



**US Army Corps  
of Engineers** ®

Rock Island District

# PUBLIC NOTICE

**Applicant: U.S. Army Corps of Engineers**

**CEMVR-RD-2022-0504**

**Date: June 27, 2023**

**Expires: June 27, 2028**

**Section 404 & 10**

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## Informational Public Notice

**U.S. Army Corps of Engineers**

**Re-issuance of Regional General Permit 26**

**Emergency Reconstruction and Repair Activities for Flood Damaged Areas**

**In All Waters of the U.S. in the State of Illinois**

The U.S. Army Corps of Engineers, Rock Island District, **HAS REISSUED** Regional General Permit 26 for work associated with emergency reconstruction and repair activities in all waters of the United States (including rivers, lakes, streams and wetland areas) in the State of Illinois within the regulatory boundaries of the Rock Island District, St. Louis District, Chicago District and Memphis District, under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

**Duration of this General Permit.** The general permit has been issued and is in effect for five (5) years from June 27, 2023 until June 27, 2028, unless revoked or specifically extended.

**Notification Procedures.** Permit applicants must notify the Rock Island District Regulatory Program to receive authorization under this general permit. The notification must include detailed drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the general permit. A Department of the Army (DA) permit application, ENG Form 4345 or ENG Form 6082, must be used for this purpose. You may request a copy of these permit application forms from the Rock Island District Regulatory Office at Clock Tower Building, P. O. Box 2004, Rock Island, IL 61204-2004, Telephone: 309-794-5057, or the form is also available to download at: <https://www.mvr.usace.army.mil/Missions/Regulatory/Permits/>. The completed application form and supplemental information should be submitted to the address above or to the following email address: [illinoismoregulatory@usace.army.mil](mailto:illinoismoregulatory@usace.army.mil).

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

**Conditions of this General Permit.** All activities authorized by this general permit must comply with the general and special conditions, and appendices of the enclosed copy of regional general permit-RGP 26.

Enclosure

**DEPARTMENT OF THE ARMY PERMIT  
Regional General Permit 26  
Emergency Reconstruction and Repair Activities for Flood Damaged Areas  
In Waters of the United States  
In the State of Illinois**

**Permittee:** General Public meeting the terms and conditions herein.

**Number:** CEMVR-RD-2022-0504 (Regional General Permit 26)

**Expiration Date:** June 27, 2028

**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 (Corps) having jurisdiction over the permitted activity, or the appropriate official of that office, acting under the authority of the Commanding Officer. This permit is valid within the following Corps Districts in the State of Illinois: Rock Island, St. Louis, Chicago, and Memphis.

**1. Project Description.** This Regional General Permit (RGP) authorizes activities to excavate and/or place fill material for protection and/or repair of existing flood damaged structures, damaged land areas and/or damaged fills as follows:

- Repair of levees to pre-existing elevations and cross-section, including breach closures and borrow operations.
- Bridge embankment protection (armoring) and/or repair.
- Repair of pre-existing highway or railroad embankments and the addition or repair of stone (armoring) protection.
- Repair of pre-existing utility protection structures.
- Placement of rock and/or earth materials for stream or ditch bank protection and/or stream or ditch bank restoration.
- 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.
- Restoration of creek channels to pre-flooding alignment and capacity.
- Construction of temporary haul 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 Division.

**Note 1:** For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of RGP authorization.

**Note 2:** Utility lines consisting of aerial electric power transmission lines crossing navigable waters of the United States (which are defined at 33 CFR part 329) must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

**Note 3:** Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this RGP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

**Note 4:** Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see RGP 15).

**Note 5:** This RGP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

**Note 6:** For overhead utility lines authorized by this RGP, a copy of the preconstruction notification and RGP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

**2. Project Location.** This Regional General Permit will authorize work associated with emergency reconstruction and repair activities in all waters of the United States (including rivers, lakes, streams and wetland areas) in the State of Illinois within the regulatory boundaries of the Rock Island District, St. Louis District, Chicago District and Memphis District.

