



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
2488 E 81st Street
Tulsa, OK 74137

SWT-2024-00014
Public Notice No.

August 14, 2024
Public Notice Date

September 13, 2024
Expiration Date

PURPOSE

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

SECTION 10

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

NOTICE TO PUBLISHERS

This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4290

Application No. SWT-2024-00014

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)
(30-DAY COMMENT PERIOD)

In accordance with Title 33 CFR 325.5(c), published November 13, 1986, in the Federal Register, the District Engineer (DE), U.S. Army Corps of Engineers, Tulsa District, proposes to revise Department of the Army General Permit (GP) No. 14 for Transportation Crossings within Critical Resource Waters (CRW), Sensitive Public and Private Water Supplies (SWS), and Appendix B Waters in Oklahoma. CRW include Outstanding Resource Waters (ORW) and their watersheds and High Quality Waters (HQW) as identified and designated in Oklahoma Water Quality Standards (OWQS) OAC 252:730-5-25(c) Appendix A. Appendix B waters include but are not limited to the National and State parks, forests, wilderness areas, wildlife management areas, and wildlife refuges. Appendix B waters may also include those areas which are inhabited by federally listed, threatened or endangered species, and other appropriate areas as designated in OWQS OAC 252:730 Appendix B. SWS waters are defined as a water of the state which constitutes a sensitive public and private water supply, and which is designated as such in OAC 252:730. If renewed, this GP would be reissued pursuant to Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and encompass **all** jurisdictional waters within the state of Oklahoma designated as CRWs, SWS, and Appendix B Waters in Oklahoma.

Scope of Work: Work authorized by this GP would be limited to activities required for the construction, expansion, modification, or improvement of linear transportation crossings (e.g., highways, railways, trails, airport runways, and taxiways) in waters of the United States, including adjacent wetlands, provided the following: (1) The permit applicant notifies the Corps prior to the use of this GP in accordance with the notification procedures below. (2) The discharge does not cause the loss of greater than 1/2 acre of waters of the United States, waters of the United States temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, are not included in the calculation of permanent loss of waters of the United States. (3) For discharges in special aquatic sites (wetlands, stream riffle and pool complexes, sanctuaries and refuges, and vegetated shallows), the notification must include a delineation of the affected special aquatic site. (4) The width of the fill is limited to the minimum necessary for the crossing. (5) The authorized activities must not cause more than minimal changes to the hydraulic flow characteristics of the stream, increase flooding, or cause more than minimal degradation of water quality of any stream. (6) The crossing is a single and complete project for crossing waters of the

United States. Where a road segment has multiple crossings of streams, the Corps will consider whether it should use its discretionary authority to require an Individual Permit.

The following activities are not authorized by this GP: (1) Stream channelization and (2) Non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangers.

Note 1: Some discharges for the construction of farm roads, forest roads, or temporary roads for moving mining equipment may be eligible for an exemption from the need for a Section 404 permit (see 33 CFR 323.4).

Note 2: Access roads used for construction may be authorized, provided they meet the terms and conditions of this GP. Access roads used solely for construction of transportation crossing must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by Nationwide Permit (NWP) 33.

GP 14 has been revised to allow usage and applicability to CRW, SWS, and Appendix B waters where permit conditions are met.

Summary of Proposed Revisions:

- Expanding scope of waters to include Appendix B and SWS waters.
- All Specific Conditions have been updated with consistency to other current General Permits. We are seeking comments on General Specific Special Conditions.

Location of Work: This GP is applicable to all CRWs, Appendix B, and SWS waters within the state of Oklahoma, excluding: (1) defined archeological and historical sites, (2) sites listed in the National Register of Historic Places, and (3) State historic sites.

