



**US Army Corps  
of Engineers** ®

St. Paul District

**SECTION: 404** —  
Clean Water Act

# Public Notice

**ISSUED:** September 24, 2013

**EXPIRES:** October 24, 2013

**REFER TO:** 96-06788-GP-SDE  
96-06789/06790-GP-SDE  
96-06791-GP-SDE  
96-06792-GP-SDE

**APPLICANT:** General Public

## PROPOSED REAUTHORIZATION of the GENERAL PERMITS for the CITY OF SUPERIOR SPECIAL AREA MANAGEMENT PLAN

### 1. PURPOSE and BACKGROUND.

The St. Paul District of the U.S. Army Corps of Engineers is proposing to reauthorize General Permits (GPs) for the City of Superior, Wisconsin, Special Area Management Plan (SAMP). The GPs were initially issued in December 1996 and reauthorized in May 2002 (SAMP I). The SAMP was substantially modified in 2008 (SAMP II) and in November 2008 the GPs were reauthorized again. SAMP II – GPs issued in 2008 expire on October 1, 2013.

The SAMP II – GPs would authorize the placement of dredged and fill materials in wetlands designated for development by the City of Superior, Wisconsin, (City) under SAMP II. Formulation of the SAMP began in 1990 and involved the U.S. Army Corps of Engineers (Corps), City, U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (FWS), Wisconsin Department of Natural Resources (DNR), and others. The SAMP program was developed to: (1) assist the Corps and DNR in providing fair and timely responses to wetland impact permit requests; and (2) facilitate natural resource management in cooperation with reasonable economic growth. Since 1996, the City has administered the SAMP program through its building permit process and requirements of the SAMP GPs.

SAMP II applies a 10-year timeframe with a cap of 140.0 acres of wetland impacts broken out by categories of activities that are similar in nature (Table 1). SAMP II – GPs have a limit of 10.0 acres of adverse impacts to wetlands for a single and complete project. A pre-discharge notification to the Corps is required

<b>Table 1: City of Superior Special Area Management Plan (SAMP) General Permits</b>	
<b>Project Classification</b>	<b>Total Acres (10-year period)</b>
Residential	Up to 40
Public	Up to 15
Institutional	Up to 10
Commercial/Industrial	Up to 75

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for each proposed project under the GPs. In accordance with Corps regulations, all GPs expire in 5 years. This provides an opportunity for a mid-term review of the SAMP II – GPs.

Since their issuance in 2008, SAMP II – GPs have authorized 15 SAMP development projects totaling 8.86 acres of wetland impacts (Table 2). To put this in perspective, during 1997-2006, SAMP I – GPs authorized 32 SAMP development permits totaling 93.93 acres of wetland impacts. Locations of authorized wetland impact sites are shown by Figure 1.

**Table 2**  
**SAMP GP Authorizations 2009-2013**

SAMP GP Number	Project Type	Shrub-Carr	Wet Meadow	Forest (Wet)	Deep Marsh	Shallow Marsh	Upland Buffer	Total Acres
SAMP Permit No. 2009-01	Residential	0.600						0.600
SAMP Permit No. 2009-02	Commercial	0.390						0.390
SAMP Permit No. 2009-03	Industrial	0.110	0.110					0.220
SAMP Permit No. 2009-05	Residential		0.150					0.150
SAMP Permit No. 2009-07	Public	0.127						0.127
SAMP Permit No. 2009-08	Industrial	1.628	1.430					3.058
SAMP Permit No. 10-03	Residential						0.038	0.038
SAMP Permit No. 10-04	Residential					0.128		0.128
SAMP Permit No. 10-05	Commercial	0.395		0.770	0.015		0.310	1.490
SAMP Permit No. 10-03	Residential	0.150						0.150
SAMP Permit No. 11-02	Residential				0.300			0.300
SAMP Permit No. 2012-01	Residential		0.340					0.340
SAMP Permit No. 2012-02	Industrial	0.050	0.210					0.260
SAMP Permit No. 2012-03	Residential	0.350						0.350
SAMP Permit No. 2012-04	Residential		0.210					0.210
SAMP Permit No. 2013-01	Commercial	1.047						1.047
							<b>TOTAL</b>	<b>8.86</b>

Process to Determine Wetlands Potentially Eligible for SAMP II – GP Authorization. The City conducted wetland functional assessments based on the Routine Assessment Method (RAM) developed for the State of Minnesota and modified for the City by the Corps, DNR, FWS and EPA. Assessments determined the general quality of wetlands in the City in each of six functional categories including plant habitat integrity; water quality integrity; wildlife habitat integrity; flood and stormwater attenuation; hydrologic integrity; and public values (recreation, aesthetics, cultural, scientific, etc.) as well as several special features related to zoning restrictions (shoreland wetland areas and floodplains); known occurrences of state- or federally-listed threatened, endangered, or special concern plants and animals; and areas designated as environmentally sensitive.