### **3. Permit Conditions:**

#### **A. General Conditions:**

1. The permittee must notify the District Engineer (DE) in their respective Corps Regulatory District for authorization of this Regional General Permit (RGP). The pre-construction notification (PCN) must include detailed drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the RP, as well as a mitigation plan (see Section D), if unavoidable stream or wetland impacts will occur as a part of the project. Department of the Army (DA) permit application (ENG Form 4345) should be used for this purpose.
2. The Pre-Construction Notification (PCN) shall include: A completed and signed DA application (Form ENG 4345), or other suitable means of submittal (i.e. letter, report, etc.) that has the following information detailed:
  - a) Name (Point of Contact), Address, Telephone, email (if applicable) of the applicant and consultant (if applicable);
  - b) Signed statement acknowledging the authority of a consultant to speak on the applicant's behalf (if applicable);

- c) Latitude and Longitude of the proposed activity in decimal degrees;
  - d) Description of the proposed activity, detailed description of dredging method, and the project's purpose and need;
  - e) A copy of all DA authorizations previously issued for the work area.
  - f) A vicinity map, plan view, and typical cross section drawings detailing the proposed method of dredging showing all impacts to waters of the US.
    - i. Engineering and/or colored drawings will be accepted on a case by case basis; however, general and typical drawings will be suitable if legible.
    - ii. Drawings shall include:
      - 1. A vicinity map with the precise location of the activity and the upland dredged material disposal area, including geographic coordinates (decimal degrees);
      - 2. A top plan view of the showing: the property where work is proposed, its owner(s), length and width dimensions of all dredge areas, and their relationship to the adjacent property lines and existing structures, and the distance from the end of the dredge area to the centerline of a road or other fixed reference point;
      - 3. Top view and cross section drawings depicting the proposed distances and depths to which the dredging area will extend into the water body, as measured from the pool elevation line, current depth of water as measured from pool elevation, proposed depth of water as measured from pool elevation, presence or absence of vegetation on bottom, and the dimensions of all adjacent structures;
      - 4. Top view and cross section drawings depicting the proposed distances and depths of the area where dredge material will be placed, in relation to the nearest water body as measured from the pool elevation line;
      - 5. The distance from dredge areas to the top edge of any navigable channel in the immediate vicinity; and,
      - 6. An aquatic resource delineation map that clearly demonstrates the locations and boundaries of any aquatic resources (i.e. wetlands, submerged aquatic vegetation, and/or other special aquatic sites defined in 40 CFR 230.3(q-1)) or mussel beds located within 50 feet of any portion of the proposed project. The size of each aquatic site (in acres or square feet) and its distance to the edge of the project boundary must be depicted on this map.
2. The time limit for submittals ends 60 days prior to the expiration of the RP, unless the RP is modified, reissued or revoked. 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. If you commence or are under contract to commence this activity before the date the RP expires, you will have twelve months from this date to complete your activity under the present terms and conditions of this RGP.
  3. 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. If you sell the property associated by 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. 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.
  4. 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.
  5. 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.
  6. The permittee understands and agrees that, if future operations by the United States requires 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.

7. A conditioned water quality certification from the Illinois Environmental Protection Agency has been issued for your project, **IEPA Log # C-0264-22, dated April 11, 2023**, 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. (IEPA Conditions are not applicable for Section 10 only permits.)

#### **B. Special Conditions:**

1. This Regional General Permit authorizes the discharge of dredged or fill material and other work associated with emergency restoration, repair, or reconstruction measures performed in waters of the United States within the State of Illinois as a result of damages incurred during flooding. Work will be limited to that necessary to restore damaged areas to pre-flood conditions. The time period for completing the proposed work is 180 days from each permit determination. 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. **Note:** The work must commence, or be under contract to commence, within two years of the damage caused by flooding, unless this condition is waived in writing by the district engineer.

2. All channel restoration work will be limited to restoring the area to pre-flood conditions and verified using United States Department of Agriculture, Natural Resource Conservation Service, aerial photographs; or other qualifiable data, plans, etc. Channel restoration of areas not caused by the recent flooding, is not authorized under this Regional General Permit.

**Note:** This RGP cannot be used for repairs to damage caused by gradual erosion or to reclaim lands lost to normal erosion processes over an extended period.

3. Clean, uncontaminated materials must be used 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 waters of the United States by natural runoff or by leaching. Use of cementitious grout bags, grout mattresses or similar are prohibited unless used in conjunction with coffer dams. All fill materials must be obtained from upland non-wetland sources or authorized excavation sites. Use of small aggregate materials, such as creek gravel, for stabilization and erosion control is prohibited under this Regional General Permit.

4. Any construction debris or waste materials may not be disposed of below the ordinary high water mark of any water body, in a wetland area, or at any location where the material could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.

5. All dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such material to the waterway.

6. All excavation, dredging, and/or filling in the watercourse must be conducted in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.

7. All debris during every phase of the project must be immediately removed and properly disposed of in order to prevent accumulation of unsightly, deleterious and/or toxic material in or near the water body.