The current list of CRWs, Appendix B, and SWS waters are available on the following webpages:

CRW's - <http://www.swt.usace.army.mil/portals/41/docs/missions/regulatory/wqc/crw.pdf>
Appendix B and SWS waters - https://www.owrb.ok.gov/maps/PMG/owrbdata_SW.html

Plans and Data: Plans typical for transportation crossings are to be submitted with each request. If additional information is desired, it may be obtained from Mr. Bryan Noblitt, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137, or telephone 918-669-4904.

Purpose and Need for GP: NWP General Condition 22 provides for the designation of CRW by the Corps. The Tulsa District CRW designation applies to all HQW and ORW specifically listed in the OWQS OAC 252:730 Appendix A; which also includes all waters located in the watersheds of ORW. General Condition 22 prohibits the use of specific NWPs, including the NWP for Transportation Crossings, within CRWs and adjacent wetlands. Though the Corps is not seeking to update the list of CRWs to

include SWS and Appendix B waters, Water Quality Certification has been denied in these waters. Without a GP for transportation crossings as proposed herein, the regulated public is required to obtain an Individual Permit for those activities requiring a Section 404 or Section 10 permit authorization. The revised GP 14 is designed to provide an expeditious review and authorization, where appropriate and applicable environmental impacts are minimal, specifically in waters that Water Quality Certification has been denied. The Tulsa District has issued 77 GP 14 authorizations for transportation crossings within CRW since June 2019. The Corps believes that the proposed provisions and conditions would address environmental and water quality concerns.

Cultural Resources: The DE is responsible to ensure compliance with the National Historic Preservation Act of 1966 (NHPA) (Public Law 89-665), as amended, and other cultural resources laws and Executive Orders. A preliminary review has been completed of the state's records for the presence of sites included in, or eligible for, inclusion in the National Register of Historic Places, as well as the Oklahoma Landmark Inventory Database. Based on the preliminary information, there may be historic properties, as defined by the NHPA, in or within the vicinity of the proposed permit area. The Corps will comply with the NHPA to resolve any potential effects.

GP Specific Condition Number 25 of GP 14 states, "No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C, or current rules. The prospective permittee shall immediately notify the DE, if the authorized activity might affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe might be eligible for listing on the National Register of Historic Places, including previously unidentified properties, and shall not begin the activity until notified by the DE that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property."

Threatened and Endangered Species: A copy of this notice is being furnished to the U.S. Fish and Wildlife Service (USFWS) and appropriate state agencies. We are currently assessing the potential effects of the proposed action on these species and will comply with the Endangered Species Act with regard to any effect of our decision on this permit application.

The USFWS may list additional species or designate additional critical habitat in the future. GP Specific Condition Number 23 of GP 14 would state, "No activity is authorized under any GP 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 (ESA), or which will destroy or adversely modify the critical habitat of such species. If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, the permittee shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and that the activity is authorized."

Evaluation Factors: The decision to revise the GP will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use 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 its 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 ownerships, and, in general, the needs and welfare of the people. The proposed permit will be denied if the GP does not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the 404(b)(1) guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps 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.

Any comments on this proposal must be submitted to be received by the Corps by the expiration date of this public notice comment period. Comments received after this date will not be considered in our decision. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137 or email CESWT-RO@usace.army.mil. Please include the public notice number SWT-2024-00014 in the subject line of your email message.

Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed project. Work may not commence until decisions have been made on both Sections 401 and 10/404.

Andrew R. Commer
Chief, Regulatory Office

Enclosures

GENERAL PERMIT NO. 14
FOR TRANSPORTATION CROSSINGS
IN CRITICAL RESOURCE WATERS, SENSITIVE PUBLIC AND PRIVATE
WATER SUPPLIES, AND APPENDIX B WATERS IN OKLAHOMA

