



# 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. Bill Goodwin  
Missouri Department of Conservation  
P.O. Box 180  
Jefferson City, MO 65102-0180

Shannon County  
2009-00531/CEL000821  
Nationwide Permit 36

RE: Construction of Boat Ramp in Jacks Fork River in Northeast ¼ of Southwest ¼ of Section 26, Township 29 North, Range 4 West in Eminence in Shannon County

Dear Mr. Goodwin:

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." Because the proposed project is within an Outstanding State Resource Water, an individual certification is being issued.

Missouri Department of Conservation is proposing to construct a 16-foot-wide boat ramp and a 32-foot-wide canoe ramp within the Jacks Fork River. This certification is for the boat ramp portion of the project, which is covered under Nationwide Permit 36. The project is known as the "Eminence City Parks Boat and Canoe Ramps." Temporary impacts to the Jacks Fork River will take place during construction. A diagram of the construction activities details is enclosed.

In accordance with the "Missouri Antidegradation Rule and Implementation Procedure," the proposed project is being placed on public notice. The elements of antidegradation review are under consideration in this public notice. In Tier III waters of the state, only temporary lowering of water quality is allowed. The likely impacts to the water quality are increased turbidity from the construction activities. All conditions must be strictly followed to provide protection of existing uses.

Enclosed is "Eminence City Park Access Narrative, Shannon County, Missouri," which has the description and an analysis for the proposed project.

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. 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.
3. 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.

4. No project shall be constructed in, or immediately upstream of, any known mussel beds. We request that you determine if any known beds are present.
5. Any waste concrete or concrete rinsate shall be disposed of in a manner that does not result in any discharge to the jurisdictional waterways.
6. Acquisition of a certification shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded. Any National Pollutant Discharge Elimination System Permits, Land Disturbance Permits, or other requirements shall be complied with. Applicants with questions are encouraged to call the Department's Regional Office in your area. A regional office map can be located at [www.dnr.mo.gov/regions/regions.htm](http://www.dnr.mo.gov/regions/regions.htm)

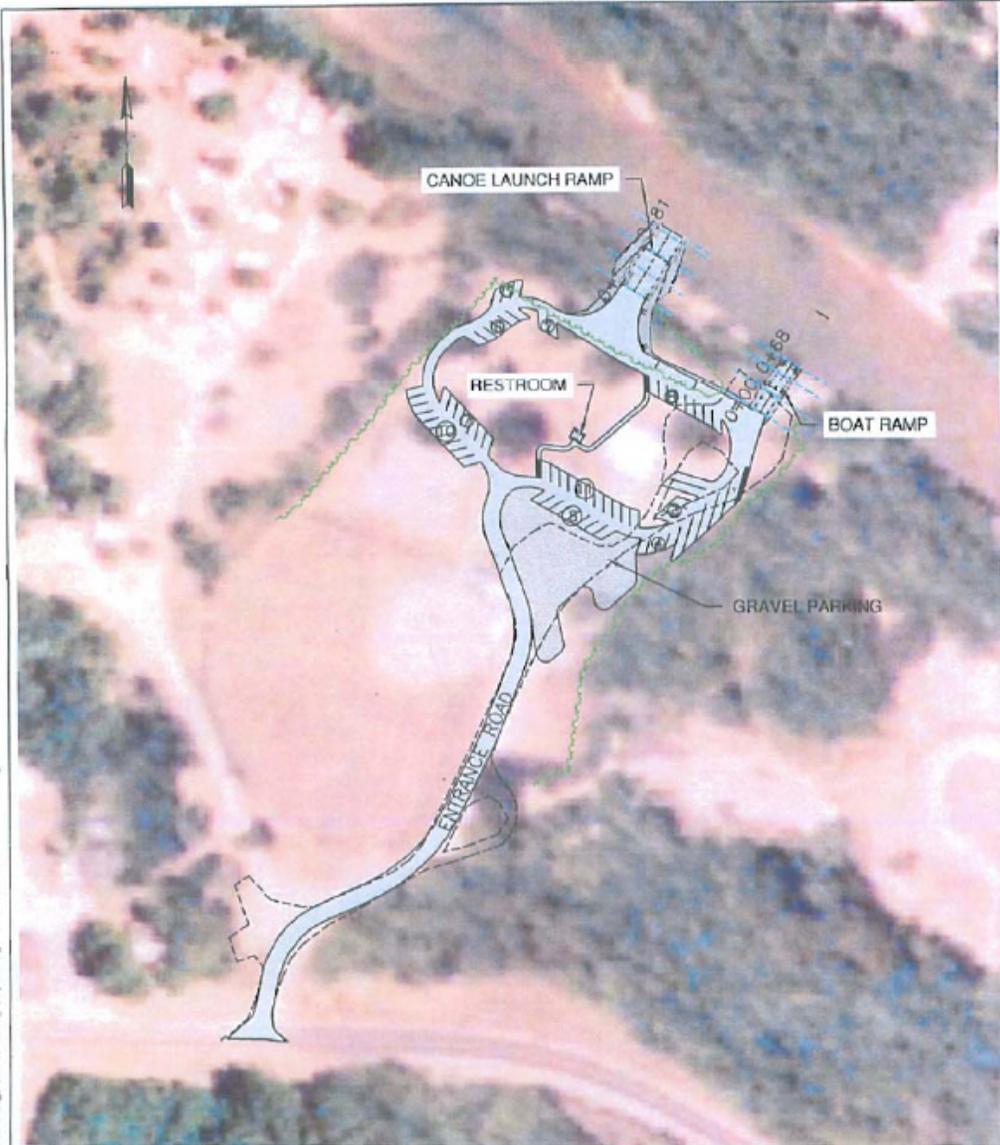
Pursuant to Chapter 644.052.9, RSMo, commonly referred to as the Missouri Clean Water Law, this certification requires payment of a fee of seventy-five dollars (\$75.00). A SAM II inter-agency invoice containing the necessary information to complete the payment process will be mailed to you within approximately five (5) days. Please complete entry for payment as soon as possible. The object code for this fee is 2544. You may proceed with your project at this time.

