

# PUBLIC NOTICE



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

**Permit No. GP-40 (2007-1915)  
Issue Date: December 21, 2012  
Expiration Date: January 20, 2013**

**30-Day Notice**

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**STATE OF KANSAS - Including INDIAN COUNTRY  
PROPOSED REISSUANCE OF REGIONAL GENERAL PERMIT GP-40  
NATURAL RESOURCES CONSERVATION SERVICE  
AGRICULTURE CONSERVATION PRACTICES**

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.

**JOINT PUBLIC NOTICE:** This public notice is issued jointly with the Kansas Department of Health and Environment. The Department of Health and Environment will use the comments to this notice in deciding whether to grant Section 401 water quality certification. Commenters are requested to furnish a copy of their comments to the Kansas Department of Health and Environment, Bureau of Water - - Watershed Management Section, 1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367.

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

**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).

**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.

**ADDITIONAL INFORMATION:** Additional information about this application may be obtained by contacting **Luke M. Cory, U.S. Army Corps of Engineers, Kanopolis Regulatory Field Office, 107 Riverside Drive, Marquette, Kansas 67464 at telephone 785-546-2130 (FAX 785-546-2050) or via email at [luke.m.cory@usace.army.mil](mailto:luke.m.cory@usace.army.mil)** All comments to this public notice should be directed to the above address.

**CRITERIA FOR AUTHORIZATION:** All activities authorized by this RGP would require written pre-construction notification (PCN) to the Corps. Applications for Section 404 authorization under this RGP (GP-40) would be evaluated on a case-by-case basis. The Corps reserves the right to require an Individual Permit application in circumstances where the activity is determined to have more than a minimal adverse impact on the aquatic environment or when the proposed project does not meet the cited criteria.

**COMPLIANCE WITH OTHER LAWS:** All applicable statutes, regulations, and administrative policies and agreements, including the National Environmental Policy Act of 1969 as amended, will be considered in the decision to issue this regional general permit.

**STATE AUTHORIZATION:** The applicant has applied for a permit from the Kansas Department of Agriculture pursuant to Kansas Statutes Annotated 82a-301 to 305.

**ENDANGERED SPECIES:** Projects eligible for authorization under this RGP may be located within the known range of Federally listed, threatened or endangered species. All projects located within the known range of any Federally listed species will require consultation with the U.S. Fish and Wildlife Service, pursuant Section 7 of the Endangered Species Act, to determine the potential effects on a particular species or its critical habitat. No activity is authorized under

this RGP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

**PUBLIC INTEREST REVIEW:** The decision to reissue this general permit will be based on an evaluation of the probable impact including the cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, esthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

**COMMENTS:** This notice is provided to outline details of the above-described general permit reissuance so this District may consider all pertinent comments prior to determining if the proposed actions would be in the public interest. Any interested party is invited to submit to this office written facts or objections relative to the proposed actions on or before the public notice expiration date. Comments both favorable and unfavorable will be accepted and made a part of the record and will receive full consideration in determining whether it would be in the public interest to issue the general permit. All comments in response to the public notice should be forwarded to the addresses provided above.

**PUBLIC HEARING:** Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.

**NOTE:** This public notice, the currently approved GP-40 permit authorization, and the “*Request for GP-40 authorization*” form are posted on the Kansas City District Regulatory web page and can be viewed at the following addresses:

<http://www.nwk.usace.army.mil/Media/PublicNotices.aspx>

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/permits/GP-40MODPermit.pdf>

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/permits/GP-40RequestForm.pdf>