In accordance with Title 33 CFR 325.5(c), as published November 13, 1986, in the Federal Register, the District Engineer (DE), U.S. Army Corps of Engineers, Tulsa District, proposes to revise Department of the Army General Permit (GP) No. 14 for Transportation Crossings within Critical Resource Waters (CRW), Sensitive Public and Private Water Supplies (SWS), and Appendix B Waters in Oklahoma. CRW include Outstanding Resource Waters (ORW) and their watersheds and High Quality Waters (HQW) as identified and designated in Oklahoma Water Quality Standards (OWQS) OAC 252:730 Appendix A. Appendix B waters include but are not limited to the National and State parks, forests, wilderness areas, wildlife management areas, and wildlife refuges. Appendix B waters may also include those areas which are inhabited by federally listed, threatened, or endangered species, and other appropriate areas as designated in OWQS OAC 252:730. SWS waters are defined as a water of the state which constitutes a sensitive public and private water supply, and which is designated as such in OAC 252:730 Appendix A. If renewed, this GP would be reissued pursuant to Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and encompass all jurisdictional waters within the state of Oklahoma designated as CRWs, SWS, and Appendix B Waters in Oklahoma. If renewed, the GP would be renamed Department of the Army General Permit No. 14 for Transportation Crossings within CRW, SWS, and Appendix B waters within the State of Oklahoma.

Expiration: This GP is set to expire on November 30, 2029.

Scope of Work: Work authorized by this GP would be limited to activities required for the construction, expansion, modification, or improvement of linear transportation crossings (e.g., highways, railways, trails, airport runways, and taxiways) in waters of the United States, including adjacent wetlands, provided the following:

- (1) The permit applicant notifies the Corps prior to the use of this GP in accordance with the notification procedures below.
- (2) The discharge does not cause the loss of greater than 1/2 acre of waters of the United States, waters of the United States temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, are not included in the calculation of permanent loss of waters of the United States.
- (3) For discharges in special aquatic sites (wetlands, stream riffle and pool complexes, sanctuaries and refuges, and vegetated shallows), the notification must include a delineation of the affected special aquatic site.
- (4) The width of the fill is limited to the minimum necessary for the crossing.

- (5) The authorized activities must not cause more than minimal changes to the hydraulic flow characteristics of the stream, increase flooding, or cause more than minimal degradation of water quality of any stream.
- (6) The crossing is a single and complete project for crossing waters of the United States. Where a road segment has multiple crossings of streams, the Corps will consider whether it should use its discretionary authority to require an Individual Permit.

The following activities are not authorized by this GP:

- (1) Stream channelization.
- (2) Non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangers.

Note 1: Some discharges for the construction of farm roads, forest roads, or temporary roads for moving mining equipment may be eligible for an exemption from the need for Section 404 permit (see 33 CFR 323.4).

Note 2: Access roads used for construction may be authorized, provided they meet the terms and conditions of this GP. Access roads used solely for construction of transportation crossing must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by Nationwide Permit (NWP) 33.

GP 14 has been revised to allow usage and applicability to CRWs as well as SWS and Appendix B waters within the state of Oklahoma where permit conditions are met.

Location of Work: This GP is applicable to all CRW, SWS, Appendix B waters within the state of Oklahoma excluding:

- (1) defined archeological and historical sites,
- (2) sites listed, or eligible for listing, in the National Register of Historic Places, and
- (3) State Historic Sites.

The current list of CRWs, Appendix B, and SWS waters are available on the following webpages:

CRW's - <http://www.swt.usace.army.mil/portals/41/docs/missions/regulatory/wqc/crw.pdf>

Appendix B and SWS waters - https://www.owrb.ok.gov/maps/PMG/owrbdata_SW.html

Duration: This GP would be in effect for a period of 5 years from date of issuance, unless it is specifically modified, suspended, or revoked. Upon its expiration, the GP would be considered for renewal. The GP may be modified, suspended, or revoked, in whole or in part, at any time, if the DE determines that the proposed project or cumulative effects of its activities would have more than minimal adverse environmental impacts or may be contrary to public interest. Work previously authorized by this GP would not be affected by subsequent modification, suspension, or revocation of the GP.

