

# PUBLIC NOTICE



**US Army Corps  
of Engineers  
Kansas City District**

**Permit No. RGP-41 (NWK-2007-2078,  
MVM-2007-588)**

**Issue Date: October 24, 2022**

**Expiration Date: November 22, 2022**

**30-Day Notice**

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**PROPOSED REISSUANCE OF REGIONAL GENERAL PERMIT (RGP) NO. 41  
FOR THE PERMANENT PROTECTION AND/OR REPAIR OF  
FLOOD DAMAGED STRUCTURES, DAMAGED LAND AREAS AND/OR  
DAMAGED FILLS IN THE STATES OF KANSAS AND MISSOURI**

In accordance with the Corps of Engineers lead district initiative, within the State of Missouri, the Kansas City District is issuing this public notice jointly with the other Corps of Engineers Districts that have regulatory responsibilities in the State of Missouri. Each of the Missouri Corps Districts are issuing this public notice as notification of the intent to renew this permit for another five-year term.

The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the activities authorized by the proposed RGP-41. In accordance with Certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

In accordance with Title 33 CFR 325.2 and 325.7(e), as published in the November 13, 1986, Federal Register, the U.S. Army Corps of Engineers, Kansas City District, the St. Louis District, the Rock Island District, the Little Rock District, and the Memphis District propose to reissue this RGP (Enclosure). This RGP was originally issued by the Kansas City District in March 2008, it was reissued on April 22, 2013, and on April 2, 2018. The current RGP 41 expires April 2, 2023. This RGP, if reissued by each Corps District in Missouri, will continue to authorize discharges of dredged or fill material in conjunction with the permanent protection and/or repair of flood damaged structures, damaged land areas, and/or damaged fills in waters of the United States throughout the State of Missouri and throughout the State of Kansas.

**AUTHORITY:** The RGP-41 is proposed to be reissued under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and under the authority of Section 404 of the Clean Water Act (33 USC 1344). At the conclusion of the public interest review, each Corps District operating in the State of Missouri may issue the RGP to authorize the listed activities statewide.

**PROJECT LOCATION:** In waters of the United States throughout the State of Missouri and throughout the State of Kansas, including Indian country, that are declared flood disaster areas by the Governor of these States and/or by the President of the United States of America.

**CURRENT USE OF GP41:** The number of flood repair projects authorized by the RGP-41, during this current five-year permit term, is as follows: Kansas City District, 15 projects; Saint Louis District, 14 projects; Little Rock District, one project; the Memphis and Rock Island Districts have not yet utilized the RGP during this permit period. Currently, the RGP-41 has been utilized by the public, and by local, state, and federal agencies to repair damages to federal, state, and private properties that include repair of levees to pre-damaged elevation and cross-section dimensions, including breach closure and borrow operations to obtain fill, the placement of rock for stream/ditch bank protection and bank restoration, and the restoration of stream channels/ditches to pre-flood capacity and alignment (removal of sediment and woody debris). In addition, repairs and replacement of bridges and public utilities infrastructure have been authorized by RGP-41. As demonstrated, this RGP provides protection to aquatic resources and wildlife habitats. It protects endangered species and historic properties through compliance with the general and special conditions included within RGP-41 while expediting the process for federal permit authorization for the needed repairs following disaster declarations for floods and various storm events. As a result, no modifications to the activities authorized by RGP-41 and no modifications to the special conditions of the existing RGP-41 are proposed. If reissued, the RGP-41 will be valid for an additional five-year period (2023-2028).

**CRITERIA FOR AUTHORIZATION OF PROPOSED REPAIR WORK:** When preconstruction notification (PCN) is required for the proposed flood repair project, the project will be reviewed on a case-by-case basis to ensure that the proposed activity is authorized by RGP-41. Applications for review must be received within two years of the end of the flood event (determined by when the nearest river gauge drops below flood stage for two months). The applicant must receive notification, from the appropriate Corps district, that the proposed work is authorized by RGP-41 prior to starting work within the Corps' regulatory jurisdiction. For proposed repair work listed in RGP-41 that does not require preconstruction notification to the Corps, the project proponent is authorized to complete the necessary work in compliance with the special conditions. However, the scope of the completed work must be reported to the Corps of Engineers, after the fact, as outlined in item three of Appendix 1 of RGP-41.

