

PUBLIC NOTICE



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

**Permit No. GP-40 (2007-1915)
Issue Date: April 3, 2013**

STATE OF KANSAS - Including INDIAN COUNTRY
REISSUANCE OF GENERAL PERMIT 40
AGRICULTURE CONSERVATION PRACTICES

The U.S. Army Corps of Engineers, Kansas City District **HAS REISSUED** general permit GP-40 (copy enclosed) for Natural Resources Conservation Service (NRCS) designed or approved agriculture conservation practices, under authority of Section 404 of the Clean Water Act (33 USC 1344).

Duration of this General Permit: This general permit is issued and is in effect for five (5) years, from April 2, 2013 until April 2, 2018, unless revoked or specifically extended.

Notification Procedures: 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, 601 East 12th Street, Kansas City, Missouri 64106-2896, telephone 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, notification shall include the following supplemental information, as required for specific activities: location map, aerial photograph(s), drawing(s), and mitigation worksheets.

If the Corps determines that the proposed activity meets the provisions of the general permit, and no extraordinary conditions exist that warrant evaluation as a Department of the Army (DA) individual permit, the proponent will be notified to proceed subject to compliance with any verification special conditions and/or mitigation requirements. All activities verified as authorized by this general permit must comply with the general and special conditions of the enclosed copy of the general permit.

APPLICANT: General Public

PROJECT LOCATION: In all waters of the United States in the State of Kansas (including Indian Country within Kansas boundaries).

AUTHORITY: Section 404 of the Clean Water Act (33 USC 1344).

ACTIVITY: The discharge of dredged or fill material in waters of the United States for the following NRCS designed or approved agriculture conservation practices, subject to the general and special conditions of this permit, and the criteria in the attached appendices: (Appendix 1) Grassed waterways; (Appendix 2) Grade stabilization structures; (Appendix 3) Heavy use protection areas; (Appendix 4) Pipelines; (Appendix 5) Spring and seep developments; (Appendix 6) Ponds; (Appendix 7) Diversions; (Appendix 8) Water and sediment control basins; (Appendix 9) Wetland creation, enhancement and restoration; (Appendix 11) Subsurface Drainage and (Appendix 12) Underground Outlets. (Note: Appendices are permit attachments.)

ADDITIONAL INFORMATION: Additional information about this general permit may be obtained by contacting Luke M. Cory, Regulatory Project Manager, Kanopolis Satellite Office, 107 Riverside Drive, Marquette, Kansas 67464 telephone at (785) 546-2130 or via email at Luke.M.Cory@usace.army.mil. All inquiries concerning this public notice should be directed to the above address.

Enclosure

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.

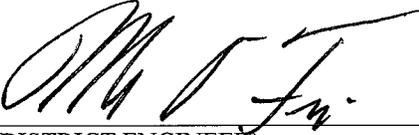
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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) (DATE) 2 April 2013
ANTHONY J. HOFMANN, COLONEL
BY: MARK D. FRAZIER
CHIEF, REGULATORY BRANCH

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>.

APPENDIX 1

Grassed Waterways

DEFINITION: A natural or constructed channel that is shaped or graded to required dimensions and established with suitable vegetation. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 412.

PURPOSES: This practice may be applied as part of a conservation management system to support one or more of the following purposes:

1. To convey runoff from terraces, diversions, or other water concentrations without causing erosion or flooding.
2. To reduce gully erosion.
3. To protect/improve water quality.

CRITERIA:

1. This General Permit (GP) does not authorize the construction of grassed waterways in perennial or natural intermittent streams.
2. The grassed waterway must be constructed along a similar flow route of the existing channel. Grassed waterways requiring substantial straightening of the flow route are not authorized under this GP.
3. The grassed waterway must be constructed with either parabolic or trapezoidal cross sections. Irregular or V-shaped cross sections are not authorized by this GP.
4. The average top width of the grassed waterway must not be less than 20 feet and the bottom width of the grassed waterway must not exceed 100 feet.
5. The constructed side slopes must not be steeper than 4:1.
6. This GP does not authorize waterways requiring subsurface drains or stone centers.
7. Grassed waterways requiring a grade stabilization structure or other suitable outlet may be authorized by this GP; however, the grade stabilization structure or alternate outlet design must be designed or approved by the NRCS according to their specific conservation practice standards.
8. Grassed waterways requiring temporary or permanent berms are authorized by this GP. Once the desired vegetation has become established, the temporary berms shall be removed and the earthen material shall be blended into the adjacent fields to allow free drainage into the waterway.
9. Grassed waterway seeding/plantings must be recommended by the local NRCS office, adapted to soil type and climate, and must not include exotic and invasive species, including Reed canary grass (*Phalaris arundinacea*).
10. Grassed waterways constructed in farmed channels, that are completely or partially plowed across and no longer exhibit continuous bed and bank features, may be seeded to a grass mixture that meets the producer's needs, provided the grass(es) are recommended by the local NRCS office.
11. Grassed waterway rehabilitation/maintenance is authorized by this GP.
12. Grassed waterways designed to replace an impaired channel and riparian zone, which exhibits bed and bank features, may require a seeding plan consisting exclusively of native grasses and vegetation adapted to the soil type and climate. The incorporation of a native grass seeding plan may be necessary to offset impacts to an intact tributary reach, however degraded.

APPENDIX 1 (cont'd)

13. NRCS recommended tree and shrub plantings included in the vegetation plan, must be retained or planted in the periphery of the grassed waterway to prevent interference with the hydraulic functions.
14. Grassed waterways that are constructed in conjunction with sod-busting operations in native prairie or rangeland are not authorized by this GP.
15. Erosion and sedimentation must be minimized by implementing the use of cover crops, mulch, hay bale dikes, filter fences, etc. as soon as conditions allow.

APPENDIX I SUMMARY TABLE

Scenario / Application	Authorization under GP	Mitigation Required
Grassed waterways constructed in perennial and natural intermittent streams	No	Not applicable
Grassed waterways requiring subsurface drains or stone centers	No	Not applicable
Grassed waterways constructed in channels that are completely or partially farmed	Yes	No
Grassed waterway rehabilitation/maintenance	Yes	No
Grassed waterways that replace impaired channels and riparian zones	Yes	Site specific, see criterion No. 12
Grassed waterways requiring grade stabilization structures or other suitable outlets	Yes	Site specific, see criterion No. 12
Grassed waterways constructed in conjunction with sod-busting operations in native prairie or rangeland	No	Not applicable

APPENDIX 2 Grade Stabilization Structures

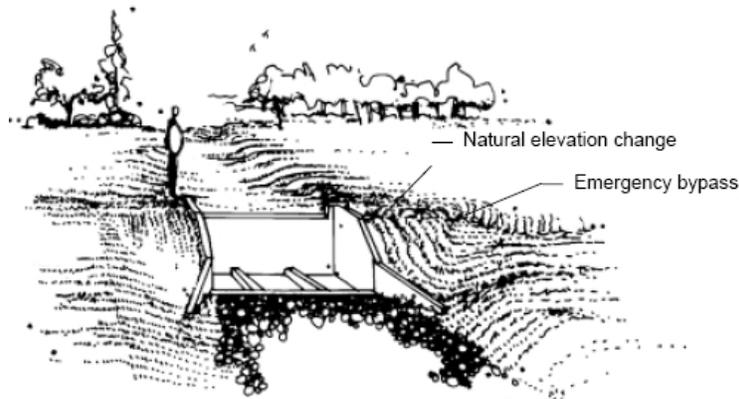
DEFINITION: A structure used to control the grade and head cutting in natural or artificial channels.

PURPOSE: To stabilize the grade and control erosion in natural or artificial channels, to prevent the formation or advance of gullies, headcuts, and to enhance environmental quality and reduce pollution hazards. Examples of grade stabilization structures authorized under this General Permit (GP) include drop spillways, block drop structures and rock chutes. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 410.

