



US Army Corps
of Engineers
Kansas City District

DEPARTMENT OF THE ARMY PERMIT

Permittee General Public

Permit No. GP-40 (Natural Resources Conservation Service – Agricultural Conservation Practices).

Issuing Office U.S. Army Corps of Engineers, Kansas City District

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

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

Project Description: This regional general permit authorizes the discharge of dredged or fill material for agriculture conservation practices in waters of the United States within the state of Kansas. In order to provide a comprehensive tool to land owners, this general permit is intended to encompass the following Natural Resources Conservation Service (NRCS) designed and/or approved activities, where they have minimal adverse impacts, including those authorized by existing Nationwide Permits, in a single permit instrument:

1. Grassed waterways
2. Grade stabilization structures
3. Heavy use protection areas
4. Pipelines
5. Spring and seep developments
6. Ponds
7. Diversions
8. Water and sediment control basins
9. Wetland enhancement, creation and restoration
10. Stream and Shoreline Stabilization, Enhancement and Restoration
11. Subsurface Drainage
12. Terraces
13. Lined Waterway or Outlet

DESIGN CONSIDERATIONS AUTHORIZED BY THIS REGIONAL GENERAL PERMIT: The activities must be designed and/or approved by NRCS (this may include Technical Service Providers). Project specific design criteria are outlined in Appendices 1 -13.

Project Location: In all waters of the United States in the State of Kansas (including Indian Country within Kansas boundaries).

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 3 April 2023. For individually authorized projects where notification is required, the work is authorized for two years from the date of permit verification received from the Corps of Engineers. If you find that you need more time to complete the authorized activity when notification is required, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the State of Kansas programmatic certification is attached. For activities occurring in Indian Country, a copy of the programmatic water quality certification from the U.S. Environmental Protection Agency is attached. If you are required to obtain an individual water quality certification from the U.S. Environmental Protection Agency (USEPA) as outlined in special condition "d" of this permit. The individual 401 certification must be obtained from the USEPA prior to commencing work in waters of the United States.

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

Special Conditions:

See continuation sheets, pages 4, 5 & 6 of this document.

Further Information:

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

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- Section 404 of the Clean Water Act (33 U.S.C. 1344).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorization required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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

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

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

GENERAL PUBLIC – SIGNATURE NOT REQUIRED
(PERMITTEE)

(DATE)

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



(DISTRICT ENGINEER)
DOUGLAS B. GUTTORMSEN, COLONEL
BY: MARK D. FRAZIER
Chief, Regulatory Branch
Operations Division

3 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.

(TRANSFEREE)

(DATE)

SPECIAL CONDITIONS:

- a. Preconstruction notification requirements:** All activities authorized by this General Permit require written preconstruction notification to the Corps of Engineers. Notification shall be submitted by NRCS or a NRCS Certified Technical Service Provider to the Corps for verification. The written notification must include a completed “*Request for GP-40 Authorization*” form. The form is available to download at: <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll11/id/2716> or may be obtained by writing or calling the Kansas City District, Corps of Engineers, 635 Federal Building, 601 E. 12th St., Kansas City, Missouri 64106-2824, phone 816-389-3990. In order for the form to be determined complete, it must include the name of the requesting official (NRCS staff or a Certified Technical Service Provider) and the date approved. In addition, the notification shall include the following supplemental information, as required for specific activities: location map, aerial photographs, drawings, NRCS wetland determinations and mitigation worksheets.
- b.** You must receive Corps verification of GP-40 authorization before you begin any work in waters of the United States. Should any part of the authorized work be performed by a contractor, you must discuss the terms and conditions of this permit with the contractor prior to beginning work; and, you must give a copy of this entire permit to the contractor.
- c.** All projects requested by applicants other than the Tribal Authority for use within the reservation boundaries of Indian Country in Kansas require coordination with the Tribal Authority prior to work beginning. All other terms and conditions of the GP apply in Indian Country regardless of the applicant.
- d.** For authorized activities occurring in Indian Country, you must comply with the conditions of the attached U.S. Environmental Protection Agency (USEPA) Section 401 programmatic water quality certification. The USEPA certification is a condition of the Corps GP-40 authorization.
- e.** You must sign and return a "Compliance Certification" after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and special conditions, and any required mitigation.
- f.** This Corps permit does not authorize you to take an endangered species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion under ESA Section 7, with "incidental take" provisions with which you must comply). In order to comply with the ESA, the Corps of Engineers will coordinate with the NRCS (lead Federal agency) to insure ESA compliance. Proposed activities which may affect a Federally listed threatened or endangered species, or designated critical habitat, will require ESA Section 7 consultation to be completed, before GP-40 authorization can be verified. Appendix 14 provides an informative list of waters in Kansas known to contain Federally listed threatened and endangered species.
- 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.
- h.** The following materials are not suitable for fill activities into waters of the United States under GP-40 authorization: trash, debris, car bodies, asphalt, buses, rail cars, construction or demolition debris, garbage, tires, liquid concrete not poured into forms, grouted riprap, bagged cement, and sewage or organic waste.

SPECIAL CONDITIONS Cont.:

- i.** You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a nonwetland 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.
- j.** You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- k.** 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.
- l.** 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.
- m.** You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- n.** You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or unvegetated condition.
- o.** 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. Best management practices (BMPs) such as inflatable silt fences, standard silt fences, hay bale dikes, or other approved practices, must be implemented to prevent erosion and sedimentation. Vegetation must consist of NRCS recommended species, and must adhere to the required criteria of the Corps' case specific authorization under GP-40. If vegetation is not successfully established on disturbed areas by the end of the first growing season, 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. However, you must contact the Kansas City District, Regulatory Branch prior to beginning work on any additional erosion control measures so that a determination can be made whether further authorization is required.
- p.** You must use only graded rock, quarry-run rock and/or clean concrete rubble for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume. If you use concrete rubble, you must break all large slabs to conform to the well graded requirement, and remove all exposed reinforcement rods, trash, asphalt, and other extraneous materials before you place the rubble in the water of the United States.
- q.** You must limit the placement of riprap or other hard, structural erosion control methods, to the minimum amount necessary to protect disturbed or vulnerable areas from erosion and sedimentation.

SPECIAL CONDITIONS Cont.:

- r. No activity which may affect historic properties listed or eligible for listing, in the National Register of Historic Places is authorized by this regional permit, until the District Engineer has insured that the project complies with the National Historic Preservation Act (NHPA) and the provisions of 33 CFR part 325, Appendix C (or amended regulations). The Corps of Engineers will coordinate with the NRCS (lead Federal agency) to insure NHPA compliance. Proposed activities which are determined to effect a Historic Property will require NHPA Section 106 consultation to be completed before GP-40 authorization can be verified.

- s. If any funerary objects or human remains are unearthed at any time during the course of this authorized work, you must halt construction activities and notify the NRCS at the local U.S. Department of Agriculture (USDA) Service Center immediately.

APPENDIX 1

Grassed Waterways

DEFINITION: A natural or constructed channel that is shaped or graded to required dimensions and established with suitable vegetation. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Codes 362,412, 410, 468, 600 and 606.

PURPOSES: This practice may be applied as part of a conservation management system to support one or more of the following purposes:

1. To convey runoff from terraces, diversions, or other water concentrations without causing erosion or flooding.
2. To reduce gully erosion.
3. To protect/improve water quality.

CRITERIA:

1. This General Permit (GP) does not authorize the construction of grassed waterways in perennial or natural intermittent streams, or that are constructed in conjunction with sod-busting operations in native prairie or rangeland.
2. The grassed waterway must be constructed along a similar flow route of the existing channel. Grassed waterways requiring substantial straightening of the flow route are not authorized under this GP.
3. The grassed waterway must be constructed with either parabolic or trapezoidal cross sections. Irregular or V-shaped cross sections are not authorized by this GP.
4. The average top width of the grassed waterway must not be less than 20 feet and the bottom width of the grassed waterway must not exceed 100 feet.
5. The constructed side slopes must not be steeper than 4:1.
6. New grassed waterways including subsurface drain designs necessary to establish permanent cover may be authorized on a case by case basis.
7. Subsurface drains and stone centers, necessary for maintenance of existing grassed waterways are authorized.
8. Grassed waterways requiring a NRCS grade stabilization structure or other suitable outlet may be authorized by this GP; however, the grade stabilization structure or alternate outlet design must be designed or approved by the NRCS according to their specific conservation practice standards.
9. Grassed waterways requiring temporary or permanent berms are authorized by this GP. Once the desired vegetation has become established, the temporary berms shall be removed and the earthen material shall be blended into the adjacent fields to allow free drainage into the waterway.
10. Grassed waterway seeding/plantings must be recommended by the local NRCS office, adapted to soil type and climate, and must not include exotic and invasive species, including Reed canary grass (*Phalaris arundinacea*).
11. Grassed waterways constructed in farmed channels, that are completely or partially plowed across and no longer exhibit continuous bed and bank features, may be seeded to a grass mixture that meets the producer's needs, provided the grass(es) are recommended by the local NRCS office.
12. Grassed waterway rehabilitation/maintenance activities are authorized by this GP.

