Memorandum

DATE: January 20, 2026
FROM: Brandon Harland
RE: Rationale for Section 401 Water Quality Certification for 2024-1291 USACE Regional Permit 39 (RP39)

Description of Projects: Regional General Permit 39 (RP39) authorizes the discharge of dredged and/or fill material in waters of the U.S (WOTUS) in the State of Iowa to create/restore wetlands through the construction of earthen embankments and/or dams when funding or technical assistance is being provided through the Iowa Department of Agriculture and Land Stewardship (IDALS) with Corps approval in support of the Iowa Nutrient Reduction Strategy.

Location of Projects and Receiving Water Bodies:
All waters of the United States in Iowa within the regulatory boundaries of the Rock Island District.

If the project proposes to directly discharge into an Outstanding Iowa Water (OIW) or Outstanding National Resource Water (ONRW), an individual 401 Water Quality Certification (WQC) must be obtained, and the permittee shall not begin work on the activity until an individual 401 WQC is issued by the state or waived. For OIWs or ONRWs that are streams, if the project proposes to discharge into a tributary of an OIW or ONRW, an individual 401 Water Quality Certification (WQC) must be obtained, and the permittee shall not begin work on the activity until an individual 401 WQC is issued by the state or waived. This only applies to projects that are located within the State of Iowa. This permit may be used on tribal lands in the state of Iowa; however, an individual 401 WQC from the applicable tribal government may be required prior to authorization.

Antidegradation
Pollutants of Concern
This project proposes activities required for fill material placed in Waters of the United States for bank stabilization activities. Chemicals will not be used. Thus, the pollutants present in the discharge from such construction are substances present in runoff, or are the result of a spill. The DNR has identified the following pollutant of concern in discharges from this project and the potential impacts on water quality:

Increased Turbidity/Total Suspended Solids
The turbidity of water is related to the amount of suspended solids contained in the water. Suspended solids decrease the clarity of water, reduce light penetration, and can impair the photosynthetic activity of aquatic plants. Suspended solids can be aesthetically displeasing and can reduce the recreational value of a water body. If suspended solids screen out light and impair growth of aquatic plants, dissolved oxygen levels can decrease. Suspended solids can be harmful to fish and other aquatic life by causing abrasive injuries and clogging gills and respiratory passages.

Increases in turbidity/total suspended solids from projects authorized by this project will generally be local and temporary. To address turbidity/total suspended solids, the permittee will control runoff to water bodies using a variety of best management practices (BMPs).

Best Management Practices in Permit and Certification Conditions

Permit-Based
The Corps has BMP-based conditions in the Section 404 permit.

Construction activity that disturb one or more acres require a storm water NPDES permit from the DNR. For projects that require storm water NPDES permits, Storm Water Pollution Prevention Plans (SWPPPs) are developed, which typically include BMP-based conditions.

Certification-Based
The DNR is adding BMP-based conditions to the certification. The combined listed BMPs, when adhered to by the permittee, protect Iowa's water quality by controlling erosion and sediment runoff to prevent pollution from reaching the nearby water bodies. Antidegradation requirements will be considered to be met if all appropriate and reasonable BMPs required by permit and certification are applied and maintained. See, 567 IAC 61.2(2); Iowa Antidegradation Implementation Procedure § 6.3.

Temporary and Limited Degradation
The State adopted Iowa Antidegradation Implementation Procedure (2010 and 2016) states that "A regulated activity shall not be considered to result in degradation, if the activity will result in only temporary and limited degradation of water quality as defined in the glossary and as further described in Sections 1.2 and 2.4." The effects can be regarded as temporary and limited following a review of all of the following factors, if applicable:

a) Length of time during which water quality will be lowered
The length of time where there might be a lowering of water quality is relatively short for the proposed activity.

b) Percent change in ambient conditions
The only significant change that is reasonably expected to occur would be for the presence of sediment in the stream if there is a heavy rainstorm or if the BMPs fail.

c) Pollutants affected
Turbidity, total suspended solids.

d) Likelihood for long-term water quality benefits to the water body
The projects authorized by RP39 can provide water quality benefits by creating/restoring a wetland.

e) Degree to which achieving the applicable Water Quality Standards during the proposed activity will be at risk
The use of BMPs installed prior to construction, maintained during construction, and until the site has returned to pre-construction conditions should greatly increase the degree to which a project achieves the applicable water quality standards.

f) Potential for any residual long-term effects on existing uses
The BMP-based conditions included in the Section 404 permit and certification include activities such as appropriate riprap and minimizing soil disturbance and compaction from heavy equipment. The projects authorized by RP39 should not contribute to any ongoing negative impacts to water quality.

For the above discussed reasons, the DNR makes the following finding:

This review concludes that water quality degradation due to this activity is temporary and limited.

Social and Economic Importance
This project is socially important for improving water quality and soil conservation.

This project is economically important for the community, by creating jobs in the planning and construction of this project and likely using materials from local sources.

For the above discussed reasons, the DNR makes the following finding:
This review concludes that water quality degradation due to this activity is necessary to accommodate important economic and social development.

Water Quality Pre-Filing Meeting Request and Certification Request Form

This form should only be completed and submitted if your project requires one of the following:

- Corps of Engineers (Corps) standard/individual Section 404 permit;
- Corps Section 404 nationwide or regional permit where the Corps waives a limit;
- Corps Section 404 nationwide or regional permit on an Outstanding Iowa Water;
- Federal Energy Regulatory Commission license; or
- Other federal permit or license requiring a Section 401 Water Quality Certification.

