



DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public, Government Agencies

Permit No. GP 43 (Maintenance of Man-Made Lakes and Ponds)

Issuing Office: U.S. Army Engineer District, Kansas City

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: This Regional General Permit (RGP) authorizes activities designed to improve water quality, improve fish and wildlife habitat, and extend the lifespan of man-made lakes and ponds. This permit authorizes the removal and discharge of lakebed/pond sediment in conjunction with mechanical dredging, hydraulic dredging and excavation activities. The use of standard construction equipment to remove accumulated sediment is authorized by this permit. The dredged/excavated material may be used in the construction of jetties/breakwaters, shoreline stabilization structures, fish and wildlife habitat improvement structures and other similar activities. No additional material from an off-site location, other than riprap, may be used as fill material. The original depths, elevations, contours and size of the water body shall not be exceeded as a result of the sediment removal process. This RGP will also authorize the construction of jetties, breakwaters, hard points, bank stabilization or similar features designed to attenuate wave action not associated with sediment removal.

Authorized Uses of Dredged/Excavated Material:

1. Authorized uses of dredged/excavated material within "Waters of the U.S." is limited to the boundary established by the ordinary high water mark of the impoundment from which it was removed.
2. The dredged/excavated material may be used to re-build eroded bank lines, provided the toe of the new slope does not exceed that of the original bank toe. The discharged material must be armored or appropriately stabilized to prevent the dredged/excavated material from re-entering the water body. Alternatively, these structures may be constructed entirely of riprap. The slope of re-shaped or armored banks may vary from 1(h):1(v) to 10(h):1(v).
3. The dredged/excavated material may be used as the foundation/core of jetties, breakwaters, hard points, or similar features that attenuate wave action. The discharged material must be armored or appropriately stabilized to prevent the dredged/excavated material from re-entering the water body. Alternatively, these structures may be constructed entirely of riprap. Breakwater structures will be limited to: 400-foot length, 15-foot top widths, heights varying between 3 and 20 feet and side slopes varying from 1(h):1(v) to 6(h):1(v).
4. The dredged/excavated material may be used to construct temporary structures such as coffer dams, causeways, work platforms or similar features. The temporary structures must be armored or appropriately stabilized to prevent the dredged/excavated material from re-entering the water body. Immediately upon the completion of the construction activity, all temporary fill material shall be removed in its entirety from Waters of the U.S., placed in an upland area and stabilized such that it cannot re-enter the water body. The area in which the temporary structure was placed shall be restored to its pre-construction condition.
5. The dredged/excavated material may be used for other similar activities and structures on a case-by-case basis.

Preconstruction Notification Procedures (PCN): Permit applicants must notify the Kansas City District Regulatory Program to receive authorization under this RGP. The notification must include:

- (1) A completed application form ENG 4345, or equivalent information. Copies of ENG Form 4345, instructions or assistance may be obtained by writing or calling the Kansas City District, Corps of Engineers, or by downloading at: <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>
- (2) A clearly marked site location map.
- (3) Detailed drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the RGP (plan and cross-sectional views of each work area).

Other Information:

1. Project-specific special conditions may be incorporated into project specific permits to further minimize impacts.
2. No activity associated with an environmental remediation activity is authorized under this RGP.
3. Generally, compensatory mitigation will not be required for impacts to wetlands formed as a result of erosion or sedimentation. If other special aquatic sites are impacted, compensatory mitigation will be determined on a case-by-case basis.

Project Location: All Counties in Kansas - Man-made lakes and ponds in the State of Kansas (including Indian Country within Kansas boundaries), excluding those areas identified as Outstanding National Resource Waters (ONRW) pursuant to the Kansas Surface Water Register dated June 1, 1999. This RGP does not apply to the following Corps of Engineers lakes/reservoirs located within the Corps of Engineers, Tulsa District: Big Hill Lake, Council Grove Lake, El Dorado Lake, Elk City Lake, Fall River Lake, John Redmond Reservoir, Marion Reservoir and Toronto Lake.

