

# PUBLIC NOTICE



US Army Corps  
of Engineers  
Kansas City District

Permit No. GP-41 (2007-2078)

Issue Date: April 22, 2013

---

STATES OF KANSAS AND MISSOURI, INCLUDING INDIAN COUNTRY,  
ISSUANCE OF REGIONAL GENERAL PERMIT (GP) 41 for  
FLOOD RECOVERY AND REPAIR ACTIVITIES

The U.S. Army Corps of Engineers, Kansas City District, **HAS ISSUED GP-41** (copy enclosed) for the protection and the repair of existing flood damaged structures, damaged land areas, and damaged fills under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344). The GP-41 authorizes flood recovery and repair activities in the State of Kansas and the State of Missouri but GP-41 does not obviate the need for project proponents to obtain other Federal, state, or local authorizations, required by law, prior to completing the authorized work.

**DURATION OF THE GENERAL PERMIT:** The GP-41 is issued and is in effect for a period of five (5) years from the issuance date listed above (April 22, 2013) until April 22, 2018, unless it is specifically modified, suspended, or revoked prior to the expiration date. Upon its expiration, GP-41 will again be considered for renewal. The GP-41 may be modified, suspended or revoked, in whole or in part, at any time if it is determined that the cumulative effects of the activities, authorized by GP-41, have a significant environmental impact or is otherwise determined to be contrary to the public interest.

**APPLICANT:** General Public

**PROJECT LOCATION:** In waters of the United States in the State of Kansas, including Indian country, and the State of Missouri, that are declared flood disaster areas by the Governor of these States and/or by the President of the United States of America.

**AUTHORITY:** Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

**ACTIVITY:** Excavation or placement of fill material for protection and/or repair of existing flood damaged structures, damaged land areas and/or damaged fills as outlined in GP-41 (see enclosure).

- a. Repair of levees to existing elevations and cross-section, including breach closures and borrow operations.
- b. Bridge embankment protection (armoring) and/or repair.
- c. Repair of pre-existing highway or railroad embankments and the addition or repair of stone (armoring) protection.
- d. Repair of pre-existing utility protection structures.
- e. Placement of rock and/or earth materials for stream/ditch bank protection and/or stream/ditch bank restoration.

- f. Drainage channel/ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event.
- g. Restoration of creek channels to pre-flooding alignment and capacity.
- h. Construction of temporary roads and temporary fills to facilitate the completion of any of the listed activities.

Note: The maintenance of existing flood damaged structures and/or flood damaged fills, which have been previously authorized, may be authorized by Nationwide Permit No. 3 or exempted by Part 323.4 of Federal Regulations 33 CFR 320-332. The repair of uplands damaged by storms, floods or other discrete events may be authorized by Nationwide Permit No. 45 upon notification and review by the Corps of Engineers.

**NOTIFICATION PROCEDURES:** Individuals desiring to perform activities in accordance with the criteria of this GP must review special condition "d" of this permit in order to determine if preconstruction notification (PCN) to the Corps of Engineers is required for the project prior to commencing work. If a PCN is required, all information outlined in Appendix I must be submitted to the Corps of Engineers for review and the Corps must verify that the proposed work is authorized by GP-41. An ENG Form 4345 and complete instructions are available at:

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainPermit.aspx> and may be used for the purpose of notification.

Flood repair activities, supervised by the Corps of Engineers, pursuant to Public Law 84-99 and/or supervised by the United States Department of Agriculture, pursuant to the emergency Watershed Protection Program or the Emergency Conservation Program does not require notification to the Corps of Engineers, Regulatory Branch. It is the responsibility of these federal agencies to comply with all environmental laws and Presidential Executive Orders.

**SECTION 401 WATER QUALITY CERTIFICATION:** Conditions of any individual or programmatic Section 401 Water Quality Certification issued by the Missouri Department of Natural Resources (MDNR), the Kansas Department of Health and Environment (KDHE), or the Environmental Protection Agency (EPA) (for Kansas Indian country) are conditions of the GP-41. General Condition 5 of the GP states: "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."

**INDIAN COUNTRY:** Applicants must request and obtain individual Section 401 Water Quality Certification from the U.S. Environmental Protection Agency (EPA) by writing EPA, Tribal Coordinator, 11201 Renner Boulevard, Lenexa, Kansas 66219, or by calling (913) 551-7498. You must receive Section 401 Water Quality Certification and comply with the conditions of that certification during performance of any authorized work.