8. All construction materials, equipment, and/or petroleum products, when not in use, must be stored above anticipated high water levels.
9. All structures will be designed and constructed in such a way 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, or other property damage.
10. The clearing of timber and other vegetation will be restricted to the absolute minimum required to accomplish the work. The removal of mature trees must be avoided to prevent potential impacts to bald eagle roost sites. To protect the Indiana bat and Northern long-eared bat (or any other listed bat species) maternity roosting trees, tree removal will not occur between April 1 through September 30. If tree clearing will occur during this time period, the Corps will coordinate further with the United States Fish and Wildlife Services to determine the impacts of the Indiana bat and the Northern long-eared bat.
11. Upon completion of earthwork operations, all fills in the water or on shore, and other areas on shore disturbed during construction must be seeded, replanted, or otherwise protected from erosion. The use of crown vetch (*Corinilla varia*), birdfoot trefoil (*Lotus corniculatus*), Canada thistle (*Cirsium arvense*), bull thistle (*Cirsium vulgare*), wild parsnip (*Pastinaca sativa*), common reed (*Phragmites australis*), Eurasian honeysuckles (*Lonicera spp.*), buckthorns (*Rhamnus cathartica* and *R. frangula*), white and yellow sweet clovers (*Melilotus alba* and *M. officinalis*), Japanese Hops (*Humulus japonicus*), canary grass (*Phalaris arundinacea*), purple loosestrife (*Lythrum salicaria*), smooth brome grass (*Bromus inermis*), and switch grass (*Panicum virgatum*) shall be avoided. If seeding does not successfully vegetate the disturbed areas by the end of the first growing season, 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 must be implemented. You must contact the Corps of Engineers prior to beginning work on any additional erosion control measures so that we can determine if further authorization will be required.
12. Only graded rock, quarry-run rock and/or clean concrete rubble may be used for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least some 150-pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15 percent of the total fill volume. If concrete rubble is used, all large slabs must be broken to conform to the well-graded requirement. All exposed reinforcement rods, trash, asphalt, and other extraneous materials must be removed before the rubble is placed in waters of the United States
13. This permit does not authorize construction in any environmentally sensitive area, such as but not limited to mussel beds, fish spawning areas, waterfowl nesting areas, etc.
14. Measures must be taken for heavy equipment usage in wetland areas to minimize soil disturbance and compaction. All exposed soils and other fills as well as any work below the ordinary high-water mark must be permanently stabilized at the earliest practicable date using permanent native vegetation, bioengineering methods, or armoring.
15. Any excavation or placement of temporary or permanent fill must be performed in a way that would not result in the physical destruction of important fish spawning areas, including smothering of downstream spawning areas via turbidity.
16. Petroleum products, other chemicals, and other unsuitable materials (e.g. trash, debris, asphalt, etc.) will be prevented from entering water bodies, streams, and wetlands.
17. Appropriate soil erosion and sediment control measures must be used and maintained during project construction.

18. The United States shall not be responsible for damage to property or injuries to persons which may arise from or be incidental to the work herein authorized, and the permittee shall hold the United States harmless from any and all such claims, except to the extent that the damage or injury is caused solely by the negligence of the United States.

19. The project proponent must notify the appropriate public or private utility in advance of any work within 250 feet of an underground utility so that the utility is not damaged during construction activities.

20. Parties proposing to undertake work under the provisions of this regional general permit must provide prior notification to the appropriate Corps of Engineers District. Information submitted by the proponent must clearly determine whether the proposed work complies with the conditions and limitations of the regional general permit. The proponent will be notified within approximately 15 workdays if the project follows the conditions of the regional general permit and whether project construction may proceed. However, this will not alleviate the need of the proponent to obtain other applicable state or local authorization. The following information is required:

- A completed application form.
- A drawing showing the location and details of the proposed or completed work.
- **Publicly available hydrological or climatological data or other public information sufficient to reasonably substantiate the occurrence of flood conditions at the project location.**
- The information submitted must clearly describe the proposed or completed work.

21. Work that may affect a Corps of Engineers civil works project must obtain Corps Section 408 authorization prior to commencing work.

22. This authorization does not eliminate the requirement that you may still need to acquire other applicable Corps of Engineers approvals or other federal, state, and local permits. If you have not already coordinated your project with the Illinois Department of Natural Resources – Office of Water Resources, please contact them at 217/782-3863 to determine if a floodplain development permit is required for your project.

23. Project specific special conditions may also be included as conditions of this regional general permit.

24. You must sign and return the attached “Work Completion 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 general and special conditions, and that any required mitigation was completed in accordance with the permit conditions.