If the DE determines that the adverse effects of the proposed work are more than minimal, then he would notify the applicant either (1) that the project does not qualify for

authorization under the GP and instruct the applicant on the procedures to seek authorization under an Individual Permit; (2) that the project is authorized under the GP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or (3) that the project is authorized under the GP with specific modifications or conditions.

Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon GP 14 will remain authorized provided the activity is completed within 12 months of the date of GP 14's expiration, modification, or revocation.

Water Quality Certification (WQC): A Section 401 WQC is required prior to reissuance of the revised RGP.

Other Authorizations: Individuals considering work on lands or waters under the jurisdiction of other federal, state, or local agencies would be responsible for obtaining any permits required by such agencies.

Notification Procedure: Persons desiring to perform work under this GP would furnish notification to the Corps, Tulsa District as early as possible prior to the anticipated construction date. The prospective permittee shall not begin the activity:

(1) Until notified by the DE that the activity may proceed under the GP with any special conditions imposed by the District or Division Engineer; or If notified by the District or Division Engineer that an Individual Permit is required, until after the Individual Permit has been evaluated and issued.

The notification must be in writing and may be submitted on a Department of the Army Permit Application (Eng Form 4345). If construction and material placement is to be in a Corps lake, the information must be sent through the appropriate Area/Lake Manager. Information for work in all other locations should be sent directly to the District Engineer, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137. The content of the notification must include the following information:

- (1) Name, address, and telephone number(s) of the prospective permittee.
- (2) Location of the proposed project and a vicinity map. The location of the proposed work may be shown on a 7.5 minute USGS quadrangle map.
- (3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional GP(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity.
- (4) Delineation of any special aquatic sites (wetlands, stream riffle and pool complexes, sanctuaries, and refuges) to be affected by the proposed construction.
- (5) A site plan view. This should be drawn to show any delineated wetland, existing embankments, flow direction, property boundaries, adjoining property owners, directional north, the proposed activity with distances and dimensions, excavation and fill areas, and the quantity of excavation and fill.

- (6) A cross-section or profile view. This should be drawn to indicate excavation and fill areas, fill types, existing and proposed contours of the stream and embankment, and the water depth.
- (7) Information on any temporary features to be constructed (such as a work road) including the location, dimensions, quantities, source of borrow materials, water management design, timing and duration, and removal and restoration parameters.
- (8) A description of alternative routes and designs considered for avoiding and minimizing impacts to the aquatic ecosystem. The submitted information should support that the proposed project is the least environmentally damaging practicable alternative.
- (9) Mitigation: Permit applicants are responsible for proposing an appropriate compensatory mitigation plan to offset unavoidable impacts. The amount of mitigation must be, to the extent practicable, sufficient to replace lost aquatic resource functions. The notification must include a statement describing how impacts to waters of the United States are to be avoided and minimized. The application must also include either a statement describing how impacts to waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required.
- 10) A title block should be included on each page of the drawings. The title block should include the proposed activity, applicant, waterbody, and county/state.
- (11) If the project is to be located in a lake not operated by the Corps, written approval from the owner/manager must be furnished.

Verification Procedure: Upon receipt of a complete GP application, the Corps will expeditiously provide a copy of the request to the following:

1. Tribal Government(s) Tribal Historic Preservation Officer (THPO) to Cherokee Nation, Chickasaw Nation, Choctaw Nation, Osage Nation, Muscogee (Creek) Nation, Pawnee Nation (when project occurs within Pawnee Area of Interest), Seminole Nation (when project lie within exterior boundary of reservation), and as applicable to Miami Tribe, Ottawa Tribe, Peoria Tribe, Quapaw Nation, and other tribal THPO.
2. Oklahoma Department of Environmental Quality
3. SHPO, OAS, if the Corps determines that the proposed project has the potential to affect historic properties listed, or eligible for listing, in the National Register of Historic Places.
4. USFWS, if the Corps determines that the proposed project has the potential to affect federally listed threatened or endangered species or critical habitat.
5. Environmental Protection Agency for Indian Country

The Corps will request site-specific comments on the proposed project be submitted to the Corps within 30 days of the notification. The Corps will request comments related to matters within the commenting agency's expertise respectively (i.e., proximity to known archeological or cultural resources, special water quality considerations, or endangered species). The Corps will fully consider comments provided by these agencies in the determination of whether the project shall proceed under the GP.

