changes from Amendment #2 are in bold. The PGP will authorize revetments and bulkheads constructed of the following materials or methods: 1) broken concrete; 2) rock; 3) formed or fabricated concrete; 4) sheet metal with metal or wood pilings; 5) untreated timber; 6) plastic or PVC; 7) fiberglass; 8) weathered creosote treated timber (not subject to leaching); 9) vegetation (**concrete bags have been removed**).

The maximum shoreline length that each **lake tenant** or lake association will be authorized to stabilize is **500** feet. 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.

This PGP will also authorize work performed in accordance with Nationwide Permit 3(i).

PROJECT PURPOSE: The purpose of the PGP is to minimize Federal government involvement in bank protection and maintenance projects undertaken on the above lakes that have negligible individual and cumulative adverse impacts on aquatic resources.

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 US Fish and Wildlife Service and other interested agencies and individuals.

CULTURAL RESOURCES: The Corps, Omaha District will comply with the National Historic Preservation Act of 1966 and amendments and the procedures set forth in 33 CFR 325, Appendix C. CNPPID produced a document on August 19, 1991, entitled "A Cultural Resource Inventory of Facilities Involved in the Federal Energy Regulatory Commission's (FERC) Project #1417." The inventory identified potential archeological resources and determined that the canal system, with all of its features, was eligible for listing in the National Register of Historic Places. NPPD produced a document in July 1991, entitled "A Cultural Resource Inventory of Facilities Involved in the Federal Energy Regulatory Commission's Project #1835." The inventory determined that the canal system, with all of its features, was eligible for listing in the National Register of Historic Places. We will evaluate input by the State Historic Preservation Officer and the public in response to this public notice.

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 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 CFR Part 230).

COMMENTS: The Corps 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 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 **Kearney Regulatory Office 2214 2nd Avenue Kearney, NE 68847-6856** or **send an e-mail to barbara.j.friskopp@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 commentors, 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 Mrs. Barb Friskopp 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 or advertising.

APPLICATION PROCEDURE: Applicants will contact either the CNPPID Real Estate Administrator (308.995.8601) or the NPPD Land Management Coordinator (308.535.5323) for specific instructions and appropriate application forms.

COORDINATION PROCEDURE: CNPPID and NPPD will provide a copy of each authorization letter to:
US Army Corps of Engineers
8901 South 154th Street
Omaha, NE 68138-3635

This will be done on a weekly basis, if authorizations were issued during that week. The letter will include the permittee's name and address, type of revetment, project dimensions, latitude/longitude (degrees, minutes, seconds) and legal description to the quarter-section. A letter from the Corps stating that the project meets the terms of this PGP and complies with Section 404 of the Clean Water Act will be attached to each authorization letter. The Corps may select individual authorizations for compliance inspections. Any inspection will be first coordinated with CNPPID or NPPD.

PROPOSED AND EXISTING SPECIAL CONDITIONS:

1. After a detailed and careful review of all of the conditions contained in this permit, the permittee does acknowledge that, although said conditions were required by the Corps, nonetheless, the permittee agreed to those conditions voluntarily to facilitate issuance of the permit and the permittee will comply fully with all the terms of the permit conditions.

2. The time limit for completing the authorized activity is three years from the date of authorization. If additional time is required to complete the authorized activity, a written request for a time extension shall be submitted to CNPPID or NPPD at least one month prior to the three-year deadline.

3. 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 shall consult with the Corps if it is questionable that a proposed activity can be authorized under this PGP.

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

5. No discharge of dredged or fill material shall occur in the proximity of a public water supply intake.

6. No activity is authorized under this PGP that 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 (ESA), or that 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 ESA. NPPD authorizations shall comply with the “Plan to Protect Eagle Perch and Root Sites on Project 1835 Lands.” and CNPPID authorizations will comply with all terms and conditions of endangered species protection contained in the March 2003 approved Land and Shoreline Management plan and any revision in the final plan approved by FERC.

7. No individual action under the PGP 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.

8. No discharge of dredged or fill material shall consist of unsuitable material (trash, debris, car bodies, asphalt, for example) and material discharged must be free from toxic pollutants in toxic amounts.

9. After placement, all protruding reinforcing bar/steel and wire mesh shall be removed from the surface of the broken concrete riprap. Construction debris (i.e., lath, plaster, asphalt, scrap iron, etc.) is not allowed to be mixed in with the concrete riprap.

10. No activity shall substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area.

11. 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 shall require immediate compliance with any necessary remedial measures.

12. Steps shall be taken to prevent materials, such as any petroleum products, chemicals, or other deleterious materials that are spilled or stored on site, from washing into the lake 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.

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

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

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

16. Fill material for the construction of revetments and bulkheads shall 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.

17. A copy of the PGP shall be presented and explained by CNPPID or NPPD to each contractor involved with an authorized fill activity.
18. No fill for the construction of new revetments shall be discharged into wetlands or spawning areas.
19. When fill material is discharged into wetlands in accordance with Nationwide Permit 3(i), the Corps shall be consulted prior to authorization. Activities in this situation that are not water-dependent will not be authorized under this PGP.

Delete previous #20. Prior to implementation of the PGP, all personnel of both power districts involved with permitting shall meet with the Corps of Engineers and receive training.

20. When not in use, all construction materials, equipment and/or petroleum products shall be stored above the anticipated high water line.
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. PCP-impregnated materials shall not be used. Creosote or copper chromate arsenic (CCA) treated wood shall 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 at least one foot above the ordinary high water mark of the lake.
23. All fill material shall be permanently stabilized at the earliest practicable date.