

DEPARTMENT OF THE ARMY PERMIT

Permittee General Public

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

Issuing Office U.S. Army Engineer District, Kansas City

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, and with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

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

1. Grassed Waterways
2. Grade Stabilization Structures
3. Heavy Use Protection Areas
4. Pipelines
5. Spring and Seep Developments
6. Ponds
7. Diversions
8. Water and Sediment Control Basins
9. Wetland Creation, Enhancement and Restoration
10. (Reserved)
11. Subsurface Drainage
12. Underground Outlets

DESIGN CONSIDERATIONS AUTHORIZED BY THIS REGIONAL GENERAL PERMIT: The activities must be designed and/or approved by NRCS. Project specific design criteria are outlined in Appendices 1-12.

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

Permit Conditions:

General Conditions:

1. This general permit expires on 2 April 2018, 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 State of Kansas programmatic certification is attached. For activities occurring in Indian Country, an individual water quality certification is required from the U.S. Environmental Protection Agency (USEPA) (see special condition "c").

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

Special Conditions:

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

Further Information:

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

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

(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. 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.

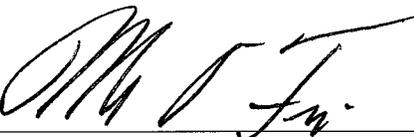
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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.

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

GENERAL PUBLIC - SIGNATURE NOT REQUIRED _____
 (PERMITTEE) (DATE)

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



 (DISTRICT ENGINEER)
 ANTHONY J. HOFMANN, COLONEL
 BY: MARK D. FRAZIER
 CHIEF, REGULATORY BRANCH

2 April 2013

 (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)

GP-40 Special Conditions:

- a. **Preconstruction notification requirements:** All activities authorized by this General Permit require written preconstruction notification to the Corps of Engineers. Notification shall be submitted by NRCS or a NRCS Certified Technical Service Provider to the Corps for verification. The written notification shall include a completed "*Request for GP-40 Authorization*" form. The form is available to download at: <http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/permits/GP-40RequestForm.pdf> or may be obtained by writing or calling the Kansas City District, Corps of Engineers, 635 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106-2824, phone 816-389-3990. In order for the form to be determined complete, it must include the name of the requesting official (NRCS staff or a Certified Technical Service Provider) and the date approved. In addition, the notification shall include the following supplemental information, as required for specific activities: location map, aerial photograph(s), drawing(s) and mitigation worksheets.
- b. You must receive Corps verification of GP-40 authorization before you begin any work in waters of the United States. Should any part of the authorized work be performed by a contractor, you must discuss the terms and conditions of this permit with the contractor prior to beginning work; and, you must give a copy of this entire permit to the contractor.
- c. For activities occurring in Indian Country, you must request and obtain an individual Section 401 Water Quality Certification from the U.S. Environmental Protection Agency (USEPA). Please send your request to: Jennifer Ousley, USEPA Region 7, 401 Coordinator, 11201 Renner Boulevard, Lenexa, Kansas 66219. You must receive Section 401 Water Quality Certification in order to validate this GP-40 verification. Should USEPA issue programmatic certification for this GP during the term of the GP, General Condition 5 of the permit applies.
- d. You must sign and return a "Compliance Certification" after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and special conditions, and any required mitigation.
- e. This Corps permit does not authorize you to take an endangered species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion under ESA Section 7, with "incidental take" provisions with which you must comply). In order to comply with the ESA the Corps of Engineers will maintain a list of waters and uplands located within the known range of Federally listed threatened or endangered species (Appendix 10). Proposed activities which occur within any of these listed waters will require ESA Section 7 consultation before GP-40 authorization can be granted.
- f. 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.
- g. The following materials are not suitable for fill activities into waters of the U.S. under GP-40 authorization: trash, debris, car bodies, asphalt, buses, rail cars, construction or demolition debris, garbage, tires, treated lumber (chromated copper arsenate (CCA), creosote, and pentachlorophenol), liquid concrete not poured into forms, grouted riprap, bagged cement and sewage or organic waste.
- h. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a nonwetland area above the ordinary high water mark and at a location where the concrete and wash water cannot enter the water body or an adjacent wetland area.