CRITERIA: The following criteria are required for GP-40 authorization:

1. Structures proposed in conjunction with embankment ponds or other practices in waters of the United States (WUS), may be authorized, but will be evaluated as a component of the overall proposed project.
2. Grade stabilization structures constructed in or across drainage ways with perennial flow during normal years are not authorized under this GP.
3. The crest of the inlet must be set at an elevation that stabilizes upstream headcutting.
4. Structure must be designed to control the peak runoff from the 10-year storm or to meet the bankfull capacity of the channel, whichever is greater.
5. Disturbed areas, not covered with riprap, must be revegetated as soon as practicable, with plant species recommended by the local NRCS office, excluding Reed canary grass (*Phalaris arundinacea*) and other exotic and invasive species.

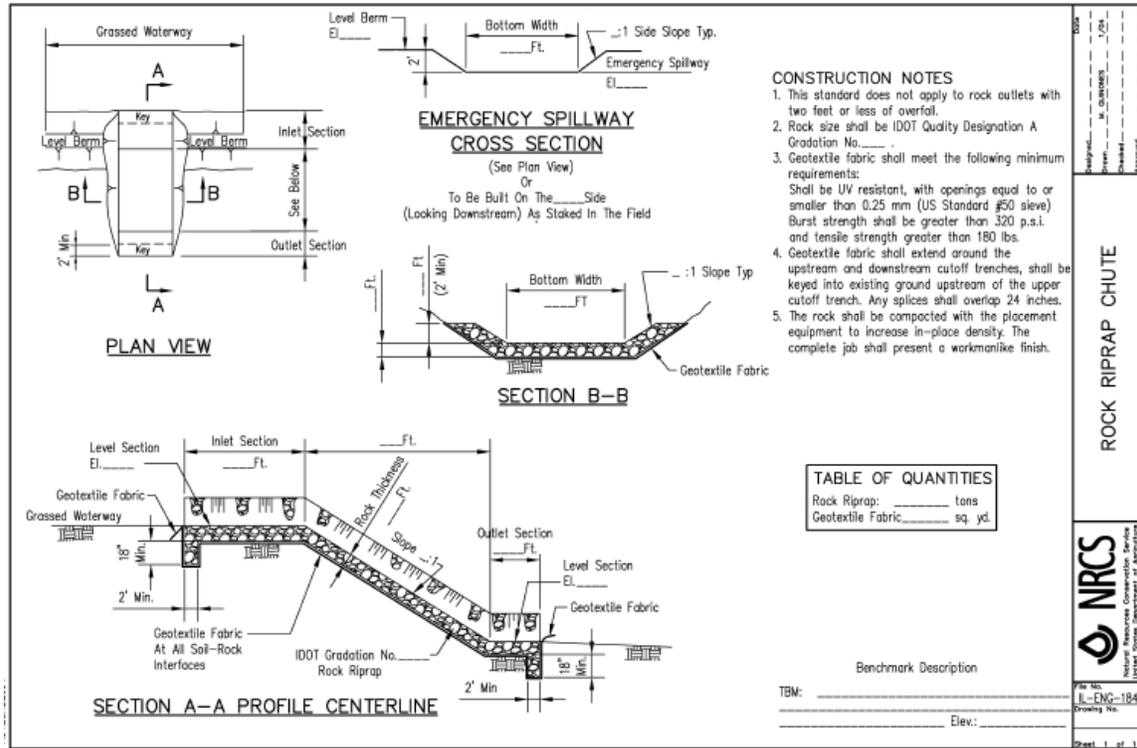
DRAWING 1: Drop spillway illustration. (Source: NRCS National Handbook of Conservation Practices, NRCS Planning and Design Manual, NRCS.)



**Reinforced Drop Spillway for Grade Stabilization with
Emergency Bypass and Downstream Protection
Perspective View**

APPENDIX 2 (cont'd)

DRAWING 2: Typical rock chute structure. (Source: NRCS Engineering Standard Drawings).



APPENDIX 2 SUMMARY TABLE

Scenario / application	Authorization under GP	Mitigation Required
Grade stabilization structures constructed in conjunction with a proposed embankment pond or other practices in WUS	Yes, but must be evaluated as a single and complete project (Criterion No. 1).	Possible, site specific
Grade stabilization structures constructed in streams with perennial flow during normal years	No	Not applicable
Grade stabilization structures constructed in intermittent and ephemeral streams	Yes	Possible, site specific

APPENDIX 3 Heavy Use Protection Areas

DEFINITION: The stabilization of areas frequently and intensively used by people, animals or vehicles by establishing vegetative cover, by surfacing with suitable materials, and/or by installing needed structures. Example drawings of heavy use protection areas are provided below. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 561.

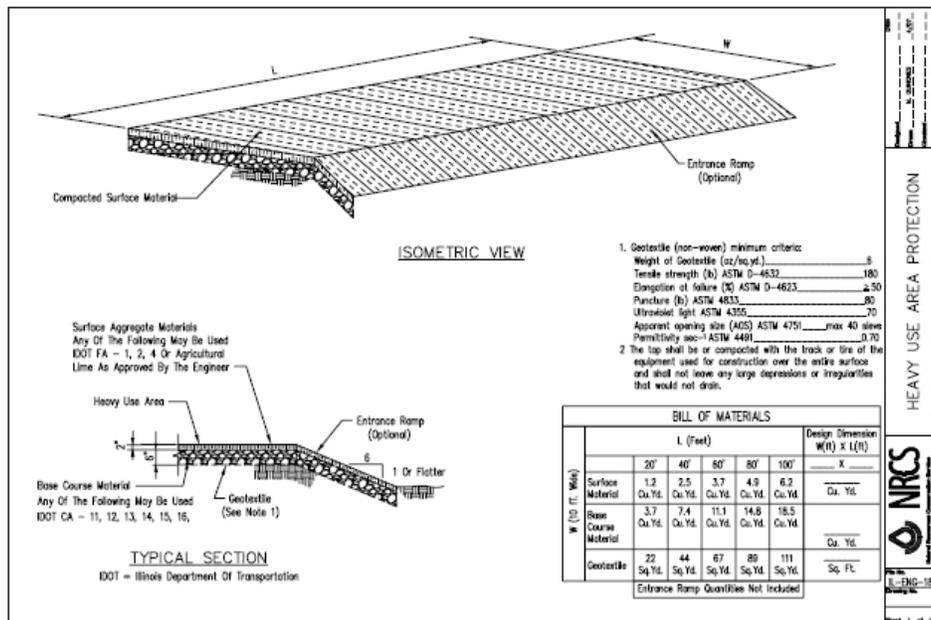
PURPOSES:

1. Reduce soil erosion
2. Improve water quantity and quality
3. Improve air quality
4. Improve aesthetics
5. Improve livestock health

CRITERIA:

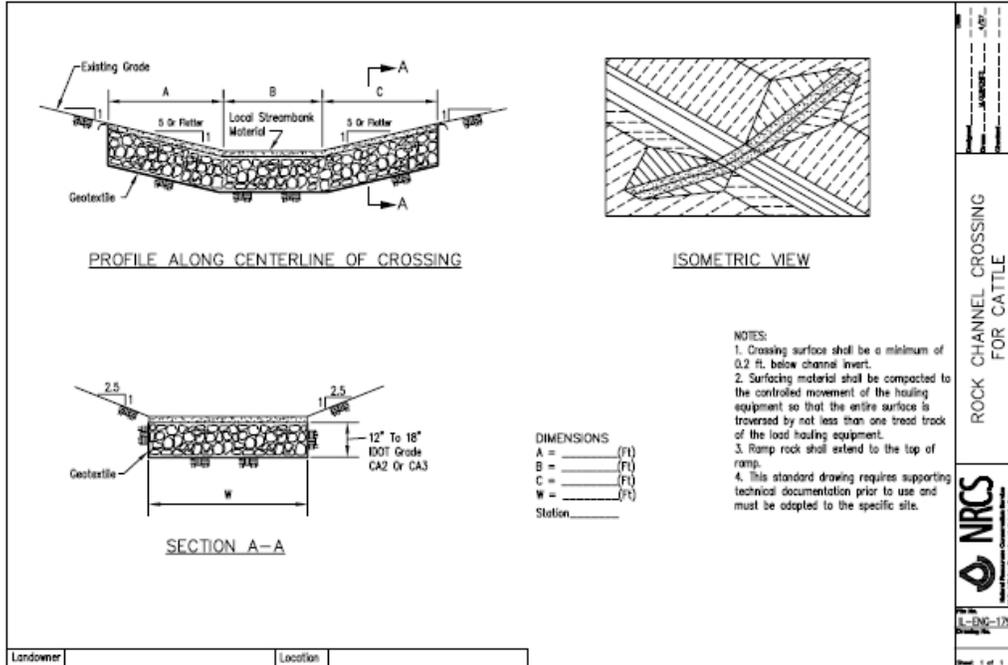
1. Heavy use protection areas requiring asphalt applications are not authorized under this General Permit (GP).
2. Disturbed areas, not covered with riprap, must be revegetated with grasses recommended by the local NRCS office, excluding Reed canary grass (*Phalaris arundinacea*) and other exotic or invasive species, as soon as practicable.
3. Heavy use protection areas designed for livestock crossing must not substantially disrupt the necessary life cycle movements of aquatic life, indigenous to the watershed.

DRAWING 1: Typical heavy use protection area for livestock access. (Source: NRCS Engineering Standard Drawings)



APPENDIX 3 (cont'd).

DRAWING 2: Typical heavy use protection area livestock crossing (Source: NRCS Engineering Standard Drawings)



APPENDIX 4
Pipelines

DEFINITION: A pipeline installed where it is desirable or necessary to convey water or manure in a closed conduit from one point to another. Applicable Natural Resources Conservation Service (NRCS) conservation practice standards: Codes 430DD; 430EE; 634; and 516.

PURPOSES:

1. Convey water from a supply source to points of use for livestock, wildlife, or recreation.
2. Transfer plant and animal waste for further utilization.
3. Convey and manage irrigation water and reduce water conveyance loss.

CRITERIA:

1. Pipelines constructed in wetlands must be backfilled with the material removed from the trench.
2. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States, including wetlands.
3. Trench excavation material may be temporarily sidecast in waters of the United States, for up to 3 months, provided the material is not placed in such a manner that it is dispersed by flows, currents, or other events.
4. Sidecast material must not inhibit flows into streams and/or wetlands.
5. Pipelines must avoid wetland impacts to the maximum extent practicable.
6. The written notification must include a detailed map depicting the location of all channel and/or wetland crossings.
7. The written notification must include a revegetation plan for the impacted riparian zones and will follow NRCS recommendations based on the Field Office Technical Guide standards. The seeding plan cannot include Reed canary grass (*Phalaris arundinacea*) or any other exotic or invasive species.
8. Pipelines with waste, must not discharge into waters of the United States, including wetlands.
9. Operation and/or maintenance corridors shall be limited to the minimal width necessary. The notification shall include rationale for the necessary width.

APPENDIX 4 SUMMARY TABLE

Scenario / Application	Authorization under GP	Mitigation Required
Pipelines with waste designed to discharge in waters of the United States	No	Not Applicable
Pipelines requiring temporary sidecasting in waters of the United States	Yes	No, criteria 3 & 4 address sidecast material

APPENDIX 5 Spring and Seep Developments

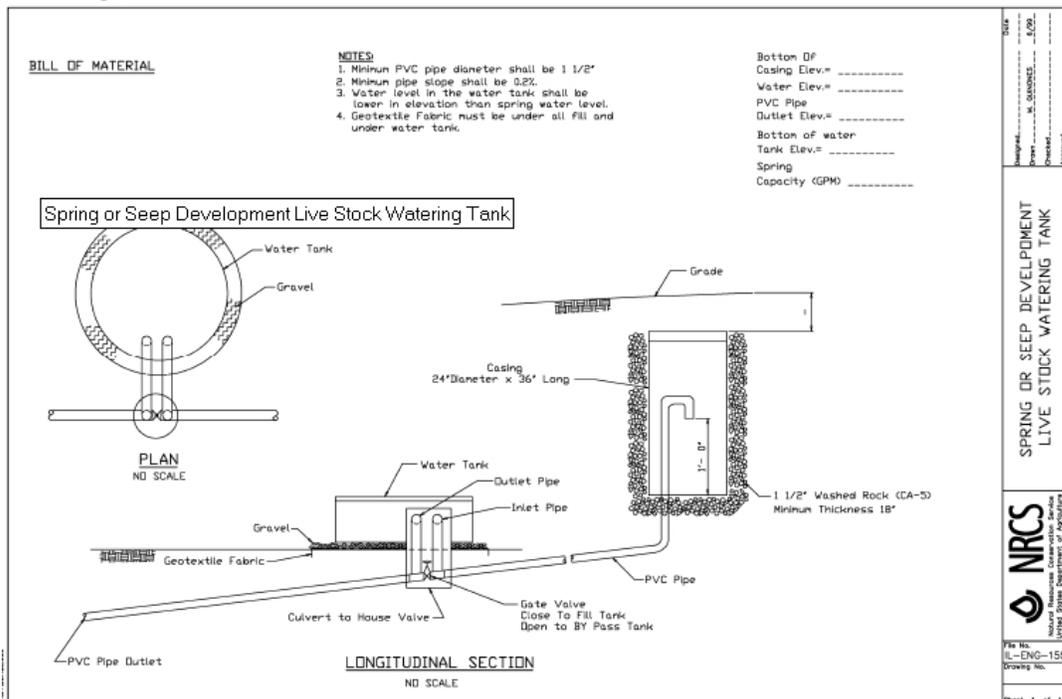
DEFINITION: Collection of water from springs or seeps to provide water for a conservation need. Typically, springs are defined as point source flows where ground water intercepts the surface. Seeps are generally broader areas where ground water intercepts the surface but does not provide a point source surface flow. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 574.

PURPOSES: Improve the quantity and/or quality of water for livestock, wildlife, or other agricultural uses as well as the improvement of grazing distribution on rangeland.

CRITERIA:

1. Areas surrounding the created/improved watering facilities, where animal concentrations or overflow from the watering facility will cause resource concerns, must be protected to maintain or improve water quality.
2. Heavy use protection areas, in conjunction with the spring / seep development, are authorized by this GP.
3. Spring and seep developments, constructed in conjunction with pipeline conveyances, are authorized under this GP.
4. Spring and seep overflow shall be returned, via a stable outlet, to its original drainage course to ensure that aquatic habitats are preserved.
5. Spring and seep developments used to irrigate crops are not authorized under this GP.

DRAWING 1: Typical spring development (Source: NRCS Engineering Standard Drawings).



APPENDIX 6

Ponds

DEFINITION: A water impoundment made by constructing an embankment or by excavating a pit or dugout. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 378.

PURPOSES: To provide water for livestock, fish and wildlife, fire control, and other related uses and to maintain or improve water quality.

EXEMPTIONS: Some ponds are exempt pursuant Section 404(f)(1)(c) and the Corps will make that determination.

