

If you plan to submit a bid directly to the Department of Transportation

PREQUALIFICATION

Any contractor who desires to become pre-qualified to bid on work advertised by IDOT must submit the properly completed pre-qualification forms to the Bureau of Construction no later than 4:30 p.m. prevailing time twenty-one days prior to the letting of interest. This pre-qualification requirement applies to first time contractors, contractors renewing expired ratings, contractors maintaining continuous pre-qualification or contractors requesting revised ratings. To be eligible to bid, existing pre-qualification ratings must be effective through the date of letting.

REQUESTS FOR AUTHORIZATION TO BID

Contractors downloading and/or ordering CD-ROM's and are wanting to bid on items included in a particular letting must submit the properly completed "Request for Authorization to Bid/or Not For Bid Status" (BDE 124INT) and the ORIGINAL, signed and notarized, "Affidavit of Availability" (BC 57) to the proper office no later than 4:30 p.m. prevailing time, three (3) days prior to the letting date.

WHO CAN BID ?

Bids will be accepted from only those companies that request and receive written **Authorization to Bid** from IDOT's Central Bureau of Construction.

WHAT CONSTITUTES WRITTEN AUTHORIZATION TO BID? When a prospective prime bidder submits a "Request for Authorization to Bid/or Not For Bid Status" (BDE 124INT) he/she must indicate at that time which items are being requested For Bidding purposes. Only those items requested For Bidding will be analyzed. After the request has been analyzed, the bidder will be issued a **Proposal Denial and/or Authorization Form**, approved by the Central Bureau of Construction, that indicates which items have been approved For Bidding. If **Authorization to Bid** cannot be approved, the **Proposal Denial and/or Authorization Form** will indicate the reason for denial.

ABOUT AUTHORIZATION TO BID: Firms that have not received an authorization form within a reasonable time of complete and correct original document submittal should contact the department as to status. This is critical in the week before the letting. These documents must be received three days before the letting date. Firms unsure as to authorization status should call the Prequalification Section of the Bureau of Construction at the number listed at the end of these instructions.

ADDENDA AND REVISIONS: It is the contractor's responsibility to determine which, if any, addenda or revisions pertain to any project they may be bidding. Failure to incorporate all relevant addenda or revisions may cause the bid to be declared unacceptable.

Each addendum will be placed with the contract number. Addenda and revisions will also be placed on the Addendum/Revision Checklist and each subscription service subscriber will be notified by e-mail of each addendum and revision issued.

The Internet is the Department's primary way of doing business. The subscription server e-mails are an added courtesy the Department provides. It is suggested that bidder check IDOT's website <http://www.dot.il.gov/desenv/delett.html> before submitting final bid information.

IDOT is not responsible for any e-mail related failures.

Addenda Questions may be directed to the Contracts Office at (217)782-7806 or D&Econtracts@dot.il.gov

Technical Questions about downloading these files may be directed to Tim Garman (217)524-1642 or garmantr@dot.il.gov.

WHAT MUST BE INCLUDED WHEN BIDS ARE SUBMITTED?: Bidders need not return the entire proposal when bids are submitted. That portion of the proposal that must be returned includes the following:

1. All documents from the Proposal Cover Sheet through the Proposal Bid Bond
2. Other special documentation and/or information that may be required by the contract special provisions

All proposal documents, including Proposal Guaranty Checks or Proposal Bid Bonds, should be stapled together to prevent loss when bids are processed by IDOT personnel.

ABOUT SUBMITTING BIDS: It is recommended that bidders deliver bids in person to insure they arrive at the proper location prior to the time specified for the receipt of bids. Any bid received at the place of letting after the time specified will not be accepted.

WHO SHOULD BE CALLED IF ASSISTANCE IS NEEDED?

Questions Regarding	Call
Prequalification and/or Authorization to Bid	(217)782-3413
Preparation and submittal of bids	(217)782-7806
Mailing of plans and proposals	(217)782-7806
Electronic plans and proposals	(217)524-1642

ADDENDUMS AND REVISIONS TO THE PROPOSAL FORMS

Planholders should verify that they have received and incorporated the addendum and/or revision prior to submitting their bid. Failure by the bidder to include an addendum could result in a bid being rejected as irregular.

RETURN WITH BID

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Proposal Submitted By
Name
Address
City

Letting August 5, 2005

BIDDERS NEED NOT RETURN THE ENTIRE PROPOSAL
(See instructions inside front cover)

NOTICE TO PROSPECTIVE BIDDERS

This proposal can be used for bidding purposes by only those companies that request and receive written AUTHORIZATION TO BID from IDOT's Central Bureau of Construction.
(SEE INSTRUCTIONS ON THE INSIDE OF COVER)

**Notice To Bidders,
Specifications,
Proposal, Contract
and Contract Bond**



**Illinois Department
of Transportation**

Springfield, Illinois 62764

**Contract No. 72967
BROWN County
Section D6 WETLAND MITIGATION NO. 2
District 6 Construction Funds
Various Routes**

PLEASE MARK THE APPROPRIATE BOX BELOW:

A Bid Bond is included.

A Cashier's Check or a Certified Check is included.

Prepared by	S
Checked by	

(Printed by authority of the State of Illinois)

INSTRUCTIONS

ABOUT IDOT PROPOSALS: All proposals issued by IDOT are potential bidding proposals. Each proposal contains all Certifications and Affidavits, a Proposal Signature Sheet and a Proposal Bid Bond required for Prime Contractors to submit a bid after written **Authorization to Bid** has been issued by IDOT's Central Bureau of Construction.

WHO CAN BID?: Bids will be accepted from only those companies that request and receive written **Authorization to Bid** from IDOT's Central Bureau of Construction. To request authorization, a potential bidder must complete and submit Part B of the Request for Authorization to Bid/or Not For Bid Status form (BDE 124 INT) and submit an original Affidavit of Availability (BC 57).

WHAT CONSTITUTES WRITTEN AUTHORIZATION TO BID?: When a prospective prime bidder submits a "Request for Proposal Forms and Plans" he/she must indicate at that time which items are being requested For Bidding purposes. Only those items requested For Bidding will be analyzed. After the request has been analyzed, the bidder will be issued a **Proposal Denial and/or Authorization Form**, approved by the Central Bureau of Construction, that indicates which items have been approved For Bidding. If **Authorization to Bid** cannot be approved, the **Proposal Denial and/or Authorization Form** will indicate the reason for denial. If a contractor has requested to bid but has not received a **Proposal Denial and/or Authorization Form**, they should contact the Central Bureau of Construction in advance of the letting date.

WHAT MUST BE INCLUDED WHEN BIDS ARE SUBMITTED?: Bidders need not return the entire proposal when bids are submitted. That portion of the proposal that must be returned includes the following:

1. All documents from the Proposal Cover Sheet through the Proposal Bid Bond
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Mailing of CD-ROMS	217/782-7806

RETURN WITH BID



PROPOSAL

TO THE DEPARTMENT OF TRANSPORTATION

1. Proposal of _____

for the improvement identified and advertised for bids in the Invitation for Bids as:

Contract No. 72967
BROWN County
Section D6 WETLAND MITIGATION NO. 2
Various Routes
District 6 Construction Funds

Wetland mitigation including earthwork to reestablish wetland ponds, de-activate field tiles and drainage ditches located at the LaGrange Wetland Bank in the northeast corner of Brown County.

2. The undersigned bidder will furnish all labor, material and equipment to complete the above described project in a good and workmanlike manner as provided in the contract documents provided by the Department of Transportation. This proposal will become part of the contract and the terms and conditions contained in the contract documents shall govern performance and payments.

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3. **ASSURANCE OF EXAMINATION AND INSPECTION/WAIVER.** The undersigned further declares that he/she has carefully examined the proposal, plans, specifications, form of contract and contract bond, and special provisions, and that he/she has inspected in detail the site of the proposed work, and that he/she has familiarized themselves with all of the local conditions affecting the contract and the detailed requirements of construction, and understands that in making this proposal he/she waives all right to plead any misunderstanding regarding the same.
4. **EXECUTION OF CONTRACT AND CONTRACT BOND.** The undersigned further agrees to execute a contract for this work and present the same to the department within fifteen (15) days after the contract has been mailed to him/her. The undersigned further agrees that he/she and his/her surety will execute and present within fifteen (15) days after the contract has been mailed to him/her contract bond satisfactory to and in the form prescribed by the Department of Transportation, in the penal sum of the full amount of the contract, guaranteeing the faithful performance of the work in accordance with the terms of the contract.
5. **PROPOSAL GUARANTY.** Accompanying this proposal is either a bid bond on the department form, executed by a corporate surety company satisfactory to the department, or a proposal guaranty check consisting of a bank cashier's check or a properly certified check for not less than 5 per cent of the amount bid or for the amount specified in the following schedule:

<u>Amount of Bid</u>	<u>Proposal Guaranty</u>	<u>Amount of Bid</u>	<u>Proposal Guaranty</u>
Up to \$5,000	to \$150	\$2,000,000	to \$100,000
\$5,000 to \$10,000	to \$300	\$3,000,000	to \$150,000
\$10,000 to \$50,000	to \$1,000	\$5,000,000	to \$250,000
\$50,000 to \$100,000	to \$3,000	\$7,500,000	to \$400,000
\$100,000 to \$150,000	to \$5,000	\$10,000,000	to \$500,000
\$150,000 to \$250,000	to \$7,500	\$15,000,000	to \$600,000
\$250,000 to \$500,000	to \$12,500	\$20,000,000	to \$700,000
\$500,000 to \$1,000,000	to \$25,000	\$25,000,000	to \$800,000
\$1,000,000 to \$1,500,000	to \$50,000	\$30,000,000	to \$900,000
\$1,500,000 to \$2,000,000	to \$75,000	over \$35,000,000	to \$1,000,000

Bank cashier's checks or properly certified checks accompanying proposals shall be made payable to the Treasurer, State of Illinois, when the state is awarding authority; the county treasurer, when a county is the awarding authority; or the city, village, or town treasurer, when a city, village, or town is the awarding authority.

If a combination bid is submitted, the proposal guaranties which accompany the individual proposals making up the combination will be considered as also covering the combination bid.

The amount of the proposal guaranty check is _____ \$(). If this proposal is accepted and the undersigned shall fail to execute a contract bond as required herein, it is hereby agreed that the amount of the proposal guaranty shall become the property of the State of Illinois, and shall be considered as payment of damages due to delay and other causes suffered by the State because of the failure to execute said contract and contract bond; otherwise, the bid bond shall become void or the proposal guaranty check shall be returned to the undersigned.

Attach Cashier's Check or Certified Check Here	
In the event that one proposal guaranty check is intended to cover two or more proposals, the amount must be equal to the sum of the proposal guaranties which would be required for each individual proposal. If the guaranty check is placed in another proposal, state below where it may be found.	
The proposal guaranty check will be found in the proposal for:	Item _____
	Section No. _____
	County _____

Mark the proposal cover sheet as to the type of proposal guaranty submitted.

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6. **COMBINATION BIDS.** The undersigned further agrees that if awarded the contract for the sections contained in the following combination, he/she will perform the work in accordance with the requirements of each individual proposal comprising the combination bid specified in the schedule below, and that the combination bid shall be prorated against each section in proportion to the bid submitted for the same. If an error is found to exist in the gross sum bid for one or more of the individual sections included in a combination, the combination bid shall be corrected as provided in the specifications.

When a combination bid is submitted, the schedule below must be completed in each proposal comprising the combination.

If alternate bids are submitted for one or more of the sections comprising the combination, a combination bid must be submitted for each alternate.

Schedule of Combination Bids

Combination No.	Sections Included in Combination	Combination Bid	
		Dollars	Cents

7. **SCHEDULE OF PRICES.** The undersigned bidder submits herewith, in accordance with the rules and instructions, a schedule of prices for the items of work for which bids are sought. The unit prices bid are in U.S. dollars and cents, and all extensions and summations have been made. The bidder understands that the quantities appearing in the bid schedule are approximate and are provided for the purpose of obtaining a gross sum for the comparison of bids. If there is an error in the extension of the unit prices, the unit prices shall govern. Payment to the contractor awarded the contract will be made only for actual quantities of work performed and accepted or materials furnished according to the contract. The scheduled quantities of work to be done and materials to be furnished may be increased, decreased or omitted as provided elsewhere in the contract.

8. **CERTIFICATE OF AUTHORITY.** The undersigned bidder, if a business organized under the laws of another State, assures the Department that it will furnish a copy of its certificate of authority to do business in the State of Illinois with the return of the executed contract and bond. Failure to furnish the certificate within the time provided for execution of an awarded contract may be cause for cancellation of the award and forfeiture of the proposal guaranty to the State.

ILLINOIS DEPARTMENT OF TRANSPORTATION
 SCHEDULE OF PRICES
 CONTRACT
 NUMBER - 72967

State Job # - C-96-508-06
 PPS NBR - 6-00333-0000
 County Name - BROWN- -
 Code - 9 - -
 District - 6 - -
 Section Number - D6 WETLAND MITIGATION NO.2

Project Number

Route
 VARIOUS

Item Number	Pay Item Description	Unit of Measure	Quantity	x	Unit Price	=	Total Price
A2C020G3	T-CARYA CORDIF CG 3G	EACH	733.000				
A2C022G3	T-CARYA ILINOEN CG 3G	EACH	733.000				
A2C050G3	T-QUERC BICOL CG 3G	EACH	733.000				
A2C060G3	T-QUERC PALUS CG 3G	EACH	733.000				
K0026700	TREE CARE	EACH	2.000				
K0026720	TREE INT & SHRB WATER	UNIT	30.000				
K1005884	TREE TRK PRED PROTECT	EACH	2,932.000				
X0322856	WEED CONT N SEL/N RES	GALLON	20.000				
X2500400	INTERSEED CL 2 SPL	ACRE	40.700				
X2503000	MAINTENANCE MOWING	ACRE	244.400				
25000750	MOWING	ACRE	40.700				
67100100	MOBILIZATION	L SUM	1.000				

THIS IS THE TOTAL BID \$ _____

NOTES:

1. Each PAY ITEM should have a UNIT PRICE and a TOTAL PRICE.
2. The UNIT PRICE shall govern if no TOTAL PRICE is shown or if there is a discrepancy between the product of the UNIT PRICE multiplied by the QUANTITY.
3. If a UNIT PRICE is omitted, the TOTAL PRICE will be divided by the QUANTITY in order to establish a UNIT PRICE.
4. A bid may be declared UNACCEPTABLE if neither a unit price nor a total price is shown.

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STATE REQUIRED ETHICAL STANDARDS GOVERNING CONTRACT PROCUREMENT: ASSURANCES, CERTIFICATIONS AND DISCLOSURES

I. GENERAL

A. Article 50 of the Illinois Procurement Code establishes the duty of all State chief procurement officers, State purchasing officers, and their designees to maximize the value of the expenditure of public moneys in procuring goods, services, and contracts for the State of Illinois and to act in a manner that maintains the integrity and public trust of State government. In discharging this duty, they are charged by law to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the State of Illinois.

B. In order to comply with the provisions of Article 50 and to carry out the duty established therein, all bidders are to adhere to ethical standards established for the procurement process, and to make such assurances, disclosures and certifications required by law. By execution of the Proposal Signature Sheet, the bidder indicates that each of the mandated assurances has been read and understood, that each certification is made and understood, and that each disclosure requirement has been understood and completed.

C. In addition to all other remedies provided by law, failure to comply with any assurance, failure to make any disclosure or the making of a false certification shall be grounds for termination of the contract and the suspension or debarment of the bidder.

II. ASSURANCES

A. The assurances hereinafter made by the bidder are each a material representation of fact upon which reliance is placed should the Department enter into the contract with the bidder. The Department may terminate the contract if it is later determined that the bidder rendered a false or erroneous assurance, and the surety providing the performance bond shall be responsible for the completion of the contract.

B. Felons

1. The Illinois Procurement Code provides:

Section 50-10. Felons. Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any state agency from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

2. The bidder assures the Department that the award and execution of the contract would not cause a violation of Section 50-10.

C. Conflicts of Interest

1. The Illinois Procurement Code provides in pertinent part:

Section 50-13. Conflicts of Interest.

(a) Prohibition. It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of state government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway authority.

(b) Interests. It is unlawful for any firm, partnership, association or corporation, in which any person listed in subsection (a) is entitled to receive (i) more than 7 1/2% of the total distributable income or (ii) an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(c) Combined interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(d) Securities. Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois.

(e) Prior interests. This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed.

The current salary of the Governor is \$150,700.00. Sixty percent of the salary is \$90,420.00.

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2. The bidder assures the Department that the award and execution of the contract would not cause a violation of Section 50-13, or that an effective exemption has been issued by the Board of Ethics to any individual subject to the Section 50-13 prohibitions pursuant to the provisions of Section 50-20 of the Code and Executive Order Number 3 (1998). Information concerning the exemption process is available from the Department upon request.

D. Negotiations

1. The Illinois Procurement Code provides in pertinent part:

Section 50-15. Negotiations.

(a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.

2. The bidder assures the Department that the award and execution of the contract would not cause a violation of Section 50-15, and that the bidder has no knowledge of any facts relevant to the kinds of acts prohibited therein.

E. Inducements

1. The Illinois Procurement Code provides:

Section 50-25. Inducement. Any person who offers or pays any money or other valuable thing to any person to induce him or her not to bid for a State contract or as recompense for not having bid on a State contract is guilty of a Class 4 felony. Any person who accepts any money or other valuable thing for not bidding for a State contract or who withholds a bid in consideration of the promise for the payment of money or other valuable thing is guilty of a Class 4 felony.

2. The bidder assures the Department that the award and execution of the contract would not cause a violation of Section 50-25, and that the bidder has no knowledge of any facts relevant to the kinds of acts prohibited therein.

F. Revolving Door Prohibition

1. The Illinois Procurement Code provides:

Section 50-30. Revolving door prohibition. Chief procurement officers, associate procurement officers, State purchasing officers, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes, but is not limited to: lobbying the procurement process; specifying; bidding; proposing bid, proposal, or contract documents; on their own behalf or on behalf of any firm, partnership, association, or corporation. This Section applies only to persons who terminate an affected position on or after January 15, 1999.

2. The bidder assures the Department that the award and execution of the contract would not cause a violation of Section 50-30, and that the bidder has no knowledge of any facts relevant to the kinds of acts prohibited therein.

G. Reporting Anticompetitive Practices

1. The Illinois Procurement Code provides:

Section 50-40. Reporting anticompetitive practices. When, for any reason, any vendor, bidder, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State, a notice of the relevant facts shall be transmitted to the Attorney General and the chief procurement officer.

2. The bidder assures the Department that it has not failed to report any relevant facts concerning the practices addressed in Section 50-40 which may involve the contract for which the bid is submitted.

H. Confidentiality

1. The Illinois Procurement Code provides:

Section 50-45. Confidentiality. Any chief procurement officer, State purchasing officer, designee, or executive officer who willfully uses or allows the use of specifications, competitive bid documents, proprietary competitive information, proposals, contracts, or selection information to compromise the fairness or integrity of the procurement, bidding, or contract process shall be subject to immediate dismissal, regardless of the Personnel code, any contract, or any collective bargaining agreement, and may in addition be subject to criminal prosecution.

2. The bidder assures the Department that it has no knowledge of any fact relevant to the practices addressed in Section 50-45 which may involve the contract for which the bid is submitted.

RETURN WITH BID

I. Insider Information

1. The Illinois Procurement Act provides:

Section 50-50. Insider information. It is unlawful for any current or former elected or appointed State official or State employee to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person.

2. The bidder assures the Department that it has no knowledge of any facts relevant to the practices addressed in Section 50-50 which may involve the contract for which the bid is submitted.

III. CERTIFICATIONS

A. The certifications hereinafter made by the bidder are each a material representation of fact upon which reliance is placed should the Department enter into the contract with the bidder. The Department may terminate the contract if it is later determined that the bidder rendered a false or erroneous certification, and the surety providing the performance bond shall be responsible for completion of the contract.

B. Bribery

1. The Illinois Procurement Code provides:

Section 50-5. Bribery.

(a) Prohibition. No person or business shall be awarded a contract or subcontract under this Code who:

(1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

(2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

(b) Businesses. No business shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

(1) the business has been finally adjudicated not guilty; or

(2) the business demonstrates to the governmental entity with which it seeks to contract, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5-4 of the Criminal Code of 1961.

(c) Conduct on behalf of business. For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

(d) Certification. Every bid submitted to and contract executed by the State shall contain a certification by the contractor that the contractor is not barred from being awarded a contract or subcontract under this Section. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.

2. The bidder certifies that it is not barred from being awarded a contract under Section 50.5.

C. Educational Loan

1. Section 3 of the Educational Loan Default Act provides:

§ 3. No State agency shall contract with an individual for goods or services if that individual is in default, as defined in Section 2 of this Act, on an educational loan. Any contract used by any State agency shall include a statement certifying that the individual is not in default on an educational loan as provided in this Section.

2. The bidder, if an individual as opposed to a corporation, partnership or other form of business organization, certifies that the bidder is not in default on an educational loan as provided in Section 3 of the Act.

D. Bid-Rigging/Bid Rotating

1. Section 33E-11 of the Criminal Code of 1961 provides:

§ 33E-11. (a) Every bid submitted to and public contract executed pursuant to such bid by the State or a unit of local government shall contain a certification by the prime contractor that the prime contractor is not barred from contracting with any unit of State or local government as a result of a violation of either Section 33E-3 or 33E-4 of this Article. The State and units of local government shall provide the appropriate forms for such certification.

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(b) A contractor who makes a false statement, material to the certification, commits a Class 3 felony.

A violation of Section 33E-3 would be represented by a conviction of the crime of bid-rigging which, in addition to Class 3 felony sentencing, provides that any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be barred for 5 years from the date of conviction from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation.

A violation of Section 33E-4 would be represented by a conviction of the crime of bid-rotating which, in addition to Class 2 felony sentencing, provides that any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be permanently barred from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation.

2. The bidder certifies that it is not barred from contracting with the Department by reason of a violation of either Section 33E-3 or Section 33E-4.

E. International Anti-Boycott

1. Section 5 of the International Anti-Boycott Certification Act provides:

§ 5. State contracts. Every contract entered into by the State of Illinois for the manufacture, furnishing, or purchasing of supplies, material, or equipment or for the furnishing of work, labor, or services, in an amount exceeding the threshold for small purchases according to the purchasing laws of this State or \$10,000.00, whichever is less, shall contain certification, as a material condition of the contract, by which the contractor agrees that neither the contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act.

2. The bidder makes the certification set forth in Section 5 of the Act.

F. Drug Free Workplace

1. The Illinois "Drug Free Workplace Act" applies to this contract and it is necessary to comply with the provisions of the "Act" if the contractor is a corporation, partnership, or other entity (including a sole proprietorship) which has 25 or more employees.

2. The bidder certifies that if awarded a contract in excess of \$5,000 it will provide a drug free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the contractor's workplace; specifying the actions that will be taken against employees for violations of such prohibition; and notifying the employee that, as a condition of employment on such contract, the employee shall abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

(b) Establishing a drug free awareness program to inform employees about the dangers of drug abuse in the workplace; the contractor's policy of maintaining a drug free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug violations.

(c) Providing a copy of the statement required by subparagraph (1) to each employee engaged in the performance of the contract and to post the statement in a prominent place in the workplace.

(d) Notifying the Department within ten (10) days after receiving notice from an employee or otherwise receiving actual notice of the conviction of an employee for a violation of any criminal drug statute occurring in the workplace.

(e) Imposing or requiring, within 30 days after receiving notice from an employee of a conviction or actual notice of such a conviction, an appropriate personnel action, up to and including termination, or the satisfactory participation in a drug abuse assistance or rehabilitation program approved by a federal, state or local health, law enforcement or other appropriate agency.

(f) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of the actions and efforts stated in this certification.

G. Debt Delinquency

1. The Illinois Procurement Code provides:

Section 50-11 and 50-12. Debt Delinquency.

The contractor or bidder certifies that it, or any affiliate, is not barred from being awarded a contract under 30 ILCS 500. Section 50-11 prohibits a person from entering into a contract with a State agency if it knows or should know that it, or any affiliate, is delinquent in the payment of any debt to the State as defined by the Debt Collection Board. Section 50-12 prohibits a person from entering into a contract with a State agency if it, or any affiliate, has failed to collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act. The contractor further acknowledges that the contracting State agency may declare the contract void if this certification is false or if the contractor, or any affiliate, is determined to be delinquent in the payment of any debt to the State during the term of the contract.

