

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 12th 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.

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 12th 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.

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. A list of T&E species in Missouri can be found at:

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
 - 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 25th 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 12th 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

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.

Colonel Anthony J. Hofmann

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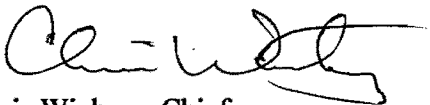
10. Temporary fills shall be removed promptly and the fill site restored immediately following construction.
11. Acquisition of a certification shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded, including Clean Water Act Section 402 National Pollutant Discharge Elimination System Permits for land disturbance. Permits or any other requirements shall remain in effect.

You may appeal to have the matter heard by the Administrative Hearing Commission (AHC). To appeal, you must file a petition with the AHC within thirty (30) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the AHC.

This certification is part of the USACE' permit. Water Quality Standards must be met during any operations authorized. If you have any questions, please contact Ms. Stacia Bax by phone at (573) 526-4586, by e-mail at stacia.bax@dnr.mo.gov, or by mail at the Missouri Department of Natural Resources, Water Protection Program, Operating Permits Section, P.O. Box 176, Jefferson City, MO 65102-0176. Thank you for working with the Department to protect our environment.

Sincerely,

WATER PROTECTION PROGRAM



Chris Wieberg, Chief
Operating Permits Section

CW:sbp

- c: Mr. Doug Berka, Kansas City District, Army Corps of Engineers
Mr. Ward Lenz, Rock Island District, Army Corps of Engineers
Mr. Rob Gramke, St. Louis District, Army Corps of Engineers
Mr. Roger Allan, Memphis District, Army Corps of Engineers
Mr. Bradley Myers, Little Rock District, Army Corps of Engineers
Ms. Andrea Collier, Director, Kansas City Regional Office
Mr. Jimmy Coles, Kansas City Regional Office
Mr. Joe Bowdish, Northeast Regional Office
Ms. Donna Riebeling, St. Louis Regional Office
Mr. Bradley Ledbetter, Southeast Regional Office
Mr. Kevin Vanover, Southeast Regional Office
Ms. Tina White, Southwest Regional Office
File Copy

March 15, 2013

Mr. Douglas R. Berka
U.S. Army Corps of Engineers
Kansas City Field Office; 700 Federal Building
601 East 12th Street
Kansas City, Missouri 64106-2896

Section 401 Water Quality Certification

RE: (2007-0078) PROPOSED REGIONAL GENERAL PERMIT NO. 41 FOR XCAVATION OR PLACEMENT OF FILL MATERIAL FOR THE PERMANENT PROTECTION AND/OR REPAIR OF FLOOD DAMAGED STRUCTURES, DAMAGED LAND AREAS AND/OR DAMAGED FILLS IN THE STATES OF KANSAS AND MISSOURI. PERMITTEES: General Public, Railroads, Transportation Departments, Pipeline and Utility Companies and Government Agencies

Dear Mr. Berka:

The Kansas Department of Health and Environment has received your request for Section 401 Water Quality Certification on 2/7/2013. The KDHE has determined the project has the following water pollutant discharge sources:

- a. Repair of levees to existing elevations and cross-section, including breach closures and borrow operations
- b. Bridge embankment protection (armoring) 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 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 haul roads to facilitate the completion of any of the listed activities

Discharges from these sources if not minimized or otherwise controlled may cause violations of the provisions of Kansas Water Quality Standards found at KAR 28-16-28 et seq.

Encl. 8

Pursuant to Section 401 and KAR 28-16-28(c) the Kansas Department of Health and Environment finds this project will not result in a violation of Kansas Water Quality Standards and herewith issues a Water Quality Certification for execution and subsequent operation of the project subject to the following conditions:

- I. Limitations of this Certification:** All Section 404 activities within the borders of Indian owned and operated lands are not covered by this certification. Individuals proposing projects which impact those waters are responsible for contacting the appropriate individual at the following numbers:

Prairie Band Pottawatomie Indians, Planning Department, 785/966-2946

Kickapoo Tribe in Kansas, Environmental Office, 785/486-2601

Iowa of Tribe of Kansas and Nebraska, 785/595-3258

Sac and Fox Tribe of Missouri, 785/742-4707

EPA 401 contact number

II. General Conditions

- 1. Certification Retention:** The applicant shall retain this water quality certification on the project site through the duration of the project to accommodate inspection.
- 2. Kansas Water Pollution Control General Permit for Stormwater Runoff from Construction Activities:** This certification does not relieve the applicant of the responsibility to determine if the project is subject to the requirements of **General NPDES Permit** and to secure such permit as necessary. Questions and inquiries may be directed to:

Mr. Larry Hook
Kansas Department of Health and Environment
Bureau of Water Industrial Program Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-5549; FAX:785/296-5509 www.kdheks.gov/stormwater

- 3. Project Water Quality Protection Plan:** Any person wishing to use a Section 404 GP 41 Permit shall prepare and follow a written project water quality protection plan (PWQPP.) The PWQPP shall identify components of the permitted activity (i.e. solid waste handling, fuel storage and leaks, sediment from construction etc.) which may or will result in the discharge of pollutants to waters of the state. For each component which may discharge pollutants to waters of the state, the plan shall set out the physical, structural and management measures to be implemented to prevent or minimize the discharge of pollutants to waters of the state. (Activities requiring a construction stormwater permit, as described above, also require a stormwater pollution prevention plan which will serve as the PWQPP.)

The permittee is required to submit the PWQPP to KDHE only if the project impacts Outstanding National Resource, Exceptional State or Special Aquatic Life Use Waters per condition #4 below.

- 4 **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters:** In the event the permitted activity occurs in or within one half (2) mile of an Outstanding National Resource Water as defined pursuant to **K.A.R. 28-16-28b(pp)** and **K.A.R. 28-16-28c(a)B(3)**, an Exceptional State Water pursuant to **K.A.R. 28-16-28b(y)** and **K.A.R. 28-16-28c(a)B(2)**, or a Special Aquatic Life Support Use Water designated pursuant to **K.A.R. 28-16-28d(b)(2)(A)**, the person responsible for initiating the activity shall submit a copy of the PWQPP to:

Kansas Department of Health and Environment
Bureau of Water - Watershed Management Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
nps@kdhe.state.ks.us

The permittee should also be aware of the following Kansas water quality protection regulations associated with special waters:

K.A.R. 28-16-28c(a)B(2)-AWherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.@

K.A.R. 28-16-28c(a)B(3)-AWherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.@

K.A.R. 28-16-28c(a)B (4) No degradation of surface water quality by artificial sources of pollution shall be allowed if the degradation will result in harmful effects on populations of any threatened or endangered species of aquatic or semiaquatic life or terrestrial wildlife or its critical habitat as determined by the secretary of wildlife and parks pursuant to K.S.A. 32-960, and amendments thereto, and K.A.R. 115-15-3 or in the federal endangered species act, 16 U.S.C. 1532 , as amended on October 7, 1988.

5. **Solid Waste Disposal:** All solid waste materials produced during the execution of the project shall be disposed in accordance with the provisions of Kansas Solid Waste Management Statutes and regulations and applicable local regulations. Direct inquiries to:

KDHE, Bureau of Waste Management
1000 SW Jackson Street, Suite 320
Topeka, Kansas 66612-1366
Phone: 785/296-1600; FAX: 785/296-1592 www.kdhe.state.ks.us/waste/index.html

6. **Equipment Staging Areas and Project Closure:** Upon completion of the project, disturbed areas shall be expeditiously stabilized with temporary and permanent vegetation, bio-artificial ground cover or other appropriate non-polluting material. Fertilizer application to establish and maintain vegetation shall be done in a manner that will not contribute to the current nutrient load to any of the surface waters impacted by the project. The person responsible for the permitted activity shall monitor and maintain cover materials until such time as the site is stabilized. Project closure procedures shall be documented in the Project Water Quality Protection Plan per condition No. II. 3.

7. **Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). KDHE encourages the use of vegetation consistent with adjoining vegetation materials to minimize impacts from improper handling of fertilizers and pesticides. Native vegetation is desired if practicable.