CRITERIA:

1. Impoundments shall be constructed in environments where failures will not cause the loss of life, damage to homes, highways, roadways; or interruption of the use or service of public utilities.
2. Ponds that have storage capacities of greater than 15 acre feet, at the principal spillway elevation, are not authorized under this GP.
3. Written notification must include the intended purpose(s) of the proposed pond.
4. All exposed surfaces of embankments, auxiliary spillways, outlet channels, borrow areas, spoil, and other disturbed areas adjacent to the reservoir must be seeded to native grasses.
5. Native grasses and vegetation must be recommended by the local NRCS office, adapted to the soil type and climate, and must not include Reed canary grass (*Phalaris arundinacea*) or any other exotic or invasive species.
6. Exclusionary fencing shall be installed to prevent livestock access to the reservoir area, dam, and auxiliary spillway.
7. Ponds constructed for the sole purpose of recreation are not authorized under this GP.
8. The upstream and downstream side slopes of proposed embankments shall not be steeper than 3:1 and 2.5:1 respectively.
9. All impoundments authorized under this GP must meet the mandatory mitigation requirements set forth in stream mitigation guidelines/methods approved by the Corps of Engineers, Kansas City District (KCD).
10. Written notification must include the completed mitigation method worksheets, documenting the appropriate debits and credits associated with the project. The Kansas City District approved stream mitigation methods can be located on the District's Regulatory website at:
<http://www.nwk.usace.army.mil/Missions/RegulatoryBranch/StateofKansas.aspx>

APPENDIX 6 (cont'd)

APPENDIX 6 SUMMARY TABLE

Scenario / Application	Authorization under RGP	Mitigation Required
Multi-use ponds exceeding 15 acre feet storage capacity at the principle spillway elevation	No	Not applicable
Multi-use ponds with storage capacity \leq 15 acre feet at the principle spillway elevation	Yes	Yes, those set forth in the KCD approved stream mitigation methods/guidelines
Ponds constructed for the sole purpose of recreation	No	Not applicable

APPENDIX 7 Diversions

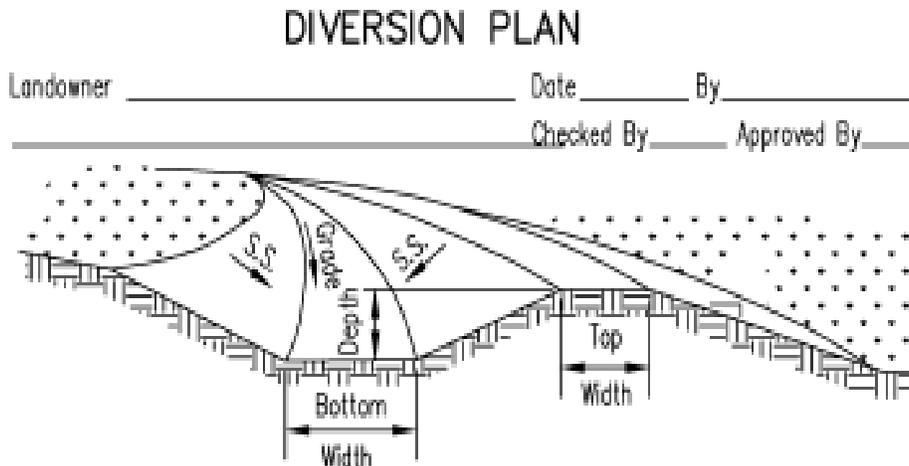
DEFINITION: An artificial channel constructed to divert water from a specific location and direct flow to a desired location. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 362.

PURPOSE: Divert channel flows away from existing feedlot and/or KDHE registered animal feeding operation to eliminate water pollution and improve downstream water quality.

CRITERIA:

1. The proposed diversion must be constructed within an existing feedlot.
2. Diversions constructed to separate clean water runoff and flow from existing agricultural waste facilities are authorized by this GP.
3. Diversion channels built in conjunction with other agricultural waste treatment system improvements are authorized, provided the purpose of the diversion is not to accommodate expanding additions and facilities. Further, if the facility improvements or additions require the diversion of a clean water stream, the project is not authorized by this GP.
4. Diversion channels designed with permanently vegetated channels, must be seeded to grass(es) recommended by the local NRCS office, adapted to soil type and climate, and must not include exotic and invasive species, including Reed canary grass (*Phalaris arundinacea*).
5. Diversions constructed in conjunction with stable outlets such as grassed waterways, grade stabilization structures, waste storage facilities, solid/liquid waste separation facilities, waste treatment lagoons and wastewater treatment strips, are authorized by this GP.
6. Diversions that result in the loss of wetland resources are not authorized under this GP.

DRAWING 1: Typical diversion (Source: NRCS Engineering Standard Drawings).



APPENDIX 7 (cont'd)

APPENDIX 7 SUMMARY TABLE

Scenario/ application	Authorization under RGP	Mitigation Required
Diversions constructed in existing feedlot/KDHE registered facilities	Yes, where the purpose is to separate clean water from contaminated water	Possible, case specific
Diversions constructed to relocate existing channels to accommodate the expansion of an existing feedlot/KDHE registered facility	No	Not applicable
Diversions constructed in association with a new feedlot/KDHE registered facility	No	Not applicable
Diversions constructed in conjunction with other NRCS approved waste treatment and conservation practices (Criterion No. 5)	Yes, where the purpose is to separate clean water from contaminated water as part of an overall improvement or conservation plan to an existing feedlot facility	Possible, case specific

APPENDIX 8
Water and Sediment Control Basins

DEFINITION: An earthen embankment or a combination ridge and channel generally constructed across the slope and minor watercourses to form a sediment trap and water detention basin. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 638.

PURPOSES:

1. Reduce watercourse erosion.
2. Trap sediment.
3. Reduce and manage downstream runoff.
4. Improve downstream water quality.

CRITERIA:

1. This General Permit (GP) does not authorize the construction of water and sediment control basins in wetlands.
2. Water and sediment control basins constructed in conjunction with approved grassed waterways, diversions or other approved practices, are authorized under this GP.
3. Water and sediment control basins must be designed with approved spillways, underground outlets, or soil infiltration outlets.
4. Water and sediment control basins must be constructed in either artificial channels (diversions or waterways) or farmed channels. Those proposed for construction in natural stream channels are not authorized under this GP.
5. Disturbed areas and newly constructed structures must be seeded /planted to grass(es) recommended by the local NRCS office, adapted to soil type and climate, and must not include exotic and invasive species, including Reed canary grass (*Phalaris arundinacea*).

APPENDIX 8 SUMMARY TABLE

Scenario / Application	Authorized under RGP	Mitigation Required
Water and sediment basins constructed in wetlands or natural stream channels	No	Not applicable
Water and sediment basins constructed in conjunction with approved grassed waterways, diversions, or other approved practices	Yes	Possible, case specific.

APPENDIX 9

Wetland Creation, Enhancement and Restoration

DEFINITION: The creation of a wetland on a site that was historically non-wetland; the rehabilitation of a degraded wetland, reestablishment of a wetland so that soils, hydrology, vegetative community, and habitat are a close approximation of the original natural condition; or the inundation of lands to provide habitat for fish and/or wildlife. Applicable conservation practice standards: Codes 356; 646; 657; 658; and 659.

PURPOSES:

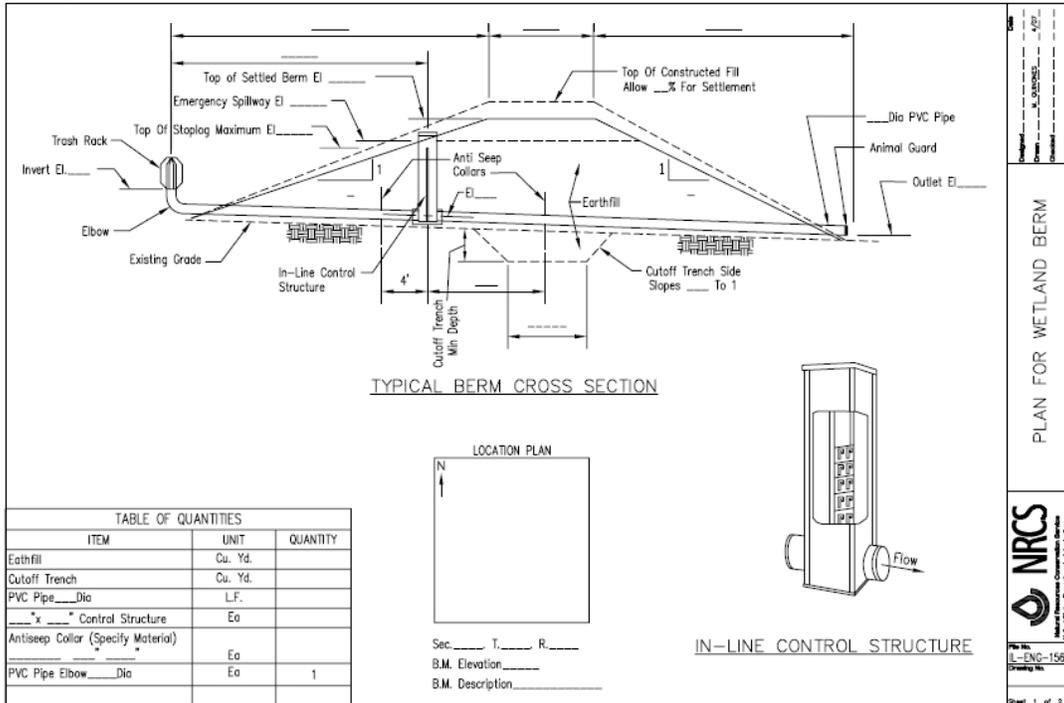
1. Create wetland functions
2. Restore wetland functions, values, habitat and diversity
3. Provide habitat for wildlife species such as shorebirds, waterfowl, wading birds, mammals, fish, reptiles, amphibians, etc.
4. Provide specific wetland conditions for targeted functions and species