Federal regulation 40 CFR 121.4 requires the applicant to submit a pre-filing meeting request before filing a certification request. More information may be viewed on the U.S. EPA Overview of §401 Certification website.

IMPORTANT NOTE: Iowa Administrative Code 567—Chapter 61 currently states that a certification request form **may not** be submitted until **at least 30 days** have passed since the "Pre-filing Meeting Request" was submitted to the DNR.

The following is a guide for completing the Department of Natural Resources' (DNR) pre-filing meeting request and certification request form. The information is required, and if not filled out completely, the request may be determined to be incomplete, which may delay the 401 certification process. If additional space is needed for any item on the form, attach additional page(s) as necessary. Please note that DNR may request additional information if it is needed to prepare the §401 Water Quality Certification (certification).

Separately submit pre-filing meeting request and, when ready, the certification request and attachments by email to Section401WQC@dnr.iowa.gov

Contact Section 401 Water Quality Certification at the DNR with any questions:
Section401WQC@dnr.iowa.gov; 515-954-6450
Iowa DNR, Attn: Section 401 Water Quality Certification, 502 E 9th St, Des Moines IA 50319

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Water Quality Pre-Filing Meeting Request and Certification Request Form
Pre-Filing Meeting Request Instructions

1. a **Property Owner/Project Proponent (aka Applicant) Name**. Enter the name, primary residence mailing address, email address, and phone number(s) of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer. If there is more than one party, please attach a sheet with the necessary information. Please note that the Project Proponent means the applicant for a license or permit or the entity seeking certification.

   b. **Authorized Agent's Name.** If applicable, indicate the name of the individual or agency, designated by you, to represent you in this process. An authorized agent (agent) can be an attorney, builder, contractor, engineer, or any other person or organization. Please provide the agent's complete mailing address, email, and telephone number where the agent can be reached during normal business hours. **Note: An agent is not required.**

2. **Proposed Project Description.** Please provide a name and description identifying the proposed project, (examples: Smith Lake shoreline stabilization, U.S. 66 Mississippi River Bridge replacement, utility line replacement, or Wallace Building rain garden). Proposed project means the activity or facility for which the project proponent has applied for a federal license or permit. Please include a map or diagram of the proposed project area, as well as photographs and any other relevant site data. If you have any other readily available water quality-related materials not specified in this form, please include a brief description here and include them as an attachment in the application. Existing water quality-related materials are those in the project proponent's possession or easily obtainable and inform the project proponent's development of the application or draft license or permit.

3. **Project Location:** The location should be provided as latitude and longitude and county that the project is located in. Provide latitude and longitude in decimal degrees with four decimal places, example: latitude: 41.5919, longitude: -93.6061. Use www.latlong.net if needed for finding latitude/longitude. Please provide the name of the water body (water bodies) receiving the discharge. For minor streams with no official name, you can use "unnamed tributary".

   Receiving Water(s): This is the name of the water body (or water bodies) that will be affected by the project (e.g., rivers, streams, and/or wetlands).

   Discharge: A discharge is any material entering the water (e.g., riprap, bridge piers, culvert, utility lines, fill material, dredged material, chemicals, etc.).

4. **Pre-filing Meeting Request Verification.** By signing the form, you must agree with everything stated in this section. The signature of the property owner/project proponent is required. If you are working with an authorized agent, their signature is also required.

Iowa Department of Natural Resources
Section 401 Water Quality Pre-Filing Meeting and Certification Request Form

Pre-Filing Meeting Request Form

1a. Property Owner/Project Proponent (aka Applicant) Name: _____

Company Name (if applicable): Corps of Engineers - Rock Island District

Mailing Address: Clock Tower Building P.O. Box 2004 Rock Island, IL 61204-2004

Email Address: Brynn.E.Noble@usace.army.mil

Phone numbers (with area code): Home: _____ Cell: (309)386-3173 Business: _____

1b. Authorized Agent's Name (if applicable): _____

Company Name: _____

Mailing Address: _____

Email Address: _____

Phone numbers (with area code): Business: _____ Cell: _____

2. Identify the Proposed Project:

Re-issuance of Regional General Permit 39 - IDALS Targeted Water Quality Improvement Created/Restored Wetlands.
The RP has several changes from the current version, including an increase in stream bed impact limit from 1,500LF to 2,500LF, changes to wording and other minor changes to general and special conditions, and more substantial changes to the mitigation section.

3. Project Location:

County: _____ Latitude: _____ Longitude: _____

Receiving Water(s): WOTUS in Iowa

Discharge: Up to 2 acres WUS, including the loss of up to 2,500LF of stream bed

4. Pre-filing Meeting Request Verification:

I certify that I have read and understand the following statements per the Clean Water Act Section 401 Certification Rule:

- Submission of this form completes the requirement of the pre-filing meeting request.
- I cannot submit my certification request until at least 30 calendar days after submitting this pre-filing meeting request. This request must be signed by the Property Owner/Applicant and the Authorized Agent, if applicable.
- I have included the following materials in the application:
  - ☐ Map/diagram of the proposed project area (required)
  - ☐ Photographs of the proposed project area (required)
  - ☐ Relevant site data (if applicable)

Property Owner/Applicant's Name (printed): Corps of Engineers - POC Brynn Noble

Property Owner/Applicant's Signature: _____ Date: 5/20/2025

If applicable: Authorized Agent's Name (printed): _____

Authorized Agent's Signature: _____ Date: _____

Water Quality Pre-Filing Meeting Request and Certification Request Form
Certification Request Instructions

5. **Corps Project Manager.** Enter the name, email address, and phone number(s) of the Corps project manager associated with the proposed project.

