



Donald G. Reifenrath
57549 892 Rd.
Wynot, NE 68792

[Insert Date of Signature Here]

RE: State Water Quality Certification for Section 404 Application – Reifenrath Bank Stabilization Project

Dear Mr. Don Reifenrath,

We have reviewed the information submitted to this office regarding the above-referenced project to stabilize a portion of the bank along the Missouri River in Cedar County, Nebraska. As outlined in your permit application, the proposed activities will result in no impact to wetlands and 0.0114 acres of impact to waterbodies identified as waters of the U.S. (WOTUS). No mitigation is required for these impacts.

Pursuant to § 401 of the Clean Water Act of 1977, as amended by the Water Quality Act of 1987, and Title 120, *Rules and Regulations Pertaining To Certification by The State of Nebraska*, DWEE will provide certification to an applicant for a federally issued and administered permit or license to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in a discharge into navigable waters, if the discharge will not violate Title 117, *Nebraska Surface Water Quality Standards*.

Title 117, Ch. 5, identifies key species that are associated with a particular waterbody and its aquatic life use class. Key species are endangered, threatened, sensitive, or recreationally important aquatic species. The following key species have been found to occur in the vicinity of, or be affected by, the proposed activity:

- Lake sturgeon
- Pallid sturgeon
- Sturgeon chub
- Scaleshell mussel
- Black buffalo
- Blue sucker
- Bluntnose minnow
- Burbot
- Flat floater
- Flathead chub
- Plains minnow
- Sicklefin chub
- Tadpole madtom
- Threeridge
- Western silvery minnow
- Yellow sandshell
- Shovelnose sturgeon
- Paddlefish
- Channel catfish
- Flathead catfish
- Sauger
- Walleye

The project will impact a waterbody designated as a State Resource Water A. These are surface waters identified in Title 117 which constitute an outstanding State or National resource. In order to protect the biological integrity of the waterbody and the associated key species in accordance with Title 117 Ch. 4, Section 003.01J, the project shall comply with the conditions listed in this document.

The Department's certification may specify any special condition necessary to assure that the applicant for a federal license or permit will comply with Title 117. **The Department has determined the proposed activity will comply with Title 117, with the following conditions:**

1. Construction activities will employ Best Management Practices (erosion and sediment controls), maintained in effective operating condition during construction, to reduce to the maximum extent practicable the erosion of land into water bodies located within or adjacent to the construction site (Title 117, Chapter 3, Section 001).
2. The following state Threatened and endangered (T&E) species have been found to occur in the vicinity of the proposed project area and have the potential to be affected by the anticipated water-quality impacts of the proposed activity: Lake sturgeon, Pallid sturgeon, and Sturgeon chub. Based on consultation with Nebraska Game and Parks Commission (NGPC), in order to avoid adverse effects on these species' construction, activities shall be implemented under the following conditions:
 - a) Work will not occur in the river, stream or connected backwater areas March 1 - July 31.
 - b) The project or activity will not impact water quality or flows, including out-of-channel high bank flows.
3. Temporary impacts to surface waters shall be restored to pre-project conditions following construction (Title 117, Chapter 3, Section 001).
4. Surface waters are to be free from toxic substances, alone or in combination with other substances, in concentrations that result in acute or chronic toxicity to aquatic life. Drilling fluids and additives used in the construction will be non-toxic to the aquatic environment. All aquatic life use classes shall be protected from human induced water pollution which would significantly degrade the biological integrity of a body of water or significantly impact or displace an identified key species. This includes but is not limited to drilling fluids and other substances associated with pipeline construction activities. (Title 117 4-003.01)
5. In the event of an accidental discharge, immediate actions will be taken to minimize negative impacts. DWEE will be notified as soon as possible, but no later than 24 hours following the discharge event. (Title 117 4-003.01 and Title 126 18-002)
6. Should permanent impact to wetlands or streams exceed an area greater than that noted above due to project activities, notify our office in writing immediately. Any such loss may require additional compensatory mitigation. (Title 117 3.001)
7. Riprap activities shall employ controls to reduce the sediment concentration of any water returning to the stream or river. If concrete is used as riprap, it shall be clean and free of exposed rebar, asphalt, and any other potential contaminants.
8. Compliance with all conditions of the Federal § 404 Permit, and other state and Federal Permits must be met.

If conducted in accordance with the conditions listed above, this activity will not violate the water quality standards of all temporary and permanently impacted Title 117 waterbodies. If a waterbody does not have a designated use, Title 117 requires that they be protective of the downstream uses of

designated waterbodies and does not allow direct discharges into lakes or impoundments, except as authorized by National Pollutant Discharge Elimination System (NPDES) permits.

If the area of disturbance is greater than 1.0 acre, we remind the applicant that a NPDES Construction Stormwater Permit will be required under §402 of the Clean Water Act. For more information and to apply online, please go to: <https://dee.nebraska.gov/permitting/online-general-permit/construction-storm-water>

In addition, Title 117 includes an antidegradation provision to ensure that the quality of surface waters is to be maintained and protected consistent with the uses applied under Title 117 standards, and water quality degradation which would adversely affect existing uses will not be allowed. If the proposed project activities may impact waters of the State, not specifically identified as WOTUS, we encourage you to contact the department's 401 Coordinator for a voluntary review to evaluate impacts to State waters and how best to comply with state water quality standards.

We, therefore, by this letter, provide §401 Water Quality Certification. This certification does not constitute authorization to conduct your project, nor does it supersede additional local, state, federal, or Tribal permits as required by law. It is a statement of compliance with Nebraska Surface Water Quality Standards only, which is one requirement to gain authorization from the U.S. Army Corps of Engineers in the form of a §404 permit. If you have any questions, please feel free to call our 401 Coordinator, Jessica Russell, at (402) 471-2875. Thank you for your assistance in Nebraska Department of Water, Energy, and Environment's review of your project.

Pursuant to the Delegation Memorandum dated February 26, 2026, and signed by the Chief Water Officer, the undersigned hereby executes this document on behalf of the Nebraska Department of Water, Energy, and Environment.

Sincerely,

Jennifer J. Schellpeper
Administrator
DWEE Water Planning Division

ECC: Eric Soe, U.S. Army Corps of Engineers
Brooke Stansberry, U.S. Fish & Wildlife Service
Ruby Micek, Nebraska Game & Parks Commission
Gabriel DuPree, U.S. Environmental Protection Agency