**DURATION OF THE GENERAL PERMIT:** The RGP-41 will expire five years from the date of issuance unless it is specifically modified, suspended, or revoked prior to that date. Upon its expiration, the RGP-41 will again be considered for renewal. The RGP-41 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.

If issued, the RGP-41 does not obviate the need for the project proponent to obtain other Federal, state, or local authorizations required by law.

**PROCEDURE FOR APPLYING:** Individuals desiring to perform activities in accordance with the criteria of the RGP-41 must determine if the flood repair project requires a PCN. If a PCN is required, the project proponent must notify the appropriate Corps district and provide the information requested in Appendix 1 of RGP-41. The notification must include drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the RGP-41. An ENG Form 4345 and instructions are available at:

<http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>.

The Form may be used for the purpose of notification. Copies of the ENG Form 4345, the instructions or additional assistance may also be obtained by writing or calling the appropriate Corps district.

If the Corps district determines that the work meets the provisions of the RGP-41, and no extraordinary conditions exist that would warrant the submittal of Form 4345 for an individual permit, the proponent would be notified to proceed. If the Corps determines that the subject work does not meet the provisions of the RGP-41, or that extraordinary conditions exist, the applicant will be notified that an individual permit will be necessary.

Flood repair activities, supervised by the Corps of Engineers, pursuant to Public Law 84-99 and/or supervised by the United States Department of Agriculture, pursuant to the emergency Watershed Protection Program or the Emergency Conservation Program do not require PCN to the Corps of Engineers, Regulatory Branch. It is the responsibility of the federal agencies to comply with all environmental laws and Presidential Executive Orders.

**COMPLIANCE WITH OTHER LAWS:** No potential adverse environmental effects related to the use of GP-41 have been identified or are anticipated from the reissuance of the RGP-41. All applicable statutes, regulations, and administrative policies and agreements, including the National Environmental Policy Act of 1969, the Endangered Species Act, and the National Historic Preservation Act, which are currently applicable to the RGP-41 will be considered and satisfied. **All comments in response to this public notice should be submitted to or forwarded to the Kansas City District at the address included in the Additional Information Section on page three of this notice.**

**PUBLIC INTEREST REVIEW:** The decision to reissue RGP-41 will be based on an evaluation of the probable impact of this proposed permit on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the reissuance of RGP-41 must be balanced against the reasonably foreseeable detriments. All factors which may be relevant to the proposed RGP will be considered including the cumulative effects thereof; among those are conservation, economics, esthetics, general wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, mineral needs, and, in general, the needs and welfare of the people. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider reissuance of RGP-41. All requests for a public hearing must include the specific reasons for holding a public hearing.

**COMMENTS:** Any interested party, particularly officials of any community, county, state or Federal agency, local association, or individual, is invited to submit to the Kansas City District written facts or objections to the proposed RGP-41 on or before the public notice expiration date. Comments, both favorable and unfavorable, will be accepted and made a part of the public record and will receive full consideration in determining whether it is in the public interest to reissue the RGP-41 for another five-year term.

**ADDITIONAL INFORMATION:** Additional information about RGP-41 may be obtained by writing to the following address: Chief, Regulatory Branch, U.S. Army Corps of Engineers, Federal Building, 601 East 12<sup>th</sup> Street, Room 402, (ODR), Kansas City, Missouri 64106 or by calling **Mr. Douglas R. Berka** at **816-389-3657** (FAX 816-389-2032) or email at [douglas.r.berka@usace.army.mil](mailto:douglas.r.berka@usace.army.mil). All comments concerning the reissuance of RGP-41 should be directed to the above address and to the state water quality certification agencies as described on page one of this notice.

