

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** General Public

**Permit No.** NWK-GP-41 (Permanent Protection/Repair of Flood Damaged Structures, Damaged Lands and/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, within the Kansas City District's regulatory boundary, in accordance with the terms and conditions specified below.

**Project Description:** To excavate or place fill material for the permanent protection of and/or the repair of existing damaged structures, damaged land areas, and/or damaged fill areas, that are the result of the disaster event, as follows:

- a. Repair of levees to preexisting elevation and cross-section, including breach closures and associated borrow operations.
- b. Repair of road culverts and/or bridges within the existing roadway/railway alignment including the placement of suitable stone (riprap) to protect embankments and abutments.
- c. In-kind repair of existing roadway or railway embankments and the replacement or the addition of suitable stone protection, at the damage site, including repair to previously authorized fill.
- d. In-kind repair of existing utility structures within the current footprint of that structure, including previously authorized fill.
- 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-disaster capacity and flow line unless the flow line must be altered due to other damage associated with the disaster event.
- g. Restoration of creek channels to pre-disaster alignment and capacity.
- h. Construction of temporary roads and temporary fill required to facilitate the completion of any of the above listed activities. Temporary fill must be removed to the original soil surface after repair activities are completed.

If the proposed work involves any activity included in the following list you must provide preconstruction notification (PCN) to the Kansas City District, Corps of Engineers, prior to completing any of the listed work, and you must submit application materials as outlined in Appendix 1. Additionally, you must submit a mitigation plan, as outlined in the federal mitigation regulation found at 33 CFR 332, prior to completing any of the following disaster recovery/repair activities:

- Work that may affect a Corps of Engineers civil works project (Section 408 permission is required from the Corps required prior to commencing work);
- Excavating earth material (borrow) from forested wetlands, from potential migratory bird nesting areas, and/or from other offsite locations;
- Dredging or excavating material from any stream channel in Kansas or in Missouri, or placing fill material into any stream with known federally listed threatened or endangered species (see special condition "t" on page 7);
- Repair activities that require any clearing of trees, any soil excavation or other soil disturbance for construction of temporary roads;
- Flood repairs in areas with known sensitive species listed in special condition "e";
- Repair work that requires working in Exceptional State Waters and/or Special Aquatic Life Use Waters;
- Activities associated with the restoration of a stream channel back to the original, pre-flood, location.
- The repair of any structure that is beyond the scope of the originally authorized structure or moved to a different location.

All application materials and post construction reports must be submitted to the Corps of Engineers, Regulatory Branch, Federal Building, 601 East 12<sup>th</sup> Street, Suite 402 (ODR), Kansas City, Missouri 64106 (ATTN: GP-41).

All disaster repair activities supervised by the Corps of Engineers, pursuant to Public Law 84-99 or to Section 14 projects, and/or all repairs supervised by the United States Department of Agriculture (USDA), pursuant to any USDA Program authorized for disaster recovery can be completed without PCN to the Corps of Engineers. However, all completed disaster repair work, authorized by this permit, must be reported to the Kansas City District, Corps of Engineers, Regulatory Branch, by the end of the calendar year in which the flood repair project is completed. The project 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 U.S. Army Corps of Engineers, Federal Building, 601 East 12<sup>th</sup> Street, Suite 402 (ODR), Kansas City, Missouri 64106 (ATTN: GP-41).

**In addition, maintenance of existing disaster damaged structures and/or disaster 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 Kansas City District, Corps of Engineers - Regulatory Branch. Construction of new structures and/or fills, not in existence prior to the discrete flood event, are not authorized by this DA permit.**

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

Permit Conditions:

General Conditions:

1. This general permit expires on April 2, 2023, 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 401 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 State of Kansas and Missouri programmatic 401 water quality certifications are attached as they contain such conditions. Additionally, a copy of the U.S. Environmental Protection Agency's programmatic 401 water quality certification for activities occurring in Indian Country in Kansas is also attached.
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 5 through 8, 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 a 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).

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. Failure to comply with the terms and conditions of this permit.
  - b. The information provided by the project proponent in support of the 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 WORK BEGAN)

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



\_\_\_\_\_  
DOUGLAS B. GUTTORMSEN  
COLONEL, CORP OF ENGINEERS DISTRICT COMMANDER  
BY: MARK D. FRAZIER  
CHIEF, REGULATORY BRANCH  
OPERATIONS DIVISION

2 April 2018  
\_\_\_\_\_  
(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.

\_\_\_\_\_  
(TRANSFEE)

\_\_\_\_\_  
(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 the work, authorized by this permit, requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized project, the prospective permittee must submit a PCN as outlined on the first page of this permit. An activity that requires a Section 408 determination is not authorized by GP-41 until the Kansas City District issues the Section 408 authorization to alter, occupy, or use the Corps of Engineers project and the district engineer issues a written GP-41 verification.
- d. 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.
- e. You must contact the Corps if any work is proposed in areas of listed sensitive species or in special status waters. The list of sensitive species in Missouri can be found at: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2657>. The list of special status waters in Kansas, requiring notification can be found at: <https://cdm16021.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2684>.
- 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.
- 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 pounds 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: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2656>.

#### **NWK GP-41 Special Conditions cont.:**

- 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: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2654>. The stream crossing guidelines for Kansas can be found at: <https://cdm16021.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2681>. 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. If the work is adjacent to an active eagle nest, you must contact the U.S. Fish and Wildlife Service to determine if an eagle permit is needed. 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 project. All wooded areas cleared for site access must be allowed to return to forested habitat. You must contact the Corps of Engineers (PCN) prior to any 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 in order for the Corps to determine if additional authorization is required.
- 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 percent 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 concrete rubble in the waters of the United States. Size and grade

### **NWK GP-41 Special Conditions cont.:**

requirements can be changed provided approval is received from the Corps' Regulatory Branch prior to placement. Grouting the riprap material is prohibited.

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, currently farmed 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. No activity is authorized under this general permit which is likely to adversely affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify critical habitat of such species. See Appendix II, paragraph No. 1 for permitting requirements if these species are likely to be present or their habitat would be adversely modified. A list of T&E species that occur in Kansas and in Missouri can be found at: <https://ecos.fws.gov/ecp0/reports/species-listed-by-state-totals-report?status=listed&statusCategory=Listed> . Select the state of interest from the list. Additional information for Missouri can be found at: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2657>. Additional information for Kansas can be found at: <https://cdm16021.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2684>. Additionally, any work within the identified stream reaches, highlighted in Appendix III, requires a PCN to the Corps of Engineers.

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 Corps and 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 during construction activities you must immediately stop work and contact this office and you must suspend work in the area until a determination of eligibility for listing in the National Register of Historic Places is determined and any necessary consultation under Section 106 of the National Historic Preservation Act is completed. In the case of discovering human remains, you must immediately stop work and contact local law enforcement and you must contact the Missouri Department of Natural Resources, Historic Preservation Office at 573-751-7858.

## NWK GP-41 Special Conditions cont.:

- v. You must NOT undertake any activity that results in a new structure or replacement of a previously authorized structure that increases the scope or the 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, 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 Protection 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 by this permit. Any national pollutant discharge elimination system (NPDES) permits, general permits for land disturbance, or any other permit requirements must be obtained and 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 for Missouri: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2655> and the following link for Kansas: <https://cdm16021.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2682> provide 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, before transporting equipment from the project site all 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: <https://nas.er.usgs.gov/queries/FactSheet.aspx?speciesID=5>.
- y. Section 401 Water Quality Certification for GP-41 has been issued by the State of Kansas, State of Missouri, and by the USEPA (for projects located in Indian Country in Kansas). You must comply with the conditions of the Section 401 certification when performing any authorized work in these specific geographic areas.
- z. All projects requested by applicants, other than the Tribal Authority, for use of GP-41 within the boundaries of Indian Country, in Kansas, require coordination with the Tribal Authority prior to commencing work. All other terms and conditions of the GP-41 apply in Indian Country regardless of the applicant.
- aa. You should contact the Kansas Department of Health and Environment (KDHE) at [nps@kdheks.gov](mailto:nps@kdheks.gov) prior to commencing any work within the State of Kansas' Watershed Restoration and Protection Strategies (WRAPS) watersheds. The proposed work should be coordinated with the WRAPS team and should not conflict or impact the WRAPS funded project(s). Contact information is as follows: Milford Reservoir WRAPS (785-632-3550), Delaware River WRAPS (785-945-6292), and the Cottonwood River WRAPS (620-382-3737).

## APPENDIX I

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

- a. This general permit authorizes activities proposed by the general public, railroads, transportation departments, pipeline and utility companies, and government agencies.
- b. If you propose to work under the authority of this General Permit and the project requires a PCN as outlined in the permit, you must notify the Kansas City District, Corps of Engineers, within two (2) years of the end of the flood event (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 individual/entity can demonstrate a delay based on available funding, contracting, or other similar delays. You must submit the following information:
  - 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: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>
  - 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 GP 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. Additionally, all wetland and stream mitigation credits proposed at the mitigation site must be determined using the current version of the Missouri Stream Mitigation Method, or the Missouri Wetland Mitigation Method, or the Kansas Stream Mitigation Guidance documents. The credit worksheets for the assessment methods must be included in the submitted mitigation plan.
  - Describe and illustrate the location of the disaster 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 or the President of the United States. Include an 8½ inch x 11 inch map with the location of the proposed project clearly marked, including the Section, Township, and Range and the latitude and longitude (decimal degrees) of the specific work site.
  - Submit an 8½ inch x 11 inch 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.
  - Discussion of possible alternatives and why the preferred alternative was selected.
  - Also, as project proponent, you must send copies concurrently to the following agencies. We will not necessarily solicit comments from these agencies unless warranted. These agencies may request that we take discretionary authority on the proposed work and require application for an individual permit if a significant issue is identified.

**NWK GP-41 Appendix I cont.**

- For all repair projects, you must contact:

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

\* Federal Emergency Management Agency Watershed  
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.*

- For repair projects in Missouri, you must contact:

U.S. Fish and Wildlife Service  
Columbia Field Office  
101 Park De Ville 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  
Coordination  
P.O. Box 180  
Jefferson City, Missouri 65102-0180  
(573) 522-4115

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

- For 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  
(785) 296-1500

Kansas Department of Health and Environment  
Bureau of Water  
Curtis State Office Building  
1000 Southwest Jackson Street  
Topeka, Kansas 66612

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

- c. For projects NOT requiring pre-construction notification, a report of the completed repair activities must be submitted to the Corps that includes the work location (including an aerial photograph), as-built drawings of the structure(s) and/or fill(s), a list of plant materials (including Latin binomial name) incorporated into the project, and a discussion of the avoidance and minimization measures incorporated into the project and mitigation measures employed. The report must be submitted within 60 days of project completion.