8. **Discharge of Floatable Materials:** Pursuant to K.A.R. 28-16-28 b (uu) (1), (3) and (4), the person responsible for executing the permitted activity shall assure good house keeping is practiced at the site to minimize the discharge of floatable materials such as personal refuse including food containers, packing materials, and other litter. Appropriate measures shall be taken to capture and/or recover any floatable materials discharged to waters of the state originating with the permitted project.
9. **Fuel, Chemical and Materials Storage:** Fuel, chemical and other materials stored at the project site shall be stored in a manner that minimizes the discharge of product to waters of the state. Spill minimization and prevention measures and procedures shall be documented in the Water Quality Protection Plan.
10. **Materials** used to stabilize or protect shoreline shall be free of pollutants which can wash or leach into waters of the state.
11. **Spill Response and Reporting:** Should a spill of fuel or discharge of pollutants occur, the local emergency staff should be contacted first by dialing 911. The Kansas Department of Health and Environment shall then be notified immediately: (785) 296-1679 (24 hours a day.) These incidences should also be reported to the National Spill Response Center (1-800424-8802). *Hazardous materials spills and air releases that meet federal reportable quantities must also be reported to Kansas Division of Emergency Management (800-275-0297).*" These reporting numbers shall be posted in several locations around the site. A Spill Prevention and Response Plan should be prepared. This should include reportable quantity limits (see www.kansas.gov/kdem).
12. **Drinking Water Intakes:** The person responsible for the permitted activity shall avoid adverse impacts on public water supplies. Whenever permitted activities occur within one mile upstream of a public drinking water supply - surface water intake, the applicant shall contact the official in charge of the public drinking water supply to apprise the drinking water supply official of the permitted activity. The person responsible for the permitted activity shall consider the suggestions and recommendations of the public water supply official when preparing the PWQPP.
13. **Treated Wastewater Effluent Mixing Zones:** As a general guideline any Section 404 activity within one-half (2) mile upstream or one-half (2) mile downstream of a permitted wastewater effluent discharge may impact the effluent mixing zone. The person responsible for the permitted activity shall determine if the project will adversely impact the wastewater effluent mixing zones and take appropriate measures to avoid altering or changing the mixing zone. This may include but is not limited to:
 - 1) The construction or placement of a recreation oriented facility or structure (i.e. boat ramp, walkway) which may require modification of the beneficial use designation to accommodate contact or non-contact recreation, thereby increasing the effluent limitations for the permit.
 - 2) Any activity which may alter or remove the stream channel geometry or natural oxygenation abilities of the stream such as bridge construction, channelization, stream channel substrate modification etc.

The person responsible for the permitted Section 404 activity shall advise and describe to the waste water discharge permittee and KDHE any potential mixing zone impacts and the measures the person responsible for the Section 404 activity will take to minimize adverse impacts on the mixing zone. Inquiries should be directed to:

Kansas Department of Health and Environment
Bureau of Water - Municipal Programs Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone: 785/296-5527; FAX: 785/296-5509

III. Special Conditions for Specific Nationwide Permits

1. **Outfall Structures and Maintenance (construction):**

Controls shall be in place to stabilize all areas of the bed and bank around the pipe or adjacent to the outfall structure and associated intake structures that may be affected by outfall or stream flows, respectively.

2. **Maintenance; Utility Line Activities; and -Minor Discharges (pipelines included):** Hydrostatic tests for pipeline activities shall be approved prior to discharge of water used for the test. Please contact:

Kansas Department of Health and Environment
Bureau of Water - Industrial Program Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-5553; FAX: 785/296-5509

3. **Aquatic Habitat, Restoration, Establishment and Enhancement Activities and Stormwater Management Facilities):** Measures shall be implemented to assure impounded waters, created by activities within the framework of these permits, avoid becoming public health threats, nuisances, generate complaints, and potentially discharge degraded water. The applicant shall prepare and implement an Operations and Maintenance Plan for Facilities and Landscapes (O&M), which at the minimum incorporate the following:

A. Identify individual and public property owners and their potential for being the source of nonpoint source pollution. This could include but is not limited to: commercial grounds, streets, right-of-ways, parking areas, conservation easement and **proposed** mitigation areas etc.

