**US Army Corps of Engineers**
Little Rock District
Memphis District
Vicksburg District

# General Permit

## 2011 ARKANSAS RGP
## Agricultural Ditch Relocation

Issuance Date:
**June 8, 2011**

EXPIRATION DATE:
**June 8, 2016**

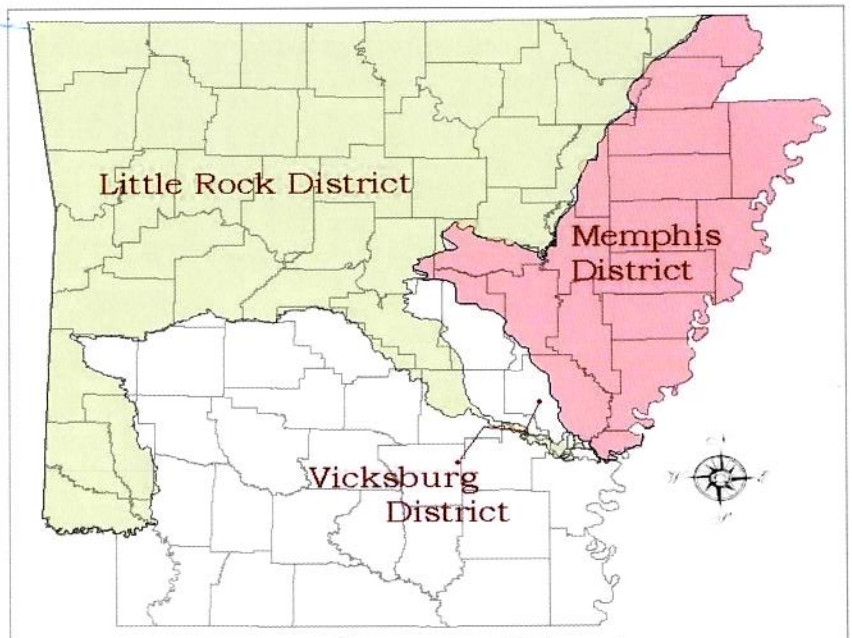
The U.S. Army Corps of Engineers, Memphis, Little Rock, and Vicksburg Districts, District Engineers (DE) announce the issuance of a Regional General Permit (RGP) to authorize deposition of fill material into waters of the United States, as regulated by Section 404 of the Clean Water Act, associated with the relocation of agricultural drainage ditches in the state of Arkansas. This RGP authorizes the relocation of up to 3,000 linear feet of a previously constructed/channelized agricultural drainage ditch currently in use for established farming operations. This RGP is intended to provide a basic framework for landowners to accomplish the relocation and subsequent management of relocated agricultural ditches.

Upon receipt of an application for this RGP, the District Engineer will review the information submitted. After an initial review, the District Engineer will advise the inquiring party as to whether additional information is required. If appropriate, the District Engineer will also advise at that time whether the proposed work will be reviewed as an individual permit or whether it may be authorized under the RGP (see the attached terms and conditions). The respective District addresses are:

USACE - Vicksburg
ATTN: Mr. Mike McNair
4155 Clay Street
Vicksburg, MS 39183-3435

USACE – Memphis
ATTN: Mr. Larry Watson
167 North Main, Rm. B-202
Memphis, TN 38103-1894

USACE - Little Rock
ATTN: Ms. Joyce Perser
700 West Capitol Ave.
Little Rock, AR 72203-0867




US Army Corps of Engineers
District Boundaries in Arkansas

# 2011 ARKANSAS RGP-
# TERMS & CONDITIONS

1. This RGP authorizes the relocation of up to 3,000 linear feet of a previously constructed/channelized agricultural drainage ditch that is determined by the Corps to be jurisdictional under Section 404 of the Clean Water Act. If determined to be no more than a minimal adverse affect to the environment then this 3,000 linear feet limit may be waived in writing by the District Engineer.

2. This RGP cannot be used to authorize work in the following circumstances:
   a) where the activity is likely to cause a loss of wetland functions, unless the Corps believes the activity may only have minimal adverse impacts;
   b) where the activity would occur in waters of the United States with perennial flow, or those waters which are determined to be unaltered;
   c) where the activity would occur in a component or a proposed component of the National Wild and Scenic River System or in a component of a system designation component of a State Natural and Scenic Waterway, Ecologically Sensitive Waterbodies, or special category waters without the appropriate Federal or state authorization;
   d) where the activity would adversely affect state wildlife management areas, national wildlife refuges, national forests, and/or extraordinary resource waters without the appropriate Federal or state authorization;
   e) where the activity would adversely affect a species formally listed on State or Federal lists of threatened or endangered species;
   f) where the activity would adversely impact a site listed in or eligible for listing in the National Register of Historic Places.