If the DE determines that the proposed work meets the provisions of the GP, and no extraordinary conditions exist that would warrant filing for an Individual Permit, the

Corps will notify the applicant that the project is authorized under the GP with specific modifications or conditions as applicable.

If the DE determines that the potential adverse effects of the proposed work are more than minimal, then the DE will notify the applicant either (1) that the project does not qualify for authorization under the GP and instruct the applicant on the procedures to seek authorization under an Individual Permit (the applicant shall be aware that additional evaluation time will be required for a final decision on any Individual Permit application submitted subsequent to disqualification under the GP); (2) that the project is authorized under the GP subject to the applicant's submitting a mitigation proposal to be approved by the Corps that will reduce the adverse effects to the minimal level.

Wetland Delineation Manual Regional Supplements: The Corps Manual provides technical guidance and procedures, from a National perspective, for identifying and delineating wetlands that may be subject to Regulatory jurisdiction under Section 404 of the Clean Water Act (33 U.S.C. 1344) or Section 10 of the Rivers and Harbors Act (33 U.S.C. 403). Information on the Regional Supplements can be found at: <http://www.swt.usace.army.mil/Missions/Regulatory/Wetlands/>

Mitigation: Discharges of dredged or fill material into waters of the United States must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures.

Information on Mitigation requirements is located in 33 CFR Part 332 and the current version of the Tulsa District Aquatic Resource Mitigation and Monitoring Guidelines can be found at: <http://www.swt.usace.army.mil/Missions/Regulatory/Mitigation/>. All mitigation plans must be approved by the Corps.

Conditions of GP: All work authorized under this GP would be subject to the GP 14 General Permit Specific Conditions (Enclosed).

Andrew R. Commer
Chief, Regulatory Office

Date of Issuance

Enclosure

GENERAL PERMIT
SPECIFIC CONDITIONS

1. Permittee Construction Schedule Notification: Complete and return the enclosed "Permittee Construction Schedule" form. Should construction be initiated prior to 30 days from authorization of this project, please return the completed form as soon as possible or email CESWT-RO@usace.army.mil. If you prefer, you may telephone 918-669-7400 to inform the U.S. Army Corps of Engineers regarding the construction start date.

2. Compliance Certification: Every Permittee who has received GP verification from the Corps shall submit a signed certification regarding the completed work and any required mitigation. The certification form will be provided by the Corps with the authorization letter and will require:
 - a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;
 - b. A statement that any required mitigation was completed in accordance with the permit conditions; and
 - c. The signature of the permittee certifying the completion of the work and mitigation.

3. Bridge and Roadway Debris: To the maximum extent practicable, all demolition materials generated in the vicinity of the permit site shall be removed from the waterway. These materials include, but are not limited to, asphalt, metal, wood, and concrete. Subsurface support and structures (piers) shall be removed to below the bed of the stream and remaining portions covered with native streambed materials. No bridge and support demolition debris shall be used as riprap material or embankment or abutment stabilization.

4. Vegetation Plan, Restoration Plan, and Compensatory Mitigation Plan: The Permittee shall ensure that the vegetation plan, restoration plan or compensatory mitigation plan be executed.
 - a. During construction, the clearing of vegetation (especially stream-shading trees) shall be kept to the minimum necessary in the right-of-way (ROW).
 - b. Disturbed areas shall be returned as closely as possible to the original topographic contours and reestablished with stabilizing vegetation promptly following completion of construction.
 - c. Measures must be taken to ensure the survivability of all planted vegetation.
 - d. The permittee shall only use native vegetation in revegetating the project site following completion of construction. Native grasses are recommended, and the use of the on-site impacted wetland seedbed is recommended to be used for restored wetlands.
 - e. Blanket spraying of broadleaf herbicides in ROW shall be avoided.

f. Verification: Your responsible to complete the required vegetation plan, restoration plan and/or compensatory mitigation as set forth in Special Condition 4 will not be considered fulfilled until you have demonstrated restoration or compensatory mitigation project success and have received written verification of that success from the U.S. Army Corps of Engineers.

