

DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public

Permit No.: GP 08-01 (Corps File No. NWO-2007-03483-MTB)

Issuing Office: US Army Corps of Engineers, Omaha District, Billings Regulatory Office

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:

YELLOWSTONE CLUB DEVELOPMENT
Appendix A lists detailed description of authorized work
Appendix B lists special conditions
Appendix C lists application procedure

Project Location: Jurisdictional waters located within the boundaries of the Yellowstone Club (YC) development, near Big Sky in Madison County, Montana. The YC is located in Sections 34, 35, 36, Township 6 South, Range 2 East; Sections 31 and 32, Township 6 South, Range 3 East; Sections 1-4, 9-15, 23 and 24; Township 7 South, Range 2 East; and Sections 5-8, and 17-20, Township 7 South, Range 3 East. The RGP applies only to housing areas already approved for development in the Updated December 2007 Yellowstone Mountain Club Master Plan and is limited to the following: Yellowstone Mountain Club Subdivision Phases 1 & 2, Phase 1A, Phase 3, Phase 3A, Phase 4 (Warren Miller Lodge), Phase 5, and Phase 6, Phase 6A (Enclave); Andesite Pointe, Sunrise Ridge Phase 1, Slopeside Subdivision, Overlook Subdivision and Golf Course Subdivision Phase 1. Large acreage subdivisions/lots that have already been platted including Rainbow Minor Subdivision, Club Cabin Minor Subdivision, COS 1554-A, COS 1738, COS 1873 and Base Area 160 are excluded from using the RGP. Areas not labeled at all and/or labeled for conservation easements and future development in the Master Plan are not eligible to use the RGP, including but not limited to, Eglise Ridge, COS 1554, Corral, 20 Remote Cabins, Rainbow Lodge, Pioneer Subdivision, American Spirit Subdivision, Village, and COS Book 7 Page 1962. Only locations with existing recreation amenities are eligible to use the RGP. Recreational amenities in new areas are not permitted under the RGP.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on September 30, 2013 which is 5 years after validation. 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.

ENG FORM 1721, NOV 86
EDITION OF SEP 82 IS OBSOLETE.

(33 CFR 320-330)

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.

Special Conditions: See Appendix B.

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 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.

**Regional General Permit 08-01
DA Permit No.: NWO-2007-03483-MTB
Yellowstone Club Development**

**APPENDIX A
DETAILED DESCRIPTION OF AUTHORIZED WORK**

In accordance with the terms and conditions of this Regional General Permit, the Yellowstone Club and landowners within the Yellowstone Club development as described herein are authorized by the Secretary of the Army to construct new culverts, bridges, access roads (including driveways), and utility lines; or to extend, modify or repair existing culverts, bridges, access roads (including driveways), and utility lines; and to protect existing infrastructure within the Yellowstone Club development. The proposed activity is located within the boundaries of the Yellowstone Club (YC) development, near Big Sky in Madison County, Montana. The YC is located in Sections 34, 35, 36, Township 6 South, Range 2 East; Sections 31 and 32, Township 6 South, Range 3 East; Sections 1-4, 9-15, 23 and 24; Township 7 South, Range 2 East; and Sections 5-8, and 17-20, Township 7 South, Range 3 East. The RGP will apply only to housing areas already approved for development in the Updated December 2007 Yellowstone Mountain Club Mater Plan and shall be limited to the following: Yellowstone Mountain Club Subdivision Phases 1 & 2, Phase 1A, Phase 3, Phase 3A, Phase 4 (Warren Miller Lodge), Phase 5, and Phase 6, Phase 6A (Enclave); Andesite Pointe, Sunrise Ridge Phase 1, Slopeside Subdivision, Overlook Subdivision and Golf Course Subdivision Phase 1. Large acreage subdivisions/lots that have already been platted including Rainbow Minor Subdivision, Club Cabin Minor Subdivision, COS 1554-A, COS 1738, COS 1873 and Base Area 160 are excluded from using the RGP. Areas not labeled at all and/or labeled for conservation easements and future development in the Master Plan will not be eligible to use the RGP, including but not limited to, Eglise Ridge, COS 1554, Corral, 20 Remote Cabins, Rainbow Lodge, Pioneer Subdivision, American Spirit Subdivision, Village, and COS Book 7 Page 1962. Only locations with existing recreation amenities will be eligible to use the RGP. Recreational amenities in new areas will not be permitted under the RGP.

