US Army Corps
of Engineers
St Paul District

Public Notice

ISSUED: May 9, 2005

SECTION: 404-Clean Water Act

REFER TO: GP/LOP-05-R

FINAL ACTION: RE-ISSUANCE OF GP/LOP-R AND CONTINUED SUSPENSION OF ALL DEPARTMENT OF THE ARMY SECTION 404 NATIONWIDE PERMITS WITHIN THE EXTERIOR BOUNDARIES OF INDIAN RESERVATIONS IN MINNESOTA AND WISCONSIN, EXCEPT THE MOLE LAKE BAND OF SOKAOGON CHIPPEWA RESERVATION AND THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA RESERVATION.

*****NOTE: This public notice was issued on April 18, 2005. It was found to contain several errors in how it named the Fond du Lac Band of Lake Superior Chippewa and their proposed assumption of water quality certification authority. Corrections have been made. There is no change to the general permit and letter of permission procedures and no change to their effective date.*****

1. PURPOSE OF THIS PUBLIC NOTICE.
The purpose of this public notice is to inform the public that the action described in the heading above is effective until April 18, **2010.**

2. BACKGROUND.
On January 12, 2005, the St. Paul District issued a public notice that described and requested public comment on its proposal to continue use of the GP/LOP-R to replace all of the Department of the Army Section 404 nationwide permits (NWPs) within the exterior boundaries of Federally-designated Indian Reservations in Minnesota and Wisconsin except the Mole Lake Band of the Sokoagan Chippewa Community. One comment letter was received: the Fond du Lac Band of Lake Superior Chippewa requested to be excluded from the GP/LOP-R because they have established tribal water quality standards and will soon have a process to grant or deny 401 Tribal Water Quality Certification. A copy of GP/LOP-05-R is attached and is also posted on the District's Internet web site: http://www.mvp.usace.army.mil under the "Permits" section.

3. ADDITIONAL INFORMATION.

In summary, GP/LOP-05-R provides a general permit (GP) authorization for certain maintenance and hazardous substances spill containment and cleanup activities that are authorized without any requirement to apply to or contact the Corps, provided that the activities are conducted in compliance with all GP/LOP-05-R conditions. GP/LOP-05-R also provides abbreviated, Section 404 letter-of-permission (LOP) evaluation procedures for almost all other activities that would impact less than two acres of water/wetland area. As described in the permit, certain activities require a Section 401 water quality certification from the U.S. Environmental Protection Agency. A matrix summary of GP/LOP-05-R is included with the attached permit. The permit contains complete details, descriptions and conditions concerning GP/LOP-05-R. Notices of permit applications being evaluated under LOP procedures will be posted on the District web site for public and interagency review.

Questions may be submitted through the web site or mailed to: Regulatory Branch, St. Paul District, Corps of Engineers, Army Corps of Engineers Centre, 190 Fifth Street East, St. Paul, Minnesota, 55101-1638.

for Michael F. Pfenning
Colonel, Corps of Engineers
District Engineer

DEPARTMENT OF THE ARMY PERMIT

Permittee: The general public on all lands within the exterior boundaries of Indian Reservations in Minnesota and Wisconsin except the Mole Lake Reservation of the Sokaogon Chippewa Community and the Fond du Lac Reservation.

Permit No. GP/LOP-05-R

Issuing Office: St. Paul District
U.S. Army Corps of Engineers

Issuance Date: April 18, 2005

Expiration Date: Five years after permit issuance.

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.

GENERAL PERMIT AUTHORIZATION: The general public is hereby authorized to perform work to maintain existing structures and fills and to contain and cleanup oil and hazardous substances spills as described on page 5. of this permit, in accordance with all terms and conditions of this permit, within the exterior boundaries of all Indian Reservations in Minnesota and Wisconsin except the Mole Lake Reservation of the Sokaogon Chippewa Community and the Fond du Lac Band of Lake Superior Chippewa Reservation.

IMPLEMENTATION OF LETTER OF PERMISSION PROCEDURES:
Effective upon the issuance date above, the general public, for work that is regulated under Section 404 of the Clean Water Act, on lands within the exterior boundaries of Indian Reservations in Minnesota and Wisconsin, except the Mole Lake Reservation of the Sokaogon Chippewa Community and the Fond du Lac Band of Lake Superior Chippewa Reservation, may request Section 404 authorization from the St. Paul District under the Section 404 Letter of Permission (LOP) procedures specified in the LOP ATTACHMENT to this permit.