Wetlands not eligible for SAMP II – GP authorization include any with high-rated plant habitat integrity or high-rated wildlife habitat integrity, and many with medium ratings for plant or wildlife habitat integrity. Additionally, wetlands within shoreland wetlands or floodplain zoning designations; sites with known occurrences of state- or federally-listed threatened, endangered, or special concern plant species; sites within designated environmentally sensitive areas; and sites identified by the DNR as important wildlife corridors; are not eligible for SAMP II – GP authorization. Those wetlands with low to medium functional ratings for plant and wildlife habitat integrity, and no special features, were considered potentially eligible for wetland fill impacts authorized by SAMP II – GPs.

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The review process described above considered the eligibility of 5,579 acres of wetlands within the City limits. Of those, 1,097 acres were determined potentially eligible for SAMP II – GPs. However, the GPs for SAMP II are capped at 140 acres of wetland impacts over the 10-year life of SAMP II.

All SAMP II – GP applications would require applicants to provide a wetland delineation (according to the current Corps wetland delineation manual and Northcentral/Northeast Regional Supplement) by a qualified wetland delineator; a survey for state- and/or federally-listed threatened, endangered, or special concern plants by a qualified wetland plant ecologist/botanist; a detailed site plan showing wetland impacts and measures to avoid or minimize wetland impacts on-site; and intent to purchase wetland mitigation credits from the City's mitigation, bank or propose some other form of wetland compensation acceptable to the Corps.

Eligible projects include any residential, public, commercial/industrial, or institutional project within the corporate limits of the City of Superior meeting all current state, county, and local building requirements and zoning ordinances/laws. SAMP II – GPs would not be issued for projects involving speculative fill. A site plan must be provided for all projects including all proposed buildings and improvements to the property. Projects exceeding 10.0 acres of adverse impacts to wetlands are not eligible for SAMP II – GPs.

Special Conditions. During the review process for each SAMP II – GP application, the Corps has the option of applying one or more special conditions. Special conditions will be reviewed by the City to determine the City's capacity to enforce the special condition. If the City determines that it is not able to effectively enforce the condition based on staff experience, availability, and other resources, the SAMP II – GP would be denied and the applicant directed to the Corps' individual permit process. The City does not retain the authority to apply special conditions to a SAMP II – GP authorization, only to enforce the implementation of the special condition by the permittee.

Compensatory Mitigation. Compensatory mitigation for wetland impacts due to SAMP II – GPs would be accomplished by the City through its Wetland Mitigation Bank. The bank received interagency approval in October 2008 and an interagency review team (IRT) oversees its operation. Compensatory wetland mitigation may also be provided on-site or off-site, independent of the City's wetland mitigation bank, if the applicant provides a suitable compensation site plan, or if the applicant wishes to purchase compensatory wetland mitigation credits from an approved wetland mitigation bank within the Lake Superior Watershed.

## **2. REPLIES/COMMENTS**

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability and adequacy of the proposal and should, if appropriate, suggest any changes believed to be desirable.

Replies may be addressed to Regulatory Branch, ATTN: Steve Eggers, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, if you have questions about this project, call Steve Eggers in the St. Paul District office of the Corps, at (651) 290-5371, or e-mail: [steve.d.eggers@usace.army.mil](mailto:steve.d.eggers@usace.army.mil)

## **3. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT**

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Douglas County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Status</u>	<u>Habitat</u>
Canada lynx ( <i>Lynx canadensis</i> )	T	Northern forested areas
Kirtland's warbler ( <i>Dendroica kirtlandii</i> )	E	Potential breeding in jack pine
Piping plover ( <i>Charadrius melodus</i> )	E	Sandy beaches; bare alluvial and dredge spoil islands
Fassett's locoweed ( <i>Oxytropis campestris</i> var. <i>chartacea</i> )	T	Open, sandy lakeshores

This proposal is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the proposed SAMP II – GPs.

#### 4. JURISDICTION

The proposed general permits would authorize the discharge of dredged and fill material in waters of the U.S. under Section 404 of the CWA.

#### 5. STATE SECTION 401 WATER QUALITY CERTIFICATION

Section 404 permits are not valid unless state water quality certification is granted or waived pursuant to Section 401 of the CWA. The state Section 401 authority in Wisconsin is the Wisconsin Department of Natural Resources. Each applicant for a SAMP II – GP authorization would need to obtain an individual Section 401 water quality certification from the DNR. A SAMP II – GP is not valid without this certification.

#### 6. HISTORICAL/ARCHAEOLOGICAL

This public notice is being sent to the State Archaeologist and the State Historic Preservation Officer for comment. All SAMP II – GP applications would be sent to the State Historical Preservation Officer for review. Implementation of the SAMP II – GPs would not affect the Corps' responsibility to insure that all Section 404 and Section 10 authorizations comply with Section 106 of the National Historic Preservation Act. Unknown archaeological, scientific, or historical data could be lost or destroyed by the work authorized by SAMP II – GPs. However, these GPs would not authorize any work that would affect known resources, and projects are individually reviewed to minimize any potential for adverse impacts to resources.