3. For consideration under this RGP, the landowner must notify the District Engineer in writing to include the following information:
   a) a vicinity map;
   b) aerial photography and/or USGS topographic map(s) denoting the alignments of the existing agricultural ditch to be relocated and the proposed relocation course, as well as a delineation of any wetlands;
   c) typical cross-section (s) of both the existing ditch and proposed ditch;
   d) a site plan denoting location of any water control structures or crossings (both proposed and existing);
   e) verification that the project plans have been reviewed by the State Historic Preservation Officer (SHPO) and U.S. Fish and Wildlife Service (FWS), verification must include the findings of these agencies;
   f) an initial baseline report (prepared by a forester, biologist, or other qualified land management professional) to include a description of the existing condition, riparian zone, in-stream features, course, drainage, current use, and wetland delineation with supporting wetland determination data forms;
   g) location of any borrow materials to be used;
   h) and the estimated starting and completion dates for construction.

4. If the project is in a Special Flood Hazard Area (SFHA), the project must comply with local flood damage prevention ordinances in communities participating in the National Flood Insurance Program (NFIP). There are standards are standards for relocation and maintaining the carrying capacity of streams in these ordinances. A list of local floodplain administrators is on the website www.floodplain.ar.gov.

5. Work shall not commence until the District Engineer issues written notification that the proposal may proceed in accordance with the terms and conditions of this RGP or other Corps authorization (e.g. an Individual permit) or clearance (i.e. no permit required).

6. Relocation of the ditch shall be conducted in a manner such that it appropriately replaces the functions and values of the existing agricultural ditch. Measures taken shall include but not be limited to:

   a) a minimum 1:1 replacement of length, unless this condition is waived in writing by the District Engineer;

   b) establishment and maintenance of a 30' herbaceous buffer strip, along both banks, seeded with native vegetation, sloping no greater than 1%. This condition may be modified in writing by the District Engineer to require only one buffer if the ditch is relocated to abut an existing riparian zone.

   c) bank slopes no steeper than 1:2 (vertical: horizontal);

   d) maintaining the drainage capacity of the existing ditch and constructing it to withstand both expected high and low flows;

   e) maintaining the relocated ditch as a vegetated agricultural drainage ditch with the ditch channel, banks, and buffer seeded with native vegetation. Note: ditch flow patterns will dictate to what extent vegetation will establish within the channel;

   f) and best management practices (i.e. silt fencing or hay bales) must be used prior, during, and after construction to control runoff until native vegetation has been established.

   g) A representative from this office and/or a qualified professional will assess the functions and values of the agricultural drainage ditch prior to any impacts. Any naturalized features associated with the ditch (i.e. existing riparian buffer, vegetated ditch, riffle/pool complexes, etc…), loss of ditch length, and/or loss of wetland functions are to be mitigated for in addition to the general conditions discussed above. The Little Rock District COE Stream Mitigation Method, http://www.swl.usace.army.mil/regulatory/funassessmethod.html, may be used to calculate additional mitigation.

7. Work may only be done when there is low or no flow in the ditch and where sustained flow is not likely to occur during construction. (i.e. work may only commence during seasonally dry periods or by constructing the new ditch prior to establishing flow).

8. Fill materials (dirt, rock, gravel, etc.) may be obtained offsite from an upland area, but must be clean and free of pollutants capable of contaminating the aquatic environment.

9. Seasonal mowing will be allowed to control the growth of woody vegetation provided a seasonal mowing plan is prepared and submitted to the Corps for approval. The growth of noxious or invasive plant species must be controlled without permanently removing native vegetation.

10. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. The Corps will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

11. A conditional water quality certification has been issued for this RGP, you must comply with the conditions specified in the attached certification as special conditions to this permit.

12. A copy of the permit conditions will be recorded with the deed of the property at the local county tax assessor or other official responsible for maintaining records of property title. A certified copy verifying that this requirement has been met must be returned to the Corps of Engineers prior to initiation of work. If you sell the property associated with the authorization under this General Permit, you must contact the appropriate Corps District so that authorization can be transferred to the new owner.

