

PUBLIC NOTICE



**US Army Corps
of Engineers
St. Louis District**

**Permit No. GP-42M
Issue Date: May 29, 2008
Expiration Date: June 29, 2008**

30-Day Notice

**STATE OF MISSOURI
PROPOSED ISSUANCE OF GENERAL PERMIT GP-42M
FOR BANK STABILAZATION ACTIVITIES**

In accordance with Title 33 CFR 325.2 and 325.7(e), as published in the November 13, 1986, Federal Register, the U.S. Army Corps of Engineers, Kansas City District, in conjunction with the St. Louis District, Rock Island District, Little Rock District, and Memphis District proposes to issue a regional general permit which would authorize bank stabilization activities in Missouri for a period of 5 years.

JOINT PUBLIC NOTICE: This public notice is issued jointly with the Missouri Department of Natural Resources, Water Pollution Control Program. The Department of Natural Resources 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 Mr. Joshua Marx, U.S. Army Corps of Engineers, Kansas City District Office, Room 706, 601 East 12th Street, Kansas City, Missouri 64106 and to the Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102.

AUTHORITY: Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

APPLICANT: General Public

PROJECT LOCATION: State of Missouri

ACTIVITY (As shown on the attached permit): The purpose of the regional general permit is to authorize the placement of fill material for bank stabilization in waters of the United States within the State of Missouri. In order to provide a comprehensive tool to land owners, this general permit is intended to encompass all bank stabilization activities where they have minimal adverse impact including those authorized by Nationwide Permit 13 (Bank Stabilization) in a single permit instrument. The following bank stabilization techniques may be authorized by this regional permit: blanket riprap, seawalls and gabions, alternative bioengineered bank stabilization, bendway weirs, longitudinal peaked stone riprap, minor bank shaping with appropriate stream bank protection techniques, palisade structures, tree revetments and stone hardpoints. The Corps may approve additional alternative design projects not specifically listed provided the project results in minimal adverse impacts. The Corps may add additional special

conditions as deemed appropriate to protect the aquatic environment on a case-by-case basis for any activity authorized under this regional general permit.

DESIGN CONSIDERATIONS AUTHORIZED BY THIS REGIONAL GENERAL PERMIT:

Bendway Weirs: Bendway weirs are a series of low-level, upstream-angled stone sills, attached to the outer bank of a bend. The weirs are angled from 0 to 25 degrees upstream, built of a well graded stone with an upper weight limit of 650 to 1,000 pounds, typically spaced 50 to 150 ft apart, typically 2 ft high at the stream end rising to 4 ft at the bank end, with lengths varying from one quarter to one half the base flow width of the river or stream. Bendway weirs redirect current or flow away from the eroding bank. Bendway weirs should be constructed based on engineering/design principles developed by the U.S. Army Corps of Engineers. Additional information on bendway weirs can be found at the following link:
http://chl.ercd.usace.army.mil/chl.aspx?p=s&a=RD_APPLICATIONS;2

Longitudinal peaked stone riprap: Longitudinal peaked stone riprap is a continuous stone dike placed along the toe of the bank. Riprap is placed in a pyramid or triangular shaped cross section at the toe of an eroding bank without shaping the banks. The riprap should be tied into the bank at both the upstream and downstream ends. Additionally, short riprap dikes should be tied into the bank at regular intervals of between 100 feet and 200 feet.

Hard Points: Hard points are short rock structures which extend only a short distance from the bank and can not singularly or in conjunction with other structures redirect current or flow away from the eroding bank.

Blanket riprap: Bank protection must be less than 1,000 feet in length. Riprap placed should not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark, unless individually authorized by the Corps of Engineers. Applicants proposing to place riprap in excess of one cubic yard per running foot must follow the preconstruction notification procedures in special condition "a".

Tree Revetment: Tree revetments are made by anchoring trees along the stream bank to slow currents and reduce erosion. Additional information on tree revetments for stream bank stabilization can be found at the following link: <http://mdc.mo.gov/fish/streams/revetmen/>

Stream Barbs or Rock Barbs

ADDITIONAL INFORMATION: Additional information about the proposed regional general permit may be obtained by contacting Mr. Joshua Marx, U.S. Army Corps of Engineers, Kansas City District Office, Room 706, 601 E 12th Street, Kansas City, Missouri 64106 at telephone (816) 389-3658 or via email at Joshua.a.marx@usace.army.mil. All comments to this public notice should be directed to the above address.

CRITERIA FOR AUTHORIZATION: Persons wishing to conduct various bank stabilization activities discussed above may be required to submit written applications and obtain written approval in advance from the Corps of Engineers Districts in Missouri. If the proposed projects fall outside of the scope of this regional general permit or if the Corps of Engineers determines, at their discretion, that the project exceeds minimal adverse impacts, an individual permit review will be required.

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.

ENDANGERED SPECIES: In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated a threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies or individuals.

PUBLIC INTEREST REVIEW: The decision to issue a 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 reissue 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 the proposed reissuance of the general permit. Such requests shall state, with particularity, the reasons for holding a public hearing.

DEPARTMENT OF THE ARMY PERMIT

Permittee General Public

Permit No. GP-42M.