6. **Federal Permit / License Requiring Section 401 Water Quality Certificate and its Project Number.** Certification is required for any federal license or permit that authorizes an activity that may result in a discharge to a water of the United States. The federal agency can tell you what their identification number is for your project. Please check the appropriate box to indicate the federal agency. **Important:** A copy of the federal permit or license application is **required** to be submitted with this certification request. For the Corps of Engineers Section 404 permits, DNR Flood Plain, and Sovereign Lands permits, the application form can be found on the DNR's Flood Plain webpage.

   Examples: Corps of Engineers NWP 27 #2020-0830
   Corps of Engineers RP 33 #2020-1609
   Corps of Engineers IP #2020-0361
   FERC Hydropower #11530

7. **Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge.** Please provide a description of the best management practices you will use to protect water quality as well as any methods and means proposed to monitor the discharge/equipment or measures planned to treat or control the discharge (e.g., silt fences will be installed to prevent sediment entering the water body, all equipment will be cleaned prior to construction, equipment will be checked regularly to ensure oil, gas, or other material do not enter the water body).

8. **Dates.** Exact start and end dates for the proposed project are required, while date(s) of proposed discharges can be approximate. While the DNR has a default reasonable period of time of 6 months to respond to a certification request, the DNR intends to respond to requests as quickly as possible within that time period.

9. **List all other federal, interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received.** Typical authorizations include DNR Flood Plain, DNR Sovereign Lands, DNR NPDES Storm Water, and zoning permits.

Examples:

Agency	Type of Authorization	Agency Number	Date Applied	Date Approved	Date Denied
DNR	Flood Plain	2020-0517	6/15/2021	10/8/2021	
DNR	Sovereign Lands	2020-0517	6/15/2021		7/2/2021
DNR	NPDES	3500901	2/14/2021	5/20/2021	

10. **Date Pre-filing Meeting Request was submitted.** List the date that a pre-filing meeting request was submitted to the DNR.

11. **Certification Request Verification.** By signing the form, you must agree with everything stated in this section. The signature of the property owner/project proponent is required. If you are working with an authorized agent, their signature is also required.

Note: Certification requests must also be sent to the Federal Agency (i.e., Corps, FERC, etc.) at the same time. All projects in Iowa are in the Rock Island Corps District except for those below the ordinary high water mark of the Missouri River or west of the Missouri River, which are in the Omaha Corps District. For the Rock Island District Corps, send to the Corps project manager or to iowaregulatory@usace.army.mil. For the Omaha District Corps, send to the Corps project manager or to NE404Reg@usace.army.mil.

Iowa Department of Natural Resources
Section 401 Water Quality Pre-Filing Meeting and Certification Request Form
Certification Request Form

5. Corps Project Manager*:

Email Address: brynn.e.noble@usace.army.mil

Phone numbers (with area code): Business: (309)386-3173 Cell: _____

*The corps project manager must be cc'ed on the certification request email.

6. Federal Permit / License Requiring Section 401 Water Quality Certificate and its Project Number*

Permit/License Number: 2024-1291 Federal Agency: ☒ Corps of Engineers ☐ FERC

☐ Other: _____

*A copy of the federal permit or license application is **required** to be submitted with a certification request.

7. Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge. (Please provide a description of the best management practices you will use to protect water quality as well as any methods and means proposed to monitor the discharge/equipment or measures planned to treat or control the discharge.)

Each project authorized under RP 39 will be reviewed individually for BMPs. Additionally, the Corps may complete a visit/inspection after the construction is completed to ensure compliance with the limits and conditions of RP 39, the CWA, and all other applicable laws.

For #8 below: The RP will be signed and valid once all documents are approved and signed. The permit will be valid for 5 years, with discharges associated with projects authorized under RP 39 allowed up to a year after permit expiration if work began before the permit expired. The dates listed below are estimates based on current progress timelines.

8. Dates*

Planned Start Date of Proposed Project: 10/1/2025

Planned End Date of Proposed Project: 10/1/2030

Approximate date(s) of discharge(s) (if known): _____

*In normal situations, the DNR issues certifications within 90 days. This period of time accommodates internal review and the mandatory public comment period. If your project is scheduled to start sooner, please contact us at Section401WQC@dnr.iowa.gov. Be advised that the DNR is entitled up to six months by law to review certification requests.

9. List all other federal (not listed in #6), interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received:

Agency	Type of Authorization	Agency Number	Date Applied	Date Approved	Date Denied
Each project issued under					
RP 39 will be reviewed					
individually for compliance					
with other agencies.					

10. Date Pre-filing Meeting Request was submitted 5/20/2025

11. Certification Request Verification

This request is hereby made for the activities described herein. I hereby certify that all information contained herein is true, accurate, and complete to the best of my knowledge and belief. I have completed the following tasks, as required for the certification request:

- ☒ Cc'ed the Corps contact associated with the proposed project
- ☐ Attached a copy of the federal permit or license application
- ☒ Submitted to pre-filing meeting request at least 30 days ago

I further certify that I possess the authority to undertake the proposed activities. I hereby request that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time. This application must be signed by the Property Owner/Applicant and the Authorized Agent, if applicable.

Property Owner/Applicant's Name (printed): **USACE Rock Island District - POC Brynn Noble**

Property Owner/Applicant's Signature: _____ Date: **6/23/2025**

If applicable: Authorized Agent's Name (printed): _____

Authorized Agent's Signature: _____ Date: _____

DEPARTMENT OF THE ARMY PERMIT
Regional Permit 39
Iowa Department of Agriculture and Land Stewardship
Targeted Water Quality Improvement Created/Restored Wetlands
In Waters of the United States
In the State of Iowa

Permittee: General Public meeting the terms and conditions herein.