**ADDITIONAL INFORMATION:** Additional information about GP-41 may be obtained by writing to the following address: Chief, Regulatory Branch, U.S. Army Corps of Engineers, Federal Building, Room 402, (OD-R), 601 East 12<sup>th</sup> Street, Kansas City, Missouri 64106-2824 or by calling **Mr. Douglas R. Berka** at 816-389-3657 (FAX 816-389-2032) or email at [douglas.r.berka@usace.army.mil](mailto:douglas.r.berka@usace.army.mil).

## DEPARTMENT OF THE ARMY PERMIT

**Permittee** General Public

**Permit No.** NWK-GP-41 (Permanent Protection/Repair of Flood Damaged Structures, Lands or Fills)

**Issuing Office** U.S. Army Corps of Engineers, Kansas City District

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:** To excavate or place fill material for protection and/or repair of existing flood damaged structures, damaged land areas and/or damaged fills as follows:

- a. Repair of levees to existing elevations and cross-section, including breach closures and borrow operations.
- b. Bridge embankment protection (armoring) and/or repair.
- c. Repair of pre-existing highway or railroad embankments and the addition or repair of stone (armoring) protection.
- d. Repair of pre-existing utility protection structures.
- e. Placement of rock and/or earth materials for stream/ditch bank protection and/or stream/ditch bank restoration.
- f. Drainage channel/ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event.
- g. Restoration of creek channels to pre-flooding alignment and capacity.
- h. Construction of temporary roads and temporary fills to facilitate the completion of any of the listed activities.

**Note:** You must review special condition "d" of this permit (page 4) in order to determine if preconstruction notification (PCN) to the Corps of Engineers is required for your project prior to commencing work. If a PCN is required, all information outlined in Appendix I must be submitted to the Corps of Engineers for review and the Corps must verify that the proposed work is authorized by NWK-GP-41.

In addition, maintenance of existing flood damaged structures and/or flood damaged fills, which have been previously authorized, may be authorized by Nationwide Permit No. 3 or exempted by Part 323.4 of Federal regulations 33 CFR 320-332. The repair of uplands damaged by storms, floods or other discrete events may be authorized by Nationwide Permit No. 45 upon notification and review by the appropriate Corps of Engineers District, Regulatory Branch.

**Project Location:** In waters of the United States (rivers, lakes, streams and wetlands) within the State of Kansas, including Indian Country, and within the State of Missouri, that are declared flood disaster areas by the Governor of either state and/or the President of the United States.

**Permit Conditions:**

General Conditions:

1. This general permit expires on 22 April 2018, unless it is modified, revoked or specifically extended, and the time limit for completing the authorized work ends on this date, unless your individual general permit verification letter specifies an earlier date. Provided the verification letter does not specify an earlier date, if you have started the work or are under contract to begin this activity before the general permit expires, you will have twelve (12) months from that expiration date to complete the activity under the present terms and conditions of this general permit.
2. You must maintain the activity authorized by this permit 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 this permit.

**Special Conditions:**

**See continuation sheets, pages 4 through 7, of this document. In addition, review Appendix I for information required to be submitted to the Corps of Engineers if your project requires PCN before beginning work. Appendix I also contains the list of information you must submit after completing your project if PCN is not required for your particular project.**

**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 authorization 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 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 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.

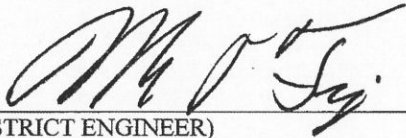
6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

GENERAL PUBLIC - SIGNATURE NOT REQUIRED  
(PERMITTEE)

\_\_\_\_\_  
(DATE)

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



(DISTRICT ENGINEER)  
ANTHONY J. HOFMANN, COLONEL  
BY: MARK D. FRAZIER  
CHIEF, REGULATORY BRANCH

22 April 2013  
(DATE)

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.

\_\_\_\_\_  
(TRANSFEREE)

\_\_\_\_\_  
(DATE)

**NWK-GP-41 Special Conditions:**

a. You must sign and return the attached "Compliance Certification" after the authorized work and any required mitigation is completed. Your signature will certify that you completed the work in accordance with this permit, including the general and the special conditions, and that any required mitigation was completed in accordance with the permit conditions.

