

April 6, 2021

ADDENDUM 2 – JOB 33

TO: All prospective bidders on Project SERP-2-056(033)048 and SERP-2-034(007)049, Job No. 33 scheduled for the April 9, 2021 bid opening.

The following request for proposal revisions shall be made:

Request for Proposal Revisions:

See attached summaries from Kirk J. Hoff, P.E. dated April 6, 2021 for an explanation.

This addendum is to be incorporated into the bidder's proposal for this project.



for PHILLIP MURDOFF, P.E. – CONSTRUCTION SERVICES ENGINEER

80: jwj

Enclosure

PLAN ADDENDUM SUMMARY AND APPROVAL

PROJECT INFORMATION			
Project:	SERP-2-034(007)049	PCN:	22876
Location:	ND 34 - RP 49, 3 Miles East of ND 30		
Date:	3/30/2021	Lead Designer:	KLJ Engineering
Bid Opening Date:		JOB#:	33
		Addendum#:	2

PLAN SHEET CHANGES		
Section	Sheet	Description
PSP 62		Permits and Environmental Considerations – 404 permit added

CHANGES MADE TO BID ITEMS FOR JOB					
Spec	Code	Description	Unit	Previous Quantity	Revised Quantity

APPROVAL

Should the revisions described above be processed as a plan addendum?

Yes No

Kirk J Hoff

Kirk J. Hoff, P.E. – Design Engineer

4/6/2021

Date

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

PERMITS AND ENVIRONMENTAL CONSIDERATIONS

PROJECT NUMBER: SERP-2-034(007)049 – PCN 22876

This Special Provision incorporates the USACE Section 404 Permit obtained by the North Dakota Department of Transportation (NDDOT) into the bidder's proposal.

The Contractor is responsible for complying with all the terms and conditions as contained in the permit(s) attached hereto. Bidders will become familiar with all standard conditions and special conditions of the permit(s) and submit their bid for the construction of this project based on the following:

- **Section 404 Permit:**

A Section 404 Permit authorizes fill within USACE jurisdictional waters. The 404 permit NWO-2020-01869-BIS authorizes 0.47 acre of permanent and 0.238 acre of temporary impact to jurisdictional wetlands and 1.269 acre of permanent and 0.856 acre of temporary impacts to other waters. Temporary impacts were assumed by the designer and will be restored to preconstruction contours.

Special conditions 1, 2, 3 and 6 will be the responsibility of the NDDOT.

See the Section 75 sheets of the design plans for the permitted impact areas. The Section 404 Permit is attached.

The Contractor is responsible for preparing and submitting Permit(s) for any additional impacts not authorized by the attached Permit(s) obtained by the NDDOT. The Contractor is responsible for any delays associated with obtaining any additional Permit(s).



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
3319 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504-7565

March 16, 2021

NWO-2020-01869-BIS
Reile/255-0015/Ext2013

North Dakota Department of Transportation
Attn: Mr. Matt Gangness
608 East Boulevard Avenue
Bismarck, North Dakota 58505

Dear Mr. Gangness:

We are responding to your February 10, 2021 request for a Department of the Army permit for the North Dakota Highway-34 Grade Raise Project (Project Number: SERP-2-034(007)049, PCN: 22876). The project site is located along ND Highway-34 approximately 3 miles east of ND 30 in Sections 1 and 12, Township 135 North, Range 69 West, Latitude 46.529144° North, Longitude -99.305591° West, Logan County, North Dakota.

Based on the information you provided to this office, the project involves a grade raise on a portion of ND Highway-34 that crosses Marvin Miller Lake in response to rising flood waters. The specific activities that require work in waters of the United States is the discharge of fill material into Marvin Miller Lake associated with the grade raise project. Specifically, the project will involve raising the existing road grade, while maintaining a 4:1 in-slope. The existing in-slope will be excavated to allow the placement of riprap. A berm will be constructed to dewater the work area. After construction is completed the berm will be removed to 1 ft below the water line. These construction activities will permanently impact approximately 0.47 acres of wetlands and 1.269 acres of other waters. The project will also temporarily impact 0.238 acres of wetlands and 0.856 acres of other waters. Compensatory mitigation is required to offset this project's impacts as specified in Special Condition #6.

