



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
SOUTHERN COLORADO REGULATORY OFFICE
720 NORTH MAIN STREET SUITE 300
PUEBLO CO 81003-3047

January 28, 2005

VERSION: #2
DATE: 1/28/05

Operations Division
Regulatory Branch

Mr. Ronald Turner
K-S & Company
18220 Red Clover Lane
Monument, CO 80132

Dear Mr. Turner:

Your final Department of the Army Permit No. 2000 00359, for the proposed Falcon Highlands subdivision near Black Squirrel Creek, El Paso County, Colorado is enclosed. Please notify us when you propose to start construction.

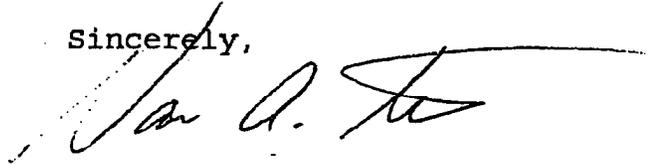
I draw your attention to the general conditions of this permit, which specifically address requests for extension, modification and revocation, authorized maintenance, abandonment, permit transfer, and archeological discoveries. Also, the permit contains disclaimers regarding the need for other permits, property rights and limits of the Government's liability for this work. Please also note the special conditions.

The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or its authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structure work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Enclosed is a self-certification letter. Upon completion of the project, please sign and date the letter and return it to this office. To help us improve our service, please complete and return the attached Customer Service Survey.

If you have any questions, please contact Diana L. Humphreys at (719) 543-8102 or by e-mail at diana.l.humphreys@usace.army.mil.

Sincerely,



Van A. Truan
Chief, Southern Colorado
Regulatory Office

2 Enclosures

1. Permit No. 2000 00359
2. Self-certification ltr

DEPARTMENT OF THE ARMY PERMIT

Permittee Falcon Highlands Metropolitan District

Permit No. 2000 00359

Issuing Office Albuquerque District 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 proposed work will directly fill 2.5 acres of wetland and indirectly impact .5 acres of wetland for the construction of the Falcon Highlands subdivision. The project will involve the construction of a flood control channel (top width 180 feet, bottom width 77 feet) running north to south from Woodmen Road, two regional detention basins, and a realignment of Meridian Road with a culver extension for the construction of the Falcon Highlands subdivision. The project will be constructed in accordance with the attached drawings, entitled, "Falcon Highlands Development on a tributary of Black Squirrel Creek in Falcon, El Paso County, Colorado, Application by Realty Development Services, Application No. 2000 00359," sheets 1 through, dated October 2004.

Project Location: Tributary of Black Squirrel Creek in Falcon, El Paso County, Colorado, Section 1 and 12, Township 13S, Range 65W.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2008. 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:

After a detailed and careful review of all of the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps of Engineers, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

1. Erosion control measures will be implemented to prevent upland erosion into the mitigation wetlands or existing wetlands near the project site.
2. A finalized mitigation plan will be submitted to this office within 90 days of issuance of this permit for approval prior to start of mitigation. This mitigation plan will provide for the create of 3.0 acres of wetlands and will follow the design in the preliminary mitigation plan.
3. The mitigation effort must be maintained for at least 3 years including 3 growing seasons or until the Corps of Engineers has determined that the mitigation effort has been successful. The created wetlands will be deemed successful when there is 70% vegetative cover of the planted species at the end of the 3-year period.
4. An annual monitoring report is required and will be sent to the Corps of Engineers by December 31 of each year. The monitoring report will include as a minimum:
 - a. A drawing or sketch showing photographic monitoring points,
 - b. Before and after photographs from fixed photographic location(s),
 - c. A brief discussion of the overall success (including the presence of hydrology), any bare or problem areas, and a plan to remedy any problem areas or areas that do not meet wetland criteria.
5. The mitigation area will be preserved by placing a conservation easement, deed restriction, or other protection measure on the area. This will be completed within 90 days of completion of mitigation construction. A copy of the preservation instrument will be sent to the Corps of Engineers.
7. Financial assurances for construction, contingency, and monitoring of the mitigation efforts will be provided sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. Financial assurances may be in the form of performance bonds, escrow accounts, letters of credit, or other

instruments approved by the Corps of Engineers. The financial assurance for construction of the mitigation project will be posted in an amount equal to 115% of the estimated cost of construction. In addition to the 115% financial assurance to assure the success of the mitigation project will also be posted in an amount equal to 30% of the estimated cost of construction. The total financial assurances will be 145% of the estimated cost of construction. A proposal for financial assurances will be submitted to the Corps of Engineers, for approval, 90 days after permit acceptance. Financial assurance documents will be forwarded to the Corps of Engineers within 30 days of the Corps of Engineers' approval of the financial assurance proposal. The financial assurance will be reviewed annually and adjusted as needed.

8. Any changes to the location or type of materials to be used in the project must be approved by the Corps of Engineers through a permit modification prior to the changes being implemented.

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.

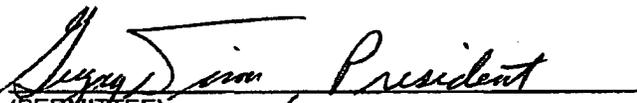
b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

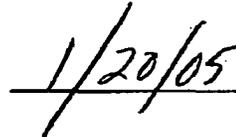
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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) Gregory Timm, President
Falcon Highlands Metro District



(DATE)

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



Van Truan
Chief, Southern Colorado
Regulatory Office
(for the DISTRICT ENGINEER)



(DATE)

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

(TRANSFEREE)

(DATE)