Enclosure

**PROPOSED  
DEPARTMENT OF THE ARMY PERMIT**

**Permittee:** General Public

**Permit No.** MVM-2007-588, GP-41 (Permanent Protection/Repair of Flood Damaged Structures, Damaged Lands and/or Fills)

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

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

You are authorized to perform work, within the Memphis District's regulatory boundary, in accordance with the terms and conditions specified below.

**Project Description:** To excavate or place fill material for the permanent protection of and/or repair of existing flood damaged structures, damaged land areas and/or damaged fills as follows:

- a. Repair of levees to preexisting elevations and cross-section, including breach closures and associated borrow operations.
- b. Bridge embankment protection (armoring) and/or repair.
- c. Repair of preexisting highway or railroad embankments and the addition or repair of stone (armoring) protection.
- d. Repair of preexisting utility protection structures.
- e. Placement of rock and/or earth materials for stream/ditch bank protection and/or stream/ditch bank restoration.
- f. Drainage channel/ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event.
- g. Restoration of creek channels to pre-flooding alignment and capacity.
- h. Construction of temporary roads and temporary fills to facilitate the completion of any of the above listed activities.

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

- Work that may affect a Corps of Engineers Civil Works project (Section 408 permission is required prior to work);
- Any activities requiring obtaining borrow from forested wetlands or dredging or excavating for borrow material from any stream channel in Kansas or in Missouri;
- Activities that require borrowing earth material from potential migratory bird nesting areas;
- Repair activities that require any clearing of trees;
- Flood repairs in areas with known exotic/sensitive species listed in special condition "e";
- Repair work that requires working in Exceptional State Waters and/or Special Aquatic Life Use Waters;
- Activities associated with the restoration of a stream channel back to the original, pre-flood, location.

All application materials and post construction reports must be submitted to the Corps of Engineers, Regulatory Division, 167 North Main Street, Room B-202, Memphis, Tennessee 38103.

All flood repair activities supervised by the Corps of Engineers, pursuant to Public Law 84-99 or to Section 14 projects, and/or all repairs supervised by the United States Department of Agriculture, pursuant to any USDA Program authorized for flood recovery can be completed without PCN to the Corps of Engineers. However, all completed flood repair work, authorized by this permit, must be reported to the Memphis District, Corps of Engineers, Regulatory Division, within 60 days of completing the flood repair project. The project report must include the location of the work, as-built drawings of the structure(s) and/or fill(s), and a discussion of the avoidance and minimization measures incorporated into the project and mitigation measures employed. Reports must be submitted to the U.S. Army Corps of Engineers, Regulatory Division, 167 North Main Street, Room B-202, Memphis, Tennessee 38103.

**In addition, maintenance of existing flood damaged structures and/or flood damaged fills, which have been previously authorized, may be authorized by Nationwide Permit No. 3 or exempted by Part 323.4 of Federal Regulations 33 CFR 320-332. The repair of uplands damaged by storms, floods or other discrete events may be authorized by Nationwide Permit No. 45 upon notification and review by the Memphis District, Corps of Engineers, Regulatory Division.**

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

Permit Conditions:

General Conditions:

1. This general permit expires 5 years from date of issuance , unless it is modified, revoked or specifically extended, and the time limit for completing the authorized work ends on this date, unless your individual general permit verification letter specifies an earlier date. Provided the verification letter does not specify an earlier date, if you have started the work or are under contract to begin this activity before the general permit expires, you will have twelve (12) months from that expiration date to complete the activity under the present terms and conditions of this general permit.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned 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 this permit.

**Special Conditions:**

**See continuation sheets, pages 5 through 8, of this document. In addition, review Appendix 1 for information required to be submitted to the Corps of Engineers if your project requires PCN before beginning work. Appendix I also contains the list of information you must submit after completing your project if PCN is not required for your particular project.**

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - (x) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
  - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).
  - ( ) 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. failure to comply with the terms and conditions of this permit.
- b. The information provided by the project proponent in support of the permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit.