H. Sarbanes-Oxley Act of 2002

1. The Illinois Procurement Code provides:

Section 50-60(c).

The contractor certifies in accordance with 30 ILCS 500/50-10.5 that no officer, director, partner or other managerial agent of the contracting business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of five years prior to the date of the bid or contract. The contractor acknowledges that the contracting agency shall declare the contract void if this certification is false.

I. ADDENDA

The contractor or bidder certifies that all relevant addenda have been incorporated in to this contract. Failure to do so may cause the bid to be declared unacceptable.

J. Section 42 of the Environmental Protection Act

The contractor certifies in accordance with 30 ILCS 500/50-12 that the bidder or contractor is not barred from being awarded a contract under this Section which prohibits the bidding on or entering into contracts with the State of Illinois or a State agency by a person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of Section 42 of the Environmental Protection Act for a period of five years from the date of the order. The contractor acknowledges that the contracting agency may declare the contract void if this certification is false.

K. Apprenticeship and Training Certification (Does not apply to federal aid projects)

In accordance with the provisions of Section 30-22 (6) of the Illinois Procurement Code, the bidder certifies that it is a participant, either as an individual or as part of a group program, in the approved apprenticeship and training programs applicable to each type of work or craft that the bidder will perform with its own forces. The bidder further certifies for work that will be performed by subcontract that each of its subcontractors submitted for approval either (a) is, at the time of such bid, participating in an approved, applicable apprenticeship and training program; or (b) will, prior to commencement of performance of work pursuant to this contract, begin participation in an approved apprenticeship and training program applicable to the work of the subcontract. The Department, at any time before or after award, may require the production of a copy of each applicable Certificate of Registration issued by the United States Department of Labor evidencing such participation by the contractor and any or all of its subcontractors. Applicable apprenticeship and training programs are those that have been approved and registered with the United States Department of Labor. The bidder shall list in the space below, the official name of the program sponsor holding the Certificate of Registration for all of the types of work or crafts in which the bidder is a participant and that will be performed with the bidder's forces. Types of work or craft work that will be subcontracted shall be included and listed as subcontract work. The list shall also indicate any type of work or craft job category that does not have an applicable apprenticeship or training program. **The bidder is responsible for making a complete report and shall make certain that each type of work or craft job category that will be utilized on the project as reported on the Construction Employee Workforce Projection (Form BC-1256) and returned with the bid is accounted for and listed.**

The requirements of this certification and disclosure are a material part of the contract, and the contractor shall require this certification provision to be included in all approved subcontracts. In order to fulfill this requirement, it shall not be necessary that an applicable program sponsor be currently taking or that it will take applications for apprenticeship, training or employment during the performance of the work of this contract.

TO BE RETURNED WITH BID

IV. DISCLOSURES

A. The disclosures hereinafter made by the bidder are each a material representation of fact upon which reliance is placed should the Department enter into the contract with the bidder. The Department may terminate the contract if it is later determined that the bidder rendered a false or erroneous disclosure, and the surety providing the performance bond shall be responsible for completion of the contract.

B. Financial Interests and Conflicts of Interest

1. Section 50-35 of the Illinois Procurement Code provides that all bids of more than \$10,000 shall be accompanied by disclosure of the financial interests of the bidder. This disclosed information for the successful bidder, will be maintained as public information subject to release by request pursuant to the Freedom of Information Act.

The financial interests to be disclosed shall include ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the bidding entity or its parent entity, whichever is less, unless the contractor or bidder is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure. If a bidder is a privately held entity that is exempt from Federal 10K reporting, but has more than 400 shareholders, it may submit the information that Federal 10K companies are required to report, and list the names of any person or entity holding any ownership share that is in excess of 5%. The disclosure shall include the names, addresses, and dollar or proportionate share of ownership of each person making the disclosure, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial interest of each person making the disclosure having any of the relationships identified in Section 50-35 and on the disclosure form.

In addition, all disclosures shall indicate any other current or pending contracts, proposals, leases, or other ongoing procurement relationships the bidding entity has with any other unit of state government and shall clearly identify the unit and the contract, proposal, lease, or other relationship.

2. Disclosure Forms. Disclosure Form A is attached for use concerning the individuals meeting the above ownership or distributive share requirements. Subject individuals should be covered each by one form. In addition, a second form (Disclosure Form B) provides for the disclosure of current or pending procurement relationships with other (non-IDOT) state agencies. **The forms must be included with each bid or incorporated by reference.**

C. Disclosure Form Instructions

Form A: For bidders that have previously submitted the information requested in Form A

The Department has retained the Form A disclosures submitted by all bidders responding to these requirements for the April 24, 1998 or any subsequent letting conducted by the Department. The bidder has the option of submitting the information again or the bidder may sign the following certification statement indicating that the information previously submitted by the bidder is, as of the date of signature, current and accurate. The Certification must be signed and dated by a person who is authorized to execute contracts for the bidding company. Before signing this certification, the bidder should carefully review its prior submissions to ensure the Certification is correct. If the Bidder signs the Certification, the Bidder should proceed to Form B instructions.

CERTIFICATION STATEMENT

I have determined that the Form A disclosure information previously submitted is current and accurate, and all forms are hereby incorporated by reference in this bid. Any necessary additional forms or amendments to previously submitted forms are attached to this bid.

(Bidding Company)

Name of Authorized Representative (type or print)

Title of Authorized Representative (type or print)

Signature of Authorized Representative

Date

Form A: For bidders who have NOT previously submitted the information requested in Form A

If the bidder is a publicly traded entity subject to Federal 10K reporting, the 10K Report may be submitted to meet the requirements of Form A. If a bidder is a privately held entity that is exempt from Federal 10K reporting, but has more than 400 shareholders, it may submit the information that Federal 10K companies are required to report, and list the names of any person or entity holding any ownership share that is in excess of 5%. If a bidder is not subject to Federal 10K reporting, the bidder must determine if any individuals are required by law to complete a financial disclosure form. To do this, the bidder should answer each of the following questions. A "YES" answer indicates Form A must be completed. If the answer to each of the following questions is "NO", then the NOT APPLICABLE STATEMENT on the second page of Form A must be signed and dated by a person that is authorized to execute contracts for the bidding company. Note: These questions are for assistance only and are not required to be completed.

1. Does anyone in your organization have a direct or beneficial ownership share of greater than 5% of the bidding entity or parent entity? YES ___ NO ___
2. Does anyone in your organization have a direct or beneficial ownership share of less than 5%, but which has a value greater than \$90,420.00? YES ___ NO ___
3. Does anyone in your organization receive more than \$90,420.00 of the bidding entity's or parent entity's distributive income? (Note: Distributive income is, for these purposes, any type of distribution of profits. An annual salary is not distributive income.) YES ___ NO ___
4. Does anyone in your organization receive greater than 5% of the bidding entity's or parent entity's total distributive income, but which is less than \$90,420.00? YES ___ NO ___

(Note: Only one set of forms needs to be completed per person per bid even if a specific individual would require a yes answer to more than one question.)

A "YES" answer to any of these questions requires the completion of Form A. The bidder must determine each individual in the bidding entity or the bidding entity's parent company that would cause the questions to be answered "Yes". Each form must be signed and dated by a person that is authorized to execute contracts for your organization. **Photocopied or stamped signatures are not acceptable.** The person signing can be, but does not have to be, the person for which the form is being completed. The bidder is responsible for the accuracy of any information provided.

If the answer to each of the above questions is "NO", then the NOT APPLICABLE STATEMENT on page 2 of Form A must be signed and dated by a person that is authorized to execute contracts for your company.

Form B: Identifying Other Contracts & Procurement Related Information Disclosure Form B must be completed for each bid submitted by the bidding entity. It must be signed by an individual who is authorized to execute contracts for the bidding entity. *Note: Signing the NOT APPLICABLE STATEMENT on Form A does not allow the bidder to ignore Form B. Form B must be completed, signed and dated or the bidder may be considered nonresponsive and the bid will not be accepted.*

The Bidder shall identify, by checking Yes or No on Form B, whether it has any pending contracts (including leases), bids, proposals, or other ongoing procurement relationship with any other (non-IDOT) State of Illinois agency. If "No" is checked, the bidder only needs to complete the signature box on the bottom of Form B. If "Yes" is checked, the bidder must do one of the following:

Option I: If the bidder did not submit an Affidavit of Availability to obtain authorization to bid, the bidder must list all non-IDOT State of Illinois agency pending contracts, leases, bids, proposals, and other ongoing procurement relationships. These items may be listed on Form B or on an attached sheet(s). Do not include IDOT contracts. Contracts with cities, counties, villages, etc. are not considered State of Illinois agency contracts and are not to be included. Contracts with other State of Illinois agencies such as the Department of Natural Resources or the Capital Development Board must be included. Bidders who submit Affidavits of Availability are suggested to use Option II.

Option II: If the bidder is required and has submitted an Affidavit of Availability in order to obtain authorization to bid, the bidder may write or type "See Affidavit of Availability" which indicates that the Affidavit of Availability is incorporated by reference and includes all non-IDOT State of Illinois agency pending contracts, leases, bids, proposals, and other ongoing procurement relationships. For any contracts that are not covered by the Affidavit of Availability, the bidder must identify them on Form B or on an attached sheet(s). These might be such things as leases.

D. Bidders Submitting More Than One Bid

Bidders submitting multiple bids may submit one set of forms consisting of all required Form A disclosures and one Form B for use with all bids. Please indicate in the space provided below the bid item that contains the original disclosure forms and the bid items which incorporate the forms by reference.

- The bid submitted for letting item _____ contains the Form A disclosures or Certification Statement and the Form B disclosures. The following letting items incorporate the said forms by reference:

**ILLINOIS DEPARTMENT
OF TRANSPORTATION**

**Form A
Financial Information &
Potential Conflicts of Interest
Disclosure**

Contractor Name		
Legal Address		
City, State, Zip		
Telephone Number	Email Address	Fax Number (if available)

Disclosure of the information contained in this Form is required by the Section 50-35 of the Illinois Procurement Code (30 ILCS 500). Vendors desiring to enter into a contract with the State of Illinois must disclose the financial information and potential conflict of interest information as specified in this Disclosure Form. This information shall become part of the publicly available contract file. This Form A must be completed for bids in excess of \$10,000, and for all open-ended contracts. **A publicly traded company may submit a 10K disclosure (or equivalent if applicable) in satisfaction of the requirements set forth in Form A. See Disclosure Form Instructions.**

DISCLOSURE OF FINANCIAL INFORMATION

1. Disclosure of Financial Information. The individual named below has an interest in the BIDDER (or its parent) in terms of ownership or distributive income share in excess of 5%, or an interest which has a value of more than \$90,420.00 (60% of the Governor's salary as of 7/1/01). **(Make copies of this form as necessary and attach a separate Disclosure Form A for each individual meeting these requirements)**

FOR INDIVIDUAL (type or print information)

NAME: _____

ADDRESS _____

Type of ownership/distributable income share:

stock _____ sole proprietorship _____ Partnership _____ other: (explain on separate sheet):
% or \$ value of ownership/distributable income share: _____

2. Disclosure of Potential Conflicts of Interest. Check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If the answer to any question is "Yes", please attach additional pages and describe.

(a) State employment, currently or in the previous 3 years, including contractual employment of services. Yes ___ No ___

If your answer is yes, please answer each of the following questions.

1. Are you currently an officer or employee of either the Capitol Development Board or the Illinois Toll Highway Authority? Yes ___ No ___

2. Are you currently appointed to or employed by any agency of the State of Illinois? If you are currently appointed to or employed by any agency of the State of Illinois, and your annual salary exceeds \$90,420.00, (60% of the Governor's salary as of 7/1/01) provide the name the State agency for which you are employed and your annual salary. _____

RETURN WITH BID/OFFER

3. If you are currently appointed to or employed by any agency of the State of Illinois, and your annual salary exceeds \$90,420.00, (60% of the Governor's salary as of 7/1/01) are you entitled to receive (i) more than 7 1/2% of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of the salary of the Governor? Yes ___ No ___
4. If you are currently appointed to or employed by any agency of the State of Illinois, and your annual salary exceeds \$90,420.00, (60% of the Governor's salary as of 7/1/01) are you and your spouse or minor children entitled to receive (i) more than 15 % in the aggregate of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of 2 times the salary of the Governor? Yes ___ No ___

(b) State employment of spouse, father, mother, son, or daughter, including contractual employment services in the previous 2 years.

Yes ___ No ___

If your answer is yes, please answer each of the following questions.

1. Is your spouse or any minor children currently an officer or employee of the Capitol Development Board or the Illinois Toll Highway Authority? Yes ___ No ___
2. Is your spouse or any minor children currently appointed to or employed by any agency of the State of Illinois? If your spouse or minor children is/are currently appointed to or employed by any agency of the State of Illinois, and his/her annual salary exceeds \$90,420.00, (60 % of the Governor's salary as of 7/1/01) provide the name of your spouse and/or minor children, the name of the State agency for which he/she is employed and his/her annual salary. _____
-
3. If your spouse or any minor children is/are currently appointed to or employed by any agency of the State of Illinois, and his/her annual salary exceeds \$90,420.00, (60% of the salary of the Governor as of 7/1/01) are you entitled to receive (i) more then 7 1/2% of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of the salary of the Governor? Yes ___ No ___
4. If your spouse or any minor children are currently appointed to or employed by any agency of the State of Illinois, and his/her annual salary exceeds \$90,420.00, (60% of the Governor's salary as of 7/1/01) are you and your spouse or minor children entitled to receive (i) more than 15 % in the aggregate of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of 2 times the salary of the Governor? Yes ___ No ___

(c) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.

Yes ___ No ___

(d) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

Yes ___ No ___

(e) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of the expenses incurred in the discharge of that office currently or in the previous 3 years.

Yes ___ No ___

(f) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

Yes ___ No ___

(g) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.

Yes ___ No ___

RETURN WITH BID/OFFER

(h) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter. Yes ___ No ___

(i) Compensated employment, currently or in the previous 3 years, by any registered election or reelection committee registered with the Secretary of State or any county clerk of the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ___ No ___

(j) Relationship to anyone; spouse, father, mother, son, or daughter; who was a compensated employee in the last 2 years by any registered election or re-election committee registered with the Secretary of State or any county clerk of the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ___ No ___

APPLICABLE STATEMENT

This Disclosure Form A is submitted on behalf of the INDIVIDUAL named on previous page.

Completed by: _____
Name of Authorized Representative (type or print)

Completed by: _____
Title of Authorized Representative (type or print)

Completed by: _____ Date _____
Signature of Individual or Authorized Representative

NOT APPLICABLE STATEMENT

I have determined that no individuals associated with this organization meet the criteria that would require the completion of this Form A.

This Disclosure Form A is submitted on behalf of the CONTRACTOR listed on the previous page.

Name of Authorized Representative (type or print)

Title of Authorized Representative (type or print)

Signature of Authorized Representative Date _____

RETURN WITH BID/OFFER

ILLINOIS DEPARTMENT
OF TRANSPORTATION

Form B
Other Contracts &
Procurement Related Information
Disclosure

Contractor Name		
Legal Address		
City, State, Zip		
Telephone Number	Email Address	Fax Number (if available)

Disclosure of the information contained in this Form is required by the Section 50-35 of the Illinois Procurement Act (30 ILCS 500). This information shall become part of the publicly available contract file. This Form B must be completed for bids in excess of \$10,000, and for all open-ended contracts.

DISCLOSURE OF OTHER CONTRACTS AND PROCUREMENT RELATED INFORMATION

1. Identifying Other Contracts & Procurement Related Information. The BIDDER shall identify whether it has any pending contracts (including leases), bids, proposals, or other ongoing procurement relationship with any other State of Illinois agency: Yes ___ No ___

If "No" is checked, the bidder only needs to complete the signature box on the bottom of this page.

2. If "Yes" is checked. Identify each such relationship by showing State of Illinois agency name and other descriptive information such as bid or project number (attach additional pages as necessary). SEE DISCLOSURE FORM INSTRUCTIONS:

THE FOLLOWING STATEMENT MUST BE SIGNED

Name of Authorized Representative (type or print)	

Title of Authorized Representative (type or print)	
_____	_____
Signature of Authorized Representative	Date

RETURN WITH BID

SPECIAL NOTICE TO CONTRACTORS

The following requirements of the Illinois Department of Human Rights' Rules and Regulations are applicable to bidders on all construction contracts advertised by the Illinois Department of Transportation:

CONSTRUCTION EMPLOYEE UTILIZATION PROJECTION

- (a) All bidders on construction contracts shall complete and submit, along with and as part of their bids, a Bidder's Employee Utilization Form (Form BC-1256) setting forth a projection and breakdown of the total workforce intended to be hired and/or allocated to such contract work by the bidder including a projection of minority and female employee utilization in all job classifications on the contract project.
- (b) The Department of Transportation shall review the Employee Utilization Form, and workforce projections contained therein, of the contract awardee to determine if such projections reflect an underutilization of minority persons and/or women in any job classification in accordance with the Equal Employment Opportunity Clause and Section 7.2 of the Illinois Department of Human Rights' Rules and Regulations for Public Contracts adopted as amended on September 17, 1980. If it is determined that the contract awardee's projections reflect an underutilization of minority persons and/or women in any job classification, it shall be advised in writing of the manner in which it is underutilizing and such awardee shall be considered to be in breach of the contract unless, prior to commencement of work on the contract project, it submits revised satisfactory projections or an acceptable written affirmative action plan to correct such underutilization including a specific timetable geared to the completion stages of the contract.
- (c) The Department of Transportation shall provide to the Department of Human Rights a copy of the contract awardee's Employee Utilization Form, a copy of any required written affirmative action plan, and any written correspondence related thereto. The Department of Human Rights may review and revise any action taken by the Department of Transportation with respect to these requirements.

RETURN WITH BID

**Contract No. 72967
BROWN County
Section D6 WETLAND MITIGATION NO. 2
Various Routes
District 6 Construction Funds**

PART II. WORKFORCE PROJECTION - continued

B. Included in "Total Employees" under Table A is the total number of **new hires** that would be employed in the event the undersigned bidder is awarded this contract.

The undersigned bidder projects that: (number) _____ new hires would be recruited from the area in which the contract project is located; and/or (number) _____ new hires would be recruited from the area in which the bidder's principal office or base of operation is located.

C. Included in "Total Employees" under Table A is a projection of numbers of persons to be employed directly by the undersigned bidder as well as a projection of numbers of persons to be employed by subcontractors.

The undersigned bidder estimates that (number) _____ persons will be directly employed by the prime contractor and that (number) _____ persons will be employed by subcontractors.

PART III. AFFIRMATIVE ACTION PLAN

A. The undersigned bidder understands and agrees that in the event the foregoing minority and female employee utilization projection included under **PART II** is determined to be an underutilization of minority persons or women in any job category, and in the event that the undersigned bidder is awarded this contract, he/she will, prior to commencement of work, develop and submit a written Affirmative Action Plan including a specific timetable (geared to the completion stages of the contract) whereby deficiencies in minority and/or female employee utilization are corrected. Such Affirmative Action Plan will be subject to approval by the contracting agency and the **Department of Human Rights**.

B. The undersigned bidder understands and agrees that the minority and female employee utilization projection submitted herein, and the goals and timetable included under an Affirmative Action Plan if required, are deemed to be part of the contract specifications.

Company _____ Telephone Number _____

Address _____

NOTICE REGARDING SIGNATURE

The Bidder's signature on the Proposal Signature Sheet will constitute the signing of this form. The following signature block needs to be completed only if revisions are required.

Signature: _____ Title: _____ Date: _____

- Instructions: All tables must include subcontractor personnel in addition to prime contractor personnel.
- Table A - Include both the number of employees that would be hired to perform the contract work and the total number currently employed (Table B) that will be allocated to contract work, and include all apprentices and on-the-job trainees. The "Total Employees" column should include all employees including all minorities, apprentices and on-the-job trainees to be employed on the contract work.
- Table B - Include all employees currently employed that will be allocated to the contract work including any apprentices and on-the-job trainees currently employed.
- Table C - Indicate the racial breakdown of the total apprentices and on-the-job trainees shown in Table A.

RETURN WITH BID

**Contract No. 72967
BROWN County
Section D6 WETLAND MITIGATION NO. 2
Various Routes
District 6 Construction Funds**

PROPOSAL SIGNATURE SHEET

The undersigned bidder hereby makes and submits this bid on the subject Proposal, thereby assuring the Department that all requirements of the Invitation for Bids and rules of the Department have been met, that there is no misunderstanding of the requirements of paragraph 3 of this Proposal, and that the contract will be executed in accordance with the rules of the Department if an award is made on this bid.

Firm Name _____
(IF AN INDIVIDUAL) Signature of Owner _____
Business Address _____

Firm Name _____
By _____
(IF A CO-PARTNERSHIP) Business Address _____

Name and Address of All Members of the Firm:

Corporate Name _____
By _____
Signature of Authorized Representative

Typed or printed name and title of Authorized Representative
(IF A CORPORATION) Attest _____
Signature
(IF A JOINT VENTURE, USE THIS SECTION
FOR THE MANAGING PARTY AND THE
SECOND PARTY SHOULD SIGN BELOW) Business Address _____

Corporate Name _____
By _____
Signature of Authorized Representative

Typed or printed name and title of Authorized Representative
(IF A JOINT VENTURE) Attest _____
Signature
Business Address _____

If more than two parties are in the joint venture, please attach an additional signature sheet.

RETURN WITH BID



Division of Highways
Proposal Bid Bond
(Effective November 1, 1992)

Item No.
Letting Date

KNOW ALL MEN BY THESE PRESENTS, That We

as PRINCIPAL, and

as SURETY, are held jointly, severally and firmly bound unto the STATE OF ILLINOIS in the penal sum of 5 percent of the total bid price, or for the amount specified in Article 102.09 of the "Standard Specifications for Road and Bridge Construction" in effect on the date of invitation for bids, whichever is the lesser sum, well and truly to be paid unto said STATE OF ILLINOIS, for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH, That Whereas, the PRINCIPAL has submitted a bid proposal to the STATE OF ILLINOIS, acting through the Department of Transportation, for the improvement designated by the Transportation Bulletin Item Number and Letting Date indicated above.

NOW, THEREFORE, if the Department shall accept the bid proposal of the PRINCIPAL; and if the PRINCIPAL shall, within the time and as specified in the bidding and contract documents, submit a DBE Utilization Plan that is accepted and approved by the Department; and if, after award by the Department, the PRINCIPAL shall enter into a contract in accordance with the terms of the bidding and contract documents including evidence of the required insurance coverages and providing such bond as specified with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof; or if, in the event of the failure of the PRINCIPAL to make the required DBE submission or to enter into such contract and to give the specified bond, the PRINCIPAL pays to the Department the difference not to exceed the penalty hereof between the amount specified in the bid proposal and such larger amount for which the Department may contract with another party to perform the work covered by said bid proposal, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

IN THE EVENT the Department determines the PRINCIPAL has failed to comply with any requirement as set forth in the preceding paragraph, then Surety shall pay the penal sum to the Department within fifteen (15) days of written demand therefor. If Surety does not make full payment within such period of time, the Department may bring an action to collect the amount owed. Surety is liable to the Department for all its expenses, including attorney's fees, incurred in any litigation in which it prevails either in whole or in part.

In TESTIMONY WHEREOF, the said PRINCIPAL and the said SURETY have caused this instrument to be signed by their respective officers this day of A.D.,

PRINCIPAL SURETY
(Company Name) (Company Name)
By: (Signature & Title) By: (Signature of Attorney-in-Fact)

Notary Certification for Principal and Surety

STATE OF ILLINOIS,
COUNTY OF

I, a Notary Public in and for said County, do hereby certify that

and

(Insert names of individuals signing on behalf of PRINCIPAL & SURETY)

who are each personally known to me to be the same persons whose names are subscribed to the foregoing instrument on behalf of PRINCIPAL and SURETY, appeared before me this day in person and acknowledged respectively, that they signed and delivered said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this day of A.D.

My commission expires Notary Public

In lieu of completing the above section of the Proposal Bid Form, the Principal may file an Electronic Bid Bond. By signing below the Principal is ensuring the identified electronic bid bond has been executed and the Principal and Surety are firmly bound unto the State of Illinois under the conditions of the bid bond as shown above.

