

Briargate Parkway – Sterling Ranch Road East of Sand Creek

US Army Corps of Engineers Permit

The existing USACOE permit for Sand Creek has been included for this initial submittal. Why would this CDR require a USACOE permit? The USACOE/FEMA permitting will be associated with Sand Creek Channel Improvements and Bridges project.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
200 SOUTH SANTA FE AVENUE, SUITE 301
PUEBLO, COLORADO 81003-4270

SIGNED

February 29, 2016

Regulatory Division

SUBJECT: Action No. SPA-2015-00428-SCO, Sterling Ranch Residential Development Project, El Paso County, Colorado

Jim Morley
SR Land, LLC
20 Boulder Crescent Suite 201
Colorado Springs, CO 80903

Mr. Morley:

You are hereby authorized under Section 404 of the Clean Water Act to discharge dredged and fill material into waters of the United States to conduct work in associated with construction of the Sterling Ranch Residential Development in accordance with Action Number SPA-2015-00428-SCO. A copy of the permit is enclosed.

To use this permit, you must ensure that the work is conducted in accordance with the terms and conditions of the permit. You must submit revised drawings to us for approval prior to construction should any changes be found necessary in either the location or plans for the work. Approval of revised plans may be granted if they are found not contrary to the public interest.

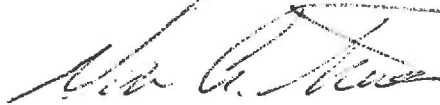
This permit is not an approval of the project design features, nor does it imply that the construction is adequate for its intended purpose. This permit does not authorize any injury to property or invasion of rights or any infringement of Federal, state or local laws or regulations. You must possess the authority, including property rights, to undertake the proposed work.

Enclosed is a compliance certification form. Upon completion of the project, please sign and date the form and return it to this office.

If you have any questions concerning our regulatory program, please contact me at 719-543-6915 or by e-mail at van.a.truan@usace.army.mil. At your convenience,

please complete a Customer Service Survey at
<http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Van Truan", with a long horizontal flourish extending to the right.

Van Truan
Chief, Southern Colorado
Regulatory Branch

Enclosure(s)

**Certification of Compliance
with Department of the Army Permit**

Action Number: SPA-2015-00428-SCO

Name of Permittee: SR Land, LLC

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

Van Truan
Albuquerque District, U.S. Army Corps of Engineers
200 South Santa Fe Avenue, Suite 301
Pueblo, Colorado 81003-4270

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

Please enclose photographs showing the completed project (if available).

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Date Work Started _____

Date Work Completed _____

Date

Signature of Permittee

DEPARTMENT OF THE ARMY PERMIT

Permittee Jim Morley

Permit No. SPA-2015-00428-SCO

Issuing Office Albuquerque District, U.S. Army Corps of Engineers

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: The Sterling Ranch Residential Development Project includes installation of attendant utilities, channel improvements to the main stem of Sand Creek, three off-line stormwater detention ponds, development of two permanent residential access roads and associated culverts, and development of residential units. Permanent impacts to waters of the US will result from construction of the residential access roads and associated culverts, and construction of residential units in the unnamed western tributary to Sand Creek. Total cumulative permanent impacts from the discharge of fill material into waters/wetlands of the US from the proposed project will total 4.21 acres and 5,048 linear feet within the main channel of Sand Creek and its western tributary. The project will be constructed in accordance with the attached drawings, entitled, "Sterling Ranch Wetland Impact Location Map, Sterling Ranch Sketch Plan figure number 8, and Sterling Ranch Channel Improvements & Mitigation Plan sheets 1 through 3 dated October 13, 2015, in Sand Creek, El Paso County, Colorado, Application by Jim Morley, Application No. SPA-2015-00428-SCO".

Project Location: The project is located on 1,443.7 acres northeast of the intersection of Black Forest Road and Woodmen Road in unincorporated El Paso County, Colorado. The property is on the United States Geological Survey (USGS) Falcon Quadrangle on portions of Sections 27, 28, 32, 33, and 34 in Township 12 South, Range 65 West and the northwest portion of Section 4, Township 13 South, Range 65 West. The approximate coordinates of the project center are 39.964483 latitude and -104.664944 longitude (WGS 84 datum).

Permit Conditions: In accordance with the attached Colorado Department of Public Health and Environment Section 401 Water Quality Certification pages 1 through 6 of 6, dated February 4, 2016.

General Conditions:

1. The time limit for completing the work authorized ends on March 1, 2021. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity,

although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permittee shall implement and abide by the compensatory mitigation plan titled Conceptual Mitigation Plan for Sterling Ranch Residential Development, prepared by CORE Consultants, Inc. on October 29, 2015 except where changes are necessary to comply with special conditions listed below. The permittee shall implement the mitigation plan concurrently with the construction of the project and complete the initial construction and plantings associated with the mitigation work prior to EITHER the initiation of operation OR completion of construction of the project. Completion of all elements of this mitigation plan is a requirement of this permit.
2. The permittee shall submit annual compensatory mitigation site monitoring reports to the Corps Albuquerque District Office by December 31st of each year, beginning in 2016, for a minimum of 3 years or until the Corps has determined that the mitigation performance standards and success criteria have been met. The monitoring reports shall be prepared in accordance with Corps Regulatory Guidance Letter 08-03 (Minimum Monitoring Requirements for Compensatory Mitigation Projects Involving the Restoration, Establishment, and/or Enhancement of Aquatic Resources) and current Corps Albuquerque District Mitigation Monitoring Guidelines available at <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/Mitigation.aspx>. The mitigation monitoring reports shall at a minimum include the following:
 - a. Comparison of pre-construction site conditions to an as-built survey as submitted in accordance with Special Condition 4.
 - b. A map showing the wetland AND/OR Ordinary High Water Mark (OHWM) delineation, and aerial photos marked to show the wetland AND/OR OHWM boundary.
 - c. Photographs (minimum 5) from fixed photographic monitoring points with a location reference map and indicating camera orientation.

d. All data collected to document whether the mitigation site is achieving performance standards described in the mitigation plan and a narrative discussion of progress made toward meeting performance standards.

e. Fish and wildlife observations at the mitigation site.

f. Summary statement regarding the perceived success of the mitigation project and any potential problem areas. Suggestions and a timetable for corrections should be included if it is anticipated that project goals may not be met.

g. Date(s) of field inspection(s).

