

ADDENDUM NO. 1

Sedgwick County Project: Greenhaven Channel Drainage Improvements (D-2)

The items contained herein now become a part of the referenced plans and specifications. Please read the following items and acknowledge receipt of this addendum on the Proposal Page Number P-1. NOTE: THIS ADDENDUM MUST BE ACKNOWLEDGED TO CONSTITUTE A VALID BID.

SPECIFICATIONS:

ITEM NO. 1 – PAGE SP-25-1, ENVIRONMENTAL PERMIT REQUIREMENTS:

1. Add the following sentences to Paragraph 1, Description:

“This work also consists of special measures to be undertaken by the Contractor to conform to the requirements of Permit No. 200200963, Department of the Army Corps of Engineers, Kansas City District, Regulatory Branch for protection of waters of the United States under federal laws and regulations. The complete permit document is attached hereto.”

ITEM NO. 2 – PAGE SP-25-1, ENVIRONMENTAL PERMIT REQUIREMENTS:

1. Add the following paragraphs to Paragraph 2, Requirements:

“d. The permit documents set forth responsibilities of Sedgwick County. These responsibilities are hereby delegated to the Contractor during the term of the Construction Contract to the time of Final Acceptance by the County.

- e. The requirements to be undertaken by the Contractor include, but are not limited to, the following:

- (1) Notification of the Corps of Engineers regarding discovery of unknown historic or archeological remains.
- (2) Allowing representatives of the Corps to inspect the project during construction.
- (3) Use of clean, uncontaminated materials for fill.
- (4) Disposal of excess concrete and wash water in a manner stated in the permit.
- (5) Immediate removal and disposal of debris from the project.
- (6) Minimizing the increase in suspended solids from excavation, dredging and/or filling activities.
- (7) Disposal of construction debris or waste materials in accordance with the permit requirements.
- (8) Storage of all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.

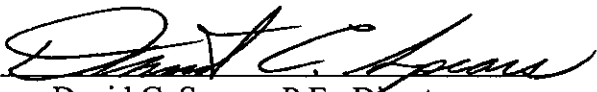
- (9) Installing seeding, erosion control measures, etc. to protect the graded area from erosion.
 - (10) Use of riprap as stated in the terms of the permit.
 - (11) Conformance to the construction sequence requirements of the permit.
 - (12) Preparation and execution of a water quality protection plan as required by the Kansas Department of Health and Environment.
 - (13) Restricting the clearing of timber and other vegetation to the absolute minimum required to accomplish the work.
- f. Special Condition Requirements designated a., b., and l are the sole responsibility of the COUNTY. The Contractor has no duty to perform these three specific tasks.
- g. By endorsement of the proposal, the Contractor agrees that he has received a copy of the Department of the Army Permit, that he has read and understood the terms of the Department of the Army Permit, and agrees to abide by the terms of the Department of the Army Permit.”

**LAST ITEM
END ADDENDUM NO. 1**

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

Michael W. Berry, P.E.
Project Manager

November 26, 2002
Attachments: Corps of Engineers Permit No. 200200963

By: 
David C. Spears, P.E., Director
Sedgwick County Public Works

Date: November 26, 2002

DEPARTMENT OF THE ARMY PERMIT

Permittee Sedgwick County, Kansas

Permit No. 200200963

Issuing Office U.S. Army Engineer District, Kansas City

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 the terms and conditions specified below, and with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Project Description: **Proposed:** This permit authorizes the discharge of 3,203 cubic yards of earthen fill, 1,052 cubic yards of riprap, 1007 cubic yards of concrete, 120 cubic yards of crushed rock, and the excavation of 13,444 cubic yards of native material within waters of the United States. It further authorizes the construction of a 4-cell reinforced concrete box culvert, with 4-foot by 10-foot by 45-foot long cells, and the modification and concrete lining of 1,425 feet of an unnamed tributary of the Arkansas River. At the confluence of the subject tributary and the Arkansas River, the channel will be lined with riprap. The project will impact a 2.48-acre footprint within the subject unnamed Arkansas River tributary.

