



US Army Corps
of Engineers.

Memphis District

**SUBJECT: NATIONWIDE PERMIT REISSUANCE ,
REQUEST FOR COMMENTS**

On September 26, 2006, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue its nationwide permits (NWP).

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. Many of the proposed NWPs require notification to the district engineer before commencing the work, to ensure that the activities authorized by those NWPs have minimal individual and cumulative adverse impacts on the aquatic environment.

National Issues Concerning the Proposed NWPs: The Federal Register notice is the public's opportunity to comment on the proposed NWPs, general conditions, and definitions. Comments on national issues relating to these NWPs should be submitted to docket number COE-2006-0005 at www.regulations.gov. Instructions for submitting comments are provided in the September 26, 2006 Federal Register notice. Comments on the proposed NWPs are due by November 27, 2006.

Regional Issues Concerning the Proposed NWPs, Including Regional Conditioning: Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions can be important mechanisms to ensure that impacts to the aquatic environment authorized by the NWPs are minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where impacts authorized by those NWPs may be more than minimal. The regional conditions proposed for the states within the boundaries of the Memphis District are attached to this notice. Regional conditions for the states of Mississippi and Tennessee are not being proposed at this time; however, we are seeking comments on the regional conditions proposed within the other states as well as the need for regional conditions within Mississippi and Tennessee to help ensure that impacts authorized by the proposed NWPs are minimal. Comments on regional issues relating to the proposed NWPs and regional conditions are to be sent to the Memphis District Regulatory Branch, 167 North Main, Memphis, TN 38103-1894, telephone (901) 544-0734. Comments relating to regional conditions are due by November 20, 2006. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

When the final NWPs are issued, any final regional conditions will be issued at the same time so that the States and Tribes can make their Clean Water Act Section 401 water quality certification and Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 60 days of the Federal Register notice announcing the issuance of the NWPs. After that 60-day period, the NWPs and the regional conditions will become effective.

Draft decision documents, which include environmental documentation required by the National Environmental Policy Act, have been prepared by Corps Headquarters. The decision documents will address compliance of the NWPs with the requirements for issuance under general permit authority. These documents, as well as the proposed NWPs, are available for viewing on the Internet at the www.regulations.gov site (docket ID number COE-2006-0005). Final decision documents will be prepared for those NWPs that are issued. In addition, supplemental decision documents will be issued by division engineers to address their determinations concerning any regional conditions for the NWPs.

Enclosed is an index of the proposed NWP's and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP's through www.regulations.gov (docket ID number COE-2006-0005), the Corps home page, or the Federal Register address listed below.

Internet addresses:

Copies of the Federal Register notice and the draft decision documents will also be available at <http://www.regulations.gov> in docket ID number COE-2006-0005.

The Corps home page is: <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/> .

As an alternate, internet users can access the Federal Register through the Government Printing Office (GPO) at <http://www.gpoaccess.gov/fr/index.html> .

Index of Proposed Nationwide Permits, Conditions, and Definitions

Proposed Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Oil Spill Cleanup
21. Surface Coal Mining Operations
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
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29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation

38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
 - A. Emergency Repair Activities
 - B. Discharges into Ditches and Canals
 - C. Pipeline Safety Program Designated Time Sensitive Inspections and Repairs
 - D. Commercial Shellfish Aquaculture Activities
 - E. Coal Remining Activities
 - F. Underground Coal Mining Activities

Proposed Nationwide Permit General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
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17. Endangered Species
18. Historic Properties
19. Designated Critical Resource Waters
20. Mitigation
21. Water Quality
22. Coastal Zone Management
23. Regional and Case-by-Case Conditions
24. Use of Multiple Nationwide Permits
25. Transfer of Nationwide Permit Verifications
26. Compliance Certification
27. Pre-Construction Notification

Proposed Nationwide Permit Definitions

Best management practices (BMPs)
Compensatory mitigation
Currently serviceable
Enhancement
Ephemeral stream
Establishment (creation)
Independent utility
Intermittent stream

Loss of waters of the United States
Non-tidal wetland
Open water
Perennial stream
Practicable
Pre-construction notification
Preservation
Re-establishment
Rehabilitation
Restoration
Riffle and pool complex
Riparian areas
Single and complete project
Stormwater management
Stormwater management facilities
Stream bed
Stream channelization
Structure
Tidal wetland
Vegetated shallows
Waterbody

PROPOSED KENTUCKY REGIONAL GENERAL CONDITIONS

These regional conditions are proposed in addition to but do not supercede the requirements in the Federal Register (Volume 71 No. 186 of September 26, 2006)

Notifications for all Nationwide permits should include a location map (USGS topographical map) and project drawings on 8 1/2" x 11" paper.