5. Erosion Control Measures (ECM): The Permittee shall ensure execution and compliance with proper ECM installation and use for the duration of the project to prevent soil erosion and subsequent stream sedimentation. ECM shall be inspected and maintained on a daily basis. Barriers shall remain in place and effective until sufficient vegetation coverage on exposed areas is established. All exposed earthen areas, disturbed or newly created by the construction, shall be seeded immediately, replanted, or provided equivalent protection against subsequent erosion within 24 hours.

6. Modification, Suspension, and Revocation of General Permits:

a. This permit may be modified, suspended, or revoked by the DE in accordance with 33 CFR 1344, Part 325.7(a)-(e).

b. The DE will immediately suspend activities authorized herein, upon finding the immediate suspension will be in the general public interest.

c. The DE upon suspension will provide the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the DE to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice.

d. Within 10 days following receipt of this notice of suspension, the permittee may request a meeting with the DE or request a hearing in order to present information relevant to a decision as to whether his/her permit shall be reinstated, modified, or revoked.

e. This permit may be either modified, suspended, or revoked, in whole or in part, if the Secretary of the Army or his/her authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action will otherwise be in the public interest.

f. In issuing this permit, the Government has relied on the information and data, which the permittee has provided in connection with his/her permit application. If subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

g. Any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

7. Stockpile Area: Stockpile areas shall not be located in a water of the United States or adjacent wetland. The Permittee shall incorporate ECM along the entire perimeter of the stockpile area to prevent excavated material from eroding into adjacent wetlands or waters. Stockpile locations shall be placed outside of the 25-year floodplain.

8. Monitoring for Stream Impacts: The permittee shall monitor the streambank for destabilization for a period of 2 years. If stream destabilization occurs during this period, the permittee shall notify the Corps, Regulatory Office immediately in writing. This report shall assess the condition of the stream. The permittee shall include photographs of the stream channel and degraded area. After notification is made, the permittee may be required to submit a detailed plan discussing how to repair the problem while providing minimal effects to the waters of the United States.

9. Project-Specific Locations Pre-Construction Meeting: The Permittee shall conduct a meeting with the contractor(s) detailing the terms and conditions of this GP prior to commencing construction activities of the project. Within three weeks following the meeting, the Permittee will also provide written confirmation to the Corps that the meeting was held and addressed haul roads, staging areas, borrow sites, disposal sites, and other off project facilities. The Permittee shall not start until Project-Specific Locations Pre-Construction Meeting has been completed to ensure that the project will protect water quality, avoid wetlands, and avoid known historic properties as well as tribal interests.

10. Navigation:

- a. 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/her 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;
- b. No activity may cause more than a minimal adverse effect on navigation and;
- c. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

11. Aquatic Life Movements: No activity may substantially disrupt the necessary lifecycle movements of indigenous aquatic species, including mussels, which normally migrate through the area. Culverts placed in streams shall be installed to maintain low-flow conditions.

12. Spawning Areas: Discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavation, filling, or smothering downstream by substantial turbidity) of an important spawning area are not authorized.

13. Waterfowl Breeding Areas: Discharges of dredged or fill material, in breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

14. Suitable Material: No discharges of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). The use of asphaltic rubble is prohibited and may not be used for bank stabilization. Suitable material shall consist of rock, stone, vegetative erosion control measures, broken concrete (without exposed reinforcing bar) and when applicable, clean soil. Concrete rubble may be used only if exposed rebar is cut-off flush with the face of the rubble. Material used for bank stabilization or fill shall consist of suitable material free from toxic contaminants in other than trace quantities.

