

DEPARTMENT OF THE ARMY PERMIT

Permittee General Public

Permit No. SLD-MGP-34, Sand and Gravel Excavation Activities

Issuing Office U.S. Army Engineer District, St. Louis

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: Proposed and/or Completed Work: This permit authorizes the discharge of dredged and/or fill material related to mechanical sand and gravel excavation as described in Appendix I. Discharges authorized are limited to those which occur during the actual excavation process and those associated with preparation and restoration of the site (as outlined in Special Conditions g. and h.)

Project Location: Waters of the United States, including activities upstream of the defined headwater point, within the State of Missouri; excluding the Missouri and Mississippi Rivers, and waters designated by the State of Missouri as Outstanding National Resource Waters or Outstanding State Resource Waters (see attached list, State Regulation 10 CSR 20-7.031 Water Quality Standards, Tables D and E).

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2010. If you find that you need more time to complete the authorized activity, 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) January 3, 2006
(DATE)

LEWIS F. SETLIFF III
Colonel, U.S. Army
BY: Danny D. McClendon
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)

Special Conditions:

a. You must sign and return the attached "Compliance Certification" page 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.

b. In addition to the general conditions of the permit, the following special condition applies to your project regarding Section 10 of the Rivers and Harbors Act. 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.

c. If any part of the authorized work is performed by a contractor or other party, before starting work you must discuss the terms and conditions of this permit with the contractor or party; and, you must give a copy of this entire permit to the contractor or other party involved in the excavation activities. The permittee remains responsible for ensuring compliance with all aspects of this permit.

d. You must limit excavation of sand or gravel deposits to unconsolidated areas containing primarily smaller material (at least 85% of material is less than 3" in diameter) that is loosely packed and contains no woody perennial vegetation greater than 1-inch in diameter, measured at breast height (4.5 feet).

e. You must maintain an undisturbed buffer of twenty (20) feet (or as specified on the attached project authorization page(s) of this permit) between the removal area and the water line at the time of excavation, and between the removal area and bank vegetation. Personal use activities involving excavation under 100 cubic yards of material, as specified in Appendix I, paragraph 3, must maintain an undisturbed buffer of ten (10) feet in the areas specified previously.

f. You must maintain a twenty five (25) foot wide streamside (riparian) corridor in an undisturbed condition landward of the high bank for the length of the gravel removal site. Disturbed areas in this riparian zone shall be limited to maintained access road(s) for ingress and egress only. No clearing within this riparian area is authorized in association with work authorized by this permit.

g. You must not excavate sand or gravel below the elevation of the water at the time of removal. If the stream is dry at that time, you must not excavate deeper than the lowest undisturbed elevation of the stream bottom adjacent to the site, unless specified otherwise on the attached project authorization page(s) of this permit.

h. You must not relocate, straighten, or otherwise modify water conveyance areas within the channel. A "water conveyance area within the channel" is defined as that area between the high banks of the creek where water is flowing or, in the case of a dry stream, where water would flow after a rain event.

i. Within 30 days of the removal of excavation equipment from the site, you must revegetate or otherwise protect from erosion, those streambank areas disturbed by the removal operation. For long-term operations (longer than 30 days) or for sites that will be periodically revisited as gravel is deposited, access points must be appropriately constructed and maintained such that streambanks and access roads are protected from erosion. The use of Reed Canary Grass is prohibited.