We have determined that your proposed project is authorized by Regional General Permit Emergency Flood Related Activities (RGP 9601-08-BIS). Your work must comply with the general terms and conditions listed on the enclosed Regional General Permit information sheets and the following special conditions:

Special Conditions

1. Following completion of the authorized work or at the expiration of the construction window of this permit, you shall submit as-built drawings or stamped final construction plans showing any changes that occurred during construction and a description of the work changed during construction on the project site

AND/OR avoidance areas to this office for review. The drawings shall include the following:

- a. The Department of the Army Permit number
 - b. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings. The drawing should show all "earth disturbance," wetland impacts, structures, and avoidance areas. The drawings shall contain, at a minimum, scaled cross-sections or 1-foot topographic contours of the entire site.
 - c. Ground photographs of the completed work. The camera positions and view-angles of the ground photographs shall be identified on a map, aerial photograph, or project drawing.
 - d. A description and list of all minor deviations between the work as authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings or change orders the location of any deviations that have been listed.
2. Prior to initiation of construction activities in waters of the United States authorized by this permit/verification, you shall submit to this office pre-construction site photographs or aerial satellite imagery of the project site, which have been taken no more than one year or previously provided for the purposes of a delineation and jurisdictional determination, prior to initiation of construction activities in waters of the U.S. authorized by this permit/verification.
- Following completion of construction activities in waters of the U.S. authorized by this permit/verification, you shall submit post-construction site photographs or aerial satellite imagery of the project site, showing the work conducted, to this office. The post construction site photographs or aerial imagery may be obtained with the initial mitigation monitoring normally submitted by December 31 following the first growing season or at the expiration of the construction window.
- The camera positions and view angles of post-construction photographs shall be identified on a map, aerial photo, or project drawing. Construction locations shall include all major project features and waters of the U.S. including avoidance and compensatory mitigation areas.
3. Prior to initiation of construction activities in waters of the U.S. authorized by this permit/verification, you shall notify this office in writing of the anticipated start date for the work. No later than 30 calendar days following completion of construction activities in waters of the U.S. authorized by this permit/verification, you shall notify this office in writing that construction activities have been completed.

4. You and your authorized contractor shall allow representatives from this office to inspect the activity authorized by this permit/verification and all compensatory mitigation, preservation, and avoidance areas as applicable at any time deemed necessary to ensure that work is being or has been accomplished in accordance with the terms and conditions of this permit/verification.
5. You are responsible for all work authorized herein and ensuring that all contractors and workers are made aware and adhere to the terms and conditions of this permit /verification. You shall ensure that a copy of the permit/verification and associated drawings are available for quick reference at the project site until all construction activities in waters of the U.S. authorized by this permit/verification are completed.
6. To compensate for permanent impacts to 1.739 acres of aquatic resources, you shall acquire and use 1.105 acres of aquatic resource credits from the NDDOT Keuber Mitigation Bank. Evidence of this acquisition and use shall be provided to this office prior to initiation of construction activities in waters of the U.S. authorized by this permit/verification.

You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.

This verification is valid for two years from the date of this letter or until the Regional General Permit is modified, reissued, or revoked, whichever comes first. Failure to comply with the General Conditions of this Regional General Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

Please refer to identification number NWO-2020-01869-BIS in any correspondence concerning this project. If you have any questions, please contact Benjamin Reile by email at Benjamin.D.Reile@usace.army.mil or telephone at (701) 255-0015 Ext. 2013. For more information regarding our program, please visit our website at <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/NorthDakota.aspx>.

Sincerely,

A handwritten signature in blue ink that reads "Patricia L. McQueary". The signature is written in a cursive style.

Patricia L. McQueary
Program Manager
North Dakota Regulatory Office

Enclosures

COMPLIANCE CERTIFICATION

Permit File Number: NWO-2020-01869-BIS

Regional General Permit Number: Emergency Flood Related Activities (RGP 9601-08-BIS)

Permittee: North Dakota Department of Transportation
Attn: Mr. Matt Gangness
608 East Boulevard Avenue
Bismarck, North Dakota 58505

County: Logan County

Date of Verification: March 16, 2021

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers, Omaha District
North Dakota Regulatory Office
3319 University Drive
Bismarck, ND 58504-7565
CENWO-OD-RND@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the U.S. Army Corps of Engineers.

* * * * *

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.

Signature of Permittee

Date

DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public

Permit No. RGP 9601-08

Issuing Office: Corps of Engineers, Omaha District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: This RGP authorizes work associated with emergency flood related activities. Authorized activities include, but are not limited to, repair, construction and reconstruction of new and existing roads; temporary levee construction; levee repair; breach closures; bridge embankment repair; protection and/or repair of utility structures; placement of suitable rock and/or dirt fill for bank stabilization; and the construction of temporary drainage ditches to facilitate the removal of flood water, sheet-water, or excess water. This RGP does not authorize significant, permanent adverse impacts.

