



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

CESWL-PR-R

November 19 , 2004

09092-GF

JOINT PUBLIC NOTICE
CORPS OF ENGINEERS - **STATES OF ARKANSAS AND MISSOURI**

RENEWAL OF A GENERAL PERMIT

for the placement of dredged and fill material in waters of the United States associated with the installation of water intakes, pumps, and connecting water pipelines, including intakes and coils for heating and cooling systems

TO WHOM IT MAY CONCERN:

Background. On August 25, 2004, the Little Rock District Corps of Engineers issued a joint public notice with the States of Arkansas and Missouri announcing consideration of a time extension for a general permit for water intakes, pumps, and connecting water pipelines, including intakes and coils for heating and cooling systems. 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 five years until **November 19, 2009**, 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 the Procedures for Verifying Authorization 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, US Army Corps of Engineers, PO 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.

Enclosures

Wally Z. Walters
Colonel, US Army
District Engineers

CESWL-PR-R

November 19, 2004

PROCEDURES FOR VERIFYING AUTHORIZATION

GENERAL PERMIT - 09092

FOR water intakes, pumps, and connecting water pipelines, including intakes and coils for heating and cooling systems in Navigable waters of the United States within the Little Rock District in the States of Arkansas and Missouri.

1. The US Army Corps of Engineers, Little Rock District, has issued the attached general permit for water intakes, pumps, and connecting water pipelines, including intakes and coils for heating and cooling systems in all navigable waters of the United States within the States of Arkansas and Missouri.

Work authorized under this general permit would be limited to the construction of permanent water intakes and pumps with underground water pipelines, including intakes and pumps with heating and cooling systems, and the construction of temporary water intakes and water lines with pumps, in which the maximum withdrawal rate does not exceed one acre-foot per year or a total of 325, 900 gallons per year. It authorizes the construction of berms, pads, or dikes and any incidental redeposit of fill material associated with excavation for installation of pumps and to provides submersion of the pump (**See Condition No. 8 of the permit**),

The general permit is currently valid until **November 19, 2009**.

The following procedures must be followed to verify authorization to do work under this general permit.

2. **Procedures for Verifying Authorization.** You shall use the following procedures in verifying authorization under this general permit.

a. You shall submit a written description of the proposed work at least 30 days prior to proposed commencement of work to the District Engineer, ATTN: CESWL-PR-R, US Army Corps of Engineers, Little Rock District, PO Box 867, Little Rock, Arkansas 72203-0867, or the appropriate Operations Manager for the Project Office involved, as listed below:

PROJECT

OFFICE ADDRESS

Arkansas River
upstream of Murray Lock and dam

Operations Manager
Russellville Project Office
Corps of Engineers
1598 Lock & Dam Road
Russellville, Arkansas 72802

Arkansas River
downstream of Murray Lock and dam

Operations Manager
Pine Bluff Resident Office

	Corps of Engineers 4305 Charles W. Wooden Road Pine Bluff, Arkansas 71611
Beaver	Operations Manager Beaver Project Office Corps of Engineers 2260 North 2nd Street
Bull Shoals Norfolk	Operations Manager Mountain Home Project Office Corps of Engineers 324 West 7th Street Mountain Home, Arkansas 72653
Clearwater	Operations Manager Clearwater Project Office Corps of Engineers RR #3, Box 3559D Piedmont, Missouri 63957
Greers Ferry	Operations Manager Greers Ferry Project Office Corps of Engineers 700 Heber Springs Road North or PO Box 1088 Heber Springs, Arkansas 72543
Millwood Dequeen Dierks Gillham	Operations Manager Millwood-Tri Lakes Project Office 1528 Highway 32 East Ashdown, Arkansas 71822
Nimrod Blue Mountain	Operations Manager Nimrod- Blue Mountain Project Office Corps of Engineers 3 Highway 7 South Plainview, Arkansas 72857
Walnut Ridge	Northeast Regulatory Field Office Corps of Engineers PO Box 865 Walnut Ridge, Arkansas 72476-0865
Table Rock	NW Regulatory Field Office Table Rock Project Office Corps of Engineers 4600 State Highway 165 Branson, Missouri 65616-8980

b. Included with the submittal shall be drawings that accurately depict the work and its exact location. The type, sizes, and quantities of structures and/or materials to be used should be fully described, including appropriate dimensions.

c. Upon receipt of your request, the District's Regulatory Project Manager will determine whether the work falls within the criteria established by this general permit. The length of time required to process each request under this general permit will be directly related to the

adequacy and completeness of the information you submit. The Project Manager will coordinate the request with other District subject matter experts as follows:

(1). To comply with the intent of the National Historic Preservation Act (NHPA), each proposed activity will be coordinated with our staff archaeologists.

