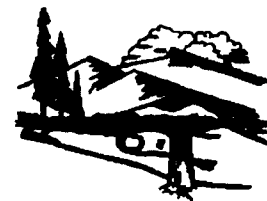




Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

August 24, 2007

J. Peter Gallagher
Fin-Up Habitat Consultants, Inc.
220 Illinois Avenue
Manitou Springs, CO 80829

RE: Certification of Nationwide permit number 14, File no. 2007-2640-CHE to conduct bank stabilization on Rattlesnake Creek (class 2AB) in the North Platte River Drainage, located in the northeast quarter of the northwest quarter of Section 21 to the southeast quarter of the southeast quarter of Section 27, Township 20 North, Range 82 West, Carbon County, Wyoming.

Dear Mr. Gallagher:

In accordance with the provisions of the state certification program for activities requiring dredge and fill permits from the U.S. Army Corps of Engineers, this office has reviewed the application referenced above and offers the following comments regarding the proposed action.

The following conditions apply when operating equipment or otherwise undertaking construction in a water of the state:

- a. Construction equipment should not be operated below the existing water surface except as follows:

Fording the stream at one location is acceptable; however, vehicles and equipment should not push or pull material along the streambed below the existing water level. Work below the water which is essential for preparation of culvert bedding or footing installations is acceptable to the extent that it does not create turbidity in excess of the Chapter 1 Surface Water Standards or unnecessary stream channel disturbance. Frequent fording should not occur in areas where extensive turbidity will be created. In all game fisheries, in stream activities associated with this permit, shall not increase turbidity by more than 10 nephelometric turbidity units (NTUs).

In accordance with Section 23(c)(2) of the Chapter 1 Surface Water Standards, the administrator of the Water Quality Division may authorize temporary increases in turbidity above the numeric criteria in Section 23 (a) of the Standards in response to an individual application for a specific activity. An application must be submitted and a variance approved by the administrator

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(307) 777-7752
FAX 777-5973

WATER QUALITY
(307) 777-7781
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before any temporary increase in turbidity above the numeric limits takes place.

- b. Any temporary crossings, bridge supports, cofferdams, or other structures that will be needed during the period of construction should be designed to handle high flows that could be anticipated during the construction period. All structures should be completely removed from the stream channel at the conclusion of construction and the area restored to a natural appearance.
- c. Care should be taken to cause only the minimum necessary disturbance. Streambank vegetation should be protected except where its removal is absolutely necessary for completion of the work.

Any vegetation, debris, or other material removed during construction must be disposed of at some location out of the stream channel or adjacent wetland areas where it cannot reenter the channel during high stream flow or runoff events.

All cut and fill slopes that will not be protected with riprap should be revegetated with appropriate species to prevent erosion.

- d. All fill material should be placed and compacted and subsequently protected from erosion. Areas to be filled should be cleared of all vegetation, debris and other materials that would be objectionable to the fill.
- e. The period and timing of construction should be adjusted as necessary to minimize conflicts with fish migration and spawning.
- f. Care must be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water. A spill contingency should be developed for all projects where a large amount of petroleum products or solvents will be stored on the project site, and must be prepared when storage of these materials exceeds the federal limits.

Other Related Water Quality Permitting Requirements

Erosion/Sediment Control: A WYPDES storm water permit for construction activities will be required from the Wyoming Department of Environmental Quality (WDEQ) before any surface disturbance takes place for any project that will clear, grade, or otherwise disturb one or more acres. A general permit has been established for this purpose and either the project sponsor or general contractor is responsible for filing a Notice of Intent (NOI) and complying with the provisions of the general permit. The NOI should be filed no later than 30 days prior to the start of construction activity. Please contact Barb Sahl at 307-777-7570 for additional information.

The major requirements of the storm water general permit pertain to the development and implementation of a pollution prevention plan along with regular inspection of pollution control facilities. The permit is required for the surface disturbances associated with construction of the project, access roads, construction of wetland mitigation sites, borrow and stockpiling areas, and equipment staging and maintenance areas.

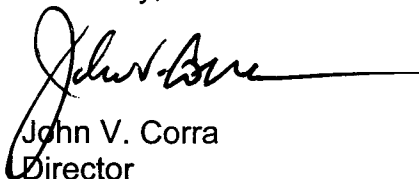
Non-Storm Water Discharges: A WYPDES discharge permit from WDEQ may be required for point source discharges to surface waters not related to storm water runoff such as discharges from gravel crushing and washing operations, cofferdam or site dewatering, vehicle or machinery washing, or other material processing operations if they are conducted. Depending on the type of operation, the length of operation, and the type of discharge either a general temporary discharge permit or an individual discharge permit may be required. Please be advised that if an individual permit is required, processing will require at least 90 days. Contact Roland Peterson at 307-777-7090 for additional information.

SPCC (Spill Prevention Control and Countermeasures): If above ground storage of petroleum products exceeds 1,320 gallons in total or more than 660 gallons in a single tank an SPCC plan may have to be developed as provided for in the Environmental Protection Agency's Oil Pollution Prevention regulations (40CFR112). The Region 8 EPA office in Denver should be contacted for guidance.

According to the provisions of the state certification program for activities requiring dredge and fill permits from the U.S. Army Corps of Engineers, this office has reviewed the application referenced above and certifies this project is acceptable providing that construction is accomplished according to the recommendations stated above, the procedures for state certification are followed, and the Fin-Up Habitat Consultants, Inc. or its contractor take reasonable care to ensure that all disturbed areas are protected from erosion. The Department also reserves the right to amend, modify, suspend or revoke this certification or any of its terms or conditions as may be appropriate or necessary to protect water quality and associated beneficial uses.

Please be aware that this letter only constitutes state certification of this project as required by Section 401 of the Federal Clean Water Act and **is not an authorization to begin construction of this project**. This letter does not exempt the Fin-Up Habitat Consultants, Inc. or its contractor from any other federal, state or local laws or regulations, nor does it provide exemption from legal action by private citizens for damage to property that the activity may cause.

Sincerely,



John V. Corra
Director
Department of Environmental Quality

JVC/JFW/DHW/rm/7-0744

cc: John Emmerich, Wyoming Game and Fish, Cheyenne
Toney Ott, US EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129
Michael Burgan, USACE, 2232 Dell Range Boulevard, Suite 210, Cheyenne WY 82009
Brian Kelly, US FWS, 5353 Yellowstone Road, Suite 308, Cheyenne, WY 82009
Lyle Myler, U.S. Bureau of Reclamation, P.O. Box 1630, Mills, WY 82644-1630