

CORRES. CONTROL
OUTGOING LTR NO.

DOE ORDER #

05 - RF 00035



DIST.	LTR	ENC
DIETER, T. J.		
FERRERA, D.W.		
FERRI, M.S.		
GIACOMINI, J. J.		
LINDSAY, D. C.		
MARTINEZ, L.A.		
PARKER, A.M.		
POWERS, K.		
SHELTON, D.C.		
SPEARS, M.S.		
TRICE, K.D.		
TUOR, N.R.		
VOORHEIS, G.M.		

Mark Hesel		
Jody Nelson		
Doug Schlagel		
David Ward	X	
Cliff Franklin	X	
Steve Nosta	X	

COR CONTROL	X	X
ADMN RECORD		
WASTE REC. CTR		
TRAFFIC		
PATS/130		

CLASSIFICATION:
 UCN
 UNCLASSIFIED
 CONFIDENTIAL
 SECRET

AUTHORIZED CLASSIFIER

Exempt from Class
Per CEX-105-01

Date

IN REPLY TO RFP CC
NO:

ACTION ITEM STATUS

- PARTIAL/OPEN
- CLOSED

LTR APPROVALS:

ORIG & TYPIST INITIALS
DAW:jcm

January 10, 2005

05-RF-00035

Ms. Kathy Schnoor
 City and County of Broomfield
 1 Des Combes Drive
 Broomfield, CO 80020-2495

COMMENCE WORK TO RECONFIGURE SIX DAMS - DAW-002-05

Dear Kathy:

I called you on January 5, 2005 to provide you a fifteen day notice before Rocky Flats Environmental Site commences work to reconfigure six dams (Ponds A-1, A-2, B-1, B-2, B-3 and B-4), located on the Site in the North and South Walnut Creek Drainages. The Site has obtained a United States Army Corps of Engineers (USACOE) 404 permit to perform the work. The State of Colorado's 401 Certification Requirement are part of the 404 permit and requires notification to the Jefferson County Department of Health. The work will start in late January or early February. The Site's final ponds are not part of this project.

This notice fulfills the 401 Certifications requirements of the USACOE 404 Permit Number 200480475.

If you have any questions please call me 303-966-5938. Also, a copy of the 404 permit is enclosed as you requested.

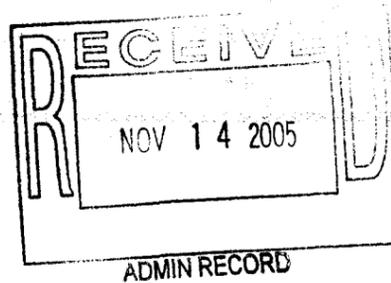
Sincerely,

David Ward
 Environmental Stewardship

Enclosures
 (As Stated)

DAW:jcm

Kaiser Hill Company, L.L.C.
 Rocky Flats Environmental Technology Site, 10808 Hwy. 93 Unit B, Golden CO 80403-8200 • 303-966-7000



1/9

BZ-A-000980



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 S. WADSWORTH BOULEVARD
LITTLETON, COLORADO 80128-6901

December 9, 2004

U.S. Department of Energy, Rocky Flats Project Office
c/o Mr. Cliff Franklin
10808 Highway 94, Unit A
Golden, Colorado 80403-8200

**Re: Department of the Army (DA) Permit Number 200480475
U.S. Department of Energy, Rocky Flats Project Office**

Dear Mr. Franklin:

Enclosed is Department of the Army permit number 200480475 for the excavation and placement of fill material into a total of 0.25 acre of wetlands (2.59 acres of temporary impacts) to reconfigure six dams along the South and North Walnut Creek drainages to reduce stormwater maintenance activities while preserving the associated wetlands. The project is located on the Rocky Flats Environmental Technology Site in Sections 11 and 12, Township 2 South, Range 70 West, Jefferson County, Colorado.

Please notify Margaret Langworthy at (303) 979-4120, or the above address, when work on this project is begun and also when completed. She may also be called if you have any questions concerning the permit. When communicating with our office regarding this project please reference permit number 200480475.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy T. Carey", is written over a circular stamp or seal.