**NWK GP-41 Appendix I cont.**

- d. 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.
- e. The following is a list of damaged structures, damaged land areas, and/or damaged fills that are the result of the disaster event that are authorized to be repaired under this general permit:
- Repair of levees to preexisting elevation and cross-section, including breach closures and associated borrow operations.
  - Repair of road culverts and/or bridges within the existing roadway/railway alignment including the placement of suitable stone (riprap) to protect embankments and abutments.
  - In-kind repair of existing roadway or railway embankments and the replacement or the addition of suitable stone protection at the damage site, including repair to previously authorized fill.
  - In-kind repair of existing utility structures within the current footprint of that structure, including previously authorized fill.
  - Placement of rock and/or earth materials for stream/ditch bank protection and/or stream/ditch bank restoration.
  - Drainage channel/ditch restoration to pre-disaster capacity and flow line unless the flow line must be altered due to other damage associated with the disaster event.
  - Restoration of creek channels to pre-disaster alignment and capacity.
  - Construction of temporary roads and temporary fill required to facilitate the completion of any of the above listed activities.
- f. The District Engineer may require an individual permit on a case-by-case basis for any activity authorized herein.
- g. 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 two years of the GP's expiration date applicants must contact the Kansas City District, Corps of Engineers, for an extension of the authorization to complete the needed work. Contact should be made at least 60 days in advance of the GP expiration date.
- h. Disaster 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 any USDA program authorized for disaster recovery, do not require a PCN 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 on page one of the permit. Submit reports to U.S. Army Corps of Engineers, Federal Building, 601 East 12<sup>th</sup> Street, Suite 402 (ODR), Kansas City, Missouri 64106 (Attn: GP-41).

## APPENDIX II

### **CORPS' REVIEW PROCEDURES FOR SECTION 7 CONSULTATION AND RESULTING AUTHORIZATION BY GENERAL PERMIT NWK-GP-41**

**1. ENDANGERED SPECIES CONSULTATION.** The repair activity must not be located in area containing potential habitat for federally listed species unless, following Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service (Service), a “not likely to adversely affect” determination is agreed upon between the Corps and the Service. If the proposed activity authorized under this permit is located in any area potentially supporting federally listed species or designated critical habitat, the following conditions must be met and will be coordinated by the appropriate Corps District: The Corps will coordinate with the Service to investigate potential species occurrence via the Service’s Information for Planning and Conservation (IPaC) website at <https://ecos.fws.gov/ipac>. For each species on the Service’s Official Species List, an effects determination must be made by the Corps. Concurrence from the Service must be obtained for “may affect” determinations, however “no effect” determinations do not require concurrence from the Service.

a. As conditioned under the GP, additional project specific conditions must be imposed if, through informal consultation between the Service and the Corps, they are determined to be necessary to avoid the likelihood of adverse effects to listed species or designated critical habitat.

b. In the event that the likelihood of adverse effects to listed species or designated critical habitat cannot be avoided, GP authorization will not be provided until such time as: i) formal consultation between the Service and the Corps is completed; ii) a non-jeopardy Biological Opinion is issued; and iii) the terms and conditions of any associated Incidental Take Statement are incorporated as enforceable conditions to the project authorization under GP-41.

c. Conference via early interagency cooperation may also be necessary for species expected to become federally listed during the permit period. Conferences are required for proposed federal actions likely to jeopardize proposed species or destroy or adversely modify proposed critical habitat.

**2. PROJECT DOCUMENTATION AND COMPLIANCE.** The proposed repair activities must be documented by the project proponent and provided to the Corps of Engineers for review. If the repair project contains multiple sites then project documentation must be provided for each site. The documentation must include the T&E species of concern, any critical habitat effected, and a complete description of the timing and the work proposed at the location. This information will be utilized by the Corps to complete an effects determination and consult with the Service as appropriate.

**APPENDIX III**  
**Seasonal Restrictions for Activities Proposed in Fish Spawning Areas**  
**January 2017 - Listing Criteria Noted at Bottom of Table**

ID	Stream Name	Downstream Boundary (From)	Upstream Boundary (To)	Closure Period	Listing Criteria	Length (Miles)	County
1	Baker Branch	the tributary (Unnamed Creek ⑦) confluence immediately downstream of CR-SW 1075	the upstream MDC boundary (Taberville Prairie CA)	15 May - 15 July	2,4,5	4.4	St. Clair
2	Barren Fork ①	its mouth (confluence with Tavern Creek)	MO-17	15 March - 15 June	2,4	2.9	Miller
3	Barren Fork ②	its mouth (confluence with Sinking Creek)	CR-A-D	15 Nov. - 15 Feb.	6	3.4	Shannon
4	Bass Creek	its mouth (confluence with Turkey Creek)	US-63	15 May - 15 July	2,5,7	4.4	Boone
5	Bear Creek	RT-A	the south section line (6, 33N, 24W)	15 March - 15 June	2,4	10.5	Cedar, Polk
6	Beaver Creek	Bull Shoals Lake (654' AMSL)	MO-76	15 March - 31 July	2,4	24.3	Taney
7	Big Buffalo Creek	Lake of the Ozarks (660' AMSL)	its headwaters	1 April - 30 June	2,5	10.8	Benton, Morgan
8	Big Cane Creek	the Missouri-Arkansas border	its source (convergence of Cane Creek & Little Cane Creek)	1 March - 15 June	2,7	4.2	Butler
9	Big Creek	its mouth (confluence with St. Francis River)	MO-143	15 March - 15 June	5,6	12.3	Wayne, Iron
10	Big Piney River	its mouth (confluence with Gasconade River)	MO-17	15 March - 15 June	2,4,6,7	84.8	Pulaski, Phelps, Texas
11	Big River	its mouth (confluence with Meramec River)	the upstream MDC boundary (Leadwood Access)	15 March - 15 June	2,6	108.4	Jefferson, Washington, St. Francois
12	Black River ①	the Missouri-Arkansas border	Clearwater Dam	1 Feb. - 15 June	2,4,6,7	91.8	Butler, Wayne
13	Black River ②	Clearwater Lake (498' AMSL)	its source (convergence of West Fork Black River & East Fork Black River)	1 April - 31 July	2,4	27	Reynolds
14	Blue River	the Missouri-Kansas border	RT-W (Bannister RD)	1 April - 30 June	4,7	10.8	Jackson
15	Blue Spring Branch	its mouth (confluence with Bois Brule Creek)	RT-M	1 Dec. - 31 March	2	6.3	Perry
16	Blue Springs Branch	its mouth (confluence with Blue Springs Creek)	its source (Blue Springs)	15 Nov. - 15 Feb.	6	0.2	Crawford
17	Blue Springs Creek	its mouth (confluence with Meramec River)	the confluence of Blue Springs Branch	15 Nov. - 15 Feb.	5,6	4.3	Crawford
18	Bonne Femme Creek	CR-Andrew Sapp RD	US-63	15 May - 15 July	2,5,7	9.8	Boone
19	Bourbeuse River	its mouth (confluence with Meramec River)	the confluence of Clear Creek	15 March - 15 June	2,4	139.6	Franklin, Crawford, Gasconade, Phelps
20	Brush Creek ①	its mouth (confluence with Shoal Creek)	its headwaters	15 March - 15 June	2,4,5	8.4	Caldwell
21	Brush Creek ②	its mouth (confluence with Sac River)	the south section line (6, 35N, 24W)	15 March - 15 June	1,2	13.8	St. Clair, Cedar, Polk
22	Brushy Fork	its mouth (confluence with Barren Fork)	MO-17	15 March - 15 June	2,4	2	Miller
23	Cahoonie Creek	its mouth (confluence with Thomas Creek)	the west section line (3, 36N, 20W)	15 March - 15 June	2,4	2.8	Dallas, Hickory
24	Cane Creek ①	its mouth (convergence with Little Cane Creek & source of Big Cane Creek)	the north section line (11, 22N, 5E)	1 Feb. - 15 June	2	5.5	Butler

	Cane Creek ②	MO-158	the confluence of Tenmile Creek	1 Feb. - 15 June	2	14.2	Butler
26	Castor River	its mouth (confluence with Castor River Diversion Channel)	CR-208	1 Feb. - 31 May	2,4	59.8	Bollinger, Wayne, Madison
	Chariton River	US-136	the Missouri-Iowa border	1 March - 30 April	2,4,5,7	19	Schuyler, Putnam
28	Cinque Hommes Creek	the confluence of Bois Brule Creek	US-61	1 Dec. - 31 March	2	11.5	Perry
	Clear Creek ①	its mouth (confluence with Fishing River)	RT-W	1 June - 31 August	2	23.2	Clay, Clinton
30	Clear Creek ②	its mouth (confluence with Lamine River)	its headwaters	15 May - 15 July	2	12.7	Cooper
	Courtois Creek	its mouth (confluence with Huzzah Creek)	MO-8	15 March - 15 June	4,5,6	15.8	Crawford
32	Crabapple Creek	its mouth (confluence with Shoal Creek)	its headwaters	15 March - 15 June	2,4,5	9.3	Caldwell
	Crane Creek	Quail Spur RD	CR-1240	15 Nov. - 15 Feb.	6	10	Stone, Lawrence
34	Crooked River	MO-10	its headwaters	15 March - 15 June	2,4	65.5	Ray, Caldwell, Clinton
	Culley Creek	its mouth (confluence with Moniteau Creek)	the north section line (14, 46N, 17W)	15 May - 15 July	2	1.9	Cooper
36	Current River	the Carter-Ripley county line (downstream NPS boundary (Ozark National Scenic Riverways))	its source (convergence of Pigeon Creek & Montauk Spring Branch)	15 March - 15 June	2,5,6	112	Carter, Shannon, Texas, Dent
	Des Moines River	its mouth (confluence with Mississippi River)	US-27	1 March - 15 June	2	14.8	Clark
38	Dousinbury Creek	its mouth (confluence with Niangua River)	RT-JJ	15 March - 15 June	2	0.8	Dallas
	Draffen Branch	its mouth (confluence with Moniteau Creek)	CR-Harned RD	15 May - 15 July	2	3.3	Cooper
40	Dry Fork	its mouth (confluence with Meramec River)	MO-8	15 Nov. - 15 Feb.	6	5.8	Crawford, Phelps
	East Fork Big Creek	its mouth (convergence with West Fork Big Creek & source of Big Creek)	the Missouri-Iowa border	15 March - 15 June	2,4	39.5	Harrison
42	East Fork Crooked River	its mouth (confluence with Crooked River)	its headwaters	15 May - 15 July	2,4	32.2	Ray, Caldwell
	East Fork Niangua River	its mouth (convergence with West Fork Niangua River and source of Niangua River)	the south section line (33, 32N, 18W)	15 March - 15 June	2,4	0.6	Webster
44	Eleven Point River	the Missouri-Arkansas border	the Middle Fork Eleven Point River confluence	15 March - 15 June	5,6	54.4	Oregon
	Elk River	the Missouri-Oklahoma border	its source (convergence of Big Sugar Creek & Little Sugar Creek)	15 March - 15 June	4,6	24.7	McDonald
46	Fiery Fork	its mouth (confluence with Little Niangua River)	the tributary confluence immediately upstream of CR-7-17H (Fiery Fork RD)	15 March - 15 June	2	3.6	Camden
	First Nicholson Creek (East Drywood Creek)	the downstream MDNR boundary (Prairie State Park)	the most upstream crossing of CR-West Central RD	15 March - 15 June	4,5,7	4.1	Barton
48	Flat Creek	Table Rock Lake (915' AMSL)	MO-39	15 March - 15 June	2	16.1	Stone, Barry
	Fleck Creek	the downstream MDNR boundary (Prairie State Park)	the first tributary (Unnamed Creek ⑧) confluence upstream	15 March - 15 June	4,7	1	Barton
50	Fourmile Creek	its mouth (confluence with Niangua River)	RT-P	15 March - 15 June	2	0.8	Dallas