### **C. Temporary Impacts/Restoration Requirements:**

1. This RGP also authorizes temporary structures, levees, cofferdams, temporary mats, and other fills and discharges, necessary to conduct the repair activity and must involve the least damaging and minimum disturbance or impacts to waters of the United States. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable. After construction, temporary fills (including sandbags) must be removed in their entirety to an upland, non-wetland area and the affected areas returned to pre-construction elevations and conditions. The areas affected by temporary fills must be revegetated, as appropriate. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use.

2. All Areas affected temporarily must be returned to pre-construction contours and must be re-vegetated with native vegetation if not armored.

3. All temporary fills, including sand bags, in the waters of the United States must be completely removed within 30 days of the end of the flood emergency and disposed of in accordance with special conditions included in the regional general permit.
4. Temporary and permanent structures must be installed to maintain low flow conditions and to pass normal and expected high flows.
5. Side slopes of a newly restored channel will be no steeper than 2:1 and planted with permanent, perennial, native vegetation if not armored.
6. If jurisdictional wetlands and/or streams will be excavated within the permit area, the permittee will side-cast and stockpile the topsoil (top 10-12 inches), if practicable and/or if site conditions allow, that is being removed during the initial construction, in order to re-establish the topsoil once construction is complete. The soil must be returned to its original contours and a re-established topsoil is shall be present prior to the re-planting of vegetation. This ensures that the organic/hydric soils that were present prior to construction are returned to their natural condition and can provide for a fertile habitat to re-plant vegetation and increase the survival rate of any new habitat.

**D. Mitigation:**

1. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. If the cumulative permanent loss of wetland exceeds 0.10 acres or for stream losses that exceed 3/100 acres, compensatory mitigation is required and the permittee will provide a mitigation plan for approval which must follow the regulations published in the Federal Register dated April 10, 2008 under 33 CFR Parts 325 and 332 and 40 CFR Part 230 – Subpart J entitled “Compensatory Mitigation for Losses of Aquatic Resources,” and any such Corps regulation/guidance that would supplement these mitigation requirements. Proposed projects resulting in wetland, streams, or other special aquatic sites loss will be required to provide adequate mitigation to replace lost aquatic functions and values.
2. The amount of mitigation required will be determined during review for authorization under this permit as per the mitigation rule requirements. Mitigation must be adequate to offset unavoidable impacts or losses to regulated waters of the United States (WOUS). For all permanent stream losses greater than 3/100 acre, completion of the applicable Illinois Stream Mitigation Method will determine adequate compensatory stream mitigation. The Corps has the final approval in determining the appropriate and practicable mitigation necessary. The discharge of fill material into WOUS prior to Corps approval of the mitigation plan is prohibited.
3. Permittees must take all practicable measures to avoid and minimize impacts to waters of the United States by both temporary and permanent fills. For stream losses of 3/100 acres or less and wetland losses of 1/10-acres or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment.
4. The 2008 Mitigation Rule requires a mitigation hierarchy of utilizing mitigation banks, then In-Lieu Fees (ILF), then permittee responsible mitigation (PRM) for compensatory mitigation required for projects. Existing approved stream or wetland banks or in-lieu fee programs should be utilized (if available and appropriate) to purchase credits to compensate for wetland or stream impacts. Prior to commencing land disturbing activities, the applicant shall submit documentation of the purchase/allocation of mitigation credits from the appropriate stream or wetland bank or ILF. Specific mitigation conditions to ensure mitigation success will be included on a case-by-case basis in the authorization letter accompanying this permit.
5. If prospective permittees are not able to utilize stream or wetland banks or ILF's, permittee responsible mitigation (PRM) will be required. The permittee shall provide a wetland and/or stream mitigation plan with their Department of the Army application. For permittee responsible mitigation conditions, please refer to **Appendix A** of this regional general permit.



#### **E. Historic Properties/Archaeological:**

1. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). In cases where the DE determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places (National Register), the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) are met.
2. Federal permittee's should follow their own procedures for complying with the requirements of Section 106 of NHPA, permittee's must provide the DE with the appropriate documentation to demonstrate compliance with those requirements.
3. Non-federal permittee's must submit information to the DE if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register, including previously unidentified properties. For such activities, the information must state which historic properties may be affected by the proposed work and include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO), as appropriate, and the National Register (see 33 CFR 330.4(g)). The DE shall make a reasonable and good faith effort to ensure that appropriate identification efforts are carried out, which may include background research, consultation, history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the DE shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects, and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the DE either that the activity has no potential to cause effects, or that consultation under Section 106 of the NHPA has been completed.
4. The DE will notify the prospective permittee within 45 days of receipt of a complete application whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA Section 106 consultation is required the non-Federal applicant cannot begin work until Section 106 consultation is completed.
5. Permittee's should be aware that section 110k of the NHPA (16 U.S.C. 16 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands, or ancestral homelands, or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

#### **F. Endangered Species:**

1. No activity is authorized under this regional general permit which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under Section 7 of the Endangered Species Act (ESA), or which will directly or indirectly 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 to address the effects of the proposed activity on a listed species or critical habitat.