Timothy T. Carey
Chief, Denver Regulatory Office

Enclosure

DEPARTMENT OF THE ARMY PERMIT

Permittee: U. S. Department of Energy

Permit No.: 200480475

Issuing Office: Omaha 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:

In accordance with the terms and conditions of this Department of the Army permit, the U.S. Department of Energy is granted authorization by the Secretary of the Army to excavate and place permanent fill material into a total of 0.25 acre of wetlands (2.59 acres of temporary impacts) to reconfigure six dams along the South and North Walnut Creek drainages to reduce stormwater maintenance activities while preserving the associated wetlands. Each pond would have approximately 500 cubic yards of material removed to construct the notch, 25 cubic yards of concrete used to construct the stoplog outfall and discharge areas, and approximately 40 cubic yards of riprap on the pond side of the notch.

Project Location:

The project is located on the Rocky Flats Environmental Technology Site in Sections 11 and 12, Township 2 South, Range 70 West, Jefferson County, Colorado. The location and project details are shown on the attached drawings in five (5) Sheets dated 21 September 2004.

Permit Conditions:

~~General Conditions:~~

1. The time limit for completing the work authorized ends on 9 December 2006. 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.



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 S. WADSWORTH BOULEVARD
LITTLETON, COLORADO 80128-6901

December 9, 2004

U.S. Department of Energy, Rocky Flats Project Office
c/o Mr. Cliff Franklin
10808 Highway 94, Unit A
Golden, Colorado 80403-8200

**Re: Department of the Army (DA) Permit Number 200480475
U.S. Department of Energy, Rocky Flats Project Office**

Dear Mr. Franklin:

Enclosed is Department of the Army permit number 200480475 for the excavation and placement of fill material into a total of 0.25 acre of wetlands (2.59 acres of temporary impacts) to reconfigure six dams along the South and North Walnut Creek drainages to reduce stormwater maintenance activities while preserving the associated wetlands. The project is located on the Rocky Flats Environmental Technology Site in Sections 11 and 12, Township 2 South, Range 70 West, Jefferson County, Colorado.

Please notify Margaret Langworthy at (303) 979-4120, or the above address, when work on this project is begun and also when completed. She may also be called if you have any questions concerning the permit. When communicating with our office regarding this project please reference permit number 200480475.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy T. Carey".

Timothy T. Carey
Chief, Denver Regulatory Office

Enclosure

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.

See page 6 for a continuation of General Conditions.

Special Conditions:

A. The permittee shall submit reports (these and all other reports shall be submitted to the Denver Regulatory Office, 9307 South Wadsworth Boulevard, Littleton, Colorado, 80128, and shall reference the permit application number) commencing six months after permit issuance indicating the status of the authorized work (until complete) and shall include the following information:

- a. Date permitted activity was begun; if work has not begun on-site, please so indicate.
- b. Brief description and extent of work (site preparation, mitigation activity, if required) completed since the previous report or since permit was issued. Indicate on copies of the permit drawings those areas where work has been completed.
- c. Brief description and extent of work anticipated in the next six months. Indicate on copies of the permit drawings those areas where it is anticipated that work will be done.

B. The permittee agrees to construct the project as shown on the attached drawings in five (5) Sheets dated 21 September 2004, which are attached to, and made a part of, this permit.

C. The permittee agrees to follow the Section 401 Certification Requirements that are attached to, and become a part of, this permit.

D. The permittee agrees that 5.255 acres of existing wetlands will remain after the dams are notched and that if - for whatever reason - the amount falls below this number, the permittee agrees to mitigate for the loss.