3. In order to assist the Corps in scheduling compliance inspections, the permittee shall notify the Corps Albuquerque District Office, in writing, at least 7 calendar days in advance of the initiation of mitigation construction AND no later than 15 calendar days following completion of construction activities.

4. Within 60 days after completion of construction of the mitigation project, the permittee shall submit as-built drawings and a description of the work conducted to the Corps Albuquerque District Office. The drawings shall include the following:

a. The Department of the Army Action Number.

b. A plan view drawing of the location of the authorized work footprint (as shown in permit drawings) with an overlay of the work as constructed in the same scale. The drawing should show all "earth disturbance," wetland impacts, structures, and the boundaries of any on-site and/or off-site mitigation or avoidance areas. The drawings shall contain, at a minimum, 1-foot OR greater topographic contours of the entire site.

c. Ground photographs of the completed work. The camera positions and view-angles of the ground photographs shall be identified on a map, aerial photograph, or project drawing.

d. A description of all deviations between the work as authorized by the permit and the work as constructed. Clearly indicate on the as-built drawings the location of any deviations.

5. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition No. 1 will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers.

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.

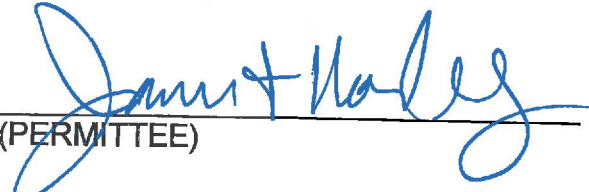
- b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing 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.

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


(PERMITTEE)

2/23/2016
(DATE)

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


(FOR THE DISTRICT ENGINEER)

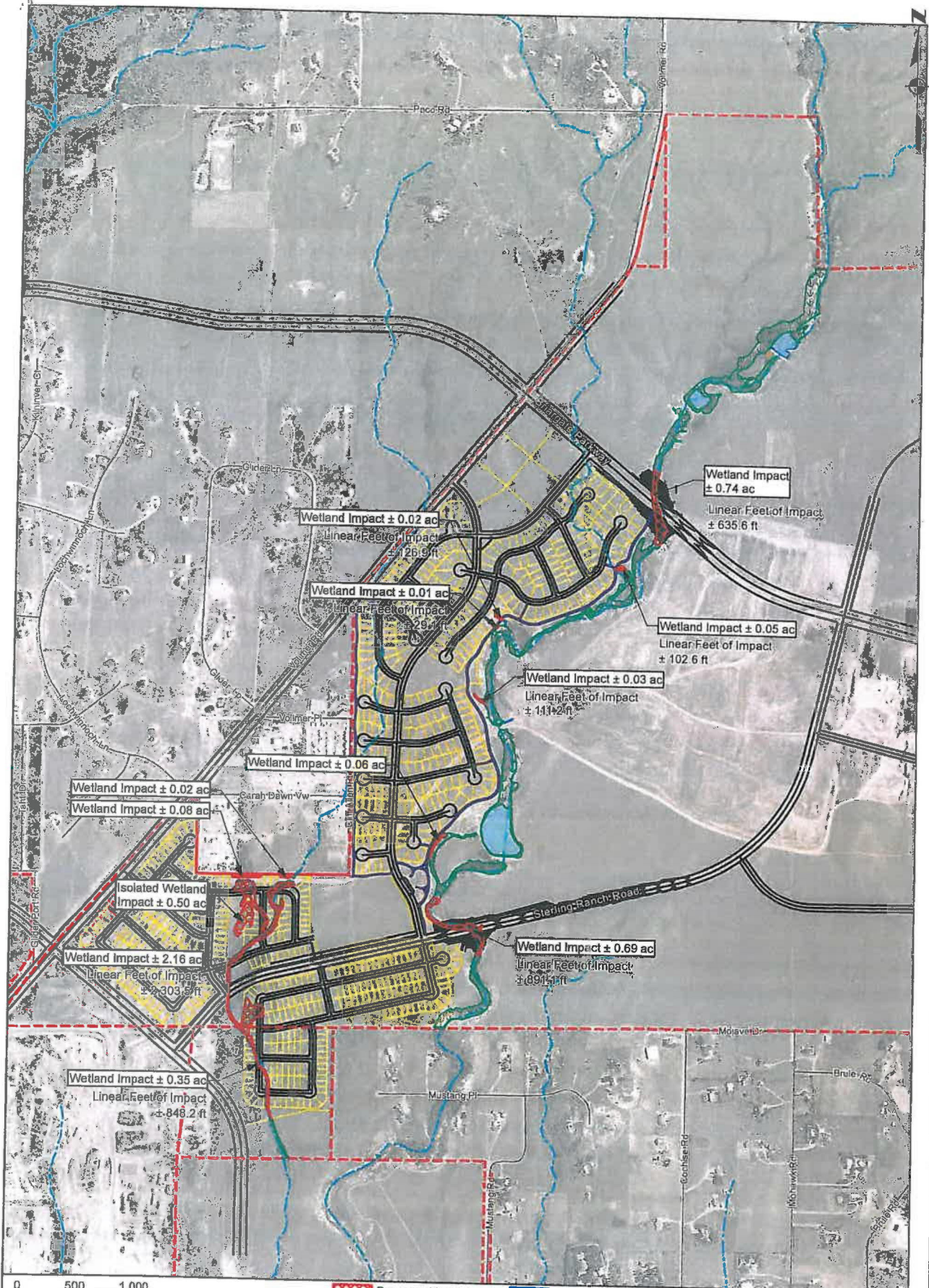
29 Feb 2016
(DATE)

