



DEPARTMENT OF THE ARMY PERMIT

Permittee **U.S. Army Corps of Engineers**
South Dakota Department of Game, Fish and Parks

Permit No. **RGP 00-05, Amendment No. 3**

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

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The following activities are authorized in conjunction with the construction of bank stabilization projects to prevent destruction of culturally significant sites:

- (1) Construction of temporary roads with adequate culverts installed to allow drainage. After removal of the temporary roads, the disturbed areas will be returned to their previous conditions.
- (2) Construction of temporary work pads either above or at the base of the cut bank. All work would be performed from either the temporary roads or the work pads.
- (3) Shaping the existing cut bank, eroded slope, or area exposed by erosion from fluctuating water levels and placement of any required earthen fill material.
- (4) Placement of geosynthetic fabric.
- (5) Placement of quarried stone or field boulders for riprap.

Project Location: Lake Sakakawea, North Dakota (Missouri River miles 1389.86 - 1568.00)
Lake Oahe, North and South Dakota (Missouri River miles 1072.30 - 1303.00)
Lake Sharpe, South Dakota (Missouri River miles 987.44 - 1067.00)
Lake Francis Case, South Dakota (Missouri River miles 879.98 - 987.44)
Lewis and Clark Lake, South Dakota (Missouri River miles 811.05 - 836.00)

This Regional General Permit expires on April 30, 2022.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on See Special Condition 1. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and 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. Water quality certification has been denied for projects within the exterior boundaries of Indian Reservations, and issued with conditions for projects outside Indian Reservations. A copy of the Environmental Protection Agency's denial letter is attached for information on how to obtain individual water quality certification. Copies of the conditioned certifications are attached. You must comply with the conditions specified in the certifications as special conditions to this permit.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

7. After a detailed and careful review of all of the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps of Engineers, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit and the permittee will comply fully with all of the terms of the permit conditions.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the River and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations 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 circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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

John W. Henderson, P.E.
Colonel, Corps of Engineers
District Commander

By: Signature on record
Martha S. Chieply
Chief, Regulatory Branch
Operations Division

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.

(*TRANSFEEE*) _____ (DATE)

*U.S. GPO: 1988-520-324

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Any authorization granted under this Regional General Permit is subject to the following conditions:

1. The time limit for completing the authorized activity is three (3) years from the authorization determination. If additional time will be needed to complete the authorized activity, a written request for a time extension must be submitted to the Corps Regulatory Office for consideration at least one (1) month before the expiration date is reached.
2. Only the proposed work shown on the attached drawings and described herein are authorized.
3. The permittee is responsible for ensuring that the contractor and workers executing the activities authorized have full knowledge of the terms and conditions of the authorization and that a copy of the authorization is at the project site throughout the period work is underway.
4. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized.
5. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.
6. The permittee agrees to make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact to fish, wildlife, and natural environmental values.
7. All construction debris will be disposed of on dryland in such a manner that it cannot enter a waterway or wetland.
8. The immediate removal of debris during construction will be undertaken to prevent the accumulation of unsightly, deleterious and/or potentially polluting materials.
9. Steps will be taken to prevent materials spilled or stored onsite from washing into wetlands or waterways as a result of cleanup activities, natural runoff, or flooding. During construction, any materials that are accidentally spilled into these areas will be immediately retrieved.
10. Care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering wetlands or waterways.
11. The use of machinery in waterways will be kept to a minimum.
12. If the District Engineer is notified that a dredging or filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Engineer subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.
13. The clearing of vegetation will be limited to that which is absolutely necessary for construction of the project. All areas disturbed will be reseeded with native species.
14. All areas disturbed or newly created by the construction activities which will not be riprapped will be seeded with native vegetation for protection against subsequent erosion. Vegetation control techniques that would prevent the volunteer establishment of native riparian vegetation and the associated successional changes will not be used on riprapped areas except in those instances where such vegetation poses a threat to the structural integrity of the bank protection work.
15. Only clean riprap material will be utilized in order to avoid the percolation of fines that would result in excessive local turbidity.
16. The fill material will be free of fines, oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.