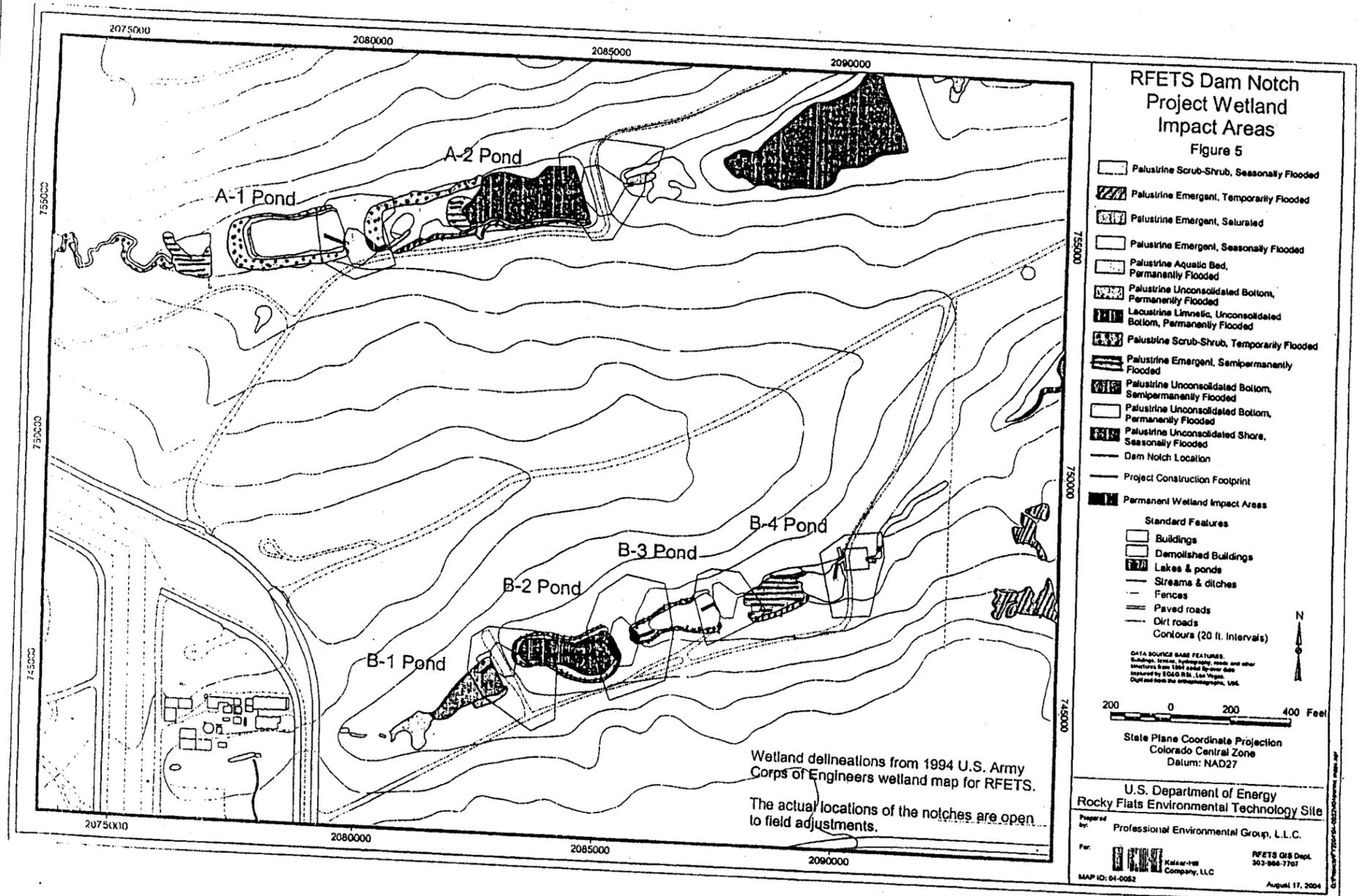
E. The permittee agrees that if, and when, the stop logs in the notch are proposed for removal, a proposed plan will be submitted to the DA for review and approval under DA regulatory program requirements.

F. The permittee agrees that any actions taken will be consistent with U.S. Fish and Wildlife's April 5, 2004, programmatic biological opinion, which addresses the loss of Preble's habitat associated with the proposed project.

