



US Army Corps
of Engineers
St Paul District

Public Notice

ISSUED: May 17, 2001

SECTION: 404-Clean Water Act
10-Rivers and Harbors Act

REFER TO: GP-01-MN-MMW

RE-ISSUANCE OF GP-01-MN

1. PURPOSE OF THIS PUBLIC NOTICE. This notice is to announce that the St. Paul District has re-issued regional general permit number GP-01-MN so that it is effective until May 15, 2006. This action is as described in a January 30, 2001, public notice that proposed and requested public comment on the re-issuance. The previous expiration date of GP-01-MN was May 15, 2001.

2. BACKGROUND. Since 1985 the St. Paul District of the Corps of Engineers has used GP-01-MN to authorize, under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act, activities that are regulated and approved by the Minnesota Department of Natural Resources. The District has kept GP-01-MN continuously in effect since 1985 by periodically re-issuing it at about five-year intervals.

The District implemented GP-01-MN to reduce the public and private costs and burdens of Federal regulation by eliminating regulatory duplication between similar state and Federal regulatory programs in Minnesota. GP-01-MN has effectively accomplished this objective by eliminating the need for approximately 250 projects per year to be reviewed under more costly and time-consuming Federal procedures.

3. ADDITIONAL INFORMATION. GP-01-MN is limited to projects that require authorization from the Corps under Section 404 and/or Section 10 and are regulated and approved by the MDNR. Projects that would impact more than three acres of water or wetland area are not eligible for authorization under GP-01-MN. Any impacted water or wetland areas that are not within Corps jurisdiction are included in calculating this three-acre limit. GP-01-MN procedures include coordinating proposed projects with the U.S. Fish and Wildlife, the Minnesota Pollution Control Agency, the State Historic Preservation Officer and any potentially affected Indian Tribes.

Application procedures are specified on pages 4. and 5. of the attached GP-01-MN permit. Applicants must receive a project-specific GP-01-MN confirmation letter from the Corps before work is authorized.

A copy of GP-01-MN as re-issued is attached and is also posted on the District Regulatory Branch web page at <http://www.mvp.usace.army.mil/regulatory/>. Public notices for District individual permit and regional permit (GP/LOP-98-MN) applications are also routinely posted on that web page for public and interagency review and comment.

Questions about GP-01-MN may be addressed to the St. Paul District, Corps of Engineers, Corps of Engineers Centre, ATTN: CO-R, 190 Fifth Street East, St. Paul, MN 55101-1638. Questions may also be directed to Mick Weburg at telephone (651) 290-5367, fax (651) 290-5330 or email address michael.m.weburg@usace.army.mil.



Kenneth S. Kasprisin
Colonel, Corps of Engineers
District Engineer

NOTICE TO EDITORS: This public notice is provided for your information only and is not a request for publication.

DEPARTMENT OF THE ARMY PERMIT

Permittee: The General Public in Minnesota

Permit No.: GP-01-MN

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

Issuance Date: May 17, 2001

Expiration Date: May 15, 2006

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.

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

Project Description: The general public in the State of Minnesota is authorized to perform certain work that is regulated and approved by the Minnesota Department of Natural Resources (MDNR) in waters of the United States, subject to the following exclusions and conditions.

Project Location: All waters of the U.S. in the State of Minnesota that are regulated by the Minnesota Department of Natural Resources, **except as excluded below.**

SEE HOW TO APPLY FOR AUTHORIZATION UNDER THIS PERMIT ON PAGE 4.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends upon expiration of the Minnesota Department of Natural Resources authorization/approval for the work. This general permit expires on May 15, 2006, unless sooner revoked, reissued, or modified.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit and the Minnesota Department of Natural Resources authorization for the activity. You are not relieved of this requirement if you abandon the permitted activity.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately stop work and 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 a conditioned state 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.

5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Exclusions and Special Conditions: Some activities are not eligible for authorization under GP-01-MN, and special conditions apply to all activities authorized under GP-01-MN. Refer to the exclusions on page 4. and the special permit conditions beginning on page 5.