CRITERIA:

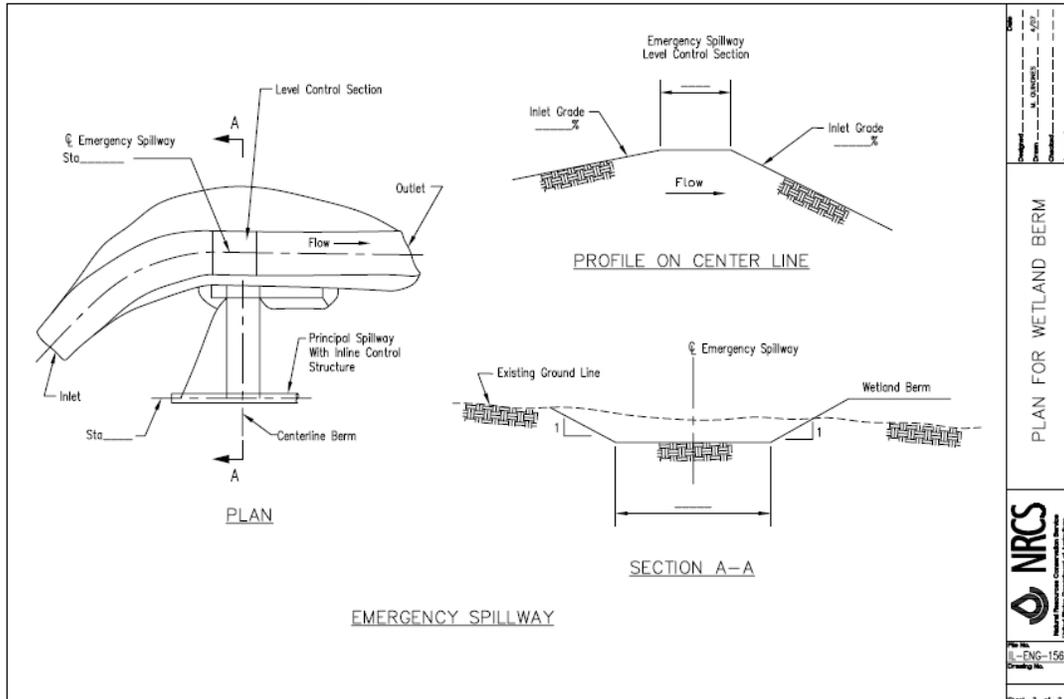
1. The conversion of natural wetlands to another aquatic habitat is not authorized under this General Permit (GP).
2. Activities must result in a net gain in aquatic resource functions and services for authorization under this GP.
3. Activities resulting in a net loss of wetlands are not authorized under this GP.
4. The written notification must include a vegetation plan that must consist entirely of native plant species that are endemic to the area, recommended by the local Natural Resources Conservation Service (NRCS) office, are adapted to the soil type and climate, and must exclude Reed canary grass (*Phalaris arundinacea*).
5. This GP does not authorize the diversion of water supply from other wetland resources.
6. The conversion of a stream to a wetland resource is authorized under this GP, provided the required mitigation requirements, as outlined in Kansas City District approved stream mitigation methods for the state of Kansas, are met. Written notification must include the completed mitigation method worksheets, documenting the appropriate debits and credits associated with the project. The Kansas City District approved stream mitigation methods are located on the District's Regulatory website at:
<http://www.nwk.usace.army.mil/Missions/RegulatoryBranch/StateofKansas.aspx>.
7. Wetlands constructed on streams, must not exceed 15 acre feet storage capacity at the principal spillway elevation.
8. Dikes constructed in association with approved wetland practices shall have a top width not less than 8 feet and side slopes not steeper than 2:1 horizontal to vertical.

APPENDIX 9 (cont'd)

DRAWING 1: Typical wetland berm cross section (Source: NRCS Engineering Standard Drawing).



DRAWING 2: Typical constructed wetland emergency spillway (Source: NRCS Engineering Standard Drawing).



APPENDIX 9 (cont'd)

Scenario / Application	Authorization under RGP	Mitigation Required
Restoration of a historic wetland site	Yes	No
Enhancement of an existing wetland resource	Yes	No
Conversion of natural wetlands to another aquatic habitat	No	Not applicable
Conversion of a stream to a wetland resource	Yes	Yes, see criteria Nos. 5 & 6

APPENDIX 10
Threatened & Endangered Species

The following locations and waters are located within the known range of Federally listed threatened, endangered, or candidate species. The requirements of special condition “e” apply to the following listed species:

- a. **Arkansas River** – That portion flowing through Barton, Cowley, Edwards, Finney, Ford, Gray, Hamilton, Kearny, Kiowa, Pawnee, Reno, Sedgwick and Sumner Counties, excluding that reach upstream of the Kansas Route 27 bridge in Hamilton County and a 12.4 mile reach within the City of Wichita metropolitan area, extending from the westbound land of Kansas Route 96 downstream to Interstate 35 (Arkansas River Shiner, *Notropis girardi*) (Interior Least Tern, *Sterna antillarum* in Sedgwick County only).
- b. **Cimarron River** - That portion flowing through Clark, Comanche, and Meade Counties (Interior Least Tern, *Sterna antillarum* and Arkansas River Shiner, *Notropis girardi*).
- c. **Cottonwood River** - From the point of discharge of Marion Dam to its confluence with the Neosho River in Lyon County (Neosho Madtom, *Noturus placidus*).
- d. **South Fork Cottonwood River** – Downstream of Bazzarr to confluence with Cottonwood River (Neosho Madtom, *Noturus placidus*).
- e. **Neosho River** - From the point where it discharges from Council Grove Reservoir in Morris County to the point where it leaves Lyon County and from the point where it discharges from John Redmond Reservoir in Coffey County to the Kansas-Oklahoma border in Cherokee County (Neosho Madtom, *Noturus placidus*).
- f. **Spring River** - The entire main stem portion within the state of Kansas in Cherokee County (Neosho Madtom, *Noturus placidus*).
- g. **Cow Creek and tributaries** - A 144 square mile area within Crawford County whose western boundary is highway K-7, whose southern boundary is the Crawford/Cherokee county line, whose eastern boundary is the Kansas/Missouri state line and whose northern boundary is highway K-57 east of the town of Girard extended to the state line. Also included in this area is all of Cow Creek in Cherokee County (Gray Bat, *Myotis grisescens*).
- h. **Kansas River** – From its origin in Geary County downstream to Lecompton in Shawnee County (Interior Least Tern, *Sterna Antillarum* and Piping Plover, *Charadrius melodus*). Portions of the lower Kansas River in Atchinson, Doniphan, Douglas, Jefferson, Leavenworth, and Wyandotte counties (Pallid sturgeon, *Scaphirhynchus albus*).
- i. **Missouri River** – Portions of the Missouri River in Atchinson, Doniphan, Douglas, Jefferson, Leavenworth, and Wyandotte counties (Pallid sturgeon, *Scaphirhynchus albus*).