Patrick J. Dagon
Lieutenant Colonel, U.S. Army
District Commander

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

(TRANSFERREE)

(DATE)



CORE
CONSULTANTS

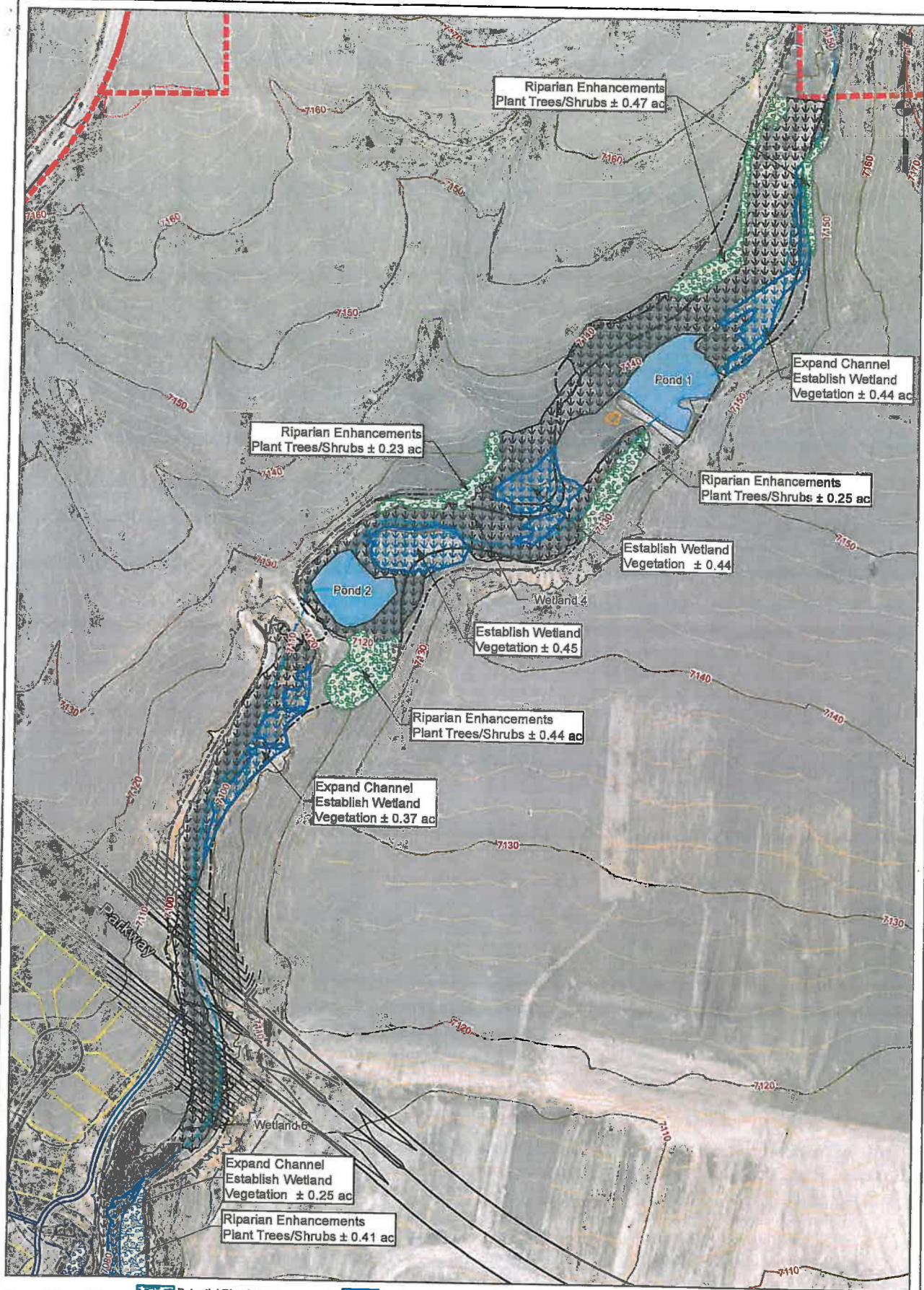
CIVIL ENGINEERING
DEVELOPMENT CONSULTING
LAND SURVEYING
303.703.4444
1950 W. Littleton Blvd., Ste. 109
Littleton, CO 80120