51	Gans Creek	its mouth (convergence with Clear Creek & source of Little Bonne Femme Creek)	US-63	15 March - 15 June	5,7	5.4	Boone
52	Gasconade River	its mouth (confluence with Missouri River)	MO-5	15 March - 15 June	2,4,6,7	289.9	Gasconade, Osage, Maries, Phelps, Pulaski, Laclede, Wright
53	Grand River	its mouth (confluence with Missouri River)	the Thompson River confluence	1 March – 15 June	2,4	61.3	Carroll, Chariton, Livingston
54	Greasy Creek	its mouth (confluence with Niangua River)	the south section line (34, 33N, 20W)	15 March - 15 June	2,4	14.2	Dallas
	Greer Spring Branch	its mouth (confluence with Eleven Point River)	its source (Greer Spring)	15 Nov. - 15 Feb.	4,6	1.4	Oregon
56	Grindstone Creek	its mouth (confluence with Grand River)	its headwaters	15 May - 15 July	2,4	42.5	Daviess, DeKalb, Clinton
57	Hickory Creek ①	MO-6	its headwaters	15 May - 15 July	2	8.6	Grundy, Daviess
58	Hickory Creek ②	its mouth (confluence with Shoal Creek)	CR-Monark DR	15 Feb. - 15 July	2	7.6	Newton
59	High Creek	the confluence of McElroy Creek	its headwaters	1 June - 31 August	2	10.7	Atchison
60	Howard Creek	its mouth (confluence with Smiley Creek)	its headwaters	15 May - 15 July	2	4.1	Cooper, Moniteau
61	Huzzah Creek	its mouth (confluence with Meramec River)	CR-Willhite RD	15 March - 15 June	4,5,6	35.8	Crawford
62	Jack Buster Creek	its mouth (confluence with Saline Creek)	RT-MM	15 March - 15 June	2	3.6	Miller
63	Jack's Fork	its mouth (confluence with Current River)	its source (convergence of North Prong Jack's Fork & South Prong Jack's Fork)	15 March - 15 June	5,6	46.7	Shannon, Texas
64	James River	Table Rock Lake (915' AMSL)	Lake Springfield Dam	15 March - 15 June	2,6	51.1	Stone, Christian, Greene
	Joachim Creek	RT-A	RT-V	15 March - 15 June	6	18.3	Jefferson
66	Jones Creek	its mouth (confluence with Niangua River)	CR-Jones Creek RD	15 March - 15 June	2	0.3	Dallas
67	Kelley Branch	its mouth (confluence with Silver Fork)	RT-U	15 March - 15 July	2,4,7	6.6	Boone
68	Kenser Creek	its mouth (confluence with Tavern Creek)	MO-42	15 March - 15 June	2	0.3	Miller
69	La Barque Creek	its mouth (confluence with Meramec River)	its headwaters	15 March - 15 June	4,7	6.2	Jefferson
70	Lane Spring Branch	its mouth (confluence with Little Piney Creek)	its source (Lane Spring)	15 Nov. - 15 Feb.	6	0.2	Phelps
71	Little Black River	the east section line (25, 24N, 3E)	its source (convergence of North Prong Little Black River & South Prong Little Black River)	15 March - 15 June	2,4,5	8.6	Ripley
72	Little Maries Creek	its mouth (confluence with Maries River)	the south section line (33, 43N, 10W)	15 March - 15 June	2	3.4	Osage
73	Little Niangua River	Lake of the Ozarks (660' AMSL)	the east section line (26, 36N, 19W)	15 March - 15 June	1,2,4,7	46.8	Camden, Hickory, Dallas
74	Little Piney Creek	the confluence of Beaver Creek	the Phelps-Dent county line	15 Nov. - 15 Feb.	2,5,6	15.1	Phelps
	Little Pomme de Terre River	its mouth (confluence with Pomme de Terre River)	US-65	15 March - 15 June	2	9.5	Polk, Greene
76	Little Saline Creek	its mouth (confluence with Saline Creek)	its headwaters	15 March - 15 June	2	9.8	Miller
77	Little Wilson Creek	its mouth (confluence with Pomme de Terre River)	CR-244 <sup>th</sup> ST	15 March - 15 June	2	2.1	Polk
78	Locust Creek	MO-6	US-136	1 March - 30 April	2,4,7	36.5	Sullivan, Putnam

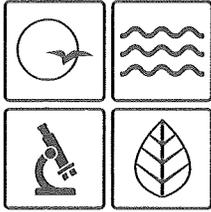
79	Log Creek	its mouth (confluence with Shoal Creek)	its headwaters	15 March - 15 June	2,4,5	14.7	Caldwell
80	Lost Creek	the Missouri-Oklahoma border	RT-CC	1 May - 31 July	2	7.1	Newton
81	Macks Creek	its mouth (confluence with Little Niangua River)	Coffey Hollow RD	15 March - 15 June	2	2.2	Camden
82	Maries River	its mouth (confluence with Osage River)	the south section line (26, 41N, 10W)	15 March - 15 June	2	37.4	Osage, Maries
83	Maze Creek	Stockton Lake (867' AMSL)	CR-231	15 March - 15 June	2	4	Dade
84	McElroy Creek	its mouth (confluence with High Creek)	the Missouri-Iowa border	1 June - 31 August	2	6.6	Atchison
	Meramec River ①	CR-Thurman Lake RD (upstream boundary of Scott's Ford Access)	MO-8	15 Nov. - 15 Feb.	6	8.8	Crawford, Phelps
86	Meramec River ②	its mouth (confluence with Mississippi River)	MO-19	15 March - 15 June	2,4,5,6	205.8	St. Louis, Jefferson, Franklin, Crawford, Dent
87	Meyers Branch	its mouth (confluence with Tavern Creek)	its headwaters	1 May - 31 July	2,7	2.5	Callaway
88	Mill Creek ①	MO-111	its headwaters	15 March - 15 June	2,4	9.7	Atchison
89	Mill Creek ②	its mouth (confluence with Little Piney Creek)	the confluence of Deep Hollow Creek	15 Nov. - 15 Feb.	5,6	9.3	Phelps
90	Mill Creek ③	its mouth (confluence with Wet Glaize Creek)	MO-7	15 March - 15 June	7	4.9	Camden
91	Mineral Fork	its mouth (confluence with Big River)	RT-F	15 March - 15 June	4,6	14.9	Washington
92	Mississippi River	the Missouri River confluence	Mel Price Lock & Dam	1 April - 15 June	2	5.6	St. Charles
93	Moniteau Creek	MO-87	its headwaters	15 March - 15 July	2	30.9	Moniteau, Cooper
94	Niangua River	Lake of the Ozarks (660' AMSL)	its source (convergence of East Fork Niangua River & West Fork Niangua River)	15 March - 15 June	1,2,7	109	Camden, Dallas, Laclede, Webster
	North Dry Sac River	its mouth (confluence with Little Sac River)	the east section line (19, 31N, 21W)	15 March - 15 June	2,4	9.2	Polk, Greene
96	North Fork River	Norfork Lake (554' AMSL)	the Ozark-Douglas county line	15 Nov. - 15 Feb.	4,5,6	23.9	Ozark
97	North Little Tavern Creek	its mouth (confluence with Tavern Creek)	the Miller-Maries county line	15 March - 15 June	2	3.3	Miller
98	Osage Fork of the Gasconade River	its mouth (confluence with Gasconade River)	RT-F	15 March - 15 June	2,6,7	68.6	Laclede, Wright, Webster
99	Osage River	its mouth (confluence with Missouri River)	Bagnell Dam	15 March - 15 June	2,4,7	85.6	Cole, Osage, Miller
100	Panther Creek	its mouth (confluence with Brush Creek)	the St. Clair-Polk county line	15 March - 15 June	2	2.5	St. Clair
101	Piney Spring Branch	its mouth (confluence with Little Piney Creek)	its source (Piney Spring)	15 Nov. - 15 Feb.	6	0.2	Phelps
102	Pisgah Creek	its mouth (confluence with Moniteau Creek)	RT-W	15 May - 15 July	2	8.1	Cooper
103	Pomme de Terre River ①	Pomme de Terre Reservoir (839' AMSL)	RT-D	15 March - 15 June	4	12.4	Polk
104	Pomme de Terre River ②	E 475 <sup>th</sup> RD	the first tributary confluence upstream of CR-Arrow Head RD	15 March - 15 June	1,2,4	31.8	Polk, Dallas, Greene, Webster
105	Roubidoux Creek ①	the north section line (10, 34N, 12W)	MO-32	15 March - 15 June	2	24.4	Pulaski, Texas
106	Roubidoux Creek ②	its mouth (confluence with Gasconade River)	the upstream MDC boundary (Roubidoux Creek CA)	15 Nov. - 15 Feb.	6	2.2	Pulaski