2. Federal permittees and their designated state agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the Corps with the appropriate documentation to demonstrate compliance with those requirements. The Corps will review the documentation and determine whether it is sufficient to address ESA compliance for the activity, or whether additional ESA consultation is necessary.

3. Non-federal permittees must provide the Corps with the appropriate documentation to demonstrate compliance with the ESA. If the authorized activity may have the potential to effect any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in designated critical habitat, permittee shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The DE will determine whether the proposed activity "may affect" or will have "no effect" on listed species and designated critical habitat.

4. Authorization of an activity by this regional general permit does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service (USFWS), both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the USFWS webpage.

**G. Water Quality Certification:** The conditions listed in the attached letter from the Illinois Environmental Protection Agency, **IEPA Log # C-0264-22, dated April 11, 2023**, are considered to be part of this Regional Permit. You must comply with the conditions specified in the certification as special conditions to this permit. (IEPA Conditions are not applicable for Section 10 only permits.)

**<<<<< END OF PERMIT 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 the issuing 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 2 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 consider 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

\_\_\_\_\_  
Ward Lenz  
Chief, Rock Island District  
Regulatory Division

27/June/2023  
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 associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
Transferee

\_\_\_\_\_  
Date

## COMPLETED WORK CERTIFICATION

Permit Number: CEMVR-RD-2023-

Name of Permittee: XXXX-RGP 26 (Emergency Reconstruction and Repair Activities for Flood Damaged Areas)

County/State: XXXX / Illinois

Date of Issuance:

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Engineer District, Rock Island  
ATTN: Regulatory Branch  
Clock Tower Building  
Post Office Box 2004  
Rock Island, Illinois 61204-2004 or  
Email: [illinoismoregulatory@usace.army.mil](mailto:illinoismoregulatory@usace.army.mil)

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above reference permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

## **Appendix A**

### **Permittee Responsible Mitigation Conditions**

When permittee responsible mitigation is deemed appropriate to compensate for stream/wetland impacts, the following conditions will apply:

#### **a.) Permittee Responsible Mitigation General Conditions:**

1. Mitigation shall be constructed prior to or concurrent with the construction of the main project.
2. The technical specifications listed in the permittee's mitigation document will be used as a compliance document for construction, monitoring, site protection, etc., of the mitigation plan. However, the information contained in this document is superseded by any additional permit conditions or written specifications provided by the Corps of Engineers.
3. 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 riparian or wetland plantings can be completed during an optimal period. Permanent plantings shall then be completed during the next optimal seeding period.
4. The boundaries of mitigation sites shall be identified clearly by the placement of permanent markers.
5. If tiling is present in a wetland mitigation site, the tile must not detract from the function of the wetland.
6. Mitigation sites shall be fenced with a permanent fence if any domestic livestock are to be allowed to graze adjacent areas.
7. 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 Corps of Engineers.
8. The mitigation site shall be protected from future activities that may interfere with or be detrimental to stream or wetland functions and values.
9. An as-built mitigation plan must be submitted to the Corps of Engineers and the Illinois Environmental Protection Agency by December 31 in the year that the mitigation is complete. This information will use GPS coordinates for location information. The as-built plan must include details, plan view drawings, and cross sectional drawings of all excavations and fills at the mitigation site(s). It must also include planting plans, planting lists, and maps showing the locations of all areas that were wetland prior to construction, all areas that are to be created wetland, all preserved stream channel segments, created or relocated stream channels, existing and proposed riparian buffers, riffle-pool structures, filter strips, all splash basins, and all other structures (including all streambed stabilization structures).