Sterling Ranch

Wetland Impact Location Map

El Paso County, Colorado

Date: 10/13/2015
Project #: 15-001



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Feet



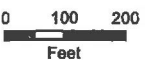
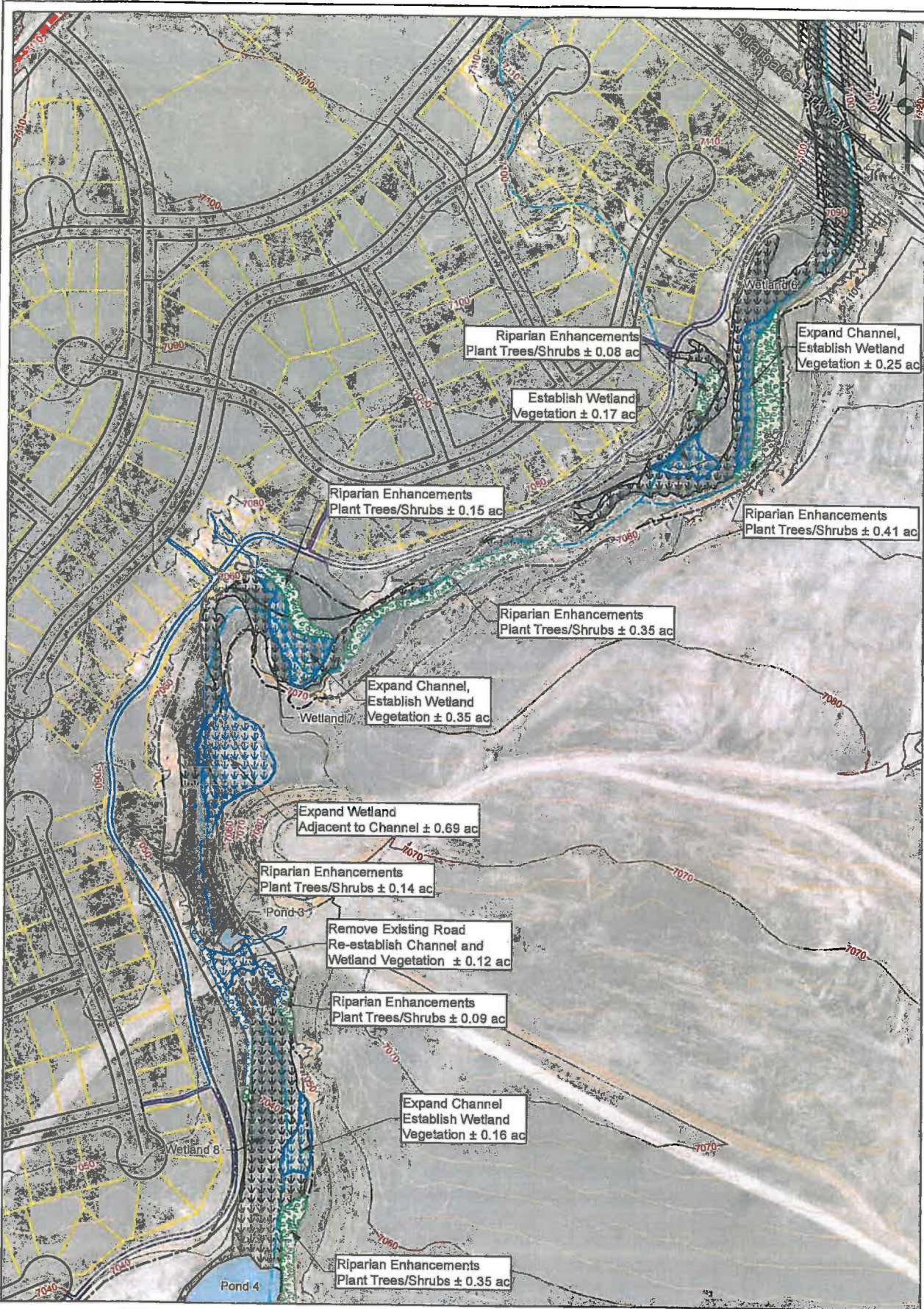
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1950 W. Littleton Blvd., Ste. 109
Littleton, CO 80120

Sterling Ranch Channel Improvements & Mitigation Plan Sheet 1

El Paso County, Colorado

Date: 10/13/2015
Project #: 15-001



- Potential Riparian Enhancement
- Potential Wetland Mitigation Area
- Existing Wetland
- Pond
- Dry Wash
- Existing Isolated Wetland

- NHD Watercourse
- 100-year Floodplain
- 500-year Floodplain
- Proposed Road
- Proposed Trail
- Proposed Lot Lines
- Proposed Contour
- Index Contour
- Intermediate Contour
- Parcel Boundary