1. For activities in Outstanding Resource Waters (ORWs) for the NWP's listed below, a Pre - Construction Notification (PCN) will be required to the Corps. The Corps will coordinate with the appropriate resource agencies (see attached list) on these NWP's for impacts to ORWs, or for impacts greater than 0.25 acre of "waters of the United States".

NWP 3 (Maintenance), 7 (Outfall Structures and Associated Intake Structures), 12 (Utility Line Activities), 14 (Linear Transportation Projects), 27 (Aquatic Habitat Restoration, Establishment and Enhancement Activities), 29 (Residential Developments), 39 (Commercial and Institutional Developments), 40 (Agricultural Activities), 41 (Reshaping Existing Drainage Ditches), 42 (Recreational Facilities), 43 (Stormwater Management Facilities), 44 (Mining Activities).

2. Nationwide Permit No. 14 – Linear Transportation Projects
 - (a) Activities in Section 10 navigable waters will require a PCN to the Corps.
 - (b) Public projects are limited to the maximum loss of 500 linear feet of stream with compensatory mitigation.
3. Nationwide Permit No. 27 – Aquatic Habitat Restoration, Establishment and Enhancement Activities
 - (a) All work in Section 10 navigable waters will require a PCN to the Corps

Further information:

Outstanding Resource Waters (ORW's) in Kentucky are streams designated by the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet. The list is attached.

Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 27 (Federal Register, Volume 71, No. 186, Tuesday September 26, 2006, pp 56296-56297).

Mitigation includes activities that avoid, minimize, and compensate for impacts

PROPOSED ILLINOIS REGIONAL GENERAL CONDITIONS

To ensure projects covered by a nationwide permit will result in minimal adverse impacts to the aquatic environment, we propose the following Regional Conditions for projects proposed within the State of Illinois:

1. Bank stabilization projects involving armoring of the stream bank with riprap or the construction of retaining walls within High Value Subwatersheds exceeding 250 linear feet will require a PCN to the Corps of Engineers in accordance with General Condition No. 27.
2. A proposed activity to be authorized under Nationwide permits 12 or 14 within the Cache River Wetlands Areas (Alexander and Pulaski Counties), Kaskaskia River (Clinton, St. Claire, and Washington Counties), or Wabash River (Gallatin and White Counties) will require a PCN to the Corps of Engineers in accordance with General Condition No. 27.
3. Stormwater management facilities shall not be located within an intermittent stream, except for NWP 21 or 'E'
4. For discharges of dredged or fill material resulting in the permanent loss of more than 1/10 acre of waters of the United States (including jurisdictional wetlands), a compensatory mitigation plan to offset those losses will be required. In addition, a PCN to the Corps of Engineers will be required in accordance with General Condition No. 27.
5. For newly constructed channels through areas that are not naturally vegetated, native grass filter strips, or a riparian buffer with native trees or shrubs must be planted a minimum of 25 feet wide along both sides of the new channel in order to receive mitigation credit for vegetated buffers.
6. For single family residences authorized under Nationwide Permit No. 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.
7. For NWP 'B', the discharge of dredged or fill material into ditches and canals that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.

**NATIONWIDE PERMIT REGIONAL CONDITIONS
IN ARKANSAS**

Regional Condition No. 1. For NWP 7 and 12, intake structures shall be constructed with screening to prevent the entry of fish.

Regional Condition 2. For NWP 4, 5, 12, 13, 14, 15, 18, 19, 20, 23, 25, 30, 35, 36, 39, 40, 42, and 43 in the following listed waters, the prospective permittee shall provide written notification to the appropriate District. Notification will be to the District Engineer according to *General Condition No. 27 (Federal Register, Vol. 71, No. 186, FR 56296-56297)*:

- **Fens** - A peat-accumulating wetland that receives some drainage from surrounding mineral soil and usually supports marshlike vegetation.
- **Bogs** - A peat-accumulating wetland that has no significant inflows or outflows and supports acidophilic mosses, particularly sphagnum.
- **Groundwater seeps** - wetlands at the base of steep slopes where the groundwater surface intersects with the land surface.
- **Dune depressional wetlands** - wetlands in shallow depressions that have no significant outflows but receives runoff from the surrounding land, located between sandy ridges in northeast Arkansas and southeast Missouri. These wetlands often support pondberry (*Lindera melissifolia*), a federally-listed endangered plant.