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



**1 PROPOSED SITE PLAN**  
SCALE: 1" = 150'

Path: H:\Projects\05-11-05-11-01\Drawings\Cur\05-11-01\_404.plt.dwg Printed on 10/27/09 12:22 PM by Rhonda Norred

<b>EMINENCE CITY PARK ACCESS</b>	 <b>DESIGN AND DEVELOPMENT</b> MISSOURI DEPARTMENT OF CONSERVATION <small>P.O. BOX 190, JEFFERSON CITY, MO 65102 (873) 522-4115</small>	<b>AERIAL PHOTO</b>				
<b>CAP, PARKING, RESTROOMS, BOAT RAMP, ETC</b>		PROJECT NO: <b>05-11-01</b>				
<table border="1"> <tr> <td>DATE: 12/22/09</td> <td>DESIGN: MLC</td> </tr> <tr> <td>DRAWN: DCB</td> <td>CHECKED: JST</td> </tr> </table>	DATE: 12/22/09	DESIGN: MLC	DRAWN: DCB	CHECKED: JST		<b>G-003</b> SHEET 3 OF 9
DATE: 12/22/09	DESIGN: MLC					
DRAWN: DCB	CHECKED: JST					

ACTION NO. 2009-00531  
 MDC - Eminence City Park  
 BOAT AND CANOE RAMPS  
 Jacks Fork River  
 December 17, 2009 sheet 3 of 8

**EMINENCE CITY PARK ACCESS NARRATIVE  
SHANNON COUNTY, MISSOURI**

**BILL GOODWIN**

The Eminence city park where the proposed construction project is planned is equipped with an existing picnic pavilion, restrooms with running water, a storage shed and a ball field. Existing parking areas are gravel surface or natural ground. Unimproved Access to the Jacks Fork River is available on natural surface ramp on the shoreline. The picnic pavilion and the ball park will remain. The other buildings will be removed in anticipation of construction of new restrooms. To improve public access address parking and traffic concerns parking lots will be expanded and infrastructure replaced with new rest rooms and facilities. With the exception of the canoe launch ramp and the new boat ramp all the project will be located outside "Waters of the U.S.

-According to the USDA NRCS, published soil survey soils mapped on site are as follows:

**Huzzah Sandy Loam, well drained and non-hydric**

**River-wash well drained (frequently flooded and non-hydric)**

-National Wetland Inventory maps do not indicate any wetlands on the site. The stream is identified as upper perennial rive and a natural gravel bar is identified at the site where the two ramps enter the river. A shrub swamp is identified on the opposite side of the river. The ramp will modify the natural gravel bar.

The improvements will be located in a flood plain. The flood plain is unclassified by FEMA.

Environmental evaluation was completed using off-site methods. No onsite wetland determination evaluation has been conducted. The site has previously been used as a city park and the improvements will take place on previously disturbed locations. Based on off-site review through examination of aerial photos, soils information topography maps there is little likelihood of wetland occurrence on the site. The Jacks Fork is a perennial stream and is considered "Waters of the U.S.



**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.