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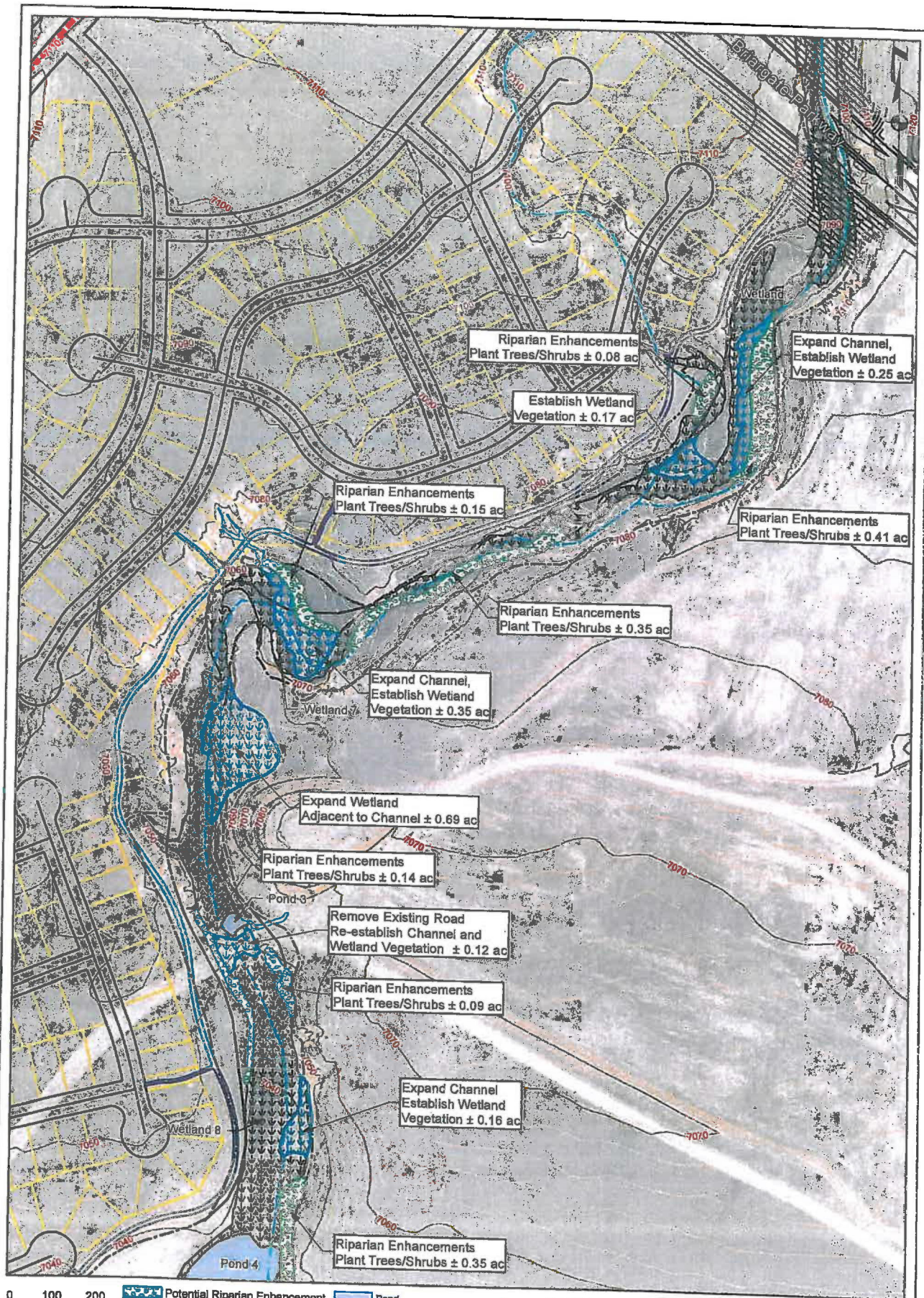
Sterling Ranch

Channel Improvements & Mitigation Plan

Sheet 2

El Paso County, Colorado

Date: 10/13/2015
Project #: 15-001



0 100 200
Feet

Potential Riparian Enhancement
 Potential Wetland Mitigation Area
 Existing Wetland

Pond
 Dry Wash
 Existing Isolated Wetland

NHD Watercourse
 100-year Floodplain
 500-year Floodplain

Proposed Road
 Proposed Trail
 Proposed Lot Lines
 Proposed Contour
 Index Contour
 Intermediate Contour
 Parcel Boundary