• **CACHE RIVER and ADJACENT WETLANDS** from the mouth upstream to AR Highway 18 near Grubbs

Regional Condition No. 3. For NWP 4, 5, 12, 13, 14, 15, 18, 19, 20, 23, 25, 27, 30, 35, 36, 39, 40, 41, 42, 43, and 44 in the waters listed below, the prospective permittee shall provide written notification to the appropriate District. Notification will be to the District Engineer according to *General Condition No. 27 (Federal Register, Vol. 71, No. 186, FR 56296-56297)*. This notification shall be used to review the project for Federally listed threatened or endangered species and to determine if the project would have a minimal impact on the aquatic environment. The application will be coordinated with the Arkansas Department of Environmental Quality and other agencies as appropriate. This condition doesn't lessen the restrictions provided by General Condition 17 of the NWPs.

ALUM FORK SALINE RIVER - SALINE COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT)

ARKANSAS RIVER - IN THE FOLLOWING COUNTIES

CONWAY	PERRY
CRAWFORD	POPE
FAULKNER	PULASKI
JOHNSON	SEBASTIAN
LOGAN	YELL

*SPECIES OF CONCERN: INTERIOR LEAST TERN (STERNA ANTILLARUM ATHALASSOS -LE), ARKANSAS RIVER SHINER (NOTROPIS GIRARDI -PE, OF HISTORIC OCCURRENCE)

BAR LAKE - DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BEAR LAKE - ARKANSAS AND PHILLIPS COUNTIES
SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BIG LAKE - MISSISSIPPI COUNTY
SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BILLY MOORE LAKE - DESHA COUNTY
SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BLACK RIVER - CLAY, LAWRENCE, JACKSON, INDEPENDENCE AND RANDOLPH COUNTIES
SPECIES OF CONCERN: PINK MUCKET (LAMPSILIS ABRUPTA -LE)
[Black River from the mouth to the Arkansas/Missouri state line]

BUFFALO CREEK - POLK COUNTY
*SPECIES OF CONCERN: LEOPARD DARTER (PERCINA PANTHERINA-LT)

CACHE RIVER AND ADJACENT WETLANDS from the mouth upstream to AR Highway 18 near Grubbs – MONROE, WOODRUFF, AND JACKSON COUNTIES
Species of Concern: Several species of mussels

CADDO RIVER - CLARK, MONTGOMERY AND PIKE
SPECIES OF CONCERN: ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT)

COSSATOT RIVER - HOWARD AND SEVIER COUNTIES
SPECIES OF CONCERN: SCALEHELL (LEPTODEA LEPTODON -PE), LEOPARD DARTER (PERCINA PANTHERINA-LT)

CURRENT RIVER - CLAY COUNTY
SPECIES OF CONCERN: PINK MUCKET (LAMPSILIS ABRUPTA -LE)

EAGLE NEST LAKE - DESHA COUNTY
SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

FIDDLER’S CREEK - MONTGOMERY COUNTY
SPECIES OF CONCERN: HARPERELLA (PTILIMNIUM NODOSUM -LE)

FOURCHE LAFAVE RIVER - SCOTT COUNTY
SPECIES OF CONCERN: HARPERELLA (PTILIMNIUM NODOSUM -LE)

GREERS FERRY LAKE - VAN BUREN COUNTY
SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

HORSESHOE LAKE - MONROE COUNTY
SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

IRONS FORK - MONTGOMERY AND YELL COUNTIES
SPECIES OF CONCERN: HARPERELLA (PTILIMNIUM NODOSUM -LE)

JACOBS LAKE/PECAN LAKE - ARKANSAS COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE ASHBAUGH - GREENE COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE ERLING - LAFAYETTE COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE GEORGIA PACIFIC - ASHLEY COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE MAUMELLE - PULASKI COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE OUACHITA - GARLAND COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

L'ANGUILLE RIVER - LEE COUNTY

SPECIES OF CONCERN: FAT POCKETBOOK (POTAMILUS CAPAX -PE)

LITTLE BAY DITCH - CRAIGHEAD COUNTY

SPECIES OF CONCERN: FAT POCKETBOOK (POTAMILUS CAPAX -PE)

LITTLE MISSOURI RIVER - CLARK AND OUACHITA COUNTIES

SPECIES OF CONCERN: WINGED MAPLELEAF (QUADRULA FRAGOSA -LE)