Electronic Bid Bond ID# Company/Bidder Name Signature and Title

PROPOSAL ENVELOPE



PROPOSALS

for construction work advertised for bids by the
Illinois Department of Transportation

Item No.	Item No.	Item No.

Submitted By:

Name:
Address:
Phone No.

Bidders should use an IDOT proposal envelope or affix this form to the front of a 10" x 13" envelope for the submittal of bids. If proposals are mailed, they should be enclosed in a second or outer envelope addressed to:

Engineer of Design and Environment - Room 326
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62764

NOTICE

Individual bids, including Bid Bond and/or supplemental information if required, should be securely stapled.

CONTRACTOR OFFICE COPY OF CONTRACT SPECIFICATIONS

NOTICE

None of the following material needs to be returned with the bid package unless the special provisions require documentation and/or other information to be submitted.

Contract No. 72967
BROWN County
Section D6 WETLAND MITIGATION NO. 2
Various Routes
District 6 Construction Funds



Illinois Department of Transportation



NOTICE TO BIDDERS

1. **TIME AND PLACE OF OPENING BIDS.** Sealed proposals for the improvement described herein will be received by the Department of Transportation at the Harry R. Hanley Building, 2300 South Dirksen Parkway, in Springfield, Illinois until 10:00 o'clock a.m., August 5, 2005. All bids will be gathered, sorted, publicly opened and read in the auditorium at the Department of Transportation's Harry R. Hanley Building shortly after the 10:00 a.m. cut off time.

2. **DESCRIPTION OF WORK.** The proposed improvement is identified and advertised for bids in the Invitation for Bids as:

**Contract No. 72967
BROWN County
Section D6 WETLAND MITIGATION NO. 2
Various Routes
District 6 Construction Funds**

Wetland mitigation including earthwork to reestablish wetland ponds, de-activate field tiles and drainage ditches located at the LaGrange Wetland Bank in the northeast corner of Brown County.

3. **INSTRUCTIONS TO BIDDERS.** (a) This Notice, the invitation for bids, proposal and letter of award shall, together with all other documents in accordance with Article 101.09 of the Standard Specifications for Road and Bridge Construction, become part of the contract. Bidders are cautioned to read and examine carefully all documents, to make all required inspections, and to inquire or seek explanation of the same prior to submission of a bid.

(b) State law, and, if the work is to be paid wholly or in part with Federal-aid funds, Federal law requires the bidder to make various certifications as a part of the proposal and contract. By execution and submission of the proposal, the bidder makes the certification contained therein. A false or fraudulent certification shall, in addition to all other remedies provided by law, be a breach of contract and may result in termination of the contract.

4. **AWARD CRITERIA AND REJECTION OF BIDS.** This contract will be awarded to the lowest responsive and responsible bidder considering conformity with the terms and conditions established by the Department in the rules, Invitation for Bids and contract documents. The issuance of plans and proposal forms for bidding based upon a prequalification rating shall not be the sole determinant of responsibility. The Department reserves the right to determine responsibility at the time of award, to reject any or all proposals, to readvertise the proposed improvement, and to waive technicalities.

By Order of the
Illinois Department of Transportation

Timothy W. Martin, Secretary

BD 351 (Rev. 01/2003)

INDEX
FOR
SUPPLEMENTAL SPECIFICATIONS AND RECURRING SPECIAL PROVISIONS
Adopted March 1, 2005

This index contains a listing of SUPPLEMENTAL SPECIFICATIONS and frequently used RECURRING SPECIAL PROVISIONS.

ERRATA Standard Specifications for Road and Bridge Construction (Adopted 1-1-02) (Revised 3-1-05)

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STATE OF ILLINOIS

SPECIAL PROVISIONS

The following Special Provisions supplement the "Standard Specifications for Road and Bridge Construction," adopted January 1, 2002, the latest edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways," and the "Manual of Test Procedures for Materials" in effect on the date of invitation for bids, and the Supplemental Specifications and Recurring Special Provisions indicated on the Check Sheet included herein which apply to and govern the construction of LaGrange Wetland Bank, Section D6 Wetland Mitigation No. 2, Brown County, and in case of conflict with any part or parts of said Specifications, the said Special Provisions shall take precedence and shall govern.

LAGRANGE WETLAND BANK
SECTION D6 WETLAND MITIGATION NO. 2
BROWN COUNTY

LOCATION OF PROJECT

The project is located at the NE corner of Brown County, Illinois on the IDOT's LaGrange Wetland Bank Site, Total Area = 1,645 acres.

DESCRIPTION OF PROJECT

The work in D 6 Wetland Mitigation No. 2 shall consist of mowing, herbicide spraying, interseeding, tree planting, maintenance mowing, tree care, and any other miscellaneous work determined necessary in Field Nos. 4 and 7 of the LaGrange Wetland Bank. Total Work Area = 40.7 acres; Total length of improvements = 2,100 feet = 0.398 miles.

SCHEDULE OF WORK

Refer to the following table for the suggested/anticipated dates of work items to be completed in this contract.

See Completion Date Special Provision located elsewhere herein for contract requirements.

YEAR	FROM	TO	ACTION
2005	Sept. 1	Sept. 15	Mowing and herbicide application of any weed infested areas as directed by the Engineer.
	Sept. 1	Oct. 1	Interseed all fields.

YEAR	FROM	TO	ACTION
2006	June 1	June 30	Herbicide application of any weed infested areas as directed by the Engineer.
	July 1	July 15	Mow all fields (Maintenance Mowing).
	Aug. 15	Aug. 30	Mow all fields (Maintenance Mowing).
	Sept. 1	Oct. 15	Install trees (if not planted earlier).
2007	June 1	June 30	Herbicide application of any weed infested areas as directed by the Engineer.
	July 1	July 15	Mow all fields (Maintenance Mowing).
	Aug. 15	Aug. 30	Mow all fields (Maintenance Mowing).
	Sept. 1	Sept. 30	Period of Establishment Inspection.
2008	May 1	June 1	Install all tree replacements.
	June 15	June 30	Extended tree maintenance (1 st cycle).
	July 15	July 30	Mow all fields (Maintenance Mowing).
	Aug. 1	Aug. 30	Herbicide application of any weed infested areas as directed by the Engineer.
	Aug. 15	Aug. 30	Extended tree maintenance (2 nd cycle).
	Aug. 15	Aug. 30	Mow all fields (Maintenance Mowing).

COMPLETION DATE

All seeding and trees shall be planted in accordance with the time periods specified by the Standard Specifications.

All seeding in this contract shall be completed by October 1, 2005, and all work in this contract shall be completed as specified by October 15, 2006 (allowing tree planting until the fall of 2006 for the availability of the tree species specified), except for maintenance mowing, post-emergence herbicide spraying, and extended tree maintenance items, which all will be completed by October 15, 2008.

If the Contractor fails to complete the required work by the completion date noted herein, he/she shall be liable to the Department for liquidated damages in accordance with Article 108.09 of the Standard Specifications, and any other additional special provision which may be attached herein which supplements Article 108.09. The Contractor will also be liable for additional items of work made necessary by not meeting the completion dates or within the total working days allowed.

COOPERATION WITH OTHER CONTRACTORS

The Contractor should be aware that there will be other contractors performing work on this site during the duration of this contract. The following are anticipated contacts that will be awarded before and after this contract and may be active during the duration of this contract:

- April 29, 2005 Letting - Proposed work in fields #1 thru #10 to deactivate field tiles and drainage ditches, and restore natural wetland ponds on the site. Excess excavation will be utilized in constructing future access road embankment through fields 1, 2, 6, and 8. Contract is anticipated to be completed by October 1, 2005. Possible Concerns - Deactivating field tiles along the south and east edges of Field # 7 will have to be completed prior to seeding this field under this contract.
- June 17, 2005 Letting - This contract. Prepare and plant trees in fields #4 & #7.
- June 16, 2006 Letting - Construct access road along north edges of field #1, #7, & #8; along west edges of fields #7, #12, & #13; and along south edge of field # 11 to the existing township road. Parking areas / viewing area is to be built along the township road at the west edge of field #15. Possible Concerns – Access to fields #4 & #7 may be disturbed during maintenance mowing, maintenance weed control spraying, and extended tree care.
- June 15, 2007 Letting - Deactivate field tiles and drainage ditches in fields #11 & #14. Possible Concerns – None anticipated.
- June 14, 2008 Letting - Deactivate drainage ditches in fields #4 thru #10. Possible Concerns – None anticipated.
- Later Contracts – Prepare and plant trees in fields #11 thru #15. Possible Concerns – None anticipated.

The Contractor who is awarded this contract shall cooperate with the other Contractors and coordinate activities to provide the least inconvenience to the construction for all improvements within this Wetland Bank Site.

No additional compensation will be allowed for any possible delays caused by the other contractors.

TRAFFIC CONTROL PLAN

No special requirements. The project area is on State property totally away from traffic. The nearest township road is approximately 0.25 miles away.

STATUS OF UTILITIES TO BE ADJUSTED

The following utilities are involved in this project. The utility companies have provided the estimated dates.

<u>Name & Address of Utility</u>	<u>Type</u>	<u>Location</u>	<u>Estimated Date of Relocation Completed</u>
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NONE ANTICIPATED

The above represents the best information of the Department and is only included for the convenience of the bidder. The applicable provisions of Sections 102, 103, and Articles 105.07, 107.20, 107.31, and 108.02 of the Standard Specifications for Road and Bridge Construction shall apply.

The estimated utility relocation dates should be part of the progress schedule submitted by the Contractor. If any utility adjustments or relocations have not been completed by the above dates specified and when required by the Contractor's operations after these dates, the Contractor should notify the Engineer in writing. A request for an extension of time will be considered to the extent the Contractor's critical path schedule is affected.

PAYROLLS AND PROCEDURES

Effective: February 5, 1975

Revised: November 7, 1986, January 14, 1994, and June 2001

The prime Contractor and each Subcontractor shall submit a weekly certified original and one copy of their companies payroll directly to the District Engineer.

Payrolls must be received within seven (7) days of the payroll ending period.

Payroll data shall be submitted on Payroll Form RE 48 or an approved facsimile to include every person paid by a Contractor or Subcontractor in any manner for his or her labor in the construction, prosecution, completion, or repair of this public work is employed and receiving "wages," regardless of any contractual relationship alleged to exist between him/her and the real employer.

Payroll data shall include all persons employed on the job site.

The following employee codes are to be used to identify each individual on the payroll:

A. **Gender:** **M** – Male **F** – Female

B. **Ethnic Group:** **1** – White **2** – Black **3** – Hispanic
 4 – American Indian/Alaskan Native **5** – Asian/Pacific Islander

C. **Work Classification:**

OF – Officials	SU – Supervisors	FO – Foremen	CL – Clerical
CA – Carpenters	EO – Operators	ME – Mechanics	TD – Truck Drivers
IW – Ironworkers	PA – Painters	CM – Cement Masons	EL – Electricians
PP – Pipefitters	TE – Technical	LA – Laborers	OT – Other

D. **Employee Status:** **O** – Owner Operator **J** – Journeyman **C** – Company
 A – Apprentice **T** – Trainee

Payroll data shall be submitted by the prime Contractor and each Subcontractor for each consecutive week from the start to the completion of their work. When there has been no activity during a work week, a payroll is still required to be sent to the District Engineer with the appropriate box (“No Work,” “Suspended,” “Completed”) checked at the bottom of the Payroll Form RE 48. DO NOT check any of these boxes when payroll data is being reported on the payroll.

The Department of Transportation is requesting disclosure of information necessary to accomplish the statutory purpose as outlined under 23CFR, part 230, and 41CFR, part 60.4, and the Illinois Human Rights Act. Disclosure of this information is REQUIRED. Failure to comply with this special provision may result in the withholding of payments to the Contractor and/or cancellation, termination, or suspension of the contract in whole or part.

Compliance with this Special Provision shall be considered incidental to the cost of the contract and no additional compensation will be allowed for any costs incurred.

MOWING

This work shall consist of mowing the existing turf in the entire field areas prior to interseeding and tree planting as shown in the plans, or as directed by the Engineer. The equipment used shall be capable of shredding all regeneration of brush 2 inches diameter or less as identified by the Engineer. The completed mowed turf shall be 3”(max.) in height.

All areas that have been burned, contain sparse vegetation, or short thick vegetation (less than 2’ in height) will not require mowing prior to seeding and will be required to be plowed under as part of the seeding pay item(s). These areas will be determined by the Engineer and will not be measured for payment.

Quantities for mowing have been included in the plans to establish a unit bid price; however, the Engineer reserves the right to increase, decrease, or totally delete this pay item from the contract if he/she determines the pay item is not needed. The Contractor will receive no remuneration if the item is decreased or totally deleted.

All mowing shall be completed prior to seeding and be accomplished as directed by the Engineer.

This work will be measured and paid for at the contract unit price per acre for MOWING. Mowing will only be paid for one time. If additional mowing is required, it will be considered as incidental in this pay item. No other additional compensation will be allowed. Maintenance mowing, after seeding and tree plantings are complete, will be paid for separately.

GENERAL REQUIREMENTS FOR WEED CONTROL SPRAYING

Experience: The Contractor shall have previous experience with the use of weed control chemicals. He/she shall have had at least one (1) season's experience in the use of their chemicals in spraying highway right-of-way or at least three (3) season's experience in their use in farm or custom spraying. The Contractor shall observe and comply with all sections of the Illinois Custom Spray Law, including licensing.

Equipment: The equipment used shall consist of a vehicle-mounted tank, pump, spray bar and handgun, plus any other accessories needed to complete the specified work. Spraying shall be done through multiple low-pressure flooding or broad jet nozzles mounted on spray bars operated not more than 36" above the ground. If different sizes or types of nozzles are used to make up the spray pattern, the pressure, sizes and capacities shall be adjusted to provide a uniform rate of application for each segment of the spray pattern. Hand spray guns may be used for spraying areas around traffic control devices, lighting standard and similar inaccessible areas. Maximum speed of the spray vehicle during application of chemical shall be five (5) miles per hour.

Pumps used shall have a volume and pressure capacity range sufficient to deliver the mixture at a pressure to provide the required coverage and to keep the spray pattern full and steady without pulsation or excessive pressure as to cause fogging. Maximum pressure for application shall be 15 PSI. Quick acting shut-off valves and spring-loaded ball check valves shall be provided to stop the spray pattern with a minimum of nozzle drip. In areas where the spray vehicle must traverse the right-of-way, a four-wheel drive vehicle with flotation tires will be required to minimize damage to the ground surface.

Prior to beginning work, the Contractor shall obtain approval from the Engineer of the spraying equipment proposed for completing this work. The proposed equipment shall be in an operational condition and available for inspection by the Engineer at least two (2) weeks prior to the proposed starting time. If requested by the Engineer, the Contractor shall demonstrate the calibration of the equipment.

The equipment must provide consistently uniform coverage and keep the spray mixture sufficiently agitated or the work will be suspended until the equipment is repaired or replaced.

Exclusion of Spraying Areas: Areas where weed control spraying is inappropriate or detrimental to the environment, desirable planting, or private property shall be excluded from the spray area.

Spraying will not be permitted over any drainage swales or waterways, or other areas where the chemical label prohibits application. Spraying within 150 feet of a natural area or site where endangered or threatened species occur.

Responsibility for Prevention of Damage to Private Property: The Contractor shall, at all times, exercise extreme caution to prevent damage to residential plantings, flower or vegetable gardens, vegetable crops, farm crops, orchard or desirable plants adjacent to the roadside.

The Contractor or Department receives a complaint, the Contractor shall contact a complaint within ten (10) days after receiving a claim for damages, either in person or by letter. The Contractor, or his authorized representative, shall make a personal contact with the complainant within twenty (20) days. The Engineer shall also be notified by the Contractor of all claims for damage he received and shall keep the Engineer informed as to the progress in arriving at a settlement for such claims.

Communication with the Engineer: The Contractor is required to communicate with the Engineer to receive all required approvals in a timely way and to assure that the Engineer can accurately document the work performed.

It shall be the Contractor's responsibility to assure that all chemical containers are opened and added to the spray mixture in the presence of the Engineer.

The Contractor shall obtain approval from the Engineer to proceed with spraying at each location 24 hours prior to the proposed spray operations.

WEED CONTROL, NON-SELECTIVE AND NON-RESIDUAL

Description: This work shall consist of the application of a non-selective and non-residual herbicide (Rodeo or equal) to kill all existing vegetation at designated areas within the wetland mitigation site. This item will be used prior to seeding at the direction of the Engineer wherever stands of weeds are present. It will also be used as a spot spray application if weeds persist in subsequent seasons.

Quantities for herbicide spraying have been included in the plans to establish a unit bid price; however, the Engineer reserves the right to increase, decrease, or totally delete this pay item from the contract if he/she determines the pay item is not needed. The Contractor will receive no remuneration if the item is decreased or totally deleted.

Materials: The non-selective and non-residual herbicide (Rodeo or equal) shall have the following formulation:

A. Active Ingredient	
*Glyphosate, N- (phosphonomethyl) glycine, in the form of its isopropylamine salt	53.8%
B. Inert Ingredients (including surfactant)	<u>46.2%</u>
TOTAL	100.00%

*Contains 5.4 pounds per gallon glyphosate, isopropylamine salt
(4 pounds per gallon glyphosate acid).

The Contractor shall submit a certificate, including the following, prior to starting work:

1. The chemical names of the compound and the percentage by volume of the ingredients which must match the above specified formulation.
2. A statement that the material is in a solution which will form a satisfactory emulsion for use when diluted with water for normal spraying conditions.
3. A statement that the Rodeo or equal, when mixed with water, will be completely soluble and dispersible and remain in suspension with continuous agitation.
4. A statement describing the products proposed for use when the manufacturer of Rodeo or equal requires that surfactants, drift control agents, or other additives be used with the product. These tank mix additives shall be used as specified by the manufacture. Required additives will not be paid for separately.

All material shall be brought to the spray area in the original, unopened containers supplied by the manufacturer.

Scheduling: Spraying will not be allowed when temperatures exceed 90° F or under 60° F, when wind velocities exceed fifteen (15) miles per hour, when foliage is wet or rain is eminent, when visibility is poor or during legal holiday periods.

Application Rate: The Rodeo or equal non-selective and non-residual herbicide shall be applied at the rate of one 5 pints per acre.

5 pints of Rodeo or equal formulation shall be diluted with a minimum of 50 gallons of water and applied as a mixture. Water for dilution of the mixture will not be paid for separately.

Method of Measurement: Weed Control, Non-selective and Non-residual will be measured for payment in gallons of undiluted Rodeo or equal applied as specified. The gallons for payment will be determined based on the gallons specified on the label attached to the original container supplied by the manufacturer.

Basis of Payment: Weed Control, Non-Selective and Non-residual will be paid for at the contract unit price per gallon for WEED CONTROL, NON-SELECTIVE AND NON-RESIDUAL. Water for dilution of the mixture and additives required for application will not be paid for as separate items, but the costs shall be considered as included in the contract unit price for Weed Control, Non-selective and Non-residual, and no additional compensation will be allowed.

INTERSEEDING, CLASS 2 (SPECIAL)

All work, materials and equipment shall conform to Section 250 and 1081 of the Standard Specifications except as modified herein.

The Engineer shall be notified 48 hours prior to beginning the seeding operations so that the Engineer may be present.

Seed Mixture for Seeding, Class 2 (Special) shall include annual and native plant seeds consisting of the following:

Annuals

Redtop (Agrostis alba)	3 lbs/acre
Timothy (Phleum pratense)	3 lbs/acre
Annual rye (Secale cereale)	50 lbs/acre

Native Plants

Stout wood reed (Cinna arundinacea)	0.1 lbs/acre
Virginia wild rye (Elymus virginicus)	1 lbs/acre
Smartweed (Polygonium punctatum)	0.5 lbs/acre
Goldenglow / Cut-leaf Coneflower (Rudbeckia laciniata)	0.1 lbs/acre

Mulch will not be required.

This work will be measured and paid for at the contract unit price per acre for INTERSEEDING, CLASS 2 (SPECIAL), which price shall include all costs of providing and planting all required seed mixtures. No other additional compensation will be allowed.

TREE PLANTING PROCEDURES

This work shall consist of digging and preparing plant holes, shrub beds, and of furnishing, transporting, and planting trees and shrubs shown on the plans, as directed by the Engineer, and in accordance with applicable portions of Section 253 of the Standard Specifications, except as follows:

Fertilizer: The fertilizer for the backfill mix shall be controlled slow release fertilizer tablets. The tablets shall be 16 gram briquettes containing 4.9% water soluble urea nitrogen and water insoluble nitrogen as expressed in the following formulation:

14% nitrogen, 3% available phosphoric acid, and 3% water-soluble potash (14-3-3 analysis) plus trace elements

When placing the prepared backfill, the fertilizer nutrient tablet shall be uniformly spread in the planting hole around the rootball and within the top 1/3 of the backfill mix.

The rate of application and placement shall be governed by the manufacturer's recommendation or the following table, if none is given, for all trees:

- a. 3 tablets in bottom of hole
- b. 2 tablets per foot of height to a maximum of 30 tablets

The cost of the fertilizer tablets will not be paid for separately, but shall be considered as included in the contract unit price(s) per each for the trees, intermediates, and shrubs of the various kinds and sizes specified in this contract.

Weed Barrier: Weed barrier mat is required. Each mat shall be 4' x 4' around each individual tree made of polypropylene, thickness 16 mils, water permeable, held down with 9 staples (6" x 1" x 6" non-coated steel) per mat.

Bracing: No bracing will be required.

Tree Wrap: No tree wrap will be required, but tree trunk protection will be required as specified elsewhere herein.

TREE TRUNK PREDATOR PROTECTION

Description: This work shall consist of providing the necessary personnel, material and equipment to install predator protection to all trees and shrubs from the ground line to a height of 4 feet.

Material: The contractor shall use a 19-gauge hardware cloth with a one-half inch square mesh design. Steel staples, also known as pig rings, shall be used to fasten hardware cloth together. Six foot wooden stakes shall be used to hold cloth upright and 6 inch long staples, such as those used to secure erosion control blanket, shall be used to secure cloth to the ground.

Method: The predator protection shall be 14 inches in diameter with a 4 inch overlap. The hardware cloth shall be secured to itself with a minimum of four pig rings. Each mesh tube shall be supported with two 6 foot wooden stakes and secured to the ground with four 6 inch long staples.

For two years following the tree planting (during the tree care cycles), the Contractor shall remove and replace any damaged predator protection as determined by the Engineer. Any predator protection damaged due to Contractor operations shall be replaced immediately at the Contractor's expense.

Method of Measurement: This work will be measured for payment on an each basis for both the original installation of predator protection and the replacement of any installations damaged by circumstances other than Contractor operations.

Basis of Payment: This work will be paid for at the contract unit price per each for TREE TRUNK PREDATOR PROTECTION.

EXTENDED TREE MAINTENANCE ITEMS

The purpose of the following items is to extend the care given to the plants after the final inspection has been made and all work has been completed as required in Article 253.14 of the Standard Specifications. This work shall begin the following Spring after all final inspection items have been completed and shall extend to June 30 for two growing seasons.

A. Tree Care Cycle: All trees and intermediates shall receive the following care:

1. Desucker and prune dead and broken branches.
2. Remove weeds and grass from within saucer area and shrub beds.
3. Remove dead plants.
4. Replace weed barrier mat, if not in place and working properly.
5. Repair, replace, or reinstall tree trunk protector as necessary, and trim branches as necessary.

First Cycle: Items 1, 2, 3, 4, and 5 shall be performed between June 15 and June 30 of the first year.

Second Cycle: Items 1, 2, 3, 4, and 5 shall be performed between June 15 and June 30 of the second year.

The cost of completing all work as described in items 1, 2, 3, 4, and 5 for each for the two cycles noted above will be paid for at the contract unit price per each for TREE CARE.

B. Tree and Intermediate Watering: Beginning in July, all shade and intermediate trees shall receive five (5) gallons of water and each container grown (C.G.) plant shall receive one (1) gallon of water for each watering as directed by the Engineer. The method of watering shall be by injection and approved by the District Landscape Architect.

This work will be paid for at the contract unit price per unit for TREE, INTERMEDIATE, SHRUB WATERING, which price will include the cost of furnishing the water, labor, and equipment to perform the work. Tree and Intermediate Watering will be measured in units of 1000 gallons applied to the plants.