15. Water Supply Intakes: No activity or discharges of dredged or fill material, may occur in the proximity of a public water supply.

16. Adverse Effects from Impoundments: If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

17. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and stormwater management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

18. Fills within 100-Year Floodplains: The activity must comply with applicable FEMA approved state or local floodplain management requirements.

19. Equipment: Heavy equipment working in wetlands shall be placed on mats, or other measures must be taken to minimize soil disturbance.

20. Temporary Fills and Temporary Work Road: Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation and revegetated. All material for the temporary work road shall be removed and the channel bottom shall be restored to original contours. The use of materials containing asphaltic rubble is prohibited and may not be used for bank stabilization or used for construction of a temporary work road.

21. Reserved.

22. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

23. Endangered Species Act:

a. No activity is authorized under any GP 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 (ESA), or which will destroy or adversely modify the critical habitat of such species. If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, the permittee shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and that the activity is authorized.

b. Authorization of an activity by a GP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the office of the USFWS or their website at <http://www.fws.gov/southwest/es/EndangeredSpecies/>.

24. Migratory Birds and Bald and Golden Eagles: The permittee is responsible for obtaining any "take" permits required under the USFWS regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee shall contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.

25. Historical Properties:

a. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C or current rules. The prospective permittee shall immediately notify the DE, if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the DE that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. The DE may stop work if he/she determines that archeological investigations are warranted.

b. Discovery of Previously Unknown Remains and Artifacts: If you discover any previously unknown historical or archaeological material/remains, you shall stop work and immediately contact the Corps, Regulatory Office at 918-669-7400.

26. Reserved.

27. Property Rights: This permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury

to property or invasion of rights or any infringement of federal, state, or local laws or regulations, nor does it obviate the requirement to obtain other federal, state, or local assent required by law for the activity authorized herein.

28. Proper Maintenance: The permittee shall maintain the structure or work authorized herein in good condition, including maintenance to include public safety. If and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party, he/she must restore the area to a condition satisfactory to the DE.

29. Inspection: The permittee shall allow the DE or his/her authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

30. Fuel and Materials: Any material and fuels used in the project shall be stored and/or stockpiled above the ordinary high-water mark and shall be removed from a likely flood zone prior to any predicted flood.

31. 401 Water Quality Certification: The attached Water Quality Certification must be adhered to, once issued.

32. Shellfish Beds: No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations.

a. The clearing of vegetation shall be minimized and limited to the immediate area of impact.

b. Disturbed areas shall be returned as closely as possible to the original topographic contours and reestablished with stabilizing vegetation promptly following completion of construction.

33. Soil Erosion and Sediment Controls: Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

34. Bioengineering Practices: The permittee must consider bioengineering practices for all authorizations requiring bank stabilization where riprap or other hard armor erosion control are planned.

35. Transfer of General Permit Verifications: If the permittee sells the property associated with a GP verification, the permittee may transfer the permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the permit verification must be attached to the letter, and the

letter must contain the following statement and signature:

“When the structures or work authorized by this General Permit are still in existence at the time the property is transferred, the terms and conditions of this permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this General Permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

36. Real Estate:

a. Deed Restrictions: If the recording of this permit is possible under applicable state or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility of maintaining records of title to and interests in real property.

b. Government Property Easement: A request for an easement on Government property would be sent to the appropriate Area/Lake Manager or the DE along with this GP.

37. Compliance: All activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension, or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions Number 6 hereto, and in the institution of such legal proceedings as the U.S. Government may consider appropriate, whether or not this permit has been previously modified, suspended, or revoked in whole or in part.

38. Minimization: The permittee agrees to make every reasonable effort to implement the work authorized herein in a manner so as to minimize any degrading of water quality, adverse impact of the work on fish and wildlife habitat, aquatic resources, and other natural environmental values.