Project Location: Waters of the United States (including rivers, lakes, streams, and wetlands; excluding bogs and fens) located within flooded areas of North Dakota.

This Regional General Permit expires on April 30, 2024.

General Conditions:

1. The time limit for completing the work authorized ends on **See Special Condition 1, on page 4**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

(See pages 4 thru 6 for Special Conditions)

After a detailed and careful review of all of the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps of Engineers, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit and the will comply fully with all the terms of the permit conditions.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the River and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

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

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

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

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

(PERMITTEE)

(DATE)

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

BY:

Joseph A. McMahan
Chief, Regulatory Branch, Operations Division

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

(TRANSFEREE)

(DATE)

Any authorization granted under this Regional General Permit is subject to the following conditions:

1. Upon receiving approval to perform work under this RGP, the permittee will have 120 days to complete the work. If additional time will be needed to complete the authorized activity, a written request for a time extension must be submitted to the North Dakota Regulatory Office.
2. All channel restoration work will be limited to restoring the area to pre-flood conditions. Channel restoration of areas not caused by flooding is not authorized under this RGP.
3. All temporary drainage ditches constructed in Section 10 waters, or that resulted in a discharge of dredge or fill material in waters of the United States, must be restored within 6 months of the Corps RGP verification date.
4. Repair measures authorized herein are only to restore areas to pre-emergency conditions.
5. Repair and protection measures authorized herein do not allow for the construction of structures (e.g. jetties) which would result in any further stream channel constriction or in the redirection of flows in such a way as to cause upstream or downstream erosion, etc. Nor does this RGP authorize any repair work on such structures that would result in the structure being modified or extended beyond its original length.
6. Temporary levees, accesses, and other fills must involve the least damaging and minimum amount of disturbance/impacts to waters of the United States. Appropriate measures must be taken to maintain near normal downstream flows to minimize flooding.
7. All fill must be of suitable materials and placed in such a manner that the material will not be eroded by expected high flows.
8. All fill material will be obtained from a non-wetland, upland source.
9. The use of small aggregate, such as streambed material, for bank stabilization and erosion control is prohibited. All erodible fill material associated with bank stabilization must be stabilized.
10. Mitigation plans will be developed and coordinated with the applicable resource agencies on a case-by- case basis.
11. All temporary fills, including sandbags, in waters of the United States must be completely removed and the area restored to pre-emergency conditions within 30 days of the end of flooding conditions.
12. Only clean riprap materials will be utilized in order to avoid the percolation of fines that would result in excessive local turbidity.

13. All areas along the bank disturbed or newly created by the construction activity, which will not be ripped, will be seeded with vegetation both in kind and in quantity (this will include both the herbaceous and woody species) that are indigenous to the area for protection against subsequent erosion and to minimize adverse impacts to fish and wildlife resources.
14. The clearing of vegetation, including trees located in or immediately adjacent to waters of the United States, will be limited to that which is absolutely necessary for construction of the project.
15. All construction debris will be disposed of on an approved upland site in such a manner that it cannot enter a waterway or wetland. The permittee will establish and carry out a program for immediate removal of debris during construction in order to prevent the accumulation of unsightly, deleterious and/or potentially polluted materials.
16. Equipment for handling and conveying materials during construction will be operated to prevent dumping or spilling the materials into the water except as approved herein.
17. That all dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.
18. Concrete trucks will be washed at a site and in such a manner that wash water cannot enter the waterway.
19. During construction, no petroleum products, chemicals, or other deleterious materials shall be allowed to enter or be disposed of in such a manner so that they could enter the water and that precautions be taken to prevent entry of these materials into the water.
20. All work in the waterway will be performed in such a manner so as to minimize increases in suspended solids and turbidity that may degrade water quality and damage aquatic life outside the immediate area of operation.
21. All earthwork operations on shore will be carried out in such a manner that sediment runoff and soil erosion to the waterbody are controlled.
22. If and when the District Commander has been notified that a dredging or filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Commander subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.
23. The use of machinery in the waterway will be kept to a minimum.