All authorized work is lakeward of the Ordinary High Water Mark.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 5 December 2024. For individually authorized projects where notification is required, the work is authorized for two years from the date of permit verification received from the Corps of Engineers. If you find that you need more time to complete the authorized activity when notification is required, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in 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 your permit.

Special Conditions:

See continuation sheets, pages 5 and 6, of this document.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - 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 verification of this RGP 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 RGP 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.

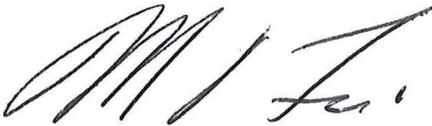
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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)
WILLIAM C. HANNAN, JR., COLONEL
BY: MARK D. FRAZIER
CHIEF, REGULATORY BRANCH

5 December 2019

(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)

Special Conditions:

- a. You must sign and return a "Compliance Certification" after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and special conditions, and any required mitigation.
- b. Dredged or excavated material must be disposed of in an upland location or as described in the "Authorized Uses of Dredged/Excavated Material" section of this permit. All material placed in an upland area must be stabilized where it cannot be introduced into the water body or any adjacent wetland as a result of runoff, flooding, wind, or other natural forces.
- c. Return water associated with hydraulic dredging is authorized in accordance with the attached Kansas Department of Health and Environment (KDHE) Water Quality Certification (WQC). For projects located in Indian Country, separate individual Water Quality Certification (WQC) from the U.S. Environmental Protection Agency (USEPA) may be required. See General Condition 5.
- d. The following materials are not suitable for fill activities in waters of the United States: vehicle bodies, construction or demolition debris, asphalt in any form, garbage, tires, treated lumber products that do not comply with the Registration Documents issued by the USEPA under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and that are not in accordance with standards issued by American Wood Protection Association or the International Code Council, liquid concrete not poured into forms, grouted riprap, bagged cement and sewage or organic waste.
- e. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- f. 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.
- g. 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.
- h. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- i. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or un-vegetated condition.
- j. 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 water of the United States.
- k. In addition to the requirements of General Condition 3, if any funerary objects or human remains are unearthed at any time during the course of this authorized work, you must halt construction activities and notify the Corps of Engineers at 316-322-8247 immediately.

- l. For all vegetative planting you must not plant any plant species listed at: <https://cdm16021.contentdm.oclc.org/utills/getfile/collection/p16021coll11/id/2682> nor shall any of these species be used for re-vegetation unless this requirement is waived by the District Engineer based on a case specific analysis of the re-vegetation plan. Best management practices should be used to reduce the risk of transferring invasive plant and animal species to or from the project site. Known zebra mussel waters within Kansas can be found at <http://nas.er.usgs.gov/queries/zmbyst.asp>.
- m. If the activity occurs within the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures, the applicant must identify in the PCN the locations and stakeholders for each water supply intake structure.
- n. You must receive Corps verification of GP-43 authorization before you begin any work in waters of the United States. Should any part of the authorized work be performed by a contractor, you must discuss the terms and conditions of this permit with the contractor prior to beginning work; and, you must give a copy of this entire permit to the contractor.
- o. Verification of this General Permit may come with additional site specific conditions and you must comply with those site specific conditions identified in the General Permit verification letter.
- p. This General Permit does not authorize any activity that would conflict with a Corps civil works project's congressionally authorized purposes, established limitations or restrictions, or limit an agency's ability to conduct necessary operation and maintenance functions. Per Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408), no project that has the potential to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, or obstruct a Corps civil works constructed work or project, including, but not limited to, levees, dams, jetties, navigation channels, borrow areas, dredged material disposal sites, flood control projects, etc., shall be permitted unless the project has been reviewed and approved by the appropriate Corps approval authority. If the proposed activity has the potential to modify or conflict with a Corps civil works authorized project, the permittee must submit the information described in the "Notification Procedures". Permittees shall not begin the activity until notified by the Corps that the activity may proceed under the general permit.
- q. No activity is authorized under this RGP which is likely to directly or indirectly 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 directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized which "may effect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
- r. No activity which may affect historic properties listed or eligible for listing, in the National Register of Historic Places is authorized by GP-43 until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C (or amended regulations). As a result the National Register of Historic Places and the Federal Register, along with other databases, will be checked for every PCN request received and considered for authorization under the GP-43 to determine if any properties listed or proposed for listing in the National Register would be impacted by the project. Should any such properties be identified, the Corps will coordinate with the Kansas SHPO and comply with the provisions of 33 CFR part 325, Appendix C (or amended regulations).