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17. All temporary fills and culverts will be removed in their entirety and the area restored to its preconstruction contours and drainage patterns.
18. All dredged or excavated materials, with the exception of that authorized herein, will be placed in a confined area, not classified as waters of the U.S., to prevent the return of such materials to the waterways.
19. The permittee agrees to perform the work authorized herein in a manner so as to minimize any degradation of water quality.
20. All work in the waterway will be performed in such a manner so as to minimize increases in suspended solids and turbidity that may violate water quality standards and damage aquatic life.
21. Close coordination will be maintained by the permittee, or the permittee's contractor, with downstream water users, advising them of any water quality changes that may occur because of construction activities.
22. Owners of water supply intakes, or other activities that may be affected by suspended solids and turbidity increases caused by construction activity in the watercourse, shall be given sufficient notice to prepare for any changes in water quality.
23. All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures. They shall remain in place and maintained until construction is completed and the area is stabilized.
24. Whenever possible, work will be performed when the water level is lower than the area to be disturbed.
25. No instream construction activities will occur during the spawning period of April 15 to June 1 to avoid impacts to fishery resources.
26. The permittee and the permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of the contract, shall report any threatened or endangered species at the project site.
27. The permittee shall notify the Corps Regulatory Office when the activity authorized herein will start; of any suspension of work, if for a period of more than one (1) week; the resumption of work; and the completion of the activity.
28. The Corps Regulatory Office shall be notified, in writing, of any changes in the project design. No changes in design that impact waters of the U.S. shall be undertaken without authorization.
29. If the Corps Regulatory Office is notified that work being performed does not comply with, or fall within the scope of, this RGP, the responsible party will take immediate steps, as directed by the Regulatory Office, to bring the work into compliance with this authorization.
30. The District Engineer may require any additional special conditions be included in any authorization issued under this RGP to avoid or minimize adverse environmental impacts. The District Engineer may also require the processing of an individual authorization for an activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.
31. Activities proposed by South Dakota Department of Game, Fish, & Parks that will result in potential modifications to a federal project will require review under Section 14 of the Rivers and Harbors Act (33 USC 408) prior to the issuance of the RGP permit.

APPLICATION INFORMATION. All parties proposing work under this RGP are required to contact either:

U.S. Army Corps of Engineers
North Dakota Regulatory Office
1513 South 12th Street

U.S. Army Corps of Engineers
South Dakota Regulatory Office
28563 Powerhouse Road, Room 120

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Bismarck, North Dakota 58505
(701) 255-0015

Pierre, South Dakota 57501
(605) 224-8531

The following information is required:

1. Name, address, and telephone number of the person responsible for the work.
2. A clear written description of the proposed work, including: the purpose and need; type, composition and volume of fill and/or excavated material; length, width and depth of fill material and/or excavation area; disposal site for the excavated material; types of equipment to be used; impacts to wetlands, streams or other waters of the U.S.; and any other pertinent, supporting data.
3. A written legal description of the project location including section, township, range, and county.
4. Names, addresses, and telephone numbers of adjacent property owners.
5. A clear set of drawings on 8 1/2 by 11 inch paper, with dimensions of the proposed work, showing:
 - a. The project location, including the disposal site locations.
 - b. A plan or top view of the project area.
 - c. A typical cross-section or side view of the project area.

Mitigation to offset impacts to wetlands and streams may be required. The Corps Regulatory Office will make this determination at the appropriate time.

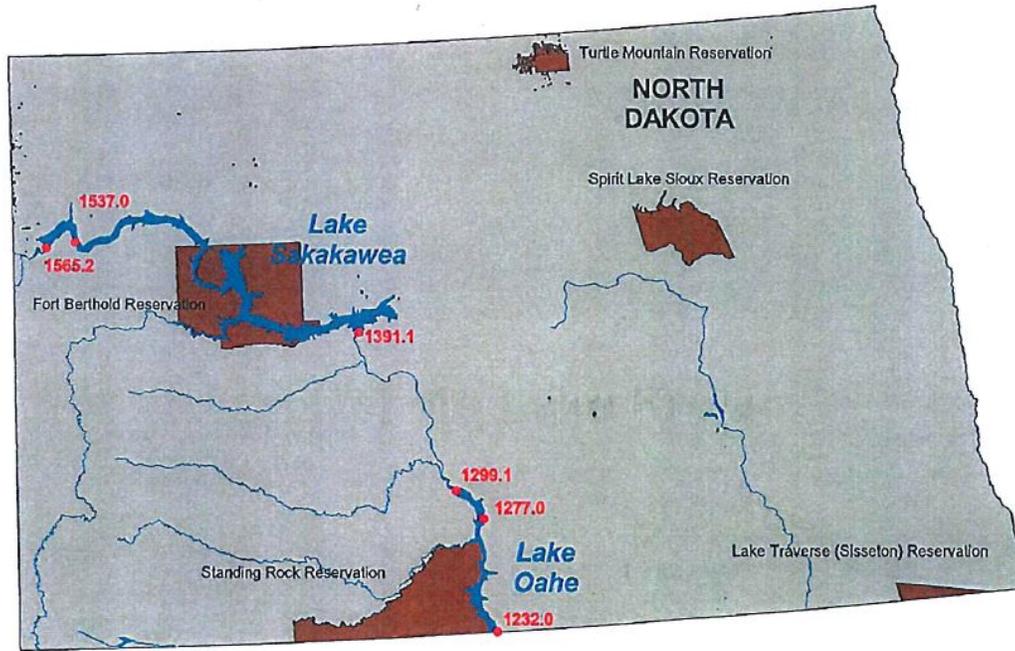
Prior to authorization, the application for any activity located between Missouri River mile 1565 and mile 1537 or Missouri River mile 1299 and mile 1277 will be provided to the U.S. Fish and Wildlife Service, Bismarck, North Dakota for review and comment.