24. A discharge of material may not occur in the proximity of a public water supply unless appropriate approval is given and mitigation measures are identified to offset any adverse effects.
25. If the Corps is notified that work being performed does not comply with, or fall within the scope of, this RGP, the responsible party will take immediate steps, as directed by the Corps, to bring the work into compliance with this permit.
26. If threatened or endangered species are sighted at or near the project site, particularly during construction, work must cease and the North Dakota Regulatory Office and U.S. Fish and Wildlife Service contacted immediately.
27. The permittee, the permittee's contractor or any of the employees, subcontractors or other person working in the performance of the contract shall immediately report the discovery of subsurface features, possible scientific, pre-historical, historical, or archeological data, giving the location and nature of the findings to the North Dakota State Historic Preservation Officer and the North Dakota Regulatory Office. If discoveries occur on an Indian Reservation, the applicable Tribal Historic Preservation Officer and North Dakota Regulatory Office shall be notified. The permittee shall cease construction or operation at the site of any cultural resource discovery. Work shall not begin until notified by the North Dakota Regulatory Office.
28. The District Commander may require additional special conditions be included in any authorization issued under this RGP to avoid or minimize adverse environmental impacts. The District Commander may also require the processing of an individual permit for an activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.

PLAN ADDENDUM SUMMARY AND APPROVAL

PROJECT INFORMATION			
Project:	SERP-2-056(033)048	PCN:	22899
Location:	ND 56 - RP 48, 2 Miles S of Gackle		
Date:	3/30/2021	Lead Designer:	KLJ Engineering
Bid Opening Date:	JOB#: 33	Addendum#:	2

PLAN SHEET CHANGES		
Section	Sheet	Description
PSP 61		Permits and Environmental Considerations – Special Use permit added

CHANGES MADE TO BID ITEMS FOR JOB					
Spec	Code	Description	Unit	Previous Quantity	Revised Quantity

APPROVAL

Should the revisions described above be processed as a plan addendum?

Yes No

Kirk J Hoff
Kirk J. Hoff, P.E. – Design Engineer

4/6/2021
Date

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

PERMITS AND ENVIRONMENTAL CONSIDERATIONS

PROJECT NUMBER: SERP-2-056(033)048 – PCN 22899

This Special Provision incorporates the US Fish and Wildlife (USFWS) Special Use Permit obtained by the North Dakota Department of Transportation (NDDOT) into the bidder's proposal.

The Contractor is responsible for complying with all the terms and conditions as contained in the permit(s) attached hereto. Bidders will become familiar with all standard conditions and special conditions of the permit(s) and submit their bid for the construction of this project based on the following:

- **Special Use Permit:**

The Special Use Permit authorizes fill within USFWS easement wetlands and waterfowl production areas (WPA). The USFWS Special Use Permit number 62630-21-L0002 authorizes temporary impacts to USFWS easement wetlands and USFWS WPA. Temporary impacts will be restored to preconstruction contours.

See the Section 75 sheets of the design plans for the permitted impact areas. The Special Use Permit is attached.

The Contractor is responsible for preparing and submitting Permit(s) for any additional impacts not authorized by the attached Permit(s) obtained by the NDDOT. The Contractor is responsible for any delays associated with obtaining any additional Permit(s).



Permit #: 62630-21-L0002

(Refuge Name)
General Activity
Special Use Permit
(For Official Use Only)

Permit Term:

From: 3/21/2021 To: 9/29/2021

Permittee Name/Business: North Dakota Department of Transportation

Permit Activity Type: General - Access

Permit Activity Type (Other/Not Listed): Temporary Disturbance

Permit Status: Approved

If approved, provide special conditions (if any) in the text box below.
If denied, provide justification below.

See Attached

- 1. Are there additional special conditions attached to the permit? Yes No N/A
- 2. Are other licenses/permits required, and have they been verified? Yes No N/A
- 3. Are insurance and/or certification(s) required, and have they been verified? Yes No N/A
- 4. Record of Payments: Full Partial Exempt
- 5. Is a surely bond or security deposit required? Yes No N/A

This permit is issued by the U.S. Fish and Wildlife Service and accepted by the applicant signed below, subject to the terms, covenants, obligations, and reservations, expressed or implied therein, and to the notice, conditions, and requirements included or attached. A copy of this permit should be kept on-hand so that it may be shown at any time to any refuge staff

Permit approved/issued by: (Signature and title)

WAYNE HENDERSON
Date: _____
Digitally signed by WAYNE HENDERSON
Date: 2021.03.22 11:59:17 -05'00'

Permit accepted by: (Signature of permittee)

