

STATE OF MISSOURI  
DEPARTMENT OF NATURAL RESOURCES

Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

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JUN - 3 2011

Colonel Anthony J. Hofmann, District Commander  
Kansas City District  
U.S. Army Corps of Engineers  
700 Federal Building  
601 E. 12<sup>th</sup> St., Ste. 635  
Kansas City, MO 64106-2824

Benton, Camden, Miller & Morgan Co.  
GP-38M/2005-1994/CEK002855  
Reissuance

Dear Colonel Hofmann:

The Missouri Department of Natural Resources' Water Protection Program (Department) has reviewed your request for Clean Water Act Section 401 Water Quality Certification (certification) for Public Notice No. GP-38M/2005-1994/CEK002855 issued on April 15, 2011, in which the U.S. Army Corps of Engineers (Corps) in cooperation with Ameren Missouri proposes to reissue General Permit 38 Missouri (GP-38M).

GP-38M is being reissued under the authority of Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403). The general permit authorizes various shoreline development activities including excavation, dredging, construction and fill activities, structures, bank stabilization and additional work as stated in the general permit. GP-38M was originally issued June 7, 2000, reissued July 1, 2006, and expires on June 30, 2011. The reissuance would extend the authorization for an additional five years, from July 1, 2011, until June 30, 2016.

The project location is in the Lake of the Ozarks, lakeward of the ordinary high water mark at elevation 658.5 feet Union Electric Datum (UED), in Benton, Camden, Miller and Morgan Counties, Missouri.

Ameren Missouri under Article 41 of its Federal Energy Regulatory Commission license issues permits for use and occupancy of project lands and waters. Ameren Missouri owns the majority of the shoreline property around the lake and in most locations possesses flowage easements extending beyond the property line.

This office certifies that the proposed project will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in the Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

1. Any extensions of the individual permits shall not exceed beyond five years from the issuance date of the original individual permit.

2. After avoidance and minimization measures have been employed, mitigation shall be required for temporary and permanent impacts using the most current Missouri Stream Mitigation Method and Missouri Wetland Mitigation Method. For projects that positively impact the environment such as bank stabilization through bioengineering, mitigation may be waived. Compensatory mitigation must be addressed in one of three ways in the following order: purchase credits from an approved mitigation bank, purchase credits from an approved in-lieu fee program, or develop permittee responsible mitigation site within the local watershed ["Compensatory Mitigation for Losses of Aquatic Resources"; Army Corps of Engineers 33 CFR Part 332 and U.S. Environmental Protection Agency 40 CFR Part 230]. Copies of final purchase documents from an approved in-lieu fee program or mitigation bank shall be provided to the Department at the address below.
3. If the permittee transfers a permit to a new owner, the permittee shall ensure that the new property owner is positively advised of the responsibilities under the permit.
4. Contact the Department for current laws and regulations regarding sewer and on-site/septic system installation. The Missouri Statutes divide regulatory authority for sewer and septic systems between the Department and the Missouri Department of Health and Senior Services. The Department of Health and Senior Services have further delegated their authority to certain county health departments.
5. As part of sediment removal activities, sand and gravel shall not be commercially sold without a permit from the Land Reclamation Program. Sediment removed must be stored at an upland site. Please contact the Land Reclamation Program at (573) 751-4041 or view their regulations at <http://www.sos.mo.gov/adrules/csr/current/10csr/10c40-10.pdf> for more details.
6. Best Management Practices shall be used during all phases of the project to limit the amount of discharge of water contaminants to waters of the state.
7. Any project that may adversely change the water quality shall provide sufficient notice to the owners of water supply intakes or other similar structures to allow for any necessary preparations such as those addressing increases in suspended solids and turbidity caused by work.
8. Only clean, nonpolluting fill shall be used. Materials containing creosote, pentachlorophenol or other toxics shall not be used.
9. The following materials are not suitable for bank stabilization and shall not be used due to their potential to cause violations of the general criteria of the Water Quality Standards, 10 CSR 20-7.031 (A) – (H):
  - a. Earthen fill, gravel, broken concrete where the majority of material is less than 12 inches in diameter, and fragmented asphalt, since these materials are usually not substantial enough to withstand erosive flows;

- b. Concrete with exposed rebar;
- c. Tires, vehicles or vehicle bodies, construction or demolition debris are solid waste and are excluded from placement in the waters of the state; and
- d. Liquid concrete, including grouted riprap, if not placed as part of an engineered structure.

Recycled concrete may be used provided that it is clean material broken into appropriately sized pieces (greater than 12 inches) of riprap with no protruding rebar.

- 10. Clearing of vegetation/trees shall be the minimum necessary to accomplish the activity.
- 11. This certification strictly prohibits any work in adjacent wetlands and tributaries above elevation 658.5 feet UED.
- 12. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment and any solid waste shall not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent water bodies as a result of this operation.
- 13. Petroleum products spilled into any water body or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible to the Department's 24-hour Environmental Emergency Response number at (573) 634-2436.
- 14. The filling of jurisdictional springs is prohibited.
- 15. Permittee shall allow representatives from this Department to inspect the authorized activity at any time deemed necessary to ensure compliance with permit conditions.
- 16. Acquisition of a permit shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded. Any National Pollutant Discharge Elimination System (NPDES) Permits, Land Disturbance Permits, or other requirements shall be complied with. Applicants with questions are encouraged to call the Department's Regional Office in your area. A regional office map with contact information can be located at [www.dnr.mo.gov/regions/regions.htm](http://www.dnr.mo.gov/regions/regions.htm).

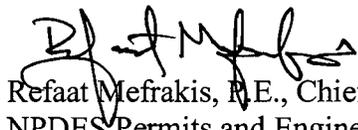
You may appeal to have the matter heard by the Administrative Hearing Commission (commission). To appeal, you must file a petition with the commission within thirty (30) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

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This certification is part of the Army Corps of Engineers' permit. Water Quality Standards must be met during any operations authorized by these permits. If you have any questions, please contact Ms. Stacia Bax by phone at (573) 526-4586, by e-mail at [stacia.bax@dnr.mo.gov](mailto:stacia.bax@dnr.mo.gov), or by mail at Missouri Department of Natural Resources, Water Protection Program, NPDES Permits and Engineering Section, P.O. Box 176, Jefferson City, MO 65102-0176. Thank you for working with the Department to protect our environment.

Sincerely,

WATER PROTECTION PROGRAM



Refaat Mefrakis, P.E., Chief  
NPDES Permits and Engineering Section

RM:sbp

c: Mr. Mel Stanford, U.S. Army Corps of Engineers, Kansas City District  
Mr. Stuart Miller, Missouri Department of Conservation  
Mr. David Thorne, Missouri Department of Conservation  
Ms. Janet Sternburg, Missouri Department of Conservation  
Mr. Bill Goodwin, Missouri Department of Conservation  
Ms. Vicky Johnson, U.S. Environmental Protection Agency  
Mr. Rick Hansen, U.S. Fish & Wildlife Service  
Ms. Dorothy Franklin, DNR/KCRO  
Mr. Jimmy Coles, DNR/KCRO  
Ms. Tina White, DNR/SWRO  
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