GP-40 Special Conditions (continued):

- i. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- 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.
- k. 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.
- l. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- m. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or unvegetated condition.
- n. Upon completion of earthwork operations, you must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction. Best management practices (BMPs) such as inflatable silt fences, standard silt fences, hay bale dikes, or other approved practices, must be implemented to prevent erosion and sedimentation. Vegetation must consist of NRCS recommended species, and must adhere to the required criteria of the Corps' case specific authorization under GP-40. If seeding does not successfully vegetate the disturbed 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. However, you must contact the Kansas City District, Regulatory Branch prior to beginning work on any additional erosion control measures so that a determination can be made whether further authorization is required.
- o. You must use only graded rock, quarry-run rock and/or clean concrete rubble for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume. If you use concrete rubble, you must break all large slabs to conform to the well graded requirement, and remove all exposed reinforcement rods, trash, asphalt, and other extraneous materials before you place the rubble in the water of the United States.
- p. You must limit the placement of riprap or other hard, structural erosion control methods, to the minimum amount necessary to protect disturbed or vulnerable areas from erosion and sedimentation.
- q. No activity which may affect historic properties listed or eligible for listing, in the National Register of Historic Places is authorized by this regional permit, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C (or amended regulations).
- r. If any funerary objects or human remains are unearthed at anytime during the course of this authorized work, you must halt construction activities and notify the Corps of Engineers at 316-322-8247 immediately.

GP-40 Special Conditions (continued):

- s. For all vegetative planting you must not plant any plant species listed at <http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/KSInvasivePlants.pdf> nor shall any of these species be used for revegetation unless this requirement is waived by the District Engineer based on a case specific analysis of the revegetation plan. Best management practices should be used to reduce the risk of transferring invasive plant and animal species to or from the project site. Best management practices can be found at: <http://www.invasivespeciesinfo.gov/toolkit/prevention.shtml>. Known zebra mussel waters within Kansas can be found at <http://nas.er.usgs.gov/queries/zmbyst.asp>.

March 12, 2012

Mr. Luke M. Cory
Kanopolis Satellite Office
107 Riverside
Drive, Marquette, Kansas 67464

Section 401 Water Quality Certification

RE: Proposed Modification to Section 404 GP 40- 2007-1915. Renewal: March 15, 2013. Applicant: General Public. **PROJECT LOCATION:** In all waters of the United States in the State of Kansas (including Indian Country within Kansas boundaries).

Dear Mr. Cory:

On February 1, 2013, the Kansas Department of Health and Environment (KDHE) received, from the U.S. Army Corps of Engineers, Kansas City District, a request for Section 401 Water Quality Certification for the referenced proposed action as described below.

Description from the USACE/KDHE Joint Public Notice dated December 21, 2012:

“PROPOSED: In accordance with Title 33 CFR 325.2 and 325.7(e), as published in the November 13, 1986, Federal Register, the Kansas City District, U.S. Army, Corps of Engineers proposes to reissue Regional General permit GP-40, which would authorize the excavation from and/or discharge of dredged or fill material in waters of the United States within the State of Kansas in association with U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) agriculture conservation practices. This regional general permit would be issued under the authority of Section 404 of the Clean Water Act (33 USC 1344). In the preceding 5-year period of GP-40, there were a total of approximately 1085 verifications issued under the provisions of this general permit. The currently approved GP-40 is scheduled to expire on March 18, 2013.”

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

1. Grassed Waterways
2. Grade Stabilization Structures
3. Heavy Use Protection Areas
4. Pipelines
5. Spring and Seep Developments
6. Ponds
7. Diversions
8. Water and Sediment Control Basins
9. Wetland Creation, Enhancement and Restoration

10. Threatened and Endangered Species

11. Subsurface Drainage

12. Underground Outlets

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

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

I. Limitations of this Certification: All Section 404 activities within the borders of Indian owned and operated lands are not covered by this certification. Individuals proposing projects which impact those waters are responsible for contacting the appropriate individual at the following numbers:

Prairie Band Pottawatomie Indians, Planning Department, 785/966-2946

Kickapoo Tribe in Kansas, Environmental Office, 785/486-2601

Iowa of Tribe of Kansas and Nebraska, 785/595-3258

Sac and Fox Tribe of Missouri, 785/742-4707

II. General Conditions

- 1. Certification Retention:** The applicant shall retain this water quality certification on the project site through the duration of the project to accommodate inspection.
- 2. Kansas Water Pollution Control General Permit for Stormwater Runoff from Construction Activities:** This certification does not relieve the applicant of the responsibility to determine if the project is subject to the requirements of **General NPDES Permit** and to secure such permit as necessary. Questions and inquiries may be directed to:

Mr. Larry Hook
Kansas Department of Health and Environment
Bureau of Water Industrial Program Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-5549; FAX:785/296-5509 www.kdheks.gov/stormwater

The permittee should also be aware of the following Kansas water quality protection regulations associated with high value waters:

K.A.R. 28-16-28c(a)B(2)—Wherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected. •

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

K.A.R. 28-16-28c(a)B (4) No degradation of surface water quality by artificial sources of pollution shall be allowed if the degradation will result in harmful effects on populations of any threatened or endangered species of aquatic or semi-aquatic life or terrestrial wildlife or its critical habitat as determined by the secretary of wildlife and parks pursuant to K.S.A. 32-960, and amendments thereto, and K.A.R. 115-15-3 or in the federal endangered species act, 16 U.S.C. 1532 , as amended on October 7, 1988.

3. **Solid Waste Disposal:** All solid waste materials produced during the execution of the project shall be disposed in accordance with the provisions of Kansas Solid Waste Management Statutes and regulations and applicable local regulations. Direct inquiries to:

KDHE, Bureau of Waste Management

1000 SW Jackson Street, Suite 320

Topeka, Kansas 66612-1366

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

4. **Equipment Staging Areas and Project Closure:** Upon completion of the project, disturbed areas shall be expeditiously stabilized with temporary and permanent vegetation, bio-artificial ground cover or other appropriate non-polluting material. Fertilizer application to establish and maintain vegetation shall be done in a manner that will not contribute to the current nutrient load to any of the surface waters impacted by the project. .
5. **Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). KDHE encourages the use of vegetation consistent with adjoining vegetation materials to minimize impacts from improper handling of fertilizers and pesticides.
6. **Discharge of Floatable Materials:** Pursuant to K.A.R. 28-16-28e (1), (3) and (4), the person responsible for executing the permitted activity shall assure good house-keeping is practiced at the site to minimize the discharge of floatable materials such as personal refuse including food containers, packing materials, and other litter. Appropriate measures shall be taken to capture and/or recover any floatable materials discharged to waters of the state originating with the permitted project.
7. **Fuel, Chemical and Materials Storage:** Fuel, chemical and other materials stored at the project site shall be stored in a manner that minimizes the discharge of product to waters of the state. .
8. **Spill Response and Reporting:**
 - a. **Spill response and cleanup:** In the event a spill of fuel, chemical or other water quality degrading materials stored or transported on the site occurs, the permittee shall or with the assistance of professional response personnel, expeditiously control or contain the spill and initiate clean up procedures. The applicant shall immediately contact 911. The applicant should also contact the appropriate Kansas Department of Health and Environment http://www.kdheks.gov/befs/dist_office.html or look in your local phone directory) to

confirm cleanup activities. Finally, KDHE strongly encourages the permittee to establish and post a sign that includes phone contact numbers for the appropriate local emergency response unit, KDHE district office, and the project manager/owner.

- b. **Reporting:** The Kansas Department of Health and Environment shall be notified of all fuel spills or unauthorized discharge of pollutants immediately. Contact KDHE at 785/296-1679, anytime for spill reporting requirements. The Kansas Adjutant Generals Office should also be contacted (785/296-8013) as well as the National Spill Response Center (1-800-424-8802).
9. **Drinking Water Intakes:** The person responsible for the permitted activity shall avoid adverse impacts on public water supplies. Whenever permitted activities occur within one mile upstream of a public drinking water supply - surface water intake, the applicant shall contact the official in charge of the public drinking water supply to apprise the drinking water supply official of the permitted activity.
 10. **Treated Wastewater Effluent Mixing Zones:** As a general guideline any Section 404 activity within one-half (.) mile upstream or one-half (.) mile downstream of a permitted wastewater effluent discharge may impact the effluent mixing zone. The person responsible for the permitted activity shall determine if the project will adversely impact the wastewater effluent mixing zones and take appropriate measures to avoid altering or changing the mixing zone. This may include but is not limited to:
 - a. The construction or placement of a recreation oriented facility or structure (i.e. boat ramp, walkway) which may require modification of the beneficial use designation to accommodate contact or non-contact recreation, thereby increasing the effluent limitations for the permit.
 - b. Any activity which may alter or remove the stream channel geometry or natural oxygenation abilities of the stream such as bridge construction, channelization, stream channel substrate modification etc.