- j. The following locations may contain the Topeka Shiner, *Notropis topeka*, which has been listed as endangered:
1. **Butler County** – Headwaters of the South Fork Cottonwood River (Sec. 4, 9, 16 & 21 T23S, R8E).
 2. **Chase County** – Bloody Creek, Collett Creek, Diamond Creek, Gannon Creek, Jack Creek, Little Cedar Creek, Mercer Creek, Mulvane Creek, Rock Creek, Schaeffer Creek, Shaw Creek, Unnamed tributary of Thurman Creek (Sec. 31 & 32 T22S, R9E), Unnamed tributary of Mercer Creek (Sec. 30 & 31 T22S, R 8E), Middle Creek, Unnamed tributary of Middle Creek (Sec. 4, 9 & 10 T19S, R6E), Unnamed tributary of Diamond Creek (Sec. 9 T19S, R7E), Unnamed tributary of Fox Creek (Sec. 31 T18S, R8E).
 3. **Dickinson County** – Cary Creek, Middle Branch Lyons Creek, Rock Springs Creek, West Brach Lyons Creek.
 4. **Geary County** – Rock Springs Creek, Davis Creek.
 5. **Greenwood County** – Thurman Creek, Unnamed tributaries of Thurman Creek (Sec. 6 T23S, R9E; Sec. 1 T23S, R8E).
 6. **Marion County** – Collett Creek, Middle Creek, Mud Creek.
 7. **Marshall County** - North Elm Creek, Clear Fork Creek.
 8. **Morris County** - Collett Creek, Middle Creek, Tributaries to Diamond Creek.
 9. **Pottawatomie County** - Clear Fork Creek.
 10. **Riley County** – Deep Creek, Seven-Mile Creek, Little Arkansas Creek, Walnut Creek, Wildcat Creek.
 11. **Shawnee County** – Mission Creek.
 12. **Wabaunsee County** – East Branch Mill Creek, Hendricks Creek, Illinois Creek, Kuenzli Creek, Loire Creek, Mission Creek, Mulberry Creek, Nehring Creek, Paw Paw Creek, Spring Creek (Paxico), Spring Creek (Tributary of West Branch Mill Creek), South Branch Mill Creek, West Branch Mill Creek.
 13. **Wallace County** - Willow Creek.
- k. The following waterways maintain critical habitat for the Whooping Crane, *Grus americana*:
1. **Walnut Creek** – in Ness, Rush and Barton Counties which feeds Cheyenne Bottoms.
 2. **Cheyenne Bottoms** – All water bodies within Cheyenne Bottoms.
 3. **Rattlesnake Creek** – in Edwards, Stafford and Pratt Counties which feeds Quivera National Wildlife Refuge.
 4. **Quivira National Wildlife Refuge** – All water bodies within Quivera National Wildlife Refuge.

5. In addition to the listed waterways, whooping cranes may be found in Clark, Cloud, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Graham, Gray, Harper, Harvey, Haskell, Hodgeman, Jewell, Kearny, Kingman, Kiowa, Lane, Lincoln, McPherson, Meade, Mitchell, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Scott, Sedgwick, Seward, Sheridan, Smith, Stafford, Stanton, Sumner and Trego counties.
- l. The following counties contain confirmed populations of Meads milkweed, *Asclepias meadii* which has been listed as threatened.
 1. Allen, Anderson, Bourbon, Coffey, Crawford, Douglas, Franklin, Jefferson, Johnson, Leavenworth, Linn, Miami, and Neosho.
 - m. The following counties contain confirmed populations of Western prairie fringed orchid, *Platanthera praeclara* which has been listed as threatened.
 1. Douglas, Jefferson, Leavenworth, Linn, Miami, and Neosho.
 - n. The following counties contain populations of American burying beetle, *Nicrophorus americanus* which has been listed as endangered.
 1. Chautauqua, Elk, Montgomery, Labette and Wilson.
 - o. Logan County has a experimental population of Black Footed Ferrets (*Mustela nigripes*), which is listed endangered.
 - p. The following list includes locations, waterways or habitats for the Federal candidate species listed below:
 1. **Arkansas darter**, *Etheostoma cragini*, in vegetated wetlands and springfed pools in the mainstem and tributaries to the Arkansas, Cimarron, Medicine Lodge, Chikaskia, Ninnescah, and Spring Rivers in Barber, Barton, Cherokee, Clark, Comanche, Cowley, Harper, Kingman, Kiowa, Meade, Pratt, Reno, Rice, Sedgwick, Seward, Stafford, Morton and Sumner Counties.
 2. **Neosho mucket**, *Lampsilis rafinesqueana*, in riverine runs, shoals, and riffles with gravel substrates and moderate currents in the Fall, Verdigris, Neosho, Cottonwood, and Spring Rivers in Allen, Cherokee, Coffey, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson, and Woodson Counties.
 3. **Spectaclecase**, *Cumberlandia monodonta*, in the Marais des Cygnes River in Linn County.
 4. **Lesser prairie-chicken**, *Tympanuchus pallidicinctus*, found in shortgrass and sandsage prairie and some cropland in Barber, Clark, Comanche, Edwards, Ellis, Finney, Ford, Gove, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Lane, Logan, Meade, Morton, Ness, Pawnee, Pratt, Rush, Scott, Seward, Sherman, Stafford, Stanton, Stevens, Trego, Wallace, and Wichita counties.

APPENDIX 11

Subsurface Drainage

DEFINITION: A conduit, such as corrugated plastic tubing, tile, or pipe, installed beneath the ground surface to collect and/or convey drainage water. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 606.

PURPOSE: To improve the soil environment for vegetative growth, reduce erosion, and improve water quality by:

1. Regulating water table and ground water flows.
2. Intercepting and preventing water movement into a wet area.
3. Serving as an outlet for other subsurface drains.

SPECIAL CONDITIONS:

1. Subsurface drains authorized by this GP must be constructed within a grassed waterway and meet requirements of Kansas Minimal Effect Exemption: KS-2 Terrace System Upgrade from Grassed Waterway/Vegetated Outlet to a Shaped Grassed Waterway with Subsurface Drainage Worksheet.
2. Disturbed areas must be revegetated with grasses recommended by the local NRCS office, excluding Reed canary grass (*Phalaris arundinacea*) and other exotic or invasive species, as soon as practicable.
3. Subsurface drains must discharge into an underground outlet or onto an area either stabilized with vegetation (i.e., grassed waterway, critical area planting, buffer vegetation), a vegetative splash pad as illustrated in the attachments for the Kansas Minimal Effect Exemptions, or other similar area approved by NRCS.
4. Subsurface drains **may not** discharge directly into a stream.
5. Trench excavation material may be temporarily side cast in waters of the United States, for up to 3 months, provided the material is not placed in such a manner that it is dispersed by flows, currents, or other events.
6. Subsurface drain rehabilitation/maintenance associated with the rehabilitation/maintenance of a grassed waterway is authorized by this GP.
7. This practice is limited to existing grassed waterways and other stable outlets built before December 23, 1985.
8. The drainage area must be equal to or less than 120 acres.

