



# Missouri Department of Natural Resources

## PUBLIC NOTICE

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

DATE: December 29, 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 January 13, 2010, or received in our office by 5:00 p.m. on January 16, 2010. 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. Joel Strenfel  
Ozark National Scenic Riverways  
P.O. Box 490  
Van Buren, MO 63965

Carter County  
2008-00400-1/CEL000820  
Nationwide Permit 36

RE: Boat Ramp Construction in Current River in SW ¼ SE ¼ of Section 27, Township 28 North, Range 1 West, North of Van Buren, in Carter County

Dear Mr. Strenfel:

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 36 for "Boat Ramps." Please be advised that the Current River is listed in Missouri Clean Water Regulations as an Outstanding National Resource Water and as impaired pursuant to Section 303(d) of the Clean Water Act; therefore, an individual certification is being issued. The impairment is due to Mercury in fish tissue.

Ozark National Scenic Riverways is proposing to construct a boat ramp within the Current River. The project is known as the "Chilton Creek Boat Ramp." Temporary impacts to the Current River will take place during construction. A diagram of the boat ramp details is enclosed.

After further review of your application, this office 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 and enclosed conditions are met:

1. No degradation, except for temporary degradation, shall be caused by this activity.
2. This project shall not cause or contribute to the impairment of Current River.
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.

Mr. Joel Strenfel

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4. As stated in the November 24, 2009, Nationwide Permit 36 issued by the Army Corps of Engineers, a seasonal restriction applies to this project. This restriction requires that there is no placement of fill into the Current River from March 15 to June 15. For more information, please refer to Condition #14 of the enclosed "Nationwide Permit (NWP) Regional Conditions – Missouri."
5. 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.

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.

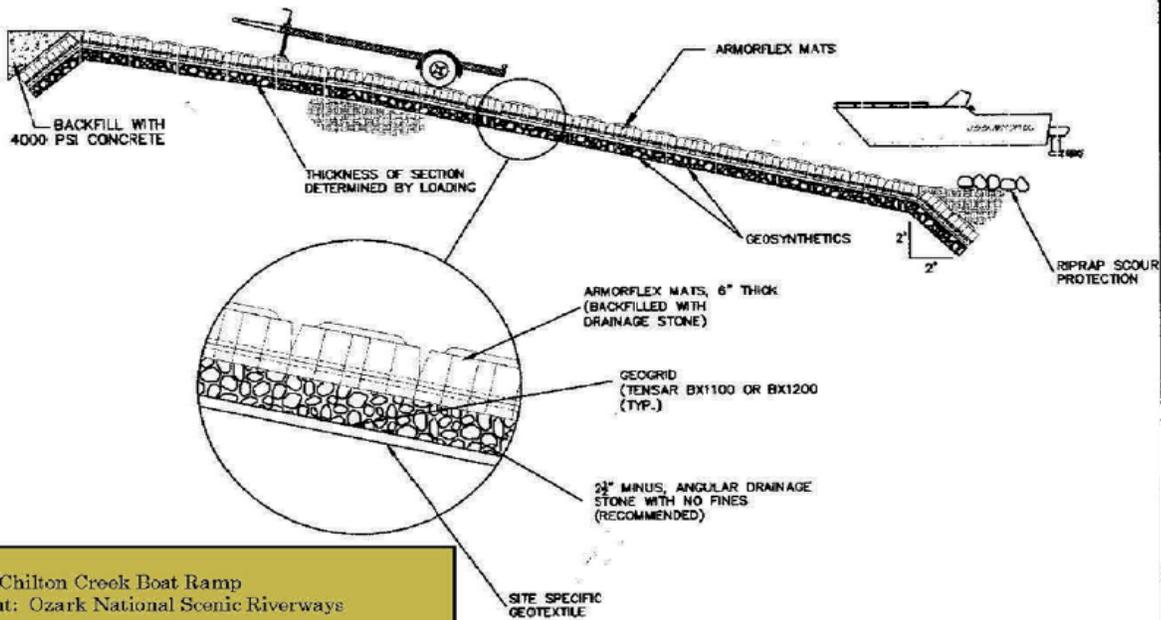
Water Quality Standards must be met during any operations authorized by these permits. If you have any questions, please contact Ms. Carrie Schulte by phone at (573) 751-7023, by e-mail at [carrie.schulte@dnr.mo.gov](mailto:carrie.schulte@dnr.mo.gov), or by mail at Missouri Department of Natural Resources, 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

