DEPARTMENT OF THE ARMY PERMIT

Regional Permit 35
Permanent Protection and/or Repair of Flood Damaged Structures,
Damaged Land Areas and / or Damaged Fills
In the State of Missouri

Permittee: This regional permit authorizes activities proposed by the general public, railroads, transportation departments, pipeline and utility companies, and government agencies.

Number: CEMVR-OD-P-2007-2061 (Regional Permit 35)

Expiration Date: March 21, 2013

Issuing Office: U.S. Army Corps of Engineers, Rock Island District
Clock Tower Building - P.O. Box 2004
Rock Island, Illinois 61204-2004

You are authorized to perform work in accordance with the terms and conditions specified below.

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.

Project Description. Work is authorized to excavate or place fill material for protection and/or repair of existing flood damaged structures, damaged land areas and/or damaged fills as follows:

1. Repair of levees to existing elevations and cross-section, including breach closures and borrow operations
2. Bridge embankment protection (armoring) and/or repair
3. Repair of pre-existing highway or railroad embankments and the addition or repair of stone (armoring) protection
4. Repair of pre-existing utility protection structures
5. Placement of rock and/or earth materials for stream/ditch bank protection and/or stream/ditch bank restoration
6. Drainage channel/ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event
7. Restoration of creek channels to pre-flooding alignment and capacity
8. Construction of temporary roads and temporary fills to facilitate the completion of any of the listed activities

Note: Maintenance of existing flood damaged structures and/or flood damaged fills, which have been previously authorized, may be authorized by Nationwide Permit No. 3 or exempted by Part 323.4 of Federal regulations 33 CFR 320-331. The repair of uplands damaged by storms, floods or other discrete events may be authorized by Nationwide Permit No. 45 upon notification and review by the appropriate Corps of Engineers District, Regulatory Branch.

Project Location. Work is authorized in all waters of the United States (rivers, lakes, streams, and wetlands) in Missouri (in Rock Island District) that are declared flood disaster areas by the Governor of the state and/or the President of the United States. Rock Island District has regulatory jurisdiction in all or parts of the following counties in Missouri: Adair, Clark, Knox, Lewis, Marion, Scotland, Schuyler, and Shelby Counties.

Permit Conditions:

❖ **General Conditions:**

1. The time limit for completing the work authorized ends on December 31, 2013. 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 that 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 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 archaeological 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. (Condition is not applicable for Section 10 Permits.)

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:**

1. You must sign and return the attached "Compliance Certification" after the authorized work and any required mitigation is completed. Your signature will certify that you completed the work in accordance with this permit, including the general and the special conditions, and that any required mitigation was completed in accordance with the permit conditions.

2. (**Activities occurring in navigable waters under Section 10 of the Rivers and Harbors Act of 1899 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.

3. If any part of the authorized work is performed by a contractor, before starting work you must discuss the terms and conditions of this permit with the contractor; and, you must give a copy of this entire permit to the contractor.

4. You must contact the Corps of Engineers, submit application materials outlined in Appendix I, and you must submit a mitigation plan prior to completing any flood recovery/repair activity when the repair involves obtaining borrow from forested wetland, borrowing material from potential migratory bird nesting areas, clearing trees along stream channels, working in areas with known exotic species, and/or if the proposed repair activity includes restoration of a stream channel back to the original, pre-flood location. All other flood repair activities, including all repairs supervised by the Corps of Engineers, pursuant to Public Law 84-99 and/or all repairs supervised by the United States Department of Agriculture, pursuant to the Emergency Watershed Protection Program or to the Emergency Conservation Program can be completed without pre-construction notification to the Corps of Engineers. However, all completed flood repair work, authorized by this permit, must be reported to the Corps of Engineers, Regulatory Branch, within 60 days of completing the project. The report must include the location of the work, as-built drawings of the structure(s) and/or fill(s), and a discussion of the avoidance and minimization measures incorporated into the project and mitigation measures employed.

5. You must employ measures to prevent spilled fuels, lubricants, excessive suspended solids including dredged material, and/or wet concrete from entering the waters of the United States and formulate a contingency plan to be effective in the event of a spill.

6. 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. Use of small aggregate material less than 20 pounds per aggregate, such as creek gravel, for stabilization and erosion control is prohibited.

