
PUBLIC NOTICE



**US Army Corps
of Engineers**

Omaha District

Application No: 199922004
Applicant: CNPPID, NPPD
Waterway: CNPPID, NPPD canal system lakes
Issue Date: February 27, 2006
Expiration Date: March 20, 2006

21 DAY NOTICE

Reply To:

NEBRASKA REGULATORY OFFICE – KEARNEY
1430 CENTRAL AVENUE, KEARNEY, NEBRASKA 68847

**JOINT PUBLIC NOTICE
FOR PERMIT APPLICATION SUBMITTED TO
U.S. ARMY CORPS OF ENGINEERS
AND
NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY**

**PROGRAMMATIC GENERAL PERMIT FOR BANK PROTECTION ACTIVITIES AND
MAINTENANCE**

In accordance with 33 CFR 325.5(c), as published in the November 13, 1986 in the Federal Register, Volume 51, Number 219, the U.S. Army Corps of Engineers (Corps), Omaha District, proposes to establish a programmatic general permit (PGP) for bank protection and maintenance of fill that is identical to the requirements of Nationwide Permit 3(i).

GENERAL PERMIT CONCEPT

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 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 U.S. Army Corps of Engineers.

A programmatic general permit (PGP) was first issued to Nebraska Public Power District (NPPD) and Central Nebraska Public Power and Irrigation District (CNPPID) on July 29, 2001. To date, 214 projects have authorized. The PGP was amended on February 6, 2002 by adding plastic to the list of materials used for the construction of revetments. The PGP will expire on July 31, 2006, and NPPD

and CNPPID have reapplied for a new PGP. The proposed PGP is based on permitting programs of NPPD and CNPPID. Changes to the previous PGP will be boldfaced. For NPPD, the Land Management Coordinator will review and coordinate permit applications as well as conduct inspections, with approval, inspection, and compliance by the Environmental Specialist. For CNPPID, the Real Estate Administrator will review and approve permit applications. Inspections and compliance will be the responsibility of the Gothenburg Division Manager or the Kingsley Dam Superintendent, **or their designees**. The applicants are not required to notify the Corps of Engineers for projects authorized by this PGP.

The alternative to the proposed 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.

The general permit concept is designed to provide the public with an equitable, responsive system of granting permits. To do this, the District Engineer has established a procedure which will reduce administrative costs resulting from a large number of applications for a particular activity which has little or no adverse impact on the aquatic ecosystem. It is designed to eliminate paperwork and to increase the efficiency of the process by which small, relatively insignificant projects having minimal impacts on the aquatic ecosystem are authorized. The general permit will be issued under the authority of Section 404 of the Clean Water Act. If adopted, the policies of this proposed PGP will be subject to reconsideration at any time, but at least every 5 years.

Applicant: The PGP will be issued to Nebraska Public Power District and Central Nebraska Public Power and Irrigation District.

Project Location: Lake McConaughy, Lake Maloney, Jeffrey Reservoir, Central Midway Lake, East Midway Lake, Plum Creek Reservoir, Johnson Lake, **Knapple Lake**

Project Purpose: The PGP will minimize federal government involvement in bank protection and maintenance projects undertaken on the listed lakes that have negligible individual and cumulative adverse impacts on aquatic resources.

Project Description: The PGP will authorize revetments (i.e. cover of erosion-resistant material placed parallel to the shoreline) and bulkheads (vertical retaining walls) constructed of the following materials or methods: (1) broken concrete, (2) rock, (3) concrete bags, (4) formed or fabricated concrete, (5) sheet metal with metal or wood pilings, (6) untreated timber, (7) plastic or PVC, (8) **fiberglass**, (9) weathered creosote treated timber (not subject to leaching), (10) **vegetation**. The maximum shoreline length that each lake tenant will be authorized to stabilize is 300 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. The PGP will also authorize work performed in accordance with Nationwide Permit 3(i).

State of Nebraska: The Nebraska Department of Environmental Quality, P.O. Box 98922, State House Station, Lincoln, Nebraska, 68509, will review the proposed PGP for state certification in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by applicants will not result in a violation of applicable water quality standards. The Nebraska Department of Environmental Quality hereby incorporates this Public Notice as its own Public Notice and procedures by reference thereto.

Endangered Species: Pursuant to the Endangered Species Act, all proposed projects will be reviewed for impacts to threatened or endangered species and their critical habitat. No project that would adversely affect federally listed species or designated critical habitat or result in a taking will be authorized by this PGP.

Historical/Archaeological: The Omaha District will comply with Section 106 of the National Historic Preservation Act of 1966 as amended. CNPPID produced a document on August 19, 1991, titled "A Cultural Resource Inventory of Facilities Involved in the Federal Energy Regulatory Commission's 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 titled "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 a 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 benefit 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).

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 proposed 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 proposal. 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 proposed activity.

Who Should Reply to this Notice: Anyone whose interests may be affected by the proposed work is invited to submit favorable or unfavorable written comments to the **Kearney Regulatory Office, 1430 Central Avenue, Kearney, Nebraska 68847** . 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. 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 subsequent actions on this application. **Direct written comments and/or questions should be directed to Keith Tillotson, Kearney Regulatory Office, 1430 Central Avenue, Kearney, NE, 68847, Phone: (308)234-1403.**

Public Hearing Requests: 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.

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.

APPLICATION PROCEDURE

Applicants will either contact the Real Estate Administrator (CNPPID) at 308-995-8601 or the Land Management Coordinator (NPPD) at 308-535-5323 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, **if authorization was 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 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, 2011 expiration date of this general permit must receive an extension of authorization, not to extend past July 31, 2012, 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 as 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 March, 2003 approved 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) **After placement**, 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 **at least one foot** above the ordinary high water mark of the lake.
- (23) All fill material must be permanently stabilized at the earliest practicable date.