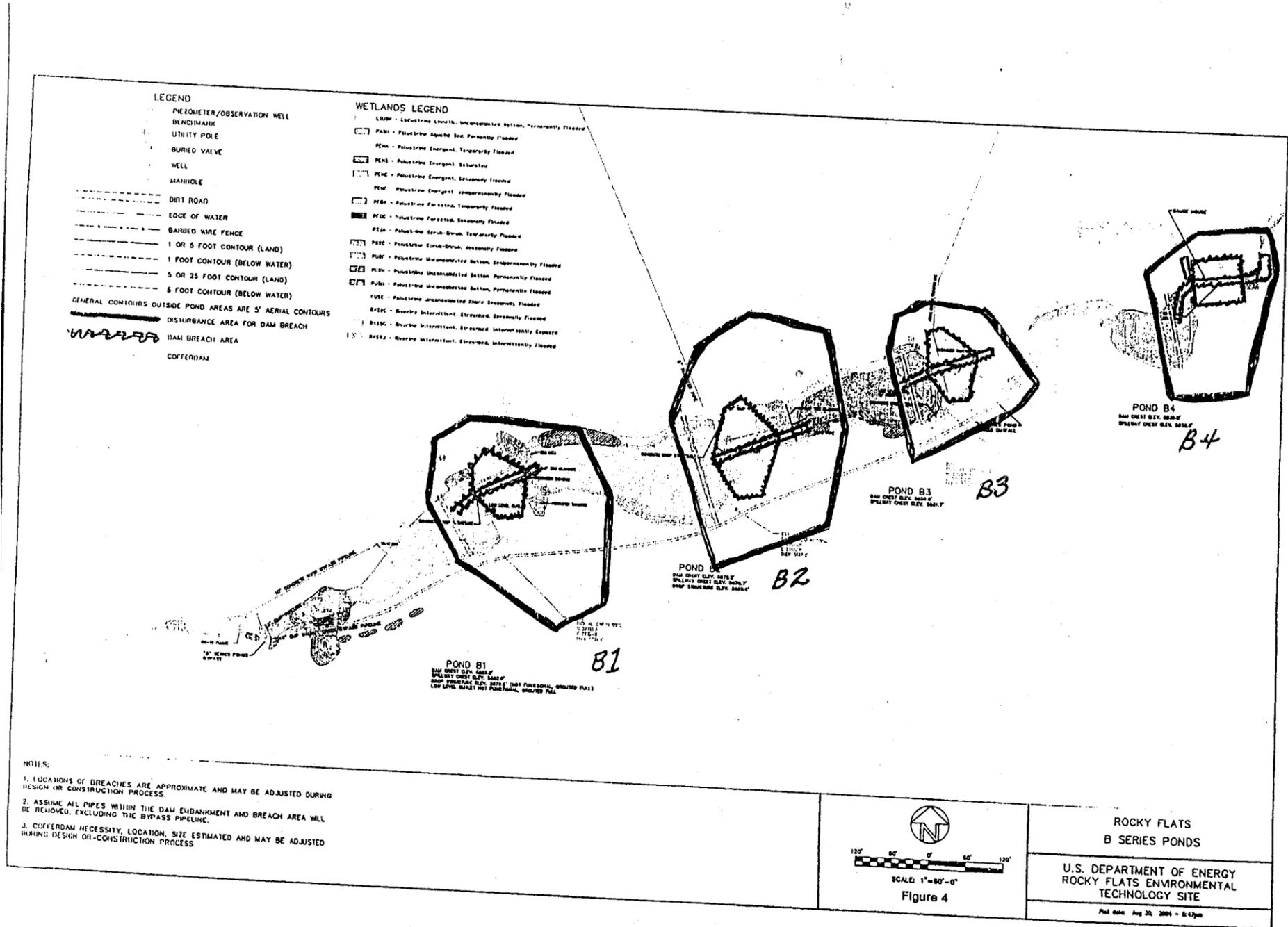
G. The permittee agrees that they will be responsible for restoring the temporarily impacted wetlands (2.59 acres) and maintaining the remaining wetlands associated with this project and understands that they are responsible for the long-term management and protection of them.