7. You must excavate or fill in the watercourse so as to minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation. Activities should be conducted during low water periods and outside major spawning season for fish, unless a waiver is obtained from the Corps of Engineers. Crossings of waterways and use of construction machinery in waterways should be limited to the minimum extent necessary.

8. 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. All construction debris must be disposed of in an upland site, outside the floodplain, and in such a manner that it cannot enter into a waterway or into a wetland.

9. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.

10. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. You must avoid the removal of mature trees to prevent potential impacts to bald eagle roost sites. Work should be limited to one side of the channel only. However, work from both sides of the channel is permitted if it is demonstrated that it results in minimizing tree clearing. Vegetated riparian buffer areas should be included along both sides of any channel restoration projects. All wooded areas cleared for site access must be allowed to return to forested habitat. Mitigation may be required for other timber clearing.

11. 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. If seeding does not successfully stabilize the disturbed soil areas by the end of the first growing season, you must implement alternate measures, such as placing riprap, slope terracing with untreated railroad ties, gabions or concrete blocks, or additional vegetative plantings, to protect the disturbed areas from further erosion. Clearing, grading, and replanting should be planned and timed so that only the smallest area is in a bare soil condition. You must contact the Corps of Engineers prior to beginning work on any additional erosion control measures so that we can determine if additional authorization is required.

12. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in an upland 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.

13. 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.

14. 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 waters of the United States. Size and gradation requirements can be changed provided approval is received from the Corps' Regulatory Branch prior to placement.

15. You must completely remove all temporary fills, including sand bags (to the extent practicable), in the Waters of the United States within 30 days of the end of the flood emergency and disposed of in accordance with special condition "h" above, unless the temporary fill is to be incorporated in the final repair of the structure. <u>If sand bags are needed for a longer duration until permanent repairs are made, you must request a waiver of this condition in writing. Temporary construction of levees to protect agricultural land in areas where no levees previously existed, are not authorized</u>.

16. You must avoid impacts to wetlands to the fullest extent practicable. When wetlands impacts are unavoidable, borrow site selection will be based on the following order of preference: upland (non-wetland) sources, areas riverward of the levee previously used for borrow, open prior converted cropland, farmed wetlands, or other authorized excavation sites. You must mitigate for all unavoidable proposed wetland excavation or fill activities authorized by this permit. You must develop mitigation plans on a case-by-case basis which must be approved by the Corps. This permit does not authorize actions designed to drain or otherwise convert wetlands to other uses, nor actions where a practicable alternative to impacting wetlands is available unless the Corps of Engineers, in consultation with other resource agencies, determine that sediment removal from existing wetlands will restore wetland functions and create valued habitat diversity. All borrow areas should have 5:1 horizontal to vertical side slopes and the water depth should be three feet deep or less under normal circumstances.

17. You must place all fills and structures such that they do not result in stream channel constriction or in redirection of flows in such a way as to cause upstream or downstream erosion. Channelization projects or shortening of waterways, other than restoration of creek channels to pre-flood alignment, are not authorized.

18. You must not undertake actions that are likely to jeopardize the existence of a threatened or endangered species or a species proposed for such designation as defined in the Federal Endangered Species Act, nor actions which are likely to destroy or adversely modify the critical habitat of such species. If the project requires the removal of mature trees along stream channels or from forested wetland you must contact the Corps of Engineers prior to any tree clearing activity.

19. You must avoid activity in the proximity of a property listed in or eligible for listing in the National Register of Historic Places unless, after coordination with the State Historic Preservation Office of the affected state and/or the Advisory Council on Historic Preservation, a determination of "no effect" or "no adverse effect" is made in accordance with criteria established by 36 CFR 800. If an inadvertent discovery of any cultural or archaeological resource occurs you must immediately contact this office and you should suspend work in the area until a determination of eligibility for listing on the National Register of Historic Places is completed and any necessary consultation under Section 106 of the National Historic Preservation Act is completed.

20. You must not undertake any activity that results in a new structure or replacement of a previously authorized structure with an increase in scope or design of the original structure. Small changes that do not affect elevations, such as the reconstruction of a levee around a scour hole at pre-existing elevations, and that do not convert wetland to upland (non-wetland) or a different wetland use beyond what is unavoidable such as to go around a scour hole, may be authorized upon notification to the Corps. Levee breach repairs constructed on new alignments must be setback farther from the stream channel than the original alignment.