IMPORTANT: All GP and LOP authorizations under GP/LOP-05-R are subject to the standard and general conditions specified below. In addition, LOP authorizations may be subject to project-specific special conditions which will be specified in the St. Paul District's letter of permission for the project. Refer to the attachments for a description of GP and LOP procedures, eligible

activities, conditions, exclusions and application instructions.

PROJECT DESCRIPTION AND LOCATION: GP/LOP-05-R applies to certain discharges of dredged and/or fill material into waters of the United States, including wetlands, as described herein, in the State of Minnesota and Wisconsin within the exterior boundaries of Indian Reservations, except the Mole Lake Reservation of the Sokaogon Chippewa Community and the Fond du Lac Band of Lake Superior Chippewa Reservation.

General Conditions:

1. The time limit for completing work authorized by the GP provisions and the LOP provisions of GP/LOP-05-R ends upon the expiration date of GP/LOP-05-R or two years after the date of the Corps authorization of the work under GP/LOP-05-R, whichever occurs later. 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 three months before the expiration date is reached.

2. You must maintain the activity authorized by GP/LOP-05-R 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 GP/LOP-05-R, you must immediately stop work and notify this office of what you have found. We will initiate the Federal, tribal 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. 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 GP/LOP-05-R.

5. Refer to the GP/LOP-05-R Standard Conditions Attachment.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. GP/LOP-05-R does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. GP/LOP-05-R does not grant any property rights or exclusive privileges.

c. GP/LOP-05-R does not authorize any injury to the property or rights of others.

d. GP/LOP-05-R does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In authorizing work, 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.

(DISTRICT ENGINEER)
for Michael F. Pfenning
Colonel, Corps of Engineers
District Engineer

(DATE) April 14, 05

GP/LOP-05-R TERMS AND PROCEDURES

GP ATTACHMENT

This attachment describes the Section 404 general permit authorizations implemented by the St. Paul District as part of GP/LOP-05-R.

1. EXCLUDED ACTIVITIES:

This GP does not authorize maintenance activities that are in or within 300 feet of areas of established dormant or growing wild rice plants. Maintenance activities in such areas may be eligible for authorization under the LOP below.

This GP does not authorize any maintenance activities that are in or within 300 feet of a calcareous fen.

This GP does not authorize any maintenance activities that are part of a project that would divert more than 10,000 gallons per day of surface or ground water into or out of the Great Lakes Basin.

2. ACTIVITIES AUTHORIZED BY THE GP:

a. Maintenance activities. Discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill that impact not more than 1/3 (one-third) of an acre of wetland/water area. Minor deviations, up to the 1/3 acre impact limit, are allowed where necessary to conform with modern construction practices, materials, construction codes, or safety standards. Discharges to repair or replace structures destroyed by storms, floods, fire or other discrete events are included, provided they are commenced or under contract to commence within two years of the date that the damage occurred.

b. Oil Spill/Hazardous Substances Cleanup. Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan. Discharges for such containment and cleanup activities are authorized without delay by this general permit; however, the appropriate tribal government and the Corps St. Paul District shall be informed of any such discharges as soon as practical.

3. HOW TO APPLY FOR A GP AUTHORIZATION UNDER GP/LOP-05-R:

An activity authorized by this GP may commence when project proponents have carefully confirmed that the activity will be conducted in compliance with all of the terms and conditions of GP/LOP-05-R, including the standard and general conditions. No application to the Corps is required. Persons proposing to do work should note that conditions of the GP require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practical. Activities that would adversely affect Federal Endangered plant or animal species or certain cultural/archaeological resources are not authorized by GP/LOP-05-R. Information about Federal Endangered species may be obtained by contacting the U. S. Fish and Wildlife Service. Information concerning cultural resources may be obtained by contacting the State Historic Preservation Office and the appropriate tribal government. Project proponents are encouraged to contact these agencies early in project planning because doing so can help avoid violations of Federal law and potentially lengthy project delays. Persons performing work should be aware that Federal regulations concerning endangered species and cultural resources may apply to their projects whether or not the work requires a Corps permit. All work must be conducted in full compliance with all of the terms and conditions of GP/LOP-05-R.

LOP ATTACHMENT

This attachment describes the Section 404 Letter of Permission authorization procedures implemented as part of GP/LOP-05-R by the St. Paul District.

1. EXCLUDED ACTIVITIES:

This LOP does not authorize any activities in or within 300 feet of a calcareous fen.

This LOP does not authorize any activities that are part of a project that would divert more than 10,000 gallons per day of surface or ground water into or out of the Great Lakes Basin.