APPENDIX I SUMMARY TABLE

Scenario / Application	Authorization under GP	Mitigation Required
Grassed waterways constructed in perennial and natural intermittent streams	No	Not applicable
Grassed waterways constructed in conjunction with sod-busting operations in native prairie/rangeland	No	Not applicable
New grassed waterways requiring subsurface drains	Yes	Site specific
Existing waterways requiring subsurface drains or stone centers for maintenance	Yes	Not applicable
Grassed waterways constructed in channels that are completely or partially farmed	Yes	No
Grassed waterway rehabilitation/maintenance	Yes (Note: some maintenance activities may be determined exempt)	No
Grassed waterways that replace impaired channels and riparian zones	Yes	Site specific.
Grassed waterways requiring grade stabilization structures or other suitable outlets	Yes	Site specific

APPENDIX 2 Grade Stabilization Structures

DEFINITION: A structure used to control the grade and head cutting in natural or artificial channels.

PURPOSE: To stabilize the grade and control erosion in natural or artificial channels, to prevent the formation or advance of gullies, headcuts, and to enhance environmental quality and reduce pollution hazards. Examples of grade stabilization structures authorized under this General Permit (GP) include drop spillways, block drop structures and rock chutes. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Codes 410 and 468.

CRITERIA: The following criteria are required for GP-40 authorization:

1. Structures proposed in conjunction with embankment ponds or other practices in waters of the United States (WUS), may be authorized, but will be evaluated as a component of the overall proposed project.
2. Grade stabilization structures constructed in or across drainage ways with perennial flow during normal years are not authorized under this GP.
3. The crest of the inlet must be set at an elevation that stabilizes upstream headcutting.
4. Structure must be designed to control the peak runoff from the 10-year storm or to meet the bankfull capacity of the channel, whichever is greater.
5. Disturbed areas, not covered with riprap, must be revegetated as soon as practicable, with plant species recommended by the local NRCS office, excluding Reed canary grass (*Phalaris arundinacea*) and other exotic and invasive species.

APPENDIX 2 SUMMARY TABLE

Scenario / application	Authorization under GP	Mitigation Required
Grade stabilization structures constructed in conjunction with a proposed embankment pond or other practices in WUS	Yes, but must be evaluated as a single and complete project (Criterion No. 1).	Site specific
Grade stabilization structures constructed in streams with perennial flow during normal years	No	Not applicable
Grade stabilization structures constructed in intermittent and ephemeral streams	Yes	Site specific

APPENDIX 3

Heavy Use Protection Areas

DEFINITION: The stabilization of areas frequently and intensively used by people, animals or vehicles by establishing vegetative cover, by surfacing with suitable materials, and/or by installing needed structures. Example drawings of heavy use protection areas are provided below. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 561.

PURPOSES:

1. Reduce soil erosion
2. Improve water quantity and quality
3. Improve air quality
4. Improve aesthetics
5. Improve livestock health

CRITERIA:

1. Heavy use protection areas requiring asphalt applications are not authorized under this General Permit (GP).
2. Disturbed areas, not covered with riprap, must be revegetated with grasses recommended by the local NRCS office, excluding Reed canary grass (*Phalaris arundinacea*) and other exotic or invasive species, as soon as practicable.
3. Heavy use protection areas designed for livestock crossing must not substantially disrupt the necessary life cycle movements of aquatic life, indigenous to the watershed.

APPENDIX 4
Pipelines

DEFINITION: A pipeline installed where it is desirable or necessary to convey water or manure in a closed conduit from one point to another. Applicable Natural Resources Conservation Service (NRCS) conservation practice standards: Code 430.

PURPOSES:

1. Convey water from a supply source to points of use for livestock, wildlife, or recreation.
2. Transfer plant and animal waste for further utilization.
3. Convey and manage irrigation water and reduce water conveyance loss.

CRITERIA:

1. Pipelines constructed in wetlands must be backfilled with the material removed from the trench.
2. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States, including wetlands.
3. Trench excavation material may be temporarily sidecast in waters of the United States, for up to 3 months, provided the material is not placed in such a manner that it is dispersed by flows, currents, or other events.
4. Sidecast material must not inhibit flows into streams and/or wetlands.
5. Pipelines must avoid wetland impacts to the maximum extent practicable.
6. The written notification must include a detailed map depicting the location of all channel and/or wetland crossings.
7. The revegetation of riparian zones must be based on the recommendations of the local NRCS office. The seeding plan cannot include Reed canary grass (*Phalaris arundinacea*) or any other exotic or invasive species.
8. Pipelines with waste, must not discharge into waters of the United States, including wetlands.

APPENDIX 4 SUMMARY TABLE

Scenario / Application	Authorization under GP	Mitigation Required
Pipelines with waste designed to discharge in waters of the United States	No	Not Applicable
Pipelines requiring temporary sidecasting in waters of the United States	Yes	No, criteria 3 & 4 address sidecast material

APPENDIX 5

Spring and Seep Developments

DEFINITION: Collection of water from springs or seeps to provide water for a conservation need. Typically, springs are defined as point source flows where ground water intercepts the surface. Seeps are generally broader areas where ground water intercepts the surface but does not provide a point source surface flow. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 574.

PURPOSES: Improve the quantity and/or quality of water for livestock, wildlife, or other agricultural uses as well as the improvement of grazing distribution on rangeland.

CRITERIA:

1. Areas surrounding the created/improved watering facilities, where animal concentrations or overflow from the watering facility will cause resource concerns, must be protected to maintain or improve water quality.
2. Heavy use protection areas, in conjunction with the spring / seep development, are authorized by this GP.
3. Spring and seep developments, constructed in conjunction with pipeline conveyances, are authorized under this GP.
4. Spring and seep overflow shall be returned, via a stable outlet, to its original drainage course to ensure that aquatic habitats are preserved.
5. Spring and seep developments used to irrigate crops are not authorized under this GP.

APPENDIX 6

Ponds

DEFINITION: A water impoundment made by constructing an embankment or by excavating a pit or dugout. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 378.

PURPOSES: To provide water for livestock, fish and wildlife, fire control, and other related uses and to maintain or improve water quality.

EXEMPTIONS: Some ponds are exempt pursuant Section 404(f)(1)(c) and the Corps will make that determination.

CRITERIA:

1. Impoundments shall be constructed in environments where failures will not cause the loss of life, damage to homes, highways, roadways; or interruption of the use or service of public utilities.
2. Ponds that have storage capacities of greater than 15 acre feet, at the principal spillway elevation, are not authorized under this GP.
3. Written notification must include the intended purpose(s) of the proposed pond.
4. All exposed surfaces of embankments, auxiliary spillways, outlet channels, borrow areas, spoil, and other disturbed areas adjacent to the reservoir must be seeded to native grasses.
5. Native grasses and vegetation must be recommended by the local NRCS office, adapted to the soil type and climate, and must not include Reed canary grass (*Phalaris arundinacea*) or any other exotic or invasive species.
6. Exclusionary fencing shall be installed to prevent livestock access to the reservoir area, dam, and auxiliary spillway.
7. Ponds constructed for the sole purpose of recreation are not authorized under this GP.
8. The upstream and downstream side slopes of proposed embankments shall not be steeper than 3:1 and 2.5:1 respectively.
9. All impoundments authorized under this GP must meet the mandatory mitigation requirements set forth in stream mitigation guidelines/methods approved by the Corps of Engineers, Kansas City District (KCD).
10. Written notification must include the completed mitigation method worksheets, documenting the appropriate debits and credits associated with the project. The Kansas City District approved stream mitigation methods can be located on the District's Regulatory website at <http://www.nwk.usace.army.mil/Missions/Regulatory-Branch/>

APPENDIX 6 SUMMARY TABLE

Scenario / Application	Authorization under RGP	Mitigation Required
Multi-use ponds exceeding 15 acre feet storage capacity at the principle spillway elevation	No	Not applicable
Multi-use ponds with storage capacity \leq 15 acre feet at the principle spillway elevation	Yes	Yes, those set forth in the KCD approved stream mitigation methods/guidelines
Ponds constructed for the sole purpose of recreation	No	Not applicable

APPENDIX 7

Diversions

DEFINITION: An artificial channel constructed to divert water from a specific location and direct flow to a desired location. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 362.