Enclosures

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Project: Chilton Creek Boat Ramp  
 Applicant: Ozark National Scenic Riverways  
 Section Detail: 'Typical' example of ACM Boat Ramp

DRAWN BY: KWM	CHECKED BY: CBK	DATE: 7/17/07	SCALE: NTS
<b>ARMORFLEX BOATRAMP DETAIL</b>			 <p><b>ARMORTEC</b> Erosion Control Solutions PROFESSIONAL ENGINEERS 1000 WEST CHESTER ST., SUITE 100 WEST CHESTER, OH 45386 PH: (513) 645-7000 FAX: (513) 645-2993</p>

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ACTION NO. 2008-00400-1  
 ONSR - Chilton Creek  
 BOAT RAMP  
 Current River  
 November 24, 2009 sheet 4 of 4

Approved May 2007  
 Updated November 9, 2009



**WATER PROTECTION PROGRAM**  
**Missouri General Water Quality Certification Conditions for NWP 36**  
**(Boat Ramps)**

Pursuant to Section 401 of the Clean Water Act of 1972 the following best management practices are included as conditions in Section 404 of the U.S. Army Corps of Engineers' (Corps) Nationwide Permit (NWP). These conditions ensure that maintenance activities do not violate the Water Quality Standards of the State of Missouri resulting in permanent damage to habitat, increased turbidity, reduced bank and channel stability, and impacts to the biological and chemical integrity of the water body. Jurisdictional definitions for this activity are explained in the NWP.

1. NWPs shall not allow the filling of jurisdictional springs.
2. Acquisition of a NWP(s) and attendant water quality certification(s) shall not be construed or interpreted to imply the requirements for other permits are replaced or superceded. Any National Pollutant Discharge Elimination System (NPDES) Permits, Land Disturbance General Permits, or other requirements shall be complied with. Applicants with questions are encouraged to call the Water Protection Program, NPDES Permits and Engineering Section, at (573) 526-3589.
3. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment and any solid waste shall not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent water bodies as a result of this operation.
4. Petroleum products spilled into any water body or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible to the Missouri Department of Natural Resources' 24-hour Environmental Emergency Response number at (573) 634-2436.
5. Only clean, nonpolluting fill shall be used. The following materials are not suitable for bank stabilization and shall not be used due to their potential to cause violations of the general criteria of the Water Quality Standards, 10 CSR 20-7.031(3)(A)–(H):
  - a. Earthen fill, gravel, broken concrete where the material does not meet the specifications outlined below, and fragmented asphalt, since these materials are usually not substantial enough to withstand erosive flows;
  - b. Concrete with exposed rebar;
  - c. Tires, vehicles or vehicle bodies, construction or demolition debris are solid waste and are excluded from placement in the waters of the state;

- d. Liquid concrete, including grouted riprap, if not placed as part of an engineered structure; and
- e. Any material containing chemical pollutants (for example: creosote or pentachlorophenol).

Recycled or broken concrete may be used provided that it is reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Applicants must break all large slabs to conform to the well-graded requirement. Generally, the maximum weight of any piece shall not be more than 500 pounds. Gravel and dirt shall not exceed 15 percent of the total fill volume. All protruding reinforcement rods, trash, asphalt and other extraneous materials must be removed from the broken concrete prior to placement.

Recycled or broken concrete being used simply as fill need not conform to the well-graded requirement. It shall, however, be free of extraneous materials and shall be placed to eliminate voids within the fill.

- 6. Clearing of vegetation/trees shall be the minimum necessary to accomplish the activity. A vegetated corridor shall be maintained from the high bank on either side of the jurisdictional channel to protect water quality and to provide for long-term stability of the stream channel, unless physical barriers prevent such a corridor. For purposes of this NWP, lack of ownership or control of any portion of this corridor may be considered a legitimate and discretionary cause to waive this requirement on that portion.
- 7. This water quality certification is not valid for any Section 404 permit issued on a water body that:
  - a. Is listed as impaired pursuant to Section 303(d) of the Clean Water Act;
  - b. If the activities are located in or occur within two miles upstream of a designated outstanding state or national resource area (10 CSR 20-7.031); or
  - c. If the activities are located in a designated metropolitan no-discharge stream.
  - d. Has a United States Environmental Protection Agency approved Total Maximum Daily Load (TMDL).