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

GENERAL PUBLIC - SIGNATURE NOT REQUIRED  
(PERMITTEE)

\_\_\_\_\_  
(DATE WORK BEGAN)

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

\_\_\_\_\_  
(DISTRICT ENGINEER)  
Brian D. Sawser  
Colonel, Corps of Engineers  
District Commander  
BY: Gregg W. Williams  
Chief, Regulatory 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.

\_\_\_\_\_  
(TRANSFEREE)

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

**NWK-GP-41 Special Conditions:**

a. You must sign and return the attached "Compliance Certification" after the authorized work and any required mitigation is completed. Your signature will certify that you completed the work in accordance with this permit, including the general and the special conditions, and that any required mitigation was completed in accordance with the permit conditions.

**b. (Activities occurring in navigable waters under Section 10 of the Rivers and Harbors Act of 1899 Only).** The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

c. If the work, authorized by this permit, requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized project, the prospective permittee must submit PCN as outlined on the first page of this permit. An activity that requires a Section 408 determination is not authorized by GP-41 until the Memphis District issues the Section 408 authorization to alter, occupy, or use the Corps of Engineers project and the district engineer issues a written GP-41 verification.

d. If any part of the authorized work is performed by a contractor, before starting work you must discuss the terms and conditions of this permit with the contractor; and, you must give a copy of this entire permit to the contractor.

e. You must contact the Corps if any work is proposed in areas of listed sensitive species. The list of sensitive species in Missouri can be found at:

<https://www.nwk.usace.army.mil/Portals/29/docs/regulatory/NWP/2021/MO/MORC5AquaSpecies.pdf>

The list of special status waters in Kansas, requiring notification can be found at:

<https://www.nwk.usace.army.mil/Portals/29/docs/regulatory/NWP/2021/KS/KSRC5DesignateWaters.pdf>

f. You must employ measures to prevent spilled fuels, lubricants, excessive suspended solids including dredged material, and/or wet concrete from entering the waters of the United States and formulate a contingency plan to be effective in the event of a spill.

g. You must use clean, uncontaminated materials for fill in order to minimize excessive turbidity by leaching of fines, as well as to preclude the entrance of deleterious and/or toxic materials into the waters of the United States by natural runoff or by leaching. Use of small aggregate material less than 20 lbs. per aggregate, such as creek gravel, for stabilization and erosion control is prohibited.

h. You must excavate or fill in the watercourse so as to minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation. Activities should be conducted during low water periods and must be conducted outside major spawning season for fish, unless a waiver is obtained from the Corps of Engineers. The list of waters with seasonal spawning restrictions in Missouri can be found at:

<https://www.nwk.usace.army.mil/Portals/29/docs/regulatory/NWP/2021/MO/MORC2SpawningArea.pdf>



## **NWK-GP-41 Special Conditions (Continued):**

i. You must use the stream crossing guidelines for any temporary stream crossing constructed in a regulated waterway. The guidelines, for Missouri can be found at:

<https://www.nwk.usace.army.mil/Portals/29/docs/regulatory/NWP/2021/MO/MORC1Streams.pdf>

The stream crossing guidelines for Kansas can be found at:

<https://www.nwk.usace.army.mil/Portals/29/docs/regulatory/NWP/2021/KS/KSRC1Streams.pdf>

Stream crossings and use of construction machinery in waterways should be limited to the minimum extent necessary.

j. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body. All construction debris must be disposed of in an upland site, outside the floodplain, and in such a manner that it cannot enter into a waterway or into a wetland.

k. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.

l. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. You must avoid the removal of mature trees to prevent potential impacts to bald eagle roost sites. Work should be limited to one side of the channel only. However, work from both sides of the channel is permitted if it is demonstrated that it results in minimizing tree clearing. Vegetated riparian buffer areas should be included along both sides of any channel restoration projects. All wooded areas cleared for site access must be allowed to return to forested habitat. Mitigation may be required for other timber clearing.