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.

APPLICATION NUMBER: ENTER PERMIT NUMBER

APPLICANT: ENTER APPLICANT NAME
ADDRESS

PROJECT LOCATION: ENTER LOCATION DESCRIPTION

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:

SELECT CORRECT OFFICE:

U.S. Army Corps of Engineers
Kansas City District, ODR
601 East 12th Street, Suite 402
Kansas City, MO 64106-2824

Kansas State Regulatory Office
2710 NE Shady Creek Access Road
El Dorado, KS 67042

Kanopolis Satellite Office
107 Riverside Drive
Marquette, KS 67464

August 2, 2019

Mr. Steven M. Whetzel
Regulatory Specialist
Kanopolis Regulatory Field Office
107 Riverside Drive
Marquette, Kansas 67464

Section 401 Water Quality Certification

RE: PN2018-01280: Applicant: General Public and Government Agencies in the State of Kansas for Maintenance of Man-Made Lakes and Ponds. This RGP does not apply to the following Corps of Engineers lakes/reservoirs located within the Corps of Engineers, Tulsa District: Big Hill Lake, Council Grove Lake, El Dorado Lake, Elk City Lake, Fall River Lake, John Redmond Reservoir, Marion Reservoir and Toronto Lake.

Mr. Whetzel:

On July 17, 2019, the Kansas Department of Health and Environment (KDHE) received, from the U.S. Army Corps of Engineers, Kansas City District, an emailed request for Section 401 Water Quality Certification for the proposed Section 404 project as described below. However, the email stated the following:

Description from the U.S. Army Corps of Engineers, Kansas City District/KDHE Joint Public Notice dated June 28, 2019: “Activity: This RGP authorizes activities designed to improve water quality, improve fish and wildlife habitat, and extend the lifespan of man-made lakes and ponds. This permit authorizes the removal and discharge of lakebed/pond sediment in conjunction with mechanical dredging, hydraulic dredging and excavation activities. The use of standard construction equipment to remove accumulated sediment is authorized by this permit. dredged/excavated material may be used in the construction of jetties/breakwaters, shoreline stabilization structures, fish and wildlife habitat improvement structures and other similar activities. No additional material from an off-site location, other than riprap may be used as fill material. The original depths, elevations, contours and size of the water body shall not be exceeded as a result of the sediment removal process. This RGP will also authorize the construction of jetties, breakwaters, hard points, bank stabilization or similar features designed to attenuate wave action not associated with sediment removal.

RGPs may cause only minimal individual and cumulative environmental impacts. Accordingly, the Kansas City District is specifically requesting public comments on reasonable limits for authorized activities to remain within minimal impact thresholds.

PROJECT LOCATION: Man-made lakes and ponds located within waters of the United States in the State of Kansas. This RGP does not apply to the following Corps of Engineers lakes/reservoirs located within the Corps of Engineers, Tulsa District: Big Hill Lake, Council Grove Lake, El Dorado Lake, Elk City Lake, Fall River Lake, John Redmond Reservoir, Marion Reservoir and Toronto Lake.