#### 7. 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, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served. A public hearing on the SAMP I – GPs was held in Superior, Wisconsin on May 14, 1996.

## 8. PUBLIC INTEREST REVIEW

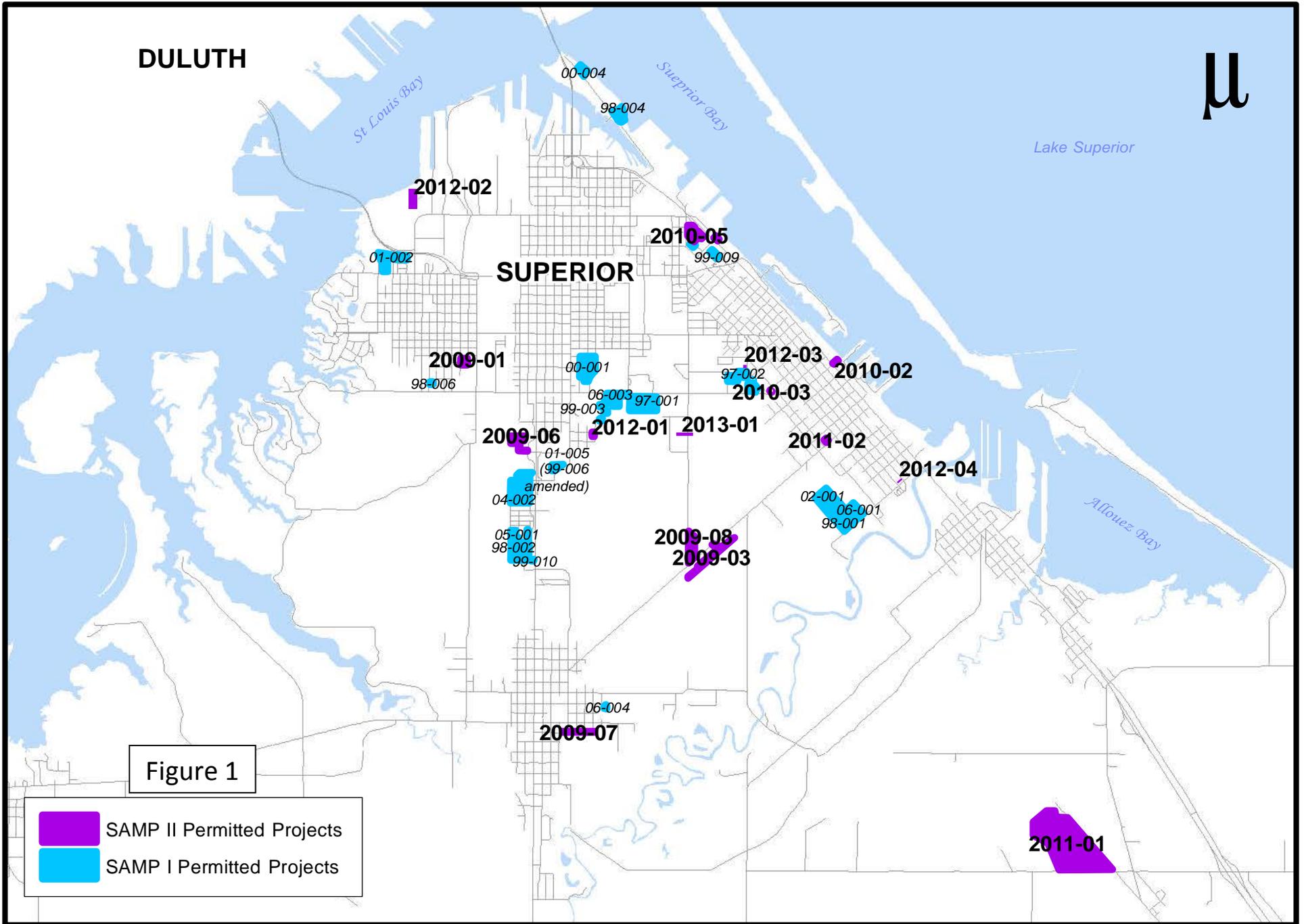
The decision whether to reauthorize these GPs will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which 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. 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 and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

FOR THE DISTRICT ENGINEER:

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Tamara E. Cameron  
Chief, Regulatory Branch

Attachment: Figure 1



Map by D McNamara, City of Superior, June 2013.

00-004

98-004

2012-02

01-002

2010-05

99-009

2009-01

98-006

00-001

06-003

99-003

01-005

(99-006 amended)

04-002

05-001

98-002

99-010

2009-06

2012-01

2013-01

2012-03

97-002

2010-03

97-001

2010-02

2011-02

02-001

06-001

98-001

2012-04

2009-08

2009-03

06-004

2009-07

2011-01