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

Kansas Department of Health and Environment
Bureau of Water - Municipal Programs Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone: 785/296-5527; FAX: 785/296-5509

III. Special Conditions for Specific Activities

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

Contact: Mr. Terry Medley, Chief
Kansas Department of Health and Environment
Bureau of Water –Livestock Waste Management Section 1000
SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone: 785/296-5527; FAX: 785/296-5509
www.kdheks.gov/feedlots/index

2. **Wetlands Creation, Enhancement and Restoration (NRCS Codes 657-659):** Measures shall be implemented to assure impounded waters, created by activities within the framework of these permits, avoid becoming public health threats, nuisances, generate complaints, and potentially discharge degraded water. The applicant shall prepare and implement an Operations and Maintenance Plan (O&M), which at the minimum incorporate the following:
 - a. Water quality protection measures for each category of artificial source of pollution will be identified. The identified water quality protection measure for each category of artificial source of pollution shall be designed to *reduce to the maximum extent practicable, the level of pollution resulting from identified pollutant sources*. Identified water quality protection quality protection measures shall be at least as effective as those set out by the Kansas Nonpoint Source Pollution Management Plan prepared and maintained by the Kansas Department of Health and Environment: http://www.kdheks.gov/nps/resources/KSNPSMgmtPlan_04-29-2011_final.pdf
Including Appendices:
http://www.kdheks.gov/nps/resources/NPSMgmtPlanAppendices_combined_04.29.2011.pdf
3. **Underground Outlets (NRCS Code 620):** The following special conditions are applicable only to outlets in which the receiving stream has a TMDL or 303d cited impairment for excessive nutrients (i.e. nitrogen and phosphorus), stressed aquatic biology, deficient dissolved oxygen, or excessive pesticides:
 - a. The current design requirements for underground outlets replacing a grassed waterway be increased from 8 hours to 12 to 16 hours. It is recommended that the Engineering Guidance Document be modified to reflect this requirement when installing Conservation Practice 620 adjacent to waters with the TMDL and 303d listed impairments cited above.
 - b. Require the use of riser outlets (bubble-up riser) when the discharge site has established vegetation for Conservation Practice 620 adjacent to waters with the TMDL and 303d listed impairments cited above.
 - c. The practice will be designed and constructed so that a vegetative area with a minimum separation distance of 30 feet between the pipe outlet and the stream be installed and maintained. If 30 feet is not possible due to site conditions, a minimum of 15 feet be installed and maintained. It is recommended that the NRCS Exemption Worksheet for conversion from a Grassed Waterway to Underground Outlet be modified to include this addition.
 - d. The least potentially polluting cropping systems and applications should be strongly considered.
 - i. Where manure is applied in the upslope areas, a permanent vegetation buffer of 35 feet radius (KDHE LWM recommended) between the treated area and inlet structure (riser) shall be considered.

- ii. Applications of agrochemicals may require greater setback requirements according to label directions.
- iii. Cropland management systems be considered to accompany Conservation Practice 620. Examples may include Conservation Practices 328, Conservation Crop Rotation; 590, Nutrient Management; 595, Pest Management; 345, Residue and Tillage Management, Mulch Till; and 329, Residue and Tillage Management, No Till/Strip Till/Direct Seeding

If these conditions cannot be met, KDHE is denying the GP 40 for applicable practices and require an Individual Section 404 permit be issued.

IV. Enforcement and Penalties

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

V. Variance

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

VI. Additional Information

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

303d Water- <http://www.kdheks.gov/tmdl/methodology.htm>

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

Guidance document for identifying high value waters- <http://www.kdheks.gov/nps/section401.html>

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

The Kansas Department of Health and Environment, Bureau of Water-Watershed Management Section at: 785/296-4195 or FAX 785/296-5509. This information can also be obtained by written communication directed to:

Kansas Department of Health and Environment
Bureau of Water - Watershed Management Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367 or email: nps@kdhe.state.ks.us

Sincerely,



Jaime Gaggero
Section Chief
Watershed Management Section
Bureau of Water
Kansas Department of Health and Environment