107	Sac River ①	from Harry S. Truman Reservoir (706' AMSL)	the west section line (14, 36N, 26W)	1 March - 1 June	4	3.2	St. Clair
108	Sac River ②	Stockton Lake (867' AMSL)	CR-34	15 March - 15 June	4	13	Dade, Green
109	Saint Francis River ①	the Missouri-Arkansas border	Wappapello Dam	1 Feb. - 31 June	2,4	113	Dunklin, Butler, Stoddard, Wayne
110	Saint Francis River ②	Wappapello Lake (355' AMSL)	MO-72	1 Feb. - 31 May	2,4,6	63.2	Wayne, Madison
111	Saline Creek	its mouth (confluence with Osage River)	US-54	15 March - 15 June	2	13.1	Miller
112	Salt Creek	its mouth (confluence with Missouri River)	its headwaters	1 June - 31 August	2,7	5.9	Howard
113	Shoal Creek	RT-D	its headwaters	15 May - 15 July	2,4,5	74.8	Livingston, Caldwell, Clinton
114	Silver Fork	US-63	RT-V	15 March - 15 July	2,4,7	9.6	Boone
115	Smiley Creek	its mouth (confluence with Moniteau Creek)	its headwaters	15 May - 15 July	2	8.2	Cooper, Moniteau
116	South Fabius River	US-24/US-61	the Marion-Shelby county line	15 March - 15 June	4,7	42.1	Marion
117	South Fork Pomme de Terre River	its mouth (confluence with Pomme de Terre River)	CR-J RD	15 March - 15 June	2	3.7	Greene, Webster
118	South Fork Turkey Creek	its mouth (convergence with North Fork Turkey Creek & source of Turkey Creek)	RT-H	15 March - 15 July	2,7	2.7	Boone
119	South Little Tavern Creek	its mouth (confluence with Tavern Creek)	the confluence of Atwell Creek	15 March - 15 June	2,4	1.6	Miller
120	South Prong Little Black River	its mouth (convergence with North Prong Little Black River & source of Little Black River)	MO-21	15 March - 15 June	2,4,5	5.5	Ripley
121	Spring Creek	its mouth (confluence with Big Piney River)	the confluence of Bradford Branch	15 Nov. - 15 Feb.	5,6	7.9	Phelps
122	Spring River ①	RT-H	US-60	15 Nov. - 15 Feb.	2,4	14.1	Lawrence
123	Spring River ②	the Missouri-Kansas border	MO-43	15 April - 15 July	2,4	12.3	Jasper
124	Starks Creek	its mouth (confluence with Little Niangua River)	the north section line (22, 38N, 20W)	15 March - 15 June	2	2.2	Hickory
125	Sugar Creek ①	MO-146	its headwaters	15 March - 15 July	2,4	25.7	Grundy, Harrison
126	Sugar Creek ②	its mouth (confluence with Cuivre River)	RT-B	15 March - 15 June	4,5,7	13.5	Lincoln
127	Swan Creek	Bull Shoals Lake (654' AMSL)	the upstream USACE boundary	15 March - 15 June	2	4.6	Taney
128	Tavern Creek ①	its mouth (confluence with Missouri River)	its headwaters	1 May - 31 July	2,7	8.4	Callaway
129	Tavern Creek ②	its mouth (confluence with Osage River)	Bennett RD	15 March - 15 June	1,2,4	43.8	Miller
130	Tenmile Creek	its mouth (confluence with Cane Creek)	RT-B	15 March - 15 June	6	15.4	Butler, Carter
131	Thomas Creek	its mouth (confluence with Little Niangua River)	CR-Howard Chapel RD	15 March - 15 June	2,4	8.7	Hickory, Dallas
132	Thompson River	the south section line (11, 66N, 26W)	the Missouri-Iowa border	15 March - 15 June	2,4	6.9	Harrison
133	Tombstone Creek	its mouth (confluence with Sugar Creek)	its headwaters	15 May - 15 July	2,4	10.9	Harrison, Daviess
134	Turkey Creek	its mouth (confluence with Boone Femme Creek)	its source (convergence of North Fork Turkey Creek & South Fork Turkey Creek)	15 March - 15 July	2,5,7	7.2	Boone
135	Turnback Creek	Stockton Lake (867' AMSL)	the Old Dilday Mill Dam	15 March - 15 June	4	13.4	Dade

136	Unnamed Creek ①	its mouth (confluence with Sugar Creek)	its headwaters	15 May - 15 July	2	5	Harrison
137	Unnamed Creek ②	its mouth (confluence with Sugar Creek)	its headwaters	15 May - 15 July	2	5.9	Harrison
138	Unnamed Creek ③	its mouth (confluence with Moniteau Creek)	its headwaters	15 May - 15 July	2	3.9	Cooper
139	Unnamed Creek ④	its mouth (confluence with Bass Creek)	the south section line (33, 47N, 12W)	15 May - 15 July	2	1.8	Boone
140	Unnamed Creek ⑤	its mouth (confluence with Baker Branch)	its headwaters	15 May - 15 July	2,4	0.9	St. Clair
141	Unnamed Creek ⑥	its mouth (confluence with Baker Branch)	its headwaters	15 May - 15 July	2,4	3.5	St. Clair
142	Unnamed Creek ⑦	its mouth (confluence with Baker Branch)	its headwaters	15 May - 15 July	2,4	2.7	St. Clair
143	Unnamed Creek ⑧	its mouth (confluence with Fleck Creek)	CR-West Central RD	15 March - 15 June	4,7	2.5	Barton
144	Weaubleau Creek	the downstream MDC boundary (Kings Prairie Access)	the St. Clair-Hickory county line	15 May - 15 July	2,4	14	St. Clair
145	West Brush Creek	its mouth (confluence with Moniteau Creek)	RT-O	15 March - 15 July	2	3.4	Cooper, Moniteau
146	West Fork Big Creek	its mouth (convergence with East Fork Big Creek & source of Big Creek)	the Missouri-Iowa border	15 March - 15 June	2,4	38.7	Harrison
147	West Fork Crooked River	its mouth (confluence with Crooked River)	its headwaters	15 May - 15 July	2,4	21.5	Ray
148	West Fork Niangua River	its mouth (convergence with East Fork Niangua River & source of Niangua River)	the south section line (33, 32N, 18W)	15 March - 15 June	2	0.3	Webster
149	West High Creek	its mouth (confluence with High Creek)	the Missouri-Iowa border	1 June - 31 August	2	6.2	Atchison
150	Wet Glaize Creek	its mouth (convergence with Dry Auglaize Creek & source of Grand Glaize Creek)	the confluence of Mill Creek	15 March - 15 June	7	6.6	Camden
151	Whetstone Creek	its mouth (confluence with Loutre River)	I-70	15 March - 15 June	2,4,5,7	17.7	Montgomery, Callaway
152	Whitewater River	its mouth (confluence with Castor River Diversion Channel)	RT-K	1 Feb. - 31 May	2,7	40.7	Cape Girardeau, Bollinger
153	Wilkins Spring Branch	its mouth (confluence with Mill Creek)	its source (Wilkins Spring)	15 Nov. - 15 Feb.	6	0.2	Phelps

**Spawning Season Listing Criteria – 1/2017**

1. Stream reaches designated by the U.S. Fish and Wildlife Service as critical habitat for aquatic species of conservation concern.
  - Determination of Threatened Status & Critical Habitat for Niangua Darter - [http://ecos.fws.gov/docs/federal\\_register/fr964.pdf](http://ecos.fws.gov/docs/federal_register/fr964.pdf)
2. Stream reaches that have not been designated as critical habitat, but which may be considered critical to the maintenance or recovery of aquatic species of conservation concern.
  - Missouri Species and Communities of Conservation Concern Checklist – January 2017 - <http://mdc.mo.gov/145>
3. To be determined (TBD).
4. Remnant examples of historic habitats, especially in areas where streams have been severely impacted by channelization, levee construction, snagging, clearing or similar activities.
5. Designated Outstanding National or State Resource Waters as defined by the Missouri Department of Natural Resources when these waters support significant biological resources that may be impacted by activities during periods of spawning, incubation or rearing.
  - Rules of Department of Natural Resources, Division 20-Clean Water Commission, Chapter 7-Water Quality, 10 CSR 20-7 - <http://s1.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c20-7a.pdf>
6. Agency management areas (i.e., streams with special area regulations or where stocking occurs).
  - A Summary of Missouri Fishing Regulations (effective March 1, 2016) - [http://huntfish.mdc.mo.gov/sites/default/files/downloads/2016\\_FishRegs.pdf](http://huntfish.mdc.mo.gov/sites/default/files/downloads/2016_FishRegs.pdf)
7. Stream reaches with unique fish communities or unexpected high biodiversity due to the presence of species generally considered atypical to the area and, in the opinion of biologists, are of sufficient scarcity to require protection.



Missouri Department of dnr.mo.gov

# NATURAL RESOURCES

Eric R. Greitens, Governor

Carol S. Comer, Director

JAN 12 2018

Colonel Douglas B. Guttormsen, P.E.  
Commander, Kansas City District  
U.S. Army Corps of Engineers  
601 East 12<sup>th</sup> Street  
Kansas City, MO 64106

RE: 2007-02078/CEK007265

Dear Colonel Guttormsen:

The Missouri Department of Natural Resources' Water Protection Program has reviewed your request for Clean Water Act Section 401 Water Quality Certification (WQC) to accompany the U.S. Army Corps of Engineers' (USACE) Permit for 2007-02078 in which the USACE, Kansas City District, St. Louis District, Rock Island District, Little Rock District, and Memphis District are proposing to reissue Regional General Permit 41 (GP-41) for flood recovery activities in waters of the United States within the state of Missouri and Kansas. This permit is referred to as Regional Permit 35 Missouri in the USACE's Rock Island District.

GP-41 authorizes discharges of dredged or fill material in conjunction with the permanent protection and/or repair of flood damaged structures, damaged land areas, and/or damaged fills in waters of the United States throughout Missouri that are declared flood disaster areas by the Governor of Missouri and/or the President of the United States.

These projects are located along water ways throughout Missouri. For any activities that occur in a water body that is listed for a sediment-related impairment, aquatic habitat alteration, or unknown impairment as listed in the most current Water Quality Report (Section 305(b) Report); or in or within two miles upstream of a designated outstanding state or national resource water (10 CSR 20-7.031 Tables D and E), extreme caution shall be exercised so that the project does not impair or further impair the water body.

This WQC is being issued under Section 401 of Public Law 95-217, The Clean Water Act of 1977 and subsequent revisions. This office certifies 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. This WQC applies only to the repair of structures, lands, and/or fills due to flood damage. All restoration activities shall be to pre-flood alignments and constructed to allow for aquatic organism movement, especially during low flows. Construction of new structures shall require additional review and issuance of a separate certification.
2. Temporary fills shall be removed promptly and the fill site restored immediately following construction.



