



Missouri Department of Natural Resources

PUBLIC NOTICE

DRAFT CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION

DATE: September 1, 2009

In accordance with the state Clean Water Law, Chapter 644, RSMo, Missouri Clean Water Commission regulation 10 CSR 20-7.031(2)(D), the federal Clean Water Act, and the Missouri Antidegradation Rule, the applicants listed herein have applied for authorization to discharge to waters of the state. The proposed Clean Water Act Section 401 Water Quality Certification (certification) for these activities apparently will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in Water Quality Standards, 10 CSR 20-7.031.

On the basis of preliminary staff review and the application of applicable standards and regulations, the Missouri Department of Natural Resources (Department), as administrative agent for the Missouri Clean Water Commission, proposes to issue a certification subject to certain conditions. The proposed determinations are tentative pending public comment.

Persons wishing to comment on the proposed certification conditions are invited to submit them in writing to the Missouri Department of Natural Resources, Water Protection Program, NPDES Permits and Engineering Section, 401 Unit, P.O. Box 176, Jefferson City, MO 65102. **Please include the certification number in all comment letters.**

Comments should be confined to the issues relating to the proposed action and certification(s) and the effect on water quality. The Department may not consider as relevant comments or objections to a certification based on issues outside the authority of the Missouri Clean Water Commission, (see Curdt v. Mo. Clean Water Commission, 586 S.W.2d 58 Mo. App. 1979).

All comments must be postmarked by September 16, 2009, or received in our office by 5:00 p.m. on September 19, 2009. The Department will consider all written comments, including e-mails, faxes and letters, in the formulation of all final determinations regarding the applications. If response to this notice indicates significant public interest, a public meeting or hearing may be held after due notice for the purpose of receiving public comment on the proposed certification or determination. Public hearings and/or issuance of the certification will be conducted or processed according to 10 CSR 20-7.031.

Additional certification information including copies of applicable regulations are available for inspection and copying at the Department's website at <http://www.dnr.mo.gov/env/wpp/401/401-pn.htm>, or at the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Mr. Rusty Rawson
Ozark National Scenic Riverways
P.O. Box 490
Van Buren, MO 63965

Dent & Shannon Counties
2008-00246-2/CEL000690
Nationwide Permit 18

RE: Proposed Accumulated Gravel Removal Project in Current and Jacks Fork Rivers

Dear Mr. Rawson:

The Missouri Department of Natural Resources' Water Protection Program (Department) has reviewed your request for Clean Water Act Section 401 Water Quality Certification (certification) to accompany the Army Corps of Engineers' Nationwide Permit 18 for "Minor Discharges" to place dredge and fill materials in waters of the United States associated with the removal of accumulated gravel at three locations. Please be advised that the Current River is listed as impaired pursuant to Section 303(d) of the Clean Water Act and both the Current River and Jacks Fork are listed as Outstanding National Resource Waters; therefore, an individual certification is required.

The first project is the removal of material from around the Cedar Grove Bridge impacting the water flow through the chutes of the bridge. The project is located in the Current River on the Dent and Shannon County line, Missouri. The second project is the removal of material at the Lower Round Spring boat launch and landing to enable the safe launching of motor boats. The project is located in the Current River in Section 20, Township 30 north, Range 4 west in Shannon County. The third project is the removal of material at the Alley Spring boat launch and landing to enable the safe launching of motor boats. The project is located in the Jacks Fork in the SW ¼ of Section 25, Township 29 north, Range 5 west in Shannon County.

Proposals are required due to the movement of material by the rivers during spring floods impacting either water flow or river access. All three projects will use an excavator to reach out to remove the material. No machinery or equipment will be used in the water. Material will be stockpiled at existing park material storage sites for future use.

These projects are necessary maintenance in order to maintain safety around in-stream structures. The Department believes that only temporary degradation will be caused at project locations.

This office certifies that the ongoing activities will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in Water Quality Standards, 10 CSR 20-7.031, provided the enclosed and following conditions are met:

1. No degradation, except for temporary degradation, shall be caused by this activity.
2. Work shall be conducted to the extent necessary to restore the function of structures to their original design.
3. Use Best Management Practices during project activities to limit the amount of sediment into the waterway. Work in a waterway shall be conducted during low flow whenever possible, and all precautions shall be taken to avoid the release of fuel to streams and other adjacent waters as a result of the project.
4. Clearing of vegetation/trees shall be the minimum necessary to accomplish the activity. The riparian area, banks, etc., shall be restored to a stable condition to protect water quality as soon as possible. Seeding/planting of native vegetation, mulching and needed fertilization shall be within three days of final contouring, or as soon as possible as seasonal timing permits.
5. Sand, gravel or other materials shall not be stockpiled within the channel or otherwise placed against the banks. Stockpiled material shall be handled as stated in the Army Corps of Engineers' Nationwide Permit authorization letter dated June 10, 2009, and shall not be used for future fill in a jurisdictional waterway.
6. The applicant shall consult with the Missouri Department of Conservation and/or the United States Fish and Wildlife Service to minimize any adverse impact to critical spawning or other habitat or mussel beds.

Pursuant to Chapter 644.052.9, RSMo, commonly referred to as the Missouri Clean Water Law, this certification shall be valid only upon payment of a fee of seventy-five dollars (\$75.00). The enclosed invoice contains the necessary information on how to submit your fee. Payment must be received within fifteen (15) days of receipt of this certification. Upon receipt of the fee, a copy of the certification will be mailed to the applicable office of the Army Corps of Engineers to inform them the certification is now in effect and final.

You may appeal to have the matter heard by the Administrative Hearing Commission (commission). To appeal, you must file a petition with the commission within thirty (30) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

Mr. Rusty Rawson

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Water Quality Standards must be met during any operations authorized by these permits. If you have any questions, please contact Ms. Carrie Schulte by phone at (573) 751-7023, by e-mail at carrie.schulte@dnr.mo.gov, or by mail at Missouri Department of Natural Resources, Water Protection Program, NPDES Permits and Engineering Section, P.O. Box 176, Jefferson City, MO 65102-0176. Thank you for working with the Department to protect our environment.

Sincerely,

WATER PROTECTION PROGRAM

DRAFT