Watering must be completed in a timely manner. When the Engineer directs the Contractor to do supplemental watering, the Contractor must begin the watering operation within 48 hours of notice. A minimum of 10 units of water per day must be applied until the work is complete. Damage to plant material that is a result of the Contractor's failure to water in a timely way must be repaired or replaced at the Contractor's expense.

Source of Water: The Contractor shall notify the Engineer of the source of water used and provide written certification that the water does not contain chemicals harmful to plant growth.

Any deviations on the time factors concerning tree care and watering will be determined by the Engineer. Due to uncontrollable weather conditions, the number or cycles of tree care and tree and intermediate watering may be increased or decreased as needed by the Engineer. The Engineer may delete any part of said cycles or change the cycle timing due to weather conditions. The Contractor will receive no remuneration, if the item is decreased.

MAINTENANCE MOWING

This work shall consist of mowing the existing turf in the entire field areas after the proposed

tree planting as shown in the Schedule of Work, or as directed by the Engineer. The equipment used shall be capable of adequately mowing areas around the existing planted trees and shredding all regeneration of brush 2 inches diameter or less to the satisfaction of the Engineer. The trees are to be planted in rows at 25' centers; therefore, a grid pattern of mowing shall be utilized.

Maintenance mowing shall be completed twice a year, between July 1 and August 30, for two years after the year of tree establishment as directed by the Engineer. The mowed turf shall be approximately 3" in height or as approved by the Engineer.

Quantities for maintenance mowing have been included in the plans to establish a unit bid price; however, the Engineer reserves the right to increase, decrease, or totally delete this pay item from the contract if he/she determines the pay item is not needed. The Contractor will receive no remuneration if the item is decreased or totally deleted.

This work will be measured and paid for at the contract unit price per acre for MAINTENANCE MOWING per each mowing that meets the satisfaction of the Engineer. No other additional compensation will be allowed.

DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

Effective: September 1, 2000

Revised: June 22, 2005

FEDERAL OBLIGATION. The Department of Transportation, as a recipient of federal financial assistance, is required to take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts. Consequently, the federal regulatory provisions of 49 CFR part 26 apply to this contract concerning the utilization of disadvantaged business enterprises. For the purposes of this Special Provision, a disadvantaged business enterprise (DBE) means a business certified by the Department in accordance with the requirements of 49 CFR part 26 and listed in the DBE Directory or most recent addendum.

STATE OBLIGATION. This Special Provision will also be used by the Department to satisfy the requirements of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, 30 ILCS 575. When this Special Provision is used to satisfy state law requirements on 100% state-funded contracts, the federal government has no involvement in such contracts (not a federal-aid contract) and no responsibility to oversee the implementation of this Special Provision by the Department on those contracts. DBE participation on 100% state-funded contracts will not be credited toward fulfilling the Department's annual overall DBE goal required by the US Department of Transportation to comply with the federal DBE program requirements.

CONTRACTOR ASSURANCE. The Contractor makes the following assurance and agrees to include the assurance in each subcontract that the Contractor signs with a subcontractor:

The Contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of contracts funded in whole or in part with federal or state funds. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

OVERALL GOAL SET FOR THE DEPARTMENT. As a requirement of compliance with 49 CFR part 26, the Department has set an overall goal for DBE participation in its federally assisted contracts. That goal applies to all federal-aid funds the Department will expend in its federally assisted contracts for the subject reporting fiscal year. The Department is required to make a good faith effort to achieve the overall goal. The dollar amount paid to all approved DBE firms performing work called for in this contract is eligible to be credited toward fulfillment of the Department's overall goal.

CONTRACT GOAL TO BE ACHIEVED BY THE CONTRACTOR. This contract includes a specific DBE utilization goal established by the Department. The goal has been included because the Department has determined that the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. This determination is based on an assessment of the type of work, the location of the work, and the availability of DBE companies to do a part of the work. The assessment indicates that, in the absence of unlawful discrimination, and in an arena of fair and open competition, DBE companies can be expected to perform 30.00% of the work. This percentage is set as the DBE participation goal for this contract. Consequently, in addition to the other award criteria established for this contract, the Department will award this contract to a bidder who makes a good faith effort to meet this goal of DBE participation in the performance of the work. A bidder makes a good faith effort for award consideration if either of the following is done in accordance with the procedures set forth in this Special Provision:

- (a) The bidder documents that firmly committed DBE participation has been obtained to meet the goal; or
- (b) The bidder documents that a good faith effort has been made to meet the goal, even though the effort did not succeed in obtaining enough DBE participation to meet the goal.

DBE LOCATOR REFERENCES. Bidders may consult the DBE Directory as a reference source for DBE companies certified by the Department. In addition, the Department maintains a letting and item specific DBE locator information system whereby DBE companies can register their interest in providing quotes on particular bid items advertised for letting. Information concerning DBE companies willing to quote work for particular contracts may be obtained by contacting the Department's Bureau of Small Business Enterprises at telephone number (217)785-4611, or by visiting the Department's web site at www.dot.state.il.us.

BIDDING PROCEDURES. Compliance with the bidding procedures of this Special Provision is required prior to the award of the contract and the failure of the as-read low bidder to comply will render the bid not responsive.

- (a) In order to assure the timely award of the contract, the as-read low bidder shall submit a Disadvantaged Business Utilization Plan on Department form SBE 2026 within seven (7) working days after the date of letting. To meet the seven (7) day requirement, the bidder may send the Plan by certified mail or delivery service within the seven (7) working day period. If a question arises concerning the mailing date of a Plan, the mailing date will be established by the U.S. Postal Service postmark on the original certified mail receipt

from the U.S. Postal Service or the receipt issued by a delivery service. It is the responsibility of the bidder to ensure that the postmark or receipt date is affixed within the seven (7) working days if the bidder intends to rely upon mailing or delivery to satisfy the submission day requirement. The Plan is to be submitted to the Department of Transportation, Bureau of Small Business Enterprises, Contract Compliance Section, 2300 South Dirksen Parkway, Room 319, Springfield, Illinois 62764 (Telefax: (217)785-1524). It is the responsibility of the bidder to obtain confirmation of telefax delivery. The Department will not accept a Utilization Plan if it does not meet the seven (7) day submittal requirement and the bid will be declared not responsive. In the event the bid is declared not responsive due to a failure to submit a Plan or failure to comply with the bidding procedures set forth herein, the Department may elect to cause the forfeiture of the penal sum of the bidder's proposal guaranty, and may deny authorization to bid the project if re-advertised for bids. The Department reserves the right to invite any other bidder to submit a Utilization Plan at any time for award consideration or to extend the time for award.

- (b) The Utilization Plan shall indicate that the bidder either has obtained sufficient DBE participation commitments to meet the contract goal or has not obtained enough DBE participation commitments in spite of a good faith effort to meet the goal. The Utilization Plan shall further provide the name, telephone number, and telefax number of a responsible official of the bidder designated for purposes of notification of plan approval or disapproval under the procedures of this Special Provision.
- (c) The Utilization Plan shall include a DBE Participation Commitment Statement, Department form SBE 2025, for each DBE proposed for the performance of work to achieve the contract goal. The signatures on these forms must be original signatures. All elements of information indicated on the said form shall be provided, including but not limited to the following:
 - (1) The name and address of each DBE to be used;
 - (2) A description, including pay item numbers, of the commercially useful work to be done by each DBE;
 - (3) The price to be paid to each DBE for the identified work specifically stating the quantity, unit price, and total subcontract price for the work to be completed by the DBE. If partial pay items are to be performed by the DBE, indicate the portion of each item, a unit price where appropriate and the subcontract price amount;
 - (4) A commitment statement signed by the bidder and each DBE evidencing availability and intent to perform commercially useful work on the project; and
 - (5) If the bidder is a joint venture comprised of DBE firms and non-DBE firms, the plan must also include a clear identification of the portion of the work to be performed by the DBE partner(s).
- (d) The contract will not be awarded until the Utilization Plan submitted by the bidder is approved. The Utilization Plan will be approved by the Department if the Plan commits sufficient commercially useful DBE work performance to meet the contract goal. The

Utilization Plan will not be approved by the Department if the Plan does not commit sufficient DBE performance to meet the contract goal unless the bidder documents that it made a good faith effort to meet the goal. The good faith procedures of Section VIII of this special provision apply. If the Utilization Plan is not approved because it is deficient in a technical matter, unless waived by the Department, the bidder will be notified and will be allowed no less than a five (5) working day period in order to cure the deficiency.

CALCULATING DBE PARTICIPATION. The Utilization Plan values represent work anticipated to be performed and paid for upon satisfactory completion. The Department is only able to count toward the achievement of the overall goal and the contract goal the value of payments made for the work actually performed by DBE companies. In addition, a DBE must perform a commercially useful function on the contract to be counted. A commercially useful function is generally performed when the DBE is responsible for the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The Department and Contractor are governed by the provisions of 49 CFR part 26.55(c) on questions of commercially useful functions as it affects the work. Specific counting guidelines are provided in 49 CFR part 26.55, the provisions of which govern over the summary contained herein.

- (a) DBE as the Contractor: 100% goal credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE subcontracts to a non-DBE firm does not count toward the DBE goals.
- (b) DBE as a joint venture Contractor: 100% goal credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.
- (c) DBE as a subcontractor: 100% goal credit for the work of the subcontract performed by the DBE's own forces, including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the DBE subcontractor from the prime Contractor or its affiliates. Work that a DBE subcontractor in turn subcontracts to a non-DBE firm does not count toward the DBE goal.
- (d) DBE as a trucker: 100% goal credit for trucking participation provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed, and insured by the DBE must be used on the contract. Credit will be given for the full value of all such DBE trucks operated using DBE employed drivers. Goal credit will be limited to the value of the reasonable fee or commission received by the DBE if trucks are leased from a non-DBE company.
- (e) DBE as a material supplier:
 - (1) 60% goal credit for the cost of the materials or supplies purchased from a DBE regular dealer.
 - (2) 100% goal credit for the cost of materials or supplies obtained from a DBE manufacturer.

- (3) 100% credit for the value of reasonable fees and commissions for the procurement of materials and supplies if not a regular dealer or manufacturer.

GOOD FAITH EFFORT PROCEDURES. If the bidder cannot obtain sufficient DBE commitments to meet the contract goal, the bidder must document in the Utilization Plan the good faith efforts made in the attempt to meet the goal. This means that the bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those which could reasonably be expected to obtain sufficient DBE participation. The Department will consider the quality, quantity, and intensity of the kinds of efforts that the bidder has made. Mere *pro forma* efforts are not good faith efforts; rather, the bidder is expected to have taken those efforts that would be reasonably expected of a bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.

- (a) The following is a list of types of action that the Department will consider as part of the evaluation of the bidder's good faith efforts to obtain participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts brought to the attention of the Department may be relevant in appropriate cases, and will be considered by the Department.
 - (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE companies that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE companies to respond to the solicitation. The bidder must determine with certainty if the DBE companies are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by DBE companies in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime Contractor might otherwise prefer to perform these work items with its own forces.
 - (3) Providing interested DBE companies with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - (4) a. Negotiating in good faith with interested DBE companies. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE companies that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE companies to perform the work.

- b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE companies is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBE companies if the price difference is excessive or unreasonable.
- (5) Not rejecting DBE companies as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
- (6) Making efforts to assist interested DBE companies in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
- (7) Making efforts to assist interested DBE companies in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE companies.
- (b) If the Department determines that the bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the Department will award the contract provided that it is otherwise eligible for award. If the Department determines that a good faith effort has not been made, the Department will notify the bidder of that preliminary determination by contacting the responsible company official designated in the Utilization Plan. The preliminary determination shall include a statement of reasons why good faith efforts have not been found, and may include additional good faith efforts that the bidder could take. The notification will designate a five (5) working day period during which the bidder shall take additional efforts. The bidder is not limited by a statement of additional efforts, but may take other action beyond any stated additional efforts in order to obtain additional DBE commitments. The bidder shall submit an amended Utilization Plan if additional DBE commitments to meet the contract goal are secured. If additional DBE commitments sufficient to meet the contract goal are not secured, the bidder shall report the final good faith efforts made in the time allotted. All additional efforts taken by the bidder will be considered as part of the bidder's good faith efforts. If the bidder is not able to meet the goal after taking additional efforts, the Department will make a pre-final determination of the good faith efforts of the bidder and will notify the designated responsible company official of the reasons for an adverse determination.

- (c) The bidder may request administrative reconsideration of a pre-final determination adverse to the bidder within the five (5) working days after the notification date of the determination by delivering the request to the Department of Transportation, Bureau of Small Business Enterprises, Contract Compliance Section, 2300 South Dirksen Parkway, Room 319, Springfield, Illinois 62764 (Telefax: (217)785-1524). Deposit of the request in the United States mail on or before the fifth business day shall not be deemed delivery. The pre-final determination shall become final if a request is not made and delivered. A request may provide additional written documentation and/or argument concerning the issue of whether an adequate good faith effort was made to meet the contract goal. In addition, the request shall be considered a consent by the bidder to extend the time for award. The request will be forwarded to the Department's Reconsideration Officer. The Reconsideration Officer will extend an opportunity to the bidder to meet in person in order to consider all issues of whether the bidder made a good faith effort to meet the goal. After the review by the Reconsideration Officer, the bidder will be sent a written decision within ten (10) working days after receipt of the request for reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. A final decision by the Reconsideration Officer that a good faith effort was made shall approve the Utilization Plan submitted by the bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid not responsive.

CONTRACT COMPLIANCE. Compliance with this Special Provision is an essential part of the contract. The Department is prohibited by federal regulations from crediting the participation of a DBE included in the Utilization Plan toward either the contract goal or the Department's overall goal until the amount to be applied toward the goals has been paid to the DBE. The following administrative procedures and remedies govern the compliance by the Contractor with the contractual obligations established by the Utilization Plan. After approval of the Plan and award of the contract, the Utilization Plan and individual DBE Participation Statements become part of the contract. If the Contractor did not succeed in obtaining enough DBE participation to achieve the advertised contract goal, and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of DBE work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the amended contract goal.

- (a) No amendment to the Utilization Plan may be made without prior written approval from the Department's Bureau of Small Business Enterprises. All requests for amendment to the Utilization Plan shall be submitted to the Department of Transportation, Bureau of Small Business Enterprises, Contract Compliance Section, 2300 South Dirksen Parkway, Room 319, Springfield, Illinois 62764. Telephone number (217) 785-4611. Telefax number (217) 785-1524.
- (b) All work indicated for performance by an approved DBE shall be performed, managed, and supervised by the DBE executing the Participation Statement. The Contractor shall not terminate for convenience a DBE listed in the Utilization Plan and then perform the work of the terminated DBE with its own forces, those of an affiliate or those of another subcontractor, whether DBE or not, without first obtaining the written consent of the Bureau of Small Business Enterprises to amend the Utilization Plan. If a DBE listed in the Utilization Plan is terminated for reasons other than convenience, or fails to complete

its work on the contract for any reason, the Contractor shall make good faith efforts to find another DBE to substitute for the terminated DBE. The good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, but only to the extent needed to meet the contract goal or the amended contract goal. The Contractor shall notify the Bureau of Small Business Enterprises of any termination for reasons other than convenience, and shall obtain approval for inclusion of the substitute DBE in the Utilization Plan. If good faith efforts following a termination of a DBE for cause are not successful, the Contractor shall contact the Bureau and provide a full accounting of the efforts undertaken to obtain substitute DBE participation. The Bureau will evaluate the good faith efforts in light of all circumstances surrounding the performance status of the contract, and determine whether the contract goal should be amended.

- (c) The Contractor shall maintain a record of payments for work performed to the DBE participants. The records shall be made available to the Department for inspection upon request. After the performance of the final item of work or delivery of material by a DBE and final payment therefor to the DBE by the Contractor, but not later than thirty (30) calendar days after payment has been made by the Department to the Contractor for such work or material, the Contractor shall submit a DBE Payment Report on Department form SBE 2115 to the Regional Engineer. If full and final payment has not been made to the DBE, the Report shall indicate whether a disagreement as to the payment required exists between the Contractor and the DBE or if the Contractor believes that the work has not been satisfactorily completed. If the Contractor does not have the full amount of work indicated in the Utilization Plan performed by the DBE companies indicated in the Plan, the Department will deduct from contract payments to the Contractor the amount of the goal not achieved as liquidated and ascertained damages.
- (d) The Department reserves the right to withhold payment to the Contractor to enforce the provisions of this Special Provision. Final payment shall not be made on the contract until such time as the Contractor submits sufficient documentation demonstrating achievement of the goal in accordance with this Special Provision or after liquidated damages have been determined and collected.
- (e) Notwithstanding any other provision of the contract, including but not limited to Article 109.09 of the Standard Specifications, the Contractor may request administrative reconsideration of a decision to deduct the amount of the goal not achieved as liquidated damages. A request to reconsider shall be delivered to the Contract Compliance Section and shall be handled and considered in the same manner as set forth in paragraph (c) of "Good Faith Effort Procedures" of this Special Provision, except a final decision that a good faith effort was not made during contract performance to achieve the goal agreed to in the Utilization Plan shall be the final administrative decision of the Department.

80029

EROSION AND SEDIMENT CONTROL DEFICIENCY DEDUCTION (BDE)

Effective: August 1, 2001

Revised: November 1, 2001

When the Engineer is notified or determines an erosion and/or sediment control deficiency(s) exists, he/she will direct the Contractor in writing to correct the deficiency. The Contractor shall then correct the deficiency within 24 hours. The deficiency may be any lack of repair, maintenance, or implementation of erosion and/or sediment control devices included in the contract, or any failure to comply with the conditions of the National Pollutant Discharge Elimination System (NPDES) Storm Water Permit for Construction Site Activities.

If the Contractor fails to correct the deficiency(s) within 24 hours, a daily monetary deduction will be imposed for each calendar day or fraction thereof the deficiency exists. The time period will begin with the initial written notification to the Contractor and end with the Engineer's acceptance of the corrected work. The per calendar day deduction will be either \$1000.00 or 0.05 percent of the awarded contract value, whichever is greater.

If the Contractor fails to respond, the Engineer may correct the deficiencies and deduct the cost from monies due or which may become due the Contractor. This corrective action shall in no way relieve the Contractor of his/her contractual requirements or responsibilities.

PARTIAL PAYMENTS (BDE)

Effective: September 1, 2003

Revise Article 109.07 of the Standard Specifications to read:

"109.07 Partial Payments. Partial payments will be made as follows:

- (a) Progress Payments. At least once each month, the Engineer will make a written estimate of the amount of work performed in accordance with the contract, and the value thereof at the contract unit prices. The amount of the estimate approved as due for payment will be vouchered by the Department and presented to the State Comptroller for payment. No amount less than \$1000.00 will be approved for payment other than the final payment.

The failure to perform any requirement, obligation, or term of the contract by the Contractor shall be reason for withholding any progress payments until the Department determines that compliance has been achieved. Furthermore, progress payments may be reduced by liens filed pursuant to Section 23(c) of the Mechanics Lien Act, 770 ILCS 60/23(c).

- (b) Material Allowances. At the discretion of the Department, payment may be made for materials, prior to their use in the work, when satisfactory evidence is presented by the Contractor. Satisfactory evidence includes justification for the allowance (to expedite the work, meet project schedules, regional or national material shortages, etc.), documentation of material and transportation costs, and evidence that such material is properly stored on the project or at a secure location acceptable and accessible to the Department.

Material allowances will be considered only for nonperishable materials when the cost, including transportation, exceeds \$10,000 and such materials are not expected to be utilized within 60 days of the request for the allowance. For contracts valued under \$500,000, the minimum \$10,000 requirement may be met by combining the principal (material) product of no more than two contract items. An exception to this two item limitation may be considered for any contract regardless of value for items in which material (products) are similar except for type and/or size.

Material allowances shall not exceed the value of the contract items in which used and shall not include the cost of installation or related markups. Amounts paid by the Department for material allowances will be deducted from estimates due the Contractor as the material is used. Two-sided copies of the Contractor's cancelled checks for materials and transportation must be furnished to the Department within 60 days of payment of the allowances or the amounts will be reclaimed by the Department."

PAYMENTS TO SUBCONTRACTORS (BDE)

Effective: June 1, 2000

Revised: September 1, 2003

Federal regulations found at 49 CFR §26.29 mandate the Department to establish a contract clause to require Contractors to pay subcontractors for satisfactory performance of their subcontracts no later than 30 days from the receipt of each payment made to the Contractor.

State law addresses the timing of payments to be made to subcontractors. Section 7 of the Prompt Payment Act, 30 ILCS 540/7, generally requires that when a Contractor receives any payment from the Department, the Contractor is required to make corresponding, proportional payments to each subcontractor performing work within 15 calendar days after receipt of the state payment. Section 7 of the State Prompt Payment Act further provides that interest in the amount of 2% per month, in addition to the payment due, shall be paid to any subcontractor by the Contractor if the payment required by the Act is withheld or delayed without reasonable cause. The Act also provides that the time for payment required and the calculation of any interest due applies to transactions between subcontractors and lower-tier subcontractors throughout the contracting chain.

This Special Provision establishes the required federal contract clause, and adopts the 15 calendar day requirement of the Act for purposes of compliance with the federal regulation regarding payments to subcontractors. This contract is subject to the following payment obligations.

As progress payments are made to the Contractor in accordance with Article 109.07 of the Standard Specifications for Road and Bridge Construction, the Contractor shall make a corresponding partial payment within 15 calendar days to each subcontractor in proportion to the work satisfactorily completed by each subcontractor. The proportionate amount of partial payment due to each subcontractor shall be determined by the quantities measured or otherwise determined as eligible for payment by the Department and included in the progress payment to the Contractor. Subcontractors shall be paid in full within 15 calendar days after the subcontractor's work has been satisfactorily completed. The Contractor shall hold no retainage from the subcontractors.

This Special Provision does not create any rights in favor of any subcontractor against the State of Illinois or authorize any cause of action against the State of Illinois on account of any payment, nonpayment, delayed payment or interest claimed by application of the State Prompt Payment Act. The Department will neither determine the reasonableness of any cause for delay of payment nor enforce any claim to payment, including interest. Moreover, the Department will not approve any delay or postponement of the 15 day requirement. State law creates remedies available to any subcontractor or material supplier, regardless of tier, who has not been paid for work properly performed or material furnished. These remedies are a lien against public funds set forth in Section 23(c) of the Mechanics Lien Act, 770 ILCS 60/23(c), and a recovery on the Contractor's payment bond in accordance with the Public Construction Bond Act, 30 ILCS 550.

PERSONAL PROTECTIVE EQUIPMENT (BDE)

Effective: July 1, 2004

All personnel, excluding flaggers, working outside of a vehicle (car or truck) within 7.6 m (25 ft) of pavement open to traffic shall wear a fluorescent orange, fluorescent yellow/green or a combination of fluorescent orange and fluorescent yellow/green vest meeting the requirements of the American National Standards Institute specification ANSI/ISEA 107-1999 for Conspicuity Class 2 garments. Other types of garments may be substituted for the vest as long as the garments have manufacturers tags identifying them as meeting the ANSI Class 2 requirement.

SUBCONTRACTOR MOBILIZATION PAYMENTS (BDE)

Effective: April 2, 2005

To account for the preparatory work and operations necessary for the movement of subcontractor personnel, equipment, supplies, and incidentals to the project site and for all other work or operations that must be performed or costs incurred when beginning work approved for subcontracting in accordance with Article 108.01 of the Standard Specifications, the Contractor shall make a mobilization payment to each subcontractor.

This mobilization payment shall be made at least 14 days prior to the subcontractor starting work. The amount paid shall be equal to 3 percent of the amount of the subcontract reported on form BC 260A submitted for the approval of the subcontractor's work.

This provision shall be incorporated directly or by reference into each subcontract approved by the Department.

404 PERMIT

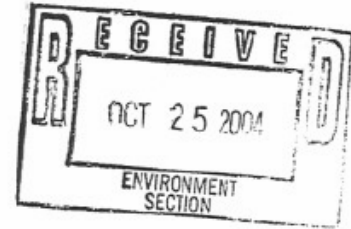


REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
ROCK ISLAND DISTRICT, CORPS OF ENGINEERS
CLOCK TOWER BUILDING - P.O. BOX 2004
ROCK ISLAND, ILLINOIS 61204-2004

<http://www.mvr.usace.army.mil>

October 21, 2004



Operations Division

SUBJECT: CEMVR-OD-P-422990

Mr. Tom Brooks
Illinois Department of Transportation
Bureau of Design and Environment
2300 South Dirksen Parkway
Springfield, Illinois 62764-0002

Dear Mr. Brooks:

Your discharges of dredged or fill material associated with the LaGrange Wetland Mitigation Bank are covered under Nationwide Permit number 27 as outlined in the enclosed Fact Sheet No. 5(IL), provided you meet the permit conditions for the nationwide permits which are also included in the Fact Sheet. The Corps has also made a determination of no effect on federally threatened and endangered species or critical habitat. The decision regarding this action is based on information found in the administrative record which documents the District's decision-making process, the basis for the decision, and the final decision. The Illinois Environmental Protection Agency (IEPA) also issued Section 401 Water Quality Certification with conditions for this nationwide permit. Please note these additional conditions included in the Fact Sheet. You must also comply with these conditions.

