

DEPARTMENT OF THE ARMY PERMIT

Regional General Permit: **US ARMY CORPS OF ENGINEERS WORK ON THE McCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM IN ARKANSAS AND ON US ARMY CORPS OF ENGINEERS LAKES WITHIN LITTLE ROCK DISTRICT**

Permit No.: **1988-09046-GU**

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 regional general permit, means any of the permittees whose work is authorized under its terms and conditions. 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 regional general permit is limited to the following and DOES NOT INCLUDE ANY FILLS IN WETLANDS: (Examples of typical work which falls within the scope of this regional general permit are shown on the attached drawings (see enclosed Sheets 2 through 8 of 8).)**

- 1. Disposal of minor amounts of dredged material in waters of the United States associated with activities such as the removal of shoals or emergency work to maintain the navigation channel. The material would be sidecast outside of the navigation channel.**
- 2. The placement of dredged and fill material in waters of the United States associated with the repair, rehabilitation, and maintenance of existing dikes, existing revetments, and other existing channel stabilization structures.**
- 3. The placement of dredged and fill material in waters of the United States associated with the construction, modification, or maintenance of dikes, revetments, and other channel stabilization structures necessary to maintain the navigation system.**
- 4. The placement of dredged and fill material in waters of the United States associated with levee maintenance and scour holes.**

Project Location: **Work would be on the McClellan-Kerr Arkansas River Navigation System in Arkansas and on US Army Corps of Engineers Lakes within the Little Rock District (see enclosed Sheet 1 of 8).**

Permit Conditions:

General Conditions:

1. Authorization under this regional general permit is valid for **three years** from the date of your verification letter unless the regional general permit is modified, revoked, or suspended. If you find additional times is needed to complete the authorized activity, a time extension request should be submitted to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this regional general permit in good condition and in conformance with the terms and conditions of this regional general 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 regional general 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 regional general permit, you must immediately halt construction activity and notify this office. We will initiate the state and tribal 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 regional general permit, you must inform the new owner to contact this office so that the authorization can be transferred or reissued.
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 regional general 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 this regional general permit.

Special Conditions:

- 1. No activity is authorized under this regional 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 (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under this regional general permit which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.**
- 2. Any activity authorized under this regional general permit which would be located within 1,000 feet of any known active Interior Least Tern nesting site would require coordination with the United States Fish & Wildlife Service (USF&WS) and other agencies as appropriate.**
- 3. Any activity authorized under this regional general permit which would be conducted from January 15th through May 30th and located within 1,000 feet of identified gravel habitat boundaries would require coordination with the USF&WS and other agencies as appropriate.**
- 4. Any activity authorized under this regional general permit which would be located within 1,000 feet of any known active mussel concentration would require coordination with the USF&WS and other agencies as appropriate.**
- 5. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:**
 - (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).**
 - (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.**
 - (c) For losses of streams or other open waters, the district engineer may require compensatory mitigation, such as the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation, to ensure that the activity results in no more than minimal adverse effects on the aquatic environment.**

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() 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 regional general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

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

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

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

3. Limits of Federal Liability: In issuing this regional general 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 regional general permit.

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

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

4. **Reliance on Applicant's Data:** The determination of this office that your proposed work complies with the terms and conditions of this regional general permit was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision:** This office may reevaluate its decision on this regional general 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 regional general 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 regional general 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 your activity authorized by this regional general 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.