Any activity located on Tribal land will be coordinated with the affected Tribe prior to authorization.

No project activity may proceed until notification approval has been received from the Corps Regulatory Office that the proposal meets the RGP criteria.

No project may proceed until notification approval has been received from the Corps Regulatory Office that the proposal meets the Regional General Permit criteria.

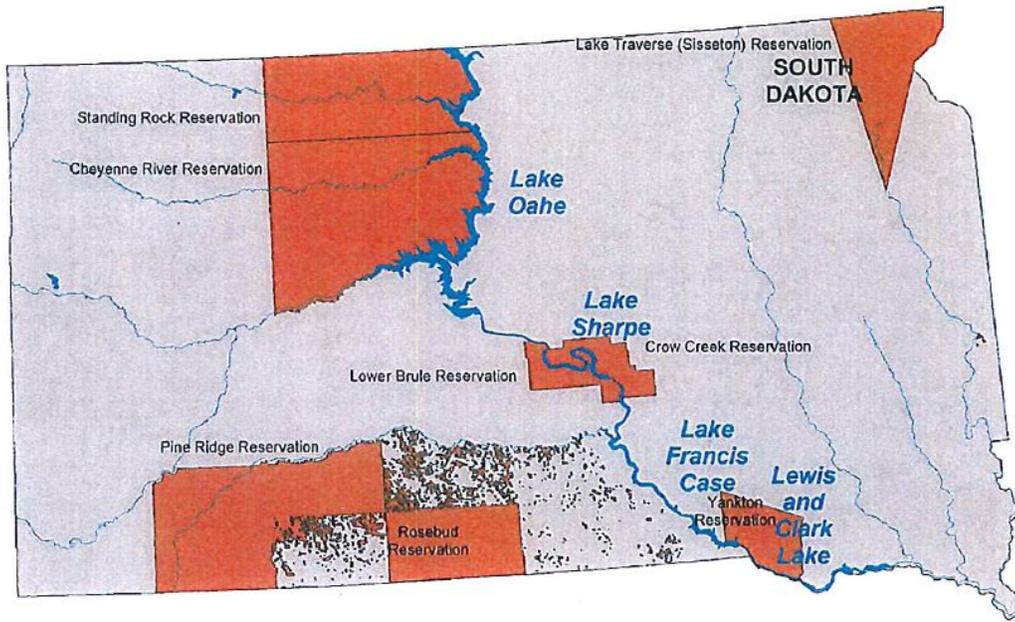
North Dakota Lake Projects



0 40 80 120 Miles



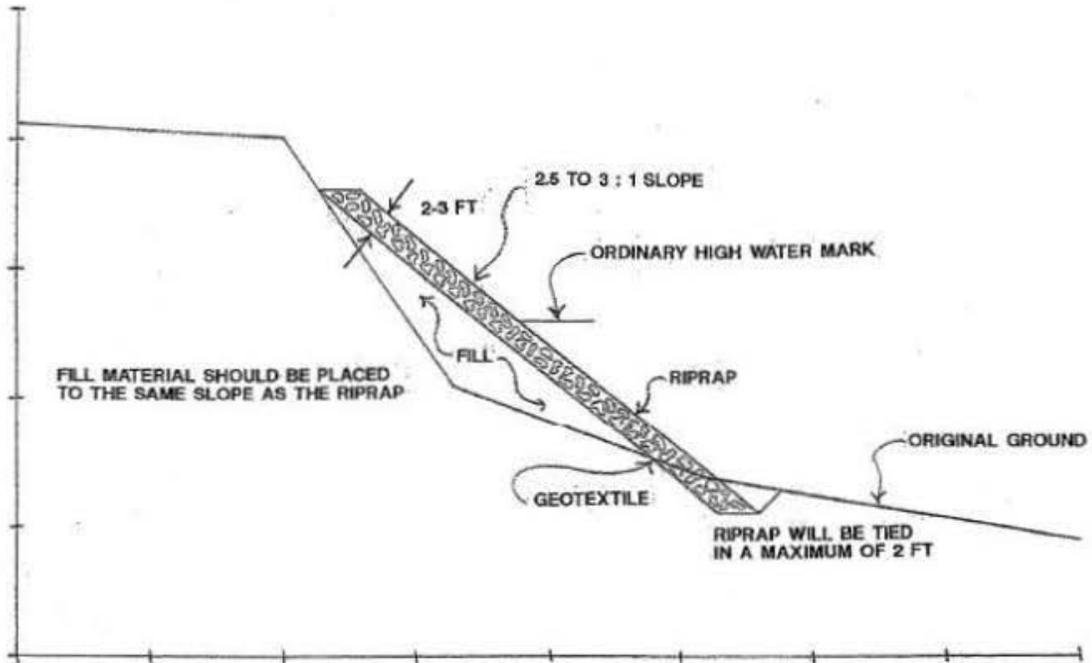
South Dakota Lake Projects



0 40 80 120 Miles

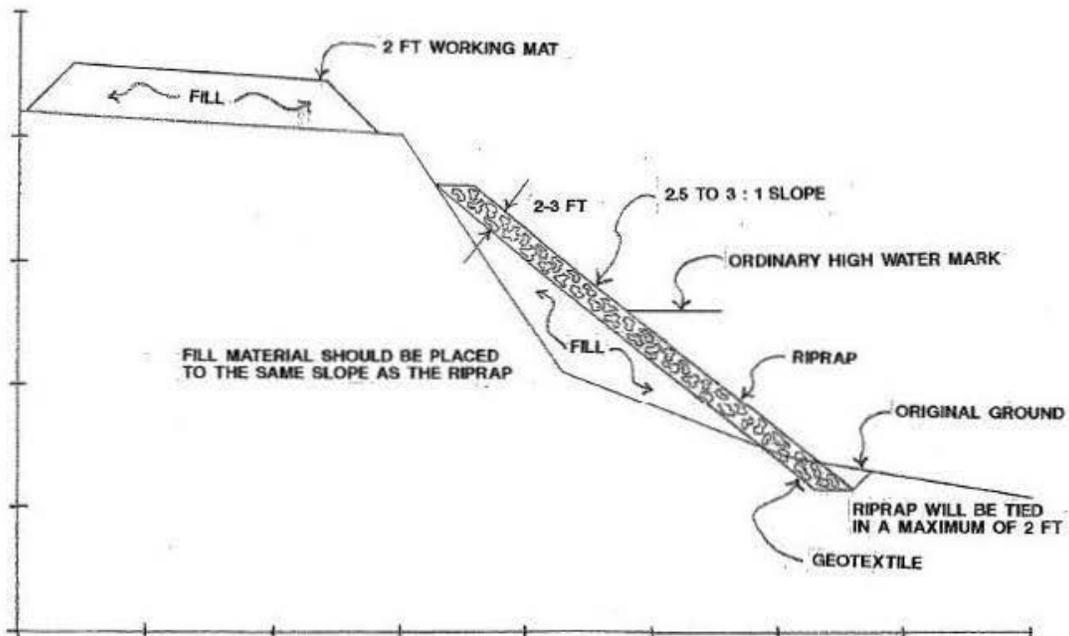


TYPICAL CROSS SECTION



NOTE: RIPRAP PLACED FROM BOTTOM OF BANK.

ALTERNATE CROSS SECTION



NOTE: RIPRAP PLACED FROM TOP OF BANK.



August 15, 2016

John Derbish
Regulatory Project Manager
1616 Capital Avenue
Omaha, NE 68102-4901

Section 401 Water Quality Certification: RGP-00-05, Amendment No. 3 [Bank stabilization to protect cultural resources]

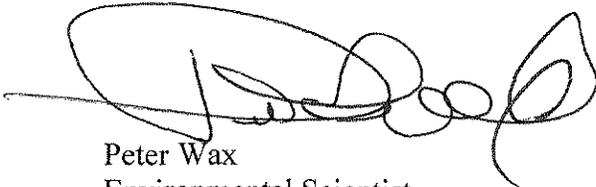
Dear Mr. Derbish:

The North Dakota Department of Health (department) has evaluated the U.S. Army Corps of Engineers request for Clean Water Certification for RGP-00-05 for consistency in meeting the State's Standards of Quality for Waters of the State (standards). Based on this evaluation, the department is reasonably assured that no violations of the standards will occur provided:

- The contractor or agent doing the bank stabilization follows our Construction and Environmental Disturbance Requirements (attached).