All authorized work is lakeward of the Ordinary High-Water Mark

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WETLANDS/AQUATIC HABITAT: Compensatory mitigation will not be required for impacts to wetlands formed as a result of erosion or sedimentation within the impoundments. Reference Regulatory Guidance Letter (RGL) 18-01, Determination of Compensatory Mitigation Credits for the Removal of Obsolete Dams and Other Structures from Rivers and Streams concerning loss of wetlands due to ecosystem restoration.

The KDHE has reviewed the project application material and determined the project has the following water pollutant discharge sources:

1. Construction activities including grading and filling, equipment storage, fueling and maintenance.
2. Dredging and material application.

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. As the locations of the sites are unknown, no designated uses will be noted here. However, since they are identified as “Waters of the US” then they will also be identified as “waters of the state” and need protection under the general water quality standards narrative through compliance with the conditions within.

KDHE has reviewed the certification request materials and associated documents, in response to the joint public notice of the project and find there is a potential for significant water quality impacts. Therefore, KDHE issues this Section 401 Water Quality Certification subject to the conditions enumerated throughout this letter.

- 1) This certification shall be kept on site through the duration of the project.
- 2) **KDHE Notification:** Permit recipients shall email KDHE at NPS@kdheks.gov when dredging or construction starts.
- 3) **Pursuant to Department of Army Permit, Special Condition c.: ”Return water associated with hydraulic dredging is authorized in accordance with the attached Kansas Department of Health and Environment (KDHE) Water Quality Certification (WQC).” (Page 5)**
 - a. Return water from the mechanical or hydraulic dredging of a private waterbody does not need an NPDES permit if the return water is routed directly back into the waterbody i.e., piped directly back and not routed to a stream or intermittent drainage considered to be a “Water of the US”.

If the routing back into the private waterbody is not direct or if some type of chemical additive such as a flocculent is employed, then an NPDES permit may be required on the return water discharge. Any discharge of return water not directly back into the waterbody where sediment removal is taking place will require an NPDES permit. Any discharge of return water to an Outstanding National Resource Water (ONRW) is prohibited. Discharges into other “high value” waters are only allowed if the water quality can be maintained through the duration of the project (see pages 10 through 15 of the document at this link for list of waters and applicable Kansas surface water quality standards: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2651>).

- b. Construction activities associated with the construction of jetties, breakwaters, hard points, fishing piers would not require an NPDES Construction Stormwater Permit. Onshore soil disturbing activities associated with any of the referenced projects that disturb 1 acre or more will require an NPDES Construction Stormwater Permit.

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- c. Construction activities being located next to streams or drainages should have sufficient buffer available.
- d. Consider using dewatering or sediment filter bags for dredged material.
- e. Construction of confined disposal facilities (CDFs), sediment disposal/spreading activities, or construction activities that will disturb 1 acre or more will require an NPDES Construction Stormwater Permit. Sediment spreading activities upon cultivated ground would not require an NPDES Construction Stormwater Permit.
- f. Regarding the application of sediment to agricultural land, we would consider application to cultivated ground, used for building terraces, leveling uneven ground, filling gullies and low areas, or being used as soil enhancers are not subject to NPDES Construction Stormwater Permitting. Placement of sediment onto pasture ground for use as a soil amendment, conditioner, or low-grade fertilizer would not require a permit. Placement onto pasture ground solely as a means for disposal would be subject to permitting requirements. All of the above referenced NPDES permits require a Stormwater Pollution Prevention (SP2) Plan be prepared and kept on site during the project.

Any inquiries should be directed to: Mr. Eric Staab, P.E.- Eric.Staab@ks.gov or (785-296-4347) or Pratik Jnawali, P.E., Pratik.Jnawali@ks.gov (785-296-5553) hydrologic/mechanical dredging and return water discharges and Larry Hook, P.E.- larry.hook@ks.gov (785-296-5549) for Construction Stormwater Permitting.