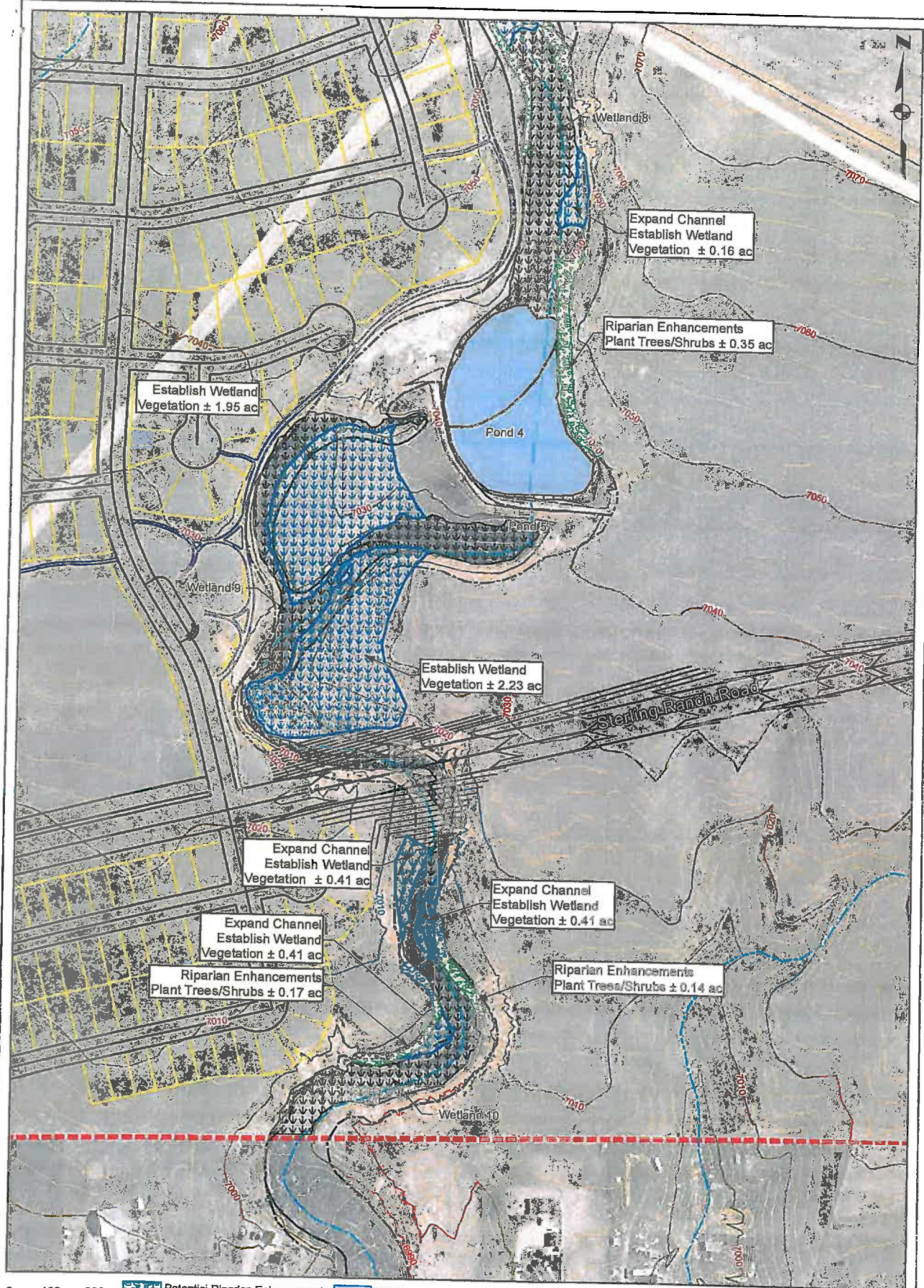


CIVIL ENGINEERING
 DEVELOPMENT CONSULTING
 LAND SURVEYING
 303.703.4444
 9521 W. Litchford Blvd., Ste. 100
 Littleton, CO 80120

Sterling Ranch Channel Improvements & Mitigation Plan Sheet 2

El Paso County, Colorado

Date: 10/13/2015
 Project #: 15-001



0 100 200
Feet

Potential Riparian Enhancement
 Potential Wetland Mitigation Area
 Existing Wetland

Pond
 Dry Wash
 Existing Isolated Wetland

NHD Watercourse
 100-year Floodplain
 500-year Floodplain

Proposed Road
 Proposed Trail
 Proposed Lot Lines
 Proposed Contour
 Index Contour
 Intermediate Contour
 Parcel Boundary



CIVIL ENGINEERING
 DEVELOPMENT CONSULTING
 LAND SURVEYING
 303.703.4444
 1950 W. Littleton Blvd., Ste. 109
 Littleton, CO 80120

Sterling Ranch Channel Improvements & Mitigation Plan Sheet 3

El Paso County, Colorado

Date: 10/13/2015
 Project #: 15-001



**US Army Corps
of Engineers®**
Albuquerque District
Project

PUBLIC NOTICE

Permit Application No.: SPA-2015-00428-SCO
Project Name: Sterling Ranch Residential
Development Project
Applicant: SR Land, LLC
Waterway: Sand Creek
Public Notice Date: December 9, 2015
Comment Due Date: January 9, 2016
USACE Contact Phone: (719) 543-8102

Reply To:

Southern Colorado Regulatory Office
US Army Corps of Engineers, Albuquerque District
200 South Santa Fe Avenue, Suite 301
Pueblo, Colorado 81003-4270

PERMIT APPLICATION UNDER SECTION 404 OF THE CLEAN WATER ACT (33 USC 1344)

Summary of Proposed Project: We are requesting public comment on the following project before the above comment due date. The application is for a permit to place dredged/fill material into waters of the US associated with the construction of a residential development in Sand Creek and one tributary located near Falcon, El Paso County, Colorado. Details of the proposed project are provided below.

Name of Applicant: SR Land, LLC, 20 Boulder Crescent, Suite 201, Colorado Springs, CO 80903.

Location: The project is located on 1,443.7 acres northeast of the intersection of Black Forest Road and Woodmen Road in unincorporated El Paso County, Colorado. The property is on the United States Geological Survey (USGS) Falcon Quadrangle on portions of Sections 27, 28, 32, 33, and 34 in Township 12 South, Range 65 West and the northwest portion of Section 4, Township 13 South, Range 65 West. The approximate coordinates of the project center are 39.964483 latitude and -104.664944 longitude (WGS 84 datum).

Description of Work: The Sterling Ranch Residential Development Project includes installation of attendant utilities, channel improvements to the main stem of Sand Creek, three off-line stormwater detention ponds, development of two permanent residential access roads and associated culverts, and development of residential units. Permanent impacts to waters of the US will result from construction of the residential access roads and associated culverts, and construction of residential units in the unnamed western

NEWS RELEASE

CESPA-RD-SC
SPA-2015-00428-SCO

tributary to Sand Creek. Total cumulative permanent impacts to waters of the US from the proposed project will total 4.21 acres and 5,048 linear feet within the main channel of Sand Creek and its western tributary.

Purpose and Need: The project purpose is twofold: (1) the development of a medium sized single-family residential development and associated facilities and infrastructure on multiple parcels of land which will be incorporated in the City of Colorado Springs; and (2) creek channel improvements for hydrology and stormwater capability through control of flood water conveyance, establishing improved grade control, and facilitating improved water quality.

Likewise, the project need is twofold: (1) to satisfy market demand for additional housing in the City of Colorado Springs, El Paso County, based on recent County and City economic development reports; and (2) to address a County-wide high-priority stormwater management project while simultaneously managing an increase in stormwater runoff to Sand Creek via channel improvements.

Mitigation: Mitigation for impacts to wetlands and waters of the US on the Sterling Ranch project site is proposed within the Middle Fountain Creek watershed and includes creation of 4.21 acres of emergent wetlands located within and adjacent to the main channel of Sand Creek, with improvements throughout to allow for construction and reestablishment of wetlands.