You must comply with the following conditions:

1. That the attached Wetland Banking Instrument, LaGrange Site, dated March 2004, is considered part of this permit. The permittee shall comply with all aspects of the banking instrument to the satisfaction of the District Engineer and will be required to perform any corrective actions deemed necessary throughout the creation and long-term monitoring requirements of the wetland mitigation bank.
2. That prior to any sale of wetland credits, a permanent conservation easement on the land in the bank shall be established for the purpose of restricting the use of the land to wetland and natural area restoration and preservation. The conservation easement must be recorded at the Recorder's Office of Brown County within 30 days from the date of this letter. A copy of the recorded conservation easement will be supplied to this office prior to the sale of any credits.

This verification is valid for two years from the date of this letter, unless the nationwide permit is modified, reissued, or revoked. It is your responsibility to remain informed of changes to the nationwide permit program. We will issue a public notice announcing the changes if and when they occur. Furthermore, if you commence or are under contract to commence these

activities before the date the nationwide permit is modified or revoked, you will have twelve months from the date of the modification or revocation to complete the activity under the present terms and conditions of this nationwide permit.

You may accept or appeal the attached Approved Jurisdiction Determination or provide new information for our consideration. If you decide to appeal this decision, please carefully consider the information contained in the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal. Please note that your appeal of this decision must be received within 60 days of the date of this letter. This document is to be signed and returned only if you wish to file an appeal. If you do not wish to appeal, this document should not be signed and returned.

Although an individual Department of the Army permit and individual IEPA 401 certification will not be required for these projects, this does not eliminate the requirement that you must still acquire other applicable Federal, state, and local permits.

Should you have any questions, please contact our Regulatory Branch by letter, or telephone me at 309/794-5369.

Sincerely,



John G. Betker
Project Manager
Regulatory Branch

Enclosures

Copies Furnished: (w/enclosure)

Mr. Dennis L. Kennedy, P.E.
IL Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62701-1787

Mr. Bruce Yurdin
Manager, Bureau of Water Section #15
Watershed Management Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Copies Furnished Cont.:

Mr. Richard Nelson
U.S. Fish and Wildlife Service
4469 48th Avenue
Rock Island, Illinois 61201

Ms. Sue Elston
U.S. Environmental Protection Agency
Water Quality Branch, Region 5
77 Jackson Boulevard
Chicago, Illinois

Ms. Joyce Collins
U.S. Fish and Wildlife Service
Marion Sub-Office
8588 Route 148
Marion, Illinois 62959

C. Kevin Williams
Colonel, U.S. Army
District Engineer, St. Louis District
1222 Spruce Street
St. Louis, Missouri 63193-2833

Mr. Joel Brunsvold, Director
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62701-1787



FACT SHEET NO. 5(IL)

US Army Corps
of Engineers
Rock Island District

NATIONWIDE PERMITS IN ILLINOIS

EFFECTIVE DATE: MARCH 18, 2002

On January 15, 2002, the Corps of Engineers published in the Federal Register (67 FR 2077), the Final Rule for the Nationwide Permits Program under the Rivers and Harbors Act of 1899; the Clean Water Act; and the Marine Protection, Research and Sanctuaries Act. These rules became effective on March 15, 2002.

The Nationwide Permit Program is an integral part of the Corps' Regulatory Program. The Nationwide Permits are a form of general permits issued by the Chief of Engineers and are intended to apply throughout the entire United States and its territories. A listing of the nationwide permits and general conditions is included herein. We encourage prospective permit applicants to consider the advantages of nationwide permit authorization during the preliminary design of their projects. Assistance and further information regarding all aspects of the Corps of Engineers Regulatory Program may be obtained by contacting the appropriate Corps of Engineers District at the address and/or telephone number listed on the last page of this Fact Sheet.

To ensure projects authorized by a Nationwide Permit will result in minimal adverse effects to the aquatic environment, the following Regional Conditions were developed for projects proposed within the state of Illinois except for Chicago District (See NOTE below):

1. Bank stabilization projects involving armoring of the streambank with riprap or the construction of retaining walls within High Value Subwatersheds exceeding 250 feet will require a PCN to the Corps of Engineers in accordance with Notification Condition (Number 13).
2. A proposed activity to be authorized under Nationwide Permits 12 or 14 within the Cache River Wetlands Areas (Alexander and Pulaski Counties), Kaskaskia River (Clinton, St. Clair, and Washington Counties), or Wabash River (Gallatin and White Counties) will require a PCN to the Corps of Engineers in accordance with the Notification Condition (Number 13).
3. Stormwater management facilities shall not be located within an intermittent stream.

NOTE: The Chicago District has proposed alternate regional conditions for work in McHenry, Kane, Lake, DuPage, Will and Cook Counties in Illinois. Information regarding Chicago District requirements can be accessed through their website at <http://www.lrc.usace.army.mil/co-r/>. If you have any questions regarding the Chicago District proposal, please contact Ms. Karon Marzec, Senior Project Manager, by telephone at 312/353-6400, ext. 4030 or e-mail karon.m.marzec@usace.army.mil.

NOTE: None of the Regional Conditions pertain to paragraph a. of Nationwide Permit Number 40.

Permits, issued by the Corps of Engineers, under the authority of Section 404 of the Clean Water Act may not be issued until the state (where the discharge will occur) certifies, under Section 401 of the Act, that the discharge will comply with the water quality standards of the State.

DENIED NATIONWIDE PERMITS

The Illinois Environmental Protection Agency (IEPA) did not issue a generic water quality certification for the following nationwide permits which are listed by subject only:

15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
21. Surface Coal Mining Activities
23. Approved Categorical Exclusions
25. Structural Discharges
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access and Dewatering
34. Cranberry Production Activities
37. Emergency Watershed Protection and Rehabilitation
39. Residential, Commercial, and Institutional Developments
40. Agricultural Activities
42. Recreational Facilities
43. Stormwater Management Facilities

Since Nationwide Permits 18, 19, 21, 23, 31, 32, 33, 37, and 39 are applicable under both Section 10 and 404, the State Section 401 certification is only required for discharges of pollutants under these nationwide permits. Section 10 work not involving discharges of dredged or fill material continues to be authorized under these nationwide permits.

Authorization for discharges covered by all the above nationwide permits is denied without prejudice. Applicants wishing to conduct such discharges must first obtain either an individual water quality certification or waiver from:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
1021 NORTH GRAND AVENUE EAST
POST OFFICE BOX 19276
SPRINGFIELD, ILLINOIS 62794-9276

If the state certifying agency fails to act on an application for water quality certification within 60 days after receipt, the certification requirement is presumed to be waived. The applicant must furnish the District Engineer (at the appropriate address listed on the last page of the Fact Sheet) with a copy of the certification or proof of waiver. The discharge may proceed upon receipt of the District Engineer's determination that the discharge qualifies for authorization under this nationwide permit. Details of this procedure are contained in 33 CFR 330.4, a copy of which is available upon request.

Nationwide Permits 3, 5, 7, 12, 13, 14, 17, 18, 21, 27, 29, 31, 33, 34, 37, 38, 39, 40, 41, 42, 43, and 44 require the permittee notify the District Engineer at least 30 to 45 days prior to performing the discharge under certain circumstances. Specific instructions for these notifications are contained in General Condition 13, a copy of which is included.

Nationwide Permits and Conditions

The following is a list of the nationwide permits, authorized by the Chief of Engineers, and published in the Federal Register (67 FR 2077), (67 FR 6692) and (67 FR 8579). Permittees wishing to conduct activities under the nationwide permits must comply with the conditions published in Section C. The Nationwide Permit Conditions found in Section C have been reprinted at the end of this Fact Sheet. The parenthetical references (Section 10, Section 404) following each nationwide permit indicate the specific authorities under which that permit is issued.

B. NATIONWIDE PERMITS

1. **Aids to Navigation.** The placement of aids to navigation and Regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard (USCG) (See 33 CFR, chapter I, subchapter C part 66). (Section 10)

2. **Structures in Artificial Canals.** Structures constructed in artificial canals within principally residential developments where the connection of the canal to navigable water of the US has been previously authorized (see 33 CFR 322.5(g)). (Section 10)

3. **Maintenance.** Activities related to:

(i) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the District Engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(ii) Discharges of dredged or fill material, including excavation, into all waters of the US to remove accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure, provided the permittee notifies the District Engineer in accordance with General Condition 13. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. The placement of rip rap must be the minimum necessary to protect the structure or to ensure the safety of the structure. All excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the District Engineer under separate authorization. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the District Engineer.

(iii) Discharges of dredged or fill material, including excavation, into all waters of the US for activities associated with the restoration of upland areas damaged by a storm, flood, or other discrete event, including the construction, placement, or installation of upland protection structures and minor dredging to remove obstructions in a water of the US. (Uplands lost as a result of a storm, flood, or other discrete event can be replaced without a Section 404 permit provided the uplands are restored to their original pre-event location. This NWP is for the activities in waters of the US associated with the replacement of the uplands.) The permittee must notify the District Engineer, in accordance with General Condition 13, within 12-months of the date of the damage and the work must commence, or be under contract to commence, within two years of the date of the damage. The permittee should provide evidence, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration. The restoration of the damaged areas cannot exceed the contours, or ordinary high water mark, that existed before the damage. The District Engineer retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this permit. Minor dredging to remove obstructions from the adjacent waterbody is limited to 50 cubic yards below the plane of the ordinary high water mark, and is limited to the amount necessary to restore the pre-existing bottom contours of the waterbody. The dredging may not be done primarily to obtain fill for any restoration activities. The discharge of dredged or fill material and all related work needed to restore the upland must be part of a single and complete project. This permit cannot be used in conjunction with NWP 18 or NWP 19 to restore damaged upland areas. This permit cannot be used to reclaim historic lands lost, over an extended period, to normal erosion processes.

This permit does not authorize maintenance dredging for the primary purpose of navigation and beach restoration. This permit does not authorize new stream channelization or stream relocation projects. Any work authorized by this permit must not cause more than minimal degradation of water quality, more than minimal changes to the flow characteristics of the stream, or increase flooding (See General Conditions 9 and 21). (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance.

4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities. Fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, clam and oyster digging; and small fish attraction devices such as open water fish concentrators (sea kites, etc.). This NWP authorizes shellfish seeding provided this activity does not occur in wetlands or sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist, but may not be present in a given year.). This NWP does not authorize artificial reefs or impoundments and semi-impoundments of waters of the US for the culture or holding of motile species such as lobster or the use of covered oyster trays or clam racks. (Sections 10 and 404)

5. Scientific Measurement Devices. Devices, whose purpose is to measure and record scientific data such as staff gages, tide gages, water recording devices, water quality testing and improvement devices and similar structures. Small weirs and flumes constructed primarily to record water quantity and velocity are also authorized provided the discharge is limited to 25 cubic yards and further for discharges of 10 to 25 cubic yards provided the permittee notifies the District Engineer in accordance with the "Notification" General Condition. (Sections 10 and 404)

6. Survey Activities. Survey activities including core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, soil survey, sampling, and historic resources surveys. Discharges and structures associated with the recovery of historic resources are not authorized by this NWP. Drilling and the discharge of excavated material from test wells for oil and gas exploration is not authorized by this NWP; the plugging of such wells is authorized. Fill placed for roads, pads and other similar activities is not authorized by this NWP. The NWP does not authorize any permanent structures. The discharge of drilling mud and cuttings may require a permit under section 402 of the CWA. (Sections 10 and 404)

7. Outfall Structures and Maintenance. Activities related to:

- (i) Construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System Program (Section 402 of the CWA), and
- (ii) Maintenance excavation, including dredging, to remove accumulated sediments blocking or restricting outfall and intake structures, accumulated sediments from small impoundments associated with outfall and intake structures, and accumulated sediments from canals associated with outfall and intake structures, provided that the activity meets all of the following criteria:
 - a. The permittee notifies the District Engineer in accordance with General Condition 13;
 - b. The amount of excavated or dredged material must be the minimum necessary to restore the outfalls, intakes, small impoundments, and canals to original design capacities and design configurations (i.e., depth and width);
 - c. The excavated or dredged material is deposited and retained at an upland site, unless otherwise approved by the District Engineer under separate authorization; and

d. Proper soil erosion and sediment control measures are used to minimize reentry of sediments into waters of the US.

The construction of intake structures is not authorized by this NWP, unless they are directly associated with an authorized outfall structure. For maintenance excavation and dredging to remove accumulated sediments, the notification must include information regarding the original design capacities and configurations of the facility and the presence of special aquatic sites (e.g., vegetated shallows) in the vicinity of the proposed work. (Sections 10 and 404)

8. **Oil and Gas Structures.** Structures for the exploration, production, and transportation of oil, gas, and minerals on the outer continental shelf within areas leased for such purposes by the DOI, Minerals Management Service (MMS). Such structures shall not be placed within the limits of any designated shipping safety fairway or traffic separation scheme, except temporary anchors that comply with the fairway regulations in 33 CFR 322.5(l). (Where such limits have not been designated, or where changes are anticipated, District Engineers will consider asserting discretionary authority in accordance with 33 CFR 330.4(e) and will also review such proposals to ensure they comply with the provisions of the fairway regulations in 33 CFR 322.5(l). Any Corps review under this permit will be limited to the effects on navigation and national security in accordance with 33 CFR 322.5(f)). Such structures will not be placed in established danger zones or restricted areas as designated in 33 CFR part 334; nor will such structures be permitted in EPA or Corps designated dredged material disposal areas. (Section 10)

9. **Structures in Fleeting and Anchorage Areas.** Structures, buoys, floats and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where the USCG has established such areas for that purpose. (Section 10)

10. **Mooring Buoys.** Non-commercial, single-boat, mooring buoys. (Section 10)

11. **Temporary Recreational Structures.** Temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races or seasonal use provided that such structures are removed within 30 days after use has been discontinued. At Corps of Engineers reservoirs, the reservoir manager must approve each buoy or marker individually. (Section 10)

12. **Utility Line Activities.** Activities required for the construction, maintenance and repair of utility lines and associated facilities in waters of the US as follows:

(i) **Utility lines:** The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in all waters of the US, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication (see Note 1, below). Material resulting from trench excavation may be temporarily sidecast (up to three months) into waters of the US, provided that the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary side casting not to exceed a total of 180 days, where appropriate. In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the US (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the US through which the utility line is installed. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

(ii) **Utility line substations:** The construction, maintenance, or expansion of a substation facility associated with a power line or utility line in non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, provided the activity does not result in the loss of greater than 1/2-acre of non-tidal waters of the US.

(iii) **Foundations for overhead utility line towers, poles, and anchors:** The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the US, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

(iv) **Access roads:** The construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, provided the discharges do not cause the loss of greater than 1/2-acre of non-tidal waters of the US. Access roads shall be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes the adverse effects on waters of the US and as near as possible to preconstruction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above preconstruction contours and elevations in waters of the US must be properly bridged or culverted to maintain surface flows.

The term "utility line" does not include activities which drain a water of the US, such as drainage tile, or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this NWP, the loss of waters of the US includes the filled area plus waters of the US that are adversely affected by flooding, excavation, or drainage as a result of the project. Activities authorized by paragraph (i) through (iv) may not exceed a total of 1/2-acre loss of waters of the US. Waters of the US temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, is not included in the calculation of permanent loss of waters of the US. This

includes temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Where certain functions and values of waters of the US are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland in the permanently maintained utility line right-of-way, mitigation will be required to reduce the adverse effects of the project to the minimal level.

Mechanized land clearing necessary for the construction, maintenance, or repair of utility lines and the construction, maintenance and expansion of utility line substations, foundations for overhead utility lines, and access roads is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the US that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, foundations, and access roads. Excess material must be removed to upland areas immediately upon completion of construction. This NWP may authorize utility lines in or affecting navigable waters of the US even if there is no associated discharge of dredged or fill material (See 33 CFR part 322).

Notification: The permittee must notify the District Engineer in accordance with General Condition 13, if any of the following criteria are met:

- (a) Mechanized land clearing in a forested wetland for the utility line right-of-way;
- (b) A Section 10 permit is required;
- (c) The utility line in waters of the US, excluding overhead lines, exceeds 500 feet;
- (d) The utility line is placed within a jurisdictional area (i.e., water of the US), and it runs parallel to a stream bed that is within that jurisdictional area;
- (e) Discharges associated with the construction of utility line substations that result in the loss of greater than 1/10-acre of waters of the US;
- (f) Permanent access roads constructed above grade in waters of the US for a distance of more than 500 feet; or
- (g) Permanent access roads constructed in waters of the US with impervious materials. (Sections 10 and 404)

Note 1: Overhead utility lines constructed over Section 10 waters and utility lines that are routed in or under Section 10 waters without a discharge of dredged or fill material require a Section 10 permit; except for pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the US, which are considered to be bridges, not utility lines, and may require a permit from the USCG pursuant to section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material associated with such pipelines will require a Corps permit under Section 404.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by NWP 33.

Note 3: Where the proposed utility line is constructed or installed in navigable waters of the US (i.e., Section 10 waters), copies of the PCN and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 12. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 12 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Conditions for Nationwide Permit 12, Utility Line Activities.

1. Case-specific water quality certification from the Illinois EPA will be required for activities in the following waters:
 - A. Chicago Sanitary and Ship Canal
 - B. Calumet-Sag Channel
 - C. Little Calumet River
 - D. Grand Calumet River
 - E. Calumet River
 - F. South Branch of the Chicago River (including the South Fork)
 - G. North Branch of the Chicago River (including the East and West Forks and the Skokie Lagoons)
 - H. Chicago River (Main Stem)
 - I. Lake Calumet
 - J. Des Plaines River
 - K. Fox River (including the Fox Chain of Lakes)
 - L. Saline River (in Hardin County)
 - M. Richland Creek (in St. Clair and Monroe Counties)
 - N. Lake Michigan
 - O. Rock River (in Winnebago County)
 - P. Illinois River upstream of mile 229.6 (Illinois Route 178 bridge)
 - Q. Illinois River between mile 140.0 and 182.0
 - R. Pettibone Creek (in Lake County)
 - S. All Public and Food Processing Water Supplies with surface intake facilities (as

specified in the Illinois EPA's "List of Public and Food Processing Water Supplies Utilizing Surface Water")

2. Section 401 is hereby issued for all other waters, with the following conditions:

A. The applicant for Nationwide Permit 12 shall not cause:
i. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation;
ii. water pollution defined and prohibited by the Illinois Environmental Protection Act; or
iii. interference with water use practices near public recreation areas or water supply intakes.

B. The applicant for Nationwide Permit shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.

C. Material resulting from trench excavation within surface waters of the State may be temporarily sidecast adjacent to the trench excavation provided that:
i. Sidecast material is not placed within a creek, stream, river or other flowing water body such that material dispersion could occur;
ii. Side cast material is not placed within ponds or other water bodies other than wetlands; and
iii. Sidecast material is not placed within a wetland for a period longer than twenty (20) calendar days. Such sidecast material shall either be removed from the site (refer to Condition 2.F), or used as backfill (refer to Condition 2.D and 2.E).

D. Backfill used within trenches passing through surface water of the State, except wetland areas, shall be clean course aggregate, gravel or other material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material may be used only if:
i. Particle size analysis is conducted and demonstrates the material to be at least 80% sand or larger size material, using a #230 U.S. sieve; or
ii. Excavation and backfilling are done under dry conditions.

E. Backfill used within trenches passing through wetland areas shall consist of clean material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material shall be used to the extent practicable, with the upper six (6) to twelve (12) inches backfilled with the topsoil obtained during trench excavation.

F. All material excavated which is not being used as backfill as stipulated in Condition 2.D and 2.E shall be stored or disposed in self-contained areas with no discharge to waters of the State. Material shall be disposed of appropriately under the regulations at 35 Il. Adm. Code Subtitle G.

G. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant for Nationwide 12 shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant for Nationwide 12 shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 5 (five) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.

H. The applicant for Nationwide 12 shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS, 1995).

I. The use of directional drilling to install utility pipelines below surface waters of the State is hereby certified provided that:
i. All pits and other construction necessary for the directional drilling process are located outside of surface waters of the State;
ii. All drilling fluids shall be adequately contained such that they cannot make their way to surface waters of the State. Such fluids shall be treated as stipulated in Condition 2.F; and
iii. Erosion and sediment control is provided in accordance with Conditions 2.B, 2.G, and 2.H.

13. Bank Stabilization. Bank stabilization activities necessary for erosion prevention provided the activity meets all of the following criteria:

- a. No material is placed in excess of the minimum needed for erosion protection;
- b. The bank stabilization activity is less than 500 feet in length;
- c. The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line;
- d. No material is placed in any special aquatic site, including wetlands;

e. No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any wetland area;

f. No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,

g. The activity is part of a single and complete project.

Bank stabilization activities in excess of 500 feet in length or greater than an average of one cubic yard per running foot may be authorized if the permittee notifies the District Engineer in accordance with the "Notification" General Condition 13 and the District Engineer determines the activity complies with the other terms and conditions of the NWP and the adverse environmental effects are minimal both individually and cumulatively. This NWP may not be used for the channelization of waters of the US. (Sections 10 and 404)

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 13. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 13 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Condition for Nationwide Permit 13, Bank Stabilization. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards. Asphalt and construction or demolition debris cannot be used as fill or bank stabilization material.

14. Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation crossings (e.g., highways, railways, trails, airport runways, and taxiways) in waters of the US, including wetlands, if the activity meets the following criteria:

a. This NWP is subject to the following acreage limits:

(1) For linear transportation projects in non-tidal waters, provided the discharge does not cause the loss of greater than 1/2-acre of waters of the US; or

(2) For linear transportation projects in tidal waters, provided the discharge does not cause the loss of greater than 1/3-acre of waters of the US.

b. The permittee must notify the District Engineer in accordance with General Condition 13 if any of the following criteria are met:

(1) The discharge causes the loss of greater than 1/10-acre of waters of the US; or

(2) There is a discharge in a special aquatic site, including wetlands;

c. The notification must include a compensatory mitigation proposal to offset permanent losses of waters of the US to ensure that those losses result only in minimal adverse effects to the aquatic environment and a statement describing how temporary losses will be minimized to the maximum extent practicable;

d. For discharges in special aquatic sites, including wetlands, and stream riffle and pool complexes, the notification must include a delineation of the affected special aquatic sites;

e. The width of the fill is limited to the minimum necessary for the crossing;

f. This permit does not authorize stream channelization, and the authorized activities must not cause more than minimal changes to the hydraulic flow characteristics of the stream, increase flooding, or cause more than minimal degradation of water quality of any stream (see General Conditions 9 and 21);

g. This permit cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars; and

h. The crossing is a single and complete project for crossing waters of the US. Where a road segment (i.e., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of streams (several single and complete projects) the Corps will consider whether it should use its discretionary authority to require an Individual Permit. (Sections 10 and 404)

Note: Some discharges for the construction of farm roads, forest roads, or temporary roads for moving mining equipment may be eligible for an exemption from the need for a Section 404 permit (see 33 CFR 323.4).

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 14. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 14 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Conditions for Nationwide Permit 14, Linear Transportation Projects.

1. The affected area of the stream channel shall not exceed 100 linear feet, as measured along the stream corridor.

2. Temporary runarounds shall be constructed of clean course aggregate.

3. Any spoil material excavated, dredged or otherwise produced must not be returned to the

waterway but must be deposited in a self-contained area in compliance with all state statutes, as determined by the Illinois EPA.

4. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.

5. The applicant shall not cause:

- A. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation;
 - B. water pollution defined and prohibited by the Illinois Environmental Protection Act;
- or
- C. interference with water use practices near public recreation areas or water supply intakes.

6. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 5 (five) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.