Recycled paper

3. This general permit shall not be used for channelization or channel modification purposes. Channelization includes but is not limited to reducing the length of the channel, widening the channel for increased water storage or flow, and/or construction of hard structures which concentrate flow. Bank stabilization activities along one bank of a stream are permitted, including but not limited to, bank sloping and riprapping. The redirection of flow by excavation of the opposite bank or a streambed is considered a channel modification and is prohibited.
4. After avoidance and minimization, all unavoidable, adverse impacts from projects authorized by this permit shall be mitigated appropriately based on type and extent of impact.
  - a. Mitigation for loss of aquatic resources shall be in conformance with the currently approved 2013 Missouri Stream Mitigation Method, 2017 Missouri Wetland Mitigation Method, and/or other mitigation guidance approved for use in Missouri. Mitigation guidance documents can be located online at [www.nwk.usace.army.mil/Missions/RegulatoryBranch/StateofMissouri](http://www.nwk.usace.army.mil/Missions/RegulatoryBranch/StateofMissouri).
  - b. Mitigation shall be within the state of Missouri.
  - c. The applicant shall comply with the higher value of compensatory mitigation required by either the Department or the USACE, but not both unless explicitly noted.
  - d. Stream impacts shall require compensatory mitigation with only instream or riparian corridor credits, unless the Department agrees to an alternative.
  - e. Should mitigation be determined necessary:
    1. The applicant or project sponsor shall submit impact calculations and a proposed mitigation plan to the Department for approval prior to implementation.
    2. The applicant or project sponsor shall purchase mitigation credit from an approved in-lieu fee provider or mitigation bank or provide permittee-responsible mitigation. A copy of the purchase document or proof of completed permittee-responsible mitigation shall be provided to the Department at the address below prior to the start of or concurrent with work within jurisdictional waters at the site.
5. Antidegradation requirements dictate all appropriate and reasonable Best Management Practices (BMPs) related to erosion and sediment control, project stabilization, and prevention of water quality degradation are applied and maintained; for example, preserving vegetation, streambank stability, and basic drainage. BMPs shall be properly installed prior to conducting authorized activities and maintained, repaired, and/or replaced as needed during all phases of the project to limit the amount of discharge of water contaminants to waters of the state. The project shall not involve more than normal stormwater or incidental loading of sediment caused by project activities so as to comply with Missouri's general water quality criteria [10 CSR 20-7.031(4); Page 16 at <http://www.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c20-7a.pdf>].
6. A stream's pattern, profile, and dimension (including but not limited to sinuosity, slope, and channel width) shall be maintained as much as practicable. Streambed gradient shall not be adversely altered during project construction. No project shall accelerate bed or bank erosion.
7. The project shall not allow the filling of jurisdictional springs such as those associated with a water body's point of origin or located in a streambed.

8. Conduct project activity at low flows and water levels to limit the amount of sediment disturbance caused by the heavy equipment. Limit the duration and extent that any heavy equipment is required to be instream.
9. Care shall be taken to keep machinery out of the water way as much as possible. If work in the water way is unavoidable, it shall be performed in a way that minimizes the duration and amount of any disturbance to banks, substrate and vegetation to prevent increases in turbidity. 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 flood-prone areas 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.
10. 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 Department's Environmental Emergency Response by phone at 573-634-2436 or website at <http://dnr.mo.gov/env/esp/esp-eer.htm>.
11. Only clean, nonpolluting fill shall be used. The following materials are not suitable where contact with water is expected such as 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 (4)(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/2017/2017NWP\\_MORegCon.pdf?ver=2017-03-17-114205-543](http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2017/2017NWP_MORegCon.pdf?ver=2017-03-17-114205-543)), since these materials are usually not substantial enough to withstand erosive flows, and fragmented asphalt.
  - b. Concrete with exposed rebar.
  - c. Tires, vehicles or vehicle bodies, and construction/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.
  - e. Any material containing chemicals that would result in violation of water quality standards.
12. Any waste concrete or concrete rinsate shall be disposed of in a manner that does not result in any discharge to the jurisdictional water ways.
13. Clearing of vegetation and trees shall be the minimum necessary to accomplish the activity, except for the removal of invasive or noxious species and placement of ecologically beneficial practices.
14. 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 should be within three days of final contouring. To ensure erosion and deposition of soil in waters of the state are not occurring from this project, onsite inspections of these areas should be conducted as necessary to ensure successful revegetation and stabilization.

15. Acquisition of a WQC 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. Permits or any other requirements shall remain in effect. Questions regarding permit requirements may be directed to the appropriate Department's Regional Office, which can be found at <https://dnr.mo.gov/regions/>.
16. Land disturbance activities disturbing one or more acres of total area for the entire project or less than one acre for sites that are part of a common promotional plan of development may require a stormwater permit. Instructions on how to apply for and receive the online land disturbance permit are located at [www.dnr.mo.gov/env/wpp/epermit/help.htm](http://www.dnr.mo.gov/env/wpp/epermit/help.htm). Questions regarding permit requirements may be directed to the Department's Land Disturbance phone line at 573-526-2082 or toll free at 855-789-3889.
17. Prior to commencing any dredging activity, the applicant may need a Clean Water Act Section 402 National Pollutant Discharge Elimination System, Missouri General Permit 69 for Dredging Lakes/River Harbors if the activity includes piling dredged material on land. The permit is for return water and stormwater from the dredged material. All terms for compliance with the Missouri General Permit 69 would be incorporated into the WQC. Applications for General Permit 69 may be obtained by contacting the appropriate Department's Regional Office, which can be found at <https://dnr.mo.gov/regions/>.
18. Representatives from the Department shall be allowed upon request on the project property, which includes the site(s) where the authorized activity takes place and any associated compensatory mitigation site(s), to inspect the authorized activity and mitigation efforts as deemed necessary by the Department to ensure compliance with WQC conditions and water quality standards. The applicant or their consultant shall submit any requested information deemed necessary by the Department to ensure compliance with WQC conditions.

An issued WQC becomes part of and expires with the GP-41 permit unless explicitly stated in the WQC. Consultation with the Department is required should the permit require modification. Not all permit modifications require the WQC to be modified or reissued. For example, when a permit expiration date is extended or the permit is reissued and there are no changes to the original project or water quality standards, the WQC may remain valid for that project.

If you were adversely affected by this decision, you may be entitled to an appeal before the Administrative Hearing Commission (AHC) pursuant to 10 CSR 20-1.020 and Section 621.250, RSMo. To appeal, you must file a petition with the AHC within 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. Contact information for the AHC is by mail at Administrative Hearing Commission, United States Post Office Building, Third Floor, 131 West High Street, P.O. Box 1557, Jefferson City, MO 65102, by phone at 573-751-2422, by fax at 573-751-5018, and by website at [www.oa.mo.gov/ahc](http://www.oa.mo.gov/ahc).

Colonel Douglas B. Guttormsen, P.E.  
Page 5

This WQC is part of the USACE's permit. Water Quality Standards must be met during any operations authorized. If you have any questions, please contact Mr. Mike Irwin by phone at 573-522-1131, by email at [mike.irwin@dnr.mo.gov](mailto:mike.irwin@dnr.mo.gov), or by mail at Department of Natural Resources, Water Protection Program, 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  
Director

CW:mip

- c: Ms. Sherry Bell, Fiscal Management Section, Budget and Fees Unit
- Mr. Doug Berka, U.S. Army Corps of Engineers, Kansas City District
- Mr. Joe Bowdish, Northeast Regional Office
- Mr. Buck Brooks, Missouri Department of Transportation
- Mr. Jesse Cochran, Kansas City Regional Office
- Mr. Eric Gilstrap, St. Louis Regional Office
- Mr. Art Goodin, Southeast Regional Office
- Ms. Kathy Harvey, Missouri Department of Transportation
- Mr. Kevin Hess, Southwest Regional Office
- Mr. Bryan Hopkins, Water Resources Center
- Ms. Heather Johnson, St. Louis Regional Office
- Ms. Erin Lepper, Department of Natural Resources
- Mr. Andrew Lyon, Kansas Department of Health & Environment
- Mr. Jeff Miller, Treated Wood Council
- Ms. Ethel Myers, St. Louis Regional Office
- Ms. Corinne Rosania, Kansas City Regional Office
- Ms. Karen Rouse, Water Resources Center
- Mr. Scott Satterthwaite, Kansas Department of Health & Environment
- Ms. Katlynn Steers, Southeast Regional Office
- Mr. Robert Stout, Office of the Director
- Mr. Steve Sturgess, Kansas City Regional Office
- Ms. Gayle Unruh, Missouri Department of Transportation
- Ms. Terrie Williams, Kansas City Regional Office
- Ms. Sarah Wright-Aholt, St. Louis Regional Office

January 10, 2018

Mr. Douglas R. Berka  
Regulatory Programs  
U.S. Army Corps of Engineers  
Kansas City District  
601 E. 12th St.  
Kansas City, MO 64106

### Section 401 Water Quality Certification

RE: 2007-2078/CEK007265 Reissuance Regional General Permit 41 (GP-41)- REISSUANCE OF REGIONAL GENERAL PERMIT NO. 41 FOR THE PERMANENT PROTECTION AND/OR REPAIR OF FLOOD DAMAGED STRUCTURES, DAMAGED LAND AREAS AND/OR DAMAGED FILLS IN THE STATE OF KANSAS.

Dear Mr. Berka:

Originally issued by the Kansas City District in March of 2008, GP-41 was reissued on April 22, 2013, and now expires on April 22, 2018. If reissued by each Corps District in Missouri, GP-41 will continue to authorize discharges of dredged or fill material in conjunction with the permanent protection and/or repair of flood damaged structures, damaged land areas, and/or damaged fills in waters of the United States throughout Kansas that are declared flood disaster areas by the Governor and/or the President of the United States. The Kansas Department of Health and Environment has reviewed the document in the referenced public notice.

The KDHE has reviewed the proposed project information for this project and determined the project has the following water pollutant discharge sources or possible origins of water quality/nuisance complaints:

1. Construction and excavation activities including grading and filling, equipment and materials storage, equipment fueling and maintenance, etc.
2. Mechanical fluid spills/leaks
3. Removal of riparian area

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. In as much as the waterbody potentially being impacted is unknown, KDHE has determined only general water quality standards will be implicated in this water quality certification. Furthermore, the applicant should utilize water quality measures to control non-point source pollution identified in Conditions 4, 5, 7 and 8.

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

1. **This certification shall be posted on site through the duration of the project.**
2. **The Applicant shall email this office at [nps@kdheks.gov](mailto:nps@kdheks.gov) when construction starts.**
3. **The Applicant** shall implement good housekeeping practices to assure conditions do not cause:
  - a. Surface waters of the state within and below the project area to offal, grass clippings, discarded building or construction materials, car bodies, tires, wire and other unwanted or discarded materials[KAR 28-16-28e(b)(3)].
4. **The Applicant** shall avoid or control the discharge of suspended solids from construction activities and removal of riparian vegetation so that they may not cause:
  - a. 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. Surface waters of the state within or below the project to have deposits of sludge or fine solids [KAR 28-16-28e(b)(6)].
  - c. 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)].
  - d. The project shall be constructed in a manner to avoid destabilization of downstream banks likely to cause excessive turbidity and sediment load to said waterbodies.**
5. **The Applicant** shall avoid or control the discharge of nutrients from construction activities, 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. 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)].
  - c. 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)].

6. Construction activities disturbing one acre or more are subject to the National Pollutant Discharge Elimination System (N.P.D.E.S.) storm water permit requirements of 40 C.F.R. 122.26. The Applicant shall contact Mr. Larry Hook, P.E., KDHE Bureau of Water - Industrial Programs who can be reached at: 785/296-5549 or [larry.hook@ks.gov](mailto:larry.hook@ks.gov) . This permit requires a Stormwater Pollution Prevention Plan (SWP3) be prepared for implementation and be available for submittal to KDHE BOW IP. KDHE's website: [www.kdheks.gov/stormwater](http://www.kdheks.gov/stormwater) also has helpful information to address these requirements.
7. **The Applicant** shall avoid or control the discharge of toxic substances, oil and grease and other fluids from construction 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)].
  - b. Any 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)].
  - 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)].
8. **Project Water Quality Protection Plan (see Item 10 for link to form and instructions):** 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 describing the actions that will be taken to comply with Certification Conditions 3-7 which may or will result in the discharge of pollutants to waters of the state. For each component 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. These actions include but are not limited to:
  - a. Minimize disturbance of riparian area. This area has characteristics for protecting the tributary from nutrients and sediment from runoff.
  - b. **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.