13. The permittee must allow representatives from this office to inspect the agricultural ditch at any time deemed necessary to ensure that the terms and conditions of the permit are being met.

14. The permittee must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The landowner is not relieved of this requirement if management of the ditch is abandoned. Should the landowner wish to cease management of the ditch and/or abandon maintenance of the authorized ditch, the appropriate Corps District must be contacted to obtain modification of this permit, which may require restoration of the area.

15. Authorization under this GP does not obviate the need to obtain other Federal, state, or local authorizations as required by law, does not grant any property rights or exclusive privileges, does not authorize any injury to the property or rights of others, and does not authorize interference with any existing or proposed Federal projects.

16. In the event that the subject property is encumbered by easements (i.e. flowage, utilities, rail, highway, etc.), it will be the responsibility of the applicant and/or landowner to comply with the easement terms and/or limitations.

17. By issuing this permit, the Federal Government does not assume any liability for the following: a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; d) design or construction deficiencies associated with the permitted work; e) damage claims associated with any future modification, suspension, or revocation of this permit.

18. USACE may reevaluate its decision on this permit at any time circumstances warrant. Please note that, in the event USACE finds it necessary to reevaluate its decision, permit authorization may be modified, suspended, or revoked. Circumstances that could require a reevaluation include, but are not limited to the following:

    a. Failure to comply with terms and conditions of this permit.
    b. Discovery that the information provided by the applicant and/or landowner in support of this permit request proves to have been false, incomplete, or inaccurate.