Special Conditions: (continued)

j. Prior to the removal of excavation equipment from the site, oversized material or other disturbed bed material must be removed or replaced in the removal area and smoothed to approximately the original contours of the sand or gravel deposit, as much as possible. Oversized material retained on-site (not imported from off-site) is preferred when available as it better stabilizes the disturbed bar. All required buffer areas must remain intact and should not be smoothed as part of this condition. Any aggregate, fines, and/or oversized material removed from the site must be placed in an upland, nonwetland site that has been approved by the landowner. No material, including oversized, that results from the excavation activity may be stockpiled or otherwise placed into flowing water or placed against streambanks as bank stabilization, unless specifically authorized in writing by the Corps of Engineers.

k. You must conduct all sand or gravel washing, gravel crushing, and gravel sorting above the high bank, in a nonwetland area away from areas that flood, such that gravel, silt, and wash water that is warm, stagnant, or contains silty material can not enter the stream or any wetland. A separate permit and/or settling basin for the discharge of return water may be required under Section 402 of the Clean Water Act from the Missouri Department of Natural Resources, Water Protection Program, NPDES Permits and Engineering Section (573-751-6825). Gravel crushing and/or sorting activities which do not require wash water are allowed to occur on the gravel bar, provided all fines are immediately removed from the gravel bar and not stockpiled or otherwise disposed of on the gravel bar, into the stream or any other water of the U.S. (including wetlands). All fines resulting from the sorting operation must be captured in a transport truck or other suitable container and removed from the sorting location to an upland, non-wetland location the same day the sorting occurs. All sorted aggregate must be removed from the gravel bar at the end of each working day, with the exception of oversized material that will be spread out in the excavation area following project completion.

l. You must not excavate in those areas authorized by this general permit during the dates specified on the attached project authorization page(s) in the block identified as "Seasonal Restrictions". This time period restriction is for the purpose of protecting spawning habitat and juvenile fish as well as other aquatic life indigenous to the cited stream.

m. You must limit vehicles and other equipment to removal sites and existing crossings. Streams must be crossed perpendicular to the stream. You must obtain written approval from the Corps of Engineers, Regulatory Branch, before constructing any temporary or permanent stream crossing(s). Use of off road vehicles in streams is also regulated under Missouri State Law (RSMo 1991 Section 304.013).

n. Fuel, oil, and other wastes and equipment containing such wastes shall not be stored nor released at any location between the high banks or in a manner such that they could enter the stream channel. You must dispose of such materials at authorized locations.

o. No activity is authorized under this general permit which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the habitat of such species. See Appendix II, paragraph No. 1 for permitting requirements if these species are likely to be present or their habitat would be adversely modified.

p. No activity which may affect Historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR 325, Appendix C. All prospective permittees must notify the District Engineer if the excavation activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the

Special Conditions: (continued)

District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places.

q. You must provide notification to the appropriate Corps of Engineers district, as specified in Appendix I, before you initiate any gravel removal activity and receive written confirmation of authorization under this general permit from the Corps of Engineers before you start any excavation or related operations.

APPENDIX I

CRITERIA FOR AUTHORIZATION BY GENERAL PERMIT SLD-MGP-34

1. The appropriate District Engineer has the discretion to require an individual permit on a case-by-case basis for any activity authorized herein.
2. This general permit applies to the general public and governmental agencies when such activities are performed to provide immediate construction materials or materials stockpiled in an upland area for private use or commercial sale. Excavation and dredging activities occurring in flowing or open water, such as hydraulic dredging, are not included in this authorization.
3. Private property owners are authorized to remove up to a total of 100 cubic yards of gravel per year from any single gravel bar location on their property, for their personal use, without regard to special condition o. (notification requirements). Excavation activities for personal use must comply with all conditions of this permit. This does not relieve any personal use applicant from notifying the appropriate Corps district if the activity may affect a Federally threatened or endangered species or its habitat (see Appendix II, Endangered Species Consultation). If you have any questions concerning threatened and endangered species possibly occurring in your project area, you should contact the appropriate Corps of Engineers district or the U.S. Fish and Wildlife Service.
4. The cumulative impacts of this general permit may be reevaluated at the discretion of the Corps of Engineers at any time, but will be reevaluated at least every five (5) years.
5. APPLICANT NOTIFICATION REQUIREMENTS. (does not apply to personal use activities under 100 cubic yards, see Appendix I, paragraph 3, above)

If you wish to perform work under the authority of this General Permit, you must provide notification to the appropriate Corps of Engineers district before you initiate any gravel removal activity. You must submit the following information in this notification:

- (1) A completed application form ENG 4345, or equivalent information
- (2) A clearly marked site location map.
- (3) A drawing showing the details of the proposed work (Plan and Cross-sectional views of each excavation area).
- (4) An operation plan which describes how you will conduct the work, details how impacts to the stream and riparian area will be avoided and/or minimized, and measures to restore the site (including gravel bars, stream banks, and riparian areas) following completion of excavation.