- c. **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.
  - d. **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) 291-3333 (24 hours a day.) These incidences should also be reported to the National Spill Response Center (1-800-424-8802). These reporting numbers shall be posted in several locations around the site. A Spill Prevention and Response Plan should be prepared.
  - e. **Protecting Public Water Supplies:** Any activities proposed within 1 mile above or downstream of a public water supply should notify the owner prior to construction to prepare them for potential spills or spikes in raw water monitored constituents.
  - f. **Floating Debris:** The applicant shall take appropriate measures to capture any floating debris released to surface waters as a result of this project.
  - g. **Stabilizing material** shall be free of pollutants which may leach or wash-off into the waters of the state.
9. The PWQPP shall be posted or retained on site through the duration of the project. Activities requiring a construction stormwater permit, as described above in Condition 6, also require a stormwater pollution prevention plan which will serve as the PWQPP.
- a. **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 as defined or described below and referenced in Condition e. of the, page 5 of the Section 404 GP 41.**
  - b. **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters:** In the event the permitted activity occurs within one half (1/2) mile of an Outstanding National Resource Water as defined pursuant to **K.A.R. 28-16-28b (yy)** and **K.A.R. 28-16-28c(a)B(3)**, an Exceptional State Water pursuant to **K.A.R. 28-16-28b(yy)** 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)** and **K.A.R. 28-16-28d (c)**, 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 or email: [nps@kdhe.state.ks.us](mailto:nps@kdhe.state.ks.us)

- c. Locations of **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters** can be found in the table attached. The permittee should also be aware of the following Kansas water quality protection regulations associated with high value/ critical resource waters (**also referenced in Condition e. of the, page 5 of the Section 404 GP 41**).
- i. **K.A.R. 28-16-28c(a)B(2)** “Wherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.”
  - ii. **K.A.R. 28-16-28c(a)B(3)** “Wherever 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.”
  - iii. **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.”

## 10. Additional Information

The KDHE website contains the following information to assist the applicant in preparing a Project Water Quality Protection Plan (PWQPP) for projects not requiring a construction stormwater permit and stormwater pollution prevention plan:

- a. Construction practices: <http://www.dnr.mo.gov/env/wpp/wpcp-guide.htm>  
(a cooperative work product between Missouri and Kansas)
- b. PWQPP Form and Instructions:  
<http://www.kdheks.gov/nps/resources/nwpwqppfrm.doc> or  
<http://www.kdheks.gov/nps/resources/nwpwqppfrm.pdf>
- c. Kansas Surface Water Register:  
[http://www.kdheks.gov/befs/download/Current\\_Kansas\\_Surface\\_Register.pdf](http://www.kdheks.gov/befs/download/Current_Kansas_Surface_Register.pdf)
- d. Kansas Surface Water Maps  
[http://www.kdheks.gov/befs/download/Current\\_Surface\\_Water\\_Register\\_Maps.pdf](http://www.kdheks.gov/befs/download/Current_Surface_Water_Register_Maps.pdf)
- e. Surface Water Quality Standards- K.A.R. 28-16-28b through g:  
[http://www.kdheks.gov/tmdl/download/KDHE\\_SWQS\\_Reg\\_Unofficial\\_032315.pdf](http://www.kdheks.gov/tmdl/download/KDHE_SWQS_Reg_Unofficial_032315.pdf)  
[http://www.kdheks.gov/tmdl/download/SWQS\\_Tables\\_2015.pdf](http://www.kdheks.gov/tmdl/download/SWQS_Tables_2015.pdf)

Douglas R. Berka (2007-0078)

January 10, 2018

Page 6 of 6

11. This certification does not relieve **the Applicant** of the responsibility for any discharge into waters of the state. The Kansas Department of Health and Environment retains the option of revoking this certification any time an inappropriate discharge may occur. As provided by K.S.A. 65-171(f), failure to comply with the conditions of this certification may subject the responsible party to fines up to \$10,000 per violation with each day the violation occurs constituting a separate violation.
12. 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(sss) and KAR 28-16-28f(e).

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

Sincerely,



Scott L. Satterthwaite, M.S.

Bureau of Water-Watershed Management Section

EC: KDHE- Hook, Lyon

**ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ONRW),** provided by Kansas Department of Health and Environment. (5/2000) (Revised: 3/2001, 2<sup>nd</sup> 4/2004, 3<sup>rd</sup> 2/21/07, 4<sup>th</sup> 5/10/07, 5<sup>th</sup> 8/8/07, 6<sup>th</sup> 3/14/2012, 7<sup>th</sup> 3/3/2017).

COUNTY	*EXCEPTIONAL STATE WATERS	* SPECIAL AQUATIC LIFE USE WATERS
Allen		Little Osage River, Middle Fork, Bloody Run, Onion Cr. Neosho R., Little Osage R., Marmaton R. <b>WETLANDS(7):</b> within boundaries of a point from NE corner of S34 T24 R18E, West to NW corner S35 T24 R17E, South to SW corner of S35 T24 R17E, East to SE corner of S34 T25 R18E, back north to origin ; Other: <b>(6)</b> all oxbow lakes and <b>WETLANDS</b> within NE 1/4 of S32 T26S R18E, N 1/2 and SE 1/4 of S33 T26 R18E
Anderson		Pottawatomie Cr., South Fk., Pottawatomie Cr., Little Indian Cr., Little Osage River Middle Fork, Middle Cr. <b>WETLANDS(8):</b> within boundaries of a point from the NE corner of S24 T21 R19E, West to the NW corner S22 T21 R18E, South to SW corner of S22 T25 R18E, back north to origin.
Atchison		Missouri R. <b>WETLANDS(9):</b> All <b>WETLANDS</b> within S15 T6 R7E and S16 T6 R7E
Barber		Amber Cr., Bear Cr., Elm Cr., East Branch South Elm Cr., South Branch Elm Cr., North Branch Elm Cr., Medicine Lodge River, Mulberry Cr., Mule Cr., Sand Cr., Turkey Cr., Two unnamed tributaries to Medicine Lodge River, Unnamed tributary to Turkey Cr.
Barton	Blood Cr., Little Cheyenne Cr.	Arkansas River, Blood Cr., Little Cheyenne Cr. <b>WETLANDS(5):</b> Cheyenne Bottoms Preserve; Designation applies to all surface waters within the Nature Conservancy wildlife preserve in Sections 2, 11, 12, 16, 13, 22, 24, 25, 36 and parts of Sections 3, 10, 15, 14, 23,26, 34, and 35 in T18S R13W and from the NE corner of S07, west to NW 1/4 of S02 south to W 1/2 of S35 East to S31 of T18S R12W
Bourbon		Marmaton River, Little Osage River
Butler	Walnut River, Grouse Cr., Cottonwood River South Fork	Walnut River, Grouse Cr., Cottonwood River South Fork
Chase	Cottonwood River South Fork, Cedar Cr.	Bloody Cr., Cedar Cr., Collett Cr., Cottonwood River, Cottonwood River South Fork, Jacob Cr., Little Cedar Cr., Middle Cr., Shaw Cr.
Chautauqua	Caney River, Otter Cr.	Caney River, Otter Cr.
Cherokee	Neosho River, Shoal Cr., Spring Cr., Unnamed tributary to Shoal Cr.	Brush Cr., Cow Cr., Labette Cr., Neosho River, Shoal Cr. Spring Cr., Taylor Branch, Turkey Cr., Un. Trib. to Shoal Cr. <b>WETLANDS(10a): 10a All cave waters</b> & associated springs within that portion of Cherokee County encompassed by a line that extends from NE corner of Sec. 24, T34S, R25E, due W. to NW corner of Sec. 24, T34S, R24E, then due S. to KS/OK(Sec.13 T35S, R.24E), then due E. to KS/MO border (Sec.13, T35S, 25E), then N. to point of origin. <b>And 10b:</b> All <b>wetlands</b> within those portions of Cherokee & Labette counties encompassed by a line that extends from KS/MO border at NE corner of Sec. 24, T31S, R25E due W. to NW corner of Sec.20, T31S, R25E, then due S. to NW corner of Sec.17, T33S, R25E, then due W. to NW corner of Sec.14, T33S, R21E, then due S to KS/OK border(Sec.14,T35S, R21E), then due E. to KS/MO border(Sec.13, T35S, R25E), then due S. to point of origin.

**ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ONRW),** provided by Kansas Department of Health and Environment. (5/2000) (Revised: 3/2001, 2<sup>nd</sup> 4/2004, 3<sup>rd</sup> 2/21/07, 4<sup>th</sup> 5/10/07, 5<sup>th</sup> 8/8/07, 6<sup>th</sup> 3/14/2012, 7<sup>th</sup> 3/3/2017).

Cheyenne		Arikaree River, Republican River South Fork
Clark	Cimarron River: <b>(23)</b> St. Jacob's Well: NW1/4 of SW1/4 of S19 T32S R24W	Bluff Cr., Cimarron River, Kiowa Cr. West, Rattlesnake Cr.: <b>(23)</b> Clark County State Fishing Lake
Clay		Republican River
Cloud	<b>(25)</b> All surface waters within Jamestown Waterfowl Management Area	Republican River
Coffey		Frog Cr., Little Indian Cr., Long Cr., Neosho River, Wolf Cr.
Comanche	Cimarron River	Bluff Cr., Calvary Cr., Cimarron Cr., Kiowa Cr., Kiowa Cr. Middle, Kiowa Cr. West, Mule Cr., Nescatunga Cr., Wiggins
Cowley	Beaver Cr., Grouse Cr., Otter Cr., Walnut River	Arkansas River, Grouse Cr., Little Beaver Cr., Spring Cr., Walnut River
Crawford		Brush Cr., Cow Cr., Cow Cr East, First Cow Cr., Taylor Cr.
Dickinson	Lyon Cr.	Carry Cr., Lime Cr., Lyon Cr., Lyon Cr West Branch, unnamed tributary to West Branch Lyon Cr.: <b>(19)</b> <b>Herington Reservoir</b>
Doniphan		Missouri R.
Douglas		Appanoose Cr., Buck Cr., Kansas River, West Fork Taury Cr.: <b>(16)</b> Clinton Reservoir, <b>WETLANDS:(11)</b> All within S18 T13S R20E
Edwards		Rattlesnake Cr.
Elk	Caney River, Fall River, Grouse Cr.	Caney River, Fall River, Grouse Cr.
Ellis	Saline River	
Ellsworth	Smoky Hill River	Smoky Hill River
Finney		Arkansas River
Ford		Bluff Cr., Kiowa Cr West, Rattlesnake Cr.
Franklin		Appanoose Cr., Marais Des Cygnes River, Ottawa Cr., Pottawatomie Cr., Taury Cr., West Fork Taury Creek
Geary	Lyon Cr.	Carry Cr., Kansas River, Lyon Cr., Republic River, Thomas Cr.: <b>(14)</b> Konza Prairie Natural Area; designation applies to all surface waters within natural area
Grant	Cimarron River	Cimarron River
Greeley		Ladder Cr.
Greenwood	Fall River, Fall River East Branch, Fall River West Branch	Fall River, Fall River East Branch, Fall River West Branch, Otter Cr. South Branch, Verdigris River: <b>(2)</b> Flint Hills Tallgrass Prairie Preserve, all surface waters within the Nature Conservancy Reserve: Section 22 & 23 T23S R8E

**ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ONRW),** provided by Kansas Department of Health and Environment. (5/2000) (Revised: 3/2001, 2<sup>nd</sup> 4/2004, 3<sup>rd</sup> 2/21/07, 4<sup>th</sup> 5/10/07, 5<sup>th</sup> 8/8/07, 6<sup>th</sup> 3/14/2012, 7<sup>th</sup> 3/3/2017).