21. You must contact the Missouri Department of Natural Resources, Water Pollution Control Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or the Kansas Department of Health and Environment, Bureau of Water, Curtis State Office Building, 1000 Southwest Jackson, Topeka, Kansas 66612, in order to determine the need for a state permit for land disturbance, return water, or other activities that normally require such permits. Use of this regional permit shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded. Any national pollutant discharge elimination system (NPDES) permits, general permits for land disturbance, or other requirements shall be complied with.

22. You must notify the Corps of Engineers if one of the following common exotic species occurs in the project area. The zebra mussel *(Dreissena polymorpha)*, Eurasian watermilfoil *(Myriophyllum spicatum)*, purple loosestrife *(Lythrum salicaria)*, Johnson grass *(Sorghum halepense)*, sericia lespedeza *(Lespedeza cuneata)*, salt cedar *(Tamarix spp.)*, and reed canary grass *(Phalaris arundinacea)*. You must take appropriate actions to insure the prevention of the spread of any exotic species. The following best management practice can help prevent the spread of these species. Equipment brought on the project site should be washed to remove dirt, seeds and plant parts. If the equipment has been used in a body of water in the last 30 days it can be washed at a commercial car wash or dried for five or more days before using the equipment in another body of water. In addition, before transporting equipment from the project site visible water, mud, plants and animals should be removed. Waters that the zebra mussel is known to inhabit in Missouri can be found at the following website: http://nas.er.usgs.gov/queries/zmbyst.asp

23. For activities occurring in Indian Country, you must request and obtain individual Section 401 Water Quality Certification from the Environmental Protection Agency (EPA). You may contact the EPA by writing US EPA, Region 7 Tribal Coordinator, 901 North 5th Street, Kansas City, Kansas 66101, or by calling (913) 551-7498. You must receive Section 401 Water Quality Certification, and comply with the conditions of that certification, during performance of any work under this permit. Should EPA issue programmatic certification for this GP during the term of the GP, the Corps will issue a supplemental public notice and General Condition 5 of the permit applies.

24. Projects must be initiated within 18 months of the end of the flood emergency (when the nearest river gauge drops below flood stage for two months).

25. As project proponent, you must send copies of your application for authorization under this regional permit to the following addresses. [We will not necessarily solicit comments from these agencies. We will give these agencies an opportunity to request that we take discretionary authority to require that you apply for an individual permit, if a potential significant problem is identified.]

U.S. Fish and Wildlife Service
Columbia Field Office
101 Park DeVille Drive, Suite A
Columbia, Missouri 65203
(573) 234-2132

U.S. Environmental Protection Agency
Watershed Planning and Implementation Branch
901 North Fifth Street
Kansas City, Kansas 66101
(913) 551-7003

Missouri Department of Conservation
Policy Coordination
P.O. Box 180
Jefferson City, Missouri 65102-0180
(573) 522- 5115

Missouri Department of Natural Resources
Water Pollution Control Branch
P.O. Box 176
Jefferson City, Missouri 65102
1-800-361-4827 or (573) 751-1300

Missouri Department of Natural Resources
Historic Preservation Program
P.O. Box 176
Jefferson City, Missouri 65102
(573) 751-7958

* Federal Emergency Management Agency
Region VII
9221 Ward Parkway, Suite 300
Kansas City, Missouri 64114-3372
(816) 283-7063

* You must contact FEMA for all proposed development located in the 100-year floodplain of a National Flood Insurance Program (NFIP) participating community in order to comply with local floodplain management regulations and secure a floodplain development permit from that community.

26. **Mitigation**. This regional permit is not valid for any individual project if a mitigation plan has not been submitted and approved by the Corps of Engineers. The wetland mitigation plan must include acres of emergent, forested, etc., wetland to be created as a result of the project. The mitigation plan shall include a purpose. A summary of the approved acres and performance measures for the mitigation plan is as follows:

Mitigation Design Objectives / Performance Measures

	Mitigation					
Type:	Emergent (acres)	Forested (acres)	Open-Water (acres)	Other * (acres)	Total (acres)	Stream Channel Length (feet)
Restoration:						
Creation:						
Enhancement:						
Preservation:						
Total:						

* Replace "Other" with actual type of mitigation ("Upland", "Woodland", etc.)