- 4) The recipient of this RGP shall avoid or control the discharge of suspended solids from construction activities **so that the project does not cause:**
 - a. Any surface waters of the state within and below the project area to contain discarded solid material, including trash, garbage rubbish, offal, grass clippings, discarded building or construction materials, car bodies, tires, wire and other unwanted or discarded materials [KAR 28-16-28e(b)(3)].
 - b. Any surface waters of the state within and below the project to have floating debris, scum, foam, froth and other floating materials directly or indirectly attributable to the project [KAR 28-16-28e(b)(4)].
 - c. Any surface waters of the state within or below the project to have of deposits of sludge or fine solids [KAR 28-16-28e(b)(6)].
 - d. Alteration of the natural appearance of surface waters of the state within or below the project by the addition of color-producing or turbidity-producing substances of artificial origin [KAR 28-16-28e(b)(8)].
- 5) The Recipient of this RGP shall avoid or control the discharge of toxic substances, oil and grease and other fluids from riparian activities, **so that the project does not cause:**
 - a. Any surface waters of the state within and below the project area to have a public health hazard, nuisance condition or impairments of designed uses [KAR 28-16-28e(b)(1)].

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- b. Surface waters of the state within and below the project area to have toxic substances, radioactive isotopes, and infectious microorganisms in concentrations or in combinations that jeopardize the public health or the survival or well-being of livestock, domestic animals, terrestrial wildlife or aquatic or semi-aquatic life [KAR 28-16-28e(b)(2)].
 - c. Any surface waters of the state within and below the project area to have a visible oil and grease film or sheen on the water surface or on submerged substrate or adjoining shore lines, nor have a sludge or emulsion deposit below the water surface of adjoining shorelines [KAR 28-16-28e(b)(5)].
 - d. Any surface waters of the state within and below the project to contain taste and odor producing substances at concentrations which interfere with the production of potable water by conventional water treatment processes, impart an unpalatable flavor to edible aquatic or semi-aquatic life or terrestrial wildlife or that result in noticeable odors in the vicinity [KAR 28-16-28e(b)(7)].
- 6) The activity shall avoid or control the discharge of plant nutrients from wetland removal, removal of permanent riparian vegetation, **so that the project does not cause:**
- a. Any surface waters of the state within and below the project to have floating debris, scum, foam, froth and other floating materials directly or indirectly attributable to the project [KAR 28-16-28e(b)(4)].
 - b. Alteration of the natural appearance of surface waters of the state within or below the project by the addition of color-producing or turbidity-producing substances of artificial origin [KAR 28-16-28e(b)(8)].
- 7) The Recipient of this RGP shall prepare a water quality protection plan describing the actions that will be taken to comply with Certification Conditions 1-6. This condition may be waived depending on the content of the “stormwater pollution prevention plan (SWP3)” prepared pursuant to condition 3. It is suggested that the stormwater pollution prevention plan’s description of BMPs, include a. through f. of the following. The KDHE BEFS Watershed Management Section shall be notified (by email) when the SWP3 is submitted to BOW IP.
- a. **Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). Strongly consider the use native vegetation endemic to the area.
 - b. **Erosion and sediment control:** Maintain practices to minimize or avoid soil/sediment loss from the site.

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- c. **Solid Waste:** All waste materials produced by the construction project shall be disposed of in accordance with the provisions of the Kansas solid waste management statutes and regulations (K.S.A. 65-3401 and K.A.R. 28-29-1 et. seq.) or applicable local rules. Good housekeeping including personal refuse such as food containers, sacks etc. shall be addressed.
 - d. **Fuels, Chemicals and Maintenance Areas:** All fuels and chemicals necessary to complete the project shall be stored in such a manner that accidental spillage is minimized or can be temporarily contained before reaching the water body. Equipment maintenance areas shall also be located in this manner.
 - e. **Spills:** 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 (1-800-424-8802). *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).
 - f. **Rock or solid materials** used to construct jetties, breakwater etc. shall be free of pollutants which can wash or leach into waters of the state.
 - g. **Floating Debris:** The applicant shall take appropriate measures to capture any floating debris released to surface waters as a result of this project.
- 8) If the Recipient of this RGP 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 40 CFR 131.10(g)(6) as adopted by reference in K.A.R. 28-16-28d(1)(B).