**b. (Activities occurring in navigable waters under Section 10 of the Rivers and Harbors Act of 1899 Only).** 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 of Engineers, 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.

c. If any part of the authorized work is performed by a contractor, before starting work you must discuss the terms and conditions of this permit with the contractor; and, you must give a copy of this entire permit to the contractor.

d. You must contact the Corps of Engineers, submit application materials outlined in Appendix I, and you must submit a mitigation plan prior to completing any flood recovery/repair activity when the repair involves obtaining borrow from forested wetland, borrowing material from potential migratory bird nesting areas, clearing trees along stream channels, working in areas with known exotic/sensitive species, work is located in Exceptional State Waters and/or Special Aquatic Life Use Waters, and/or if the proposed repair activity includes restoration of a stream channel back to the original, pre-flood, location. All other flood repair activities, including all repairs supervised by the Corps of Engineers, pursuant to Public Law 84-99 and/or all repairs supervised by the United States Department of Agriculture, pursuant to the Emergency Watershed Protection Program or to the Emergency Conservation Program can be completed without pre-construction notification to the Corps of Engineers. However, all completed flood repair work, authorized by this permit, must be reported to the Corps of Engineers, Regulatory Branch, within 60 days of completing the project. The report must include the location of the work, as-built drawings of the structure(s) and/or fill(s), and a discussion of the avoidance and minimization measures incorporated into the project and mitigation measures employed. Reports must be submitted to the Corps of Engineers, Regulatory Branch, Federal Building, 601 East 12<sup>th</sup> Street, Suite 402 (OD-R), Kansas City, Missouri 64106 (ATTN: GP-41).

The list of sensitive species in Missouri can be found at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MORC7AquaticSpecies.pdf>. The list of special status waters in Kansas, requiring notification can be found at: [http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/DesignatedWaters\\_14Oct2011.pdf](http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/DesignatedWaters_14Oct2011.pdf).

e. You must NOT dredge or excavate from the Missouri River or from the Kansas River in order to obtain borrow material for any flood repair project authorized by this permit.

f. You must employ measures to prevent spilled fuels, lubricants, excessive suspended solids including dredged material, and/or wet concrete from entering the waters of the United States and formulate a contingency plan to be effective in the event of a spill.

#### **NWK-GP-41 Special Conditions Continued:**

g. You must use clean, uncontaminated materials for fill in order to minimize excessive turbidity by leaching of fines, as well as to preclude the entrance of deleterious and/or toxic materials into the waters of the United States by natural runoff or by leaching. Use of small aggregate material less than 20 lbs per aggregate, such as creek gravel, for stabilization and erosion control is prohibited.

h. You must excavate or fill in the watercourse so as to minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation. Activities should be conducted during low water periods and must be conducted outside major spawning season for fish, unless a waiver is obtained from the Corps of Engineers. The list of waters with seasonal spawning restrictions in Missouri can be found at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/SpawningList.pdf>.

i. You must use the stream crossing guidelines for any temporary stream crossing constructed in a regulated waterway. The guidelines, for Missouri can be found at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MORC1Streams.pdf>.

The stream crossing guidelines for Kansas can be found at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/KSRC1Streams.pdf>.

Stream crossings and use of construction machinery in waterways should be limited to the minimum extent necessary.

j. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body. All construction debris must be disposed of in an upland site, outside the floodplain, and in such a manner that it cannot enter into a waterway or into a wetland.

k. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.

l. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. You must avoid the removal of mature trees to prevent potential impacts to bald eagle roost sites. Work should be limited to one side of the channel only. However, work from both sides of the channel is permitted if it is demonstrated that it results in minimizing tree clearing. Vegetated riparian buffer areas should be included along both sides of any channel restoration projects. All wooded areas cleared for site access must be allowed to return to forested habitat. Mitigation may be required for other timber clearing.

m. Upon completion of earthwork operations, you must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction. All plant material, including seed mixes, should be composed of native species. If seeding does not successfully stabilize the disturbed soil areas by the end of the first growing season, you must implement alternate measures, such as placing riprap, slope terracing with untreated railroad ties, gabions or concrete blocks, or additional vegetative plantings, to protect the disturbed areas from further erosion. Clearing, grading, and replanting should be planned and timed so that only the smallest area is in a bare soil condition. You must contact the Corps of Engineers prior to beginning work on any additional erosion control measures so that we can determine if additional authorization is required.