PURPOSE: Divert channel flows away from existing feedlot and/or KDHE registered animal feeding operation to eliminate water pollution and improve downstream water quality.

CRITERIA:

1. The proposed diversion must be constructed within an existing feedlot.
2. Diversions constructed to separate clean water runoff and flow from existing agricultural waste facilities are authorized by this GP.
3. Diversion channels built in conjunction with other agricultural waste treatment system improvements are authorized, provided the purpose of the diversion is not to accommodate expanding additions and facilities. Further, if the facility improvements or additions require the diversion of a clean water stream, the project is not authorized by this GP.
4. Diversion channels designed with permanently vegetated channels, must be seeded to grass(es) recommended by the local NRCS office, adapted to soil type and climate, and must not include exotic and invasive species, including Reed canary grass (*Phalaris arundinacea*).
5. Diversions constructed in conjunction with stable outlets such as grassed waterways, grade stabilization structures, waste storage facilities, solid/liquid waste separation facilities, waste treatment lagoons and wastewater treatment strips, are authorized by this GP.
6. Diversions that result in the loss of wetland resources are not authorized under this GP.

APPENDIX 7 SUMMARY TABLE

Scenario/ application	Authorization under RGP	Mitigation Required
Diversions constructed in existing feedlot/KDHE registered facilities	Yes, where the purpose is to separate clean water from contaminated water	Case specific
Diversions constructed to relocate existing channels to accommodate the expansion of an existing feedlot/KDHE registered facility	No	Not applicable
Diversions constructed in association with a new feedlot/KDHE registered facility	No	Not applicable
Diversions constructed in conjunction with other NRCS approved waste treatment and conservation practices (Criterion No. 5)	Yes, where the purpose is to separate clean water from contaminated water as part of an overall improvement or conservation plan to an existing feedlot facility	Case specific

APPENDIX 8
Water and Sediment Control Basins

DEFINITION: An earthen embankment or a combination ridge and channel generally constructed across the slope and minor watercourses to form a sediment trap and water detention basin. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Codes 620 and 638.

PURPOSES:

1. Reduce watercourse erosion.
2. Trap sediment.
3. Reduce and manage downstream runoff.
4. Improve downstream water quality.

CRITERIA:

1. This General Permit (GP) does not authorize the construction of water and sediment control basins in wetlands.
2. Water and sediment control basins constructed in conjunction with approved grassed waterways, diversions or other approved practices, are authorized under this GP.
3. Water and sediment control basins must be designed with approved spillways, underground outlets, or soil infiltration outlets.
4. Water and sediment control basins must be constructed in either artificial channels (diversions or waterways) or farmed channels. Those proposed for construction in natural stream channels are not authorized under this GP.
5. Disturbed areas and newly constructed structures must be seeded /planted to grass(es) recommended by the local NRCS office, adapted to soil type and climate, and must not include exotic and invasive species, including Reed canary grass (*Phalaris arundinacea*).

APPENDIX 8 SUMMARY TABLE

Scenario / Application	Authorized under RGP	Mitigation Required
Water and sediment basins constructed in wetlands or natural stream channels	No	Not applicable
Water and sediment basins constructed in conjunction with approved grassed waterways, diversions, or other approved practices	Yes	Case specific.

APPENDIX 9

Wetland creation, enhancement and restoration

DEFINITION: The creation of a wetland on a site that was historically non-wetland; the rehabilitation of a degraded wetland, reestablishment of a wetland so that soils, hydrology, vegetative community, and habitat are a close approximation of the original natural condition; or the inundation of lands to provide habitat for fish and/or wildlife. Applicable conservation practice standards: Codes 356; 646; 657; 658; and 659.

PURPOSES:

1. Create wetland functions
2. Restore wetland functions, values, habitat and diversity
3. Provide habitat for wildlife species such as shorebirds, waterfowl, wading birds, mammals, fish, reptiles, amphibians, etc.
4. Provide specific wetland conditions for targeted functions and species

CRITERIA:

1. The conversion of natural wetlands to another aquatic habitat is not authorized under this General Permit (GP).
2. Activities must result in a net gain in aquatic resource functions and services for authorization under this GP.
3. Activities resulting in a net loss of wetlands are not authorized under this GP.
4. The written notification must include a vegetation plan that must consist entirely of native plant species that are endemic to the area, recommended by the local Natural Resources Conservation Service (NRCS) office, are adapted to the soil type and climate, and must exclude Reed canary grass (*Phalaris arundinacea*).
5. This GP does not authorize the diversion of water supply from other wetland resources.
6. The conversion of a stream to a wetland resource is authorized under this GP, provided the required mitigation requirements, as outlined in Kansas City District approved stream mitigation methods for the state of Kansas, are met. Written notification must include the completed mitigation method worksheets, documenting the appropriate debits and credits associated with the project. The Kansas City District approved stream mitigation methods are located on the District's Regulatory website at:
<https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2723>. Wetlands constructed on streams, must not exceed 15 acre feet storage capacity at the principal spillway elevation.
7. Dikes constructed in association with approved wetland practices shall have a top width not less than 8 feet and side slopes not steeper than 2:1 horizontal to vertical.

APPENDIX 9 SUMMARY TABLE

Scenario / Application	Authorization under RGP	Mitigation Required
Restoration of a historic wetland site	Yes	No
Enhancement of an existing wetland resource	Yes	No
Conversion of natural wetlands to another aquatic habitat	No	Not applicable
Conversion of a stream to a wetland resource	Yes	Yes, see criteria Nos. 5 & 6

APPENDIX 10
Stream Habitat, Bed, Bank and Shoreline Stabilization, Enhancement and Restoration

DEFINITION: Treatments used to stabilize and protect the bed and/or banks of streams, constructed channels, and shorelines of lakes or reservoirs. Applicable conservation practice standards: Codes 580, 584 and 395

PURPOSES:

1. Prevent loss of land or damage to land uses, facilities, or archaeological and traditional cultural properties.
2. Maintain flow capacity of streams and channels.
3. Reduce effects/sedimentation from erosion.
4. Improve or enhance stream corridor for fish and wildlife habitat, aesthetics and recreation.
5. Provide suitable habitat for desired fish, aquatic species and ecological processes.
6. Maintain or alter channel bed elevation or gradient.
7. Modify sediment transport or deposition.

CRITERIA:

1. Activities involving stream channel modifications based on natural channel design framework and restoration of natural stream geometry are authorized.
2. The restoration of a stream channel to its natural or original alignment is authorized.
3. Traditional bank and shoreline stabilization practices, such as riprap revetments, armoring, stand-alone longitudinal peaked stone toe (LPSTP) and slope protection, are authorized. The length of traditional stabilization practices cannot exceed 500 linear feet of stream bank or 1 cubic yard of riprap material per running foot, below the plane of the ordinary high water mark (OHWM).
4. The reshaping of the bank or shoreline to a stable slope, is authorized. Reshaped banks must be stabilized with riprap, vegetative plantings or a combination thereof.
5. Non-traditional, bio-engineered stabilization practices such as bendway weirs, rock vanes, chutes, living shore/banklines and woody revetments, are authorized.
6. LPSTP, when incorporated into a bio-engineered design, is authorized and is not subject to the 1 cubic yard per running foot limitation described in “3” above.
7. Removal and clearing of snags, debris or other obstructions, necessary to restore and enhance stream functions, is authorized.

APPENDIX 10 SUMMARY TABLE

Scenario / Application	Authorization under RGP	Mitigation Required
Restoration of a stream channel to its natural/original alignment	Yes	No
Bank or shoreline stabilization	Yes, see limitations in "3" above	No
Reshaping of bank or shoreline to stable slope	Yes	No
Non-traditional stabilization and bio-engineering activities	Yes	No
Removal of snags, debris and obstructions	Yes	No

APPENDIX 11

Subsurface Drainage

DEFINITION: A conduit, such as corrugated plastic tubing, tile, or pipe, installed beneath the ground surface to collect and/or convey drainage water. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 606.

PURPOSE: To improve the soil environment for vegetative growth, reduce erosion, and improve water quality by:

1. Regulating water table and ground water flows.
2. Intercepting and preventing water movement into a wet area.
3. Serving as an outlet for other subsurface drains.