m. Upon completion of earthwork operations, you must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction. All plant material, including seed mixes, should be composed of native species. If seeding does not successfully stabilize the disturbed soil areas by the end of the first growing season, you must implement alternate measures, such as placing riprap, slope terracing with untreated railroad ties, gabions or concrete blocks, or additional vegetative plantings, to protect the disturbed areas from further erosion. Clearing, grading, and replanting should be planned and timed so that only the smallest area is in a bare soil condition. You must contact the Corps of Engineers prior to beginning work on any additional erosion control measures so that we can determine if additional authorization is required.

n. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in an upland area above the ordinary high water mark and at a location where the concrete and wash water cannot enter the water body or an adjacent wetland area.

o. You must not dispose of any construction debris or waste materials below the ordinary high water mark of any water body, in a wetland area, or at any location where the materials could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.

p. You must use only graded rock, quarry-run rock and/or clean concrete rubble for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% 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 waters of the United States. Graded rock requirements can be altered provided approval is received from the Corps' Regulatory Branch prior to placement.

#### **NWK-GP-41 Special Conditions (Continued):**

q. You must completely remove all temporary fills, including sand bags (to the extent practicable), in the Waters of the United States within 30 days of the end of the flood emergency. If sand bags are needed for a longer duration until permanent repairs are made, you must request a waiver of this condition in writing.

r. You must avoid impacts to wetlands to the fullest extent practicable. When wetlands impacts are unavoidable, borrow site selection will be based on the following order of preference: upland (non-wetland) sources, areas riverward of the levee previously used for borrow, currently farmed prior converted cropland, farmed wetlands, or other authorized excavation sites. You must mitigate for all unavoidable proposed wetland excavation or fill activities authorized by this permit. You must develop mitigation plans on a case-by-case basis which must be approved by the Corps. This permit does not authorize actions designed to drain or otherwise convert wetlands to other uses, nor actions where a practicable alternative to impacting wetlands is available unless the Corps of Engineers, in consultation with other resource agencies, determine that sediment removal from existing wetlands will restore wetland functions and create valued habitat diversity. All borrow areas should have 5:1 horizontal to vertical side slopes and the water depth should be three feet deep or less under normal circumstances.

s. You must place all fills and structures in waterways such that they do not result in stream channel constriction, they do not cause redirection of flows in such a way as to cause upstream or downstream erosion, and/or they do not restrict aquatic organism movement, especially during periods of low flow. Channelization projects or shortening of waterways, other than restoration of creek channels to pre-flood alignment, are not authorized by this permit.

t. This Corps permit does not authorize you to take an endangered species. You must not undertake actions that are likely to jeopardize the existence of a threatened or endangered (T&E) species or a species proposed for such designation as defined in the Federal Endangered Species Act, nor actions which are likely to destroy or adversely modify the habitat of such species. You should contact the state ecological services office of the U.S. Fish and Wildlife Service to assure that the project will not adversely affect a T&E listed species. If the project requires the removal of mature trees along stream channels or within forested wetland you must contact the Corps of Engineers prior to any tree clearing activity. In addition, you must contact the Corps of Engineers if you are working in a stream channel with known populations of endangered aquatic species. This condition may not apply when no species of concern occur in the permit area or when incidental take is unlikely to occur.

u. You must avoid activity in the proximity of a property listed in or eligible for listing in the National Register of Historic Places unless, after coordination with the State Historic Preservation Office of the affected state and/or the Advisory Council on Historic Preservation, a determination of "no effect" or "no adverse effect" is made in accordance with criteria established by 36 CFR 800. If an inadvertent discovery of any cultural or archaeological resource occurs you must immediately contact this office and you should suspend work in the area until a determination of eligibility for listing on the National Register of Historic Places is completed and any necessary consultation under Section 106 of the National Historic Preservation Act is completed.

v. You must NOT undertake any activity that results in a new structure or replacement of a previously authorized structure with an increase in scope or design of the original structure. Small changes that do not affect elevations, such as the reconstruction of a levee around a scour hole at pre-existing elevations, and that do not convert wetland to upland (non-wetland) or a different wetland use beyond what is unavoidable such as to go around a scour hole, may be authorized upon notification to the Corps. Levee breach repairs constructed on new alignments must be setback farther from the stream channel than the original alignment.