7. The applicant shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS; 1995).

*** 15. **U.S. Coast Guard Approved Bridges.** Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the US, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such discharges have been authorized by the USCG as part of the bridge permit. Causeways and approach fills are not included in this NWP and will require an individual or regional Section 404 permit. (Section 404)

*** 16. **Return Water From Upland Contained Disposal Areas.** Return water from upland, contained dredged material disposal area. The dredging itself may require a Section 404 permit (33 CFR 323.2(d)), but will require a Section 10 permit if located in navigable waters of the US. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d), even though the disposal itself occurs on the upland and does not require a Section 404 permit. This NWP satisfies the technical requirement for a Section 404 permit for the return water where the quality of the return water is controlled by the state through the Section 401 certification procedures. (Section 404)

*** 17. **Hydropower Projects.** Discharges of dredged or fill material associated with (a) small hydropower projects at existing reservoirs where the project, which includes the fill, are licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended; and has a total generating capacity of not more than 5000 kW; and the permittee notifies the District Engineer in accordance with the "Notification" General Condition; or (b) hydropower projects for which the FERC has granted an exemption from licensing pursuant to section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and section 30 of the Federal Power Act, as amended; provided the permittee notifies the District Engineer in accordance with the "Notification" General Condition. (Section 404)

*** 18. **Minor Discharges.** Minor discharges of dredged or fill material into all waters of the US if the activity meets all of the following criteria:

- a. The quantity of discharged material and the volume of area excavated do not exceed 25 cubic yards below the plane of the ordinary high water mark or the high tide line;
- b. The discharge, including any excavated area, will not cause the loss of more than 1/10-acre of a special aquatic site, including wetlands. For the purposes of this NWP, the acreage limitation includes the filled area and excavated area plus special aquatic sites that are adversely affected by flooding and special aquatic sites that are drained so that they would no longer be a water of the US as a result of the project;
- c. If the discharge, including any excavated area, exceeds 10 cubic yards below the plane of the ordinary high water mark or the high tide line or if the discharge is in a special aquatic site, including wetlands, the permittee notifies the District Engineer in accordance with the "Notification" General Condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands (also see 33 CFR 330.1(e)); and
- d. The discharge, including all attendant features, both temporary and permanent, is part of a single and complete project and is not placed for the purpose of a stream diversion. (Sections 10 and 404)

*** 19. **Minor Dredging.** Dredging of no more than 25 cubic yards below the plane of the ordinary high water mark or the mean high water mark from navigable waters of the US (i.e., Section 10 waters) as part of a single and complete project. This NWP does not authorize the dredging or degradation through siltation of coral reefs, sites that support submerged aquatic vegetation

(including sites where submerged aquatic vegetation is documented to exist, but may not be present in a given year), anadromous fish spawning areas, or wetlands, or the connection of canals or other artificial waterways to navigable waters of the US (see 33 CFR 322.5(g)). (Sections 10 and 404)

20. Oil Spill Cleanup. Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300) provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR 112.3 and any existing state contingency plan and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action. (Sections 10 and 404)

***** 21. Surface Coal Mining Activities.** Discharges of dredged or fill material into waters of the US associated with surface coal mining and reclamation operations provided the coal mining activities are authorized by the DOI, Office of Surface Mining (OSM), or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977 and provided the permittee notifies the District Engineer in accordance with the "Notification" General Condition. In addition, to be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing. The Corps, at the discretion of the District Engineer, may require a bond to ensure success of the mitigation, if no other Federal or state agency has required one. For discharges in special aquatic sites, including wetlands, and stream riffle and pool complexes, the notification must also include a delineation of affected special aquatic sites, including wetlands. (also, see 33 CFR 330.1(e))

Mitigation: In determining the need for as well as the level and type of mitigation, the District Engineer will ensure no more than minimal adverse effects to the aquatic environment occur. As such, District Engineers will determine on a case-by-case basis the requirement for adequate mitigation to ensure the effects to aquatic systems are minimal. In cases where OSM or the state has required mitigation for the loss of aquatic habitat, the Corps may consider this in determining appropriate mitigation under Section 404. (Sections 10 and 404)

22. Removal of Vessels. Temporary structures or minor discharges of dredged or fill material required for the removal of wrecked, abandoned, or disabled vessels, or the removal of man-made obstructions to navigation. This NWP does not authorize the removal of vessels listed or determined eligible for listing on the National Register of Historic Places unless the District Engineer is notified and indicates that there is compliance with the "Historic Properties" General Condition. This NWP does not authorize maintenance dredging, shoal removal, or riverbank snagging. Vessel disposal in waters of the US may need a permit from EPA (see 40 CFR 229.3). (Sections 10 and 404)

***** 23. Approved Categorical Exclusions.** Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR part 1500 et seq.), that the activity, work, or discharge is categorically excluded from environmental documentation, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: CECW-OR) has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination. Before approval for purposes of this NWP of any agency's categorical exclusions, the Chief of Engineers will solicit public comment. In addressing these comments, the Chief of Engineers may require certain conditions for authorization of an agency's categorical exclusions under this NWP. (Sections 10 and 404)

24. State Administered Section 404 Program. Any activity permitted by a state administering its own Section 404 permit program pursuant to 33 U.S.C. 1344(g)-(1) is permitted pursuant to section 10 of the Rivers and Harbors Act of 1899. Those activities that do not involve a Section 404 state permit are not included in this NWP, but certain structures will be exempted by section 154 of Pub. L. 94-587, 90 Stat. 2917 (33 U.S.C. 591) (see 33 CFR 322.3(a)(2)). (Section 10)

***** 25. Structural Discharges.** Discharges of material such as concrete, sand, rock, etc., into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, transmission line footings, and walkways or for general navigation, such as mooring cells, including the excavation of bottom material from within the form prior to the discharge of concrete, sand, rock, etc. This NWP does not authorize filled structural members that would support buildings, building pads, homes, house pads, parking areas, storage areas and other such structures. The structure itself may require a Section 10 permit if located in navigable waters of the US. (Section 404)

26. [Reserved]

27. Stream and Wetland Restoration Activities. Activities in waters of the US associated with the restoration of former waters, the enhancement of degraded tidal and non-tidal wetlands and riparian areas, the creation of tidal and non-tidal wetlands and riparian areas, and the restoration and enhancement of non-tidal streams and non-tidal open water areas as follows:

(a) The activity is conducted on:

(1) Non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration, or creation agreement between the landowner and the U.S. Fish and Wildlife Service (FWS) or the Natural Resources Conservation Service (NRCS), the National Marine Fisheries Service, the National Ocean Service, or voluntary wetland restoration, enhancement, and creation actions documented by the NRCS pursuant to NRCS regulations; or

(2) Reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the OSM or the applicable state agency (the future reversion does not apply to streams or wetlands created, restored, or enhanced as mitigation for the mining impacts, nor naturally due to hydrologic or topographic features, nor for a mitigation bank); or

(3) Any other public, private or tribal lands;

(b) Notification: For activities on any public or private land that are not described by paragraphs (a)(1) or (a)(2) above, the permittee must notify the District Engineer in accordance with General Condition 13; and

(c) Planting of only native species should occur on the site.

Activities authorized by this NWP include, to the extent that a Corps permit is required, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the enhancement, restoration, or creation of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or create stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive, exotic or nuisance vegetation; and other related activities.

This NWP does not authorize the conversion of a stream to another aquatic use, such as the creation of an impoundment for waterfowl habitat. This NWP does not authorize stream channelization. This NWP does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. However, this NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands, on the project site provided there are net gains in aquatic resource functions and values. For example, this NWP may authorize the creation of an open water impoundment in a non-tidal emergent wetland, provided the non-tidal emergent wetland is replaced by creating that wetland type on the project site. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Reversion. For enhancement, restoration, and creation projects conducted under paragraphs (a)(3), this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion. For restoration, enhancement, and creation projects conducted under paragraphs (a)(1) and (a)(2), this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or creation activities). The reversion must occur within five years after expiration of a limited term wetland restoration or creation agreement or permit, even if the discharge occurs after this NWP expires. This NWP also authorizes the reversion of wetlands that were restored, enhanced, or created on prior-converted cropland that has not been abandoned, in accordance with a binding agreement between the landowner and NRCS or FWS (even though the restoration, enhancement, or creation activity did not require a Section 404 permit). The five-year reversion limit does not apply to agreements without time limits reached under paragraph (a)(1). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before any reversion activity the permittee or the appropriate Federal or state agency must notify the District Engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements will be at that future date. (Sections 10 and 404)

Note: Compensatory mitigation is not required for activities authorized by this NWP, provided the authorized work results in a net increase in aquatic resource functions and values in the project area. This NWP can be used to authorize compensatory mitigation projects, including mitigation banks, provided the permittee notifies the District Engineer in accordance with General Condition 13, and the project includes compensatory mitigation for impacts to waters of the US caused by the authorized work. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition. NWP 27 can be used to authorize impacts at a mitigation bank, but only in circumstances where it has been approved under the Interagency Federal Mitigation Bank Guidelines.

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 27. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 27 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Condition for Nationwide Permit 27, Stream and Wetland Restoration Activities. All activities conducted under NWP 27 shall be in accordance with the provisions of 35 Il. Adm. Code 405.108. Work in reclaimed surface coal mine areas are required

to obtain prior authorization from the Illinois EPA for any activities that result in the use of acid-producing mine refuse.

28. **Modifications of Existing Marinas.** Reconfiguration of existing docking facilities within an authorized marina area. No dredging, additional slips, dock spaces, or expansion of any kind within waters of the US is authorized by this NWP. (Section 10)

29. **Single-family Housing.** Discharges of dredged or fill material into non-tidal waters of the US, including non-tidal wetlands for the construction or expansion of a single-family home and attendant features (such as a garage, driveway, storage shed, and/or septic field) for an Individual Permittee provided that the activity meets all of the following criteria:

- a. The discharge does not cause the loss of more than 1/4-acre of non-tidal waters of the US, including non-tidal wetlands;
- b. The permittee notifies the District Engineer in accordance with the "Notification" General Condition;
- c. The permittee has taken all practicable actions to minimize the on-site and off-site impacts of the discharge. For example, the location of the home may need to be adjusted on-site to avoid flooding of adjacent property owners;
- d. The discharge is part of a single and complete project; furthermore, that for any subdivision created on or after November 22, 1991, the discharges authorized under this NWP may not exceed an aggregate total loss of waters of the US of 1/4-acre for the entire subdivision;
- e. An individual may use this NWP only for a single-family home for a personal residence;
- f. This NWP may be used only once per parcel;
- g. This NWP may not be used in conjunction with NWP 14 or NWP 18, for any parcel; and,
- h. Sufficient vegetated buffers must be maintained adjacent to all open water bodies, streams, etc., to preclude water quality degradation due to erosion and sedimentation.

For the purposes of this NWP, the acreage of loss of waters of the US includes the filled area previously permitted, the proposed filled area, and any other waters of the US that are adversely affected by flooding, excavation, or drainage as a result of the project. This NWP authorizes activities only by individuals; for this purpose, the term "individual" refers to a natural person and/or a married couple, but does not include a corporation, partnership, or similar entity. For the purposes of this NWP, a parcel of land is defined as "the entire contiguous quantity of land in possession of, recorded as property of, or owned (in any form of ownership, including land owned as a partner, corporation, joint tenant, etc.) by the same individual (and/or that individual's spouse), and comprises not only the area of wetlands sought to be filled, but also all land contiguous to those wetlands, owned by the individual (and/or that individual's spouse) in any form of ownership." (Sections 10 and 404)

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 29. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 29 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Conditions for Nationwide Permit 29, Single-family Housing.

1. The applicant shall not cause:
 - A. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation;
 - B. water pollution defined and prohibited by the Illinois Environmental Protection Act; or
 - C. interference with water use practices near public recreation areas or water supply intakes.
2. The NWP applicant shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
3. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
4. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The NWP applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 5 (five) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.
5. The applicant shall implement erosion control measures consistent with the "Illinois Urban

Manual" (IEPA/USDA, NRCS; 1995).

6. This NWP is not valid for the placement of fill for the installation of wastewater soil treatment (septic) systems unless a project-specific Section 401 water quality certification is obtained in writing from the Illinois EPA.

*** 30. **Moist Soil Management for Wildlife.** Discharges of dredged or fill material and maintenance activities that are associated with moist soil management for wildlife performed on non-tidal Federally-owned or managed, state-owned or managed property, and local government agency-owned or managed property, for the purpose of continuing ongoing, site-specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited to: The repair, maintenance or replacement of existing water control structures; the repair or maintenance of dikes; and plowing or discing to impede succession, prepare seed beds, or establish fire breaks. Sufficient vegetated buffers must be maintained adjacent to all open water bodies, streams, etc., to preclude water quality degradation due to erosion and sedimentation. This NWP does not authorize the construction of new dikes, roads, water control structures, etc. associated with the management areas. This NWP does not authorize converting wetlands to uplands, impoundments or other open water bodies. (Section 404)

*** 31. **Maintenance of Existing Flood Control Facilities.** Discharge of dredge or fill material resulting from activities associated with the maintenance of existing flood control facilities, including debris basins, retention/detention basins, and channels that

(i) were previously authorized by the Corps by Individual Permit, General Permit, by 33 CFR 330.3, or did not require a permit at the time it was constructed, or

(ii) were constructed by the Corps and transferred to a non-Federal sponsor for operation and maintenance. Activities authorized by this NWP are limited to those resulting from maintenance activities that are conducted within the "maintenance baseline," as described in the definition below. Activities including the discharges of dredged or fill materials, associated with maintenance activities in flood control facilities in any watercourse that has previously been determined to be within the maintenance baseline, are authorized under this NWP. The NWP does not authorize the removal of sediment and associated vegetation from the natural water courses except to the extent that these have been included in the maintenance baseline. All dredged material must be placed in an upland site or an authorized disposal site in waters of the US, and proper siltation controls must be used. (Activities of any kind that result in only incidental fallback, or only the cutting and removing of vegetation above the ground, e.g., mowing, rotary cutting, and chainsawing, where the activity neither substantially disturbs the root system nor involves mechanized pushing, dragging, or other similar activities that redeposit excavated soil material, do not require a Section 404 permit in accordance with 33 CFR 323.2(d)(2)).

Notification: After the maintenance baseline is established, and before any maintenance work is conducted, the permittee must notify the District Engineer in accordance with the "Notification" General Condition. The notification may be for activity-specific maintenance or for maintenance of the entire flood control facility by submitting a five year (or less) maintenance plan.

Maintenance Baseline: The maintenance baseline is a description of the physical characteristics (e.g., depth, width, length, location, configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are normally authorized by NWP 31, subject to any case-specific conditions required by the District Engineer. The District Engineer will approve the maintenance baseline based on the approved or constructed capacity of the flood control facility, whichever is smaller, including any areas where there are no constructed channels, but which are part of the facility. If no evidence of the constructed capacity exist, the approved constructed capacity will be used. The prospective permittee will provide documentation of the physical characteristics of the flood control facility (which will normally consist of as-built or approved drawings) and documentation of the design capacities of the flood control facility. The documentation will also include BMPs to ensure that the impacts to the aquatic environment are minimal, especially in maintenance areas where there are no constructed channels. (The Corps may request maintenance records in areas where there has not been recent maintenance.) Revocation or modification of the final determination of the maintenance baseline can only be done in accordance with 33 CFR 330.5. Except in emergencies as described below, this NWP can not be used until the District Engineer approves the maintenance baseline and determines the need for mitigation and any regional or activity-specific conditions. Once determined, the maintenance baseline will remain valid for any subsequent reissuance of this NWP. This permit does not authorize maintenance of a flood control facility that has been abandoned. A flood control facility will be considered abandoned if it has operated at a significantly reduced capacity without needed maintenance being accomplished in a timely manner.

Mitigation: The District Engineer will determine any required mitigation one-time only for impacts associated with maintenance work at the same time that the maintenance baseline is approved. Such one-time mitigation will be required when necessary to ensure that adverse environmental impacts are no more than minimal, both individually and cumulatively. Such mitigation will only be required once for any specific reach of a flood control project. However, if one-time mitigation is required for impacts associated with maintenance activities, the District Engineer will not delay needed maintenance, provided the District Engineer and the permittee establish a schedule for identification, approval, development, construction and completion of any such required mitigation. Once the one-time mitigation described above has been completed, or a determination made that mitigation is not required, no further mitigation will be required for maintenance activities within the maintenance baseline. In determining appropriate mitigation, the District Engineer will give special consideration to natural water

courses that have been included in the maintenance baseline and require compensatory mitigation and/or BMPs as appropriate.

Emergency Situations: In emergency situations, this NWP may be used to authorize maintenance activities in flood control facilities for which no maintenance baseline has been approved. Emergency situations are those which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if action is not taken before a maintenance baseline can be approved. In such situations, the determination of mitigation requirements, if any, may be deferred until the emergency has been resolved. Once the emergency has ended, a maintenance baseline must be established expeditiously, and mitigation, including mitigation for maintenance conducted during the emergency, must be required as appropriate. (Sections 10 and 404)

***** 32. Completed Enforcement Actions.** Any structure, work or discharge of dredged or fill material, remaining in place, or undertaken for mitigation, restoration, or environmental benefit in compliance with either:

(i) The terms of a final written Corps non-judicial settlement agreement resolving a violation of section 404 of the CWA and/or section 10 of the Rivers and Harbors Act of 1899; or the terms of an EPA 309(a) order on consent resolving a violation of section 404 of the CWA, provided that:

a. The unauthorized activity affected no more than 5 acres of non-tidal wetlands or 1 acre of tidal wetlands;

b. The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity that is authorized by this NWP; and

c. The District Engineer issues a verification letter authorizing the activity subject to the terms and conditions of this NWP and the settlement agreement, including a specified completion date; or

(ii) The terms of a final Federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the U.S. under section 404 of the CWA and/or section 10 of the Rivers and Harbors Act of 1899; or

(iii) The terms of a final court decision, consent decree, settlement agreement, or non-judicial settlement agreement resulting from a natural resource damage claim brought by a trustee or trustees for natural resources (as defined by the National Contingency Plan at 40 CFR subpart G) under section 311 of the Clean Water Act (CWA), section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund), section 312 of the National Marine Sanctuaries Act (NMSA), section 1002 of the Oil Pollution Act of 1990 (OPA), or the Park System Resource Protection Act at 16 U.S.C. '19jj, to the extent that a Corps permit is required.

For either (i), (ii) or (iii) above, compliance is a condition of the NWP itself. Any authorization under this NWP is automatically revoked if the permittee does not comply with the terms of this NWP or the terms of the court decision, consent decree, or judicial/non-judicial settlement agreement or fails to complete the work by the specified completion date. This NWP does not apply to any activities occurring after the date of the decision, decree, or agreement that are not for the purpose of mitigation, restoration, or environmental benefit. Before reaching any settlement agreement, the Corps will ensure compliance with the provisions of 33 CFR part 326 and 33 CFR 330.6 (d) (2) and (e). (Sections 10 and 404)

***** 33. Temporary Construction, Access and Dewatering.** Temporary structures, work and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided that the associated primary activity is authorized by the Corps of Engineers or the USCG, or for other construction activities not subject to the Corps or USCG regulations. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must be of materials, and placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if it is determined by the District Engineer that it will not cause more than minimal adverse effects on aquatic resources. Temporary fill must be entirely removed to upland areas, or dredged material returned to its original location, following completion of the construction activity, and the affected areas must be restored to the pre-project conditions. Cofferdams cannot be used to dewater wetlands or other aquatic areas to change their use. Structures left in place after cofferdams are removed require a Section 10 permit if located in navigable waters of the U.S. (See 33 CFR part 322). The permittee must notify the District Engineer in accordance with the "Notification" General Condition. The notification must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources. The District Engineer will add Special Conditions, where necessary, to ensure environmental adverse effects is minimal. Such conditions may include: limiting the temporary work to the minimum necessary; requiring seasonal restrictions; modifying the restoration plan; and requiring alternative construction methods (e.g. construction mats in wetlands where practicable.). (Sections 10 and 404)

***** 34. Cranberry Production Activities.** Discharges of dredged or fill material for dikes, berms, pumps, water control structures or leveling of cranberry beds associated with expansion, enhancement, or modification activities at existing cranberry production operations provided that the activity meets all of the following criteria:

a. The cumulative total acreage of disturbance per cranberry production operation, including but not limited to, filling, flooding, ditching, or clearing, does not exceed 10 acres of waters of the U.S., including wetlands;

b. The permittee notifies the District Engineer in accordance with the "Notification" General Condition. The notification must include a delineation of affected special aquatic sites, including wetlands; and,

c. The activity does not result in a net loss of wetland acreage. This NWP does not authorize any discharge of dredged or fill material related to other cranberry production activities such as warehouses, processing facilities, or parking areas. For the purposes of this NWP, the cumulative total of 10 acres will be measured over the period that this NWP is valid. (Section 404)

35. **Maintenance Dredging of Existing Basins.** Excavation and removal of accumulated sediment for maintenance of existing marina basins, access channels to marinas or boat slips, and boat slips to previously authorized depths or controlling depths for ingress/egress, whichever is less, provided the dredged material is disposed of at an upland site and proper siltation controls are used. (Section 10)

36. **Boat Ramps.** Activities required for the construction of boat ramps provided:
a. The discharge into waters of the U.S. does not exceed 50 cubic yards of concrete, rock, crushed stone or gravel into forms, or placement of pre-cast concrete planks or slabs. (Unsuitable material that causes unacceptable chemical pollution or is structurally unstable is not authorized);
b. The boat ramp does not exceed 20 feet in width;
c. The base material is crushed stone, gravel or other suitable material;
d. The excavation is limited to the area necessary for site preparation and all excavated material is removed to the upland; and,
e. No material is placed in special aquatic sites, including wetlands.

Dredging to provide access to the boat ramp may be authorized by another NWP, Regional General Permit, or Individual Permit pursuant to Section 10 if located in navigable waters of the U.S. (Sections 10 and 404)

*** 37. **Emergency Watershed Protection and Rehabilitation.** Work done by or funded by:
a. The NRCS which is a situation requiring immediate action under its emergency Watershed Protection Program (7 CFR part 624); or
b. The USFS under its Burned-Area Emergency Rehabilitation Handbook (FSH 509.13); or
c. The DOI for wildland fire management burned area emergency stabilization and rehabilitation (DOI Manual part 620, Ch. 3).

For all of the above provisions, the District Engineer must be notified in accordance with the General Condition 13. (Also, see 33 CFR 330.1(e)). (Sections 10 and 404)

38. **Cleanup of Hazardous and Toxic Waste.** Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority provided the permittee notifies the District Engineer in accordance with the "Notification" General Condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. Court ordered remedial action plans or related settlements are also authorized by this NWP. This NWP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste. Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under section 404 of the CWA or section 10 of the Rivers and Harbors Act. (Sections 10 and 404)

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 38. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 38 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Conditions for Nationwide Permit 38, Cleanup of Hazardous and Toxic Waste.

1. The applicant shall not cause:
 - A. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation;
 - B. water pollution defined and prohibited by the Illinois Environmental Protection Act; or
 - C. interference with water use practices near public recreation areas or water supply intakes.
2. In addition to any actions required of the NWP applicant with respect to the "Notification" General Condition 13, the applicant shall notify the Illinois EPA, Bureau of Water, of the specific activity. This notification shall include information concerning the orders and approvals that have been or will be obtained from the Illinois EPA Bureau of Land (BOL), for all cleanup activities under BOL jurisdiction or for which authorization or approval is sought from BOL for no further remedial action.
3. This Nationwide Permit is not valid for activities that do not require or will not receive authorization or approval from the BOL.

*** 39. Residential, Commercial, and Institutional Developments. Discharges of dredged or fill material into non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters, for the construction or expansion of residential, commercial, and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, stormwater management facilities, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development). The construction of new ski areas or oil and gas wells is not authorized by this NWP.