2. ACTIVITIES ELIGIBLE FOR LOP AUTHORIZATION (unless excluded at 2. below):

Discharges of dredged/fill material, for a single and complete project, that would result in filling, draining, or inundating less than 2.0 (two) acres of wetland/water area, that comply with all GP/LOP-05-R conditions, may be authorized under this LOP.

3. U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) REQUIREMENT.

LOP authorizations for activities in waterbodies that are designated as impaired through the Clean Water Act Section 303(d) process, and in wetlands adjacent to these waters, are not valid until the applicant applies for and obtains an individual Section 401 Water Quality Certification or waiver from the EPA. Refer to General Condition 28. on the last page of this permit for additional information.

4. EVALUATION PROCEDURES UNDER THE LOP.

The District will review each application for compliance with the LOP general conditions. In all cases, the District will transmit a copy of the application materials via facsimile device or the mails to the appropriate tribal government and provide that tribal government a 30-calendar-day period in which to review and comment on the project. At the end or the 30-day period (or less if a favorable tribal response is received) the District will complete its review, considering all comments received, and prepare an abbreviated 404(b)(1) analysis and environmental assessment. The District will determine the need for any special permit conditions. The District will issue a letter of permission authorizing those projects found to be in compliance with all terms and conditions of GP/LOP-05-R and the Section 404(b)(1) guidelines, provided the District determines the proposed work is not contrary to the public interest. Projects that fail to meet these criteria will be denied authorization. For projects that would impact more than 10,000 square feet of water/wetland area, the District will conduct a 30-day public and interagency Internet-based review as noted at paragraph 1. of the GP/LOP-05-R OTHER PROVISIONS attachment, and require appropriate compensatory mitigation in accordance with paragraph 2. of that attachment.

5. HOW TO APPLY FOR A LOP AUTHORIZATION UNDER GP/LOP-05-R:

An application to the Corps is required for all LOPs. Applicants may use the Federal Department of the Army permit application form available from Corps offices. Projects are not authorized until the Corps has issued a letter of permission specifically for the project. Applicants are encouraged to help speed the Corps evaluation and increase the chance of receiving a favorable interagency review and authorization by including information with their application that clearly shows that the proposed work is the least environmentally damaging way that is practical to accomplish the purpose of the project. The Corps must generally deny any permit request unless the applicant demonstrates, and the Corps evaluation confirms, that the work proposed is the least environmentally damaging way that is practical to accomplish the project purpose and that impacts to wetland/water areas cannot reasonably be avoided or further minimized. The Corps must also deny authorization for any regulated activity that the Corps determines is contrary to the public interest.

Applicants for LOP activities that would impact more than 10,000 square feet of water/wetland area should include detailed information about how they propose to provide compensatory mitigation to offset the adverse wetland impacts of the project. For some projects, a monetary contribution to an in-lieu fee mitigation bank will satisfy the compensatory mitigation requirement. In many cases, compensatory mitigation that is required to satisfy other requirements may, but will not necessarily, also satisfy the Federal requirement. Applicants are encouraged to obtain the services of professional consultants in planning projects and preparing applications and compensatory mitigation plans. The Corps maintains a list of consultants that is available on request. Applicants are also encouraged to consult with the appropriate tribal governments concerning tribal compensatory mitigation programs or projects.

Applicants are advised that activities that adversely affect Federal Endangered plant or animal species or cultural resources are not authorized under GP/LOP-05-R. Information about Federal Endangered species may be obtained by contacting the U. S. Fish and Wildlife Service. Information concerning cultural resources may be obtained by contacting the State Historic Preservation Office and the appropriate tribal government. Applicants are encouraged to contact these agencies early in the planning process because doing so can help avoid later and potentially lengthy delays in completing the Corps permit evaluation procedures.

All authorized work must be conducted in compliance with all of the terms and conditions of GP/LOP-05-R.

GP/LOP-05-R, OTHER PROVISIONS

1. PUBLIC/TRIBAL/INTERAGENCY COORDINATION PROCESS. All LOP applications will be coordinated with the affected tribal government as noted at paragraph 4. of the LOP attachment above. In addition, for proposed LOP projects that would impact more than 10,000 square feet or wetland/water area, the District will, within 1 to 5 work days of receipt of an adequate application and for the time periods noted under the LOPs above, publish notice of the application on an Internet World Wide Web page that is available to the coordinating agencies and the general public. This notice will also be emailed to coordinating agencies that request to receive such notice. Indian Tribes may elect to receive notifications via the Internet instead of by use of the mails or facsimile device. At a minimum, the notifications will identify the applicant, project location and nature, approximate impacts, and any proposed/required compensatory mitigation. The notice will include a brief project description and describe how to respond to the appropriate District regulatory project manager for the activity. Projects will be coordinated with Indian Tribes that may be affected by the proposal, the state Departments of Natural Resources, the state Coastal Zone Program (as applicable), the Tribal/State Historical Preservation Officer, the U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service. The Minnesota

Pollution Control Agency is a coordinating agency in Minnesota. The District will consider all comments and information received during the public/interagency review in completing its evaluation of the proposed activity.