Plans and Data: Drawings showing the location of the work site and other data are enclosed with this notice. If additional information is desired, it may be obtained from the applicant, or from:

Christopher M. Grosso
U.S. Army Corps of Engineers
Southern Colorado Regulatory Office
200 South Santa Fe Avenue, Suite 301
Pueblo, Colorado 81003-4270
(719) 543-8102
Fax No. (719) 543-9475
E-mail: Christopher.M.Grosso@usace.army.mil

Statement of Findings: The Corps consulted district files and records, the latest version of the National Register of Historic Places (NRHP), and state records of NRHP-eligible and potentially eligible historic properties to determine if there are any historic properties that may be affected by the proposed undertaking. Based on this initial information, the Corps has made a preliminary determination that the proposed project will not affect any historic properties that meet the criteria for inclusion in the NRHP.

The Corps has reviewed the U.S. Fish and Wildlife Service's latest published version of Federally-listed endangered and threatened species located in El Paso County, Colorado to determine if any listed species or their critical habitat may occur in the proposed project area. The Corps has made a preliminary determination that the

NEWS RELEASE

CESPA-RD-SC
SPA-2015-00428-SCO

proposed project will not affect any Federally-listed endangered or threatened species or their critical habitat that are protected by the Endangered Species Act.

The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the Colorado Department of Public Health and Environment. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

In accordance with environmental procedures and documentation required by the National Environmental Policy Act of 1969, an environmental assessment will be prepared for this project. Upon completion, the assessment may be seen at the U.S. Army Corps of Engineers, Albuquerque District Office, at the address given above.

Comments: Any comments concerning this project should be received by the District Engineer no later than January 9, 2016. Comments received after the end of the Public Notice comment period will not be considered. However, more time may be given if a request, with a valid reason, is received prior to the suspense date. The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed below. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The evaluation of the impact of this activity will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act. All factors relevant to the proposal and the cumulative effects will be considered; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

If the District Engineer determines that the project complies with the 404(b) (1) guidelines, he will grant the permit unless issuance would be contrary to the public interest.

NEWS RELEASE

CESPA-RD-SC
SPA-2015-00428-SCO

Any person may request a public hearing. The request must be submitted, in writing, to the District Engineer within 21 days of the date of this notice and must clearly set forth the reasons for holding a public hearing.

Patrick J. Dagon
Lieutenant Colonel, U.S. Army
District Commander

Enclosures:

Sheet 1 of 2 – Wetland Location Map

Sheet 2 of 2 – Wetland Impact Location Map

NEWS RELEASE

CESPA-RD-SC
SPA-2015-00428-SCO



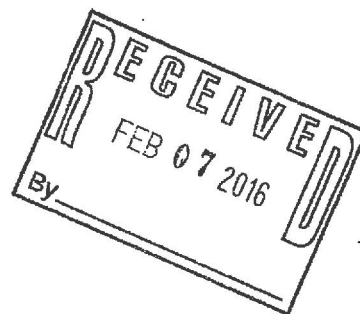
COLORADO

Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

February 4, 2016

SR Land, LLC
Attn: Jim Morley
20 Boulder Crescent, Ste. 201
Colorado Springs, CO 80903



Re: Section 401 Water Quality Certification
Colorado 401 Certification No.: 4378
US Corps of Engineers 404 Permit No.: SPA-2015-00428-SCO
Description: Construction of a residential development
Location: Latitude: 38.962389, Longitude -104.675084 in El Paso County,
Colorado
Watercourse: Sand Creek and tributaries, Arkansas River Basin, Segment
COARFO04 of Fountain Creek Sub-basin
Designation: Use Protected

Dear Mr. Morley:

The Colorado Department of Public Health and Environment (CDPHE), Water Quality Control Division (Division) has completed its review of the subject Clean Water Act (CWA) Section 404 Permit Application, and our preliminary determination with the issuance of the State of Colorado 401 Certification Public Notice (5 CCR 1002-82.5(B)). This segment is designated "Use Protected" thus no antidegradation review is required (5 CCR 1002-31.8(2)).

This letter shall serve as official notification that the Division is issuing "Regular Certification" in accordance with 5 CCR 1002-82.5(A)(2).

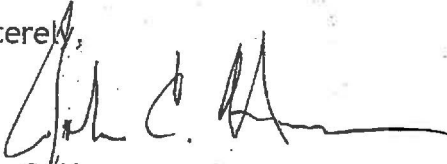
The 401 Certification issued by the Division pursuant to 5 CCR 1002-82.3(C) shall apply to both the construction and operation of the project for which a federal license or permit is required, and shall apply to the water quality impacts associated with the project. This certification does not constitute a relinquishment of the Division's authority as defined in the Colorado Water Quality Control Act, nor does it fulfill or waive any other local, state, or federal regulations.



February 4, 2016
SR Land, LLC
Page 2

If you have any questions or need additional information, please contact me at
(303) 692-3586.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Hranac", with a long horizontal flourish extending to the right.