Permit Drawing(s): Location map, plan view, cross section, Sheets 1 of 6 through 6 of 6, undated.

Project Location: In an unnamed tributary of the Arkansas River, in Section 14 and 15, Township 28 south, Range 1 east, Sedgwick County, Kansas.

(Latitude 37-37; Longitude 97-16-59)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2005. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately 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 you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned 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. For your convenience, a copy of the certification is attached if it contains such conditions.
6. 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.

Special Conditions:

See continuation sheets, pages 4 and 5, of this document.

Further Information:

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

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- 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 authorization 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. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

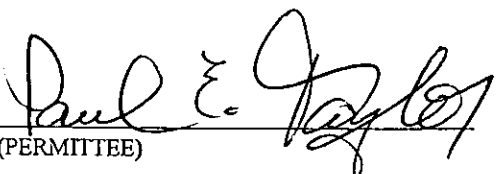
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- 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 (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

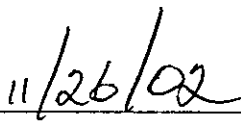
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE)



(DATE)

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

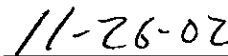


(DISTRICT ENGINEER)

DONALD R. CURTIS, JR.

BY: David S. Hobbie

Kansas State Program Manager
Regulatory Branch



(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)

Special Conditions:

- a. You must sign and return a "Compliance Certification" after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and specific conditions, and that any required mitigation was completed in accordance with the permit conditions.
- b. If any part of the authorized work is performed by a contractor, before starting work you must discuss the terms and conditions of this permit with the contractor; and, you must give a copy of this entire permit to the contractor.
- c. You must use clean, uncontaminated materials for fill in order to minimize excessive turbidity by leaching of fines, as well as to preclude the entrance of deleterious and/or toxic materials into the waters of the United States by natural runoff or by leaching.
- d. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a nonwetland area above the ordinary high water mark and at a location where the concrete and wash water cannot enter the water body or an adjacent wetland area.
- e. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- f. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body.
- g. You must not dispose of any construction debris or waste materials below the ordinary high water mark of any water body, in a wetland area, or at any location where the materials could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.
- h. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- i. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or unvegetated condition.
- j. Upon completion of earthwork operations, you must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction. If seeding does not successfully vegetate the disturbed areas by the end of the first growing season, you must implement alternate measures, such as placing riprap, slope terracing with untreated railroad ties, gabions or concrete blocks, or additional vegetative plantings, to protect the disturbed areas from further erosion. You must contact the Kansas City District, Regulatory Branch prior to beginning work on any additional erosion control measures so that a determination can be made whether further authorization is required.

k. You must use only graded rock and/or quarry-run rock for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. 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.

l. You must mitigate a total of 3.14 acres for unavoidable impacts to waters of the United States in accordance with the plans and specifications of the Sedgwick County Mitigation Plan for Project No. D-2, dated 9/20/2002, (to include the Mitigation Plan Amendment dated 10/11/2002). You shall permanently protect the mitigation areas from actions that would degrade and/or change their design function and values. Upon completion of project construction, a three-year monitoring program will be implemented for all riparian mitigation areas specified in the mitigation plan. An annual report will be completed and provided to the Corps each year by November 1, and will provide: 1) Percent of cover; 2) Overall subjective condition of the vegetation; and 3) Photographs from fixed points documenting areas that were seeded to native grass and forbes, as well as areas where specific tree species were planted. Achieving a 75% cover in mitigation areas that were seeded with native grass and forbs, and 85% survival of all trees planted to mitigate project impacts, 3 years after project completion, will signify completion of the riparian mitigation. The first annual report shall also include a description and quantification of stream restoration activities conducted on the 1.15-acre degraded drainage area identified and detailed in the Mitigation Plan Amendment, dated 10/11/2002. Photos from fixed points reflecting site conditions before and after stream restoration work shall be provided.

