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**RESPONSE TO APPLICATION FOR
AUTHORIZATION TO PLACE LIMESTONE ROCK
ALONG THE BANK OF PADDY'S RUN CREEK**

DEPT OF ARMY/DOE-FN

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LETTER**



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
P.O. BOX 59
LOUISVILLE, KENTUCKY 40201-0059
April 1, 1993

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Operations and Readiness Division
Regulatory Branch (North)
ID No. 199300361-bkc

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Mr. Thomas J. Rowland
Acting Manager
Department of Energy
Fernald Environmental
Management Project
P.O. Box 398705
Cincinnati, Ohio 45239-8705

Dear Mr. Rowland:

This is in regard to your March 26, 1993, application requesting authorization to place limestone rock along 280 linear feet of the bank of Paddy's Run. The proposed site is located in Hamilton County, Ohio. We have reviewed the submitted data to determine whether a Department of the Army (DA) permit will be required under the provisions of Section 404 of the Clean Water Act.

The proposed work is authorized under the provisions of 33 CFR 330 Nationwide Permit (NWP) No. 13, for bank protection activities less than 500 feet in length that will not exceed an average of 1 cubic yard per running foot of bank below the Ordinary High Water mark. An individual DA permit will not be required provided the work is done in compliance with the enclosed NWP Conditions and the following criteria are met:

- a. No material is placed in any special aquatic site, including wetlands.
- b. No material is of the type or is placed in any location or in any manner so as to impair surface water flow into or out of any wetland area.
- c. No material is placed in a manner that will be eroded by normal or expected high flows.
- d. The activity is part of a single and complete project.

This verification will be valid for a period of 2 years from the date of this letter.

If you have any questions, please contact this office at the above address, ATTN: CEORL-OR-FN or call me at (502) 582-5607. Any correspondence on this matter should refer to our ID No. 199300361-bkc.

Sincerely,



Brenda Carter
Project Manager
Regulatory Branch

Enclosure

Nationwide Permit Conditions

General Conditions: The following general conditions must be followed in order for any authorization by a nationwide permit to be valid:

1. *Navigation.* No activity may cause more than a minimal adverse effect on navigation.
2. *Proper maintenance.* Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. *Erosion and siltation controls.* Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date.
4. *Aquatic life movements.* No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
5. *Equipment.* Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
6. *Regional and case-by-case conditions.* The activity must comply with any regional conditions which may have been added by the division engineer (see 33 CFR 330.4(e)) and any case specific conditions added by the Corps.
7. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status. Information on Wild and Scenic Rivers may be obtained from the National Park Service and the U.S. Forest Service.
8. *Tribal rights.* No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. *Water quality certification.* In certain states, an individual state water quality certification must be obtained or waived (see 33 CFR 330.4(c)).
10. *Endangered Species.* No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the district engineer if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work on the activity until notified by the district engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service. (see 33 CFR 330.4(f))
11. *Historic properties.* No activity which may affect Historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the district engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

Section 404 Only Conditions

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or fill material and must be followed in order for authorization by the nationwide permits to be valid:

1. *Water supply intakes.* No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
2. *Shellfish production.* No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by nationwide permit 4.
3. *Suitable material.* No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
4. *Mitigation.* Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site), unless the DE has approved a compensation mitigation plan for the specific regulated activity.
5. *Spawning areas.* Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
6. *Obstruction of high flows.* To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).
7. *Adverse impacts from impoundments.* If the discharge creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.
8. *Waterfowl breeding areas.* Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
9. *Removal of temporary fills.* Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.