

MASTER PLAN For The Town of Glenrock South Recreation Area Glenrock, Wyoming

February, 2017



Prepared by:



Environmental and Civil Solutions, LLC
111 West 2nd Street, Suite 600
Casper, Wyoming 82601
(307) 337.2883

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ACKNOWLEDGEMENTS

ECS Engineers would like to thank the many individuals who assisted in bringing together the necessary information to make this plan a reflection of the Town's vision for the South Recreation Area. We received invaluable input from Town staff, the South Rec Steering Committee and members of the public. Much support and hard work was invested in this project by these members of the community. The South Recreation Area's value to the Town is evidenced by their involvement and interest expressed at meetings and community activities held during the course of this study. We appreciate so much the willingness of the community to invest their time and energies in making their community a better place to live, and the South Recreation Area a beautiful outdoor facility to service the town of Glenrock and the surrounding areas. ECS would also like to thank GSG Architecture of Casper for their assistance in developing cost estimates for the proposed improvements.

Special thanks to Kasey Drummond, Glenrock Community Development Director, for her hard work in organizing planning meetings, community events and surveys to facilitate feedback from the people of Glenrock. This feedback has been crucial to developing a Master Plan that is successful in reflecting the Vision of the Town for the South Recreation Area.

Project Steering Committee/City Staff

Chad Beer- Local Business Owner

Judi Colling- Local Business Owner

Mike Colling- County Commissioner

Kasey Drummond, Community Development Director

Doug Frank, Mayor

Roy Kincaid- Resident

Mark Kay Kindt- Glenrock Area Chamber of Commerce

Katie & Doug Mosier- Local Business Owners

Kathy Patceg- Local Business Owner & Retired- Town of Glenrock

Jaime Pinkerton- Glenrock Rec Center

Randy Rumppler- Public Works Director

Jimmy Schell- Local Business Owner & South Rec Arena Committee

Donnie Stewart- Glenrock Rec Center

Mary-Leigh Williams- Glenrock Planning Commission

1.0 EXECUTIVE SUMMARY

In 2016, the Town of Glenrock began creation of a Comprehensive Development Plan. In that plan, the Town's Vision includes maintaining a small town lifestyle; recreation, open space and the environment; economic energy; and transportation and mobility. The South Recreation Area is seen as one of the Town's greatest assets in reaching their goals and objectives related to this vision, with the ability to provide the following:

- A location for festivals, events and year-round entertainment.
- Maintenance of a friendly community that values their cultural heritage and natural resources.
- Recreational opportunities – i.e. rodeo, baseball, softball, camping, picnicking, playground areas, walking/running/biking pedestrian pathways and creek access.
- Economic support to the community by bringing in outside visitors for the activities listed above.

In August of 2016, in a Community Plan Update Survey, Improving the South Recreation Area was rated #1 over 5 other options for Community Facilities Improvements.

Survey results for the Town's Master Development Plan indicate desired improvements to the South Recreation area prioritized as follows:

1. Playground Upgrades.
2. Rodeo Facility Upgrades.
3. Creation of a fishing pond or fishing area.
4. Walking/Running/Biking pedestrian pathways.
5. Upgrades to the baseball/softball fields.
6. West side access.
7. Improvements to the existing campground and picnic area.

This Plan is the result of desires expressed by the Town and its citizens. Further discussions with the public and with the Steering Committee were held, with the goal of developing a plan for the South Recreation Area that would promote their vision and assist in building Glenrock into a community with the quality of life that they desire. This plan was compiled in a manner that attempts to prioritize the wishes of the community, while balancing the economic feasibility

of the proposed improvements. It is our wish that this Plan reflects the desires of the citizens in a way that can be utilized by the Town as opportunities and finances become available for the South Recreation Area.

2.0 EXISTING CONDITIONS/ON-SITE FACILITIES

The Glenrock South Recreation Area is an outdoor parks and recreation complex that includes two baseball/softball fields, a rodeo arena, a small campground, picnic area and a concessions building. The site is located at 185 Mormon Canyon Road, approximately 2 miles from town on the south side of Interstate 25. It is owned and maintained by the Town of Glenrock but is not within the boundaries of the town. It encompasses approximately 80 acres and is bisected by Deer Creek, which runs from south to north through the property, with approximately half of the property on each side of the creek.