Mark Gaydos
Date: _____
Digitally signed by Mark Gaydos
Date: 2021.03.22 14:54:50 -05'00'

General Conditions and Requirements

- 1) **Responsibility of Permittee:** The permittee, by operating on the premises, shall be considered to have accepted these premises with all facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, and/or the part of anyone of his/her associates, to use reasonable care.
- 2) **Operating Rules and Laws:** The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing national wildlife refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge official in charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.
- 3) **Use Limitations:** The permittee's use of the described premises is limited to the purposes herein specified and does not, unless provided for in this permit, allow him/her to restrict other authorized entry onto his/her area; and allows the U.S. Fish and Wildlife Service to carry on whatever activities are necessary for: (1) protection and maintenance of the premises and adjacent lands administered by the U.S. Fish and Wildlife Service; and (2) the management of wildlife and fish using the premises and other U.S. Fish and Wildlife Service lands.
- 4) **Transfer of Privileges:** This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue through lien or be transferred to a third party without the approval of the Regional Director of the U.S. Fish and Wildlife Service and the permit shall not be used for speculative purposes.
- 5) **Compliance:** The U.S. Fish and Wildlife Service's failure to require strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the U.S. Fish and Wildlife Service's right to thereafter enforce any of the permit's terms or conditions.
- 6) **Conditions of Permit not Fulfilled:** If the permittee fails to fulfill any of the conditions and requirements set forth herein, the U.S. Fish and Wildlife Service shall retain all money paid under this permit to be used to satisfy as much of the permittee's obligation as possible.
- 7) **Payments:** All payment shall be made on or before the due date to the local representative of the U.S. Fish and Wildlife Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.
- 8) **Termination Policy:** At the termination of this permit the permittee shall immediately give up possession to the U.S. Fish and Wildlife Service representative, reserving, however, the rights specified in paragraph 11 below. If he/she fails to do so, he/she will pay the U.S. Fish and Wildlife Service, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed to reenter as needed to remove his/her property as stated in paragraph 11 below. The acceptance of any fee for the liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an

affirmation of the permittee's action nor shall it operate as a waiver of the U.S. Fish and Wildlife Service's right to terminate or cancel the permit for the breach of any specified condition or requirement.

9) **Revocation Policy:** The Regional Director of the U.S. Fish and Wildlife Service may revoke this permit without notice for noncompliance with the terms hereof, or for violation of general and/or specific laws or regulations governing national wildlife refuges, or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the U.S. Fish and Wildlife Service, by and through any authorized representative, may take possession of said premises for its own and sole use, and/or may enter and possess the premises as the agent of the permittee and for his/her account.

10) **Damages:** The U.S. Fish and Wildlife Service shall not be responsible for: any loss or damage to property including but not limited to crops, animals, and machinery; injury to the permittee or his/her relatives or to the officers, agents, employees, or any other(s) who are on the premises from instructions; the sufferance from wildlife or employees or representatives of the U.S. Fish and Wildlife Service carrying out their official responsibilities. The permittee agrees to hold the U.S. Fish and Wildlife Service harmless from any and all claims for damages or losses that may arise to be incident to the flooding of the premises resulting from any associated government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.

11) **Removal of Permittee's Property:** Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the U.S. Fish and Wildlife Service have been paid, the permittee may, within a reasonable period as stated in the permit or as determined by the U.S. Fish and Wildlife Service official in charge, but not to exceed 60 days, remove all structures, machinery, and/or equipment, etc., from the premises for which he/she is responsible. Within this period the permittee also must remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the U.S. Fish and Wildlife Service.

SPECIAL CONDITIONS FOR PERMIT 62630-21-M0001

1. Issuance of this permit does not preclude the requirements for obtaining necessary permits and/or approvals from other County, State, or Federal agencies and affected landowners.
2. Based on construction designs and communication with North Dakota Department of Transportation there is a need for a temporary construction easement along Hwy 56. The U.S. Fish and Wildlife Service has two wetland easements (514X and 517X,1,2) and one Waterfowl Production Area (Hehn). The project will not permanently impact any easement protected wetland basins covered by USFWS wetland easements.
3. North Dakota Department of Transportation or its contractors must restore the temporary construct area back to pre-construction conditions.
4. This permit only allows for the initial construction only. Any future maintenance or repairs to the road that may affect the additional Waterfowl Production Area and easement will require additional consultation with the Kulm Wetland Management District.
5. The USFWS assumes no responsibility or liability for any portion of this permitted activity.