



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
3319 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504-7565

DEPARTMENT OF THE ARMY PERMIT

Permittee: GENERAL PUBLIC

Permit Number: Regional General Permit 0403-03 (NWO-2004-20003-BIS)

Issuing Office: U.S. Army Engineer District, Omaha District
Corps of Engineers
North Dakota Regulatory Office
3319 University Drive
Bismarck, North Dakota 58504-7565

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. A notice of appeal options is enclosed.

Project Description:

The Regional General Permit (RGP) authorizes the construction expansion, and extension of boat ramps and other activities related to boat ramps.

Project Location:

All waters of the U.S. in North Dakota, excluding Lake Sakakawea and Lake Oahe.

This Regional General Permit expires September 30, 2026.

NOTIFICATION REQUIREMENT: All parties proposing work under this Regional General Permit are required to contact the US Army Corps of Engineers, North Dakota Regulatory Office. See pages 7 and 8 for details and information requirements.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends one year from each individual authorization (See Special Condition 15). 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 certifications is attached. (ND Department of Environmental Quality, Division of Water Quality, Letter dated April 5, 2021, which applies to projects not located on Indian Lands in North Dakota and US Environmental Protection Agency, Region 8, Letter dated May 27, 2021, which applies to projects located on Indian Lands in North Dakota.)

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.

See pages 9 through 12 for Special Conditions.

After a detailed and careful review of all of the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps of Engineers, 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.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers 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, 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 projects.

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 the 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 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.

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

MARK R. HIMES
Colonel, Corps of Engineers
District Commander, Omaha

By: _____
ERIC A. LAUX
Chief, Regulatory Branch, Operations Division

Date: September 22, 2021

REGIONAL GENERAL PERMIT 0403-03
DETAILED DESCRIPTION OF AUTHORIZED ACTIVITIES

This Regional General Permit authorized the construction, expansion, and extension of boat ramps and other activities related to boat ramps in waters of the U.S. located in North Dakota, excluding Lake Sakakawea and Lake Oahe. Activities authorized under this Regional General Permit include the following:

1. Typical Boat Ramp: Boat ramps would be constructed of poured concrete or concrete slabs on crushed stone, stone spall, or gravel base. Typically, a maximum thickness of 24 inches of granular fill material would be placed as bedding for boat ramp construction. Bedding material may exceed 24 inches in thickness if necessary due to existing conditions (e.g., steep slopes created from erosion). Additional suitable materials may be utilized to stabilize the foundation prior to the placement of the bedding or base material, provided such material is free of any deleterious substances. The ramps would be reinforced concrete poured in place or pre-cast concrete planks mechanically placed in position. Ramps would not exceed a maximum base width of 40 feet. The Corps must approve disposal sites used for the discharge of dredge material where such material was obtained from construction, expansion, or extension of boat ramps.

2. Boat Ramp Extensions: Boat ramps would be widened or lengthened as necessary. Existing ramps would be modified to a configuration similar to the typical ramps described above.

3. Access Roads and Turn-around and Parking Areas: New roadway work shall not exceed 24 feet in width. Turn-around areas shall not impact more than one half (1/2) acre of waters of the U.S. Temporary parking areas shall not impact more than one half (1/2) acre of waters of the U.S. Granular/earthen surfacing for access roads, turn-around areas, and parking areas shall not exceed eight (8) inches in thickness and the base material shall not exceed two (2) feet in thickness. The minimum amount of fill to cross cut-banks is also authorized. These areas shall be minimally constructed to safely accommodate the public. Modification, maintenance, expansion and/or improvement to existing access roadways and parking areas may also be authorized.

4. Erosion Protection: Riprap may be placed along ramp shoulders in quantities adequate to provide erosion protection. A maximum riprap placement of 1 cubic yard per linear foot of ramp would be allowed on each side of the ramp. One cubic yard of rock riprap may also be placed along the adjacent shoreline, extending a maximum of 100 feet on each side of the ramp, for erosion protection. Documentation must be provided that work would not divert water flow and damage property not owned by the prospective permittee.

REGIONAL GENERAL PERMIT 0403-03
DETAILED DESCRIPTION OF AUTHORIZED ACTIVITIES CONTINUED

5. Excavation and Dredging for Ramp Access: Excavation or removal of accumulated sediment and/or debris, dredging to provide ramp access, and dredging to provide or maintain access channels to ramps within Section 10 navigable waterways are authorized. Dredging for the aforementioned purposes would be limited to 2,000 cubic yards per ramp facility. The Corps must approve disposal sites for material derived from dredging if the disposal site will be in waters of the U.S. Silt curtains would be required to isolate any anticipated turbidity for dredging exceeding 200 cubic yards.