Hamilton		Arkansas River
Harper	Chikaskia River	Chikaskia River, Sand Cr.
Jefferson		Buck Cr., Kansas River: <b>(18)</b> Perry Reservoir
Jewell		Republican River
Johnson		Kansas River: <b>(17)</b> Hillsdale Reservoir
Kearny		Arkansas River
Kingman	Chikaskia River	Allen Cr., Chikaskia River, Chikaskia River North Fork, Duck Cr., Nester Cr., Ninnescah River South Fork, Painter Cr., Pat Cr., Sand Cr., Silver Cr., Smoots Cr., Unnamed tributary to Smoots Cr., nine separate tributaries to South Ninnescah River
Kiowa	Thompson	Calvary Cr., Kiowa Cr., Kiowa Cr Middle, Kiowa Cr West, Medicine Lodge River, Mule Cr., Rattlesnake Cr., Soldier Cr., Thompson Cr., Wiggins Cr., Unnamed tributary to Thompson Cr.
Labette	Neosho River	Labette Cr.
Leavenworth		Kansas River, Missouri River, Salt Cr.
Linn	Big Sugar Cr., Marais Des Cygnes River, Middle Cr., Muddy Cr., Sugar Cr North <b>(12)</b> all surface waters within Marais des Cygnes Waterfowl Area, all WETLANDS, oxbow lakes and classified streams within Linn County extending from the Kansas/Missouri border at NE corner of S26 T19S R25E west to NW corner of S26 T19S R23E, south to SW corner of S12 T22S R23E, east to Kansas/Missouri border at SE corner of S12 T22S R25E	Big Sugar Cr., Marais Des Cygnes River, Middle Cr., Muddy Cr., Sugar Cr. North <b>(12)</b> all surface waters within Marais des Cygnes Waterfowl Area, all WETLANDS, oxbow lakes and classified streams within Linn County extending from the Kansas/Missouri border at NE corner of S26 T19S R25E west to NW corner of S26 T19S R23E, south to SW corner of S12 T22S R23E, east to Kansas/Missouri border at SE corner of S12 T22S R25E
Logan		Chalk Cr., Depperschmidt Draw, Ladder Cr., Smoky Hill River, Twin Butte Cr.
Lyon		Cottonwood River, Elm Cr., Jacob Cr., Neosho River
Marion	Lyon Cr.	Catlin Cr., Lyon Cr., Middle Cr., Mud Cr., Spring Cr.
Marshall	Mill Cr West Branch	Lime Cr., Middle Cr., Neosho River, Six Mile Cr.
Mc Pherson		<b>(15)</b> McPherson Valley Wetlands: Classification applies to all surface waters <b>within state owned</b> portions of wetlands
Meade		Cimarron River, Crooked Cr., Spring Cr., Stumpie Arroyo, unnamed tributary to Stumpie Arroyo <b>(22)</b> Lake Meade
Miami	Marais Des Cygnes River, Middle Cr.	Marais Des Cygnes River, Middle Cr., Pottawatomie Cr., Unnamed tributary to North Wea Cr. <b>(17)</b> Hillsdale Reservoir

**ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ONRW),** provided by Kansas Department of Health and Environment. (5/2000) (Revised: 3/2001, 2<sup>nd</sup> 4/2004, 3<sup>rd</sup> 2/21/07, 4<sup>th</sup> 5/10/07, 5<sup>th</sup> 8/8/07, 6<sup>th</sup> 3/14/2012, 7<sup>th</sup> 3/3/2017).

Montgomery		Onion Cr., Verdigris River
Morris		Thomas Cr.,
Morton	Cimarron River, Cimarron River North Fork, Unnamed tributary to Cimarron River North Fork <b>(1 &amp; 20)</b> Mallard Lake, Lake Cimarron, Point of Rocks	Cimarron River, Cimarron River North Fork, Unnamed tributary to Cimarron River North Fork
Nemaha		Big Nemaha River South Fork, Manley Cr.
Neosho		Flat Rock Cr., Neosho River
Osage		Appanoose Cr., Frog Cr., Long Cr.
Phillips		<b>(4)</b> Kirwin Lake; Kirwin National Wildlife Refuge; designation applies to all surface waters within wildlife refuge.
Pottawatomie	Deep Cr.	Black Vermillion River Clear Fork, Bluff Cr., Bucksnot Cr., Deep Cr., Kansas River, Spring Cr., Wildcat Cr.
Pratt	<b>(26)</b> All surface waters within Texas Lake Wildlife Area	Amber Cr., Chikaskia River North Fork, Elm Cr North, Elm Cr South East Branch, Mulberry Cr., Natrona Cr., Ninnescah River South Fork, Ninnescah River West Branch of South Fork, Painter Cr., Rattlesnake Cr., Sand Cr., Silver Cr., Turkey Cr.
Reno		Arkansas River, Ninnescah River North Fork, Peace Cr., Red Rock Cr., Silver Cr., Smoots Cr., Unnamed Tributary to North Fork Ninnescah River, Unnamed Tributary to Silver Cr.: <b>(3)</b> Quivera Salt Marsh; All surface waters within Quivera National Wildlife Refuge
Republic	<b>(25)</b> All surface waters within Jamestown Waterfowl Management Area	Republican River
Rice		Arkansas River, Peace Cr., Rattlesnake Cr. <b>(3)</b> Quivera Big Salt Marsh
Riley		Bluff Cr., Deep Cr., Honey Cr., Kansas River, Spring Cr., Wildcat Cr., Wind Cr.
Rush	Blood Cr.	Blood Cr.
Russell	Saline River, Smoky Hill River	Smoky Hill River
Scott		Ladder Cr.: <b>(24)</b> Lake Scott State Park, Scott Wildlife Area and feeder Springs
Sedgwick		Arkansas River, Clearwater Cr., Nester Cr., Ninnescah River, Ninnescah River South Fork, Sand Cr., Unnamed Tributary to North Fork Ninnescah River
Seward		Cimarron River
Shawnee		Kansas River
Stafford		Ninnescah River North Fork, Peace Cr., Rattlesnake Cr.: <b>(3)</b> Quivera Big Salt Marsh
Stevens	Cimarron River	Cimarron River
Sumner	Chikaskia River	Arkansas River, Chikaskia River, Ninnescah River, Spring Cr.

**ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ONRW),** provided by Kansas Department of Health and Environment. (5/2000) (Revised: 3/2001, 2<sup>nd</sup> 4/2004, 3<sup>rd</sup> 2/21/07, 4<sup>th</sup> 5/10/07, 5<sup>th</sup> 8/8/07, 6<sup>th</sup> 3/14/2012, 7<sup>th</sup> 3/3/2017).

Wabaunsee	Deep Cr., Illinois Cr., Mill Cr., Mill Cr East Branch, Unnamed Tributary of Mill Cr. East Branch	Deep Cr., Elm Cr., Illinois Cr., Kansas River, Locust Cr., Mill Cr., Mill Cr. East Branch, Mill Cr. South Branch, Unnamed Tributary of Mill Cr. East Branch
Wallace		Eagletail Cr., Rose Cr., Coon Cr., Pond Cr., Capper Draw, Smoky Hill River, Willow Cr., Twin Butte Cr., Chalk Cr., Ladder Cr., Depperschmidt Draw
Wichita		Chalk Cr., Ladder Cr.,
Wilson	Fall River	Fall River, Verdigris River
Woodson		Bloody Run, Neosho River, Owl Cr. South, Verdigris River: <b>(21)</b> Leonards Lake & Circle Lake <b>(13)</b> WETLANDS in Woodson County Sections 3 and 11, Township 26S, Range 14E
Wyandotte		Kansas River, Little Turkey Cr., Missouri River

*Note: All of the waters in the National Wildlife Refuges and Cimarron National Grasslands are Outstanding National Resource Water. The Following counties currently do not contain waters recognized as ESW, SALU or ONRW: Brown, Decatur, Gove, Graham, Gray, Harvey, Haskell, Hodgeman, Jackson, Lane, Lincoln, Mitchell, Ness, Norton, Osborne, Ottawa, Pawnee, Rawlins, Rooks, Saline, Sheridan, Sherman, Smith, Stanton, Thomas, Trego, Washington*

**\*Kansas Regulations for “high value- waters”:**

**Exceptional state waters, K.A.R. 28-16-28b(cc)**, “means any of the surface waters or surface water segments that are of remarkable quality or of significant recreational or ecological value, are listed in the surface water register and afforded the highest level of water quality protection under the anti-degradation provisions of K.A.R. 28-16-28cand the mixing zone provisions of K.A.R. 28-16-28c.”

**Outstanding national resource water, K.A.R. 28-16-28b (vv)** means any of the surface waters or surface water segments of extraordinary recreational or ecological significance identified in the surface water register, as defined this regulation, and afforded the highest level of water quality protection under the anti-degradation provisions and the mixing zone provisions of K.A.R. 28-16-28c.