SPECIAL CONDITIONS:

1. Subsurface drains authorized by this GP must be constructed within a grassed waterway and meet requirements of Kansas Minimal Effect Exemption: KS-2 Terrace System Upgrade from Grassed Waterway/Vegetated Outlet to a Shaped Grassed Waterway with Subsurface Drainage Worksheet.
2. Disturbed areas must be revegetated with grasses recommended by the local NRCS office, excluding Reed canary grass (*Phalaris arundinacea*) and other exotic or invasive species, as soon as practicable.
3. Subsurface drains must discharge into an underground outlet with a bubble up outlet or onto an area either stabilized with vegetation (i.e., grassed waterway, critical area planting, buffer vegetation), a vegetative splash pad as illustrated in the attachments for the Kansas Minimal Effect Exemptions, or other similar area such as a denitrifying bio-reactor approved by NRCS.
4. Subsurface drains **may not** discharge directly into a stream.
5. Trench excavation material may be temporarily side cast in waters of the United States, for up to 3 months, provided the material is not placed in such a manner that it is dispersed by flows, currents, or other events.
6. Subsurface drain rehabilitation/maintenance associated with the rehabilitation/maintenance of a grassed waterway is authorized by this GP.
8. The drainage area must be equal to or less than 120 acres.

APPENDIX 12

Terraces

DEFINITION: An earthen embankment, or a combination ridge and channel, constructed across the field slope. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 600.

PURPOSE: Apply practice as part of a resource management system for one or more of the following purposes:

1. Reduce erosion by reducing slope length.
2. Retain runoff for moisture conservation.

SPECIAL CONDITIONS:

1. Terraces that redirect a degraded channel, where flows no longer follow the original flow path, are authorized by this GP.
2. Terraces that compliment a NRCS designed grassed waterway are authorized by this GP.
3. Terraces that incorporate subsurface drains (Code 606) are authorized by this GP; however, the subsurface drains must discharge onto an area either stabilized with vegetation (i.e., grassed waterway, critical area planting, buffer vegetation), a vegetative splash pad, or other similar area approved by NRCS. Subsurface drains **may not** discharge directly into a stream.
4. Terraces that redirect stream channels flowing within natural alignments **are not** authorized by this GP.

SUMMARY TABLE

Scenario / Application	Authorization under RGP	Mitigation Required
Terraces that relocate a natural stream alignment	No	Not applicable
Terraces that restore a stream channel to its natural/original alignment	Yes	No
Terraces that redirect a degraded stream channel to a NRCS grassed waterway	Yes	Case specific
Terraces that incorporate subsurface drains	Yes, see limitations in Condition 3 above.	No

APPENDIX 13
Lined Waterway or Outlet

DEFINITION: A waterway or outlet having an erosion-resistant lining such as a Turf Reinforced Mat (TRM) of concrete, stone, synthetic turf reinforcement fabrics, or other permanent material.

PURPOSE: A practice to provide for 1) the safe conveyance of runoff from conservation structures and water concentrations; 2) stabilization of existing or future gully erosion; and 3) protection and improvement of water quality Code 468.

CRITERIA: The following criteria are required for GP-40 authorization:

1. Lined waterway and outlets designed in conjunction with waterways, diversions and grade control structures are authorized.
2. Lined waterway and outlets within systems having maximum flows of 200 cubic feet per second are authorized.
3. Minimum capacity must be adequate to carry peak rate of runoff from a 10-year, 24-hour frequency storm.
4. Lined waterway and outlets associated with streambank soil bioengineering are authorized.
5. Lined waterway and outlets must be designed to incorporate aquatic life passage considerations.

APPENDIX 13 SUMMARY TABLE

Scenario / application	Authorization under GP	Mitigation Required
Structures designed in conjunction with other approved NRCS conservation practices	Yes	Site specific
Structures preventing aquatic life passage	No	Not applicable

THREATENED AND ENDANGERED SPECIES WATERS IN KANSAS **(For Informational Purposes Only)**

- a. Arkansas River** – That portion flowing through Barton, Cowley, Edwards, Finney, Ford, Gray, Hamilton, Kearny, Kiowa, Pawnee, Reno, Sedgwick and Sumner Counties, excluding that reach upstream of the Kansas Route 27 bridge in Hamilton County and a 12.4 mile reach within the City of Wichita metropolitan area, extending from the westbound land of Kansas Route 96 downstream to Interstate 35 (Arkansas River Shiner (*Notropis Girardi*); Interior Least Tern (*Sterna antillarum* in Sedgwick County only); Northern Long-eared Bat (*Myotis septentrionalis*)).
- b. Cimarron River** - That portion flowing through Clark, Comanche, and Meade Counties (Interior Least Tern (*Sterna antillarum*) and Arkansas River Shiner (*Notropis girardi*)).
- c. Cottonwood River** - From the point of discharge of Marion Dam to its confluence with the Neosho River in Lyon County (Neosho Madtom (*Noturus placidus*), Northern Long-eared Bat (*Myotis septentrionalis*), and Neosho Mucket (*Lampsilis rafinesqueana*)).
- d. South Fork Cottonwood River** – Downstream of Bazaar to confluence with Cottonwood River (Neosho Madtom (*Noturus placidus*) and Northern Long-eared Bat (*Myotis septentrionalis*)).
- e. Neosho River** - From the point where it discharges from Council Grove Reservoir in Morris County to the point where it leaves Lyon County and from the point where it discharges from John Redmond Reservoir in Coffey County to the Kansas-Oklahoma border in Cherokee County (Neosho Madtom (*Noturus placidus*), Northern Long-eared Bat (*Myotis septentrionalis*), Neosho Mucket (*Lampsilis rafinesqueana*), and Rabbitsfoot (*Quadrula cylindrical*)).
- f. Marais des Cygnes River** – The entire main stem portion within the state of Kansas in Linn County (Spectaclecase (*Cumberlandia monodonta*)).
- g. Spring River** - The entire main stem portion within the state of Kansas in Cherokee County (Neosho Madtom (*Noturus placidus*), Northern Long-eared Bat (*Myotis septentrionalis*), Neosho Mucket (*Lampsilis rafinesqueana*), and Rabbitsfoot (*Quadrula cylindrical*)).
- h. Cow Creek and tributaries** - A 144 square mile area within Crawford County whose western boundary is highway K-7, whose southern boundary is the Crawford/Cherokee county line, whose eastern boundary is the Kansas/Missouri state line and whose northern boundary is highway K-57 east of the town of Girard extended to the state line. Also included in this area is all of Cow Creek in Cherokee County (Gray Bat (*Myotis grisescens*), and Northern Long-eared Bat (*Myotis septentrionalis*)).
- i. Kansas River** –From its origin in Geary County downstream to Lecompton in Shawnee County (Interior Least Tern (*Sterna Antillarum*), Piping Plover (*Charadrius melodus*), and Northern Long-eared Bat (*Myotis septentrionalis*)). From below Bowersock Dam in Douglas County to the confluence with the Missouri River (Pallid Sturgeon). From its origin in Geary County downstream to the Missouri River (Bald Eagle, *Haliaeetus leucocephalus*). Preconstruction notification for the Bald Eagle is

required because of protections afforded under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c).

j. The following locations may contain the Topeka Shiner (*Notropis topeka*), which is listed as endangered, and are subject to the notification requirement above:

- 1. Butler County** – Headwaters of the South Fork Cottonwood River (Sec. 4, 9, 16 & 21 T23S, R8E).
- 2. Chase County** – Bloody Creek, Collett Creek, Diamond Creek, Gannon Creek, Jack Creek, Little Cedar Creek, Mercer Creek, Mulvane Creek, Rock Creek, Schaeffer Creek, Shaw Creek, Unnamed tributary of Thurman Creek (Sec. 31 & 32 T22S, R9E), Unnamed tributary of Mercer Creek (Sec. 30 & 31 T22S, R 8E), Middle Creek, Unnamed tributary of Middle Creek (Sec. 4, 9 & 10 T19S, R6E), Unnamed tributary of Diamond Creek (Sec. 9 T19S, R7E), Unnamed tributary of Fox Creek (Sec. 31 T18S, R8E).
- 3. Dickinson County** – Cary Creek, Middle Branch Lyons Creek, Rock Springs Creek, West Brach Lyons Creek.
- 4. Geary County** – Rock Springs Creek, Davis Creek, Dry Creek, Thomas Creek.
- 5. Greenwood County** – Thurman Creek, Unnamed tributaries of Thurman Creek (Sec. 6 T23S, R9E; Sec. 1 T23S, R8E).
- 6. Marion County** – Middle Creek, Mud Creek.
- 7. Marshall County** - North Elm Creek, Clear Fork Creek.
- 8. Morris County** - Middle Creek, and tributaries to Diamond Creek.
- 9. Pottawatomie County** - Clear Fork Creek.
- 10. Riley County** – Deep Creek, Seven-Mile Creek, Little Arkansas Creek, Walnut Creek, Wildcat Creek.
- 11. Shawnee County** – Mission Creek.
- 12. Wabaunsee County** – East Branch Mill Creek, Hendricks Creek, Illinois Creek, Kuenzli Creek, Loire Creek, Mission Creek, Mulberry Creek, Nehring Creek, Paw Paw Creek, Spring Creek (Paxico), Spring Creek (Tributary of West Branch Mill Creek), South Branch Mill Creek, West Branch Mill Creek, Snokomo Creek.
- 13. Wallace County** - Willow Creek.

