



**US Army Corps
of Engineers**®
Rock Island District

PUBLIC NOTICE

Applicant: U.S. Army Corps of Engineers

Date: July 8, 2022

CEMVR-RD-2022-0884

Expires: August 6, 2022

Section: 10/404

**Joint Public Notice
US Army Corps of Engineers
Iowa Department of Natural Resources**

**New Regional General Permit 48
Residential Developments
In the State of Iowa**

1. **Applicant:** The U.S. Army Corps of Engineers, Rock Island District, with regulatory jurisdiction in Iowa are pursuing the development of this regional permit.

2. **Project Location:** The regional permit will authorize work associated with the discharge of dredged and/or fill material into all waters of the United States, including wetlands (WUS), for residential developments under jurisdiction of the Rock Island District (District) in in the State of Iowa. This permit may be used on tribal lands in the state of Iowa; however, an individual 401 Water Quality Certification must be obtained from the Meskwaki Nation - Sac and Fox tribe of the Mississippi in Iowa and ,the Winnebago Tribe of Nebraska in Iowa, prior to authorization

3. **Project Description:**

A. The U.S. Army Corps of Engineers (Corps) proposes the new Regional General Permit (RP) for the activities required for the construction, expansion, modification, or improvement of residential developments of a single residence, a multiple unit residential development, or a residential subdivision, which result in a total loss of up to 2.0 acre of waters of the United States, including the loss of up to 1,000 linear feet of stream bed. The loss of stream bed plus any other losses of jurisdictional wetlands and waters caused by the activity cannot exceed 2.0 acre, which includes no more than 1,000 linear feet of stream bed loss. Activities may include (but are not limited to) construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features include (but are not limited to) roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreational facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

B. For residential subdivisions, the aggregate total aggregate total loss of WUS authorized by the RP cannot exceed 2.0 acre of WUS, including the loss of up to 1,000 linear feet of stream bed. This includes any loss of WUS associated with development of individual subdivision lots.

C. The project must be a single and complete project. The maximum impact limitations will be applied on a cumulative basis for activities that are part of a larger common plan of development or sale.

4. **Permit Conditions:**

A. **General Conditions:**

1) The permittee must notify the District Engineer (DE), Rock Island District, for authorization of this Regional General Permit (RP). The notification 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 can be found and submitted on the Iowa Department of Natural Resources PERMT website.

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 is modified or revoked, you will have twelve months from this date to complete your activity under the present terms and conditions of this RP.

3) If the project impacts an Outstanding Iowa Water (OIW), an individual 401 Water Quality Certification (WQC) must be obtained and permittee shall not begin work on the activity until a 401 is issued by the State or waived by the DE, and you have received notification from this office to proceed.

4) 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.

5) 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.

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.

B. Special Conditions:

1) Riprap, if used for bank stabilization, shall be clean native fieldstone, clean quarry rock, or appropriately graded clean broken concrete with all reinforcing rods and/or wire cut flush with the surface of the concrete. It shall be the permittee's responsibility to maintain the riprap such that any reinforcement material that becomes exposed in the future is removed. The concrete pieces shall be appropriately graded, and no piece shall be larger than 3 feet across the longest flat surface. No riprap shall be placed at a distance greater than 4 feet horizontally from the toe of the bank. Asphalt, broken concrete containing asphalt, petroleum-based material, liquid concrete, and items such as car bodies are specifically excluded from this authorization.

2) This regional permit also authorizes temporary structures, fill, and work necessary to construct, expand, modify, or improve residential developments, including associated infrastructure and attendant features. Temporary impacts must be the minimum necessary to achieve project objectives.

- a) All temporary structures and fill will be removed entirely no later than 30 days after they are no longer needed for construction activities.
- b) Temporary fill materials, cleared vegetative materials, construction debris, and other fill not necessary for meeting the project purpose, must be disposed of at an upland area or licensed landfill as appropriate. The discharge location must be provided to the Corps as part of the application packet.
- c) Temporary fills must consist of materials that will not be eroded by expected high flows. If materials might erode they must be removed prior to high flow events.
- d) Areas affected temporarily must be returned to pre-construction contours and must be re-vegetated with native vegetation if not armored.

3) Measures must be taken for heavy equipment usage in wetland areas to minimize soil disturbance and compaction.

4) Any spoil material excavated, dredged, or otherwise produced, must not be returned to the waterway or wetlands but must be deposited in a self-contained area in compliance with all state statutes. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.

