



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

DEPARTMENT OF THE ARMY PERMIT

Permittee: Central Federal Lands Highway Division
Federal Highway Administration
Attn: James Herlyck
12300 West Dakota Ave
Suite 380A
Lakewood, Colorado 80228

Permit Number: SPK-2018-00840

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. A notice of appeal options is enclosed.

Project Description:

The Federal Highway Administration, Central Federal Lands Highway Division (FHWACFLHD), in cooperation with Summit County, CO, and the U.S. Forest Service-White River National Forest, is proposing to construct a new recreational pathway in Summit County starting at Copper Mountain and paralleling State Highway (SH) 91 to the south for approximately 3.3 miles, on the east side of Tenmile Creek, before connecting to State Highway 91. The alignment would utilize segments of an abandoned rail bed currently used for accessing overhead and buried utilities, as well as for accommodating motorized equipment for construction and maintenance of utilities along the corridor. The average width of the current bench is 15 feet. The trail typical section is a 12-foot-wide asphalt path with 2-foot gravel shoulders on each side. Work will also require the replacement/installation of culverts in streams that cross the proposed path alignment. A 460-foot-long elevated boardwalk would be constructed over a wetland-fen complex along the project alignment to minimize impacts to this sensitive resource.

The project would result in 0.80 acre of permanent impacts to wetlands, 0.06 acre of permanent impacts to stream channels, 0.09 acre of temporary impacts to wetlands, and

0.01 acre of temporary impact to streams. The specific activities that require a Department of the Army permit include the permanent impacts to wetlands and streams as a result of the trail construction and installation of culverts for 14 stream crossings, the temporary impacts to wetlands associated with equipment access, and the temporary impacts to streams associated with dewatering activities.

All work is to be completed in accordance with the *CO FLAP SUM97(1) – Fremont Pass Trail* plans dated December 19, 2018.

Project Location:

The approximately 69-acre project site extends from the Copper Mountain Ski Area Far East Parking Lot and runs south along Tenmile Creek and State Highway (SH) 91, approximately 3 miles to where SH 91 widens from two to three lanes, Latitude 39.4972472°, Longitude -106.1357°, Summit County, Colorado, and can be seen on the Copper Mountain USGS Topographic Quadrangle.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on February 28, 2024. 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. You shall conduct all work affecting waters of the U.S. as described in your *CO FLAP SUM97(1) – Fremont Pass Trail* plans dated December 19, 2018. Any modification that would incur additional impacts to waters of the U.S. must be coordinated with this office in advance.
2. You shall comply with all terms and conditions of the enclosed December 19, 2018, Section 401 Water Quality Certification.
3. To compensate for the loss of 0.8 acre of wetland authorized by this permit, you shall fully implement the approved Conceptual Compensatory Mitigation and Monitoring Plan, dated September 2018, prepared by Federal Highway Administration – Central Federal Lands Highway Division. You shall submit annual monitoring reports to this office, presented in the format identified in the Final 2015 Regional Compensatory Mitigation and Monitoring Guidelines for the South Pacific Division, for the compensatory mitigation by December 1 of each year following the construction of the required compensatory mitigation. You shall monitor the compensatory mitigation area(s) for at least 5 consecutive growing seasons after construction, and/or until this office determines in writing that the approved performance standards have been met.
4. You shall complete the construction of any compensatory mitigation required by Special Condition 3 of this permit prior to or concurrent with initiation of construction activities authorized by this permit. In addition, you shall notify this office in writing within 30 calendar days following completion of the required compensatory mitigation.
5. You shall restore all temporary impacts to waters of the U.S. to their original contour and condition within 30 days following completion of construction activities. You shall conduct all restoration and monitoring of temporary impact areas in accordance with the approved Conceptual Compensatory Mitigation and Monitoring Plan, dated September 2018, prepared by Federal Highway Administration – Central Federal Lands Highway Division, which is hereby incorporated by reference.

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).

() 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. 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.

Name _____
Title Project Manager
Permittee

Date

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

Matthew Montgomery
Senior Project Manager, CO West Section
Regulatory Division
(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.

Name _____
Title _____
Transferee

Date