Questions concerning this certification may be directed to Mr. Scott Satterthwaite, 785-296-5573 or by email at Scott.Satterthwaite@ks.gov.

Sincerely,



Scott L. Satterthwaite, M.S.

Environmental Specialist

Bureau of Environmental Field Services-Watershed Management Section

EC: KDHE- Glave, Hook, Staab, Jnawali, Lyon, Carlson
KDA DWR- Phillips

**U.S. Environmental Protection Agency Region 7 Clean Water Act Section 401
Water Quality Certification for Corps of Engineers CWA Section 404 Regional General Permit
GP-43 (Corps #2018-01280)**

Project Description (excerpt from the Corps public notice): Maintenance of Man-Made Lakes and Ponds
This general permit would authorize the maintenance of man-made lakes and ponds. The GP would be issued for a period of five years. All activities authorized by this GP require written pre-construction notification to the Corps. For more details, see the Corps public notice <https://www.nwk.usace.army.mil/Media/Public-Notices/Article/1859570/gp-43-2018-01280/> or when general permit is issued, <https://www.nwk.usace.army.mil/Missions/Regulatory-Branch/General-Permits/>.

Location: Indian Country within the boundaries of the State of Kansas (Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe of Kansas, Prairie Band Potawatomi Nation, and Sac and Fox Nation of Missouri in Kansas and Nebraska)

BACKGROUND:

Section 401 of the Clean Water Act requires that an applicant for a CWA Section 404 dredge and fill permit must obtain certification. This certification is a condition of the permit. Presently, the tribes in Region 7 do not have Section 401 certification programs. In the absence of such certification programs, the EPA makes the certification determination.

DETERMINATION:

Water quality certification is approved *provided* the project complies with the conditions described below.

CONDITIONS:

- This certification does not relieve the applicant of the responsibility to comply with applicable local, tribal, state, federal regulations or statutes, including regulations affecting any discharge into waters of the U.S.
- Copies of this certification shall be kept on the job site and readily available for reference.
- Prior to work commencing, notify the appropriate Tribal Environmental Office.
- If the project is constructed and/or operated in a manner not consistent with the general permit, the permittee may be in violation of this certification.
- To the maximum extent practicable:
 - The project must avoid discharges of fill/dredged material into waters of the United States, including wetlands.
 - The excavated/dredged and/or construction materials must be disposed of and/or sustained in a manner that no runoff will enter waters of the United States, including wetlands. Should a

spill of petroleum products or chemicals occur, immediately call the National Response Center at (800) 424-8802 and the appropriate Tribal Environmental Office.

- Ground disturbance shall not exceed the minimum necessary to complete the project.
- Measures and precautions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, temperature, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering waters of the U.S., including wetlands.
- Reseed/plant with native plant species only. Non-native plant species such as reed canarygrass (*Phalaris arundinacea*), Caucasian bluestem (*Bothriochloa bladhii*), smooth brome (*Bromus inermis*), crownvetch (*Securigera varia*), and bird's-foot trefoil (*Lotus corniculatus*) are NOT appropriate as revegetation plantings for erosion control measures, restoration, and/or mitigation.
- Utilize erosion control best management practices during all phases of construction
- Utilize soft-armoring techniques and reduce rip-rap usage to the minimum needed.

If you have questions regarding this certification, contact the EPA Region 7 at (913) 551-7003 or 1-(800)-223-0425 and ask to speak to someone about water quality certification for Section 404 permits.

Certification Approved by EPA Region 7:

9/5/2019

Date



Jaime Gaggero, Chief
Watershed and Grants Branch
Water Division

For Jaime Gaggero