#### **NWK-GP-41 Special Conditions Continued:**

n. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in an upland area above the ordinary high water mark and at a location where the concrete and wash water cannot enter the water body or an adjacent wetland area.

o. You must not dispose of any construction debris or waste materials below the ordinary high water mark of any water body, in a wetland area, or at any location where the materials could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.

p. You must use only graded rock, quarry-run rock and/or clean concrete rubble for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume. If you use concrete rubble, you must break all large slabs to conform to the well graded requirement, and remove all exposed reinforcement rods, trash, asphalt, and other extraneous materials before you place the rubble in the waters of the United States. Size and gradation requirements can be changed provided approval is received from the Corps' Regulatory Branch prior to placement.

q. You must completely remove all temporary fills, including sand bags (to the extent practicable), in the Waters of the United States within 30 days of the end of the flood emergency. If sand bags are needed for a longer duration until permanent repairs are made, you must request a waiver of this condition in writing.

r. You must avoid impacts to wetlands to the fullest extent practicable. When wetlands impacts are unavoidable, borrow site selection will be based on the following order of preference: upland (non-wetland) sources, areas riverward of the levee previously used for borrow, open prior converted cropland, farmed wetlands, or other authorized excavation sites. You must mitigate for all unavoidable proposed wetland excavation or fill activities authorized by this permit. You must develop mitigation plans on a case-by-case basis which must be approved by the Corps. This permit does not authorize actions designed to drain or otherwise convert wetlands to other uses, nor actions where a practicable alternative to impacting wetlands is available unless the Corps of Engineers, in consultation with other resource agencies, determine that sediment removal from existing wetlands will restore wetland functions and create valued habitat diversity. All borrow areas should have 5:1 horizontal to vertical side slopes and the water depth should be three feet deep or less under normal circumstances.

s. You must place all fills and structures in waterways such that they do not result in stream channel constriction, they do not cause redirection of flows in such a way as to cause upstream or downstream erosion, and/or they do not restrict aquatic organism movement, especially during periods of low flow. Channelization projects or shortening of waterways, other than restoration of creek channels to pre-flood alignment, are not authorized by this permit.

t. This Corps permit does not authorize you to take an endangered species. You must not undertake actions that are likely to jeopardize the existence of a threatened or endangered (T&E) species or a species proposed for such designation as defined in the Federal Endangered Species Act, nor actions which are likely to destroy or adversely modify the habitat of such species. You should contact the state office of the U.S. Fish and Wildlife Service to assure that the project will not adversely affect a T&E listed species. If the project requires the removal of mature trees along stream channels or within forested wetland you must contact the Corps of Engineers prior to any tree clearing activity. In addition, you must contact the Corps of Engineers if you are working in a stream channel with known populations of

#### NWK-GP-41 Special Conditions Continued:

endangered aquatic species. This condition may not apply when no species of concern occur in the permit area or when incidental take is unlikely to occur. A list of threatened & endangered (T&E) Species in Kansas can be found at:

[http://ecos.fws.gov/tess\\_public/pub/stateListingAndOccurrenceIndividual.jsp?state=KS&s8fid=112761032792&s8fid=112762573902](http://ecos.fws.gov/tess_public/pub/stateListingAndOccurrenceIndividual.jsp?state=KS&s8fid=112761032792&s8fid=112762573902). A list of T&E species in Missouri can be found at:

[http://ecos.fws.gov/tess\\_public/pub/stateListingAndOccurrenceIndividual.jsp?state=MO](http://ecos.fws.gov/tess_public/pub/stateListingAndOccurrenceIndividual.jsp?state=MO).

u. You must avoid activity in the proximity of a property listed in or eligible for listing in the National Register of Historic Places unless, after coordination with the State Historic Preservation Office of the affected state and/or the Advisory Council on Historic Preservation, a determination of "no effect" or "no adverse effect" is made in accordance with criteria established by 36 CFR 800. If an inadvertent discovery of any cultural or archaeological resource occurs you must immediately contact this office and you should suspend work in the area until a determination of eligibility for listing on the National Register of Historic Places is completed and any necessary consultation under Section 106 of the National Historic Preservation Act is completed.

v. You must NOT undertake any activity that results in a new structure or replacement of a previously authorized structure with an increase in scope or design of the original structure. Small changes that do not affect elevations, such as the reconstruction of a levee around a scour hole at pre-existing elevations, and that do not convert wetland to upland (non-wetland) or a different wetland use beyond what is unavoidable such as to go around a scour hole, may be authorized upon notification to the Corps. Levee breach repairs constructed on new alignments must be setback farther from the stream channel than the original alignment.