Concession Building:

The concessions building is approximately 1200 square feet and is utilized during baseball, softball and rodeo events. It includes restrooms with flush toilets and a vaulted sewer system. (Remaining restroom facilities include only one set of vaulted toilets in the picnic area.) The Town has made improvements to the concession building this year, including new siding, lighting and an awning/roofed area with concrete pad at the front of the building where concessions are sold and picnic tables are provided for seating.



Picnic Area with Playground:

Approximately 5 acres along the park's northern boundary east of Deer Creek are dedicated to picnic area. There are approximately 6 sites with tables and pedestal barbecue grates and one restroom facility with two vaulted toilets. Potable water is supplied to the picnic area by yard hydrants, though not every site has its own hydrant.

The existing playground equipment is also included in this area. The Town plans to replace the existing equipment this year, and some thought has been given to placing the new playground equipment more centrally between the picnic and camping areas, just west of the rodeo arena.

There is also an existing dump station/area that is currently not in use at the northeast corner of the picnic area, approximately 300 feet north of the concessions building.



Campground Area:

The campground area is also approximately five acres and lies along the east side of Deer Creek southwest of the Picnic Area. It includes approximately 5 sites – 3 with concrete pads, all with tables and pedestal barbecue grates. Potable water is supplied to the camp area by yard hydrants, though not every campsite has its own hydrant.



Baseball/Softball Fields:

There are two baseball/softball fields at the South Recreation facility. They are in good condition, and the Town has made improvements to this area in the past year, including new bleachers, new concrete and siding that matches that used on the concessions building. This area also encompasses approximately 5 acres of the site.



Rodeo Arena/Facilities:

The rodeo arena is a well-used area, with the Wyoming Junior Rodeo Association (WJRA) holding their rodeo finals here for the third year in a row. It is in need of improvement, including replacement of the timing and scoring booth, and upgrades to the announcing booth, chutes, pens, alleys and cat walk. There is also concern regarding wind erosion of the pen area, with the need for some sort of snow and wind fence along the southwest side. The Town had previously put some of these improvements out to bid (chutes, pens, alleys and cat walk), but the project did not receive approval from the Town’s Council.



West Side of Park:

As previously stated, the South Recreation Area is bisected by Deer Creek, which runs from south to north through the property, with approximately half of the property on each side of the creek. There is a low water crossing near the center of the park, which consists of some concrete poured on the creek bottom; however, this gets covered with a good amount of gravel and sediment in the spring during periods of high water. The entrance and exit for this crossing are fairly steep. This is the only access to the west side of the park, and these concerns make the access difficult for a good portion of the year. For this reason, no facilities are currently located on the west side of the park, leaving approximately 40 acres of the area only minimally utilized.



Water Supply:

The South Recreation Area is serviced by a dual water system. An irrigation well is used to irrigate the baseball fields, while a public water system that services the complex on a seasonal basis is used for potable water to the camping/picnic area, the rodeo arena and the

concessions building. This system is located inside a well house, where chlorination is introduced. According to the State Engineer's website, water rights for the irrigation well were previously covered by Ground Water Permit P105472.0W, but this permit was cancelled and combined with Surface Water Permit P2358.0D from the George Ditch, priority November 1, 1899. This permit appropriation is for 0.65 cfs, or 300 GPM, except when surplus water is available at the original point of diversion, which would allow the well to pump at a rate of 1.34 cfs, or 600 GPM. The water right for the potable water system is covered under Ground Water Permit P69069.0W, priority November 9, 1984. This permit appropriation is for 25 GPM.

Big Muddy Operators/Linc Energy/Pacific Power/Qwest:

Big Muddy Operators has several valve and well locations, as well as gathering lines throughout the area, and various structures belonging to them are scattered throughout the South Recreation Area (these were previously owned by Linc Energy). Pacific Power and Qwest utilities are also present in and around the area. See Easement documents included in the attachments.



