REGIONAL GENERAL PERMIT

Permittee: General Public

Expiration Date: July 1, 2004

Permit Number: GP-004, 199975156

Issuing Office: U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 "J" Street
Sacramento, California 95814-2922

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. You must notify the Corps of Engineers (in writing) and receive verification of approval from the Corps of Engineers prior to beginning work authorized by this permit. Notification and approval procedures are described in the public notice covering this permit.

Project Description: This Regional General Permit authorizes the discharge of dredged and fill material for minor road crossings, including temporary detours, in the State of Colorado as described below:

Fills for roads crossings of waters of the United States (including wetlands and other special aquatic sites) provided the activity meets all of the following criteria:

1. The width of the fill is limited to the minimum necessary for the actual crossing;

2. The total permanent and temporary fill areas in navigable waters and waters of the United States is limited to one acre or less;

3. The fill for the roadway may not exceed a total of 250 linear feet in special aquatic sites, including wetlands;

4. The crossing is culverted, bridged or otherwise designed to prevent the restriction of, and to withstand, expected high flows, and to prevent the restriction of low flows and the movement of aquatic organisms; and

5. The crossing, including all attendant features, both temporary and permanent, is part of a single and complete project for crossing of a water of the United States. Reasonable and customary discharges of dredged and fill material for temporary facilities such as cofferdams, detours, construction pads, etc., may be authorized by the Corps of Engineers under the authority of this permit.

All work will be completed in accordance with the attached plan(s) approved by the Corps of Engineers.

Project Location: "Waters of the United States" (Section 404 of the Clean Water Act) and "navigable waters of the United States" (Section 10 of the Rivers and Harbors Act) in the state of Colorado.

Permit Conditions:

1. Upon receiving approval to perform work under this permit, you will have three years to complete the work, unless specified otherwise in a Corps of Engineers verification letter. If more time is required, you must seek an extension of time from the Corps of Engineers. Your request for an extension of time should be submitted to the Corps of Engineers at least 45 days prior to the 3-year completion date. Upon completion of the work, you will submit a signed certification to the Corps of Engineers that will include:

a. A statement that you have performed the authorized work in accordance with the Corps of Engineers permit, including general or special conditions;

b. A statement that you have performed any required mitigation in accordance with the permit conditions; and

c. The signature of the permittee certifying the completion of the work and mitigation.

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 the Corps of Engineers 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 a transfer of this authorization from the Corps of Engineers to the new owner.

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. In Colorado, excluding Indian Country, Regional General Permits are unconditionally certified by statute. In Indian Country, you must receive water quality certification from the U.S. Environmental Protection Agency, Region VIII, which may impose conditions in a certification.

6. You must allow representatives from the Corps of Engineers 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.

7. The permittee shall exercise all necessary standard construction procedures to protect waters of the United States from pollution by contaminants and to minimize turbidity and siltation of these waters. All exposed soils and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Special attention shall be given to temporary crossings to avoid sediment loading and restriction of high flows.

8. Petroleum products from the permittee's operations shall not be discharged in waters of the United States or in areas where the products may enter waters of the U.S.

9. Waste material derived from the roadway work shall not be placed below the 100-year floodplain level of a stream and shall be placed in a manner which will prevent its entry into a stream. All temporary fill shall be removed in its entirety to upland disposal sites.

10. Where the fish migration may be affected by the construction or existence of the facility, the permittee shall design the facility, and schedule and conduct his operations so as to allow free passage of migratory fish and prevent interference with fish spawning. Discharges of dredged and fill material in spawning areas during spawning seasons shall be avoided to the maximum extent practicable. Generally, all instream work should be performed during low water periods and the use of heavy equipment in stream beds, especially in flowing water, should be minimized to the maximum extent practicable. However, brown trout, Salmo trutta, begin spawning activity as early as mid-September when the hydrograph is generally receding. Depending on the location of a project, care must be taken so the low flow work does not adversely impact natural recruitment of wild trout.

11. Removal of bed material shall not be commenced until adequate means e.g., cofferdams, are provided to carry the streams free of silt around the removal site. A channel change must have prior approval from the Corps of Engineers. This permit is intended to allow only minor, temporary changes in water flow caused by temporary cofferdams or diversions needed to facilitate the construction of a roadway crossing. Extensive or major channel relocation or changes are not allowed under this permit.

12. The project shall be designed to minimize changes in physical characteristics of the water course, including subsurface flows, in order to prevent unnecessary secondary adverse impacts to wetlands dependent on existing hydrologic conditions. This is especially important with "below grade" wetland road crossings which, depending upon the depth of cut and fill, can effectively drain and adversely affect wetlands adjacent to the road. When construction operations are completed, the flow of streams shall be returned as nearly as possible to the original pattern without creating a possible future erosion problem.

13. To the maximum extent practicable, discharges in wetlands shall be avoided and minimized at the project site. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance. Wetlands impacts remaining after avoiding and minimizing shall be mitigated through appropriate means e.g., compensation, approved by the Corps of Engineers. Upland areas scarred by construction should be re-vegetated with an appropriate mixture of native trees, shrubs, grasses, and forbs. Exotic plants should not be a part of any re-vegetation plan. Only weed-free hay should be used as part of any revegetation efforts. Silt fencing shall be used to minimize movement of sediment from work areas.

14. Destruction of riparian or riverine vegetation, especially mature cottonwoods, and discharges in breeding areas for migratory waterfowl shall be avoided to the maximum extent practicable. The permittee is cautioned that cottonwoods may be locally very important for bald eagles, which are protected by the Endangered Species Act.

15. Any activity authorized under this permit shall not jeopardize the continued existence of a threatened or endangered species, or a species proposed for such designation, as identified under the Endangered Species Act (ESA), or which is likely to destroy or adversely modify the critical habitat of such species. As appropriate, the Corps of Engineers will consult with the U.S. Fish and Wildlife Service (FWS) on specific requests to perform work under this permit if the project may affect a threatened or endangered species, or critical habitat. Consultation may conclude with the identification of conservation recommendations by the U.S. Fish and Wildlife Service in a non-jeopardy Biological Opinion. At the discretion of the Corps of Engineers, these recommendations will be made part of a approval. The Corps of Engineers will enforce compliance with accepted recommendations. If the FWS renders a jeopardy Biological Opinion and its identified reasonable and prudent alternative(s) can not be implemented, the project will require an individual Department of Army permit. Authorization of an activity under this permit does **not** authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS, both lethal and non-lethal "takes" of protected species are in violation of the ESA.

16. Any dredged or fill material shall not consist of unsuitable material (e.g., trash, debris, waste metal products, bituminous concrete (asphalt), car bodies, etc.) and must be free from toxic pollutants in toxic amounts.

17. Any discharges of dredged or fill material shall not occur in close proximity of a public water supply intake, should not limit the ability of any existing diversion structure to appropriate water, and should not adversely affect a stream gaging station.

18. Activities occurring 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, are not authorized by this permit.

19. An activity may not impair reserved tribal rights including, but not limited to reserved water rights, and treaty fishing and hunting rights.

20. This permit is not valid in wetlands, commonly known as fens. Fens are characterized by water-logged, spongy ground and contain soils classified by histosols or mineral soils with a histic epipedon.

Further Information:

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

   (x) 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 projects.

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 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. Condition number 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.

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

Issued for and in behalf of Colonel Michael J. Walsh, District Engineer

/s/
Arthur M. Champ
Chief, Regulatory Branch
August 1, 1999