a. For each property as described in item A. above, water quality protection measures for each category of artificial source of pollution identified. The identified water quality protection measure for each category of artificial source of pollution shall be designed to ***reduce to the maximum extent practicable, the level of pollution resulting from identified pollutant sources.*** Identified water quality protection quality protection measures shall be at least as effective as those set out by the Kansas Nonpoint Source Pollution Management Plan prepared and maintained by the Kansas Department of Health and Environment:

http://www.kdheks.gov/nps/resources/KSNPSMgmtPlan_04-29-2011_final.pdf Including

Appendices:

http://www.kdheks.gov/nps/resources/NPSMgmtPlanAppendices_combined_04.29.2011.pdf

- B. Strategies to assure implementation of the water quality protection measures identified under item II. 3-10 which may include but are not limited to prohibition or restriction of activities, utilization of alternative technologies or products, information and education, financial assistance, technical assistance, enforcement and penalties. Additionally, an in-house reporting form used by staff to document degraded property conditions potentially impacting the property and needs to address them should be developed, if applicable.
- C. Organizations and individuals responsible for assuring implementation of the identified water quality protection measures.

IV. Enforcement and Penalties

This certification does not relieve the applicant of the responsibility for any discharge to waters of the state or allow for any inappropriate discharge to occur. As provided for by K.S.A. 65-171(f), failure to comply with the conditions of this certification may subject the responsible party to fines of \$10,000 per violation with each day the violation occurs constituting a separate violation.

V. Variance

If the applicant believes the conditions of this certification will result in impairment of important widespread social and economic development, the applicant is advised of the variance provisions of KAR 28-16-28b(III) and KAR 28-16-28f(e).

VI. Additional Information

The KDHE website contains the following information to assist the applicant in preparing a project water quality protection plan:

*Construction practices: <http://www.dnr.mo.gov/env/wpp/wpcp-guide.htm>

*Project Water Quality Protection Plan Form and Instructions:

<http://www.kdheks.gov/nps/resources/nwpwqppfrm.doc> or

<http://www.kdheks.gov/nps/resources/nwpwqppfrm.pdf>

*Kansas Surface Water Register:

http://www.kdheks.gov/befs/download/Current_Kansas_Surface_Register.pdf

*Kansas Surface Water Maps:

http://www.kdheks.gov/befs/download/Current_Surface_Water_Register_Maps.pdf

*Surface Water Quality Standards- http://www.kdheks.gov/water/download/kwqs_plus_supporting.pdf

*KDHE District Offices- http://www.kdheks.gov/befs/dist_office.html

* Guidance document for identifying high value waters- <http://www.kdheks.gov/nps/section401.html>

Mr. Douglas R. Berka (GP-41-20070078)

March 15, 2013

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The Kansas Department of Health and Environment, Bureau of Water-Watershed Management Section at: 785/296-4195 or FAX 785/296-5509. This information can also be obtained by written communication directed to:

Kansas Department of Health and Environment
Bureau of Water - Watershed Management Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367 or email: nps@kdhe.state.ks.us

Sincerely

A handwritten signature in cursive script, appearing to read "Scott Satterthwaite".

Scott Satterthwaite
Kansas Department of Health and Environment
Bureau of Water, Watershed Management Section
1000 S.W. Jackson St., Suite 420
Topeka, KS 66612-1367

COMPLIANCE CERTIFICATION

Special condition "a" of this permit document requires that you submit a signed certification regarding the completed work and any required mitigation. This certification page satisfies this condition if it is provided to the Kansas City District at the address shown at the bottom of this page upon completion of the project. Submit a separate certification page for each individual authorized project

PERMIT NUMBER: General Permit No. 41 (NWK 2007-02078)

PERMITTEE (Enter name and mailing address):

PROJECT LOCATION (Enter latitude & longitude (decidegrees) or Section, Township and Range, County, State):

- a. I certify that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions.
- b. I certify that any required mitigation was completed in accordance with the permit conditions.
- c. Your signature below, as permittee, indicates that you have completed the authorized project as certified in paragraphs a and b above.

(PERMITTEE)

(DATE)

Return this certification to:

U.S. Army Corps of Engineers
ATTN: OD-R (GP-41)
601 East 12th Street, Room 402
Kansas City, MO 64106-2824