10. Annual monitoring reports shall be submitted to the Corps of Engineers by December 31 for at least five years for emergent wetland or grass/shrub riparian mitigation sites, and at least 10 years for forested wetland or forested riparian mitigation sites, or in-stream structures. The annual reports must include photos, a map with drawn boundaries indicating exactly what areas are wetland according to the 1987 Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1) and 2010 Midwest Regional Supplement, a vegetative cover map of created wetlands indicating Dominant species in each vegetative community, and an assessment of wetland hydrology in each vegetative community. The reports must also include assessments of the functionality of each splash basin stabilization structure, new stream meandered sections, and aerial coverage calculations of native vegetation within each filter strip or riparian zone and any corrective actions taken or needed. The results of the reports will be documented annually on the Rock Island District Standard Mitigation Reporting Form available at: <http://www.mvr.usace.army.mil/Missions/Regulatory/WetlandMitigion.aspx>. All annual monitoring reports shall be formatted for 8.5 x 11- inch paper.
11. The permittee (in a timely manner) will perform any corrective measures and monitoring deemed necessary by the Corps of Engineers to ensure the success of the project (including mitigation). The permittee will assume all liability for accomplishing this corrective work. The corrective actions may include such modifications to the mitigation site as re-grading, re-planting, additional erosion control, etc., or may involve relocating the mitigation to another location. The permittee must accomplish corrective measures involving re-grading or erosion control within 60 days from the date that they are notified of a need. Deadlines for corrective measures involving re-planting will be determined based on best planting dates. Deadlines for corrective measures involving the relocation of mitigation will be determined by the Corps of Engineers. Corrective action may also involve additional monitoring to ensure success.
12. Your responsibility to complete the required compensatory mitigation will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the Corps of Engineers.
13. Any future development or land-use conversion of the mitigation area for any purpose which may interfere with or be detrimental to stream or wetland functions is prohibited without prior written approval from the Corps of Engineers.
14. Projects with mitigation require recording of the permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property and provide proof of recording to the Corps of Engineers. If the permit cannot be recorded in the manner indicated, the permittee shall provide the Corps of Engineers with documentation of agreements, contracts, etc., demonstrating to the Corps of Engineers' satisfaction that the mitigation site will be protected from future activities that may interfere with or be detrimental to wetland functions and values to a level of assurance equivalent to that provided by the aforementioned recording process. This requirement should be met prior to the project's construction.

**b.) For permittee responsible stream mitigation:**

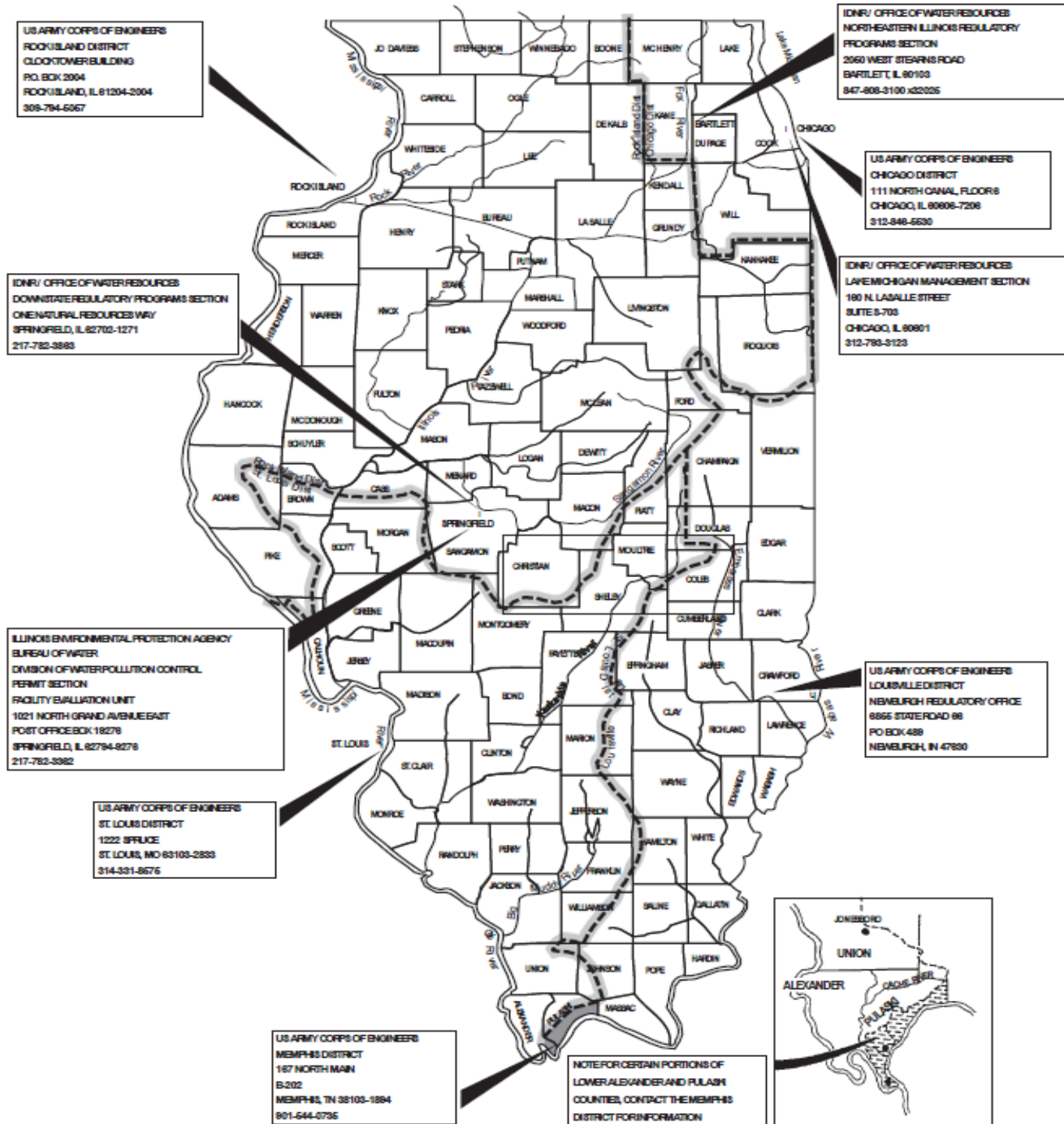
1. Proposed project designs resulting in reductions in stream length will require applicants to seek foot-for-foot stream length replacement where practicable.
2. If a side slope of a newly constructed or modified channel is not protected by a suitable structural element, it will be no steeper than 2:1 and planted to permanent, perennial, vegetation