**Special Aquatic Life Use, K.A.R. 28-16-28d(b)(2)(A) and K.A.R. 28-16-28d(c)**, “means either classified surface waters other than classified stream segments that contain combinations of habitat types and indigenous biota not found commonly in the state or classified surface waters other than classified stream segments that contain representative populations of threatened or endangered species

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

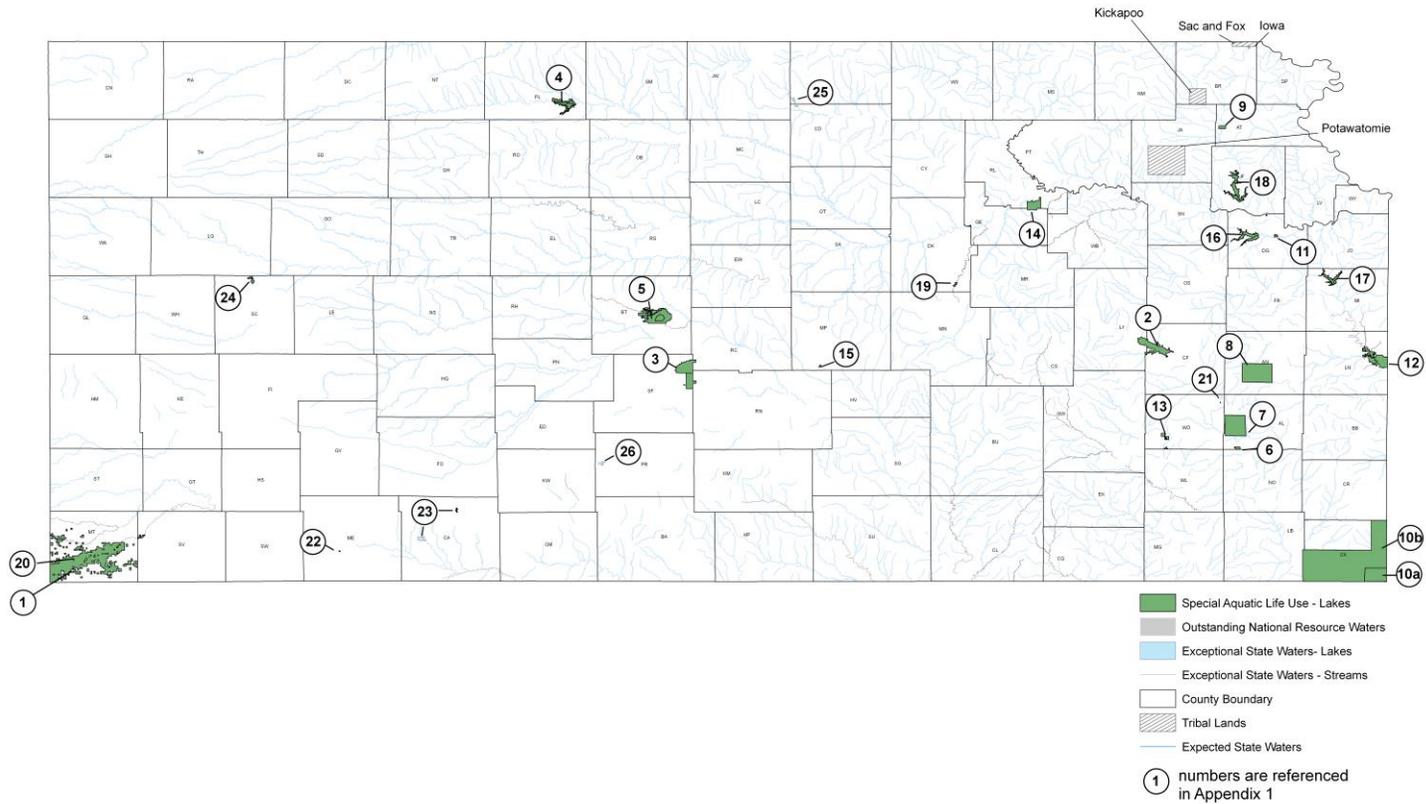
**K.A.R. 28-16-28c(a)B(3)** “Wherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.”

**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.”

Finally, the Kansas Surface Water Standards K.A.R. 28-16-28 can be found at: [http://www.kdheks.gov/tmdl/download/KDHE\\_SWQS\\_Reg\\_Unofficial\\_032315.pdf](http://www.kdheks.gov/tmdl/download/KDHE_SWQS_Reg_Unofficial_032315.pdf)

**ATTACHMENT 2. MAP OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) AND OUTSTANDING NATIONAL RESOURCE WATERS (ONRW) provided by Kansas Department of Health and Environment. (5/2000) (revised 3/2001, 2<sup>nd</sup> 4/2004, 3<sup>rd</sup> 2/21/07, 4<sup>th</sup> 5/10/07, 5<sup>th</sup> 8/8/07, 6<sup>th</sup> 2/2017) .**

**OUTSTANDING NATIONAL RESOURCE WATERS,  
EXCEPTIONAL STATE WATERS,  
AND SPECIAL AQUATIC LIFE USE WATERS**





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

11201 Renner Boulevard  
Lenexa, Kansas 66219

MAR 6 2018

Mr. Doug Berka  
U.S. Army Corps of Engineers Kansas City District  
601 E 12th Street  
Kansas City, Missouri 64106

Dear Mr. Berka:

The U.S. Environmental Protection Agency has completed its review for consideration of a Clean Water Act Section 401 water quality certification for the proposed permit referenced below.

Regional General Permit 41 (NWK 2007-2078)

Applicant: Corps of Engineers

Location: It will be effective for Indian Country in the State of Kansas including: Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe in Kansas, Prairie Band Potawatomi Nation, and Sac & Fox Nation of Missouri in Kansas & Nebraska.

Description: Regional General Permit 41 (NWK 2007-2078)- This 5-year permit involves excavation for placement of fill material for the permanent protection of and/or repair of existing flood damaged structures or damaged land areas that have minimal adverse impacts. For more information, go to <http://www.nwk.usace.army.mil/Media/Public-Notices/Article/1331030/gp-41-2007-2078/>.

Permit Type: General Regional Permit

The Certification is enclosed (see Enclosure). The Certification is a condition of the Corps permit verification evaluation.

If you have any questions, please contact Jennifer Ousley of my staff at (913) 551-7498 or [ousley.jennifer@epa.gov](mailto:ousley.jennifer@epa.gov).

Sincerely,

Brad Horchem  
Section Chief  
Watersheds, Wetlands and Streams Protection Section  
Watershed Planning and Implementation Branch

Enclosure

**Enclosure**  
**U.S. Environmental Protection Agency, Region 7**  
**Clean Water Act Section 401 Water Quality Certification for an U.S. Army Corps of Engineers**  
**CWA Section 404 Permit (GP 41)**

**Location:** It will be effective for Indian Country in the State of Kansas including: Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe in Kansas, Prairie Band Potawatomi Nation, and Sac & Fox Nation of Missouri in Kansas & Nebraska.

**Description:** Regional General Permit 41 (NWK 2007-2078)- This 5-year permit involves excavation 1or placement of fill material for the permanent protection of and/or repair of existing flood damaged structures or damaged land areas that have minimal adverse impacts. For more information, go to <http://www.nwk.usace.army.mil/Media/Public-Notices/Article/1331030/gp-41-2007-2078/>.

**Type:** General Regional Permit

**BACKGROUND:**

Section 401 of the CWA requires that an applicant for a federal permit (such as an individual, general or nationwide CWA Section 404 permit) must obtain certification from the state or tribe in which the discharge originates that the discharge involved in the project will comply with the CWA. Presently, no Tribes located within Region 7, have the EPA approved water quality standards and therefore have no certification authority within Indian Country pursuant to Section 518(e) of the CWA. Section 401 of the CWA states in part that in any case where a state, interstate agency, or tribe has no authority to issue a water quality certification, the certification shall be from the EPA.

*This Certification is a condition of the COE CWA Section 404 permit.*

**DETERMINATION:**

**APPROVED WITH CONDITIONS:**

- Copies of the Corps permit evaluation including this certification should be kept on the job site and readily available to the public for reference.
- During project planning, the EPA highly recommends the permittee notify the appropriate tribal environmental office of the project details and locations (see below for tribal contact information).
- The project should avoid and minimize impacts to the maximum extent practicable. In addition, the EPA highly recommends that projects incorporate the following, but not limited to, best protective measures and management practices:
  - All practicable measures and precautions should be taken to prevent pollution affecting cultural, 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.
  - All equipment operated within any water of the U.S. should be cleaned away from waters of the U.S. and maintained to prevent fuel and oil leaks. Should a spill of petroleum products or chemicals occur, permittee agrees to immediately call the National Response Center at (800)

424-8802 and the appropriate tribal office. (Kickapoo Tribe 785-486-2601 x100, Iowa Tribe 785-595-3390, Prairie Band Potawatomi 785-966-2946, and Sac and Fox of Missouri 785-742-4705).

- Any bank stabilization activities should utilize bioengineering techniques (e.g. willow plantings, root wads, large woody debris, etc.) or combination of hard-armoring (e.g. rock) and bioengineering techniques as practicable. Ground disturbance should be minimized to that necessary to complete the project.
- Erosion-control best management practices should be used during construction such as installing sediment barriers (wattles, filter logs, rock ditch checks, mulching, or any combination of these) across the entire construction area to prevent sediment and spoil from entering aquatic systems. Barriers should be maintained at high functioning capacity until construction is completed and vegetation is established.
- If relevant, native plants appropriate for site conditions must be used for bioengineering or vegetative stabilization. In addition for all types of or phases in the project, EPA highly recommends the following, but not limited to, best management practices:
  - Native vegetation, especially riparian corridors, should be protected during construction with locations disturbed by construction activities returned to pre-project conditions. This shall include restoration of surface contours, stabilization of the soil, and restoration of appropriate native vegetation lost during construction to establish permanent cover.
  - Non-native plant species such as reed canary grass (*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.
  - Measures should be taken to prevent the spread of invasive species. Project locations containing invasive species should be treated using appropriate control methodologies before construction activities begin to reduce the potential for off-site spread.
  - Clean and certified weed-free seed should be used for vegetative restoration projects. Propagative materials (seeds, plugs, plants, etc.) containing any Federal- or State-listed Noxious Weed and/or Watch List Plant Species should be rejected.
  - Compost or mulch can be used as potential alternatives to erosion control blankets, both of which can also promote the growth of vegetation further improving bank stability. Loose-weave mesh is also acceptable, preferably types without weaves that are welded at the intersections so it would allow the opening to expand if an animal attempts to pass through. Straw and/or mulch hay used for erosion control measures and/or vegetation restoration should be certified as weed free using the North American Invasive Species Management Association's Weed Free Forage Standard. Please refer to the standard at: <http://www.naisma.org/weed-free-forage>.

If you have questions regarding this certification, contact Jennifer Ousley at the EPA Region 7 at [ousley.jennifer@epa.gov](mailto:ousley.jennifer@epa.gov).

CERTIFICATION APPROVED BY EPA REGION 7:

3/6/18

Date

Brad Horchem

Brad Horchem, Section Chief  
Watersheds, Wetlands, and Stream Protection Section  
Watershed Planning and Implementation Branch  
Water, Wetlands and Pesticides Division

## 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 individual/entity name and mailing address):

PROJECT LOCATION (Enter latitude & longitude (decimal degrees) and Section, Township and Range, County, State); for linear projects (ditches, streams, utilities, etc.) enter the latitude and longitude of the start and end points):

- 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 paragraph "a" and in paragraph "b" above.

\_\_\_\_\_  
(PERMITTEE)

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

Return this certification to:  
ATTN: ODR (GP-41)  
Department of the Army  
Kansas City District, Corps of Engineers  
601 East 12<sup>th</sup> Street, Room 402  
Kansas City, MO 64106-2824