Number: CEMVR-RD-2024-1291 (Regional Permit 39)

Expiration Date:

Issuing Office: U.S. Army Corps of Engineers, Rock Island District
Clock Tower Building-P.O. Box 2004
Rock Island, Illinois 61204-2004

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

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 (Corps) 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.

1. Authorized Work.

Proposed Limits.

(a) Regional General Permit 39 (RP39) authorizes the discharge of dredged and/or fill material in waters of the U.S (WOTUS) in the State of Iowa to create/restore wetlands through the construction of earthen embankments and/or dams when funding or technical assistance is being provided through the Iowa Department of Agriculture and Land Stewardship (IDALS) with Corps approval in support of the Iowa Nutrient Reduction Strategy.

(b) The purpose of these projects is for activities in WOTUS, including jurisdictional wetlands, that are part of a watershed strategy to improve water quality. This will be implemented by limiting the number of agriculture pollutants (mainly nitrates) entering the nation's rivers and ultimately, the Gulf of Mexico, and restore functions that support and/or enhance aquatic biological resources at the project site. The constructed/restored wetlands will slow storm water and agricultural drain tile water runoff and provide habitat for microorganisms which will allow a large percentage of nitrates to denitrify before they enter large waterways, control erosion, and improve

wildlife habitat. Wetlands, through the accumulation of organic matter, also act as sinks for nutrients and other chemical compounds, reducing the amounts of these substances in the water column. The activity must be designed to avoid and minimize adverse effects, both temporary and permanent, to WOTUS to the maximum extent practicable at the project site.

(c) Permanent impacts to WOTUS authorized by this permit shall not result in the permanent loss of greater than 2,500 linear feet of streambed or 2 acres of wetland. The combined loss of all waters shall not exceed 2 acres in total.

2. Project Location. RP 39 authorizes work associated with the discharge of dredged and/or fill material into all WOTUS, including wetlands, under the jurisdiction of the Rock Island District located within the State of Iowa. This permit may be used on tribal lands within the state of Iowa; however, an individual 401 Water Quality Certification must be obtained from the Meskwaki Nation – Sac and Fox Tribes of the Mississippi in Iowa and the Winnebago Tribe of Nebraska in Iowa, as applicable, for the use on tribal lands, prior to authorization.

3. Permit Conditions:

A. **General Conditions:**

1) The permittee must notify the District Engineer (DE), Rock Island District, for authorization of this Regional General Permit (RP). The notification must include detailed drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the RP. If unavoidable stream or wetland impacts requiring mitigation are expected to occur as part of this project (see Section C), a statement of the proposed mitigation measures must be included (e.g., estimated mitigation credits required and the Iowa Stream Mitigation Method Calculator, if applicable). Department of the Army (DA) permit application (ENG Form 4345) may be used for this purpose. If the Corps determines that the work meets the provisions of the RP39 and no extraordinary conditions exist that warrant evaluation as an individual permit, the proponent will be notified.

2) The time limit for completing the work authorized ends when RP39 expires, unless otherwise specified. If you have started the work or are under contract to begin that activity before RP39 expires, you will have twelve (12) months from that expiration date to complete the activity under the terms and conditions of this general permit.

3) 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. 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.

4) If you sell the property associated by 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 within 60 days to validate the transfer of this authorization.

5) Representatives from this office shall be granted access to inspect the authorized activity at any time deemed necessary to verify compliance with

the terms and conditions stipulated in the issued permit. For inspections conducted on private property, appropriate notice shall be provided to landowners in advance of any site visits

B. **Special Conditions:** These general specifications/restrictions must be met for all individual projects to be authorized under RG39.

1) The Corps or the U.S. Department of Agriculture (USDA) must be the Lead Federal Agency for NEPA for all projects authorized under RP39. (Example: if additional funding or technical assistance is being provided by USDA, then they would be the Lead Federal Agency).
2) The structures will be strategically located and designed to pool tile drainage water which will remove nitrates and herbicides from that water.
3) Wetlands that are inundated with water greater than 3 feet in depth are considered conversion, therefore, those wetlands will be considered lost.
4) At least 75% of the inundated area must be 3 feet deep or less.
5) The area between the maximum flood pool elevation and the normal pool elevation will be vegetated with a native mesic seed mix. With the exception of structures and steep slopes, all areas without an established vegetative cover will be seeded to native grasses and forbs, including mesic or hydric seeding where applicable. Seedings will not include any species identified by the most up to date “Iowa Noxious Weeds” list and/or those listed on the Corps “Excluded Species Plant List.”
6) At least 75% of the total project area (aerial coverage) must be vegetated, including designed wetland area, streambanks, and upland buffer. No more than 20% of the total vegetative cover shall be vegetated with non-native and/or invasive species. The created/restored wetland areas must contain a minimum of 10 native and hydrophytic (FAC, FACW, OBL) emergent and submerged wetland vegetative species per acre. If these vegetation standards are not met within four years, mitigative/adaptive measure must be provided to the Corps to ensure compliance with this permit.
7) Applicants must identify and notify the Rock Island District Corps of Engineers of all impacts to fens, bogs, seeps, or sedge meadows. Fill that will adversely impact these resources is not authorized.
8) Applicants must identify and notify the Rock Island District Corps of Engineers of all impacts to Outstanding Iowa Waters. Fill that will adversely impact these resources is not authorized.
9) RP39 authorizes any future discharge of dredged or fill material associated with periodic maintenance and the reversion of the area to its documented prior conditions and use (i.e., prior to the restoration, enhancement, or creation activities) even if the original construction of the structure did not require a Department of the Army permit. The reversion must occur per the Easement, or the Easement executed between the Drainage District and the landowner, even if the discharge occurs after the permit expires. Reversion of the area, includes wetlands that were restored, enhanced, or created on prior converted cropland that has not been abandoned in accordance with the binding agreements involving the landowner, IDALS, and the Drainage District in the county in which the wetland is located. The prior conditions will

be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Corps as they are executing the permit. Before any reversion activity, the permittee or IDALS 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 the Corps' regulatory requirements in place at that future date.