Residential developments include multiple and single unit developments. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. The activities listed above are authorized, provided the activities meet all of the following criteria:

a. The discharge does not cause the loss of greater than 1/2-acre of non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters;

b. The discharge does not cause the loss of greater than 300 linear-feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

c. The permittee must notify the District Engineer in accordance with General Condition 13, if any of the following criteria are met:

(1) The discharge causes the loss of greater than 1/10-acre of non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters; or

(2) The discharge causes the loss of any open waters, including perennial or intermittent streams, below the ordinary high water mark (see Note, below); or

(3) The discharge causes the loss of greater than 300 linear feet of intermittent stream bed. In such case, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

d. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected special aquatic sites;

e. The discharge is part of a single and complete project;

f. The permittee must avoid and minimize discharges into waters of the US at the project site to the maximum extent practicable. The notification, when required, must include a written statement explaining how avoidance and minimization of losses of waters of the US were achieved on the project site. Compensatory mitigation will normally be required to offset the losses of waters of the US. (See General Condition 19.) The notification must also include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the US. If an applicant asserts that the adverse effects of the project are minimal without mitigation, then the applicant may submit justification explaining why compensatory mitigation should not be required for the District Engineer's consideration;

g. When this NWP is used in conjunction with any other NWP, any combined total permanent loss of waters of the US exceeding 1/10-acre requires that the permittee notify the District Engineer in accordance with General Condition 13;

h. Any work authorized by this NWP must not cause more than minimal degradation of water quality or more than minimal changes to the flow characteristics of any stream (see General Conditions 9 and 21);

i. For discharges causing the loss of 1/10-acre or less of waters of the US, the permittee must submit a report, within 30 days of completion of the work, to the District Engineer that contains the following information: (1) The name, address, and telephone number of the permittee; (2) The location of the work; (3) A description of the work; (4) The type and acreage of the loss of waters of the US (e.g., 1/12-acre of emergent wetlands); and (5) The type and acreage of any compensatory mitigation used to offset the loss of waters of the US (e.g., 1/12-acre of emergent wetlands created on-site);

j. If there are any open waters or streams within the project area, the permittee will establish and maintain, to the maximum extent practicable, wetland or upland vegetated buffers next to those open waters or streams consistent with General Condition 19. Deed restrictions, conservation easements, protective covenants, or other means of land conservation and preservation are required to protect and maintain the vegetated buffers established on the project site.

Only residential, commercial, and institutional activities with structures on the foundation(s) or building pad(s), as well as the attendant features, are authorized by this NWP. The compensatory mitigation proposal that is required in paragraph (f) of this NWP may be either conceptual or detailed. The wetland or upland vegetated buffer required in paragraph (j) of this NWP will be determined on a case-by-case basis by the District Engineer for addressing water quality concerns. The required wetland or upland vegetated buffer is part of the overall compensatory mitigation requirement for this NWP. If the project site was previously used for agricultural purposes and the farm owner/operator used NWP 40 to authorize activities in waters of the US to increase production or construct farm buildings, NWP 39 cannot be used by the developer to authorize additional activities. This is more than the acreage limit for NWP 39 impacts to waters of the US (i.e., the combined acreage loss authorized under NWPs 39 and 40 cannot exceed 1/2-acre, see General Condition 15).

Subdivisions: For residential subdivisions, the aggregate total loss of waters of US authorized by NWP 39 can not exceed 1/2-acre. This includes any loss of waters associated with development of individual subdivision lots. (Sections 10 and 404)

Note: Areas where wetland vegetation is not present should be determined by the presence or absence of an ordinary high water mark or bed and bank. Areas that are waters of the US based on this criterion would require a PCN although water is infrequently present in the stream channel (except for ephemeral waters, which do not require PCNs).

*** 40. **Agricultural Activities.** Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, for improving agricultural production and the construction of building pads for farm buildings. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in waters of the US; and similar activities, provided the permittee complies with the following terms and conditions:

a. For discharges into non-tidal wetlands to improve agricultural production, the following criteria must be met if the permittee is an United States Department of Agriculture (USDA) Program participant:

(1) The permittee must obtain a categorical minimal effects exemption, minimal effect exemption, or mitigation exemption from NRCS in accordance with the provisions of the Food Security Act of 1985, as amended (16 U.S.C. 3801 et seq.);

(2) The discharge into non-tidal wetlands does not result in the loss of greater than 1/2-acre of non-tidal wetlands on a farm tract;

(3) The permittee must have NRCS-certified wetland delineation;

(4) The permittee must implement an NRCS-approved compensatory mitigation plan that fully offsets wetland losses, if required; and

(5) The permittee must submit a report, within 30 days of completion of the authorized work, to the District Engineer that contains the following information: (a) The name, address, and telephone number of the permittee; (b) The location of the work; (c) A description of the work; (d) The type and acreage (or square feet) of the loss of wetlands (e.g., 1/3-acre of emergent wetlands); and

(e) The type, acreage (or square feet), and location of compensatory mitigation (e.g. 1/3-acre of emergent wetland on a farm tract; credits purchased from a mitigation bank); or

b. For discharges into non-tidal wetlands to improve agricultural production, the following criteria must be met if the permittee is not a USDA Program participant (or a USDA Program participant for which the proposed work does not qualify for authorization under paragraph (a) of this NWP):

(1) The discharge into non-tidal wetlands does not result in the loss of greater than 1/2-acre of non-tidal wetlands on a farm tract;

(2) The permittee must notify the District Engineer in accordance with General Condition 13, if the discharge results in the loss of greater than 1/10-acre of non-tidal wetlands;

(3) The notification must include a delineation of affected wetlands; and

(4) The notification must include a compensatory mitigation proposal to offset losses of waters of the US; or

c. For the construction of building pads for farm buildings, the discharge does not cause the loss of greater than 1/2-acre of non-tidal wetlands that were in agricultural production prior to December 23, 1985, (i.e., farmed wetlands) and the permittee must notify the District Engineer in accordance with General Condition 13; and

d. Any activity in other waters of the US is limited to the relocation of existing serviceable drainage ditches constructed in non-tidal streams. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent non-tidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively. For impacts exceeding

300-linear feet of impacts to existing serviceable ditches constructed in intermittent non-tidal streams, the permittee must notify the District Engineer in accordance with the "Notification" General Condition 13; and

e. The term "farm tract" refers to a parcel of land identified by the Farm Service Agency. The Corps will identify other waters of the US on the farm tract. NRCS will determine if a proposed agricultural activity meets the terms and conditions of paragraph a. of this NWP, except as provided below. For those activities that require notification, the District Engineer will determine if a proposed agricultural activity is authorized by paragraphs b., c., and/or d. of this NWP. USDA Program participants requesting authorization for discharges of dredged or fill material into waters of the US authorized by paragraphs (c) or (d) of this NWP, in addition to paragraph (a), must notify the District Engineer in accordance with General Condition 13 and the District Engineer will determine if the entire single and complete project is authorized by this NWP. Discharges of dredged or fill material into waters of the US associated with completing required compensatory mitigation are authorized by this NWP. However, total impacts, including other authorized impacts under this NWP, may not exceed the 1/2-acre limit of this NWP. This NWP does not affect, or otherwise regulate, discharges associated with agricultural activities when the discharge qualifies for an exemption under section 404(f) of the CWA, even though a categorical minimal effects exemption, minimal effect exemption, or mitigation exemption from NRCS pursuant to the Food Security Act of 1985, as amended, may be required. Activities authorized by paragraphs a. through d. may not exceed a total of 1/2-acre on a single farm tract.

If the site was used for agricultural purposes and the farm owner/operator used either paragraphs a., b., or c. of this NWP to authorize activities in waters of the US to increase agricultural production or construct farm buildings, and the current landowner wants to use NWP 39 to authorize residential, commercial, or industrial development activities in waters of the US on the site, the combined acreage loss authorized by NWPs 39 and 40 cannot exceed 1/2-acre (see General Condition 15). (Section 404)

41. **Reshaping Existing Drainage Ditches.** Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the US. The reshaping of the ditch cannot increase drainage capacity beyond the original design capacity. Nor can it expand the area drained by the ditch as originally designed (i.e., the capacity of the ditch must be the same as originally designed and it cannot drain additional wetlands or other waters of the US). Compensatory mitigation is not required because the work is designed to improve water quality (e.g., by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, increase uptake of nutrients and other substances by vegetation, etc.).

Notification: The permittee must notify the District Engineer in accordance with General Condition 13 if greater than 500 linear feet of drainage ditch will be reshaped. Material resulting from excavation may not be permanently sidecast into waters but may be temporarily sidecast (up to three months) into waters of the US, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary sidecasting not to exceed a total of 180 days, where appropriate. In general, this NWP does not apply to reshaping drainage ditches constructed in uplands, since these areas are generally not waters of the US, and thus no permit from the Corps is required, or to the maintenance of existing drainage ditches to their original dimensions and configuration, which does not require a Section 404 permit (see 33 CFR 323.4(a)(3)). This NWP does not authorize the relocation of drainage ditches constructed in waters of the US; the location of the centerline of the reshaped drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch. This NWP does not authorize stream channelization or stream relocation projects. (Section 404)

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 41. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 41 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Conditions for Nationwide Permit 41, Reshaping Existing Drainage Ditches.

1. The applicant shall not cause:
 - A. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation;
 - B. water pollution defined and prohibited by the Illinois Environmental Protection Act; or
 - C. interference with water use practices near public recreation areas or water supply intakes.
2. The applicant for Nationwide Permit shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
3. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
4. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 5 (five) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.
5. The applicant shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS; 1995).
6. The applicant is advised that the following permit(s) must be obtained from the Agency: the applicant must obtain permits to construct sanitary sewers, water mains and related facilities prior to construction.
7. The proposed work shall be constructed with adequate erosion control measures (i.e., silt

fences, straw bales, etc.) to prevent transport of sediment and materials to the adjoining wetlands and/or streams.

***** 42. Recreational Facilities.** Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, for the construction or expansion of recreational facilities, provided the activity meets all of the following criteria:

a. The discharge does not cause the loss of greater than 1/2-acre of non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters;

b. The discharge does not cause the loss of greater than 300 linear-feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the

District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

c. The permittee notifies the District Engineer in accordance with the "Notification" General Condition 13 for discharges exceeding 300 linear feet of impact of intermittent stream beds. In such cases, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine the adverse environmental effects are minimal both individually and cumulatively, and waive this limitation in writing before the permittee may proceed;

d. For discharges causing the loss of greater than 1/10-acre of non-tidal waters of the US, the permittee notifies the District Engineer in accordance with General Condition 13;

e. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected special aquatic sites;

f. The discharge is part of a single and complete project; and

g. Compensatory mitigation will normally be required to offset the losses of waters of the US. The notification must also include a compensatory mitigation proposal to offset authorized losses of waters of the US.

For the purposes of this NWP, the term "recreational facility" is defined as a recreational activity that is integrated into the natural landscape and does not substantially change preconstruction grades or deviate from natural landscape contours. For the purpose of this permit, the primary function of recreational facilities does not include the use of motor vehicles, buildings, or impervious surfaces. Examples of recreational facilities that may be authorized by this NWP include hiking trails, bike paths, horse paths, nature centers, and campgrounds (excluding trailer parks). This NWP may authorize the construction or expansion of golf courses and the expansion of ski areas, provided the golf course or ski area does not substantially deviate from natural landscape contours. Additionally, these activities are designed to minimize adverse effects to waters of the US and riparian areas through the use of such practices as integrated pest management, adequate stormwater management facilities, vegetated buffers, reduced fertilizer use, etc. The facility must have adequate water quality management measures in accordance with General Condition 9, such as a stormwater management facility, to ensure that the recreational facility results in no substantial adverse effects to water quality. This NWP also authorizes the construction or expansion of small support facilities, such as maintenance and storage buildings and stables that are directly related to the recreational activity. This NWP does not authorize other buildings, such as hotels, restaurants, etc. The construction or expansion of playing fields (e.g., baseball, soccer, or football fields), basketball and tennis courts, racetracks, stadiums, arenas, and the construction of new ski areas are not authorized by this NWP. (Section 404)

***** 43. Stormwater Management Facilities.** Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, for the construction and maintenance of stormwater management facilities, including activities for the excavation of stormwater ponds/facilities, detention basins, and retention basins; the installation and maintenance of water control structures, outfall structures and emergency spillways; and the maintenance dredging of existing stormwater management ponds/facilities and detention and retention basins, provided the activity meets all of the following criteria:

a. The discharge for the construction of new stormwater management facilities does not cause the loss of greater than 1/2-acre of non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters;

b. The discharge does not cause the loss of greater than 300 linear-feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

c. For discharges causing the loss of greater than 300 linear feet of intermittent stream beds, the permittee notifies the District Engineer in accordance with the "Notification" General Condition 13. In such cases, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine the adverse environmental effects are minimal both individually and cumulatively, and waive this limitation in writing before the permittee may proceed;

d. The discharges of dredged or fill material for the construction of new stormwater management facilities in perennial streams is not authorized;

e. For discharges or excavation for the construction of new stormwater management facilities or for the maintenance of existing stormwater management facilities causing the loss of greater than 1/10-acre of non-tidal waters, excluding non-tidal wetlands adjacent to tidal waters, provided the permittee notifies the District Engineer in accordance with the "Notification" General Condition 13. In addition, the notification must include:

- (1) A maintenance plan. The maintenance plan should be in accordance with state and local requirements, if any such requirements exist;
 - (2) For discharges in special aquatic sites, including wetlands and submerged aquatic vegetation, the notification must include a delineation of affected areas; and
 - (3) A compensatory mitigation proposal that offsets the loss of waters of the US.
- Maintenance in constructed areas will not require mitigation provided such maintenance is accomplished in designated maintenance areas and not within compensatory mitigation areas (i.e., District Engineers may designate non-maintenance areas, normally at the downstream end of the stormwater management facility, in existing stormwater management facilities). (No mitigation will be required for activities that are exempt from Section 404 permit requirements);
- f. The permittee must avoid and minimize discharges into waters of the US at the project site to the maximum extent practicable, and the notification must include a written statement to the District Engineer detailing compliance with this condition (i.e. why the discharge must occur in waters of the US and why additional minimization cannot be achieved);
 - g. The stormwater management facility must comply with General Condition 21 and be designed using BMPs and watershed protection techniques. Examples may include forebays (deeper areas at the upstream end of the stormwater management facility that would be maintained through excavation), vegetated buffers, and siting considerations to minimize adverse effects to aquatic resources. Another example of a BMP would be bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources from storm flows, especially downstream of the facility, that provide, to the maximum extent practicable, for long term aquatic resource protection and enhancement;
 - h. Maintenance excavation will be in accordance with an approved maintenance plan and will not exceed the original contours of the facility as approved and constructed; and
 - i. The discharge is part of a single and complete project. (Section 404)

- 44. Mining Activities.** Discharges of dredged or fill material into:
- (i) Isolated waters; streams where the annual average flow is 1 cubic foot per second or less, and non-tidal wetlands adjacent to headwater streams, for aggregate mining (i.e., sand, gravel, and crushed and broken stone) and associated support activities;
 - (ii) Lower perennial streams, excluding wetlands adjacent to lower perennial streams, for aggregate mining activities (support activities in lower perennial streams or adjacent wetlands are not authorized by this NWP); and/or
 - (iii) Isolated waters and non-tidal wetlands adjacent to headwater streams, for hard rock/mineral mining activities (i.e., extraction of metalliferous ores from subsurface locations) and associated support activities, provided the discharge meets the following criteria:
 - a. The mined area within waters of the US, plus the acreage loss of waters of the US resulting from support activities, cannot exceed 1/2-acre;
 - b. The permittee must avoid and minimize discharges into waters of the US at the project site to the maximum extent practicable, and the notification must include a written statement detailing compliance with this condition (i.e., why the discharge must occur in waters of the US and why additional minimization cannot be achieved);
 - c. In addition to General Conditions 17 and 20, activities authorized by this permit must not substantially alter the sediment characteristics of areas of concentrated shellfish beds or fish spawning areas. Normally, the water quality management measures required by General Condition 9 should address these impacts;
 - d. The permittee must implement necessary measures to prevent increases in stream gradient and water velocities and to prevent adverse effects (e.g., head cutting, bank erosion) to upstream and downstream channel conditions;
 - e. Activities authorized by this permit must not result in adverse effects on the course, capacity, or condition of navigable waters of the US;
 - f. The permittee must use measures to minimize downstream turbidity;
 - g. Wetland impacts must be compensated through mitigation approved by the Corps;
 - h. Beneficiation and mineral processing for hard rock/mineral mining activities may not occur within 200 feet of the ordinary high water mark of any open waterbody. Although the Corps does not regulate discharges from these activities, a CWA section 402 permit may be required;
 - i. All activities authorized must comply with General Conditions 9 and 21. Further, the District Engineer may require water quality management measures to ensure the authorized work results in minimal adverse effects to water quality;
 - j. Except for aggregate mining activities in lower perennial streams, no aggregate mining can occur within stream beds where the average annual flow is greater than 1 cubic foot per second or in waters of the US within 100 feet of the ordinary high water mark of headwater stream segments where the average annual flow of the stream is greater than 1 cubic foot per second (aggregate mining can occur in areas immediately adjacent to the ordinary high water mark of a stream where the average annual flow is 1 cubic foot per second or less);
 - k. Single and complete project: The discharge must be for a single and complete project, including support activities. Discharges of dredged or fill material into waters of the US for multiple mining activities on several designated parcels of a single and complete mining operation can be authorized by this NWP provided the 1/2-acre limit is not exceeded; and
 - l. Notification: The permittee must notify the District Engineer in accordance with General Condition 13. The notification must include: (1) A description of waters of the US adversely affected by the project; (2) A written statement to the District Engineer detailing compliance with paragraph (b), above (i.e., why the discharge must occur in waters of the US and why additional minimization cannot be achieved); (3) A description of measures taken to ensure that the proposed work complies with paragraphs (c) through (f), above; and (4) A reclamation plan (for aggregate mining in isolated waters and non-tidal wetlands adjacent to headwaters and hard rock/mineral mining only).

This NWP does not authorize hard rock/mineral mining, including placer mining, in streams. No hard rock/mineral mining can occur in waters of the US within 100 feet of the ordinary high water mark of headwater streams. The term's "headwaters" and "isolated waters" are defined at 33 CFR 330.2(d) and (e), respectively. For the purposes of this NWP, the term "lower perennial stream" is defined as follows: "A stream in which the gradient is low and water velocity is slow, there is no tidal influence, some water flows throughout the year, and the substrate consists mainly of sand and mud." (Sections 10 and 404)

NOTE: THE IEPA HAS CONDITIONED SECTION 401 WATER QUALITY CERTIFICATION APPLICABLE TO NATIONWIDE PERMIT 44. DEPARTMENT OF THE ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344) UNDER NATIONWIDE PERMIT 44 WILL BE SUBJECT TO THE IEPA CONDITIONS IN ADDITION TO THE CONDITIONS PUBLISHED IN SECTION C.

Section 401 Water Quality Certification Conditions for Nationwide Permit 44, Mining Activities.

1. The applicant shall not cause:
 - A. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation;
 - B. water pollution defined and prohibited by the Illinois Environmental Protection Act; or
 - C. interference with water use practices near public recreation areas or water supply intakes.
2. The applicant for Nationwide Permit shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
3. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statues, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
4. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 5 (five) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.
5. The applicant shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS; 1995).
6. Any applicant that is proposing mining activities shall obtain a construction and/or operation permit or exemption thereof pursuant to 35 Il. Adm. Code, Subtitle D, Sections 403, 404.101 and 404.103.

C. Nationwide Permit General Conditions

The following General Conditions must be followed in order for any authorization by an NWP to be valid:

1. **Navigation.** No activity may cause more than a minimal adverse effect on navigation.
2. **Proper Maintenance.** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. **Equipment.** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. **Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any

case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.

7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Water Quality. (a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

(b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

11. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWPs.

(b) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and http://www.nfms.noaa.gov/prot_res/overview/es.html respectively.

12. Historic Properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification.

(a) Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and

can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or
- (2) If notified in writing by the District or Division Engineer that an Individual Permit is required; or
- (3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));
- (5) For NWP 7 (Outfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;
- (6) For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;
- (7) For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;
- (8) For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;
- (9) For NWP 29 (Single-Family Housing), the PCN must also include:
 - (i) Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;
 - (ii) A statement that the single-family housing activity is for a personal residence of the permittee;
 - (iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 1/4-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 1/4-acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));
 - (iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;
- (10) For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:
 - (i) Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;
 - (ii) A delineation of any affected special aquatic sites, including wetlands; and,
 - (iii) Location of the dredged material disposal site;
- (11) For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;
- (12) For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;
- (13) For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

(14) For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent non-tidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

(15) For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

(16) For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

(d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

(e) Agency Coordination: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception

of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than 1/4-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

(a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

(b) A statement that any required mitigation was completed in accordance with the permit conditions; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3-acre).

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

(a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

(d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, 1/4-acre of wetlands cannot be created to change a 3/4-acre loss of wetlands to a 1/2-acre loss associated with NWP 39 verification. However, 1/2-acre of created wetlands can be used to reduce the impacts of a 1/2-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

(e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by

creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

(g) Compensatory mitigation proposals submitted with the "notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

(h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

(a) Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

(b) Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

(c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

E. Definitions

Best Management Practices (BMPs): BMPs are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.

Ephemeral Stream: An ephemeral stream has flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as "floodway fringe").

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

(a) Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

(b) Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

(c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

E. Definitions

Best Management Practices (BMPs): BMPs are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.

Ephemeral Stream: An ephemeral stream has flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as "floodway fringe").

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

Independent Utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent Stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of Waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Impacts to ephemeral streams are not included in the linear foot measurement of loss of stream bed for the purpose of determining compliance with the linear foot limits of NWPs 39, 40, 42, and 43. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US.

Non-tidal Wetland: A non-tidal wetland is a wetland (i.e., a water of the US) that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open Water: An area that, during a year with normal patterns of precipitation, has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term "open water" includes rivers, streams, lakes, and ponds. For the purposes of the NWPs, this term does not include ephemeral waters.

Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWPs 3, 25, 36, etc. are not included.

Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

Riffle and Pool Complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Single and Complete Project: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations: each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies.

Stormwater Management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater Management Facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream Bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to open-waters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement, or preservation of aquatic habitats to ensure that activities authorized by NWP result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

Vegetated Shallows: Vegetated shallows are special aquatic sites under the 404(b) (1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

*** (Nationwide permits where Illinois Environmental Protection Agency has denied Section 401 Water Quality Certification.)

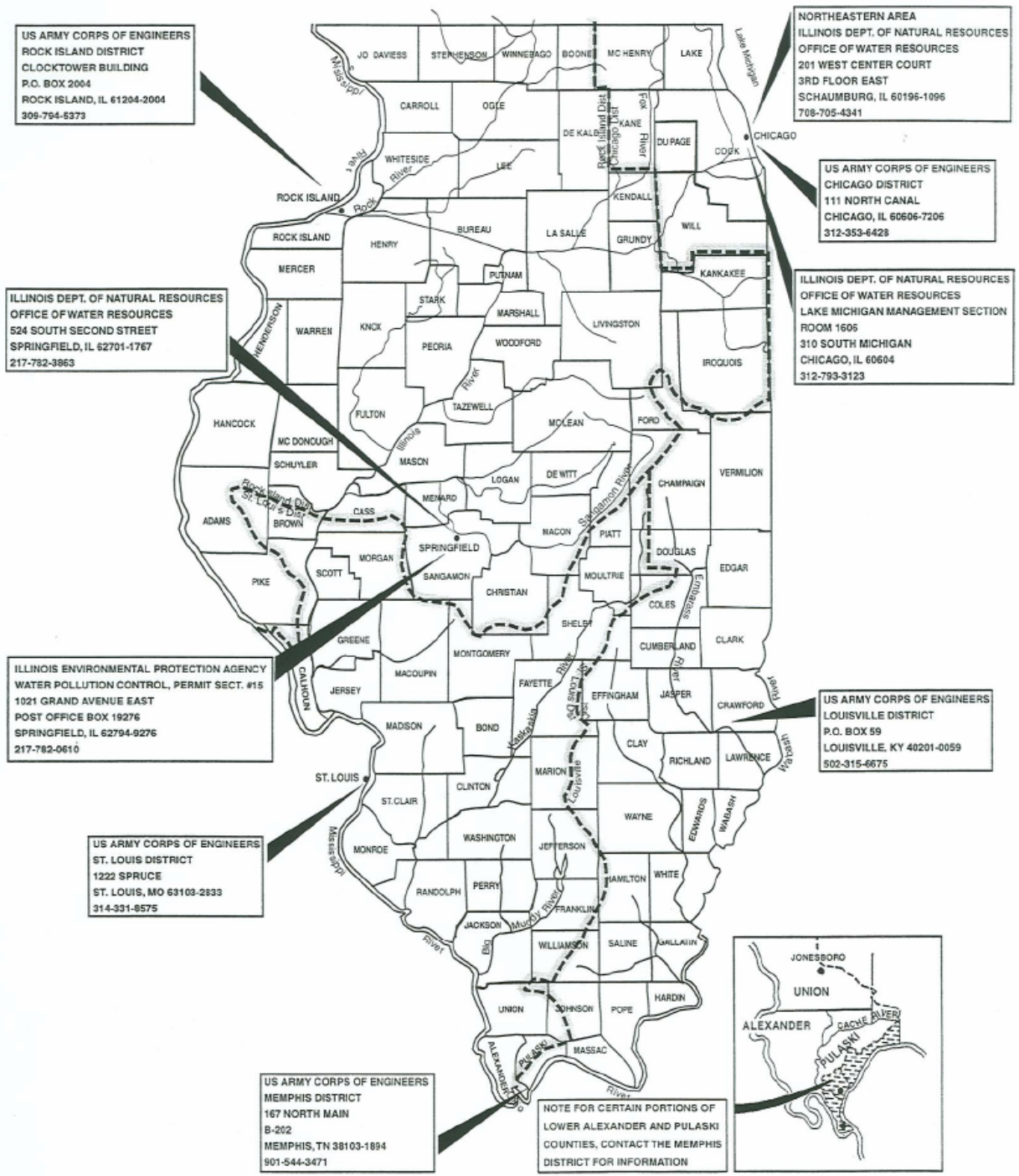
PCN - Pre-Construction Notification

High Value Subwatersheds - The state of Illinois has defined these areas through a combination of factors. Various sources of information were used to analyze and rank subwatersheds. Federal Threatened and Endangered Species, % of wetlands in the watershed, Natural Areas Inventory, and Biological Stream Categorization were factors used for High Value designation. A map highlighting these areas is attached.