k. The following waterways maintain critical habitat for the Whooping Crane, *Grus americana*, and are subject to the notification requirement above:

- 1. Walnut Creek** – in Ness, Rush and Barton Counties which feeds Cheyenne Bottoms.
- 2. Cheyenne Bottoms** – All water bodies within Cheyenne Bottoms.
- 3. Rattlesnake Creek** – in Edwards, Stafford and Pratt Counties which feeds Quivera National Wildlife Refuge.
- 4. Quivera National Wildlife Refuge** – All water bodies within Quivera National Wildlife Refuge.

l. The following waterways for the Federal candidate species listed below are subject to the notification requirement above:

Arkansas darter, *Etheostoma cragini*, in vegetated wetlands and spring fed pools in the mainstem and tributaries to the Arkansas, Cimarron, Medicine Lodge, Chikaskia, Ninnescah, and Spring Rivers in Barber, Barton, Cherokee,

Clark, Comanche, Cowley, Harper, Kingman, Kiowa, Meade, Pratt, Reno, Rice, Sedgwick, Seward, Stafford and Sumner Counties.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

11201 Renner Boulevard
Lenexa, Kansas 66219

MAR - 6 2018

Mr. Matthew J. Mikulecky
Regulatory Project Manager
U.S. Army Corps of Engineers
Kanopolis Regulatory Satellite Office
107 Riverside Drive
Marquette, Kansas 67456

Dear Mr. Mikulecky:

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 40 (NWK 2007-1915)

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 40 (NWK 2007-1915) - This 5-year permit includes several Natural Resources Conservation Service designed and/or approved agricultural conservation practices that have minimal adverse impacts. For more information, go to <http://www.nwk.usace.army.mil/Media/Public-Notices/Article/1350243/gp-40-nwk-2007-1915/>.

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.

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 40)

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 40 (NWK 2007-1915) - This 5-year permit includes several Natural Resources Conservation Service designed and/or approved agricultural conservation practices that have minimal adverse impacts. For more information, go to <http://www.nwk.usace.army.mil/Media/Public-Notices/Article/1350243/gp-40-nwk-2007-1915/>.

Permit 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, the 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.

CERTIFICATION APPROVED BY EPA REGION 7:

3/8/18

Date

Brad Horchem

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

STATE OF KANSAS

DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
CURTIS STATE OFFICE BUILDING
1000 SW JACKSON ST., SUITE 400
TOPEKA, KS 66612-1367



PHONE: (785) 296-1535
FAX: (785) 559-4264
WWW.KDHEKS.GOV

GOVERNOR JEFF COLYER, M.D.
JEFF ANDERSEN, ACTING SECRETARY

March 1, 2018

Mr. Matthew J. Mikulecky
Kanopolis Satellite Office
107 Riverside Drive
Marquette, Kansas 67464

Section 401 Water Quality Certification

RE: Proposed Modification to Section 404 GP 40- 2007-1915. Renewal: April 3, 2018. Applicant: General Public. **PROJECT LOCATION:** In all waters of the United States in the State of Kansas (including Indian Country within Kansas boundaries).

Dear Mr. Mikulecky:

On November 29, 2017, the Kansas Department of Health and Environment (KDHE) received, from the U.S. Army Corps of Engineers, Kansas City District, a request for Section 401 Water Quality Certification for the referenced proposed action as described below.

Description from the USACE/KDHE Joint Public Notice dated October 23, 2017:

“**PROPOSED:** In accordance with Title 33 CFR 325.2 and 325.7(e), as published in the November 13, 1986, Federal Register, the Kansas City District, U.S. Army, Corps of Engineers proposes to reissue Regional General permit GP-40, which would authorize the excavation from and/or discharge of dredged or fill material in waters of the United States within the State of Kansas in association with U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) agriculture conservation practices. This regional general permit would be issued under the authority of Section 404 of the Clean Water Act (33 USC 1344). From April 2013 to July 2017, there have been approximately 402 verifications issued under the provisions of this general permit. The currently approved GP-40 is scheduled to expire on April 2, 2018.”

Project Description: This regional general permit authorizes the discharge of dredged or fill material for agriculture conservation practices in waters of the United States within the State of Kansas. To provide a comprehensive tool to landowners, this general permit is intended to encompass the following NRCS designed and/or approved activities, where they have minimal adverse impacts, including those authorized by existing Nationwide Permits, in a single permit instrument:

1. Grassed Waterways
2. Grade Stabilization Structures
3. Heavy Use Protection Areas
4. Pipelines
5. Spring and Seep Developments

Mr. Mikulecky (PN 2007-1915 GP 40)

March 1, 2018

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6. Ponds
7. Diversions
8. Water and Sediment Control Basins
9. Wetland Creation, Enhancement and Restoration
10. Stream and Shoreline Stabilization, Enhancement and Restoration
11. Subsurface Drainage
12. Terraces
13. Lined Waterway or Outlet

Duration Of The General Permit: “The general permit would expire 5 years from the date of reissuance unless it is specifically modified, suspended, or revoked prior to that date. Upon its expiration, the general permit would be considered for renewal. The general permit may be modified, suspended or revoked, in whole or in part, at any time if it is determined that the cumulative effects of the activities would have a significant environmental impact or are otherwise not in the public interest. All individual verifications under this general permit would be valid for 2 years. This date would be noted on the general permit if it is issued. Therefore, the maximum reclamation period for any single project would be limited to 2 years. If a project is not completed within the 2- year time frame, it would be subject to re-evaluation under the present terms of the general permit, if applicable.”

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

- I. Limitations of this Certification:** All Section 404 activities within the borders of Indian owned and operated lands are not covered by this certification. Individuals proposing projects which impact those waters are responsible for contacting the EPA at: USEPA Region 7- WWPD/WPIB-913-551-7498
- II. General Conditions:**
 1. **Pre-construction notification:** the recipient shall submit a copy of the completed “Request for Authorization Form” referenced in the Corps. GP 40 Permit Special Conditions a., Page 4, for the following practices:
 - a. Sub-surface drainage, lined waterway or outlet, stream and shoreline stabilization and wetland: enhancement, creation or restoration.
 2. **The KDHE must be notified when construction starts (nps@kdheks.gov or 785-296-4195).**
 3. **Certification Retention:** The applicant shall retain this water quality certification on the project site through the duration of the project to accommodate inspection.
 4. Land disturbance activities of one acre or more not considered plowing or tilling farm fields are subject to the **Kansas Water Pollution Control General Permit for Stormwater Runoff from Construction Activities.**

This certification does not relieve the applicant of the responsibility to determine if the project is subject to the requirements of **said permit** and to secure such permit as necessary. Questions and inquiries may be directed to:

Mr. Larry Hook, P.E.

