



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

REPLY TO
ATTENTION OF

September 28, 2011

Regulatory Division SPK-2006-75266

Chris Walter
Ruby Canyon Homeowners Association
2856 Patterson Rd
Grand Junction, Colorado 81506

Dear Mr. Walter:

We have reviewed your response letter, received by our office on August 24, 2011, providing information regarding the unauthorized work performed at Ruby Canyon Subdivision. We understand that you wish to apply for an after-the-fact Department of the Army permit to maintain and operate the Ruby Canyon Reservoir. This project involves activities such as replacing the reservoir inlet structure at Salt Creek, construction of a road crossing, and excavating a trench into the reservoir. The work is located in Salt Creek and Ruby Canyon Reservoir near the Ruby Canyon Estates South Subdivision within the SW ¼ of Section 33, Township 9 South, Range 103 West, Latitude 39.2342°, Longitude -108.8980°, Town of Mack, Mesa County, Colorado.

We will accept your request to process an after-the-fact permit. An information checklist and an application are enclosed for your use in preparing a permit application. Additionally, a list of Colorado Wetland Consultants is enclosed for your use and is recommended in assisting you with your permit application. You may also visit our website at www.spk.usace.army.mil/regulatory.html for more information regarding our program and assistance on completing a permit application.

Allowing the reservoir to fill and hold water will result in a depletion of water from the Colorado River Basin. Actions resulting in depletions are likely to jeopardize the continued existence of four of the federally listed endangered fish species and adversely modify critical habitat. As such, we will be required to consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act for depletions associated with maintaining this reservoir. Please refer to the enclosed April 2011 *Consultation with Federal Agencies* guidance sheet for additional information.

Please send the completed permit application with all required information to the attention of Ms. Carrie Sheata of this office at the address listed below. When we receive the permit application, we will process it accordingly. You must provide all of the required information within thirty (30) calendar days from the date of this letter, no later than **October 28, 2011**.

Called ✓ on Oct 3rd @ 8:41 AM left message
Carrie

Our disclaimer of jurisdiction is only for this activity as it pertains to Section 404 of the Federal Clean Water Act. Other Federal, State, and local laws may apply to your activities. Therefore, in addition to contacting other Federal and local agencies, you should also contact local and state regulatory authorities to determine whether your activities may require other authorizations or permits.

Please refer to identification number SPK-2006-75266 in your submittal or any other correspondence concerning this project. If you have any questions, please contact Ms. Sheata at Colorado West Regulatory Branch, 400 Rood Avenue, Room 134, Grand Junction, Colorado 81501, email Carrie.A.Sheata@usace.army.mil, or telephone (970) 243-1199, extension 14. Your continued cooperation in correcting this Clean Water Act violation is appreciated.

Sincerely,



Susan Bachini Nall
Chief, Colorado West Regulatory Branch

Enclosures:

1. Information Checklist
2. Eng Form 4345, Application for Department of Army Permit
3. Colorado Wetlands Consultant list
4. USFWS April 2011 *Consultation with Federal Agencies*

Copies furnished:

Ms. Cindy Brown, Heritage Property Management, 3002 I-70 Business Loop, Suite 2, Grand Junction, CO 81504

Mr. John Gattoni, 837 Slickrock Drive, Mack, CO 81525

Ms. Monica Heimdal, 8ENF-W, Water Technical Enforcement Program, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8, ~~1595 Wynkoop Street, Denver, CO 80202-1129~~

Mr. Garrett Jackson, Colorado Division of Water Resources, 2754 Compass Drive # 175, Grand Junction, Colorado 81506

Ms. Catherine Robertson, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado 81506-3946

Mr. Al Pfister, United States Fish and Wildlife Service, Ecological Services, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506-3946

Ms. Jocelyn Mullen, Colorado Department of Public Health and Environmental Water Quality Control Division, Engineering Section Grand Junction Regional Office, 222 South 6th Street, Room 232, Grand Junction, Colorado 81501

Mr. Timothy A. Hayashi, Mesa County Planning and Economic Development, Post Office Box 20000, Grand Junction, CO 81502-5022