5) Construction of stormwater management facilities, including but not limited to stormwater detention and retention basins, is authorized; however, the construction of a stormwater management facility in a WUS does not change the regulatory authority/designation of the basin/stream. Mitigation for the construction of the basin may be required for wetland losses greater than 0.1 acre and/or stream losses greater than 300 linear feet and/or 0.03 acres of streambed impacts. Stormwater basins cannot be used for compensatory mitigation.

C. Temporary Impacts/Restoration Requirements:

1) The permittee is required to replant all temporary construction right-of-way (ROW) located within wetlands to the standards stated in the Rock Island District (MVR) Regulatory Branch Mitigation and Monitoring Guidelines.

2) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted with permanent, perennial, native vegetation if not armored.

3) 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 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) If the permanent loss of wetland exceeds 0.10 acres or for stream losses greater than 300 linear feet and/or 0.03 acres of streambed impacts, compensatory mitigation is required and must follow the regulations published in the Federal Register dated April 10, 2008 under 33 CFR Parts 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 such as the Rock Island District Mitigation and Monitoring Guidelines and the MVR Stream Mitigation Policy.

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 300 feet and/or 0.03 acres of streambed impacts completion of the Iowa Stream Mitigation Method (ISMM) is required to 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.

4. Agency Review:

A. Department of the Army, Corps of Engineers. The Department of the Army application is being processed under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

B. State of Iowa. The project plans have been submitted to the Iowa Department of Natural Resources for state certification of the proposed work in accordance with Section 401 of the Clean Water Act. The certification, if issued, will express the Department's opinion that the proposed activity will comply with Iowa's water quality standards (Chapter 61 IAC). The applicant has also applied for authorization of work in the floodplain pursuant to Chapter 455B of the Iowa Code and other applicable state permits. Written comments concerning possible impacts to waters of Iowa should be addressed to: Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319. A copy of the comments should be provided to the Corps of Engineers office (see paragraph 11. of this public notice for address).

5. Historical/Archaeological:

A. 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.

B. Federal permittees 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.

C. Non-federal permittees 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) 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.

D. 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.

E. 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 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.

6. Endangered Species:

A. No activity is authorized under this regional 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 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.

B. 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.

C. 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.

D. 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.

7. Dredge/Fill Material Guidelines: The evaluation of the impact of the proposed activity on the public interest will also include application of the guidelines promulgated by the Administrator of the United States Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

8. Public Interest Review: The decision whether to issue the Corps permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

9. **Who Should Reply:** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. These statements should be submitted on or before the expiration date specified at the top of page 1. These statements should bear upon the adequacy of plans and suitability of locations and should, if appropriate, suggest any changes considered desirable.

10. **Public Hearing Requests:** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided.

11. **Reply to the Corps.** Comments concerning the Corps permit should be addressed to the District Engineer, US Army Corps of Engineers, Rock Island District, ATTN: RD, Clock Tower Building - Post Office Box 2004, Rock Island, Illinois 61204-2004. **Ms. Kirsten Brown (309-794-5369)**, email: Kirsten.L.Brown@usace.army.mil, may be contacted for additional information.



Attach
Plan

Ms. Kirsten L. Brown
Senior Project Manager, Western Branch
Regulatory Division

REQUEST TO POSTMASTERS: Please post this notice conspicuously and continuously until the expiration date specified at the top of page 1.

NOTICE TO EDITORS: This notice is provided as background information for your use in formatting news stories. This notice is not a contract for classified display advertising.

DEPARTMENT OF THE ARMY PERMIT
Regional Permit 48
Fill Material Placed for Residential Developments
In Waters of the United States
In the State of Iowa

Permittee: General Public meeting the terms and conditions herein.

Number: CEMVR-RD-2022-0884 (Regional Permit 48)

Expiration Date:

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.

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

1. Authorized Work.

Proposed Limits.

- (a) Activities required for the construction, expansion, modification, or improvement of residential developments of a single residence, a multiple unit residential development, or a residential subdivision, which result in a total loss of up to 2.0 acre of waters of the United States, including the loss of up to 1,000 linear feet of stream bed. The loss of stream bed plus any other losses of jurisdictional wetlands and waters caused by the activity cannot exceed 2.0 acre, which includes no more than 1,000 linear feet of stream bed loss. Activities may include, but are not limited to, construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features include (but are not limited to) roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreational facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

1. For residential subdivisions, the aggregate total aggregate total loss of WUS authorized by the RP cannot exceed 2.0 acre of WUS, including the loss of up to 1,000 linear feet of stream bed. This includes any loss of WUS associated with development of individual subdivision lots.
- (b) The project must be a single and complete project. The maximum impact limitations will be applied on a cumulative basis for activities that are part of a larger common plan of development or sale.