w. You must contact the Missouri Department of Natural Resources, Water Pollution Control Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or the Kansas Department of Health and Environment, Bureau of Water, Curtis State Office Building, 1000 Southwest Jackson, Topeka, Kansas 66612, in order to determine the need for a state permit for land disturbance, return water, or other activities that normally require such permits. Use of GP-41 shall not be construed or interpreted to imply that the requirements for all other federal, state, and/or local permits are replaced or superseded. Any national pollutant discharge elimination system (NPDES) permits, general permits for land disturbance, or other requirements should be complied with.

x. You must notify the Corps of Engineers if one of the following common exotic species occurs in the project area. The zebra mussel (*Dreissena polymorpha*), Eurasian watermilfoil (*Myriophyllum spicatum*), purple loosestrife (*Lythrum salicaria*), Johnson grass (*Sorghum halepense*), sericia lespedeza (*Lespedeza cuneata*), salt cedar (*Tamarix spp.*), and reed canary grass (*Phalaris arundinacea*). You must take appropriate actions to prevent the spread of any exotic animal species and noxious and invasive plant species. The following link

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MOInvasivePlants.pdf> provides a list of plant species that shall not be used on any project unless this requirement is waived by the district engineer based on a case specific analysis of the planting plan. Best management practices should be used to reduce the risk of transferring invasive plant and animal species to or from the project site. Best management practices can be found at:

<http://www.invasivespeciesinfo.gov/toolkit/prevention.shtml>. The following best management practice can help prevent the spread of these species. Clean and certified weed-free seed should be used for plantings. Equipment brought on the project site should be washed to remove dirt, seeds and plant parts. If the equipment has been used in a body of water in the last 30 days it can be washed at a commercial car wash or dried for five or more days before using the equipment in another body of water. In addition,

**NWK-GP-41 Special Conditions Continued:**

before transporting equipment from the project site visible water, mud, plants and animals should be removed. Waters that the zebra mussel is known to inhabit in Kansas and in Missouri can be found at the following website: <http://nas.er.usgs.gov/queries/zmbyst.asp>.

y. For activities occurring in Indian Country, you must request and obtain individual Section 401 Water Quality Certification from the U.S. Environmental Protection Agency, (USEPA) by writing USEPA Region 7, 401 Coordinator for Section 404 permits, 11201 Renner Boulevard, Lenexa, Kansas 66219, or by calling (913) 551-7003 or 1-800-223-0425. You must receive Section 401 Water Quality Certification and comply with the conditions of that certification during performance of any authorized work.

## APPENDIX I

### Criteria for Authorization by General Permit NWK-GP-41

1. This general permit authorizes activities proposed by the general public, railroads, transportation departments, pipeline and utility companies, and government agencies.
2. If you propose to work under the authority of this General Permit and the project requires preconstruction notification as outlined in special condition "d" of the permit, you must notify the appropriate Corps of Engineers district within two (2) years of the end of the flood emergency (when the nearest river gauge drops below flood stage for two months), and receive authorization prior to starting work within the Corps regulatory jurisdiction. This two year period may be waived by the district engineer provided the permittee can demonstrate a delay based on available funding, contracting, or other similar delays. You must submit the following information:
  - a. Submit a completed application form ENG 4345 or a letter which includes all information required by form ENG 4345. The ENG 4345 is available at:  
[www.nwk.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainPermit.aspx](http://www.nwk.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainPermit.aspx)
  - b. Provide a complete description of the proposed work, including a statement describing compensatory mitigation to replace aquatic resources lost as a result of the project or a statement justifying why compensatory mitigation is not required, and a proposed plant list to restore all disturbed areas that result from the construction activities so that we can clearly and readily determine whether or not the proposed work complies with this General Permit and determine if compensatory mitigation is warranted. If required, compensatory mitigation plans must be in accordance with the mitigation regulations found at 33 CFR 332.
  - c. Describe and illustrate the location of the flood repair activities on an aerial photograph. The activity must be in counties where a current disaster declaration is issued by the Governor of the State of Kansas, the Governor of the State of Missouri and/or the President of the United States. Include an 8 1/2" x 11" map with the location of the proposed project clearly marked, including the Section, Township, and Range and the Latitude and Longitude (decidegrees).
  - d. Submit an 8 1/2" x 11" drawing(s) showing the details of the proposed repair work. Include a list of plant materials proposed for restoration and/or erosion control. The plant list should include both the common name and the Latin binomial.
  - e. Discussion of possible alternatives and why the preferred alternative was selected.
  - f. Also, as project proponent, you must send copies concurrently to the following addresses, but we will not necessarily solicit comments from these agencies. We will give these agencies an opportunity to request that we take discretionary authority to require that you apply for an individual permit, if a significant problem is identified.