Kansas Department of Health and Environment, BOW Industrial Program Section
1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367 Phone 785/296-5549;
www.kdheks.gov/stormwater

5. The Kansas Department of Health and Environment administers EPA Section 319 funds to watershed groups across the state to implement Watershed Restoration and Protection Strategy plans. The purpose of these plans is to identify water quality impaired watersheds and implementation schedule for reducing pollutants to the extent of making them unimpaired. A project located in the WRAPS areas illustrated in the attached project coordinator map (Attachment 1) should be noted to the WRAPS coordinator. Additional information pertaining to WRAPS can be found at: kswraps.org.
6. **Project Water Quality Protection Plan (see Item V for link to form and instructions):** Any person wishing to use a Section 404 GP 40 Permit shall prepare and follow a written project water quality protection plan (PWQPP.) The PWQPP shall identify components of the permitted activity while describing the actions that will be taken to comply with K.A.R. 28-16-28e (1)-(8) (general narrative Kansas Water Quality Standards) which may or will help avoid standard violations in the 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. **Solid Waste Disposal:** All solid waste materials produced during the execution of the project shall be disposed in accordance with the provisions of Kansas Solid Waste Management Statutes and regulations and applicable local regulations. Direct inquiries to:

KDHE, Bureau of Waste Management

1000 SW Jackson Street, Suite 320

Topeka, Kansas 66612-1366

Phone: 785/296-1600; FAX: 785/296-1592 www.kdhe.state.ks.us/waste/index.html

- b. **Equipment Staging Area and Project Closure:** Equipment staged for a long period of time can kill vegetation and be a source of sediment laden runoff which must be controlled. Staging areas should be evaluated even if the project is not fully completed. If deemed needed, these areas shall be expeditiously stabilized with temporary or permanent vegetation, bio-artificial ground cover or other appropriate non-polluting material. Additionally, upon completion of earthwork operations, the applicant must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction. Upon completion of the project, with best management practices (BMPs) such as inflatable silt fences, standard silt fences, hay bale dikes, or other approved practices, must be implemented to prevent erosion and sedimentation. Vegetation must consist of NRCS recommended species.

If vegetation is not successfully established on disturbed areas by the end of the first growing season, 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. Fertilizer application to establish and maintain vegetation shall be done in a manner that will not contribute to the current nutrient load to any of the surface waters impacted by the project.

- c. Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). KDHE encourages the use of vegetation consistent with adjoining vegetation materials to minimize impacts from improper handling of fertilizers and pesticides.
- d. Discharge of Floatable Materials:** Pursuant to K.A.R. 28-16-28e (1), (3) and (4), the person responsible for executing the permitted activity shall assure good house-keeping is practiced at the site to minimize the discharge of floatable materials such as personal refuse including food containers, packing materials, and other litter. Appropriate measures shall be taken to capture and/or recover any floatable materials discharged to waters of the state originating with the permitted project.
- e. Fuel, Chemical and Materials Storage:** Fuel, chemical and other materials stored at the project site shall be stored in a manner that minimizes the discharge of product to waters of the state.
- f.** The project shall be constructed in a manner to avoid destabilization of downstream banks likely to cause excessive turbidity and sediment load to receiving waterbodies.

7. Spill Response and Reporting:

- a. Spill response and cleanup:** In the event a spill of fuel, chemical or other water quality degrading materials stored or transported on the site occurs, the permittee shall or with the assistance of professional response personnel, expeditiously control or contain the spill and initiate clean up procedures. The applicant shall immediately contact 911. The applicant should also contact the appropriate Kansas Department of Health and Environment District Office (http://www.kdheks.gov/befs/dist_office.html) (or look in your local phone directory) to confirm cleanup activities. Finally, KDHE strongly encourages the permittee to establish and post a sign that includes phone contact numbers for the appropriate local emergency response unit, KDHE district office, and the project manager/owner.
- b. Reporting:** The Kansas Department of Health and Environment shall be notified of all fuel spills or unauthorized discharge of pollutants immediately to state emergency personnel: (785) 291-3333 (24 hours a day.) These incidences should also be reported to the National Spill Response Center (1-800-424-8802). Finally, KDHE strongly encourages the permittee to establish and post a sign that includes phone contact numbers for the appropriate local emergency response unit, KDHE district office, and the project manager/owner.

- 8. Drinking Water Intakes:** The person responsible for the permitted activity shall avoid adverse impacts on public water supplies. Whenever permitted activities occur within one mile upstream or downstream of a public drinking water supply - surface water intake, the applicant shall contact the official in charge of the public drinking water supply to apprise the drinking water supply official of the permitted activity. Click on: http://165.201.142.59:8080/DWW/DWW_login.jsp and hit the Public Access button.
- 9. Treated Wastewater Effluent Mixing Zones:** As a general guideline any Section 404 activity within one-half (2) mile upstream or one-half (2) mile downstream of a permitted wastewater effluent discharge may impact the effluent mixing zone. The person responsible for the permitted activity shall determine if the project will adversely impact the wastewater effluent mixing zones and take appropriate measures to avoid altering or changing the mixing zone. This may include but is not limited to:
- a. Any activity which may alter or remove the stream channel geometry or natural oxygenation abilities of the stream such as low water crossing construction, channelization, stream channel substrate modification etc.

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

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

- 10. Occasion to submit a Project Water Quality Protection Plan** as referenced in Item 4 above. The permittee should also be aware of the following Kansas water quality protection regulations associated with high value waters. (See Attachment 2 for table and map of high value waters). High value waters require a higher level of protection according to the K.A.R. (water quality standards) referenced on page 6. To ensure more efficient response can be executed, a copy of the Project Water Quality Protection Plan shall be submitted to this office at:

Scott Satterthwaite
Bureau of Environmental Field Services
Watershed Management Section
1000 SW Jackson, Suite 420
Topeka, KS 66612-1367
Or email to Scott.Satterthwaite@ks.gov

K.A.R. 28-16-28c(a)B(2)-A 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)-A 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 semi-aquatic 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.

III Special Conditions for Specific Activities:

1. **Concentrated Animal Feeding:** Authorization by this permit does not relieve the responsibility from any person or entities proposing to construct or implement practices involved with concentrated animal feeding as defined in K.A.R.28-18-1 et. seq., and/or as defined in K.S.A. 65-171d, to determine if a state or federal water pollution control permit from the Kansas Department of Health and Environment is required.

Contact: Ms. Tara Mahin, Chief
Kansas Department of Health and Environment
Bureau of Environmental Field Services –
Livestock Waste Management Section
1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367
Phone: 785/296-5527
www.kdheks.gov/feedlots/index

2. **Wetlands Creation, Enhancement and Restoration (NRCS Codes 657-659):** Measures shall be implemented to assure impounded waters, created by activities within the framework of these permits, avoid becoming public health threats, nuisances, generate complaints, and potentially discharge degraded water. The applicant shall prepare and implement an Operations and Maintenance Plan (O&M), which at the minimum incorporate the following:
 - a. Water quality protection measures for each category of artificial source of pollution will be identified. The identified water quality protection measure for each category of artificial source of pollution shall be designed to *reduce to the maximum extent practicable, the level of pollution resulting from identified pollutant sources*. Identified water quality protection measures shall be at least as effective as those set out by the Kansas Nonpoint Source Pollution Management Plan prepared and maintained by the Kansas Department of Health and Environment: http://www.kdheks.gov/nps/resources/KSNPSMgmtPlan_04-29-2011_final.pdf Including Appendices: http://www.kdheks.gov/nps/resources/NPSMgmtPlanAppendices_combined_04.29.2011.pdf

IV. Enforcement and Penalties:

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

V. Variance:

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

VI. Additional Information:

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

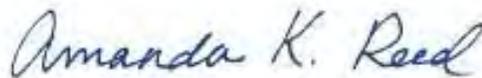
*PWQPP Form and Instructions: <http://www.kdheks.gov/nps/resources/nwpwqppfrm.doc>

*Total Maximum Daily Loads: http://www.kdheks.gov/tmdl/planning_mgmt.htm

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

For more information contact the Kansas Department of Health and Environment, Bureau of Environmental Field Services -Watershed Management Section at: 785/296-4195 or nps@kdhe.state.ks.us.