John C. Hranac
Water Quality Assessor
Environmental Data Unit
Water Quality Control Division

Attachment

cc: US Army Corps of Engineers, Southern Colorado Regulatory Office
Applicant's Agent, Mr. Chris Haas - CORE Consultants, Inc.
File

Certification Requirements:

- (A) The following requirements shall apply to all certifications:
- (1) Authorized representatives from the Division shall be permitted to enter upon the site where the construction activity or operation of the project is taking place for purposes of inspection of compliance with BMPs and certification conditions.
 - (2) In the event of any changes in control or ownership of facilities where the construction activity or operation of the project is taking place, the successor shall be notified in writing by his predecessor of the existence of the BMPs and certification conditions. A copy of such notification shall be provided to the Division.
 - (3) If the permittee discovers that certification conditions are not being implemented as designed, or if there is an exceedance of water quality standards despite compliance with the certification conditions and there is reason to believe that the exceedance is caused, in whole or in part, by the project, the permittee shall verbally notify the Division of such failure or exceedance within two (2) working days of becoming aware of the same. Within ten (10) working days of such notification, the permittee shall provide to the Division, in writing, the following:
 - (a) In the case of the failure to comply with the certification conditions, a description of (i) the nature of such failure, (ii) any reasons for such failure, (iii) the period of non-compliance, and (iv) the measures to be taken to correct such failure to comply; and
 - (b) In the case of the exceedance of a water quality standard, (i) an explanation, to the extent known after reasonable investigation, of the relationship between the project and the exceedance, (ii) the identity of any other known contributions to the exceedance, and (iii) a proposal to modify the certification conditions so as to remedy the contribution of the project to the exceedance.
 - (4) Any anticipated change in discharge location and/or quantities associated with the project which may result in water quality impacts not considered in the original certification must be reported to the Division by submission of a written notice by the permittee prior to the change. If the change is determined to be significant, the permittee will be notified within ten days, and the change will be acknowledged and approved or disapproved.
 - (5) Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions herein is prohibited, except (i) where unavoidable to prevent loss of life or severe property damage, or (ii) where excessive storm drainage or runoff would damage any facilities necessary for compliance with limitations and prohibitions herein. The Division shall be notified immediately in writing of each such diversion or bypass.

- (6) At least fifteen days prior to commencement of a project in a watercourse, which the Division has certified, or conditionally certified, the permittee shall notify the following:

- (a) Applicable local health departments;
- (b) Owners or operators of municipal and domestic water treatment intakes which are located within twenty miles downstream from the site of the project; and
- (c) Owners or operators of other intakes or diversions which are located within five miles downstream from the site of the project.

The permittee shall maintain a list of the persons and entities notified, including the date and form of notification.

- (7) Immediately upon discovery of any spill or other discharge to waters of the state not authorized by the applicable license or permit, the permittee shall notify the following;

- (a) Applicable local health departments;
- (b) Owners or operators of municipal and domestic water treatment intakes which are located within twenty miles downstream from the site of the project; and
- (c) Owners or operators of other intakes or diversions which are located within five miles downstream from the site of the project.

The permittee shall maintain a list of the persons and entities notified, including the date and form of notification.

- (8) Construction operations within watercourses and water bodies shall be restricted to only those project areas specified in the federal license or permit.
- (9) No construction equipment shall be operated below the existing water surface unless specifically authorized by the 401 certification issued by the Division.
- (10) Work should be carried out diligently and completed as soon as practicable. To the maximum extent practicable, discharges of dredged or fill material shall be restricted to those periods when impacts to designated uses are minimal.
- (11) The project shall incorporate provisions for operation, maintenance, and replacement of BMPs to assure compliance with the conditions identified in this section, and any other conditions placed in the permit or certification. All such provisions shall be identified and compiled in an operation and maintenance plan which will be retained by the project owner and available for inspection within a reasonable timeframe upon request by any authorized representative of the Division.

- (12) The use of chemicals during construction and operation shall be in accordance with the manufacturers' specifications. There shall be no excess application and introduction of chemicals into state waters.
- (13) All solids, sludges, dredged or stockpiled materials and all fuels, lubricants, or other toxic materials shall be controlled in a manner so as to prevent such materials from entering state waters.
- (14) All seed, mulching material and straw used in the project shall be state-certified weed-free.
- (15) Discharges of dredged or fill material in excess of that necessary to complete the project are not permitted.
- (16) Discharges to state waters not identified in the license or permit and not certified in accordance therewith are not allowed, subject to the terms of any 401 certification.
- (17) Except as otherwise provided pursuant to subsection 82.7(C), no discharge shall be allowed which causes non-attainment of a narrative water quality standard identified in the Basic Standards and Methodologies for Surface Waters, Regulation #31 (5 CCR 1002-31), including, but not limited to discharges of substances in amounts, concentrations or combinations which:
 - (a) Can settle to form bottom deposits detrimental to beneficial uses; or
 - (b) Form floating debris, scum, or other surface materials sufficient to harm existing beneficial uses; or
 - (c) Produce color, odor, or other conditions in such a degree as to create a nuisance or harm existing beneficial uses or impart any undesirable taste to significant edible aquatic species, or to the water; or
 - (d) Are harmful to the beneficial uses or toxic to humans, animals, plants, or aquatic life; or
 - (e) Produce a predominance of undesirable aquatic life; or
 - (f) Cause a film on the surface or produce a deposit on shorelines.

(B) Best Management Practices:

- (1) Best management practices are required for all projects for which Division certification is issued except for section 402 permits. Project applicants must select BMPs to be employed in their project. A listing and description of best management practices is located in Appendix I of Regulation No. 82: 401 Certification Regulation 5 CCR 1002-82.
- (2) All requests for certifications which require BMPs shall include a map of project location, a site plan, and a listing of the selected BMPs chosen for the project. At a minimum, each project must provide for the following:

- (a) Permanent erosion and sediment control measures that shall be installed at the earliest practicable time consistent with good construction practices and that shall be maintained and replaced as necessary throughout the life of the project.
- (b) Temporary erosion and sediment control measures that shall be coordinated with permanent measures to assure economical, effective, and continuous control throughout the construction phase and during the operation of the project.