F. The permittee agrees to monitor the restored and other wetlands each year beginning in 2005 until the Corps of Engineers determines them to be viable and self-sustaining. Annual Mitigation Progress Reports will be submitted to the Denver Regulatory Office before December 31 of each year beginning in 2005. These reports will include but not be limited to:

- permit number and county where the project is located;
- a discussion of successes, failures, and problems;

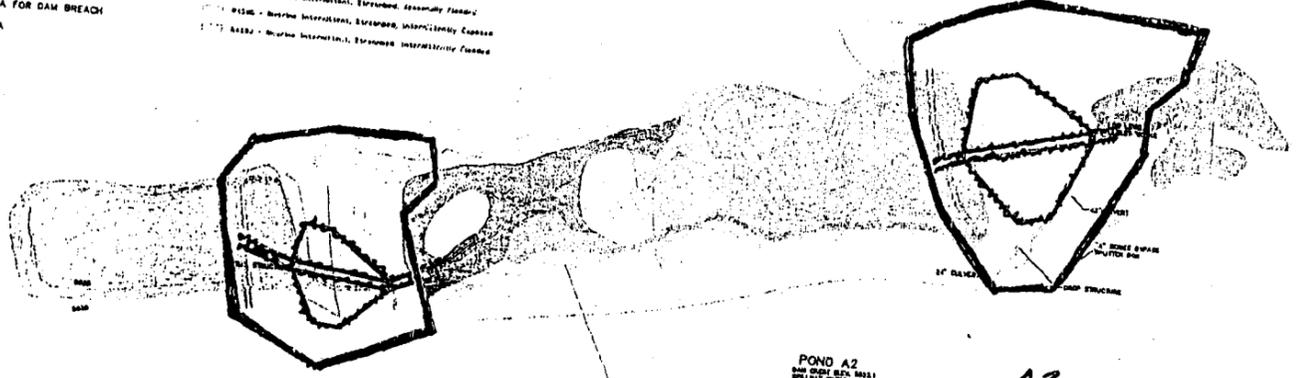


200480475
21 SEPT. 2004
SHEET 5 OF 5



- LEGEND**
- PNEUMETER/OBSERVATION WELL
 - BENCHMARK
 - UTILITY POLE
 - BURIED VALVE
 - WELL
 - MANHOLE
 - DIRT ROAD
 - EDGE OF WATER
 - BARBED WIRE FENCE
 - 1 OR 5 FOOT CONTOUR (LAND)
 - 1 FOOT CONTOUR (BELOW WATER)
 - 5 OR 25 FOOT CONTOUR (LAND)
 - 5 FOOT CONTOUR (BELOW WATER)
 - GENERAL CONTOURS OUTSIDE POND AREAS ARE 5' AERIAL CONTOURS
 - DISTURBANCE AREA FOR DAM BREACH
 - DAM BREACH AREA
 - COFFERDAM