The technical specifications listed in the mitigation plan document may be used a as reference for various procedures for the mitigation plan. However, the information contained in this document is superseded by any permit conditions or written specifications provided by the Corps of Engineers. Mitigation shall be completed concurrent with project activities. If excavation and construction are completed outside an optimal seeding period, temporary erosion control protection shall be implemented immediately upon completion of excavation and construction and shall be maintained until such time as wetland plantings can be completed during an optimal period. The permanent wetland plantings shall then be completed during the next optimal seeding period. In addition:

- The boundaries of the wetland mitigation sites shall be identified clearly by the placement of permanent markers.
- Any field tiles within or adjacent to the wetland mitigation sites must be broken or plugged in a manner so the natural hydrology of the sites may re-establish.
- Any tile systems that are to remain functional must be relocated outside of the zone of influence of the tile, or non-perforated tile must be installed.
- Any tile outlet(s) may be relocated at the upstream end of the mitigation site(s) where outflows will enhance soil hydrology and surface water ponding in the wetland areas. The tile outlets should be located where the outflows will not cause erosion.
- The wetland mitigation sites shall be fenced with a permanent fence if any domestic livestock are to be allowed to graze adjacent areas.
- Any future development or land-use conversion of the wetland mitigation area for any purpose which may interfere with or be detrimental to wetland functions is prohibited without prior written approval from the Corps of Engineers.
- An as-built plan shall be submitted to the Corps of Engineers and Missouri Department of Natural Resources upon project completion.

- You must protect all mitigation areas with a deed restriction, conservation easement, United States Department of Agriculture (USDA) contract restriction or other restrictive agreement between the landowner and the USDA. You must provide a copy of the restrictive document on each mitigation area to the Rock Island District at the time that you submit your "Compliance Certification."

- The permittee shall conduct an annual survey of the mitigation area to monitor the survival rate of the plantings, and soil and hydrology conditions at the site. The results of the survey will be documented annually on the enclosed Rock Island District Standard Mitigation Reporting Form also available at: http://www2.mvr.usace.army.mil/Regulatory/ or in an annual progress report as specified in RGL 06-03, http://www2.mvr.usace.army.mil/Regulatory/Documents/Regulatory. These annual reports are due no later than August 31 of each year for the 5-year period following construction. All annual monitoring reports shall be formatted for an 8.5 x 11 inch piece of paper. Your project must be in full compliance with the *State of Missouri Aquatic Resources Mitigation Guidelines*.

- Your responsibility to complete the required mitigation as set forth in the project details will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers.

27. **Water quality certification**. The conditions listed in the Section 401 water quality certification dated February 25, 2008, from the Missouri Department of Natural Resources are considered to be part of this regional permit.

<<<<< END OF SPECIAL CONDITIONS >>>>>

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 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 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.

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

Robert A. Sinkler
Colonel, U.S. Army
District Engineer, Rock Island District

7 APR 08
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.

Transferee

Date

STATE OF MISSOURI
Matt Blunt, Governor • Doyle Childers, Director
DEPARTMENT OF NATURAL RESOURCES
www.dnr.mo.gov

RECEIVED
FEB 29 2008
CEMVR-OD-P

FEB 25 2008

Colonel Roger A. Wilson, Jr.
U.S. Army Corps of Engineers
Kansas City District
601 E. 12th Street, Suite 700
700 Federal Building
Kansas City, MO 64106-2896

GP-41 Statewide
NWKGP-41/PN07-2078/CEK004650

RE: GP 41, All Districts

Dear Colonel Wilson:

The Missouri Department of Natural Resources' Water Protection Program (department) has reviewed Public Notice General Permit (GP) 41 (PN07-588) CEK004650 in which the applicant proposes to issue regional GP-41 to authorize certain discharges of dredged or fill material in conjunction with the permanent protection and/or repair of flood damaged structures, damaged areas, and/or damaged fills in waters of the United States within the states of Missouri and Kansas.

The proposed General Permit would be applicable to all Army Corps of Engineers' Districts in Missouri (Kansas City - 2007-2078/GP-41; Little Rock - 2008-00066/GP-41, Memphis - 2007-588/GP-41; Rock Island - 2007-2061/GP-35; and St. Louis).

These projects are located along the Missouri River throughout Missouri. The Missouri River is a 303(d) listed water and caution shall be exercised not to negatively impact those sections of the river that are already impaired.

This office certifies that the proposed project will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in the Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

1. This general permit shall not be used for channelization or channel modification purposes.

2. Only the repair of structures due to flood damage are authorized with this permit. The construction of new structures will need additional review and issuance of a separate water quality certification.

