

**DEPARTMENT OF THE ARMY PERMIT**  
**Regional Permit 7**  
**Fill Material Placed in Waters of the U. S. for Road Crossings**  
**in the State of Iowa**

Permit Number: CEMVR-OD-P-

Section: 404

Permittee:

POC:

Tel:

Effective Date:

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 having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

Project Description: To

Project Location:

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Drawings No. CEMVR-OD-P-

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on the date specified on page 1. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before that date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party, in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions. (Condition is not applicable for Section 10 Permits.)
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The intended use of work authorized under this regional permit will be in association with bridge and roadway construction across waters of the United States.
2. This regional permit is limited to excavation activities and fill material placed in wetlands or below the ordinary high water mark of other waters for bridge replacement on existing alignment and associated bridge removal, or new alignments located within 500 feet of either side of the centerline of existing structures. New bridge or roadway alignments must be based upon sound conservation and safety bases.
3. Permanent fill material placed below the plane of ordinary high water (OHW) or in wetland areas, when this fill is utilized in the construction of bridge abutments, pier footings, etc., in association with bridge construction, shall not exceed 500 cubic yards. Riprap shall be clean native fieldstone, clean quarry run rock, or appropriately graded broken concrete that is free of reinforcement material.

4. Temporary fill for access, cofferdams, or other temporary structures required for the construction of highway crossings shall be included in the project plans and shall not exceed 500 cubic yards.

5. All temporary structures and fill will be removed completely by mechanical means no later than 30 days after completion of construction and they are no longer needed for construction activities. Temporary fill materials, cleared vegetative materials, construction debris, including old bridge materials, and other fill not necessary for meeting the project purpose must be disposed of at an approved upland area or licensed landfill as appropriate.

6. Permittees must take all practicable measures to avoid and minimize impacts to waters of the United States by both temporary and permanent fills. Once such measures are taken, up to 1 acre of regulated wetland area may be filled in conjunction with the road crossing projects. Compensatory wetland mitigation is required at a minimum ratio of 1.5:1. Mitigation must be adequate to offset unavoidable impacts or losses to regulated waters of the United States. The Corps of Engineers will determine if the proposed mitigation is adequate.

7. This permit does not authorize construction in any environmentally sensitive area, such as mussel beds, fish spawning areas, waterfowl nesting areas, etc.

8. Minor stream shaping and channel realignment is authorized where necessary to provide adequate flow conveyance and proper alignment of the channel through the bridge. Such activities must occur within 300 feet upstream and downstream of the centerline of the proposed bridge (existing channel length, with a maximum distance of existing channel length impacted (filled or abandoned) not to exceed 500 feet). In-stream and riparian mitigation measures, necessary to minimize or mitigate impacts, will be required on a case-by-case basis. Mitigation required for any stream shaping and channel realignment may include but not be limited to:

- 1) Stream banks shall be no steeper than 2H:1V.
- 2) Stream banks shall be stabilized with planted vegetation or riprap to the limits of stream bank disturbance. Plantings of native prairie grasses are recommended where appropriate to diversify the stream bank protection.
- 3) The proposed channel shall have the same or greater carrying capacity as the existing channel.
- 4) 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. Upstream slopes should be no steeper than 4H:1V.
- 5) 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.
- 6) In areas where the stream channel is relocated, preservation of some by-passed meanders is recommended to create oxbow wetlands or pools.
- 7) Native grass filter strips a minimum of 35 feet in width (measured from the top of the bank landward) or a riparian corridor consisting of native trees and/or shrubs shall be planted along both sides of the realigned channel unless there is a technical reason for not including one (such as a rock ledge).

9. Measures must be taken for heavy equipment usage in wetland areas to minimize soil disturbance. 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.

10. 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.

11. Petroleum products, other chemicals, and other unsuitable materials (e.g. trash, debris, asphalt, etc.) will be prevented from entering water bodies, streams, and wetlands.

12. Appropriate soil erosion and sediment control measures must be used and maintained during project construction.

13. Temporary and permanent structures must be installed to maintain low flow conditions and to pass normal and expected high flows.

14. The permittee must coordinate the proposed work with the State Historic Preservation Officer and provide all documentation and other information sufficient for compliance with Section 106 of the National Historic Preservation Act prior to the authorization becoming effective under this Regional Permit. This is most pertinent regarding the historical significance of existing bridge and other features that are to be removed. If, during construction, the permittee uncovers an item or items that may be of historic or archaeological interest or if important new historic data comes to light in the project area, the work will be delayed sufficient time to notify the appropriate District Engineer and the State Historic Preservation Officer to allow the significance of the discovery to be determined.

15. That conditions listed in the attached Section 401 water quality certification from the Iowa Department of Natural Resources dated March 15, 2002, are considered to be part of this permit. The regional conditions are as follows:

- Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if it is not armored.
- NWP's with mitigation may 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.
- Mitigation shall be scheduled for construction prior to or concurrent with the construction of the main project.

**16. Endangered Species.**

a. No activity is authorized under this Regional Permit which is likely to adversely affect the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act 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.

b. Authorization of an activity by this regional permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. 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 or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and [http://www.nfms.gov/prot\\_\\_res/esahome.html](http://www.nfms.gov/prot__res/esahome.html), respectively.

Further information:

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

( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

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

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

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

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

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

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

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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

  
\_\_\_\_\_  
William J. Bayles  
Colonel, U.S. Army  
District Engineer, Rock Island District

12 August 2002  
Date

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
Transferee

\_\_\_\_\_  
Date

**STATE OF IOWA**

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
JEFFREY R. VONK, DIRECTOR

March 15, 2002

Mr. Steven J. Vander Horn  
Department of the Army  
Rock Island District Corps of Engineers  
Clock Tower Building - PO Box 2004  
Rock Island, IL 61204-2004

Dear Mr. Vander Horn:

The Environmental Protection Commission will be making the final decision about granting Section 401 Water Quality Certification for the Nationwide Permits and Regional Permit 7 on April 15, 2002. The Department of Natural Resources (DNR) staff will be proposing that the Commission grant unconditional certification of the NWP's contingent upon your Division Engineers' approval of the 3 Iowa Regional Conditions for the Nationwide Permits and associated interagency coordination agreements and conditional certification for Regional Permit 7.

An administrative rule reflecting the Commission's actions should be published in the Iowa Administrative Bulletin on May 15, 2002 and will have an effective date as of June 19, 2002. Therefore, Section 401 Certification for the referenced Nationwide Permits and Regional Permit 7 would be effective as of that date.

The DNR grants conditional 401 Water Quality Certification for Regional Permit 7 with the 3 Iowa Regional Conditions to be included in the permits. For any project requesting a Regional Permit 7 and falling on a waterbody listed in our "Special Waters of Iowa" guidebook, the Corps will contact the DNR for site-specific comments/conditions to protect the aquatic resources. The DNR requests a minimum of 10 days to complete each review.

We would like to keep the interagency coordination procedure in place and will be providing a GIS layer with Iowa's Special Waters for your use in the near future.

If you have any questions or comments about the certification, please contact me at the address shown below or call (515) 281-6615.

Sincerely,

*Christine M. Schwake*

Christine M. Schwake  
Environmental Specialist