2. COMPENSATORY MITIGATION REQUIREMENTS: Under GP/LOP-05-R, appropriate compensatory mitigation is required, in accordance with applicable Federal regulation and policy, generally on a minimum 1:1, acre-for-acre basis for wetland impacts of LOP projects that impact more than 10,000 square feet of water/wetland area. Use of Corps-approved mitigation banks and in-lieu fee procedures may generally be acceptable methods of providing compensatory mitigation for small projects. However, the District will determine appropriate compensatory mitigation requirements on a case-by-case basis in accordance with Federal guidelines and established District policy. Compensatory mitigation required by other Federal, state or tribal programs may, but will not necessarily, satisfy this Clean Water Act requirement. Acreage data concerning project impacts and compensatory mitigation will be recorded in the District database for monitoring, impact analysis, and program evaluation purposes.

Applicants are encouraged to contact tribal authorities concerning possible participation in tribal compensatory mitigation programs or projects.

3. FEDERAL TRUST RESPONSIBILITY TO INDIAN TRIBES. All LOP projects will be coordinated with the appropriate Indian Tribal governments as noted above. The Indian Tribe's views and the Federal trust responsibility will be considered in the District's LOP evaluation.

4. PROJECT-SPECIFIC GP/LOP-05-R CONDITIONS. The District evaluation will identify any need for special conditions to minimize adverse project impacts and/or protect the public interest.

5. FORM AND CONFIRMATION OF AUTHORIZATION. Every LOP authorization will be confirmed by the St. Paul District sending the project proponent a letter of permission. The letter will identify any required special conditions.

6. ENDANGERED SPECIES AND CULTURAL RESOURCES. GP/LOP-05-R does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 7 of the Federal Endangered Species Act and Section 106 of the National Historic Preservation Act. No Corps GP or letter of permission is valid for projects that do not comply with these Acts.

7. GRANDFATHER PROVISION. Commenced activities that are authorized under the nationwide permits, and activities previously confirmed by the District in writing to be authorized under the nationwide permits continue to be authorized, under the terms of the permits that existed at the time of original confirmation of authorization, for two years after the issuance date of GP/LOP-05-R.

8. PERIODIC INTERAGENCY REVIEW. The St. Paul District will conduct an interagency review to evaluate the performance of GP/LOP-05-R after it has been in effect for one year. The St. Paul District may use its authority to modify, revoke, suspend or propose any Section 404 authorization after the annual review or at any other time it determines that circumstances concerning the public interest warrant such action.

GP/LOP-05-R GP STANDARD CONDITIONS ATTACHMENT

In addition to the preceding general conditions, all GP/LOP-05-R authorizations are subject to the following standard conditions, as applicable. The following general conditions must be followed in order for any GP/LOP-05 authorization (both GPs and LOPs) to be valid:

1. **Case-by-case conditions**. The activity must comply with any special conditions which may have been added by the District including any section 401 water quality certification conditions. Such conditions will be specifically identified in any LOP issued for the project.

2. Mitigation/Sequencing. Discharges of dredged or fill material into waters of the United States **must be minimized or avoided to the maximum extent practicable** at the project site (i.e., on-site), unless the District approves a compensation plan that the District determines is more beneficial to the environment than on-site minimization or avoidance measures.

3. Section 401 Water quality certification determination. Because of the requirements of the water quality certification of GP/LOP-05-R by the EPA, some LOP authorizations are not valid unless and until an individual Section 401 water quality certification or CZM consistency determination is obtained from or waived by the EPA. If this condition applies, it will be so noted in the District's conditional letter of permission. Refer to General Condition 28. on the last page of this permit for additional information

4. Suitable material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.,) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307, Clean Water Act).

5. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

6. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date.

7. Removal of temporary fills. Any temporary fills must be removed in their entirety and the affected areas returned to their pre-existing elevation.

8. Endangered Species.

a. No activity is authorized which is likely to jeopardize 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 is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

b. Authorization of an activity under GP/LOP-05 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 on the Internet.