This Regional General Permit (RGP) 08-01 authorizes the expansion, modification, improvement, repair, rehabilitation, or replacement of any previously authorized and currently serviceable culverts, bridges, access roads (including driveways) and utility lines. 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 that are necessary to make the repair, rehabilitation, or replacement are authorized.

RGP 08-01 also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures and the placement of new or additional riprap to protect the structures. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. RGP 08-01 also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity.

RGP 08-01 authorizes activities required for the construction of new culverts, bridges, and access roads (including driveways) in waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the project; such modifications must be in the immediate vicinity of the project.

RGP 08-01 authorizes temporary structures, fills, and work necessary to construct new culverts, bridges, and access

roads (including driveways). Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated.

RGP 08-01 authorizes bank stabilization activities necessary to protect existing upland infrastructure, including facilities constructed prior to issuance of this RGP that are not water dependent, provided the activity is no more than 200 feet in length along the bank and will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark. No material will be placed in excess of the minimum needed for erosion protection.

RGP 08-01 authorizes the construction, maintenance, or repair of utility lines, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in pre-construction contours. A “utility line” is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term “utility line” does not include activities that drain a water of the United States, such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area. Material resulting from trench excavation may be temporarily side cast into waters of the United States for no more than 30 days, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The District Commander may extend the period of temporary side casting for no more than a total of 60 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a French drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each water body.

Restrictions - RGP 08-01 cannot be used to authorize building pads for structures such as homes, garages, utility buildings or shops. This exclusion applies to new structures and the expansion of existing structures. RGP 08-01 also does not authorize construction of ski runs or trails, or new stream channelization or stream relocation projects. Projects involving filling activities, permanent and/or temporary, that would permanently impair the flow in and out of wetlands, are to be avoided if possible. If avoidance is not possible, mitigation of the impacts will be required. Projects located within the boundaries of a wetland area or environmentally sensitive areas; such as spawning, nesting, feeding and resting areas, river chutes, backwater areas, etc., are to be avoided if possible. If avoidance is not possible, mitigation for the impacts will be required. Projects in fens will not be considered under RGP 08-01.

Bridges – Bridge structures should accommodate the bankfull channel width with a clear span, and avoid constricting the channel during major flood events. Designs should pass estimated flood peaks without significant backwater (pooling) upstream.

Culverts – Culverts must adequately pass peak flows, debris, sediment and ice, and allow passage of aquatic species. Culverts must accommodate the bankfull channel width and avoid constricting the channel. Culverts must be placed slightly below grade of the natural stream bed. Fish passage considerations may require oversized pipes, baffled culverts, open-bottomed arches, or bridges. Multiple side-by-side culverts are not authorized by RGP 08-01.

All stream crossings should be designed and located to facilitate minimal impact at the crossing. Crossings should be at narrow, relatively stable channel sections.

The cumulative impacts of this regional general permit may be subject to reevaluation at the discretion of the District Commander at any time, but will be reevaluated at the end of five (5) years or once a total of 2.0 acres of waters of the U.S., including wetlands, are permanently filled.

The District Commander has the discretion to require an individual permit on a case-by-case basis for any of the activities authorized herein.

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Yellowstone Club Development

APPENDIX B
SPECIAL CONDITIONS

All activities authorized under this regional general permit must comply with the following Special Conditions:

- 1. Minimization:** Permittees are required to minimize the effects of the projects by:
 - a.** Placing all construction debris (which includes excess dredge and/or fill materials, wood, cleared vegetation, concrete, and all other materials not specifically addressed in the permit) on upland areas in such a manner that it cannot enter a waterway or wetland.
 - b.** Operating equipment that handles and/or conveys material during construction in a manner that prevents dumping or spilling the material into the water except as approved by the permit. Care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water. The use of machinery in the waterway will generally not be allowed and work should be performed from the bank or a work platform; specific authorization would be needed to allow machinery to be placed in a waterway.
 - c.** Performing work in the waterway 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.
 - d.** Utilizing only clean riprap materials in order to minimize the potential for the introduction of fines that would result in excessive local turbidity. Riprap should be sized accordingly per stream type and MTDEQ specifications.
 - e.** Utilizing only clean rock material from a non-streambed source for riprap or associated with the placement of riprap. Use of streambed source materials for cofferdam construction is allowed, provided the material is returned to the source area and the bottom elevation is restored to pre-project contours.
 - f.** Limit clearing of riparian or wetland vegetation to the absolute minimum necessary and practical. Where temporary riparian or wetland vegetation impacts are unavoidable, it must be mowed or cut off above the ground and topsoil and root mass must be left intact.
 - g.** Conducting close coordination with downstream water users, advising them of any water quality changes to be caused by the construction.
 - h.** All earthwork operations on shore will be carried out in such a manner that sediment runoff and soil erosion to the river are controlled.
 - i.** Complying with remedial measures given by the District Commander if there has been notification that the filling and/or dredging activity associated with the project is adversely affecting fish or wildlife resource or the harvest thereof. This may include suspending or modifying the activity to the extent necessary to mitigate or eliminate the adverse effect.
 - j.** All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place and maintained until construction is completed and the area is stabilized.
 - k.** All erosion control blanket or fabric used in or adjacent to waters of the U.S. must be natural and biodegradable to ensure decomposition. Do not use material that includes a synthetic or ultraviolet (UV) stabilized mesh, as those products take a long time to degrade and can trap small mammals, birds, amphibians, and fish.
 - l.** All areas along the bank disturbed or newly created by the construction activity must be seeded as soon as practical thereafter with vegetation indigenous to the project area for protection against subsequent erosion