10) RP 39 authorizes all activities related to the repair, rehabilitation, or replacement of previously authorized, currently serviceable structure or fill, provided that the structure or fill is not to be put to uses differing from those originally specified in the application. 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 effects resulting from such repair, rehabilitation, or replacement and are minimal are authorized by this permit. 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.

11) RP39 does not authorize new stream channelization or stream relocation. RP39 does not authorize more than minimal temporary degradation of water quality, more than minimal changes to the flow characteristics of the stream, or increased flooding.

12) Incidental wildlife habitat and recreation benefits may accrue to landowners from the sediment pools associated with installation of structures under this permit, but such benefits are not part of the primary purpose of the project.

13) Any spoil material excavated, dredged, or otherwise produced by the activity that will not be used for the construction of the structures will not be returned to the waterway, but will be deposited in an upland, non-wetland site.

14) Clearing of vegetation, including trees located in or immediately adjacent to WOTUS, shall be limited to that which is in the pool or what which is absolutely necessary for construction of the project. All cleared vegetation material shall be removed to an upland, non-wetland disposal site.

15) Where project plans include armoring, acceptable material will include clean: riprap, native fieldstone, quarry rock, or appropriately graded clean broken concrete with all reinforcing rods and/or wire cut flush with the surface of the concrete. It shall be the permittee's responsibility to maintain the riprap such that any reinforcement material that becomes exposed in the future is removed. The concrete pieces shall be appropriately graded, and no piece shall be larger than 3 feet across the longest flat surface. The use of asphalt or other solid waste is not authorized.

16) If, at the discretion of the District Engineer, corrective measures are deemed necessary to protect the public interest before, during, and after completion of project construction, permittees shall complete such corrective actions as directed by the District Engineer.

17) If livestock are anticipated or proposed to be in the vicinity of the project, fencing to protect the inundated area, the shoreline, and the upland buffers from livestock disturbance shall be included in any site protection.

C. **Mitigation:**

1) The impact area is defined as the location of WOTUS that will be impacted by

the discharge of fill material and corresponding impoundment, including existing upland or stream channels that will be converted to wetland or water levels that inundate an existing wetland with water greater than 3 feet deep. The project area is defined as the entire project boundary, including the impact area, designed wetland area, and surrounding buffer area.

2) The activity must be designed and constructed to avoid and minimize adverse effects to Waters of the U.S., both temporary and permanent, to the maximum extent practicable within the impact area. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

3) Compensatory mitigation may be required for stream or wetland impacts associated with these projects. Compensatory mitigation will be required for all wetland losses that exceed 1/10-acres (See Mitigation Condition C.6). Mitigation for wetlands may not be required if there is an overall net increase in aquatic wetland function and size.

4) In general, compensatory mitigation will be required for all streambed losses greater than 300 linear feet and/or 0.03-acres unless the appropriate number of criteria from section C5 are met. Compensatory mitigation projects provided to offset losses of aquatic resources must follow the regulations published in the Federal Register dated April 10, 2008, under 33 CFR Parts 332 and 40 CFR Part 230 – Subpart J entitled “Compensatory Mitigation for Losses of Aquatic Resources.” Impacts to streams will be evaluated on a case-by-case basis.

5) Rock Island District cannot rely exclusively on nutrient concentrations to assess stream function. An evaluation that incorporates chemical, physical, and biological characteristics is necessary to align with the objectives of the Clean Water Act. In support of minimizing impacts to streams with moderate to high functional integrity, Rock Island District has developed the following criteria to assist IDALS in identifying appropriate sites for projects on low-functioning streams. These include streams that not only that receive agricultural tile drainage and exhibit elevated nutrient loading, but also those that could have been previously impacted by anthropogenic alterations, possess minimal riparian buffering, display channel entrenchment, and show evidence of active erosion.

   Mitigation is not required for streams converted to wetlands when the stream segment meets three or more of the following criteria:

   a. When documentation is provided indicating that the stream has been channelized or straightened over time, and the sinuosity of the stream within the project area is measured at 1.19 or lower within the impact area. If two or more streams are located within the impact area, each stream’s sinuosity will be calculated separately, and the length weighted average sinuosity within the area of impact will be used (weights based on the impacted stream length for each segment). Sinuosity is the ratio of stream length to valley length (Rosgen 1994).

      Stream sinuosity of 1.19 or less often correlates with low stream functions because it typically reflects an altered or degraded stream condition that reduces the natural physical, chemical, and biological functions of a stream system.

The following Iowa DNR tool may be used to help assess stream sinuosity. While this tool provides a useful estimate, we recommend using it as a preliminary step and then consulting the U.S. Army Corps of Engineers to review and confirm sinuosity calculations.