Issuing Office U.S. Army Corps of Engineers Districts, Kansas City, St. Louis, Rock Island, Little Rock, Memphis

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 placement of fill material for bank stabilization activities in waters of the U.S. within the State of Missouri. In order to provide a comprehensive tool to land owners, this general permit encompasses all bank stabilization activities where they have minimal adverse impact, including those authorized by Nationwide Permit 13 (Bank Stabilization), in a single permit instrument. The following bank stabilization techniques may be authorized by this regional permit: blanket riprap, seawalls and gabions, alternative bioengineered bank stabilization, bendway weirs, longitudinal peaked stone riprap, minor bank shaping with appropriate stream bank protection techniques, palisade structures, tree revetments and stone hardpoints. The Corps may approve additional alternative design projects not specifically listed provided the project results in minimal adverse impacts. The Corps may add additional special conditions as deemed appropriate to protect the aquatic environment on a case-by-case basis for any activity authorized under this regional general permit.

DESIGN CONSIDERATIONS AUTHORIZED BY THIS REGIONAL GENERAL PERMIT:

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Blanket riprap: Bank protection must be less than 1,000 feet in length. Riprap placed should not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark, unless individually authorized by the Corps of Engineers. Applicants proposing to place riprap in excess of one cubic yard per running foot must follow the preconstruction notification procedures in special condition "p".

Tree Revetment: Tree revetments are made by anchoring trees along the streambank to slow currents and reduce erosion.

Project Location: In all waters of the U.S. in the State of Missouri.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2013. For individually authorized projects where notification is required, the work is authorized for two years from the date of permit verification received from the Corps of Engineers. If you find that you need more time to complete the authorized activity when notification is required, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you

desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

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

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

(x) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorization required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. 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. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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)

ROGER A. WILSON, JR., COLONEL

BY: MARK D. FRAZIER

Chief, Regulatory Branch

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEE)

(DATE)

Special Conditions:

- a. PRECONSTRUCTION NOTIFICATION REQUIREMENTS:** For projects that discharge less than 50 cubic yards of material into waters of the United States and meet all the general and special conditions of this regional general permit, no notification to the Corps of Engineers is required. All other projects proposed to be authorized by this regional permit must notify the Corps of Engineers prior to work in waters of the United States. The notification must include documentation of bank erosion, accurate location information, a detailed drawing(s), quantities of fill material to be placed in waters of the U.S., and sufficient information to determine if the proposed work conforms to the criteria and conditions of the general permit. Department of the Army (DA) application form ENG Form 4345 may be used for this purpose. ENG Form 4345 is available to download at: <http://www.nwk.usace.army.mil/regulatory/regulatory.htm> or may be obtained by writing or calling the Kansas City District, Corps of Engineers, 706 Federal Building, 601 E. 12th St., Kansas City, Missouri 64106-2896, phone 816-389-3990. For all projects requiring preconstruction notification, no work may proceed until written authorization is received from the Corps of Engineers.
- b.** 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 it is the applicant's responsibility to enter location and project data at Missouri Species and Natural Communities of Conservation Concern Web Site which can be accessed at the following webpage: <http://mdcgis.mdc.mo.gov/heritage/default.asp>. If the project query is a level 3 result, the applicant must follow the preconstruction notification requirement procedures described in special condition "p" below. If the applicant is unable to use this webpage or would like assistance they may contact this office for assistance.
- c.** These general restrictions must be met for all bank stabilization projects authorized under this regional general permit.

 - 1.** Only those reaches of shoreline, stream bank, and channel which are experiencing erosion are covered by this regional permit. No material shall be placed in excess of the minimum needed for erosion protection.
 - 2.** This regional permit does not authorize stream channelization or channel modifications such as excavating pilot channels. The use of channel bed material, stream gravel, or material from sand or gravel bars, to stabilize eroding channel banks, is not authorized by this regional general permit.
 - 3.** The following materials may be used for projects to be authorized under this regional permit: rock, broken concrete, steel sheet piling, cellular blocks, fabric-formed concrete, concrete filled fabric mats, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, and natural vegetation.
 - 4.** The following materials may not be used for projects to be authorized under this regional permit: auto bodies, tires, garbage or debris, scrap lumber, metal refuse, roofing materials, broken concrete with exposed rebar, and asphalt or other bituminous materials.

5. All material utilized shall be properly sized or anchored to resist anticipated forces of current or wave action.
 6. Weirs that completely span a water body are not permitted under this regional general permit.
- d. **Seasonal Restrictions:** Between the closed dates listed in the Missouri Combined Stream Spawning List, the permittee must not excavate from or discharge into a listed waters. The list of waters with seasonal restrictions is available on request from the Corps or at the following link: <http://www.nwk.usace.army.mil/regulatory/gravel.txt>.
 - e. This regional general permit is not valid for projects located in the Lake of the Ozarks.
 - 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. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a non-wetland 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.
 - h. 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.
 - i. 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.
 - j. 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.
 - k. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
 - l. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or unvegetated condition.
 - m. Upon completion of earthwork operations, you must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction.
 - n. If using rock or concrete rubble, 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.

- o.** 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 (including guidance modifications and successor regulations). Note: Updates to Appendix C are ongoing and the Corps of Engineers has issued interim guidance; until revisions are complete, activities affecting listed or eligible properties are not authorized until the District Engineer has complied with existing interim guidance. The guidance is currently available at <http://www.usace.army.mil/cw/cecwo/reg/hptc/hptc.htm>.
- p.** Applicants are also required to notify the Corps of Engineers according to the procedures in special condition “a” when proposing to use equipment from known zebra mussel waters to use in different waters not known to support zebra mussels. Known zebra mussel waters within Missouri is available on request from the Corps or can be found at the following webpage: <http://nas.er.usgs.gov/queries/zmbyst.asp>.
- q.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
- r. (FOR SECTION 10 ACTIVITIES ONLY)** The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- s.** 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 specific conditions, and that any required mitigation was completed in accordance with the permit conditions. This condition is only necessary for activities requiring notification to the Corps of Engineers.