and to minimize adverse impacts to fish and wildlife resources. This may require maintenance such as reseeded, watering, fencing, etc., as necessary to ensure survival of the replacement vegetation.

m. Disturbed areas shall be monitored following the project construction until site stabilization is achieved and noxious weeds (i.e., Canada thistle, purple loosestrife, leafy spurge and other invasive exotic species) controlled in accordance with Montana State law.

n. All temporary fills shall be removed in their entirety and the area revegetated and restored to its preconstruction contours.

o. In general the minimum channel bed width inside culverts or under a bridge must be at least 1.2 times the bankfull channel width (measured upstream and downstream) plus an additional two feet. The slope of the culvert must be < 1.25 times the existing channel slope. These standards may be adjusted by the District Commander upon showing of good cause. Structures must pass discharges up to the 25-year flow with less than 0.2 feet of backwater.

p. Set culvert inverts at least 30% of the culvert rise below the streambed flow line elevation.

q. Utilize natural channel design principles for design of crossing structures. Streambed material placed in culverts or under bridges must be uncrushed material and must match the cohesiveness and gradation of the adjacent streambed material.

r. No tributaries, side channels, oxbows or other backwater areas will be "cut off".

s. The cross-sectional areas of channels will not be reduced. The cross-sectional area of the stream is determined by multiplying channel depth by channel width along a transverse section of the stream.

t. No more than half of the stream channel shall be blocked at any one time so as not to diminish the flow downstream of the project.

u. Where practicable, construction will occur during low flow or no flow conditions.

v. The authorized activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows.

w. All culverts and culvert outlet riprap aprons must not impede movement of aquatic life, including fish.

x. Compensatory mitigation for all wetland impacts is required, and must be in accordance with the Montana Regulatory Program Mitigation Ratios. Options to satisfy compensatory wetland mitigation requirements include:

1. Development of a suitable compensatory mitigation project on-site.
2. Development of an off-site mitigation project.
3. Participation in an approved in-lieu fee program.
4. Purchase of credits from an approved mitigation bank.
5. Any combination of the above.

2. Wetlands and Other Waters: Total area of waters of the U.S. that can be permanently filled by a single and complete project is 0.10 acre.

3. Historic Properties: Any proposed project, which is located in an area containing historic, cultural, or archeological sites as listed in the National Register of Historic Places, or those known to be eligible for such listing, and all monthly supplement thereto; and any proposed project which is located in a site included in the National Registry of Natural Landmarks, or any other known historic, cultural, or archaeological site will not be considered under this regional general permit if it would result in an adverse impact to that site. The project must comply with the provisions of 33 CFR Part 325, Appendix C, pursuant to the National Historic Preservation Act of 1966.

4. Threatened and Endangered Species: No activity is authorized that would result in adverse impacts to Federally listed threatened and/or endangered species or their critical habitat. The project must comply with the Endangered Species Act of 1972. If a nest, den, or important site for any Threatened or Endangered species is found adjacent to the project area, construction activities will be curtailed. FWS will be consulted for recommendations

and additional conditions may be imposed in order to avoid impacts. All occurrences of Canada lynx within the project area must be reported to the USFWS Office in Helena, Montana.