9. Historic properties, cultural resources. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must include notification to the District in the permit application if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places.

10. Spawning areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

11. Obstruction of high flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

12. Adverse effects from impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

13. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

14. Navigation. No activity may cause more than a minimal adverse effect on navigation.

15. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

16. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

17. Tribal rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

19. Water quality standards. All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.

20. Preventive measures. Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.

21. Disposal sites. If dredged or excavated material is placed on an upland disposal sight (above the ordinary high-water mark), the site must be securely diked or contained by some

other acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal sight, must be fully completed prior to the placement of any dredged material.

22. Erosion control. Upon completion or earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Coffer dams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for coffer dam construction, sheet piling, riprap or a synthetic cover must be used to prevent dam erosion.

23. Suitable fill material. All fill (including riprap), if authorized under this permit, must consist of suitable material free from toxic pollutants in other then trace quantities. In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, the State Historic Preservation Officer (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the St. Paul District Office.

24. Cultural resources. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the Tribal/State Historic Preservation Officer must be contacted for further instruction.

25. Water intakes/activities. An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality.

26. Spill contingency plan. A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the Duty Officer at 1-800-422-0705 in Minnesota, or at 1-800-943-0003 in Wisconsin, and the U.S. Coast Guard at telephone number 1-800-424-8802.

27. Other permit requirements. No Corps GP/LOP-05-R authorization eliminates the need for other local, tribal, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits.

28. U.S. Environmental Protection Agency Individual Water Quality Certification Requirement. The EPA granted Section 401 water quality certification for GP/LOP-05-R with two conditions:

1. discharges for maintenance of existing structures and fills that would impact more than 1/3 (one third) of an acre of wetland/water area will require an individual, project-specific Section 401 certification from the EPA before the non-reporting GP is valid for the project;

2. discharges into waterbodies, and adjacent wetlands, that are designated as impaired under the Clean Water Act Section 303(d) process will require an individual, project-specific Section 401 certification from the EPA before a GP/LOP-05-R LOP is valid for the project.

GP/LOP-05-R authorizations for the projects specified by the EPA are therefore contingent upon the project proponent applying for and receiving Section 401 certification from the EPA. When this condition applies, a District GP/LOP-05-R authorization will not become valid unless and until the project proponent obtains a Section 401 certification or waiver for the project from the EPA. This condition will be clearly specified in the District's GP/LOP-05-R permit actions.

***

St. Paul District - Corps of Engineers

GP/LOP-05-R. SECTION 404 ACTIVITIES WITHIN THE EXTERIOR BOUNDARY OF INDIAN RESERVATIONS IN MN AND WI (except Mole Lake and Fond du Lac). APR 2005

Activities not covered →	THE FOLLOWING DISCHARGES ARE NOT COVERED BY ANY PROVISION OF GP/LOP-98-WI: Discharges of dredged/fill material into calcareous fens and wetlands within 300 feet of calcareous fens; or into Federal Wild and Scenic Rivers; or which are part of a project that would divert more than 10,000 gallons/day of surface water or groundwater into or out of the Great Lakes Basin. **This matrix is a summary - refer to the permit for complete details.**
GP	• Authorizes, without notification or application to the Corps, regulated discharges for: 1. Maintenance of existing structures and fills that impact not more than 1/3 (one third) acre of wetland/water area **except** that this GP does not apply in, or in water/wetland areas within 300 feet of wild rice beds. Maintenance discharges that do not meet these conditions are eligible for evaluation under the LOP below. 2. Oil/hazardous substances spill containment and cleanup. Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan. (Regulated discharges for these containment and cleanup activities are authorized by this GP without delay, but the appropriate Tribal government and the Corps shall be informed of any such discharges as soon as practical).

LOP	• Section 404 activities that impact less than 2 acres of wetland/water area for a single and complete project.
	  • application to COE is required.
	  • all projects are coordinated with the appropriate Tribal government(s).
	  • 30-day COE and TRIBAL review in all cases. If impact exceeds 10,000 square feet a concurrent, 30-day public/interagency review (Internet based) is conducted in addition.
	  • compensatory mitigation is required if impact exceeds 10,000 square feet.
	  • compensatory mitigation sites are chosen in consideration of Tribal views.
	  • U.S. Environmental Protection Agency requirement: LOPs for activities in waterbodies that are designated as impaired through the Clean Water Act Section 303(d) process, and adjacent wetlands, are contingent upon the applicant applying for and obtaining an individual Section 401 certification for the project from EPA.