6. Cofferdams: Cofferdams necessary for construction activities would be limited to the minimum necessary to construct or extend a ramp, to facilitate the removal of sediment/substrate, or to facilitate necessary dredging activities provided that the cofferdam would not divert water flow and damage property not owned by the prospective permittee. Cofferdams would be removed in their entirety upon completion of construction activities and the area restored to preconstruction conditions.

REGIONAL GENERAL PERMIT 0403-03 APPLICATION PROCEDURES AND GENERAL CRITERIA

The following criteria govern the duration, utilization, and applicability of this Regional General Permit:

All interested parties proposing work under this Regional General Permit area required to submit Department of the Army permit application ENG Form 4345 by email to CENWO-OD-RND@usace.army.mil or by regular mail to the US Army Corps of Engineers, North Dakota Regulatory Office (NDRO), 3319 University Drive, Bismarck, North Dakota 58504. Contract with the Corps is required in advance so that a determination can be made that the work meets the terms and conditions of the RGP.

The following information is required:

1. Name, address, email and telephone number of the landowner and the person responsible for the work, if other than the landowner.
2. A written description of the proposed work, including the purpose and need; type, composition and volume of fill and/or excavated material; length, width and depth of fill material and/or excavation area; disposal site for the excavated material; borrow site for fill material; types of equipment to be used; and area and location of all impacts to wetlands, streams, or other waters of the U.S.; and any other pertinent, supporting data.
3. A location map with the project boundary clearly identified. Include a written legal description of the project area including section, township, range, county, and Latitude and Longitude in decimal degrees.
4. Names, addresses, and telephone numbers of adjacent property owners.
5. A set of drawings on 8½ x 11-inch paper, with dimensions of the proposed work, showing:
 - a. A plan or top view of the project area that shows existing and proposed site conditions.
 - b. A typical cross-section or side view of the project area that shows existing and proposed site conditions.
 - c. Photographs of the project area.
 - d. As applicable, a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.
6. Projects that involve fills in wetlands must include an aquatic resource delineation for the entire project area. Minimum standards and delineation reference materials may be accessed on the NDRO website at:
<https://www.nwo.usace.army.mil/Missions/Regulatory-Program/North-Dakota/>.

**REGIONAL GENERAL PERMIT 0403-03
APPLICATION PROCEDURES AND GENERAL CRITERIA CONTINUED**

7. The location of borrow material shall be identified on a map. If obtained from a commercial source, the name and address of the source and/or a copy of the NDDOT's Material Source Certificates of Approval is acceptable.

No project may proceed until notification of approval has been provided by the NDRO that the proposal meets the criteria of the RGP.

REGIONAL GENERAL PERMIT 0403-03 SPECIAL CONDITIONS

Any authorization granted under this Regional General Permit will be subject to the following conditions:

- 1. Cubic Yardage and Design Limits:** The maximum amount of permanent discharge of fill material in waters of the U.S. allowed under this permit is 500 cubic yards. Total width of ramps and associated fills cannot exceed 40 feet.
- 2. Wetlands and Other Waters:** Total area of waters of the U.S. that can be affected by a single and complete project is 0.5 acre. Of that area, filling and other impacts (excavation, drainage, vegetation removal) to wetlands cannot exceed 0.1 acre for the project.
- 3. Water Quality:** The permittee must comply with the conditions established by the North Dakota Department of Environmental Quality or US Environmental Protection Agency's Section 401 water quality certification, whichever is applicable based on location.
- 4. Historic Properties:** No activity is authorized that would adversely impact sites included in the most current listing of the National Register of Historic Places, sites known to be eligible for such listing, sites included in the National Register of Natural Landmarks, or any other known historic, cultural, or archaeological sites. The District Commander will comply with the provisions of 33 CFR Part 325, Appendix C, pursuant to the National Historic Preservation Act of 1966. Individual notices of intent will be consulted on as appropriate. The Permittee and the Permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of the contract, shall immediately cease work and report the discovery of subsurface features to the North Dakota Regulatory Office and State Historical Society. If discoveries occur on Tribal property, notification shall be made to the North Dakota Regulatory Office and applicable Tribal Historic Preservation Officer. Work shall not resume until notified by the North Dakota Regulatory Office.
- 5. Threatened and Endangered Species:** No activity is authorized that is likely to jeopardize the continued existence of species, or their critical habitats, designated or proposed for designation as threatened or endangered pursuant to the Endangered Species Act of 1972. Individual notices of intent will be consulted on as appropriate. The Permittee and the Permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of the contract, shall report any endangered species at the project site to the North Dakota Regulatory Office and US Fish and Wildlife Service within 48 hours.