(1) For all repair projects, you must contact:

U.S. Environmental Protection Agency  
Watershed Planning and Implementation Branch  
11201 Renner Boulevard  
Lenexa, Kansas 66219  
(913) 551-7003

\* Federal Emergency Management Agency  
Region VII  
9221 Ward Parkway, Suite 300  
Kansas City, Missouri 64114-3372  
(816) 283-7063

*\* You must contact FEMA for all proposed development located in the 100-year floodplain of a National Flood Insurance Program (NFIP) participating community in order to comply with local floodplain management regulations and secure a floodplain development permit from that community.*

(2) Repair projects in Missouri, you must contact:

U.S. Fish and Wildlife Service  
Columbia Field Office  
101 Park DeVille Drive, Suite A  
Columbia, Missouri 65203  
(573) 234-2132

Missouri Department of Natural Resources  
Water Pollution Control Branch  
P.O. Box 176  
Jefferson City, Missouri 65102  
1-800-361-4827 or (573) 751-1300

Missouri Department of Conservation  
Policy Coordination  
P.O. Box 180  
Jefferson City, Missouri 65102-0180  
(573) 522- 5115

Missouri Department of Natural Resources  
Historic Preservation Program  
P.O. Box 176  
Jefferson City, Missouri 65102  
(573) 751-7958

(3) Repair projects in Kansas, you must contact:

U.S. Fish and Wildlife Service  
Manhattan Field Office  
2609 Anderson Avenue  
Manhattan, Kansas 66502  
(785) 539-3474

Kansas Department of Health and Environment  
Bureau of Water  
Curtis State Office Building  
1000 Southwest Jackson Street  
Topeka, Kansas 66612  
(785) 296-1500

Kansas Department of Wildlife, Parks and Tourism  
512 Southeast 25<sup>th</sup> Avenue  
Pratt, Kansas 67124  
(620) 672-5911

3. For projects not requiring pre-construction notification, a report of the completed repair activities must be submitted that includes the location of the work (including an aerial photograph), as-built drawings of the structure(s) and/or fill(s), a list of plant materials (including the common and Latin binomial name) incorporated into the project, and a discussion of the avoidance and minimization measures incorporated into the project and mitigation measures employed.

4. We may reevaluate the cumulative impacts of this general permit at our discretion at any time. We will reevaluate cumulative impacts at least every five (5) years as part of the review process for the reissuance of GP-41.

5. The following is a list of flood damaged structures, damaged land areas and/or damaged fills authorized to be repaired under this general permit:
- a. Repair of levees to existing elevations, including breach closures and borrow operations.
  - b. Bridge embankment protection (armoring) or repair.
  - c. Repair of pre-existing highway and/or railroad embankments and armor protection.
  - d. Repair of pre-existing utility protection structures.
  - e. Placement of rock and/or earth materials for emergency bank protection or restoration.
  - f. Drainage ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event.
  - g. Restoration of creek channels to pre-flooding alignment, capacity and flow line.
  - h. Construction of temporary haul roads to facilitate any of the above listed activities.
6. The District Engineer may require an individual permit on a case-by-case basis for any activity authorized herein.
7. You must complete the authorized work within the five year issuance period of the GP. If you need additional time to complete repairs or if flood damage occurs within the last year of the GP applicants must contact the appropriate Corps District for an extension of the authorization to complete the needed work. Contact should be made at least one month in advance of the GP expiration date.
8. Flood repair activities, supervised by the U. S. Army Corps of Engineers, pursuant to Public Law 84-99, and/or supervised by the United States Department of Agriculture (USDA), pursuant to the Emergency Watershed Protection Program or the Emergency Conservation Program, do not require preconstruction notification to the Corps of Engineers, Regulatory Branch. It is the responsibility of these federal agencies to comply with all environmental laws and Presidential Executive Orders. However, agencies of the USDA and the Corps of Engineers must report all work completed under the authorization of GP-41 to the Kansas City District, Regulatory Branch as outlined in special condition "d" of the permit. Submit reports to U.S. Army Corps of Engineers, 635 Federal Building, 601 East 12<sup>th</sup> Street, Suite 402 (OD-R), Kansas City, Missouri 64106 (Attn: GP-41).



Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

## DEPARTMENT OF NATURAL RESOURCES

[www.dnr.mo.gov](http://www.dnr.mo.gov)

**FEB 21 2013**

Colonel Anthony J. Hofmann  
Kansas City District  
U.S. Army Corps of Engineers  
635 Federal Building  
601 East 12th Street  
Kansas City, MO 64106-2824

Statewide  
GP-41/2007-2078/CEK004650

Dear Colonel Hofmann:

The Missouri Department of Natural Resources' Water Protection Program has reviewed your request for Clean Water Act Section 401 Water Quality Certification to accompany the U.S. Army Corps of Engineers' (USACE) General Permit 41 (2007-2078). The USACE's Districts in Missouri propose to reissue regional General Permit 41 to authorize certain discharges of dredged or fill material in conjunction with the permanent protection and/or repair of flood damaged structures, land areas, and/or fills in waters of the United States within the states of Missouri.

These projects are located along waterways throughout Missouri. For any activities that occur in a water body that is listed as impaired pursuant to Section 305(b) of the Clean Water Act; in or within two miles upstream of a designated outstanding state or national resource area (10 CSR 20-7.031 Tables D and E); or in a designated metropolitan no-discharge stream (10 CSR 20-7.031 Table F), extreme caution shall be exercised so that the project does not impair or further impair the water body.

This certification is being issued under Section 401 of Public Law 95-217, The Clean Water Act of 1977 and subsequent revisions. This office certifies that the proposed project will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in the Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

1. Only the repair due to flood damage is authorized with this permit. All restoration activities to pre-flood alignments shall be constructed to allow for aquatic organism movement, especially during low flows. Construction of new structures will need additional review and issuance of a separate certification.
2. After avoidance and minimization for projects, impacts must be compensated for. Proposed mitigation must be within the state of Missouri. Mitigation for loss of aquatic resources shall be in conformance with the April 10, 2008, joint regulation "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" [USACE: 33 CFR Part 332 and the U.S. Environmental Protection Agency: 40 CFR Part 230] and with guidance located on-line at <http://www.nwk.usace.army.mil/Missions/RegulatoryBranch/StateofMissouri.aspx>. Please provide the worksheet or calculation for the proposed mitigation according to the most current mitigation methods.

3. Representatives from the Department shall be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the letters and conditions of the permit.
4. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment, construction materials and any solid waste shall not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent waters as a result of this operation.
5. Petroleum products spilled into any water or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible, but no later than 24 hours after discovery to the Missouri Department of Natural Resources' Environmental Emergency Response number at (573) 634-2436.
6. Only clean, nonpolluting fill shall be used. The following materials are not suitable for bank stabilization and shall not be used due to their potential to cause violations of the general criteria of the Water Quality Standards (10 CSR 20-7.031 (3)(A)-(H)):
  - a. Earthen fill, gravel, broken concrete where the material does not meet the specifications stated in the Missouri Nationwide Permit Regional Conditions (<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MORegCon.pdf>) and fragmented asphalt, since these materials are usually not substantial enough to withstand erosive flows;
  - b. Concrete with exposed rebar;
  - c. Tires, vehicles or vehicle bodies, construction or demolition debris are solid waste and are excluded from placement in the waters of the state;
  - d. Liquid concrete, including grouted riprap, if not placed as part of an engineered structure; and
  - e. Any material containing chemical pollutants (including but not limited to creosote or pentachlorophenol).
7. Clearing of vegetation/trees shall be the minimum necessary to accomplish the activity.
8. The riparian area, banks, etc., shall be restored to a stable condition to protect water quality as soon as possible. Seeding, mulching and needed fertilization shall be within three days of final contouring. All plant material shall be native plant species. Mulching material shall be weed free according to state law. On-site inspections of these areas shall be conducted as necessary to ensure successful re-vegetation and stabilization, and to ensure that erosion and deposition of soil in waters of the state is not occurring from these projects.
9. Best Management Practices shall be used during construction and/or repair to limit the amount of sedimentation into adjacent water bodies.