Critical Resource Waters



REGULATORY JURISDICTIONAL BOUNDARIES



JURISDICTIONAL DETERMINATION

U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: CEMVR
FILE NUMBER: 422990

PROJECT LOCATION INFORMATION:

State: Illinois
County: Brown
Center coordinates of site (latitude/longitude):
Approximate size of area (parcel) reviewed, including uplands: acres.
Name of nearest waterway: Illinois River
Name of watershed: Same

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: 12-17-03
Site visit(s) Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 1650 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Site is immediately adjacent to the Illinois and LaMoines River

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
 - the presence of litter and debris
 - changes in the character of soil
 - destruction of terrestrial vegetation
 - shelving
 - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gages
 - other:
- Mean High Water Mark indicated by:
- survey to available datum;
 - physical markings;
 - vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Illinois Department of Transportation

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
 - Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: _____
 - Other (explain): _____

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
 - Data sheets prepared/submitted by or on behalf of the applicant.
 - This office concurs with the delineation report, dated Oct. Nov. Dec. 2001, prepared by (company): Illinois Natural History Survey
- Survey
- This office does not concur with the delineation report, dated _____, prepared by (company): _____
 - Data sheets prepared by the Corps.
 - Corps' navigable waters' studies:
 - U.S. Geological Survey Hydrologic Atlas:
 - U.S. Geological Survey 7.5 Minute Topographic maps:
 - U.S. Geological Survey 7.5 Minute Historic quadrangles:
 - U.S. Geological Survey 15 Minute Historic quadrangles:
 - USDA Natural Resources Conservation Service Soil Survey:
 - National wetlands inventory maps:
 - State/Local wetland inventory maps:
 - FEMA/FIRM maps (Map Name & Date): _____
 - 100-year Floodplain Elevation is: _____ (NGVD)
 - Aerial Photographs (Name & Date): _____
 - Other photographs (Date): _____
 - Advanced Identification Wetland maps:
 - Site visit/determination conducted on: _____
 - Applicable/supporting case law: _____
 - Other information (please specify): _____

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

ILLINOIS DEPARTMENT OF LABOR

PREVAILING WAGES FOR BROWN COUNTY EFFECTIVE JULY 2005

The Prevailing rates of wages are included in the Contract proposals which are subject to Check Sheet #5 of the Supplemental Specifications and Recurring Special Provisions. The rates have been ascertained and certified by the Illinois Department of Labor for the locality in which the work is to be performed and for each craft or type of work or mechanic needed to execute the work of the Contract. As required by Prevailing Wage Act (820 ILCS 130/0.01, et seq.) and Check Sheet #5 of the Contract, not less than the rates of wages ascertained by the Illinois Department of Labor and as revised during the performance of a Contract shall be paid to all laborers, workers and mechanics performing work under the Contract. Post the scale of wages in a prominent and easily accessible place at the site of work.

If the Illinois Department of Labor revises the prevailing rates of wages to be paid as listed in the specification of rates, the contractor shall post the revised rates of wages and shall pay not less than the revised rates of wages. Current wage rate information shall be obtained by visiting the Illinois Department of Labor web site at <http://www.state.il.us/agency/idol/> or by calling 312-793-2814. It is the responsibility of the contractor to review the rates applicable to the work of the contract at regular intervals in order to insure the timely payment of current rates. Provision of this information to the contractor by means of the Illinois Department of Labor web site satisfies the notification of revisions by the Department to the contractor pursuant to the Act, and the contractor agrees that no additional notice is required. The contractor shall notify each of its subcontractors of the revised rates of wages.

Brown County Prevailing Wage for July 2005

Trade Name	RG	TYP	C	Base	FRMAN	*M-F>8	OSA	OSH	H/W	Pensn	Vac	Trng
ASBESTOS ABT-GEN		BLD		21.960	22.960	1.5	1.5	2.0	4.800	5.530	0.000	0.600
ASBESTOS ABT-MEC		BLD		24.010	25.010	1.5	1.5	2.0	2.920	4.320	0.000	0.000
BOILERMAKER		BLD		27.000	29.500	1.5	1.5	2.0	7.020	10.21	0.000	0.210
BRICK MASON		BLD		23.690	24.690	1.5	1.5	2.0	5.750	4.900	0.000	0.475
CARPENTER		BLD		22.760	24.510	1.5	1.5	2.0	6.500	7.900	0.000	0.300
CARPENTER		HWY		22.750	24.500	1.5	1.5	2.0	6.500	7.800	0.000	0.300
CEMENT MASON		BLD		22.050	23.050	1.5	1.5	2.0	5.000	7.680	0.000	0.150
CEMENT MASON		HWY		21.700	22.500	1.5	1.5	2.0	5.000	6.650	0.000	0.150
CERAMIC TILE FNSHER		BLD		22.340	0.000	1.5	1.5	2.0	5.750	4.900	0.000	0.000
ELECTRIC PWR EQMT OP		ALL		28.840	34.100	1.5	1.5	2.0	4.500	7.790	0.000	0.000
ELECTRIC PWR GRNDMAN		ALL		19.790	34.100	1.5	1.5	2.0	4.500	5.340	0.000	0.000
ELECTRIC PWR LINEMAN		ALL		32.040	34.100	1.5	1.5	2.0	4.500	8.650	0.000	0.000
ELECTRIC PWR TRK DRV		ALL		20.760	34.100	1.5	1.5	2.0	4.500	5.600	0.000	0.000
ELECTRICIAN		BLD		24.890	26.390	1.5	1.5	2.0	5.150	6.255	0.000	0.250
ELECTRONIC SYS TECH		BLD		21.750	23.250	1.5	1.5	2.0	5.150	4.905	0.000	0.440
ELEVATOR CONSTRUCTOR		BLD		31.135	35.030	2.0	2.0	2.0	7.275	3.420	1.870	0.000
GLAZIER		BLD		25.430	0.000	1.5	2.0	2.0	4.480	3.230	0.000	0.280
HT/FROST INSULATOR		BLD		28.790	29.790	1.5	1.5	2.0	4.250	7.360	0.000	0.000
IRON WORKER		BLD		24.350	26.100	1.5	1.5	2.0	5.200	8.110	0.000	0.300
IRON WORKER		HWY		24.350	25.850	1.5	1.5	2.0	5.200	8.110	0.000	0.300
LABORER		BLD		20.460	21.460	1.5	1.5	2.0	4.800	5.530	0.000	0.600
LABORER		HWY		21.010	21.760	1.5	1.5	2.0	4.300	5.050	0.000	0.500
LATHER		BLD		22.760	24.510	1.5	1.5	2.0	6.500	7.900	0.000	0.300
MACHINIST		BLD		35.630	37.630	2.0	2.0	2.0	3.880	4.750	2.460	0.000
MARBLE FINISHERS		BLD		22.340	0.000	1.5	1.5	2.0	5.750	4.900	0.000	0.000
MARBLE MASON		BLD		23.840	24.590	1.5	1.5	2.0	5.750	4.900	0.000	0.000
MILLWRIGHT		BLD		25.270	27.020	1.5	1.5	2.0	6.500	5.850	0.000	0.300
MILLWRIGHT		HWY		19.070	20.320	1.5	1.5	2.0	2.800	3.000	0.000	0.000
OPERATING ENGINEER		BLD	1	25.850	0.000	1.5	1.5	2.0	5.500	6.050	0.000	0.800
OPERATING ENGINEER		BLD	2	23.500	0.000	1.5	1.5	2.0	5.500	6.050	0.000	0.800
OPERATING ENGINEER		BLD	3	19.900	0.000	1.5	1.5	2.0	5.500	6.050	0.000	0.800
OPERATING ENGINEER		HWY	1	26.100	0.000	1.5	1.5	2.0	5.500	6.050	0.000	0.800
OPERATING ENGINEER		HWY	2	23.450	0.000	1.5	1.5	2.0	5.500	6.050	0.000	0.800
OPERATING ENGINEER		HWY	3	19.380	0.000	1.5	1.5	2.0	5.500	6.050	0.000	0.800
OPERATING ENGINEER		HWY	4	27.600	0.000	1.5	1.5	2.0	5.500	6.050	0.000	0.800
PAINTER		ALL		24.240	25.240	1.5	1.5	2.0	3.900	4.750	0.000	0.250
PAINTER OVER 30FT		ALL		25.240	26.240	1.5	1.5	2.0	3.900	4.750	0.000	0.250
PAINTER PWR EQMT		ALL		25.240	26.240	1.5	1.5	2.0	3.900	4.750	0.000	0.250
PILEDRIVER		BLD		23.260	25.010	1.5	1.5	2.0	6.500	7.900	0.000	0.300
PILEDRIVER		HWY		23.250	25.000	1.5	1.5	2.0	6.500	7.800	0.000	0.300
PIPEFITTER		ALL		30.020	33.020	1.5	1.5	2.0	4.650	7.230	0.000	0.510
PLUMBER		ALL		30.020	33.020	1.5	1.5	2.0	4.650	7.230	0.000	0.510
ROOFER		BLD		23.200	24.200	1.5	1.5	2.0	5.350	6.100	0.000	0.150
SHEETMETAL WORKER		BLD		27.200	28.950	1.5	1.5	2.0	6.900	7.050	0.000	0.350
SPRINKLER FITTER		BLD		29.390	30.890	1.5	1.5	2.0	6.100	4.950	0.000	0.250
STONE MASON		BLD		23.690	24.690	1.5	1.5	2.0	5.750	4.900	0.000	0.475
TERRAZZO FINISHER		BLD		22.340	0.000	1.5	1.5	2.0	5.750	4.900	0.000	0.000
TERRAZZO MASON		BLD		23.840	24.590	1.5	1.5	2.0	5.750	4.900	0.000	0.000
TILE MASON		BLD		23.840	24.590	1.5	1.5	2.0	5.750	4.900	0.000	0.000
TRUCK DRIVER		ALL	1	24.905	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		ALL	2	25.305	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		ALL	3	25.505	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		ALL	4	25.755	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		ALL	5	26.505	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		O&C	1	19.924	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		O&C	2	20.244	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		O&C	3	20.404	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TRUCK DRIVER		O&C	4	20.604	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000

TRUCK DRIVER	O&C	5	21.204	0.000	1.5	1.5	2.0	7.000	3.200	0.000	0.000
TUCKPOINTER	BLD		23.690	24.690	1.5	1.5	2.0	5.750	4.900	0.000	0.475

Legend:

M-F>8 (Overtime is required for any hour greater than 8 worked each day, Monday through Friday.)

OSA (Overtime is required for every hour worked on Saturday)

OSH (Overtime is required for every hour worked on Sunday and Holidays)

H/W (Health & Welfare Insurance)

Pensn (Pension)

Vac (Vacation)

Trng (Training)

Explanations

BROWN COUNTY

The following list is considered as those days for which holiday rates of wages for work performed apply: New Years Day, Memorial/Decoration Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day. Generally, any of these holidays which fall on a Sunday is celebrated on the following Monday. This then makes work performed on that Monday payable at the appropriate overtime rate for holiday pay. Common practice in a given local may alter certain days of celebration such as the day after Thanksgiving for Veterans Day. If in doubt, please check with IDOL.

Oil and chip resealing (O&C) means the application of road oils and liquid asphalt to coat an existing road surface, followed by application of aggregate chips or gravel to coated surface, and subsequent rolling of material to seal the surface.

EXPLANATION OF CLASSES

ASBESTOS - GENERAL - removal of asbestos material/mold and hazardous materials from any place in a building, including mechanical systems where those mechanical systems are to be removed. This includes the removal of asbestos materials/mold and hazardous materials from ductwork or pipes in a building when the building is to be demolished at the time or at some close future date.

ASBESTOS - MECHANICAL - removal of asbestos material from mechanical systems, such as pipes, ducts, and boilers, where the mechanical systems are to remain.

CERAMIC TILE FINISHER, MARBLE FINISHER, TERRAZZO FINISHER

Assisting, helping or supporting the tile, marble and terrazzo mechanic by performing their historic and traditional work assignments required to complete the proper installation of the work covered by said crafts. The term "Ceramic" is used for naming the classification only and is in no way a limitation of the product handled. Ceramic

takes into consideration most hard tiles.

ELECTRONIC SYSTEMS TECHNICIAN

Installation, service and maintenance of low-voltage systems which utilizes the transmission and/or transference of voice, sound, vision, or digital for commercial, education, security and entertainment purposes for the following: TV monitoring and surveillance, background/foreground music, intercom and telephone interconnect, field programming, inventory control systems, microwave transmission, multi-media, multiplex, radio page, school, intercom and sound burglar alarms and low voltage master clock systems.

Excluded from this classification are energy management systems, life safety systems, supervisory controls and data acquisition systems not intrinsic with the above listed systems, fire alarm systems, nurse call systems and raceways exceeding fifteen feet in length.

TRUCK DRIVER - BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

Class 1. Drivers on 2 axle trucks hauling less than 9 ton. Air compressor and welding machines and brooms, including those pulled by separate units, truck driver helpers, warehouse employees, mechanic helpers, greasers and tiremen, pickup trucks when hauling materials, tools, or workers to and from and on-the-job site, and fork lifts up to 6,000 lb. capacity.

Class 2. Two or three axle trucks hauling more than 9 ton but hauling less than 16 ton. A-frame winch trucks, hydrolift trucks, vector trucks or similar equipment when used for transportation purposes. Fork lifts over 6,000 lb. capacity, winch trucks, four axle combination units, and ticket writers.

Class 3. Two, three or four axle trucks hauling 16 ton or more. Drivers on water pulls, articulated dump trucks, mechanics and working forepersons, and dispatchers. Five axle or more combination units.

Class 4. Low Boy and Oil Distributors.

Class 5. Drivers who require special protective clothing while employed on hazardous waste work.

TRUCK DRIVER - OIL AND CHIP RESEALING ONLY.

This shall encompass laborers, workers and mechanics who drive contractor or subcontractor owned, leased, or hired pickup, dump, service, or oil distributor trucks. The work includes transporting materials and equipment (including but not limited to, oils, aggregate supplies, parts, machinery and tools) to or from the job site; distributing oil or liquid asphalt and aggregate; stock piling material when in connection with the actual oil and chip contract. The Truck Driver (Oil & Chip Resealing) wage classification does not include supplier delivered materials.

OPERATING ENGINEERS - BUILDING

CLASS 1. Asphalt Screed Man; Aspco Concrete Spreaders; Asphalt Pavers; Asphalt Plant Engineer; Asphalt Rollers on Bituminous Concrete; Athey Loaders; Backfillers, Crane Type; Backhoes; Barber Green Loaders; Bulldozers; Cableways; Cherry Pickers; Clam Shells;

C.M.I. & similar type autograde formless paver, autograde placer & finisher; Concrete Breakers; Concrete Pumps; Cranes; Derricks; Derrick Boats; Draglines; Earth Auger or Boring Machines; Elevating Graders; Engineers on Dredges; Gravel Processing Machines; Head Equipment Greaser; High Lifts or Fork Lifts; Hoists with two or more drums or two or more load lines; Locomotives, All; Mechanics; Motor Graders or Auto Patrols; Operators or Leverman on Dredges; Operators, Power Boat; Operators, Pug Mill (Asphalt Plants); Orange Peels; Overhead Cranes; Paving Mixers; Piledrivers; Pipe Wrapping and Painting Machines; Pushdozers, or Push Cats; Robotic Con-trolled Equipment in this Classification; Rock Crushers; Ross Carrier or Similar Machines; Rotomill; Scoops, Skimmer, two cu. yd. capacity and under; Scoops, All or Tournapull; Sheep-Foot Roller (Self Propelled); Shovels; Skid Steer; Skimmer Scoops; Temporary Concrete Plant Operators; Test Hole Drilling Machines; Tower Cranes; Tower Machines; Tower Mixers; Track Type End Loaders; Track Type Fork Lifts or High Lifts; Track Jacks and Tampers; Tractors, Sideboom; Trenching or Ditching Machine; Tunnelluggers; Vermeer Type Saws; Water Blaster Cutting Head; Wheel Type End Loaders; Winch Cat.

CLASS 2. Air Compressors (six to eight)*; Asphalt Boosters and Heaters; Asphalt Distributors; Asphalt Plant Fireman; Oiler on Two Paving Mixers When Used in Tandem; Boom or Winch Trucks; Bull Floats or Flexplanes; Concrete Finishing Machine; Concrete Saws, Self-Propelled; Concrete Spreading Machines; Conveyors (six to eight)*; Generators (six to eight)*; Gravel or Stone Spreader, Power Operated; Hoist (with One Drum and One Load Line); Light Plants (six to eight)*; Mechanical Heaters (six to eight)*; Mud Jacks; Post Hole Digger, Mechanical; Pug Mills when used for other than Asphalt operation; Robotic Controlled Equipment in this Classification; Road or Street Sweeper, Self Propelled; Rollers (except bituminous concrete); Seaman Tiller; Straw Machine; Vibratory Compactor; Water Blaster, Power Unit; Welding Machines (six to eight)*; Well Drill Machines.

CLASS 3. Air Compressors(one to five)*; Air Compressors, Track or Self-Propelled; Automatic Hoist; Building Elevators; Bulk Cement Batching Plants; Conveyors (one to five)*; Concrete Mixers (Except Plant, Paver, or Tower); Firemen; Generators (one to five)*; Greasers; Helper on Single Paving Mixer; Hoist, Automatic; Light Plants (one to five)*; Mechanic Helpers; Mechanical Heaters (one to five)*; Oilers; Power Form Graders; Power Sub-Graders; Robotic Controlled Equipment in this Classification; Scissors Hoist; Tractors without power attachments regardless of size or type; Truck Crane Oiler and Driver (1 man); Vibratory Hammer (powersource); Water Pumps (one to five)*; Welding Machines (1/300 Amp. or over)*; Welding machines (one to five)*

* Combinations of one to eight of any Air Compressors, Conveyors, Welding Machines, Water Pumps, Light Plants, or Generators shall be in batteries or within 400 feet and shall be paid as per the Classification Schedule contained in this Article.

OPERATING ENGINEERS - HIGHWAY

CLASS 1. Asphalt Screed Man; Asphco Concrete Spreaders; Asphalt Pavers; Asphalt Plant Engineer; Asphalt Rollers on Bituminous Concrete; Athey Loaders; Backhoes; Barber Green Loaders; Bulldozers; Cableways; Carry Deck Pickers; Cherry Pickers (Rough Terrain); C.M.I. & similar type-autograde formless paver, autograde placer & finisher; Concrete Breakers; Concrete Plant Operators; Concrete Pumps; Derricks; Derrick Boats; Dewatering Systems; Earth Auger or Boring Machines; Elevating Graders; Engineers on Dredges; Gravel Processing Machines;

Grout Pump; Head Equipment Greaser; High Lifts or Fork Lifts; Hoists with two or more drums or two or more load lines; Hydro Jet or Hydro Laser; Locomotives, All; Mechanics; Motor Graders or Auto Patrols; Multi-Point Power Lifting Equipment; Operators or Leverman on Dredges; Operators, Power Boat; Operators, Pug Mill (Asphalt Plants); Overhead Cranes; Paving Mixers; Piledrivers; Pipe Wrapping and Painting Machines; Push-dozers, or Push Cats; Robotic Controlled Equipment in this Classification; Rock Crushers; Ross Carrier or Similar Machines; Roto-Mill; Scoops, Skimmer, two cu. yd. capacity and under; Sheep-Foot Roller (Self Propelled); Shovels; Skid Steer; Skimmer Scoops; Test Hole Drilling Machines; Tower Machines; Tower Mixers; Track Type End Loaders; Track Type Fork Lifts or High Lifts; Track Jacks and Tampers; Tractors, Side-boom; Trenching or Ditching Machine; Tunnelluggers; Vermeer-Type Saws; Wheel Type End Loaders; Winch Cat; Scoops, All or Tournapull.

CLASS 2. Air Compressors (six to eight)*; Articulated Dumps; Asphalt Boosters and Heaters; Asphalt Distributors; Asphalt Plant Fireman; Boom or Winch Trucks; Building Elevators; Bull Floats or Flexplanes; Concrete Finishing Machine; Concrete Saws, Self-Propelled; Concrete Spreading Machines; Conveyors (six to eight)*; Generators (six to eight)*; Gravel or Stone Spreader, Power Operated; Hoist, Automatic; Hoist with One Drum and One Load Line; Light Plants (six to eight)*; Mechanical Heaters (six to eight)*; Mud Jacks; Off Road Water Wagons; Oiler on Two Paving Mixers When Used in Tandem; Post Hole Digger, Mechanical; Robotic Controlled Equipment in This Classification; Road or Street Sweeper, Self-Propelled; Rollers (except bituminous concrete); Scissor Hoist; Sea-man Tiller; Straw Machine; Vibratory Compactor; Water Pumps (six to eight)*; Well Drill Machines.

CLASS 3. Air Compressors (one to five)*; Air Compressors, Track or Self-Propelled; Bulk Cement Batching Plants; Conveyors (one to five)*; Concrete Mixers (Except Plant, Paver, or Tower); Firemen; Generators (one to five)*; Greasers; Helper on Single Paving Mixer; Light Plants (one to five)*; Mechanic Helpers; Mechanical Heaters (one to five)*; Oilers; Power Form Graders; Power Sub-Graders; Pug Mills when used for other than Asphalt operation; Robotic Controlled Equipment in This Classification; Tractors without power attachments, regardless of size or type; Truck Crane Oiler and Driver (1 man); Vibratory Hammer (power source); Water Pumps (one to five)*; Welding Machines (one 300 Amp. or over)*; Welding Machines (one to five)*.

CLASS 4. Lattice Boom Crawler Crane; Lattice Boom Truck Crane; Telescopic Truck-Mounted Crane; Tower Crane.

*Combinations of one to eight of any Air Compressors, Conveyors, Welding Machines, Water Pumps, Light Plants or Generators shall be in batteries or within 400 feet and shall be paid as per the Classification Schedule contained in this Article.

Other Classifications of Work:

For definitions of classifications not otherwise set out, the Department generally has on file such definitions which are available. If a task to be performed is not subject to one of the classifications of pay set out, the Department will upon being contacted state which neighboring county has such a classification and provide such rate, such rate being deemed to exist by reference in this document. If no neighboring county rate applies to the task, the Department shall undertake a special determination, such special determination being then deemed to have existed under this determination. If a project requires these, or any classification not listed, please contact IDOL

at 618/993-7271 for wage rates or clarifications.

LANDSCAPING

Landscaping work falls under the existing classifications for laborer, operating engineer and truck driver. The work performed by landscape plantsman and landscape laborer is covered by the existing classification of laborer. The work performed by landscape operators (regardless of equipment used or its size) is covered by the classifications of operating engineer. The work performed by landscape truck drivers (regardless of size of truck driven) is covered by the classifications of truck driver.