Storm Water/Flooding:

A significant portion of the South Recreation Area lies within the floodplain, per FEMA Flood Insurance Rate Map Numbers 56009C130D and 56009C1285D (See exhibits in the appendix). The floodplain areas within the park are Zone A and Zone X. Zone A being special flood hazard areas subject to inundation by the 1% annual chance flood which do not have base flood elevations determined. Zone X includes those areas outside of the 0.2% annual chance floodplain.

3.0 PUBLIC FEEDBACK/MASTER PLAN VISION

Survey results for the Town's Master Development Plan indicate desired improvements to the South Recreation area prioritized as follows:

1. Playground Upgrades.
2. Rodeo Facility Upgrades.
3. Creation of a fishing pond or fishing area.
4. Walking/Running/Biking pedestrian pathways.
5. Upgrades to the baseball/softball fields.
6. West side access.
7. Improvements to the existing campground and picnic area.

Discussions with the public and members of the Steering Committee resulted in the following elaborations for each item.

Playground Upgrades.

New playground equipment.

Rodeo Facility Upgrades

Improvements to chutes, pens, alleys, cat walk.

Covered stands.

Water, to eliminate the need for a truck (sprinkler system).

Announcing booth upgrade.

New timing and scoring booth.

Rodeo campground area with potable water for campers and their animals.

Snow/Wind fence for arena.

Power Upgrade for Town-owned portable stage in order to facilitate entertainment events.
A pavilion (picnic shelter) with horse troughs at the west end of the arena for rented use.

Creation of a fishing pond or fishing area.

Possibly at the northeast corner of the site, where there is currently a “lagoon” formed by runoff toward the creek, or near Deer Creek where water is diverted in times of high water.

Walking/Running/Biking pedestrian pathways throughout the park.

Lighting (solar or other).

Benches.

Upgrades to the baseball/softball fields.

Improvements to seating – new bleachers with shade covers.

The ability to gate off the north end of the road to reduce traffic between fields and concessions/parking during games.

West side access.

Possible pedestrian and/or vehicular bridge.

Pavilion for rented use – weddings, gatherings, etc.

Improvements to the existing campground and picnic areas.

More raised pads/campsites.

More picnic sites.

Water hookups for campsites.

Employment of campground host during the summer season.

Use of the existing dump station for visitors utilizing the campground.

Additional restroom facilities.

Shower facilities.

A pavilion (picnic shelter) for rented use.

Other items discussed by the Steering Committee as much needed improvements to the area included the following:

- User friendliness – signage, defined parking, posted rules and regulations.
- Pedestrian pathway that connects to Town (possibly at the Deer Creek parking area).

- Expanded parking areas for the entire facility, with road along the east side of the ball fields. (This also provides the ability to gate off the road between the fields and concession from the north during events.)
- Signage for the park in town and along the interstate.
- Big Muddy Operators (items previously owned by Linc Energy) clean up - verification of items currently in use and removal of those items that are not – fresh paint/clean-up for items that stay.
- Groundwater Protection/Potable water well improvements – Well Head may need to be raised, as flooding this spring was 1.5’ over well head.

4.0 PLAN IMPLEMENTATION

As with all planning activities, improvement costs will sometimes dictate the order in which recommended items are constructed. Phase I includes items requiring a lower financial demand and increased ease of construction, in order for the community and surrounding areas to see the continued commitment by the Town to the Master Plan improvements. Any financial investments by the Town may also persuade possible funding sources to assist them in their endeavors to utilize the South Recreation Area as a means to achieve their vision for the community. Also included in this phase are items that are in need of improvement due to safety or maintenance concerns. These include the well head improvements, playground equipment, wind/snow fence, and the sprinkler system for the rodeo arena. Playground and rodeo facility upgrades were also given priority per the survey results for the Town’s Master Plan. Note that the estimated costs for nearly all of the proposed improvements of this Plan could be reduced if the Town were able to provide the labor internally.

As previously stated, most of the improvements to the baseball/softball fields and concessions building/area have already been completed by the Town. Those items are not included in the following phasing.

Phase I

The following items are recommended for Phase I:

- Playground equipment.