Sincerely,

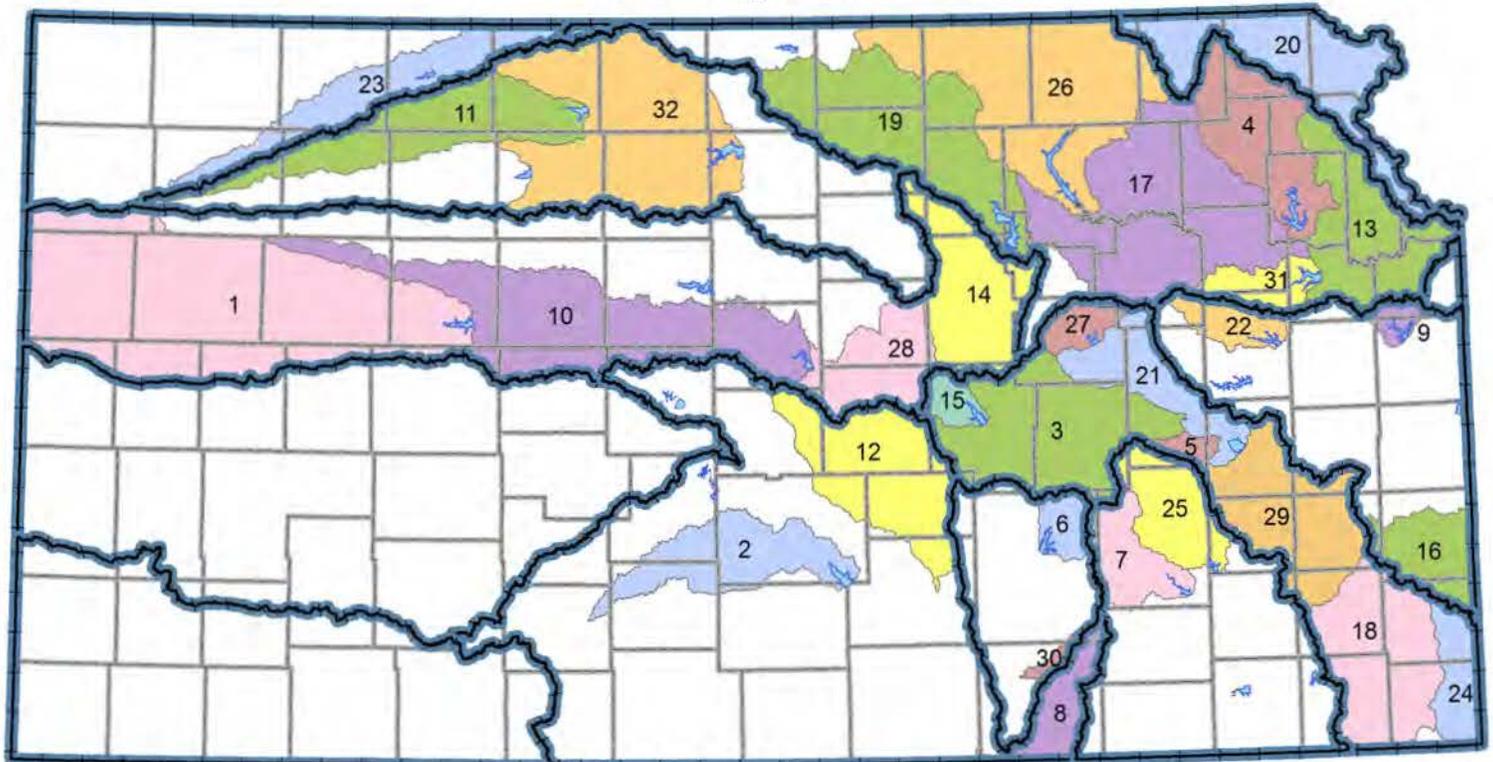


Amanda Reed, Section Chief
Watershed Management Section
Bureau of Environmental Services
Kansas Department of Health and Environment

Kansas WRAPS Projects

Stakeholder Leadership Team Areas

as of May 2017



Project Key and Contact Information

<p>1 Cedar Bluff Contact: Kathy Stice Rooks Co. Conservation District 785.425.6316</p> <p>2 Cheney Lake Contact: Lisa French Reno Co. Conservation District 620.669.8161</p> <p>3 Cottonwood Watershed Contact: Lisa Suderman Marion Co. Conservation District 620.382.3737</p> <p>4 Delaware River Contact: Kerry Wedel Glacial Hills RC&D 785.284.3422</p> <p>5 Eagle Creek Contact: Wes Fleming Kansas Alliance for Wetlands & Streams 785.614.1472</p> <p>6 El Dorado Lake Contact: Sandy Koontz Butler Co. Conservation District 316.320.5891</p> <p>7 Fall River, Upper Contact: Bob Culbertson Kansas Alliance for Wetlands & Streams 620.364.9485</p> <p>8 Grouse Silver Creek Contact: Isaac Broeckelman Cowley County Conservation District 620.221.1850 ext. 3</p>	<p>9 Hillsdale Lake Contact: Lesley Rigney Miami Co. Conservation District 913.294.3751</p> <p>10 Kanopolis Lake: Big Creek, Middle Smoky Hill River Contact: Stacie Minson Kansas State University 785.769.3297</p> <p>11 Kinwin Contact: Kathy Stice Rooks Co. Conservation District Enhancement 785.425.6316</p> <p>12 Little Arkansas Contact: Ron Graber Kansas State University 316.860.0100</p> <p>13 Lower Kansas Contact: Dawn Buehler Kansas Alliance for Wetlands & Streams 785.312.7200</p> <p>14 Lower Smoky Hill, Lower Contact: Janet Meyer Dickinson Co. Department of Environmental Services 785.263.4780</p> <p>15 Marion Lake Contact: Lisa Suderman Marion Co Conservation District 620.382.3737</p> <p>16 Marmaton River Watershed Contact: Kara Niemeir Marmaton Joint Watershed District No. 102 620.756.1000</p>	<p>17 Middle Kansas Watershed Contact: John Bond Kansas Alliance for Wetlands & Streams 785.560.4846</p> <p>18 Middle Neosho Contact: Doug Blex Kansas Alliance for Wetlands & Streams 620.289.4663</p> <p>19 Milford Lake Contact: John Bond Kansas Alliance for Wetlands & Streams 785.560.4846</p> <p>20 Missouri River Contact: Gary Satter Glacial Hills RC&D 785.608.8801</p> <p>21 Neosho Headwaters Contact: Dan Haines Kansas Alliance for Wetlands & Streams 785.221.9345</p> <p>22 Pomona Lake Contact: Lori Kuykendall Osage Co. Conservation Dist 785.828.3458</p> <p>23 Prairie Dog Creek Contact: Twila Diznang Norton Co. Conservation Dist 785.877.2623 ext. 40</p> <p>24 Spring River Watershed Contact: Carl Metcalf Grand Lake Watershed Alliance Foundation cmetcalf@irec.org</p>	<p>25 Toronto Lake, Upper Verdigns Contact: Bob Culbertson Kansas Alliance for Wetlands & Streams 620.364.9485</p> <p>26 Tuttle Creek Lake Contact: Gary Satter Glacial Hills RC&D 785.608.8801</p> <p>27 Twin Lakes Contact: Angela Anderson Morris Co Conservation District 620.481.9547</p> <p>28 Upper Lower Smoky Hill Contact: Ron Graber Kansas State University 316.722.7721</p> <p>29 Upper Neosho Contact: Bob Culbertson Kansas Alliance for Wetlands & Streams 620.364.9485</p> <p>30 Upper Timber Creek Contact: Isaac Broeckelman Cowley County Conservation District 620.221.1850 ext. 3</p> <p>31 Upper Wakarusa Contact: Frank Norman Kansas Alliance for Wetlands & Streams 785.691.9748</p> <p>32 Wacanda Contact: Kathy Stice Rooks Co. Conservation District 785.425.6316</p>
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ATTACHMENT 2. 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, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 3/14/2012, 7th 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. WETLANDS(7): 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: (6) all oxbow lakes and WETLANDS 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. WETLANDS(8): 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. WETLANDS(9): All WETLANDS 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. WETLANDS(5): 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. WETLANDS(10a): 10a All cave waters & 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. And 10b: All wetlands 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 2. 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, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 3/14/2012, 7th 3/3/2017).

Cheyenne		Arikaree River, Republican River South Fork
Clark	Cimarron River: (23) St. Jacob's Well: NW1/4 of SW1/4 of S19 T32S R24W	Bluff Cr., Cimarron River, Kiowa Cr. West, Rattlesnake Cr.: (23) Clark County State Fishing Lake
Clay		Republican River
Cloud	(25) 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.: (19) Herington Reservoir
Doniphan		Missouri R.
Douglas		Appanoose Cr., Buck Cr., Kansas River, West Fork Taury Cr.: (16) Clinton Reservoir, WETLANDS:(11) 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.: (14) 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: (2) Flint Hills Tallgrass Prairie Preserve, all surface waters within the Nature Conservancy Reserve: Section 22 & 23 T23S R8E

ATTACHMENT 2. 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, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 3/14/2012, 7th 3/3/2017).

Hamilton		Arkansas River
Harper	Chikaskia River	Chikaskia River, Sand Cr.
Jefferson		Buck Cr., Kansas River: (18) Perry Reservoir
Jewell		Republican River
Johnson		Kansas River: (17) 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 (12) 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 (12) 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		(15) McPherson Valley Wetlands: Classification applies to all surface waters within state owned portions of wetlands
Meade		Cimarron River, Crooked Cr., Spring Cr., Stumpie Arroyo, unnamed tributary to Stumpie Arroyo (22) Lake Meade
Miami	Marais Des Cygnes River, Middle Cr.	Marais Des Cygnes River, Middle Cr., Pottawatomie Cr., Unnamed tributary to North Wea Cr. (17) Hillsdale Reservoir

ATTACHMENT 2. 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, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 3/14/2012, 7th 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 (1 & 20) 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		(4) 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	(26) 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.: (3) Quivera Salt Marsh; All surface waters within Quivera National Wildlife Refuge
Republic	(25) All surface waters within Jamestown Waterfowl Management Area	Republican River
Rice		Arkansas River, Peace Cr., Rattlesnake Cr. (3) 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.: (24) 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.: (3) Quivera Big Salt Marsh
Stevens	Cimarron River	Cimarron River
Sumner	Chikaskia River	Arkansas River, Chikaskia River, Ninnescah River, Spring Cr.