**REGIONAL GENERAL PERMIT 0403-03
SPECIAL CONDITIONS CONTINUED**

6. **Peatlands:** This permit is not applicable to activities that involve impacts to jurisdictional peatlands. For purposes of this condition, peatlands are permanently or seasonally waterlogged areas with a surface accumulation of peat (organic matter) 30 centimeters (12 inches), or more, thick. Under cool, anaerobic, and acidic conditions, the rate of organic matter accumulation exceeds organic decay. Any peat-covered areas, including fens, bogs, and muskegs, are all peatlands.
7. **Spawning Areas:** Construction in spawning areas during spawning season is restricted based on information available on the North Dakota Game and Fish Departments website at <http://gf.nd.gov/gnf/conservation/docs/spawning-restriction-exclusions.pdf>.
8. **Tribal Rights:** No activity is authorized that would impair reserved tribal rights, including, but not limited to, water, fishing, and hunting rights.
9. **Suitable Fill Material:** No discharge 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 as required by Section 307 of the Clean Water Act. If broken concrete will be used as fill material, the individual pieces must be large enough so that they will not be displaced by wave action and all exposed rebar must be removed. Specific verbiage on prohibited materials can be accessed on the North Dakota Regulatory Office's website at: <https://www.nwo.usace.army.mil/Media/Fact-Sheets/Fact-Sheet-Article-View/Article/487696/prohibited-restricted-materials/>
10. **Proper Maintenance:** Any fill material must be properly maintained, including maintenance necessary to ensure public safety.
11. **Water Supply Intakes:** No discharge may occur within 1000 feet of a public water supply intake. No discharge shall adversely affect a water intake that was in place prior to boat ramp work.
12. **Wild and Scenic Rivers:** No discharge may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed discharge will not adversely affect the Wild and Scenic River designation, or study status.
13. **Minimization:** Permittees are required to minimize adverse effects of projects by:

REGIONAL GENERAL PERMIT 0403-03
SPECIAL CONDITIONS CONTINUED

- a. Installing turbidity controls in the form of silt curtains or similar type cloth material, or other approved methods, in a configuration that will adequately contain sediment from the activity authorized if the activity includes dredging of 200 cubic yards or greater. The turbidity controls will remain in place and be maintained until construction is complete.
- b. Placing all construction debris (which includes excess dredged and/or fill materials, wood, cleared vegetation, concrete, and all other materials not specifically addressed in the permit) on upland in such a manner that it cannot enter a waterway or wetland. Debris will be immediately removed in order to prevent the accumulation of unsightly, deleterious and/or potentially polluted materials.
- c. Operating equipment that handles and/or conveys materials during construction in such a manner that prevents dumping or spilling the materials into the water except as approved by the permit.
- d. Performing work in the waterway in such a manner so as to minimize increases in suspended solids and turbidity that may degrade water quality and damage aquatic life outside the immediate area of operation.
- e. Utilizing only clean rock material from a non-streambed source for riprap or associated with the placement of riprap.
- f. Limiting clearing of vegetation to that which is absolutely necessary for construction of the project.
- g. Conducting close coordination with downstream water users, advising them of any water quality changes to be caused by the construction.
- h. Conducting all earthwork operations on shore in such a manner that sediment runoff and soil erosion to the water are controlled.
- i. Complying with remedial measures given by the District Commander if there has been notification that the filling and/or dredging activity associated with the project is adversely affecting fish or wildlife resources or the harvest thereof. This may include suspending or modifying the activity to the extent necessary to mitigate or eliminate the adverse effect.
- j. Reseeding areas along banks which are disturbed or cleared with vegetation indigenous to the project area.