3. Representatives from the department shall be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the letters and conditions of the permit.

4. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment and any solid waste shall not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent water bodies as a result of this operation.

5. Petroleum products spilled into any water body or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly.

6. Only clean, nonpolluting fill shall be used. The following materials are not suitable for bank stabilization and shall not be used due to their potential to cause violations of the general criteria of the Water Quality Standards, 10 CSR 20-7.031 (A) – (H):
   a. Earthen fill, gravel, broken concrete where the material does not meet the specifications outlined below, and fragmented asphalt, since these materials are usually not substantial enough to withstand erosive flows;
   b. Concrete with exposed rebar;
   c. Tires, vehicles or vehicle bodies, construction or demolition debris are solid waste and are excluded from placement in the waters of the state;
   d. Liquid concrete, including grouted riprap, if not placed as part of an engineered structure; and
   e. Any material containing chemical pollutants (for example: creosote or pentachlorophenol).

   Recycled or broken concrete may be used provided that it is reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Applicants must break all large slabs to conform to the well-graded requirement. Generally, the maximum weight of any piece shall not be more than 500 pounds. Gravel and dirt shall not exceed 15 percent of the total fill volume. All protruding reinforcement rods, trash, asphalt and other extraneous materials must be removed from the broken concrete prior to placement.

   Recycled or broken concrete being used simply as fill need not conform to the well-graded requirement. It shall, however, be free from extraneous materials and shall be placed to eliminate voids within the fill.

7. Clearing of vegetation/trees shall be the minimum necessary to accomplish the activity. A vegetated corridor shall be maintained from the high bank on either side of the jurisdictional channel to protect water quality and to provide for long-term stability of the stream channel, unless physical barriers prevent such a corridor.

8. The riparian area, banks, etc., shall be restored to a stable condition to protect water quality as soon as possible. Seeding, mulching and needed fertilization shall be within three days

of final contouring. On-site inspections of these areas shall be conducted as necessary to ensure successful re-vegetation and stabilization, and to ensure that erosion and deposition of soil in waters of the state is not occurring from these projects.

9. Best Management Practices shall be used during construction and/or repair to limit the amount of sedimentation into adjacent water bodies.

10. Temporary fills shall be removed promptly and the fill site restored immediately following construction.

11. The attendant Water Quality Certification for this permit shall not be construed or interpreted to imply the requirements for other permits are replaced or superceded. Any National Pollutant Discharge Elimination System (NPDES) Permits, Land Disturbance General Permits, or other requirements shall be complied with.

12. After avoidance and minimization for projects, impacts must be compensated for. Mitigation for the loss of aquatic stream resources shall be in conformance with the *Missouri Stream Mitigation Method.* This document may be found at the following link: *www.mvs.usace.army.mil/permits/permits.asp*.

You may appeal to have the matter heard by the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty (30) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.

Water Quality Standards must be met during any operations authorized by these permits. If you have any questions, please contact Ms. Carrie M. Schulte of the NPDES Permits and Engineering Section by phone at (573) 751-7023, by e-mail at carrie.schulte@dnr.mo.gov, or by mail at Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65109.

Sincerely,

WATER PROTECTION PROGRAM

Robert K. Morrison

Robert K. Morrison, P.E., Chief
Water Pollution Control Branch

RKM:csp

c: Mr. Bill Goodwin, Missouri Department of Conservation
Mr. Doyle Brown, Missouri Department of Conservation
Ms. Janet Sternburg, Missouri Department of Conservation
Mr. Mike Smith, Missouri Department of Conservation
Mr. Stuart Miller, Missouri Department of Conservation
Mr. Doug Berka, Army Corps of Engineers, Kansas City District
Mr. Keith McMullen, Army Corps of Engineers, St. Louis District
Mr. Larry Watson, Army Corps of Engineers, Memphis District
Mr. Wayne Hannel, Army Corps of Engineers, Rock Island District
Army Corps of Engineers, Kansas City District, MO State Regulatory Office
Army Corps of Engineers, Kansas City District, Truman Satellite Office
Army Corps of Engineers, Little Rock District
Mr. Carl Stevens, U.S. Environmental Protection Agency
Mr. Rick Hansen, U.S. Fish and Wildlife Service
DNR – KCRO, SLRO, NERO, SERO, SWRO