The Iowa DNR Geospatial Data Clearinghouse Iowa Stream Sinuosity Download

https://geodata.iowa.gov/documents/3fb1ffcb81434b2bb9f239118c73cb55/about

The following are examples of how to calculate sinuosity:

Figure 1: Rosgen 1994

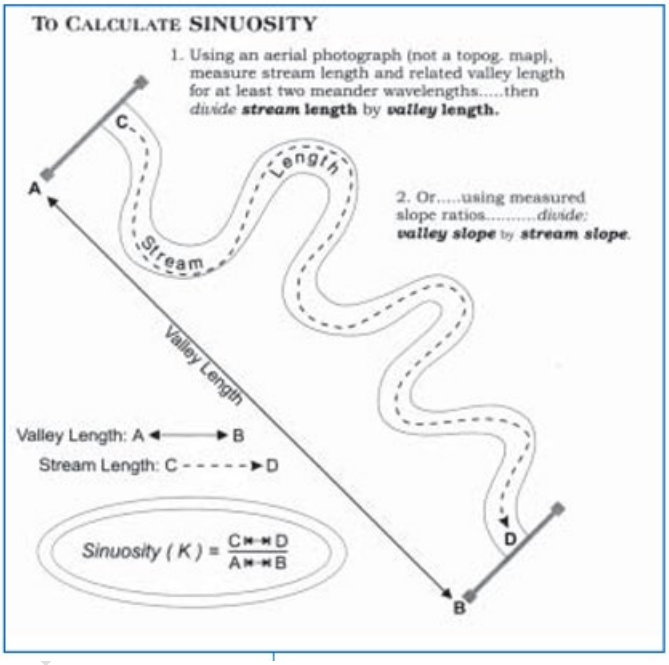

Figure 2: NC Stream Restoration Institute (https://bae.ncsu.edu/wp-content/uploads/2017/07/sr_guidebook.pdf)

b. The riparian corridor consists of an average buffer width of 25 feet or less of perennial vegetation along at least one side of the impacted stream reach as measured outward from the top of bank. Buffer areas do not include ongoing active impacts which include grazing or farming activities.

   A riparian buffer of 25 feet or less can lead to low stream function. Narrow buffers cannot effectively filter pollutants, reduce runoff, and/or stabilize banks, resulting in increased erosion, poor water quality, and degraded

wildlife habitat.

c. The stream contains active head cuts, failing banks, extremely eroded banks (i.e., with tree roots showing, soil abutments hanging over the water, etc.), or bank sloughing throughout the majority of the impact area, and its banks are steeper than a 2:1 slope within the majority of the impact area.

d. Stream entrenchment ratio is equal to or less than 1.4 (figure 3) throughout the majority of the reach within the impact area. Entrenchment ratio can be found by dividing the flood-prone width with the bankfull width. The flood-prone width is equal to the width of the channel at an elevation of double the maximum stream depth (see figure 4 below for more information.)

   An entrenched stream typically has lower function because it's deeply cut into its bed, losing connection with its floodplain, which leads to increased erosion, poor water quality, and reduced habitat for wildlife. This makes the stream less stable, less resilient, and less capable of supporting a healthy ecosystem. Entrenched streams are typically confined within the elevation of their 2-year or greater floodplain, and the degree of entrenchment becomes more severe as the floodplain elevation increases.

   The following Iowa Map Viewer may be used as a preliminary tool to assess the 2-year and 5-year floodplains which may be used to estimate potential stream entrenchment. While using the viewer, if both the 2- and 5-year floodplains are confined to the stream channel it is likely that the stream is entrenched. However, a site visit may ultimately be required to accurately document the entrenchment ratio and determine if the site meets the necessary criteria to avoid mitigation. Contact the Corps if you have any questions on how to use this tool to estimate entrenchment ratios.

   Iowa Map Viewer:
   https://www.arcgis.com/apps/webappviewer/index.html?id=bfe24b067f4b48f597e4d9fd33f34cb6