The 303(d) listed waters can be found at <http://www.dnr.mo.gov/env/wpp/waterquality/303d.htm>.

“Outstanding National/State Resource Waters” and “Metropolitan No-Discharge Streams” can be found in 10 CSR 20-7.031, Tables D, E and F or at <http://www.sos.mo.gov/adrules/csr/current/10csr/10c20-7.pdf>.

The TMDL listed waters can be found at <http://www.dnr.mo.gov/env/wpp/tmdl/wpc-tmdl-EPA-Appr.htm>.

If more detail than what is provided at these websites is needed to precisely pinpoint your location, please call (573) 522-2552.

8. Streambed gradient shall not be permanently altered during project construction.
9. NWPs involving a loss of more than 1/10 acre of wetlands with a predominance of bottomland hardwoods that are comprised mainly of different species of gum, oak and bald cypress shall require individual water quality certification by the state.
10. NWPs issued by the Corps for which the 300 linear feet threshold for stream impacts is waived by the district engineer on classified water bodies as defined by 10 CSR 20-7.031 shall require individual water quality certification by the state.
11. No project under a NWP shall accelerate bed or bank erosion.
12. Planting of any required vegetated buffer shall maximize the use of native, flood tolerant species to provide soil stabilization and wildlife benefits. Invasive, non-native species are prohibited.
13. Pursuant to Chapter 644.038, RSMo, the department certifies all NWPs for impacts in all waters of the state without the above-stated or any other conditions for the construction of highways and bridges approved by the Missouri Highway and Transportation Commission.
14. No project shall be constructed in, or immediately upstream of, any known mussel beds. The Missouri Department of Conservation shall be consulted at (573) 882-9880 to determine if any known beds are present.
15. Any waste concrete or concrete rinsate shall be disposed of in a manner that does not result in any discharge to the jurisdictional waterways.

**NATIONWIDE PERMIT (NWP) REGIONAL CONDITIONS – MISSOURI**

- 1. NWP 12 - Utility Activities.** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) when new utility line construction activities parallel a stream and have multiple stream crossings (example: a gravity fed utility line that crosses a stream multiple times). The preconstruction notification must include a revegetation plan for impacted riparian areas. Impacted riparian areas must be revegetated with native species similar to the composition removed i.e., native trees or grasses), except for a minimal corridor that is essential for operation and maintenance of the utility line. The applicant must submit rationale for the minimum width necessary for the operation and maintenance corridor.
- 2. NWP 13 - Bank Stabilization.** Broken concrete used as bank stabilization must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Applicants must break all large slabs to conform to the well graded requirement. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume. All protruding reinforcement rods, trash, asphalt, and other extraneous materials must be removed from the broken concrete prior to placement in waters of the United States.
- 3. NWP 23 - Approved Categorical Exclusions.** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for all regulated NWP 23 activities in waters of the United States. In addition to information required by NWP general condition 27, the notification must identify the approved categorical exclusion that applies (e.g., as listed in Regulatory Guidance Letter 05-07 or Federal Register) and include documentation that the project fits the categorical exclusion.
- 4. NWP 27 - Stream and Wetland Restoration Activities.** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for any regulated discharge associated with the relocation of forested wetlands.
- 5. NWP 40 - Agricultural Activities.** NWP 40 does not authorize discharges that cause the loss of greater than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds this 300 linear foot limit is waived in writing by the district engineer.
- 6. NWP 43 - Stormwater Management Facilities.** This NWP does not authorize the retention of water, in excess of that required to meet Stormwater management requirements, for other purposes such as recreational lakes, reflecting pools and irrigation.
- 7. NWP 44 - Mining Activities.** In-stream sand and gravel mining is excluded from NWP 44 in Missouri.
- 8. NWP 45 - Emergency Repair Activities.** This NWP does not authorize the removal of borrow material from waters of the United States to restore uplands lost in discrete events.
- 9. NWPs 3 and 14 - Low Water Crossings.** The permittee must notify the District Engineer when repairing, rehabilitating or replacing low water crossings when discharges of dredged or fill material would raise or lower the lowest elevation of the crossing by a total of 12-inches or more, or when removing the structure. The permittee must propose and employ measures to mitigate the potential impact of impounding gravel above the low water crossing or of releasing impounded-gravel downstream of the structure. Such mitigation might include: removing impounded gravel in the unstable area upstream of the low water crossing to prevent it from being transported downstream and/or constructing a notched weir to slow the release of impounded gravel from upstream of the low water crossing.
- 10. Agency Coordination Requirements for Waiver of 300 Linear Foot Limit Associated with NWPs 29, 39, 40, 42, and 43. Agency Coordination Requirements for Waiver of 300 Linear Foot Limit Associated with NWPs 29, 39, 40, 42, and 43.** Agency coordination procedures will be completed prior to granting a request for a waiver of the 300 linear foot limit for losses of intermittent and ephemeral streams. The applicant must provide documentation of avoidance and minimization of individual and cumulative impacts associated with the proposed project.