- WETLANDS LEGEND**
- SWP - Swampy Lowland, Unconsolidated Bottom, Permanently Flooded
 - PAW - Pasture Aquatic Wetland, Permanently Flooded
 - PEU - Pasture Emergent, Unconsolidated Bottom, Seasonally Flooded
 - PEB - Pasture Emergent, Seasonally Flooded
 - PEM - Pasture Emergent, Permanently Flooded
 - PEF - Pasture Forested, Seasonally Flooded
 - PEP - Pasture Forested, Permanently Flooded
 - PEI - Pasture Intertidal, Emergent, Intermittently Flooded
 - PEO - Pasture Intertidal, Emergent, Oceanic, Intermittently Flooded
 - PEW - Pasture Wetland, Unconsolidated Bottom, Seasonally Flooded
 - PEX - Pasture Wetland, Unconsolidated Bottom, Permanently Flooded
 - PEY - Pasture Wetland, Unconsolidated Bottom, Seasonally Flooded
 - PEZ - Pasture Wetland, Unconsolidated Bottom, Permanently Flooded
 - PEAA - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAB - Pasture Aquatic Wetland, Permanently Flooded
 - PEAC - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAD - Pasture Aquatic Wetland, Permanently Flooded
 - PEAE - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAF - Pasture Aquatic Wetland, Permanently Flooded
 - PEAG - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAH - Pasture Aquatic Wetland, Permanently Flooded
 - PEAI - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAJ - Pasture Aquatic Wetland, Permanently Flooded
 - PEAK - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAL - Pasture Aquatic Wetland, Permanently Flooded
 - PEAM - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAN - Pasture Aquatic Wetland, Permanently Flooded
 - PEAO - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAP - Pasture Aquatic Wetland, Permanently Flooded
 - PEAQ - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAR - Pasture Aquatic Wetland, Permanently Flooded
 - PEAS - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAT - Pasture Aquatic Wetland, Permanently Flooded
 - PEAU - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAV - Pasture Aquatic Wetland, Permanently Flooded
 - PEAW - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAX - Pasture Aquatic Wetland, Permanently Flooded
 - PEAY - Pasture Aquatic Wetland, Seasonally Flooded
 - PEAZ - Pasture Aquatic Wetland, Permanently Flooded



POND A1
DAM ONLY WITH BARRIERS
WELLS ONLY WITH BARRIERS
WELLS NOT FUNCTIONAL

A1

POND A2
DAM ONLY WITH BARRIERS
WELLS ONLY WITH BARRIERS
WELLS NOT FUNCTIONAL

A2

- NOTES**
1. LOCATIONS OF BARRIERS ARE APPROXIMATE AND MAY BE ADJUSTED DURING DESIGN OR CONSTRUCTION PROCESS.
 2. ASSUME ALL PIPES WITHIN THE DAM EMBANKMENT AND BREACH AREA WILL BE REMOVED, EXCLUDING THE BYPASS PIPELINE.
 3. COFFERDAM NECESSITY, LOCATION, SIZE ESTIMATED AND MAY BE ADJUSTED DURING DESIGN OR CONSTRUCTION PROCESS.

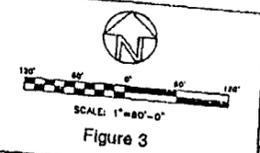


Figure 3

ROCKY FLATS
A SERIES PONDS

U.S. DEPARTMENT OF ENERGY
ROCKY FLATS ENVIRONMENTAL
TECHNOLOGY SITE

Plot Date: Aug 24, 2004 - 3:12pm

200480475
21 SEPT. 2004
SHEET 3 OF 5

TYPICAL FRONT VIEW OF MODIFIED DAM

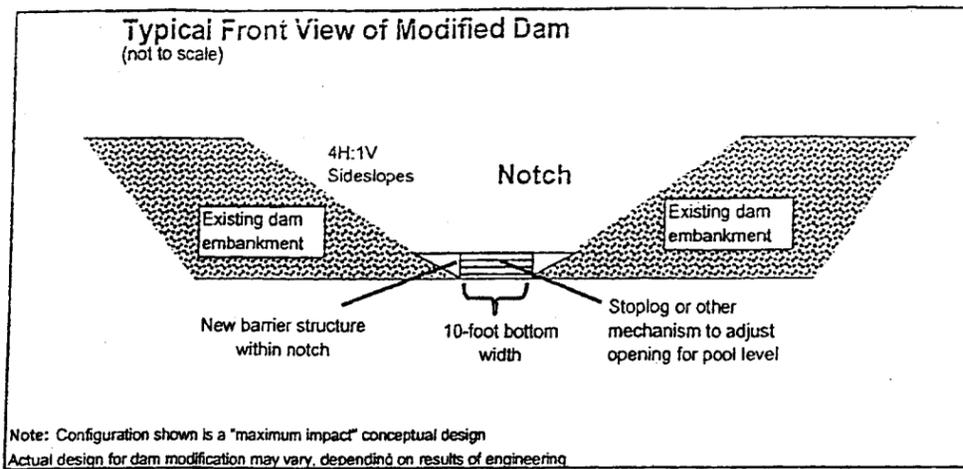


Table 1. Volume Of Material To Be Excavated At Each Dam.