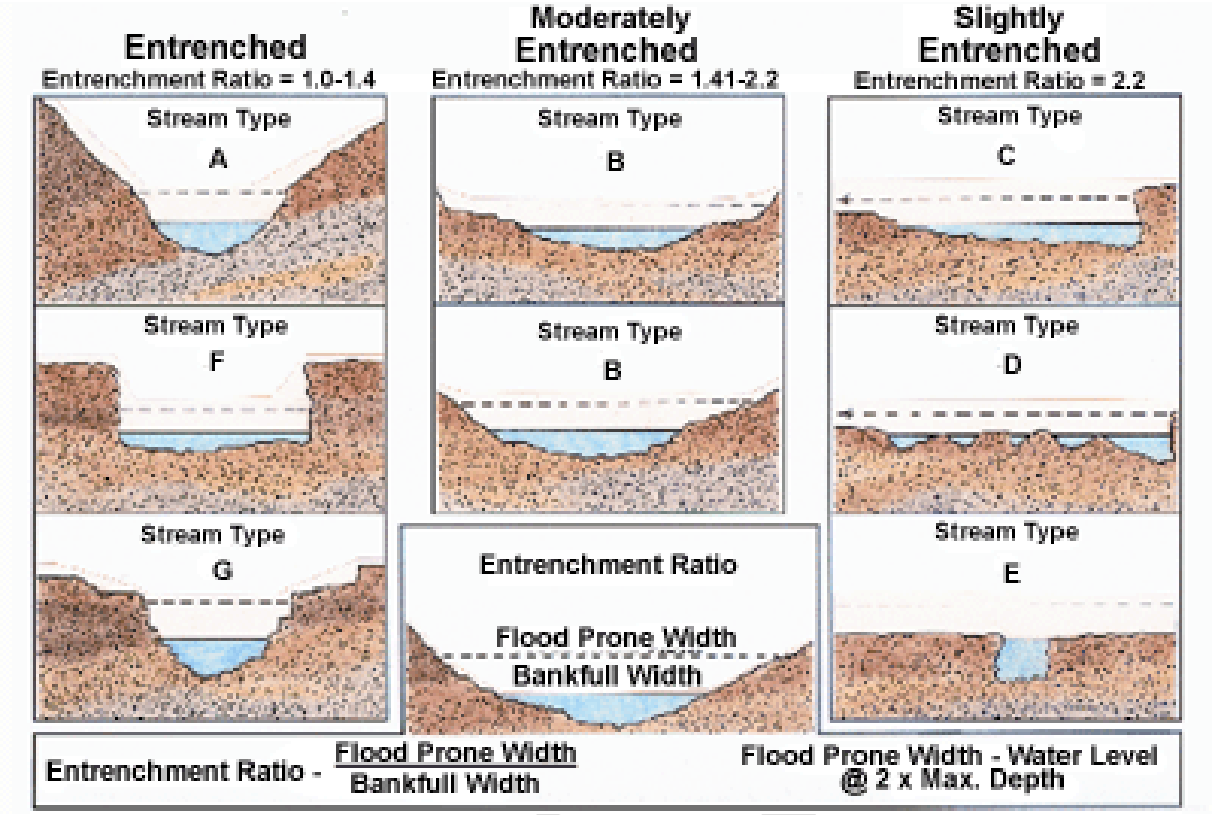

Figure 3: Rosgen 1994

Entrenchment Ratio

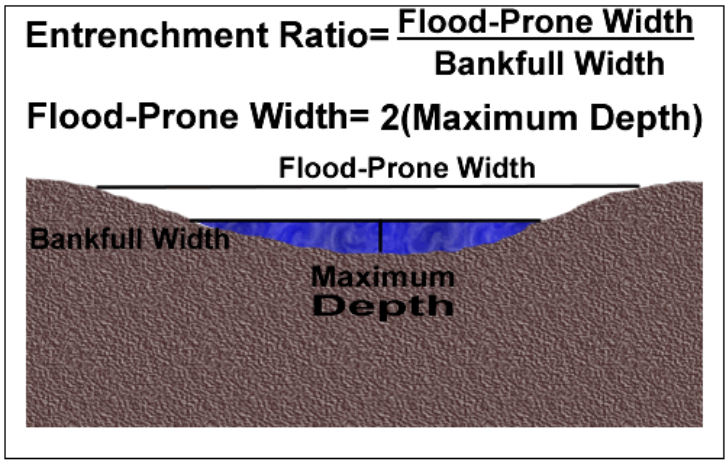

Figure 4: Entrenchment Ratio Calc 1

e. The streambed shall be considered to meet this criterion if impacts along the same stream reach, either individually or cumulatively, exceed a length equivalent to 100 feet within one mile upstream and/or downstream of the impact area. For stream segments shorter than two miles total miles (1 mile up or downstream of the impact area), the threshold shall be applied proportionally with Corps approval. For example, if the stream reach proposed to be impacted is only 1 mile in length, the criteria to meet this standard would be 50' of impact. Examples of impacts include culverts, pipes, low water crossings, straightened parts of the reach outside of the project area, other manmade modifications located within the stream and

other structures on a case-by-case basis determined by the Corps; tile outlets are not included unless they have splash basins or other impacts within the streambed. Typically, these impacts would be identified as morphological change and/or pipe in the Iowa Stream Method. These streambed impacts lower stream function by disrupting natural flow, blocking aquatic organism passage, altering sediment transport, and reducing habitat quality.

f. The impact area is located within 1.5 miles of where the main stem of the impacted stream is formed. An example would be the stream forms from tile outlets, 1.5 miles or less from the impact area. Streams within 1.5 miles of formation tend to have lower stream function because they receive concentrated, unfiltered runoff that increases flow rates, reduces baseflow, and carries pollutants which lead to erosion, poor water quality, and limited habitat development.

***The Corps will make the final decision if compensatory mitigation will be required using the above factors and if site visits are necessary.**

6) It is expected that most of the pool area with water depths of three feet or less will develop wetland characteristics including hydrophytic, non-woody, vegetative species. Additional wetland mitigation is required if the acreage of wetland impacted by the structure and deep water exceeds the proposed acreage of pool with water depths of three feet or less.

7) The applicant is responsible for proposing an appropriate compensatory mitigation option to ensure that the activity results in less than minimal adverse effects to the aquatic environment. Applicants may propose the use of mitigation banks, in-lieu fee (ILF) programs, or separate permittee-responsible mitigation. Applicants must adhere to the mitigation hierarchy found in the 2008 mitigation rule (33 CFR 332) when selecting appropriate methods for mitigation. A conceptual permittee-responsible mitigation plan may be submitted for initial review, however, a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the District Engineer before RGP 39 may be authorized for the proposed project.

8) All mitigation must be completed prior to or concurrent with project construction. If, in the opinion of the Corps, mitigation areas do not fully replace the aquatic functions that are lost due to the installation of the structure or project features, further mitigation measures may be deemed necessary on a case-by-case basis. Proposed mitigation areas may not be located in areas that are enrolled in programs such as the USDA Conservation Reserve Program (CRP) or the USDA Wetland Reserve Program (WRP).

9) The amount of mitigation required will be determined during review for authorization under this permit as per the mitigation rule requirements. Mitigation must be adequate to offset unavoidable impacts or losses to regulated WOTUS. The Corps has the final approval in determining the appropriate and practicable mitigation necessary.