LITTLE RED RIVER - VAN BUREN COUNTY

SPECIES OF CONCERN: SPECKLED POCKETBOOK (LAMPSILIS STRECKERI -LE)

LITTLE RIVER - LITTLE RIVER AND SEVIER COUNTIES

SPECIES OF CONCERN: OUACHITA ROCK POCKETBOOK (ARKANSIA WHEELERI -LE), PINK MUCKET (LAMPSILIS ABRUPTA -LE)

MIDDLE FORK SALINE RIVER - SALINE COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT)
SALINE

MIDDLE FORK LITTLE RED - STONE AND VAN BUREN COUNTIES

SPECIES OF CONCERN: SPECKLED POCKETBOOK (LAMPSILIS STRECKERI -LE)

MILLWOOD LAKE - LITTLE RIVER COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

MISSISSIPPI RIVER - CHICOT, CRITTENDEN, DESHA, LEE, MISSISSIPPI, and PHILLIPS COUNTIES

SPECIES OF CONCERN: INTERIOR LEAST TERN (STERNA ANTILLARUM ATHALASSOS -LE), PALLID STURGEON (SCAPHIRHYNCHUS ALBUS -LE)

MOON LAKE - DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

MOORE BAYOU - ARKANSAS COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

MOUNTAIN FORK RIVER - POLK COUNTY

SPECIES OF CONCERN: LEOPARD DARTER (PERCINA PANTHERINA - LT)

MUDDY CREEK - MONTGOMERY COUNTY

SPECIES OF CONCERN: HARPERELLA (PTILIMNIUM NODOSUM -LE)

NORTH FORK OUACHITA RIVER - GARLAND COUNTY

SPECIES OF CONCERN: HARPERELLA (PTILIMNIUM NODOSUM -LE)

NORTH FORK SALINE RIVER - SALINE COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT)

NORTH FORK WHITE RIVER - BAXTER COUNTY

SPECIES OF CONCERN: PINK MUCKET (LAMPSILIS ABRUPTA -LE)-HISTORIC OCCURRENCE

OSAGE CREEK - BENTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (ETHEOSTOMA CRAGINI - CANDIDATE)

OUACHITA RIVER and TRIBUTARIES - CALHOUN, CLARK, HOT SPRING, MONTGOMERY, OUACHITA, POLK COUNTIES

SPECIES OF CONCERN: OUACHITA ROCK POCKETBOOK (ARKANSIA WHEELERI -LE), PINK MUCKET (LAMPSILIS ABRUPTA -LE), ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT), SCALESHELL (LEPTODEA LEPTODON -PE), WINGED MAPLELEAF (QUADRULA FRAGOSA -LE)

POFF BRAKE - DREW COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

RED RIVER - LAFAYETTE, LITTLE RIVER, AND MILLER COUNTIES

SPECIES OF CONCERN: INTERIOR LEAST TERN (STERNA ANTILLARUM ATHALASSOS - LE)

ROBINSON CREEK - POLK AND SEVIER COUNTIES

SPECIES OF CONCERN: LEOPARD DARTER (PERCINA PANTHERINA-LT)

SALINE RIVER - ASHLEY, BRADLEY, GRANT, HOWARD and SALINE COUNTIES

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT), PINK MUCKET (LAMPSILIS ABRUPTA -LE), SCALESHELL (LEPTODEA LEPTODON -PE, HISTORIC OCCURRENCE)

SOUTH FORK OUACHITA RIVER - MONTGOMERY COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT)

SOUTH FORK SALINE RIVER - SALINE COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (LAMPSILIS POWELII -LT)

SOUTH FORK SPRING RIVER - FULTON COUNTY

SPECIES OF CONCERN: CURTIS PEARLY MUSSEL (EPIOBLASMA FLORENTIA CURTISI -LE, HISTORIC OCCURRENCE), SCALESHELL (LEPTODEA LEPTODON -PE)

SPRING RIVER - FULTON, LAWRENCE, RANDOLPH AND SHARP COUNTIES

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE), CURTIS PEARLY MUSSEL (EPIOBLASMA FLORENTIA CURTISI -LE, HISTORIC OCCURRENCE), TURGID BLOSSUM (EPIOBLASMA TURGIDULA -LE, HISTORIC OCCURRENCE), PINK MUCKET (LAMPSILIS ABRUPTA -LE), OZARK HELL BENDER (CRYPTOBRANCHUS ALLEGANRENSIS BISHOPI)

