

## DEPARTMENT OF THE ARMY PERMIT

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

Permit No. **RGP 00-05, Amendment No. 2**

Issuing Office **Omaha District, Corps of Engineers**

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

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

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

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

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

**This Regional General Permit expires on October 31, 2016.**

General Conditions:

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

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EDITION OF SEP 82 IS OBSOLETE.

(33 CFR 320-330)

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space

provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

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

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

Further Information:

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

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

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

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

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

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

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

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

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

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

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

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

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

Robert J. Ruch  
Colonel, Corps of Engineers  
District Commander

By: \_\_\_\_\_  
Martha S. Chieply  
Chief, Regulatory Branch  
Operations Division

Date: \_\_\_\_\_

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(*TRANSFEEE*)

(*DATE*)

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

1. The time limit for completing the authorized activity is three (3) years from the authorization determination. If additional time will be needed to complete the authorized activity, a written request for a time extension must be submitted to the Corps Regulatory Office for consideration at least one month before the expiration date is reached.
2. Only the proposed work shown on the attached drawings and described within this authorization are authorized.
3. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized have full knowledge of the terms and conditions of the authorization and that a copy of the authorization is at the project site throughout the period work is underway.
4. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized.
5. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.
6. The permittee agrees to make every reasonable effort to prosecute the construction or work authorized herein in a manner so as to minimize any adverse impact of the construction work on fish, wildlife, and natural environmental values.
7. All construction debris will be disposed of on land in such a manner that it cannot enter a waterway or wetland.
8. The immediate removal of debris during construction will be undertaken in order to prevent the accumulation of unsightly, deleterious and/or potentially polluted materials.
9. Steps will be taken to prevent materials spilled or stored on site from washing into wetlands or waterways as a result of cleanup activities, natural runoff, or flooding, and that, during construction, any materials which are accidentally spilled into these areas will be retrieved.
10. Care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water.

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11. The use of machinery in the waterway will be kept to a minimum.
12. If the District Engineer is notified that a dredging or filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Engineer subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.
13. The clearing of vegetation will be limited to that which is absolutely necessary for construction of the project. All areas disturbed will be reseeded with native species. All unavoidable losses of trees and shrubs will be replaced with similar species on a 2:1 basis.
14. All areas along the bank disturbed or newly created by the construction activity, which will not be riprapped, will be seeded with vegetation indigenous to the area for protection against subsequent erosion, and those riprapped areas will not be further disturbed through vegetation control techniques which would prevent the invasion, subsequent establishment of, and successional changes associated with native riparian vegetation except in those instances where such vegetation poses a threat to the structural integrity of the bank protection work.
15. Only clean riprap material will be utilized in order to avoid the percolation of fines that would result in excessive local turbidity.
16. The fill material will be free of fines, oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.
17. All temporary fills and culverts will be removed in their entirety and the area restored to its preconstruction contours and drainage patterns.
18. All dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.
19. The permittee agrees that it will prosecute the construction of work authorized herein in a manner so as to minimize any degradation of water quality.
20. All work in the waterway will be performed in such a manner so as to minimize increases in suspended solids and turbidity that may violate water quality standards and damage aquatic life.

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21. Close coordination will be maintained by the permittee, or the permittee's contractor, with downstream water users, advising them of any water quality changes to be caused by the construction activities.
22. Owners of water supply intakes, or other activities that may be affected by suspended solids and turbidity increases caused by construction activity in the watercourse, shall be given sufficient notice to allow preparation for any changes in water quality.
23. All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place and maintained until construction is completed and the area is stabilized.
24. Whenever possible, work will be performed when the water level is lower than the area to be disturbed.
25. No instream construction activities will occur during the spawning period of April 15 to June 1 to avoid impacts to fishery resources.
26. The permittee and the permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of the contract shall report any threatened or endangered species at the project site.
27. The permittee shall notify the Corps Regulatory Office at what time the activity authorized herein will be commenced and of any suspension of work, if for a period of more than one week, resumption of work and its completion.
28. The Corps Regulatory Office shall be notified, in writing, of any changes in the project design. No changes in design that impacts wetlands or any waterway shall be undertaken without authorization.
29. If the Corps Regulatory Office is notified that work being performed does not comply with, or fall within the scope of, this Regional General Permit, the responsible party will take immediate steps, as directed by the Regulatory Office, to bring the work into compliance with this authorization.
30. The District Engineer may require any additional special conditions be included in any authorization issued under this Regional General Permit to avoid or minimize adverse environmental impacts. The District Engineer may also require the processing of an individual authorization for an activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.

## **GENERAL CRITERIA REGIONAL GENERAL PERMIT 00-05**

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### **APPLICATION INFORMATION**

All interested parties proposing work under this Regional General Permit are required to contact either:

U.S. Army Corps of Engineers  
North Dakota Regulatory Office  
1513 South 12th Street  
Bismarck, North Dakota 58505  
(701) 255-0015

U.S. Army Corps of Engineers  
South Dakota Regulatory Office  
28563 Powerhouse Road, Room 120  
Pierre, South Dakota 57501  
(605) 224-8531

The following information is required:

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

The information submitted must clearly describe the work so the Corps Regulatory Office can determine whether or not the work complies with the terms and conditions of this Regional General Permit.

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Prior to authorization, the application for any activity located between:

Missouri River mile 1565 and mile 1537; or

Missouri River mile 1299 and mile 1277

will be provided to the U.S. Fish and Wildlife Service, Bismarck, North Dakota for review and comment.

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

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