m. No work will occur in the channel of the Arkansas River during the spawning seasons of the Arkansas River shiner (June 1-August 30) and the speckled chub (May 15-August 31) inclusive.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
 BILL GRAVES, GOVERNOR
 Clyde D. Graeber, Secretary

RECEIVED
 REGULATORY BRANCHMENT
 02 OCT 10 PM 2:30

October 8, 2002

Mr Stephen Penaluna
 Regulatory BR/Operations Div.
 U.S. Army Corps of Engineers
 State Regualtory Office
 2710 NE Shady Creek Access Road,
 El Dorado, Kansas 67042

RECEIVED
 KS STATE REGULATORY
 2002 OCT 21 AM 11:18

401 Water Quality Certification

ATTN: Public Notice #200200963: The applicant is proposing to construct a 4- cell reinforced concrete box culvert with 10 foot by 4- foot cells, 45 feet in length when the channel of the unnamed stream to the Arkansas River. The project is located in Sections 14 and 15, Township 28 South, Range 1 East, Sedgwick County, KS. Project Applicant is Sedgwick County Department of Public Works, 1144 South Seneca, Wichita, KS 67213-4443. Project Officer: Mr Stephen Penaluna: (316) 322-8247.

Mr. Penaluna:

You requested a 401 water quality section certification for the referenced public notice per a FAX request dated 9/12/02. Pursuant to Section 401 of the Clean Water Act, the Kansas Department of Health and Environment, Bureau of Water has reviewed the subject project.

KDHE attended a pre-application meeting with agencies and consultants in Sedgwick County, May 14, 2002. KDHE appreciates the efforts of all parties to facilitate this opportunity to share information and view the site. Water quality, among other concerns, were raised at the meeting. KDHE believes the information provided below can address the water quality concerns.

We certify the proposed project to comply with terms and conditions of the Kansas Surface water quality standards provided the project is executed in accordance with the following conditions.

- I. **Certification: The applicant shall retain this certification on site through the duration of the project.**

- II. **Water Quality Standards:** Measures are taken to prevent violations of the water quality criteria described in K.A.R.28-16-28e. The applicant is directed to pay particular attention to preventing pollution impacts of turbidity, pH, temperature, nutrients, microbial pathogens, pesticides, chemicals, deposits of solids, suspended solids, floating debris, scum, visible oil and grease, or solvents from equipment leaks and dissolved or emulsified grease concentrations in waters of the state during the project and after completion of the project.
- III. **Water Quality Protection Plan:** The applicant shall prepare and implement a written water quality protection plan. The water quality protection plan shall identify components of the permitted activity (i.e. solid waste handling, fuel storage and leaks, sediment from construction etc.) which may or will result in the discharge of pollutants to waters of the state. For each component which may discharge pollutants to waters of the state, the plan shall set out the physical, structural and management measures being implemented to prevent or minimize the discharge of pollutants to waters of the state. At the minimum, this plan can consist of a signed statement of pollution control implementation utilizing the applicable conditions of this certification. **This WQPP shall include any mitigation activities required by the U.S. Department of the Army Corps of Engineers.**

Special Waters: This activity is located near the Arkansas River, designated by the State of Kansas as a Special Aquatic Life Use (SALU) water, due to the presence of a combination of habitat and rare, threatened or endangered species K.A.R. 28-16-28 (a) (2) (A). Therefore, the water quality protection plan, referenced to earlier in this certification, shall be submitted to this office at :

Kansas Department of Health and Environment, Bureau of Water, Watershed Management Section, 1000 SW Jackson, Ste 420, Topeka, KS 66612-1367. Attention: 401 Certification