ATTACHMENT 2. 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, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 3/14/2012, 7th 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: (21) Leonards Lake & Circle Lake (13) 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.”

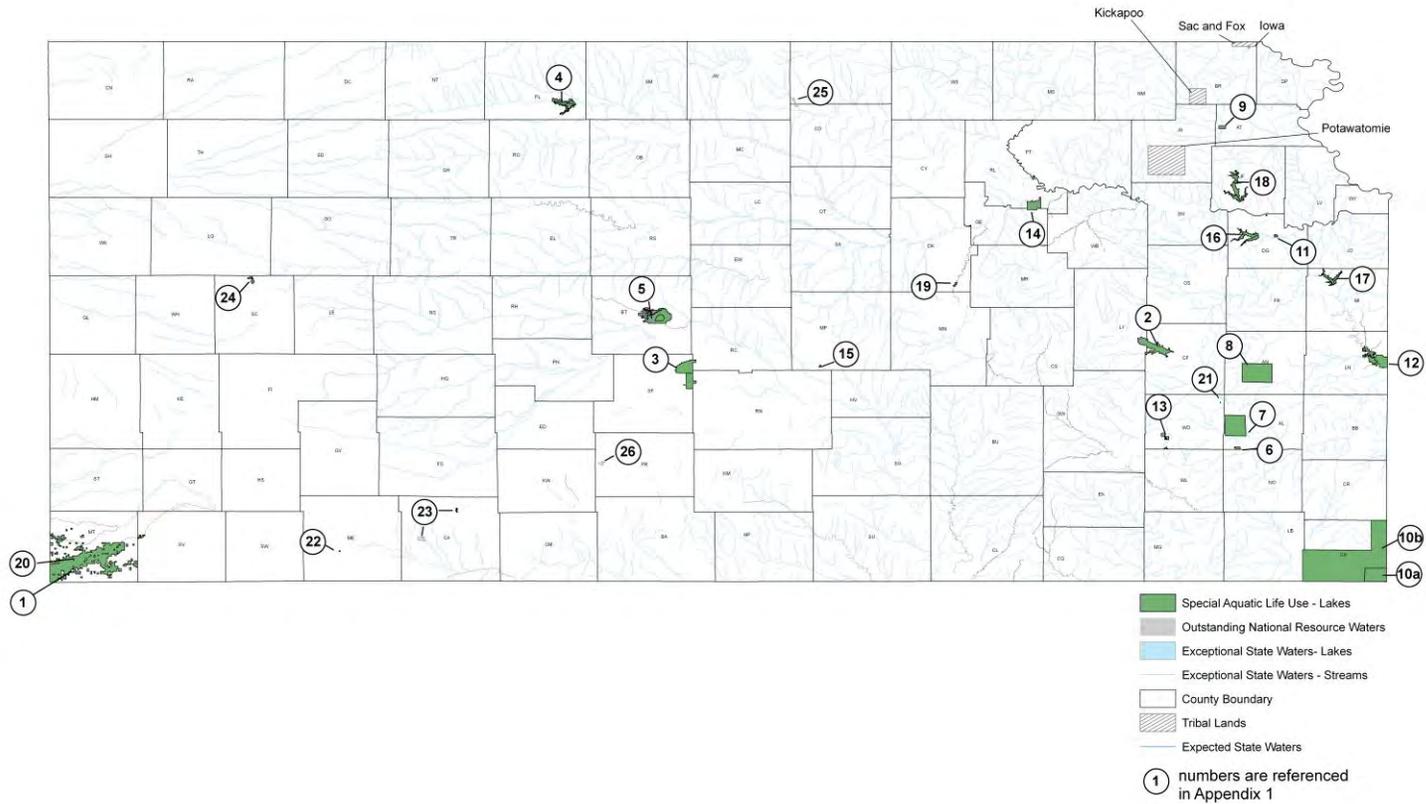
K.A.R. 28-16-28c(a)B(3) “Wherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.”

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

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, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 2/2017) .

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



REQUEST FOR GP-40 AUTHORIZATION

(Note: All fields required in order to be determined complete for processing)

1. APPLICANT INFORMATION:

Name: _____
Street Address: _____
City, State, Zip: _____
Telephone No: _____ Email: _____

2. WATERBODY:

3. LOCATION:

Direction: _____ Section: _____ Township: _____ Range: _____
Latitude: _____ N Longitude: _____ W

4. ACTIVITY:

5. APPLICABLE NRCS PRACTICE CODE(S):

6. PROJECT DESCRIPTION:

7. PROJECT PURPOSE:

8. VEGETATION PLAN: (IF OTHER, EXPLAIN)

9. ENDANGERED SPECIES ACT COMPLIANCE:

- No effect to federally listed species or designated critical habitat.
 May affect, not likely to adversely affect. Section 7 compliance documentation attached.
 May affect, likely to adversely affect. Section 7 compliance documentation attached.

10. NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE:

- No Historic Properties affected.
 No Historic Properties adversely affected. Section 106 compliance documentation attached.
 Historic Properties adversely affected. Section 106 compliance documentation attached.

11. NRCS PROGRAM:

12. ATTACHMENT CHECKLIST:

- Location/Aerial Map
 NRCS Wetland Determination Map (Producer Approval Granted)
 NRCS Conservation Plan Map
 Plans/Drawings
 Mitigation Worksheets

13. REQUESTING OFFICIAL:

Printed Name: _____ Signature: _____ Date: _____

Instructions for Preparing Request for GP-40 Authorization Form

Block 1. Applicant's Name. Enter the name of the responsible party or parties. If the responsible party is a trust, corporation, or other organization, indicate the responsible point of contact and title. If more than one party is associated with the request, please attach a sheet with the necessary information marked Block 1 (cont'd).

Block 2. Waterbody(s). Provide the name of any stream, lake, marsh or other waterway to be directly impacted by the activity. If it is an unnamed stream, identify the nearest named waterbody the unnamed stream enters. If multiple waterbodies would be impacted, identify all.

Block 3. Location. Select the appropriate descriptive abbreviation and provide the Section, Township and Range of the site.

Block 4. Activity. Select the option from the drop-down menu that best describes the NRCS designed or approved activity.

Block 5. Applicable NRCS Practice Code(s). List the NRCS Practice Codes that would be implemented for the proposed project.

Block 6. Project Description. Clearly describe the overall activity or project. Give appropriate dimensions of structures, waterways, diversions, ponds, etc.

Block 7. Project Purpose. Describe the purpose and need for the project. This description should include what the project will be used for and why.

Block 8. Vegetation Plan. Select the option from the drop-down menu that accurately describes the proposed seeding/vegetation type for disturbed areas and/or mitigation areas. If the vegetation plan differs from the options provided or requires additional remarks, please explain in the space provided or attach a sheet with the necessary information.

Block 9. Endangered Species Act Compliance. Check the appropriate box for the NRCS agency effects determination. If Section 7 consultation was required, attach the compliance documentation to the GP-40 Request package (example: U.S. Fish and Wildlife Service concurrence statement/letter).

Block 10. National Historic Preservation Act Compliance. Check the appropriate box for the NRCS agency effects determination. If Section 106 consultation was required, attach the compliance documentation to the GP-40 Request package (example: Kansas State Historical Society, Historic Preservation Officer concurrence statement/letter).

Block 11. NRCS Program. Select the appropriate option from the drop-down menu. If "other" please explain in the space provided.

Block 12. Attachments. Attach appropriate and/or required documents and check corresponding boxes. At minimum, all requests must include a Location Map, with the project site clearly identified on the map. (Note: Required documents depend on the proposed activity and mitigation requirements as outlined in the GP-40.)

Block 13. Requesting Official. The Request Form must include the name of the requesting official. The requesting official must be either NRCS staff or a Certified Technical Service Provider (TSP) to qualify for GP-40 authorization. The date should be entered to reflect the actual date of the request (mailed, emailed, or otherwise submitted to the Corps).