- or armored.
3. Native grass filter strips a minimum of 50 feet in width (measured from the top of the bank landward) shall be established along both sides of the realigned or modified channel unless there is a physical reason for not including one (such as a rock ledge). Filter strip establishment will be considered successful when there is at least 50% aerial coverage of native grasses and forbs in each 100 square foot area. Land ownership is not an acceptable reason for limiting filter strips.
  4. Native trees and/or shrubs shall be planted along both sides of the realigned or modified channel. Replanting rates of trees and/or shrubs will be based on existing pre-project baseline vegetation conditions and the size of the selected tree/shrubs to be replanted. A survival rate of 100% of the replanted species shall be achieved each year for a period of 10 years from the establishment of the tree plantings.
  5. Stream banks shall be stabilized with planted vegetation, riprap, or other suitable permanent bank stabilization measures to the limits of stream bank disturbance. Plantings of native prairie grasses are recommended where appropriate to diversify the stream bank protection.
  6. The proposed channel shall have the same carrying capacity as the existing channel.
  7. If the proposed channel grade is steeper than the grade of the existing channel, grade control structures are required at the upstream and downstream ends of the proposed channel. The downstream slopes of the grade control structures shall be no steeper than 20H: 1V and upstream slopes shall be no steeper than 4H: 1V. All structures must be keyed into the channel bed and banks and must be able to withstand and pass expected high flows. The structures must be V-shaped with the point of the V pointing upstream. The sides of the V must be angled upstream (approximately 30 degrees measured along the shoreline). The center section will be lower in elevation than the outer sections to concentrate flows to the stream middle during periods of low flow. The structures must be submerged at normal stream flow (75% of the year). The structures must be fish passable at all times.
  8. In-stream habitat structures and / or the use of rock riffles may be used to enhance aquatic habitat in the stream stretch modified by stream shaping or channel alignment. In-stream habitat structures should be constructed similar to grade control structures.
  9. In areas where the stream channel is relocated, by-passed meanders must be preserved if they will not be a safety or structural hazard. The preserved meanders will remain as oxbow wetlands or pools.
  10. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes.
  11. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
  12. The applicant shall not cause:
    - o A violation of applicable provisions of the Illinois Environmental Protection Act;
    - o Water pollution defined and prohibited by the Illinois Environmental Protection Act;
    - o A violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation; or
    - o Interference with water use practices near public recreation areas or water supply intakes
  13. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may

include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Illinois Environmental Protection Agency's (IEPA) Division of Water Pollution Control, Permit Section.



# REGULATORY JURISDICTIONAL BOUNDARIES





# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

'APR 11 2023

U.S. Army Corps of Engineers  
Rock Island District, Regulatory Branch  
Clock Tower Building, P.O. Box 2004  
Rock Island, IL 61204-2004

RE: Regional General Permit 26 - (All Counties in Illinois)  
Illinois EPA Log No.: C-0264-22 / CoE Permit No.:CEMVR-RD-2022-0504  
Bureau of Water ID#: W2178990113

Dear Sir or Madam:

The Illinois Environmental Protection Agency (Agency) has reviewed the subject Regional General Permit (RGP) authorizing activities that result in excavation and/or placement of fill material in waters of the U.S. for emergency reconstruction and repair activities needed to address flood damaged structures, damaged land areas and/or damaged fills. On November 16, 2022, your office requested water quality certification pursuant to Section 401 of the federal Clean Water Act for this RGP. Then on February 14, 2023, your office published a public notice of the draft RGP, providing the basis for this Agency's review.