### **NWK-GP-41 Special Conditions (Continued):**

w. You must contact the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or the Kansas Department of Health and Environment, Bureau of Water, Curtis State Office Building, 1000 Southwest Jackson, Topeka, Kansas 66612, in order to determine the need for a state permit for land disturbance, return water, or other activities that normally require such permits. Use of GP-41 shall not be construed or interpreted to imply that the requirements for all other federal, state, and/or local permits are replaced or superseded. Any national pollutant discharge elimination system (NPDES) permits, general permits for land disturbance, or any other permit requirements must be obtained and complied with.

x. You must take appropriate actions to prevent the spread of any exotic animal species and noxious and invasive plant species. Best management practices should be used to reduce the risk of transferring invasive plant and animal species to or from the project site. The following best management practice can help prevent the spread of these species. Clean and certified weed-free seed should be used for plantings. Equipment brought on the project site should be washed to remove dirt, seeds and plant parts. If the equipment has been used in a body of water in the last 30 days it can be washed at a commercial car wash or dried for five or more days before using the equipment in another body of water. In addition, before transporting equipment from the project site all water, mud, plants and animals should be removed.

y. Section 401 Water Quality Certification for this permit has been issued by the State of Missouri. You must comply with the conditions of the certification during performance of any authorized work.

## APPENDIX 1

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

1. This general permit authorizes activities proposed by the general public, railroads, transportation departments, pipeline and utility companies, and government agencies.
2. If you propose to work under the authority of this General Permit and the project requires a PCN as outlined in the permit, you must notify the Memphis District, Corps of Engineers, within two (2) years of the end of the flood event (when the nearest river gauge drops below flood stage for two months), and receive authorization prior to starting work within the Corps regulatory jurisdiction. This two year period may be waived by the district engineer provided the permittee can demonstrate a delay based on available funding, contracting, or other similar delays. You must submit the following information:
  - a. Submit a completed application form ENG 4345 or a letter which includes all information required by form ENG 4345. The ENG 4345 is available at:  
<http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>
  - b. Provide a complete description of the proposed work, including a statement describing compensatory mitigation to replace aquatic resources lost as a result of the project or a statement justifying why compensatory mitigation is not required, and a proposed plant list to restore all disturbed areas that result from the construction activities so that we can clearly and readily determine whether or not the proposed work complies with this GP and determine if compensatory mitigation is warranted. If required, compensatory mitigation plans must be in accordance with the mitigation regulations found at 33 CFR 332.
  - c. Describe and illustrate the location of the flood repair activities on an aerial photograph. The activity must be in counties where a current disaster declaration is issued by the Governor of the State of Kansas, the Governor of the State of Missouri or the President of the United States. Include an 8 1/2" x 11" map with the location of the proposed project clearly marked, including the Section, Township, and Range and the latitude and longitude (decimal degrees).
  - d. Submit an 8 1/2" x 11" drawing(s) showing the details of the proposed repair work. Include a list of plant materials proposed for restoration and/or erosion control. The plant list should include both the common name and the Latin binomial.
  - e. Discussion of possible alternatives and why the preferred alternative was selected.
  - f. Also, as project proponent, you must send copies concurrently to the following addresses, but we will not necessarily solicit comments from these agencies. We will give these agencies an opportunity to request that we take discretionary authority to require that you apply for an individual permit, if a significant issue is identified.