2. Project Location. All waters of the United States in Iowa within the regulatory boundaries of the Rock Island District. This permit may be used on tribal lands in the state of Iowa; however, an individual 401 Water Quality Certification must be obtained from the Meskwaki Nation - Sac and Fox tribe of the Mississippi in Iowa, prior to authorization.

3. Permit Conditions:

A. General Conditions:

- 1) The permittee must notify the District Engineer (DE), Rock Island District, for authorization of this Regional General Permit (RGP). The notification 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 can be found and submitted on the Iowa Department of Natural Resources PERMT website.
- 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 is modified or revoked, you will have twelve months from this date to complete your activity under the present terms and conditions of this RP.
- 3) If the project impacts an Outstanding Iowa Water (OIW), an individual 401 Water Quality Certification (WQC) must be obtained and permittee shall not begin work on the activity until a 401 is issued by the State or waived by the DE, and you have received notification from this office to proceed.
- 4) 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.

- 5) 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.
- 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.

B. Special Conditions:

- 1) Riprap, if used for bank stabilization, shall be clean native fieldstone, clean quarry rock, or appropriately graded clean broken concrete with all reinforcing rods and/or wire cut flush with the surface of the concrete. It shall be the permittee's responsibility to maintain the riprap such that any reinforcement material that becomes exposed in the future is removed. The concrete pieces shall be appropriately graded, and no piece shall be larger than 3 feet across the longest flat surface. No riprap shall be placed at a distance greater than 4 feet horizontally from the toe of the bank. Asphalt, broken concrete containing asphalt, petroleum-based material, liquid concrete, and items such as car bodies are specifically excluded from this authorization.
- 2) This regional permit also authorizes temporary structures, fill, and work necessary to construct, expand, modify, or improve residential developments, including associated infrastructure and attendant features. Temporary impacts must be the minimum necessary to achieve project objectives.
 - a. All temporary structures and fill will be removed entirely no later than 30 days after they are no longer needed for construction activities.
 - b. Temporary fill materials, cleared vegetative materials, construction debris, and other fill not necessary for meeting the project purpose, must be disposed of at an upland area or licensed landfill as appropriate. The discharge location must be provided to the Corps as part of the application packet.
 - c. Temporary fills must consist of materials that will not be eroded by expected high flows. If materials might erode they must be removed prior to high flow events.
 - d. Areas affected temporarily must be returned to pre-construction contours and must be re-vegetated with native vegetation if not armored.
- 3) Measures must be taken for heavy equipment usage in wetland areas to minimize soil disturbance and compaction.
- 4) Any spoil material excavated, dredged, or otherwise produced, must not be returned to the waterway or wetlands but must be deposited in a self-contained area in compliance with all state statutes. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.

- 5) Construction of stormwater management facilities, including but not limited to stormwater detention and retention basins, is authorized; however, the construction of a stormwater management facility in a WUS does not change the regulatory authority/designation of the basin/stream. Mitigation for the construction of the basin may be required for wetland losses greater than 0.1 acre and/or stream losses greater than 300 linear feet and/or 0.03 acres of streambed impacts. Stormwater basins cannot be used for compensatory mitigation.

C. Temporary Impacts/Restoration Requirements:

- 1) The permittee is required to replant all temporary construction right-of-way (ROW) located within wetlands to the standards stated in the Rock Island District (MVR) Regulatory Branch Mitigation and Monitoring Guidelines.
- 2) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted with permanent, perennial, native vegetation if not armored.
- 3) 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 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) If the permanent loss of wetland exceeds 0.10 acres or for stream losses greater than 300 linear feet and/or 0.03 acres of streambed impact, compensatory mitigation is required and must follow the regulations published in the Federal Register dated April 10, 2008 under 33 CFR Parts 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 such as the Rock Island District Mitigation and Monitoring Guidelines and the MVR Stream Mitigation Policy.
- 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 (WUS). For all permanent stream losses greater than 300 feet and/or 0.03 acres completion of the Iowa Stream Mitigation Method (ISMM) is required to 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 WUS prior to Corps approval of the mitigation plan is prohibited.

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 permittees 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 permittees 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) 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 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 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 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: By letter dated (TBD) the Iowa Department of Natural Resources issued General Section 401 water quality certification for this regional permit.

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.

<<<< 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 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 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

Ward Lenz
Chief, Rock Island District
Regulatory Division

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