The department reserves the right to amend this certification if it is determined that the impacts to water quality were underestimated, conditions no longer provide reasonable assurance that the project is complying with the standards or other appropriate requirements of State law. Should you have any questions, I may be reached at 701.328.5268.

Sincerely,



Peter Wax
Environmental Scientist
Division of Water Quality

PW:dlp

Encl. C&EDR

xc: Patricia L. McQueary, U.S. Army Corps of Engineer, Bismarck



Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

Surface Waters

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

Fill Material

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

October 7, 2016

John Derbish
(CENWO-OD-R)
US Army Corps of Engineers
Omaha District
Regulatory District
1616 Capitol Avenue
Omaha, NE 68102-4901

RE: Section 404 Regional General Permit
(RGP 00-05, Amendment No. 3)

Dear Mr. Derbish:

The Department of Environment and Natural Resources has reviewed the request for water quality certification under Section 401 of the Clean Water Act. This request pertains to the issuance of a Regional General Permit. The purpose of this General Permit will be to protect cultural sites located in Missouri River reservoirs.

The department is granting water quality certification with the following condition:

1. All work activities must be performed in such a manner to avoid violating South Dakota Water Quality Standards.

In addition to the 404 permit, a Storm Water Construction Permit must be obtained from the South Dakota Department of Environment and Natural Resources. Please contact Laura Newman at 1-800-737-8676 for the Storm Water Construction Permit.

If you have questions pertaining to this certification, please contact John Miller, at (605) 773-3351. Thank you for ensuring the continued protection of our natural resources.

Sincerely,

Steven M. Pirner
Secretary

cc: Steve Naylor, US COE, Pierre
Brent Truskowski, US EPA, Denver



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

JAN 13 2011

Ref: OWP-AAP

John Derbish
U.S. Army Corps of Engineers
Omaha District, Regulatory Branch
1616 Capital Avenue
Omaha, Nebraska 68102-4901

Re: RGP 00-05, Amendment No. 3; Missouri River Reservoirs in North Dakota and South Dakota Bank stabilization to protect cultural resources

Dear Mr. Derbish:

The Environmental Protection Agency Region 8 (EPA) has reviewed the proposed referenced Regional General Permit (RGP) for bank stabilization projects to protect cultural sites located in North Dakota and South Dakota. EPA is denying the Clean Water Act (CWA) Section 401 water quality certification (certification) for RGP-00-05 for waters within the exterior boundaries of the Fort Berthold Reservation, Standing Rock Sioux Reservation, Cheyenne River Sioux Reservation, Crow Creek Reservation, Lower Brule Sioux Reservation and Yankton Sioux Reservation.

When a potential project under this RGP is proposed, the applicant must obtain an individual certification from the EPA. The EPA will then evaluate the project and determine whether it will issue a certification. The EPA will require the project applicant to contact the appropriate Tribal Environmental Director and to discuss the project and any potential water quality impacts. The EPA will also require the project applicant to contact the appropriate Tribal Cultural Resource or Tribal Historic Preservation Officer (THPO) staff to discuss the at-risk cultural resources. The applicant must submit to the EPA a complete copy of the CWA Section 404 application package and any additional information provided to the Corps, including delineations and engineering designs; a summary of their discussions with the tribal officials on potential water quality concerns and any relevant cultural concerns; and a request for an individual certification for the project.

If you have any questions or would like to discuss our response, please contact Toney Ott of my staff at ott.toney@epa.gov or 303-312-6909.

Sincerely,



Darcy O'Connor
Assistant Regional Administrator
Office of Water Protection

cc: Edmond Baker, Environmental Director
Fert Berthold Indian Reservation

Allyson Two Bears, Environmental Director
Standing Rock Sioux Reservation

Doug Crow Ghost, Water Administrator
Department of Water Resources
Standing Rock Sioux Reservation

David D. Nelson, Environmental Director
Cheyenne River Sioux Reservation

George Honeywell, Environmental Director
Lower Brule Sioux Reservation

Wanda Gourneau, Environmental Director
Crow Creek Reservation

Richard Leisure, Environmental Director
Yankton Sioux Reservation