1. **Stormwater Runoff:** Currently, construction activities owned by governmental agencies which have less than 100,000 population are not required to apply for a Kansas Water Pollution Control General Permit Issued for Stormwater Runoff from Construction Activities (N.P.D.E.S). However, the applicant should be aware construction activities scheduled to begin before January 1, 2003, will need to apply for this permit under Phase II Stormwater requirements. Any inquiries pertaining to this permit should be directed to:

Mr. Alan Brooks
Kansas Department of Health and Environment
Bureau of Water, Industrial Programs Section
1000 S.W. Jackson, Ste 420
Phone: 785/296-5549 Fax: 785/296-5509
www.kdhe.state.ks.us/stormwater

Whether or not an N.P.D.E.S. permit is needed (depending on construction schedule), the activity should still avoid water quality impacts to the water resources through development and implementation of a water quality protection plan per Condition A. The information below should be considered in the development implementation of such a plan.

2. The project is expected to avoid water quality standard violations by implementing or meeting the following conditions:
 - i. Upon completion of the project, disturbed areas, including **equipment staging areas** and shall be expeditiously stabilized with temporary and permanent vegetation, bio-artificial ground cover or other appropriate non-polluting material.
 - ii. **Solid Waste Management:** All waste materials produced by the construction project shall be disposed of in accordance with the provisions of the Kansas solid waste management statutes and regulations (K.S.A. 65-3401 and K.A.R. 28-29-1 et. seq.) or applicable local rules. Good house keeping including personal refuse such as food containers, sacks etc. should also be considered.
 - iii. **Mechanical Fluids:** Fuels and other maintenance chemicals necessary to complete the project should be stored away from the water body and in such a manner that accidental spillage is reduced or can be temporarily contained before reaching the water body. Maintenance areas should also be located in this manner.
 - iv. **Spills:** Should a spill of gasoline or discharge of pollutants occur, shall be notified immediately: The Sedgwick County emergency staff should be contacted first by dialing 911. The Kansas Department of Health and Environment 785/296-1679 (24 hours.) KDHE South Central District Office will respond to spills by calling 316/337-6020. The National Response Center, 1-800-424-8802, should be notified. A state wide number for spill reporting is the Adjutant General Kansas Division of Emergency Management, 785/ 296-3176. Spill prevention and response plan development is encouraged. The above numbers shall be posted in a central location, on site.
 - v. **Floating debris:** The applicant shall take appropriate measures to capture any floating debris released to surface waters as a result of this project.
 - vi. **Fill Material:** Fill or stabilizing material shall be free of contaminants which may runoff or be leached into ground or surface water.
 - vii. **Riparian Impacts:** Minimize the removal of riparian area to the extent possible.
 - viii. **Project Specific Conditions:** The concrete channel should be designed in a manner that minimizes standing water conditions. This will help avoid nuisance conditions such as...

Mr. Penaluna (PN 200200963)

October 8, 2002

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- ix. This certification does not relieve the applicant of the responsibility for any discharge into water of the state. The Kansas Department of Health and Environment retains the option of revoking the certification any time an inappropriate discharge may occur. As provided for in K.S.A. 65-171(f), failure to comply with the conditions of this certification may subject the responsible party to fines up to \$ 10,000 per violation with each day the violation occurs constituting a separate violation.

If the applicant believes the conditions of this certification will result in impairment of important social and economic development, the applicant is advised of the variance provisions of K.A.R. 28-16-28b(hhh) and K.A.R. 28-16-28f(e).

Sincerely,



Scott L. Satterthwaite, M.S.
Nonpoint Source Pollution Control Specialist
Watershed Management Section
Bureau of Water

sls/SLS

cc: Kansas Adjutant General's Office, Division of Emergency Management, Op. Officer
Mr. Matt Scherer- Division of Water Resources
Mr. Joseph Huges, Chief, Regulatory BR/Operations Div., U.S. Army Corps of Engineers
700 Federal Building, Kansas City, MO 64106-2896