(2). Any project located on Section 10 navigable waterways will be coordinated with the Engineering Division, Hydraulic Section and the Navigation Branch.

(3). All request for authorization under this general permit will be coordinated with the District expert on floodplains.

(4). In areas where the Corps has acquired an interest in the real estate, such as easements for occasional flooding, your request will be coordinated with Real Estate Division. If the request for use of the real estate is disapproved, the authority granted under this general permit would be null and void.

You will receive a letter of verification if the work is covered by the general permit. If the work cannot be authorized under this general permit, you will be notified that your application must be processed under other procedures, which may involve submission of additional information and likely issuance of a public notice.

DEPARTMENT OF THE ARMY PERMIT

Permittee: **US Army Corps of Engineers**

Permit No.: 09092-GF

Issuing Office: Department of the Army
Little Rock District
PO Box 867
Little Rock, Arkansas 72203 0867

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.

Project Description: **Work authorized under this general permit is limited to the construction, operation and maintenance of permanent water intakes and pumps with underground water pipelines, including intakes and pumps with heating and cooling systems, and the construction and maintenance of temporary water intakes and water lines with pumps, in which the maximum withdrawal rate does not exceed one acre-foot per year or a total of 325,900 gallons per year. It authorizes the construction of berms, pads, or dikes and any incidental redeposit of fill material associated with excavation for installation of pumps and to provide submersion of the pump (See Special Condition No. 8).**

Maintenance of intakes and pumps under this general permit includes excavation and removal of accumulated sediment in the immediate area of the intake opening to previously authorized depths or controlling depths for improved flow. All dredged material shall be disposed at an upland site and proper siltation controls shall be used.

An example of typical work, which falls within the scope of this general permit is

shown on the attached drawings.

Project Location: In navigable waters of the United States within the Little Rock District in the States of Arkansas and Missouri.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **November 19, 2009**. 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 good condition and 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 four 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:

Special Conditions:

- 1. In Missouri, the primary responsibility for allocating water quantities rests with the Department of Natural Resources, Water Protection Division, PO Box 176, Jefferson City, Missouri 65102-0176. Since in Missouri only major water users (those who use 100,000 gallons per day or more) are required to register water usage, you will not be required to register the water usage authorized by this general permit.**
- 2. In Arkansas, the primary responsibility for allocating water quantities rests with the Arkansas Soil and Water Conservation Commission, and Arkansas State Law (Act 180 of 1969) requires the registration of surface water diversions with that agency. For purposes of this Department of the Army permit, the maximum withdrawal rate, as recommended by the Director, Arkansas Soil and Water Conservation Commission shall not exceed one acre-foot per year (325,900 gallons). However, during low stream flow conditions the Commission may allocate amounts of water withdrawal**

and may require you, through their authority, to reduce your withdrawal rate significantly.

3. You shall perform all construction and maintenance activity in a manner that will minimize increased turbidity of the water in the work area and otherwise avoid adverse effects on water quality and aquatic life.

4. You shall use clean, nonpollutional material for construction and maintenance.

5. You shall place all excess excavated material on a non-wetland, upland site and not allow any runoff water from the disposal site to enter the waterway. Also no material will be placed on lands or flowage easements belonging to the United States without prior approval from the Corps of Engineers.

6. Your facility will not be authorized in an area classified as a wetland.

7. You shall perform all construction and maintenance in such a manner as to not destroy or endanger the critical habitat of a threatened or endangered species, as identified under the Endangered Species Act.

8. You shall use no more than ten cubic yards of dredged or fill material in the construction of a berm, pad, or dike for installation of a pump or to provide submersion, and shall not place the material in such a way as to block the channel or cause stream diversion.

9. You shall perform the authorized activity in such a manner as to not cause unreasonable interference with navigation, including recreational boating.

10. You shall perform the authorized activity in such a manner as to not significantly disrupt the movement of those species of aquatic life indigenous to the water body.

11. You shall seed, replant, or give some other equivalent type of protection against subsequent erosion to all areas disturbed or newly created by your construction or maintenance activity.

12. If your authorized activity involves use of Government-owned land you must obtain written approval from the Chief, Real Estate Division and/or the Operations Manager at the appropriate Project Office. This General Permit will not be valid unless the appropriate easement or permit can be obtained for the use of Government-owned land. Additional conditions for the placement, construction and operation of the impacted area will be included in these documents.

13. For any intake structure authorized by this General Permit, you shall securely screen the intake pipe against the entry therein of any fish.

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. Code 403).

(X) Section 404 of the Clean Water Act (33 U.S. Code 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 authorizations 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 four 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.

(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Pursuant to the direction from Colonel Wally Z. Walters, District Engineer:

Jerry L. Harris, P.E. (DATE)
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)