Further Information:

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

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

(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. 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.
- 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.

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



(DISTRICT ENGINEER)

Kenneth S. Kasprisin
Colonel, Corps of Engineers
District Engineer

17 MAY 01

(DATE)

EXCLUDED ACTIVITIES. The following activities are not eligible for authorization under GP-01-MN:

1. Activities that are denied any required local, State, Tribal or Federal authorization.

2. Activities subject to an MDNR permit decision that is overturned by a court of law.

3. Activities in Navigable Waters of the U.S. (Federal "Section 10" waters) that, in the opinion of the St. Paul District of the Corps of Engineers, would have an unacceptable adverse effect on navigation.

4. Activities that the St. Paul District of the Corps of Engineers determines warrant Federal evaluation to address the government's trust responsibility to American Indian Tribes.

5. Activities that the St. Paul District of the Corps of Engineers determines have potential to cause unacceptable adverse impacts on aquatic resources of national importance.

6. Activities that would have an adverse effect on a known archaeological site or on Federally-listed endangered or threatened wildlife or plants, or their critical habitat.

7. Activities that the Minnesota Pollution Control Agency (MPCA) declined to certify under Section 401 of the Clean Water Act. These are:

A. Projects that impact greater than three acres of wetland by fill, drainage, excavation, or inundation.

B. Projects that include dam construction or dam removal involving structures with water head exceeding six feet in height, or impounding more than 15 acrefeet of water.

C. Projects that alter over 500 linear feet of a natural water course by channelization, bank stabilization or diversion.

HOW TO APPLY FOR AND RECEIVE AUTHORIZATION UNDER GP-01-MN:

To receive authorization under this general permit, the applicant must submit an application for MDNR authorization to the MDNR and provide a copy of the application to the Corps of Engineers St. Paul District. The Corps will provide the applicant a letter confirming whether or not the project is eligible for authorization under this general permit. The Corps will provide coordination copies of its general permit confirmation letter to the MDNR, MPCA, SHPO, U.S. Fish and Wildlife Service and any potentially affected Indian Tribes for review and comment. By agreement with an agency, the Corps may implement electronic coordination procedures with that agency or post GP-01-MN confirmation letters and related information on the District's web page for agency and/or public review.

The Corps authorization under this general permit will become valid for the project when the MDNR authorization is granted or 30 days after the date of the Corps confirmation letter for the project, whichever is later, unless the Corps notifies the applicant otherwise during the 30 day period.

The District's web page address is: <http://www.mvp.usace.army.mil/>.

SPECIAL CONDITIONS APPLICABLE TO THIS GENERAL PERMIT:

1. Dredging in areas identified by the Minnesota Pollution Control Agency (MPCA) as being polluted shall be authorized by this general permit only after the project proponent notifies the MPCA of the proposed work and obtains any required MPCA approvals/authorizations in addition to MDNR authorization. These areas presently are Lake Pepin and Pool 2 on the Mississippi River, the Minnesota River downstream from Savage, Minnesota, Duluth Superior Harbor and the St. Louis Bay area of the river extending to Spirit Lake, the Warroad River Upper Harbor extending from the mouth of the river to CSAH 11, and the Red River of the North from Wahpeton to the Canadian border.

2. If the activity would occur in a hydroelectric project water, the applicant must consult with and obtain any required approvals from the Federal Energy Regulatory Commission.

3. All work or discharges to a watercourse, particularly from hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.

4. 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, flooding, or any other means.

5. If dredged or excavated material is placed on an upland disposal site (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 must be fully completed prior to placement of any material.

6. Upon completion of 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.

7. All fill (including riprap) must consist of suitable material free from toxic pollutants in other than trace quantities. In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must be obtained from existing quarries or, if a new borrow site is opened to obtain material, the State Historic Preservation Officer (SHPO) must be notified prior to disturbing the earth at the new site. Evidence of this consultation

with the SHPO must be forwarded to the St. Paul District Office by the permittee.