## General Permit NWKGP-41 Appendix 1 (continued)

(1) For all repair projects, you must contact:

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

\* Federal Emergency Management Agency  
Region VII  
9221 Ward Parkway, Suite 300  
Kansas City, Missouri 64114-3372  
(816) 283-7063

*\* You must contact FEMA for all proposed development located in the 100-year floodplain of a National Flood Insurance Program (NFIP) participating community in order to comply with local floodplain management regulations and secure a floodplain development permit from that community.*

(2) For repair projects in Missouri, you must contact:

U.S. Fish and Wildlife Service  
Columbia Field Office  
101 Park DeVille Drive, Suite A  
Columbia, Missouri 65203  
(573) 234-2132

Missouri Department of Natural Resources  
Water Pollution Control Branch  
P.O. Box 176  
Jefferson City, Missouri 65102  
1-800-361-4827 or (573) 751-1300

Missouri Department of Conservation  
Policy Coordination  
P.O. Box 180  
Jefferson City, Missouri 65102-0180  
(573) 522- 4115

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

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

4. We may reevaluate the cumulative impacts of this general permit at our discretion at any time. We will reevaluate cumulative impacts at least every five (5) years as part of the review process for the reissuance of GP-41.

5. The following is a list of flood damaged structures, damaged land areas and/or damaged fills authorized to be repaired under this general permit:

- a. Repair of levees to existing elevations, including breach closures and borrow operations.
- b. Bridge embankment protection (armoring) or repair.
- c. Repair of pre-existing highway and/or railroad embankments and armor protection.
- d. Repair of pre-existing utility protection structures.
- e. Placement of rock and/or earth materials for emergency bank protection or restoration.

**General Permit NWKGP-41 Appendix I (continued)**

- f. Drainage ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event.
  - g. Restoration of creek channels to pre-flooding alignment, capacity and flow line.
  - h. Construction of temporary haul roads to facilitate any of the above listed activities.
6. The District Engineer may require an individual permit on a case-by-case basis for any activity authorized herein.
7. You must complete the authorized work within the five year issuance period of the GP. If you need additional time to complete repairs or if flood damage occurs within the last year of the GP applicants must contact the Memphis District, Corps of Engineers, for an extension of the authorization to complete the needed work. Contact should be made at least one month in advance of the GP expiration date if possible.
8. Flood repair activities, supervised by the U. S. Army Corps of Engineers, pursuant to Public Law 84-99, and/or supervised by the United States Department of Agriculture (USDA), pursuant to any USDA program authorized for flood recovery, do not require a PCN to the Corps of Engineers, Regulatory Branch. It is the responsibility of these federal agencies to comply with all environmental laws and Presidential Executive Orders. However, agencies of the USDA and the Corps of Engineers must report all work completed under the authorization of GP-41 to the Memphis District, Regulatory Division as outlined on page one of the permit. Submit reports to U.S. Army Corps of Engineers, Memphis District, Regulatory Division, 167 North Main Street, Room B-202, Memphis, Tennessee 38103.

**COMPLIANCE CERTIFICATION**

*Special condition "a" of this permit document requires that you submit a signed certification regarding the completed work and any required mitigation. This certification page satisfies this condition if it is provided to the Memphis District at the address shown at the bottom of this page upon completion of the project. Submit a separate certification page for each individual authorized project*

PERMIT NUMBER: General Permit No. 41 (MVM 2007-588)

PERMITTEE (Enter permittee's name and mailing address):

PROJECT LOCATION (Enter latitude & longitude (decimal degrees) and Section, Township and Range, County, State):

- a. I certify that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions.
- b. I certify that any required mitigation was completed in accordance with the permit conditions.
- c. Your signature below, as permittee, indicates that you have completed the authorized project as certified in paragraph "a" and in paragraph "b" above.

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

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

Return this certification to:

Department of the Army  
Memphis District, Corps of Engineers  
Regulatory Division  
167 North Main Street, Room B-202  
Memphis, TN 38103