KANSAS MINIMAL EFFECT EXEMPTION: KS-2 TERRACE SYSTEM UPGRADE FROM GRASSED WATERWAY/VEGETATED OUTLET TO A SHAPED GRASSED WATERWAY WITH SUBSURFACE DRAINAGE WORKSHEET

Landowner		Tract	
County		Legal	

1) Were the terraces and/or waterway installed before December 23, 1985

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

2) Is the potential wetland dominated by vegetation such as willow or cottonwood trees or reed canarygrass

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If either 1 or 2 are No, the exemption does not apply

3) Is the waterway/vegetated outlet dominated by introduced grasses such as brome or fescue

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

4) Does the drainage area contribute to an impaired water body

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If the answer to 4 is yes, list the impairment
<http://www.kdheks.gov/tmdl/index.htm>

If the answer to 4 is yes, have best management practices been considered to reduce the maximum pollutant load for the impairment

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

5) Exemption Calculation: Yes = 0.1, No = 0.3

a.) The area is an outlet for a terrace system

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

b.) Gully erosion (classic or ephemeral) is occurring within or parallel to the grassed waterway/vegetated outlet

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c.) The grassed waterway/vegetated outlet is = or < 150 feet wide

<input type="checkbox"/>	<input type="checkbox"/>	Actual	
--------------------------	--------------------------	--------	--

d.) Drainage area is '= or < 120 acres

<input type="checkbox"/>	<input type="checkbox"/>	
--------------------------	--------------------------	--

e.) Grassed waterway/vegetated outlet grade is '= or > 3 percent

<input type="checkbox"/>	<input type="checkbox"/>	
0.0		

If the score is 0.5 it Meets the exemption
 If the score is 0.6 or more it Does Not meet the exemption

I certify the information in this Minimal Effect Exemption Worksheet.

Signature Date

Has the CPA-52 been completed: Yes No

NOTE: If questions 1 and 2 are answered yes, the area will be Prior Converted Cropland (reference National Food Security Act Manual, 514.30)

NOTE: For subsurface drain guidance or manure application to a crop field see Engineering Guidance Document for KS-1 and attachments

pw: water

APPENDIX 12

Underground Outlets

DEFINITION: A conduit installed beneath the surface of the ground to collect surface water and convey it to a suitable outlet. Applicable Natural Resources Conservation Service (NRCS) conservation practice standard: Code 620.

PURPOSE: To dispose of excess water from terraces, diversions, subsurface drains, surface drains, trickle tubes, principal spillways from dams (outside the dam area only), or other concentrations without causing damage by erosion or flooding.

SPECIAL CONDITIONS:

1. Underground outlets authorized by this General Permit (GP) must be constructed to meet requirements of Kansas Minimal Effect Exemption: KS-1 Terrace System Conversion from Grassed Waterway/Vegetated Outlet to Underground Outlet Worksheet.
2. Vegetation establishment associated with underground outlets must exclude Reed canary grass (*Phalaris arundinacea*) and other exotic or invasive species.
3. Underground outlets must discharge onto an area either stabilized with vegetation (i.e., grassed waterway, buffer vegetation), vegetative splash pad as illustrated in the attachments for the Kansas Minimal Effect Exemptions, or other similar area approved by NRCS.
4. Underground outlets **may not** discharge directly into a stream.
5. Trench excavation material may be temporarily side cast in waters of the United States, for up to 3 months, provided the material is not placed in such a manner that it is dispersed by flows, currents, or other events.
6. Drainage must be equal to or less than 80 acres.

**KANSAS MINIMAL EFFECT EXEMPTION: KS-1 TERRACE SYSTEM CONVERSION
FROM GRASSED WATERWAY/VEGETATED OUTLET TO UNDERGROUND OUTLET WORKSHEET**

Landowner Tract
 County Legal

1) Were the terraces and/or waterway installed before December 23, 1985 Yes No

2) Is the potential wetland dominated by vegetation such as willow or cottonwood trees or reed canarygrass Yes No

If either 1 or 2 are No, the exemption does not apply

3) Is the waterway/vegetated outlet dominated by introduced grasses such as brome or fescue Yes No

4) Does the drainage area contribute to an impaired water body Yes No

If the answer to 4 is yes, list the impairment
<http://www.kdheks.gov/tmdl/index.htm>

If the answer to 4 is yes, have best management practices been considered to reduce the maximum pollutant load for the impairment Yes No

5) Exemption Calculation: Yes = 0.1, No = 0.3
 a.) The area is an outlet for a terrace system Yes No
 b.) Gully erosion (classic or ephemeral) is occurring within or parallel to the grassed waterway/vegetated outlet Yes No

c.) The grassed waterway/vegetated outlet is = or < 150 feet wide Yes No Actual

d.) Drainage area is = or < 80 acres Yes No Actual

e.) Grassed waterway/vegetated outlet grade is = or > 3 percent Yes No Actual

Score 0.0

If the score is 0.5 it Meets the exemption
 If the score is 0.6 or more it Does Not meet the exemption

I certify the information in this Minimal Effect Exemption Worksheet
 Signature Date

Has the CPA-52 been completed: Yes No

NOTE: If questions 1 and 2 are answered yes, the area will be Prior Converted Cropland (reference National Food Security Act Manual, 514.30)

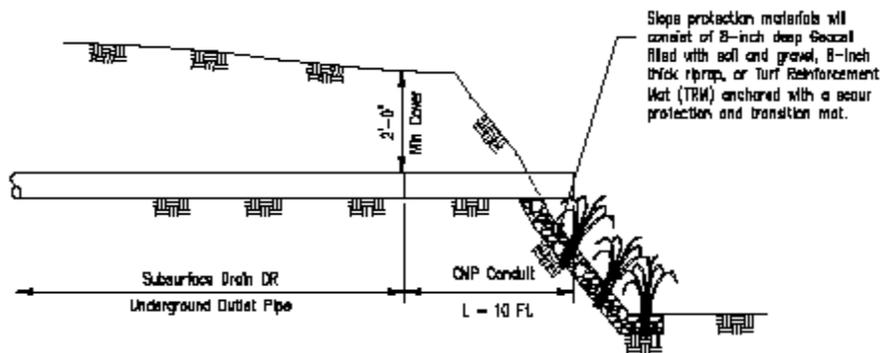
NOTE: If a terrace and underground outlet system is replacing a grassed waterway/vegetated outlet or manure is being applied to a crop field see Engineering Guidance Document for KS-1 Exemption and attachments

pw: water

Vegetated Splash Pad Designs for Subsurface Drain and Underground Outlets

Attachment #1 to Engineering Guidance Document for KS-1 Exemption,

Vegetated Splash Pad on Channel Bank

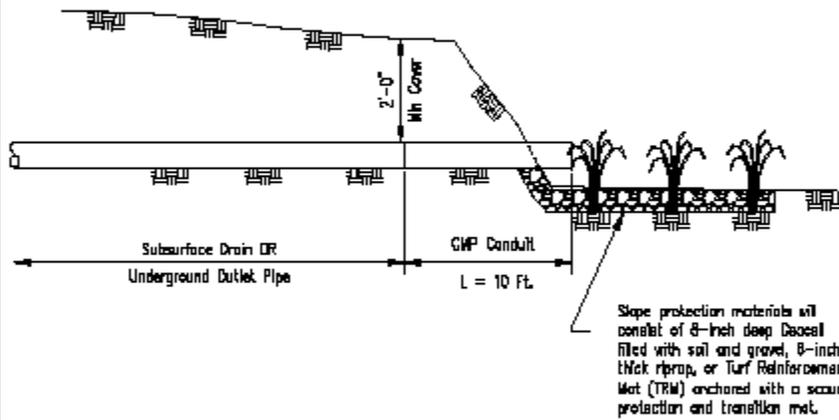


Notes:

1. Plant vegetation prior to placing 8-inch riprap or TRM, if used.
2. The 8-inch geocell will be filled with 2" of soil material at the bottom and then filled to the top of the geocell with 3-inch gravel material.
3. Plant vegetation in soil material prior to placement of gravel material.
4. Minimum width of slope protection will be 8 feet.
5. Minimum length of slope protection will be 10 feet.

 <small>NRCS</small> <small>National Resource Conservation Service</small> <small>United States Department of Agriculture</small>	VEGETATED SPLASH PAD DETAIL Outlet on channel bank	Checked _____ Drawn _____ Prepared _____ Approved _____
--	--	--

Vegetated Splash Pad near Channel Bottom



Notes:

1. Plant vegetation prior to placing 8-inch riprap or TRM, if used.
2. The 8-inch geocell will be filled with 2" of soil material at the bottom and then filled to the top of the geocell with 3-inch gravel material.
3. Plant vegetation in soil material prior to placement of gravel material.
4. Minimum width of slope protection will be 8 feet.
5. Minimum length of slope protection will be 10 feet.