**11. Suitable Material (Applicable to all NWPs).** In addition to the specific examples in General Condition 6 of the NWPs, the following materials are not suitable for fill activities into waters of the U.S. in conjunction with any NWP: buses or rail cars, construction or demolition debris, garbage, loose or improperly placed tires, treated lumber (chromated copper arsenate (CCA), creosote, and pentachlorophenol), liquid concrete not poured into forms, grouted riprap, bagged cement, and sewage or organic waste.

**12. Culverts.** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for any regulated activity which involves the construction of a new or replacement culvert on a class P or C stream in Missouri. Class P and C streams in Missouri is available upon request from the Corps or at the following link:

<http://www.sos.mo.gov/adrules/csr/current/10csr/10c20-7H-I.pdf>

All culverts must be designed to allow the natural passage of aquatic organisms. The culvert design must mimic the natural shape and flow of the channel. For all box culverts with three or more cells on class P and C streams, the opening of the center culvert must be slightly lower than the adjacent culverts to concentrate low flows for the passage of aquatic organisms.

**13. Notification Requirement for Aquatic Resources in Missouri (Applicable To All NWPs).** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for any regulated activity which may impact a jurisdictional fen, seep or bog of any size.

**14. Seasonal Restrictions for Activities Proposed in Spawning Areas (Applicable To All NWPs).** In addition to the requirements of NWP general condition 3, for any regulated activity, the following specific seasonal restrictions apply. Between the closed dates listed in the Missouri Combined Stream Spawning List, the permittee must not excavate from or discharge into the listed waters. The list of waters with seasonal restrictions is available on request from the Corps or at the following link:

[http://www.nwk.usace.army.mil/regulatory/sand\\_gravel\\_dredging\\_reaches.pdf](http://www.nwk.usace.army.mil/regulatory/sand_gravel_dredging_reaches.pdf)

**15. Zebra Mussel (Applicable To All NWPs).** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for any regulated activity where the applicant is proposing to remove equipment from a known zebra mussel water to use in a different water not known to support zebra mussels. Known zebra mussel waters within Missouri is available on request from the Corps or can be found at the following webpage: <http://nas.er.usgs.gov/queries/zmbyst.asp>. The notification must include measures to limit the likelihood of spreading the zebra mussel to other waters.

**16. Priority Watersheds (Applicable To All NWPs).** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for any regulated activity in a priority watershed. The list of priority watersheds requiring notification is available on request from the Corps or at the following link: <http://www.nwk.usace.army.mil/regulatory/2007nwps/COAs.pdf>

**17. Lake of the Ozarks.** The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 27) for any regulated activity associated with NWPs 3, 7, 12, 14, 15, 18, 22, 27, 33, and 45. A copy of this notification must also concurrently be sent to AmerenUE. NWPs 2, 13, 16, 19, 25, 29, 31, 35, 36, 39, 41, and 44 are revoked in the Lake of the Ozarks. NWPs 1, 9, 10, 11 and 28 are only valid when both AmerenUE and the Missouri Water Patrol have approved the activity. The Corps and AmerenUE, regardless of the request to use any NWT, may verify the activity under the provisions of Regional General Permit 38M <http://www.nwk.usace.army.mil/regulatory/gp/GP-38M.pdf>. Additional information on AmerenUE and Lake of the Ozarks permit requirements can be found at the following webpage: [http://www.ameren.com/Environment/adc\\_ev\\_PermitRequirements.asp](http://www.ameren.com/Environment/adc_ev_PermitRequirements.asp)