



# Missouri Department of Natural Resources

## PUBLIC NOTICE

### DRAFT CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION

DATE: August 5, 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 August 20, 2009, or received in our office by 5:00 p.m. on August 23, 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.

The Honorable Paul Faulkenberry, Jr.  
Mayor  
City of Eminence  
P.O. Box 387  
Eminence, MO 65466

Shannon County  
2008-00520/CEL000752  
Nationwide Permit 13

RE: Bank Stabilization Impacting Jacks Fork River in SE ¼ of Section 26, Township 29 North, Range 4 West in Eminence in Shannon County

Dear Mayor Faulkenberry:

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 13 for "Bank Stabilization." Please be advised that Jacks Fork River is listed in Missouri Clean Water Regulations as an Outstanding National Resource Water; therefore, an individual certification is being issued.

After further review of the proposed project, the Department certifies that the proposed project will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in the Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

- No degradation, except for temporary degradation shall be caused by this activity.
- The project shall consist of a vegetated riparian corridor of no less than 50 feet from the high bank along the 470 feet of stream bank to protect water quality and to provide for long-term stability of the stream channel. The vegetated riparian corridor shall maximize the use of native, flood tolerant species to provide soil stabilization and wildlife benefits. Invasive, non-native species are prohibited. The area shall be maintained and monitored with a survival rate of 80 percent for five years to ensure successful revegetation and stabilization to ensure that erosion and deposition of soil in waters of the state is not occurring from this project. A detailed plan shall be submitted and approved by this office prior to impacts to jurisdictional waters.

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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.

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

Sincerely,

WATER PROTECTION PROGRAM