**REGIONAL GENERAL PERMIT 0403-03
SPECIAL CONDITIONS CONTINUED**

- k. Ensuring that no petroleum products, chemicals, or other deleterious materials be allowed to enter or be disposed of in such a manner so that they could enter the water and that precautions be taken to prevent the entry of these materials into the water.
- l. Ensuring that the use of machinery in the waterway is kept to a minimum.
- m. Ensuring that all temporary fill material is removed in its entirety and the area restored to its preconstruction contours.
- n. Making no attempt to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized.

14. Liability:

- a. In issuing this permit and giving approval to perform work under this permit, the Federal Government does not assume any liability for 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; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; design or construction deficiencies associated with the permitted work; or damage claims associated with any future modification, suspension, or revocation of this permit.
- b. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

15. Construction Period:

- a. The time limit for completing the work authorized is one (1) year from the authorization date. If additional time will be needed to complete the authorized activity, a written request for a time extension must be submitted to the North Dakota Regulatory Office.
- b. The Permittee shall notify the North Dakota Regulatory Office at what time the activity authorized herein will be commenced, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

From: [Wax, Peter N.](#)
To: [Erhardt, Toni R CIV USARMY CENWO \(USA\)](#)
Subject: [Non-DoD Source] RE: WQC Request: Corps Proposal to Reissue Regional General Permit 0403
Date: Monday, April 5, 2021 3:31:42 PM
Attachments: [image001.png](#)

April 5, 2021

Toni R. Erhardt, Senior Project Manager
USACE, North Dakota Regulatory Office
3319 University Drive
Bismarck, North Dakota 58504

Section 401 Water Quality Certification: Regional General Permit 0403

This Certification, issued by the North Dakota Department of Environmental Quality (department), applies to Regional General Permit 0403.

The department issues Certification based on supporting the Standards of Quality for Waters of the State North Dakota (standards) Administrative Code Chapter 33.1-16-02.1 as intended by the ND Century Code 28-61-04. The department has determined that any discharge under the conditions in the Regional General Permit 0403 will comply with the water quality requirements as defined at 40 CFR 121.7 and 121.1.

Should you have any questions, I may be reached by phone at 701.328.5268 and email pwax@nd.gov.

Sincerely,

Peter N. Wax
Special Projects
Division of Water Quality

701.328.5268 • pwax@nd.gov • <https://deq.nd.gov/>





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

May 27, 2021

Ref: 8WD-CW

SENT VIA EMAIL

Ms. Patricia L. McQueary
U.S. Army Corps of Engineers
North Dakota Regulatory Office
Patricia.L.McQueary@usace.army.mil

RE: Clean Water Act § 401 Certification for the Reissuance of the U.S. Army Corps of Engineers Regional General Permit (RGP) 0403-03 Affecting Waters of the United States Within Indian Country Lands in North Dakota

Dear Ms. McQueary:

The U.S. Environmental Protection Agency (EPA) received a request from the U.S. Army Corps of Engineers (Corps) for a Clean Water Act (CWA) § 401 water quality certification (WQC) for the reissuance of RGP 0403 for the construction, expansion, and extension of boat ramps and associated erosion protection in all waters of the U.S. (WOTUS) located in the State of North Dakota, excluding Lake Sakakawea and Lake Oahe. The Corps proposes to reissue the RGP for a period of five years.

Section 401(a)(1) of the Clean Water Act requires applicants for Federal permits and licenses that may result in discharges into waters of the United States to obtain certification that potential discharges will comply with applicable provisions of the CWA, including Sections 301, 302, 303, 306 and 307. Where no state agency or tribe has authority to give such certification, EPA is the certifying authority. Presently, the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the MHA Nation (the Three Affiliated Tribes) and the Turtle Mountain Band of Chippewa Indians do not have the authority to provide CWA § 401 certification for discharges occurring within the Indian country lands of those Tribes; therefore, the EPA is making the certification decisions for discharges within those lands that may result from the proposed reissuance of RGP 0403.

EPA considered all applicable provisions of the CWA and tribal water quality requirements when reviewing the potential impacts of this permit. On behalf of the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the MHA Nation (the Three Affiliated Tribes), and the Turtle Mountain Band of Chippewa Indians, EPA is granting the certification request for the activities authorized under the Corp's RGP 0403-03.

This certification should be retained in your files as documentation of EPA certification action for the above-referenced project. This certification is specifically associated with the Corps RGP 0403-03 and expires concurrently with said permit expiration. If you have any questions, please contact Aaron Blair at 303-312-6883 or R8CWA401@epa.gov.

Sincerely,

Judy Bloom, Manager
Clean Water Branch

CC:

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