D. **Liability.** The Permittee shall notify the District Engineer within 60 days upon identification of any non-compliance with the general or special conditions stipulated in the permit. Corrective or remedial actions may be mandated to restore compliance, which may involve site regrading, revegetation, or other restorative measures as deemed appropriate. The Permittee shall take immediate proactive steps necessary to correct any deficiencies and shall coordinate with this office during implementation to ensure compliance with the terms and conditions in this permit.

E. **Compliance Certification.** Each Permittee who receives a verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the District Engineer. The Corps will provide the Permittee the certification document with the RGP 39 verification letter.

F. **Historical Properties/Archaeological:** The Lead Federal Agency (Corps or NRCS) will fulfill the collective responsibilities set forth in the National Historic Preservation Act (NHPA) and will achieve compliance with Section 106 of the NHPA utilizing established agency procedures. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the lead Federal agency. Authorization under this RGP 39 is not considered effective until Section 106 compliance is achieved.

G. **Endangered Species**. The Lead Federal Agency (Corps or NRCS) will fulfill the collective responsibilities set forth in the Endangered Species Act (ESA) and will achieve compliance with that Act. This permit does not authorize the taking of a threatened or endangered species or its critical habitat. If an activity may result in take of a listed species, separate authorization under the ESA contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with an "incidental take", such terms and conditions become part of this permit. Failure to comply with the ESA terms and conditions or an unauthorized take would constitute non-compliance with this permit. Authorization under this RP39 is not considered effective until ESA compliance is achieved.

H. **Water Quality Certification:** By letter dated (TBD) the Iowa Department of Natural Resources issued General Section 401 water quality certification for this regional permit.

<<<<< END OF SPECIAL CONDITIONS >>>>>

Further information:

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

   ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

   (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 the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

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

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

c. Significant new information surfaces which the issuing 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 2 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.

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

_____ _____

Matt Zehr
Chief, Rock Island District
Regulatory Division

Date

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

_____ _____

Transferee

Date

January 20, 2026 (DRAFT)

Brynn Noble
Brynn.E.Noble@usace.army.mil

Dear Brynn Noble:

After reviewing your request for State 401 Water Quality Certification (Certification), the Iowa Department of Natural Resources (DNR) has issued the enclosed Certification. Please read the attached conditions carefully before beginning work on the project.

A copy of this Certification has been forwarded to the office of the U.S. Army Corps of Engineers as indicated below.

Please note:

1. Prior to construction, the permittee is responsible for securing such other permits or approvals as may be required by the DNR, federal, state, or local governmental agencies for the project activities described. Issuance of this certification does not relieve you of the responsibility to comply with all local, state and federal laws, ordinances, regulations or other applicable legal requirements.

2. The permittee is responsible for ensuring that whoever performs, supervises, or oversees any portion of the physical work associated with the construction of this project complies with all the terms and conditions of this Certification as well as the associated Section 404 Permit.

If you have any questions about the certification or attached conditions contained therein, my contact information is provided in the certification.

Sincerely,

Brandon Harland
Natural Resource Biologist

cc: Brynn Noble, Department of the Army Corps of Engineers, Rock Island District (Brynn.E.Noble@usace.army.mil)

IOWA DEPARTMENT OF NATURAL RESOURCES
SECTION 401 WATER QUALITY CERTIFICATION

Certification issued to:

Brynn Noble
Brynn.E.Noble@usace.army.mil

Project certified: U.S. Army Corps of Engineers, No. 2024-1291

Project Description: Regional General Permit 39 (RP39) authorizes the discharge of dredged and/or fill material in waters of the U.S (WOTUS) in the State of Iowa to create/restore wetlands.

Project Location: All waters of the United States in Iowa, within the regulatory boundaries of the Rock Island District.

If the project proposes to directly discharge into an Outstanding Iowa Water (OIW) or Outstanding National Resource Water (ONRW), an individual 401 Water Quality Certification (WQC) must be obtained, and the permittee shall not begin work on the activity until an individual 401 WQC is issued by the state or waived. For OIWs or ONRWs that are streams, if the project proposes to discharge into a tributary of an OIW or ONRW, an individual 401 Water Quality Certification (WQC) must be obtained, and the permittee shall not begin work on the activity until an individual 401 WQC is issued by the state or waived. This only applies to projects that are located within the State of Iowa.

This permit may be used on tribal lands in the state of Iowa; however, an individual 401 WQC from the applicable tribal government may be required prior to authorization.

The Iowa Department of Natural Resources (DNR) has issued this State 401 Water Quality Certification (Certification) pursuant to Section 401 {40 C.F.R. §121}. The U.S. Army Corps of Engineers requires state Certification before a Section 404 permit can be issued.

Subject to the attached conditions, incorporated by reference herein, the DNR has determined that a discharge from the proposed project will comply with water quality requirements of the state of Iowa {567 IAC 61}.

Prepared By/Date Executed: _____

Brandon Harland
Iowa DNR
brandon.harland@dnr.iowa.gov
515-954-9559
6200 Park Ave. Ste. 200, Des Moines, IA 50321

CONDITIONS

(1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);

(2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous substances before arriving on site. Wash water shall not be discharged into a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);

(3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality requirements. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);

(4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);

(5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality requirements. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);

(6) Riprap, treated lumber products, and temporary structures shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in material placed in any water of the state or within the high-water table. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2); and

(7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality requirements. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2).

(8) Hydraulically dredged material shall be managed to ensure the return water meets water quality requirements.