Based on our review of the proposed RGP, it is the judgment of the Agency that permittees meeting the terms and conditions of the proposed RGP may construct their projects without causing water pollution as defined in the Illinois Environmental Protection Act and will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, provided the project is carefully planned, supervised and is performed in compliance with conditions specified in this water quality certification.

This Agency hereby issues certification under Section 401 of the Clean Water Act (PL 95-217), subject to the conditions identified below. This certification becomes effective when the Department of the Army, Corps of Engineers includes the following conditions no. 1 through no. 4 as conditions of the requested permit pursuant to Section 404 of PL-95-217. These conditions are directed at the effect on water quality of the construction procedures involved in activities which are authorized under the above described RGP and are not an approval of any discharge resulting from completed facilities, nor an approval of the design of the facilities. These conditions do not supplant any permit responsibilities of the applicant toward the Agency.

#### **Water Quality Condition No. 1. General.**

Pursuant to 35 Ill. Admin. Code Section 395.401(a), the applicant shall not cause:

- a. violation of applicable provisions of the Illinois Environmental Protection Act;
- b. water pollution defined and prohibited by the Illinois Environmental Protection Act;
- c. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation; or
- d. interference with water use practices near public recreation areas or water supply intakes.

#### **Water Quality Condition No. 2. State Listed Threatened and Endangered Species**

Pursuant to 35 Ill. Admin. Code Section 302.105(f)(1)(F), prior to proceeding with any work in furtherance of activities permitted under this Regional General Permit, potential impacts to State threatened or endangered species and Natural Areas shall be determined in accordance with applicable consultation procedures established under 17 Ill. Admin Code Part 1075. The Department of Natural Resources (IDNR) Ecological Compliance Assessment Tool

(EcoCAT) is available to complete consultation at <http://dnr.illinois.gov/EcoPublic/>. If IDNR determines that adverse impacts to protected natural resources are likely, the applicant shall address those identified concerns with IDNR through the consultation process. Please contact IDNR, Impact Assessment Section at 217-785-5500 if you have any questions regarding consultation.

**Water Quality Condition No. 3. Biologically Significant Streams**

Pursuant to 35 Ill. Adm. Code Section 302.105(d)(6), an individual water quality certification pursuant to Section 401 of the federal Clean Water Act will be required for activities authorized under this Regional General Permit for discharges to waters designated by the State of Illinois as waters of particular biological significance<sup>1</sup> or Outstanding Resource Waters under 35 Ill. Adm. Code 302.105(b), and the activities involve in-stream work for an expected duration longer than three (3) weeks or the in-stream work will occur: (1) without cofferdam or adequate bypass measures (i.e. dam and pump, flumes, culverts, etc.) to minimize turbidity, sedimentation and erosion and to maintain normal stream flow during construction; or (2) without machinery utilizing biodegradable or bio-based hydraulic fluids to minimize pollution in the case of broken or leaking hydraulic equipment; or (3) without a spill avoidance and response plan developed and implemented for management of accidental releases of petroleum, oil, and lubricant products to the aquatic environment.

**Water Quality Condition No. 4. NPDES Stormwater Construction Permit**

Pursuant to the Illinois Environmental Protection Act Section 39(a)[415 ILCS 5/39(a)] and 35 Ill. Admin. Code Section 395.402(b)(2), the applicant shall be responsible for obtaining an NPDES Storm Water Permit required by the federal Clean Water Act prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be applied for at <https://www2.illinois.gov/epa/topics/forms/water-permits/storm-water/Pages/construction.aspx>.

This Section 401 water quality certification does not grant immunity from any enforcement action found necessary by this Agency to meet its responsibilities in prevention, abatement, and control of water pollution.

If you have any questions about this final determination, please contact Darren Gove of my staff at either 217/782-3362 or [Darren.Gove@illinois.gov](mailto:Darren.Gove@illinois.gov).

Sincerely,



Darin E. LeCrone, P.E.  
Manager, Permit Section  
Division of Water Pollution Control  
Illinois Environmental Protection Agency

CC: CoE, Districts: Chicago, St. Louis, Louisville, Memphis  
USEPA, Region 5  
IDNR  
BOW\_File

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<sup>1</sup> Biologically Significant Streams (BSS) are cataloged in Illinois DNR's publication "Integrating Multiple Taxa in a Biological Stream Rating System" and may be identified at: <https://www2.illinois.gov/dnr/conservation/BiologicalStreamratings/Pages/default.aspx>.