8. If cultural, archaeological or historical resources are unearthed during activities authorized by this permit, work must cease immediately and the St. Paul District must be contacted for further instruction.

9. STATE WATER QUALITY CERTIFICATION CONDITIONS. The MPCA has provided the following state water quality certification under Section 401 of the Clean Water Act for this re-issuance of GP-01-MN. Conditions of this certification apply to all GP-01-MN authorizations. These state Section 401 conditions are:

The general permit is applicable for activities that are regulated and approved by the MDNR that take place within designated Public Waters and Public Waters Wetlands. This certification is applicable to determinations and authorization made under the Public Waters Work Permit Program as issued by the MDNR. This certification does not apply to determinations for Public Waters Work Permits that are waived by the MDNR to Local Government Units.

The MPCA certifies the referenced general permit because there is reasonable assurance that the activities authorized by the Corps and the MDNR will be conducted in a manner that will not violate applicable water quality standards provided the following conditions are included in the general permit authorization and complied with:

1. This certification is limited to projects that involve less than three acres of wetland impact by fill, drainage, excavation, or inundation.
2. This certification is limited to projects that include dam construction or dam removal involving structures with water head less than six feet in height, or impounding less than 15 acre-feet of water.
3. This certification is limited to projects that alter less than 500 linear feet of a natural watercourse by channelization or diversion and placement of riprap for bank stabilization.
4. Best Management Practices (BMPs) as listed in the MPCA document Protecting Water Quality in Urban Areas - Best Management Practices for Dealing With Storm Water Runoff From Urban, Suburban and Developing Areas of Minnesota dated March 1, 2000, (view at <http://www.pca.state.mn.us/water/pubs/sw-bmpmanual.html>) to control erosion during construction must be incorporated into all projects, as appropriate.
5. Projects that will disturb five or more acres of land are required to apply to the MPCA for coverage under a General National Pollutant Discharge Elimination System Permit (NPDES) for construction activity.
6. Project proposals that include dredge and the disposal of dredge material from waters of the state must apply to the MPCA for a State Disposal System Permit that authorizes the disposal of the dredged material.
7. For projects that include new bridges or reconstruction of existing bridge decking, the roadway approach and deck stormwater drainage must be directed to an off end drainage system. For roads with over 500 heavy vehicles per day provisions for containment of toxic or hazardous material spills that will prevent direct runoff of such substances to waters of the State shall be provided.

8. This Clean Water Act Section 401 Water Quality Certification is applicable to existing MDNR permits including: General Permits, Programmatic Permits, or permits delegated to local governments; these include any permits that have been promulgated to allow for MDNR issuance of Public Waters Work Permit Authorization to the general public, to Local Units of Government, or other political subdivisions. Any new MDNR General Permits, Programmatic Permits, or permits delegated to local governments developed subsequent to this certification must be submitted to the MPCA and receive MPCA approval in order to be considered certified under the scope of the GP-01.
9. Projects that include construction of new stormwater discharge outlets (not including maintenance actions or replacement of existing outfalls) whose discharge pipe is greater than 36 inches in diameter must provide stormwater treatment ponds or other appropriate Best Management Practices as described in the MPCA document Protecting Water Quality in Urban Areas - Best Management Practices for Dealing With Storm Water Runoff From Urban, Suburban and Developing Areas of Minnesota dated March 1, 2000 (view at <http://www.pca.state.mn.us/water/pubs/sw-bmpmanual.html>). These practices include but are not limited to; water quality and quantity measures such as detention ponds, infiltration basins, rain gardens, and grit removal. For proposals that do not include Best Management Practices as indicated above, the MPCA, upon notification of the GP-01 authorization by the Corps of Engineers, may within the 30 day notice of agency comment, submit additional water quality conditions to the Corps to address stormwater treatment that will be included as an addendum to the GP-01 for that specific project.
10. For projects that would potentially have an impact on Outstanding Resource Value Waters (ORVW) as listed in Minn. R. 7050.0180 or that impact a preexisting water quality impairment based on standards defined in Minn. R. 7050.0220, the MPCA, upon notification of the GP-01 authorization by the Corps of Engineers, may within the 30 day notice of agency comment, submit additional water quality conditions to the Corps that will be included as an addendum to the GP-01 for that specific project.