Dam	A-1	A-2	B-1	B-2	B-3	B-4
Breach Length (ft)	120	150	90	110	80	80
Breach Width at Bottom (ft)	10	10	10	10	10	10
Breach Depth (ft)	14	26.4	13	18	13	8
Discharge Area Dimensions (ft)	25 x 15					
Side Slopes	4:1	4:1	4:1	4:1	4:1	4:1

Table 2. Volume of Material To Be Excavated At Each Dam.

Dam	A-1	A-2	B-1	B-2	B-3	B-4
Breach Volume (CY)	2615	11443	1903	4026	1795	790
Additional Excavation Inlet (CY)	23	450			370	60
Additional Excavation Outlet (CY)	50	50	50	50	50	50
Additional Excavation Misc. (CY)		34		370	30	57
Subtotal (CY)	2688	11977	1953	4446	2245	957
Contingency Volume (Multiplier 1.4) (CY)	3763	16768	2734	6224	3143	1340

Temporary Wetland Impacts

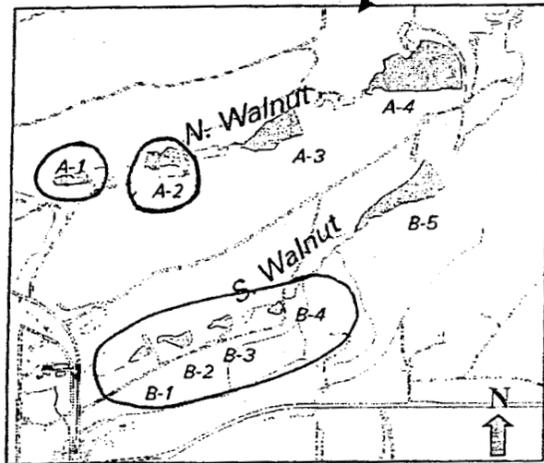
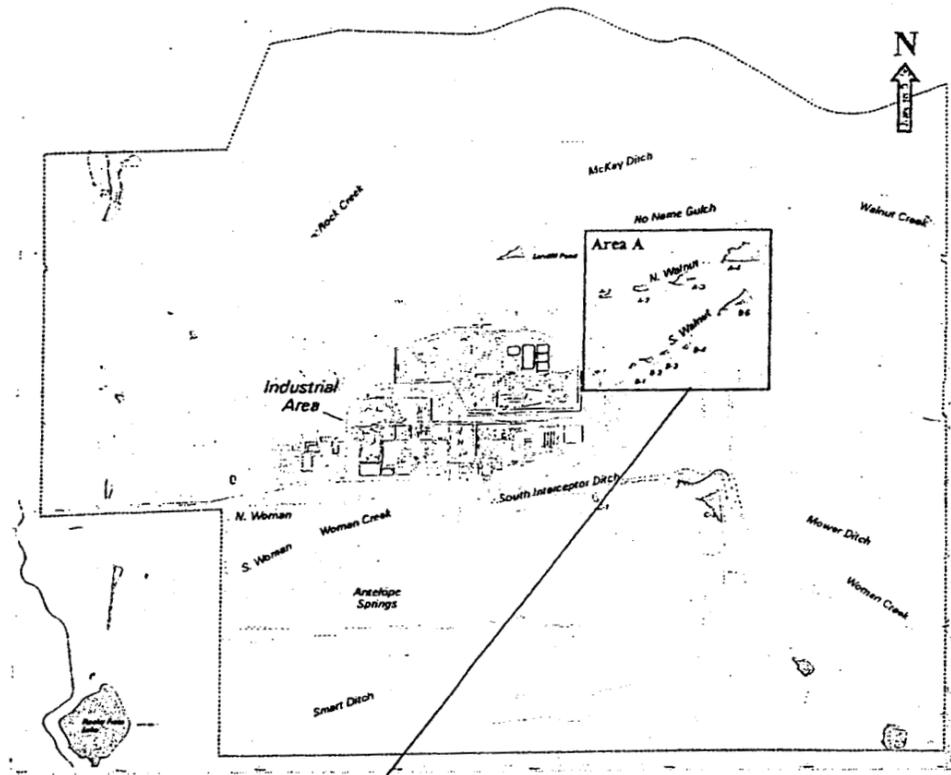
Location	Total Acres	Wetland	Open Water
Pond A-1	0.618	0.618	0.00
Pond A-2	0.358	0.118	0.24
Pond B-1	0.587	0.407	0.18
Pond B-2	0.542	0.342	0.20
Pond B-3	0.306	0.306	0.00
Pond B-4	0.175	0.175	0.00
Total	2.586	1.966	0.62