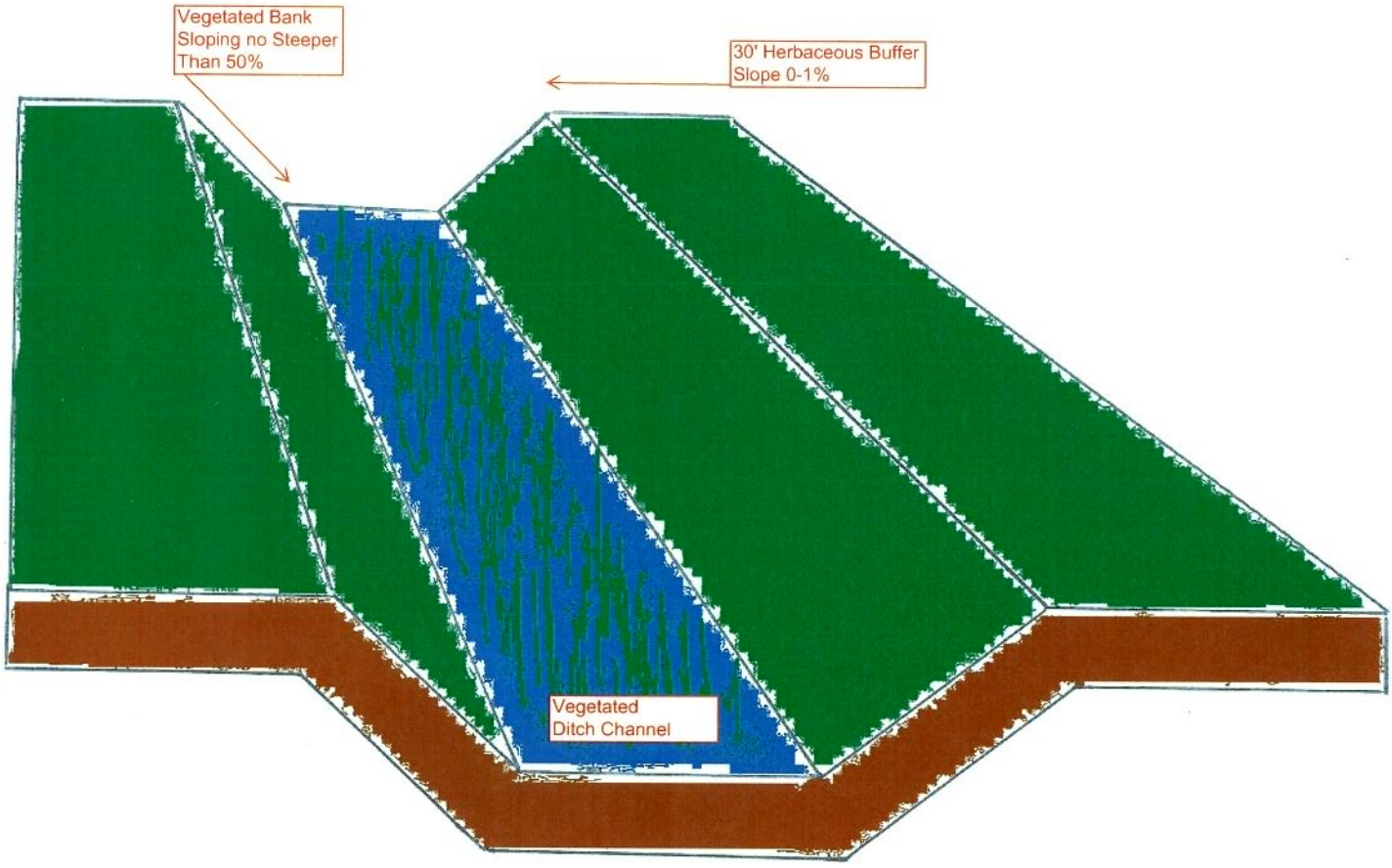



**Figure 1: Typical Cross-section**

ADEQ
ARKANSAS
Department of Environmental Quality

December 17, 2010

Colonel Vernie L. Reichling, District Engineer
Memphis District Corps of Engineers
167 North Main Street, B-202
Memphis, Tennessee 38103-1894

RE: **PUBLIC NOTICE: MVM 2010-264 (RDM)**

Dear Colonel Reichling:

The Arkansas Department of Environmental Quality ("ADEQ") has completed its review of the above referenced public notice for the U.S. Army Corps of Engineers, Memphis, Little Rock, and Vicksburg Districts, District Engineers propose a Regional General Permit (RGP) to authorize deposition of fill material into waters of the United States, as regulated by Section 404 of the Clean Water Act, associated with the relocation of agricultural drainage dikes in the *state* of Arkansas. This RGP authorizes the relocation of up to 3,000 linear feet of a previously constructed channel or agricultural drainage ditch currently in use for established farming operations. This RGP is intended to provide a basic framework for landowners to accomplish the relocation and subsequent management of relocated agricultural ditches. The general permit would expire 5 years from the date of issuance unless it is specifically modified, suspended, or revoked prior to that date. Prior to its expiration, the general permit would be considered for renewal.

ADEQ has determined that there is a reasonable assurance that this activity will be conducted in a manner which, according to the Arkansas Pollution Control and Ecology Commission's Regulation No.2, will not physically alter a significant segment of the waterbody and will not violate the water quality criteria.

Pursuant to §401(a)(1) of the Clean Water Act, the ADEQ hereby **issues** water quality certification for this project: **ID NO. MVM-2010-264 RDM**, contingent upon the following conditions:

1) The applicant shall implement and maintain all practicable best management practices to avoid excessive impacts of sedimentation and turbidity to the surface waters.
2) The applicant will take all reasonable measures to prevent the spillage or leakage of any chemicals, oil, grease, gasoline, diesel or other fuels. In the unlikely event such spillage or leakage occurs, the applicant must contact ADEQ immediately.
3) The applicant must obtain a Short Term Activity Authorization (STAA) from ADEQ for the work in the wetted area of any stream. More information can be obtained by contacting the Planning Section of ADEQ at 501-682-0028.

4) The applicant shall comply with any applicable provisions of the NPDES Storm Water Program. More information can be obtained by contacting the NPDES Storm water Section of ADEQ at 501-682-0621.
5) In issuing this certification, ADEQ does not assume any liability for the following:
    a. Damages to the proposed project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes.
    b. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity specified in this certification.
    c. Design or construction deficiencies associated with this proposed project.

Please contact Jason Hooks, of the Water Division, at (501) 682-0028 if you have any questions regarding this certification.

Sincerely,

Teresa Marks FOR
Director

cc: Robert McDermott, Project Manager, Memphis District
J. Randy Young, P.E., Chairman, Technical Review Committee, ANRC
Craig Uyeda, Chief, River Basins Section, Arkansas Game and Fish Commission
Raul Gutierrez, Region VI, Environmental Protection Agency
Lindsey Lewis, US Fish and Wildlife Service, Conway