KS-1-016-2
Sheet 1 of 1



VEGETATED SPLASH PAD DETAIL
Outlet on channel bottom

Checked _____
Drawn _____
Designed _____
Approved _____

March 12, 2013

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:

The Kansas Department of Health and Environment (KDHE) is charged with protecting the waters of the state typically through financial, educational, technical and regulatory means. KDHE, pursuant to Section 401 of the Clean Water Act, must evaluate 404 permits and certify the permitted activity is not likely to violate state water quality standards or cause a water quality complaint.

KDHE has reviewed the existing 401 Water Quality Certification for General Permit 40. Based upon recent information from a Government Accountability Report (GAO 12 334, May 2012, Page 42)

“According to NRCS technical documents, some conservation practices could have unintended, negative effects on water quality if installed without the proper “companion practices” capable of mitigating the potential negative effects. This is due to the fact that EQIP-funded practices may have distinct purposes, such as to reduce soil loss or improve soil conditions for agriculture, which are not oriented toward improving water quality.” For example, NRCS often funds underground outlet systems, which help move surface water to a “suitable outlet,” such as a drainage ditch, to reduce soil erosion. Such systems can help conserve soil, but NRCS conservation practice physical effects assessments show that such systems can also help transport nutrients (nitrogen and phosphorus) and pesticides from nutrient-laden fields into outlets that in turn feed nearby water bodies.”

Additionally, there has been a concentrated effort supported by all of the state natural resources agencies to implement the Kansas Nutrient Reduction Framework, therefore KDHE believes modifications to the 401 Water Quality Certification are warranted. The modifications to the 401 Water Quality Certification are limited to Conservation Practice 620: Underground Outlets, in which the receiving stream has a Total Maximum Daily Load or 303d cited impairment for excessive nutrients (i.e. nitrogen and phosphorus), stressed aquatic biology, deficient dissolved oxygen, or excessive pesticides.

KDHE recognizes the limited amount of research available regarding the quality of water discharged by Underground Outlets, as well as suggested companion practices that may be installed to assure additional

treatment of discharged water. However, limited data from studies listed below show evidence prompting our concern.

- 1) E. E. Alberts and R. G. Spomer. 1985. Dissolved nitrogen and phosphorus in runoff from watersheds in conservation and conventional tillage. *Journal of Soil and Water Conservation* 1985 40(1):153-157;
- 2) S. Thornley and A. W. Bos. 1985. Effects of livestock wastes and agricultural drainage on water quality: An Ontario case study. *Journal of Soil and Water Conservation* 1985 40(1):173-175;
- 3) M. G. Dosskey, M. J. Helmers, D. E. Eisenhauer, T. G. Franti, and K. D. Hoagland. 2002. Assessment of concentrated flow through riparian buffers, *Journal of Soil and Water Conservation* 2002 57(6):336-343.)

Therefore, KDHE has modified the 401 certification to include special conditions to aid in assuring that the installation of Underground Outlets (Conservation Practice 620) are not likely to violate water quality standards. The special conditions are intended to be limited to NRCS Engineering Guidance Documents and Exemption Worksheets, strongly considered or recommended. The goal is to strike a balance between minimizing the possible threat to water quality in already impaired waters, without over burdening the landowner seeking a GP 40 permit.

This GP 40 expires on March 18, 2018 and at that time it may be reissued. Between 2013 and 2017, KDHE intends to partner with appropriate agencies to investigate the water quality discharged by an Underground Outlet and appropriate companion practices to further reduce discharged pollutants.

Please contact Mr. Scott Satterthwaite by calling, 785-296-5573 or by emailing him at ssatterthwaite@kdheks.gov for more information.

Sincerely,



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

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

REQUEST FOR GP-40 AUTHORIZATION

(NOTE: All fields are required)

1. APPLICANT NAME:

Address:

Address:

Phone:

2. WATERBODY(s):

3. LOCATION:

_____ Section _____ Township _____ South, Range _____

4. ACTIVITY:

5. APPLICABLE NRCS PRACTICE CODE(s):

6. PROJECT DESCRIPTION:

7. PROJECT PURPOSE:

8. VEGETATION PLAN: _____ If Other, explain:

9. NRCS DESIGN, FUNDING OR CERTIFIED TSP:

10. NRCS PROGRAM:

11. ATTACHMENTS:

- Location Map
- Aerial Photograph
- Plans/Drawings
- Mitigation Worksheets (for Required Activities Only)

12. REQUESTING OFFICIAL:

Name:

Date:

**Instructions for Preparing a
Request for GP-40 Authorization Form**

Block 1. Applicant's Name. Enter the name of the responsible party or parties. If the responsible party is a trust, corporation, or other organization, indicate the responsible point of contact and title. If more than one party is associated with the request, please attach a sheet with the necessary information marked Block 1 (cont'd).

Block 2. Waterbody(s). Please select the appropriate option from the drop-down menu and provide the name of any stream, lake, marsh or other waterway to be directly impacted by the activity. If it is an unnamed stream, identify the nearest named waterbody the unnamed stream enters. If multiple types of waterbodies are to be impacted, select "Multiple" and identify all.

Block 3. Location. Select the appropriate descriptive abbreviation and provide the Section, Township and Range of the site.

Block 4. Activity. Select one of the nine options from the drop-down menu that best describes the NRCS designed or approved activity.

Block 5. Applicable NRCS Practice Code(s). List the NRCS Practice Codes that would be implemented for the proposed project.

Block 6. Project Description. Describe the overall activity or project. Give appropriate dimensions of structures, waterways, diversions, ponds, etc..

Block 7. Project Purpose. Describe the purpose and need for the project. This description should include what the project will be used for and why.

Block 8. Vegetation Plan. Select an option from the drop-down menu that accurately describes the proposed seeding/vegetation type for disturbed areas and/or mitigation areas. If the vegetation plan differs from the options provided or requires additional remarks, please explain in the space provided or attach a sheet with the necessary information marked Block 8 (cont'd).

Block 9. NRCS Design, Funding or Certified TSP. Select the appropriate option from the drop-down menu that best describes the extent of NRCS involvement in the project. (Note: all options indicate NRCS approval).

Block 10. NRCS Program. Select the appropriate option from the drop-down menu. If "other" please explain in the space provided.

Block 11. Attachments. Attach appropriate and/or required documents and check corresponding boxes. At minimum, all requests must include a Location Map, with the project site clearly identified on the map. (Note: Required documents depend on the proposed activity and mitigation requirements as outlined in the GP-40.)

Block 12. Requesting Official. The Request Form must include the name of the requesting official. The requesting official must be either NRCS staff or a Certified Technical Service Provider (TSP) to qualify for GP-40 authorization. The date should be entered to reflect the actual date of the request (mailed, emailed, or otherwise submitted to the Corps).

COMPLIANCE CERTIFICATION

Special condition "d" 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 Kansas City District at the address shown at the bottom of this page upon completion of the project.

APPLICATION NUMBER: ENTER PERMIT NUMBER

APPLICANT: ENTER APPLICANT NAME
ADDRESS

PROJECT LOCATION: ENTER LOCATION DESCRIPTION

- 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 paragraphs a and b above.

(PERMITTEE)

(DATE)

Return this certification to:

SELECT CORRECT OFFICE:

U.S. Army Corps of Engineers
Kansas City District
601 East 12th Street, Suite 402
Kansas City, MO 64106-2824

U.S. Army Corps of Engineers
Kansas State Regulatory Office
2710 NE Shady Creek Access Road
El Dorado, KS 67042

U.S. Army Corps of Engineers
Kanopolis Satellite Office
107 Riverside Drive
Marquette, KS 67464