The MPCA acknowledges that in some instances the movement of soils within a water column may result in some turbidity, discoloration or suspended solids. Based on the information available, such effects, if any, would probably be localized to the area of soil movement, temporary in nature and of insignificant impact. In any case, when such violations are observed, the project permittee must take the appropriate actions to restore compliance with applicable water quality standards.

This certification includes and incorporates by reference the general conditions of Minn. R. 7001.0150, subp. 3. [Corps' note: In the text of Minnesota Rule 7001.0150, subp. 3. below. the term, "agency" refers to the Minnesota Pollution Control Agency, the term "commissioner," refers to the Commissioner of MPCA, the term, "permit," means MPCA's state Section 401 certification, and the term, "permittee" refers to the person(s), agency, or organization that has been granted Federal Section 404 authorization and State water quality certification under the provisions of GP-01-MN.]

This action does not exempt the applicant from the responsibility of complying with all applicable local, state and federal requirements, nor does it grant any right to violate personal or property rights.

Minnesota Rule
7001.0150 TERMS AND CONDITIONS OF PERMITS

Subp. 3. General conditions. Unless specifically exempted by statute or rule, each draft and final permit must include the following general conditions and the agency shall incorporate these conditions into all permits either expressly or by specific reference to this part:

A. The agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit.

B. The agency's issuance of a permit does not prevent the future adoption by the agency of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the permittee.

C. The permit does not convey a property right or an exclusive privilege.

D. The agency's issuance of a permit does not obligate the agency to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.

E. The permittee shall perform the actions or conduct the activity authorized by the permit in accordance with the plans and specifications approved by the agency and in compliance with the conditions of the permit.

F. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible.

G. The permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the agency or to the commissioner by the permit. The permittee shall immediately upon discovery report to the commissioner an error or omission in these records, reports, plans, or other documents.

H. The permittee shall, when requested by the commissioner, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit.

I. When authorized by Minnesota Statutes, sections 115.04; 115B.17, subdivision 4; and 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the permittee to enter at reasonable times upon the property of the permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys

and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit.

J. If the permittee discovers, through any means, including notification by the agency, that noncompliance with a condition of the permit has occurred, the permittee shall take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance.

K. If the permittee discovers that noncompliance with a condition of the permit has occurred which could endanger human health, public drinking water supplies, or the environment, the permittee shall, within 24 hours of the discovery of the noncompliance, orally notify the commissioner. Within five days of the discovery of the noncompliance, the permittee shall submit to the commissioner a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of the noncompliance; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

L. The permittee shall report noncompliance with the permit not reported under item K as a part of the next report which the permittee is required to submit under this permit. If no reports are required within 30 days of the discovery of the noncompliance, the permittee shall submit the information listed in item K within 30 days of the discovery of the noncompliance.

M. The permittee shall give advance notice to the commissioner as soon as possible of planned physical alterations or additions to the permitted facility or activity that may result in noncompliance with a Minnesota or federal pollution control statute or rule or a condition of the permit.

N. The permit is not transferable to any person without the express written approval of the agency after compliance with the requirements of part 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit.

O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and agency assume no responsibility for damage to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

P. Compliance with an RCRA permit during its term constitutes compliance, for purposes of enforcement, with subtitle C of RCRA except for those requirements not included in the permit which:

(1) become effective by statute;

(2) are adopted under parts 7045.1300 to 7045.1380, restricting the placement of hazardous wastes in or on the land; or

(3) are adopted under parts 7045.0450 to 7045.0548 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners,

construction quality assurance programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of part 7001.0730, minor permit modifications.

-----end of permit document GP-01-MN-----