You must receive written confirmation of authorization under this general permit from the Corps of Engineers before you start any excavation or related operations. Completed activities considered for authorization after-the-fact under the general permit must conform to all conditions of the permit. After-the-fact authorization under this general permit will generally be limited to one activity per applicant.

Note to Commercial Operators: As set forth in the Land Reclamation Act, Chapter 444.770.3. RSMo, this Section 10 and 404 general permit may satisfy your permitting requirements with the Missouri Department of Natural Resources' Land Reclamation Program (LRP). If your activity is authorized by this general permit, the Corps of Engineers will forward a copy of this permit to the LRP. You should contact the LRP at 573-751-4041 to determine whether or not an LRP permit is also required.

APPENDIX II

CORPS REVIEW PROCEDURES FOR AUTHORIZATION BY GENERAL PERMIT NWKGP-34M
(For Corps Use Only)

1. **ENDANGERED SPECIES CONSULTATION.** The excavation activity must not be located in any waterbody identified as containing potential habitat for any Federally listed threatened or endangered species unless, following coordination with the U.S. Fish and Wildlife Service, a "no effect" or "not likely to adversely affect" determination is agreed upon between the Corps of Engineers and the U.S. Fish and Wildlife Service. These waterbody locations will be maintained by the Corps of Engineers and will be referenced for each individual activity.

Activities authorized under this general permit may affect the following species and/or habitat; Niangua Darter, Neosho Madtom, Curtis' Pearly Mussel, Pink Mucket Pearly Mussel, and bald eagle. The Corps of Engineers will maintain a list of waters where the activities authorized under this permit may affect such listed species or designated critical habitat. If the proposed activity is located in any water included in this list, the following conditions must be met and will be coordinated by the appropriate Corps of Engineers District:

- 1) Each proposed activity within the range of the above species must be coordinated with the U.S. Fish and Wildlife Service and Missouri Department of Conservation to allow for timely, site specific evaluation and concurrence that the activity, as conditioned under the general permit, is not likely to adversely affect listed species or designated critical habitat.
- 2) Additional project specific conditions must be imposed if, through timely informal consultation between the Service and the Corps, they are determined to be necessary to avoid the likelihood of adverse effects to listed species or designated critical habitat.
- 3) In the event that the likelihood of adverse effects to listed species or designated critical habitat cannot be avoided, authorization will not be provided under the general permit until such time as: i) formal consultation between the Service and the Corps is provided; ii) a non-jeopardy Biological Opinion is issued; and iii) the terms and conditions of any associated Incidental Take Statement are incorporated as enforceable conditions to the project authorization under the general permit.

2. **PROJECT DOCUMENTATION AND COMPLIANCE.** The authorized work must be documented on the attached Project Authorization Page(s) by the Corps of Engineers. A separate Project Authorization Page must be completed for each separate excavation site. This allows multiple copies of this page to be attached to the general permit, thereby documenting site specific requirements for several excavation locations conducted by a single applicant. The Project Authorization Page(s) also serves to document site specific variances from special conditions c., e., and j. of the general permit or to add special conditions for protection of Federally listed species. A separate plan view depicting the relative location of several sites in relation to one another may also be attached to clarify site number locations. Also, these data will be used as a tool to insure compliance with the conditions of the general permit.

