



**DEPARTMENT OF THE ARMY**  
**Little Rock District, Corps of Engineers**  
**Post Office Box 867**  
**Little Rock, Arkansas 72203-0867**

CESWL-PR-R

April 11, 2001

**10971-GH**

**JOINT PUBLIC NOTICE**  
**CORPS OF ENGINEERS - STATE OF MISSOURI**  
**RENEWAL OF A GENERAL PERMIT**

**FOR THE PLACEMENT OF DREDGED AND FILL MATERIAL IN WATERS OF THE  
UNITED STATES ASSOCIATED WITH SAND AND GRAVEL EXCAVATION  
ACTIVITIES**

**This copy is for information only**

**And no comments are requested.**

**TO WHOM IT MAY CONCERN:**

Background. On November 3, 2000, the Little Rock District Corps of Engineers issued a joint public notice with the State of Missouri announcing consideration of a time extension for this general permit. The authority for permit issuance is found in Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403) and Section 404 of the Clean Water Act (33 U.S. Code 1344). Corps districts are authorized to develop general permits in accordance with Title 33, Code of Federal Regulations Parts 325.2(e)(2) and 325.5(c)(1).

Determination to Extend. After reviewing the previous actions authorized under this general permit and comments received on the public notice, it is our assessment that the work authorized will not have significant adverse environmental impacts and that the public interest will be served by extending the period of the general permit.

The policies of this general permit will be subject to reconsideration at any time, but will be reviewed at least every five (5) years. This general permit is therefore extended for a period of 5 years until December 31, 2005, unless it is revoked or specifically extended in the interim.

Notification/Verification Requirement. Anyone wanting to do work under the proposed general permit would have to notify the Little Rock District and receive verification that the proposed work met the limits of the general permit. The notification/verification details are outlined in Appendix I and II attached to the general permit.

Consideration of New/Additional Information. If additional information, developed during the life of the permit, indicates factors contrary to the public interest, this general permit may be suspended, modified, or revoked.

Interested parties are requested to provide comments on this general permit at any time during the life of the permit. Comments should be addressed to Chief, Regulatory Branch, U.S. Army Corps of Engineers, P.O. Box 867, Little Rock, Arkansas 72203-0867.

**NOTE:** The mailing list for this Public Notice is arranged by state and county(s) where the project is located, and also includes any addressees who have asked to receive copies of all public notices. Please discard notices that are not of interest to you. If you have no need for any of these notices, please advise us so that your name can be removed from the mailing list.

Kenneth W. Carter, P.E  
Chief, Planning, Environmental  
and Regulatory Division

Enclosures

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## DEPARTMENT OF THE ARMY PERMIT

Permittee General Public

Permit No. NWKGP-34M, Sand and Gravel Excavation Activities

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: 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).

### Permit Conditions:

#### General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2005. 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 and 5, 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.

**Special Conditions:**

a. 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.

b. 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).

c. 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.

d. 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.

e. 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.

f. 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.

g. 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.

h. 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 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.

i. 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

**Special Conditions: (continued)**

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.

j. 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 juveniles indigenous to the cited stream.

k. 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).

l. 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.

m. 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.

n. 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 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.

o. 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 conformation of authorization under this general permit from the Corps of Engineers before you start any excavation or related operations.

p. 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.

## APPENDIX I

### CRITERIA FOR AUTHORIZATION BY GENERAL PERMIT NWKGP-34M

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.

#### APPLICANT NOTIFICATION REQUIREMENTS

(does not apply to personal use activities under 100 cubic yards)

(see Appendix I, paragraph 3, above)

5. 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 will be avoided and/or minimized, and measures to restore the site 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.

THIS ENTIRE PAGE WILL BE COMPLETED BY THE CORPS OF ENGINEERS

**VERIFICATION OF NWKGP-34M 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 required such as presence of bed rock to prevent head cutting, excessive bedload, or other appropriate reasons)

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

9. Comments, Site Specific Conditions, etc.

**COMPLIANCE CERTIFICATION**  
**GENERAL PERMIT NWKGP-34M**

*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 Kansas City District at the address shown at the bottom of this page upon completion of the project.*

**APPLICATION NUMBER:**

**APPLICANT:**

**ADDRESS:**

**PROJECT LOCATION:**

\_\_\_\_\_  
County, Missouri.

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  
Missouri Regulatory Satellite Office (Truman)  
Route 2, Box 29-C  
Warsaw, MO 65355