Permanent Wetland Impacts

Location	Total Acres	Wetland	Open Water
Pond A-1	0.058	0.058	0.00
Pond A-2	0.020	0.018	0.02
Pond B-1	0.035	0.035	0.00
Pond B-2	0.099	0.095	0.04
Pond B-3	0.016	0.016	0.00
Pond B-4	0.024	0.024	0.00
Total	0.251	0.245	0.06

200480475
21 SEPT. 2004
SHEET 2 OF 5

VICINITY MAP
ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE



(A-) = DAMS TO BE NOTCHED

200480475
21 SEPT. 2004
SHEET 1 OF 5

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 Number 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 easiest 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.

(*TRANSFeree*)

(*DATE*)

ADDRESS

GENERAL CONDITIONS, (continued from page 2)

7. All construction debris will be disposed of on land in such a manner that it cannot enter a waterway or wetland.
8. Equipment for handling and conveying materials during construction shall be operated to prevent dumping or spilling the materials into the water except as approved herein.
9. Care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water.
10. Steps will be taken to prevent materials spilled or stored on shore from washing into the water as a result of cleanup activities, natural runoff, flooding, and that, during construction, any materials which are accidentally spilled into the water will be retrieved.
11. All work in the waterway will be performed in such a manner so as to minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
12. All areas along the bank disturbed or newly created by the construction activity will be seeded with vegetation indigenous to the area for protection against subsequent erosion.
13. The clearing of vegetation will be limited to that which is absolutely necessary for construction of the project.
14. Close coordination will be maintained by the contractor with downstream water users, advising them of any water quality changes to be caused by the construction.
15. All dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.
16. Deposition of excavated materials on shore and all earthwork operations on shore will be carried out in such a way that sediment runoff and soil erosion to the water are controlled.
17. Adequate pipes shall be installed in any temporary crossing to carry normal flows and prevent the restriction of expected high flows during construction.
18. Concrete trucks will be washed at a site and in such a manner that wash water cannot enter the waterway.
19. The use of machinery in the waterway will be kept to a minimum.
20. When the District Engineer has been notified that a filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Engineer subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.
21. Fuel storage tanks above ground shall be diked or curbed or other suitable means provided to prevent the spread of liquids in case of leakage in the tanks or piping.

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;

Section 401 Certification Requirements
State of Colorado

(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 noncompliance, 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) ~~_____~~ 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.

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.

Philip Frankel 12-9-04
(PERMITEE) (DATE)

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

Jeffery A. Bedey
(DISTRICT ENGINEER)
COLONEL, CORPS OF ENGINEERS

12/9/04
(DATE)

BY:

Timothy T. Carey
TIMOTHY T. CAREY
CHIEF, DENVER REGULATORY OFFICE

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.

- percent of ground surface area that is vegetated, percent of the vegetated area that contains wetland species, list of prevalent plant species;
- maps, and drawings as needed for illustration; and
- ~~photographs~~ (to be taken from the same location each year and submitted with each report).

G. The permittee shall contact the United States Fish and Wildlife Service, Office of Migratory Birds, at (303) 236-8171, for permitting requirements dealing with the removal of a raptor nest before removing any trees in areas authorized for work by this permit.

H. 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.

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