In order to minimize negative human-bear interactions, it is recommended that the following measures occur at the YC:

- All construction workers and residents will be informed that they are in grizzly country and provided with information on how to avoid encounters.
- All food items or other potential bear attractants such as petroleum products and antifreeze will be removed from vehicles.
- Construction crews will be advised that they are working in bear country (both grizzly and black bear), that their lunches and other attractants must be stored properly, and that they must remove all food materials, garbage, and other attractants on a daily basis. All waste will be deposited in bear-proof containers.
- Leave timber or cover corridors along streams and provide wildlife crossing areas.
- The YC should place restrictions on free-ranging dogs and other pets within their subdivision covenants, as well as prohibitions regarding fencing and artificially feeding large mammal wildlife. Only companion family pets should be permitted. Swine, sheep, cattle, horses, goats, llamas and other similar livestock should not be allowed.
- Establish the selective use of food plants in revegetating ski runs that could reduce the impacts of these runs on wildlife and enhance safe summer viewing opportunities.

5. Spawning Areas: Activities in spawning areas during spawning seasons must be avoided. Site-specific activities may be allowed after notification and review and only after specific approval.

6. Tribal Rights: No activity is authorized that would impair reserved tribal rights; including, but not limited to, water, fishing, and hunting rights.

7. Suitable Fill Material: No discharge may consist of unsuitable material (e.g. trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic materials in toxic amounts as required by Section 307 of the Clean Water Act. In Montana, the Corps issued a notice of prohibition against the use of certain material as fill in a Special Public Notice dated May 24, 2002.

8. Proper Maintenance: Any fill material must be properly maintained, including maintenance necessary to ensure public safety.

9. Water Supply Intakes: No discharge may occur in the proximity of any water supply intake.

10. Stockpiling: Temporary and permanent storage of excess soil, sediment, unwanted vegetation or other material in waters of the U.S., including wetlands is not authorized for more than 30 days unless specifically extended by the District Commander. This does not prohibit the construction of temporary crossings or cofferdams.

11. Time: Activities authorized under this Regional General Permit must be started within one (1) year of such authorization and must be completed within three (3) years of said authorization unless revoked or specifically extended.

**Regional General Permit 08-01
DA Permit No.: NWO-2007-03483-MTB
Yellowstone Club Development**

**APPENDIX C
APPLICATION PROCEDURE**

All persons who desire to construct projects in accordance with this RGP 08-01 are required to submit a Preconstruction Notification (PCN) using the Montana Joint Application Form to the Corps at the following address at least 45 days prior to the anticipated start of construction.

U.S. Army Corps of Engineers
Helena Regulatory Office
10 West 15th street, Suite 2200
Helena, Montana 59626

All PCN's must contain sufficient information for the Corps to determine if a project complies with the terms and conditions of RGP 08-01. All applications must contain the information described below. However, the Corps may require more detailed information if necessary to ensure compliance.

- 1. Applicant:** Name, address, and telephone number of the applicant (landowner) and contact person.
- 2. Project Location:** A legal description of the project location, including borrow and disposal sites, by quarter, section, township, and range. An enlarged copy of the appropriate portion of the U.S. Geological Survey topographic map for the area is the preferred method of specifying location information.
- 3. Project Description:** A brief written description of the project including the primary purpose; compositions and volume (cubic yards) of all fill material and areas of excavation; number of locations of project features, areas of fill in waters of the U.S. and wetlands. If wetlands are to be filled with the project, the application must include a wetland delineation (see item 5 below); types and numbers of construction equipment to be used, total area of surface disturbance, including uplands; and any other pertinent information.
- 4. Project Drawings:** Drawings of the project, preferably on 8 ½ x 11-inch paper. Drawings must include a plan view with all project features easily discernable on it. For projects that involve fills in wetlands, a baseline wetland delineation map showing existing wetland boundaries and water features.
- 5. Wetland Delineations:** Projects that involve fills in wetlands must include a wetland delineation for the entire project area, including all wetland areas that could be impacted. Delineations must be completed by qualified individuals in accordance with the U.S. Army Corps of Engineers Wetland Delineation Manual dated January 1987 and any updated and supplements thereto. Delineation maps must show all areas that meet the definition of a wetland, as defined in the manual and all other water features such as ditches, streams, ponds and lakes.
- 6. Stream Baseline Conditions:** Projects that involve fill in streams must include a baseline description that includes the location of any riffle and pool complexes in the project area, and the locations of any other existing structures in the project area. The baseline condition should include stream plan, profile and pattern information.
- 7. Photographs:** The applicant is encouraged to provide color photographs of the project area, especially typical wetland/upland boundaries, in order to facilitate permit processing.