ST. FRANCIS RIVER SYSTEM and associated ditches - CROSS, LEE, POINSETT AND ST. FRANCIS COUNTIES

SPECIES OF CONCERN: SCALESHELL (LEPTODEA LEPTODON -PE), FAT POCKETBOOK (POTAMILUS CAPAX -PE), PALLID STURGEON (SCAPHIRHYNCHUS ALBUS -LE)

SWAN LAKE - DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

WHITE RIVER - ARKANSAS, BAXTER, CARROLL, INDEPENDENCE, IZARD, JACKSON, MARION, MONROE, PRAIRIE, STONE, WHITE AND WOODRUFF COUNTIES

SPECIES OF CONCERN: PINK MUCKET (LAMPSILIS ABRUPTA -LE), SCALESHELL (LEPTODEA LEPTODON -PE)-HISTORIC OCCURRENCE, BALD EAGLE (HALIAEETUS LEUCOCEPHALUS -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

IN ADDITION TO THE ABOVE WATERBODIES, THE FOLLOWING FEDERAL CONCERN SPECIES ARE KNOWN TO OCCUR IN VARIOUS WETLAND AREAS, OR CAVE STREAMS:

PONDBERRY (LINDERA MELISSIFOLIA - LE)

ASHLEY

CLAY

JACKSON

LAWRENCE

WOODRUFF

CRAIGHEAD

OZARK CAVEFISH (AMBLYOPSIS ROSAE - LE)

BENTON

CAVE CRAYFISH (CAMBARUS ACULABRUM - LE)

BENTON

CAVE CRAYFISH (CAMBARUS ZOPHONASTES -LE)

STONE

Legend:

C = Candidate species. The U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species for listing as endangered or threatened under the Endangered Species Act.

LE = Listed Endangered; the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act.

LT = Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

PE = Proposed Endangered; the U.S. Fish and Wildlife Service has proposed these species for listing as endangered.

Proposed Regional Conditions for Missouri

- 1. NWP 3 – Maintenance.** The permittee must notify the District Engineer when repairing, rehabilitating or replacing low water crossings when discharges of dredged or fill material would raise or lower the lowest elevation of the crossing by a total of 12-inches or more, or when removing the structure. The permittee must propose and employ measures to mitigate the potential impact of impounding gravel above the low water crossing or of releasing impounded-gravel downstream of the structure. Such mitigation might include: removing impounded gravel in the unstable area upstream of the low water crossing to prevent it from being transported downstream and/or constructing a notched weir to slow the release of impounded gravel from upstream of the low water crossing.
- 2. NWP 12 - Utility Activities.** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) when new utility line construction activities parallel a stream and has multiple stream crossings or cross forested wetlands (example: a gravity fed utility line that crosses a stream multiple times). Impacted stream buffers and forested wetlands must be revegetated with native species similar to the composition removed (i.e. trees for impacted wooded stream buffer and grasses for impacted herbaceous stream buffer), except for a minimal corridor that is essential for operation and maintenance of the utility line. The applicant must submit rationale for the minimum width necessary for the operation and maintenance corridor. The PCN must include a revegetation plan detailing the native plantings.
- 3. NWP 23 - Approved Categorical Exclusions.** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for all regulated NWP 23 activities in waters of the United States. In addition to information required by NWP general condition 27, the notification must identify the approved categorical exclusion that applies (i.e. list Federal Register citation) and include documentation that the project fits the categorical exclusion.
- 4. NWP 27 - Stream and Wetland Restoration Activities.** NWP 27 does not authorize discharges associated with the relocation of forested wetlands.
- 5. NWP 40 – Agricultural Activities.** NWP 40 does not authorize discharges that cause the loss of greater than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds this 300 linear foot limit is waived in writing by the district engineer.
- 6. NWP 43 - Stormwater Management Facilities.** This NWP does not authorize the retention of water, in excess of that required to meet stormwater management requirements, for other purposes such as recreational lakes, reflecting pools and irrigation.
- 7. NWP 44 – Mining Activities.** NWP 44 does not authorize discharges that cause the loss of greater than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds this 300 linear foot limit is waived in writing by the district engineer. In-stream sand and gravel mining is excluded from NWP 44 in Missouri.
- 8. NWP A – Emergency Repair Activities.** This NWP does not authorize the removal of borrow material from waters of the United States to restore uplands lost.
- 9. NWPs 14, 29, 39 – Culverts.** All culverts associated with NWP 14, 29, and 39 must be designed to match existing stream bottom elevation and slope, have a vent area ratio of no less than 30 percent at bank full condition, and be the shortest length necessary to meet project purposes (i.e., perpendicular crossing vs. obtuse crossing). To the maximum extent practicable, the structure should be bottomless and contain a substrate that matches the existing stream. If a floor is needed it must be placed at the lowest scour potential of the stream. Where multiple culverts are used for a single road crossing, the center culvert must be set slightly lower than that the other culverts to concentrate low flows.