VERIFICATION OF SLD-MGP-34 PROJECT AUTHORIZATION

| | |
|--------------------------------------------------------------|-------------------------------------------------------|
| 1. Identification Number and/or Site No. (Assigned by Corps) | 2. Corps Approving Official (Not Valid Unless Signed) |
| 3. Applicant (Company or Name) | 4. Responsible Person (If Different from Applicant) |

5. Detailed Location Description (A Drawing on the Reverse Side, May Also Be Used in Addition to This Block)

| | |
|---------------------------------------------|--------------------|
| 6. Minimum Buffer Strip Distances | Approving Official |
| 6a. Excavation Area to Water Line | feet |
| 6b. Excavation Area to Bank/Bank Vegetation | feet |
| 6c. Other (specify) | feet |

7. Excavation Depth Information
(Note: If authorization allows excavation below the elevation of the adjacent stream bottom, justification is required such as presence of bed rock to prevent head cutting, excessive bedload, or other appropriate reasons.)

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 8. Season Restrictions (You must not excavate during time frames specified below) Restricted Excavation - Start Date through End Date, inclusive (mm/dd/yy) | Approving Official |
| 8a. | |
| 8b. | |
| 8c. | |
| 8d. | |

9. Comments, Site Specific Conditions, etc.

COMPLIANCE CERTIFICATION

GENERAL PERMIT SLD-MGP-34

Special Condition "p." 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 St. Louis District at the address shown at the bottom of this page upon completion of the project.

APPLICATION NUMBER:

APPLICANT:

ADDRESS:

PROJECT LOCATION: *(Waters of US name; Section, Township, Range; County name, Missouri; additional location information.)*

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:

U.S. Army Corps of Engineers
Regulatory Branch
1222 Spruce
St. Louis, MO 63103-2833

PUBLIC NOTICE



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

**Permit No. CEMVS-MGP-34
Issue Date: December 29, 2005**

**STATE OF MISSOURI
REISSUANCE OF REGIONAL GENERAL PERMIT MVS-MGP-34
SAND AND GRAVEL EXCAVATION ACTIVITIES
WATERS OF THE U.S. WITHIN THE STATE OF MISSOURI**

The U.S. Army Corps of Engineers, St. Louis District, **HAS REISSUED** Regional General Permit MVS-MGP-34 for Sand and Gravel Excavation Activities in Waters of the United States within the State of Missouri under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

Duration of this General Permit. The general permit has been issued and is in effect for five (5) years from January 1, 2006 until December 31, 2010, unless revoked or specifically extended.

Notification Procedures. The permit applicant must notify the District Engineer, St. Louis District, to receive authorization under this general permit. The notification must include detailed drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the general permit. A Department of the Army (DA) permit application, ENG Form 4345, must be used for this purpose. You may request a copy of the permit application from our the St. Louis District Regulatory Office at 1222 Spruce Street, St. Louis, Missouri 63103-2833, Telephone 314-331-8575, Fax 314-331-8741 or the form is also available to download at: www.mvs.usace.army.mil/permits/

Excavation activities are authorized in Waters of the U.S. within the State of Missouri, except those waters which are specifically excluded in the "Project Location" section of the permit. Small, personal use activities as specified in Appendix I of the permit do not require notification to the Corps of Engineers.

If the Corps determines that the work meets the provisions of the general permit, and no extraordinary conditions exist that warrant evaluation as an individual permit, the proponent will be notified to proceed. If the Corps determines that the subject work does not meet the provisions of the general permit, or that extraordinary conditions exist, the applicant will be notified that an individual permit will be necessary. Recent regulation changes may affect certain water bodies and excavation activities. Additional information concerning limitations and general and special conditions of the permit can be obtained by contacting our office referenced above.

Conditions of this General Permit. All activities authorized by this general permit must comply with the general and special conditions, and appendices of the enclosed copy of general permit (Enclosure).

Notice to Editors. This notice is provided as background information for your use in formatting news stories. This notice is not a contact for classified display advertising.

Enclosure