10. Agency Coordination Requirements for Waiver of 300 Linear Foot Limit of NWP 29, 39, 40, 42, 43, 44. All requests for a waiver of the 300 linear foot limit for losses of intermittent and ephemeral streams will be coordinated in accordance with the agency coordination procedures. The applicant must provide documentation of avoidance and minimization of individual and cumulative impacts associated with the proposed project.

11. Mitigation Requirements (Applicable To All NWPs) Compensatory mitigation sites may require a long-term legal protection instrument such as a deed restriction, conservation easement, or other protective covenant. When the Corps determines monitoring is required for compensatory mitigation sites, the applicant must comply with Regulatory Guidance Letter 06-03.

12. Notification Requirement for Activities Proposed in Fens, Seeps and Bogs (Applicable To All NWPs). The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for any regulated activity which may impact a fen, seep or bog of any size.

13. Seasonal Restrictions for Activities Proposed in Spawning Areas (Applicable To All NWPs). In addition to the requirements of NWP general condition 3, for any regulated activity, the following specific seasonal restrictions apply. Between the closed dates listed in the Missouri Combined Stream Spawning List, the permittee must not excavate from or discharge into the listed waters. The list of waters with seasonal restrictions is available on request from the Corps or at <http://www.nwk.usace.army.mil/regulatory/gravel.txt> (Missouri Combined Stream Spawning Season List).

14. District-Designated Waters.

Kansas City District: For any regulated activity in the Fishing River watershed the permittee must notify the District Engineer accordance with the "Notification" general condition of the NWPs (general condition 27).

Lake of the Ozarks: The Kansas City District is proposing to revoke or further restrict NWPs lakeward of the ordinary high water mark in the Lake of the Ozarks, and any adjacent wetlands where those NWPs are duplicated by Regional General Permit 38M (<http://www.nwk.usace.army.mil/regulatory/gp/GP-38M.pdf>) or otherwise have been commonly determined through regional Lake of the Ozarks planning initiatives to be inconsistent with local planning and shoreline management plans. The following NWPs are revoked in these waters: 2, 13, 14, 15, 16, 18, 19, 25, 29, 31, 35, 36, 39, 42, 43 and 44. NWPs 1, 9, 10, 11 and 28 are only valid when both AmerenUE and the Missouri Water Patrol have approved the activity. Applicants must provide a preconstruction notification (PCN) for any activity proposed under NWPs 3, 7, 22, 27 and 33, as described in general condition 27, and must copy that PCN concurrently to AmerenUE. The Corps and AmerenUE, regardless of the request to use the NWP, may verify the activity under the provisions of Regional General Permit 38M.

St. Louis District: For any discharge or excavation activity requiring authorization, proposed under NWPs 41 and 43, in any ephemeral, intermittent, and perennial streams in the following Missouri watersheds, the permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27).

St. Louis County: Wildhorse Creek, Bonhomme Creek, Creve Coeur Creek, Fox Creek, and Deer Creek.

St. Charles County: Dardenne Creek and Peruque Creek.

Jefferson County: Saline/Sugar/Romaine Creeks, Rock Creek, Dulin/Bourne/Heads/Bear Creeks, La Barque Creek, Glaize Creek, and Joachim/Sandy Creeks.

Ste. Genevieve and Perry Counties: Saline Creek.

Cape Girardeau County: Indian Creek, Williams/Hubble/Randol/ Goose Creeks, Ramsey Branch, Ranney Creek, and Byrd Creek.

Memphis District: For any regulated activity proposed under NWP 14, 41 and 43, in the following waters; the permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27).

St. Francis Floodway from 1 mile below Wappapello Lake to the Arkansas/Missouri state line below U.S. Highway 314, in Dunklin County.

Castor River from the Union Pacific Railroad bridge, in Stoddard County, to the headwater levee, in Bollinger County.

Ramsey Branch from St. Louis District line to Headwater Diversion Channel in Cape Girardeau and Scott Counties.

Ramsey Creek from the Headwater Diversion Channel to State Routes PP & N (East Branch), and Scott County Route 325 (West Branch) in Scott County.