The existing playground equipment in the picnic area is quite dated. The Town hopes to replace this equipment with new, safer equipment in the coming year. **Estimated**

Cost: \$29,000.00

- Potable water well improvements.
It was reported that floodwaters this spring covered the well head by 1.5'. It is recommended that the well head be raised to protect the water supply at the park from contamination. A well head study was also recommended in the Water System Evaluation done by WARWS in May, 2004. Modifications to the well head will require permitting through the Wyoming Department of Environmental Quality and therefore, an engineering design and report. **Estimated Cost: \$7,450.00**
- Rodeo facility improvements – chutes, pens, alleys, cat walks.
This item was put out to bid and taken before the Town's Council in 2015. It was not passed and so the upgrades were not installed. **Estimated Cost (per previous bid): \$115,000.00**
- Announcing booth upgrade.
The rodeo arena currently has an existing announcing booth on its south side that needs to be upgraded. These upgrades are to the structure, and do not include, heating or air conditioning. **Estimated Cost: \$11,500.00**
- Power upgrade to rodeo arena (portable stage).
The Town owns a portable stage which could be used for entertainment events at the rodeo arena, such as concerts, etc. However, they currently do not have the ability to provide power for this stage. Upgraded power supply to the arena area is desired. **Estimated Cost: \$5,750.00**
- Water to the rodeo arena (sprinkler system) to eliminate the need for water truck.
The rodeo arena is serviced by a potable water system, with approximately 4 hose bibs used for water troughs around the arena. Currently, Town staff are having to fill a water truck and use it to spray the arena for dust control. The Town would like to have a sprinkler system installed around the arena to provide dust control during rodeo or other events. **Estimated Cost: \$5,750.00**
- Increase number of campsites, concrete pads. This plan reflects an addition of 5 campsites (including picnic table, fire ring and concrete pad) to the South Recreation Area. **Estimated Cost: \$14,337.50 (\$2867.50/campsite)**

- Shower facilities.
There are currently no shower facilities onsite. The existing concessions building is supplied with potable water and includes restrooms with flush toilets and a vaulted sewer system. Its existing septic tank is reported to be approximately 1500 gallons in volume, which should be adequate to accommodate some shower facilities. For this reason, it is recommended that the Town provide the desired shower facilities as an addition to the existing concessions building. This plan reflects a 250 square foot addition to the concessions building, which could house approximately six shower stalls for use by campers at the recreation area. A shower facility at any other location in the park would cost significantly more, as it would require new water and power supplies, as well as a new septic tank. This item will require architectural design, as well as engineering design and permitting through the Wyoming Department of Environmental Quality. Consideration must also be given to floodwater issues, as this construction will take place within the Zone A Floodplain area of the site. **Estimated Cost: \$116,250.00**
- Snow/Wind fence for arena.
Due to the prevailing winds out of the southwest, erosion and dust are a continuous concern for the arena area. It is recommended that the Town install snow/wind fencing along the southwest side of the arena to aid in controlling these issues. The proposed scoring booth and pavilion at the west end of the arena will help with this as well (Phase III). **Estimated Cost: \$5,750.00**
- Signage – entrance, parking, posted rules and regulations, park subdivisions, campsite numbers, and offsite (in town and along I-25 and Mormon Canyon Road).
In order to make the area more user-friendly, it is recommended that better signage be utilized throughout the park. Particularly, signs that specifically designate picnic areas, campsites, parking areas, rules and regulations. Current signage does exist in town and at the access turn from Mormon Canyon Road, but these signs are neutral in color, easily missed, and in need of updating. The Steering Committee expressed interest in the possibility of adding a sign along Interstate 25, which would draw attention to the area for travelers – especially if the campground is expanded and the Town begins generating income from the campsites. **Estimated Cost: \$11,787.50**

- Gate on north end of road between concession and ball fields.
As previously indicated, there is concern regarding the amount of traffic between the ball fields, concession area and parking during the games, and the Steering Committee suggested the use of a gate at the north end of the road, thereby allowing only one access to the area at these times. This could easily be provided by a basic barrier gate that includes a sign indicating that the access is closed. **Estimated Cost: \$1,955.00**
- Refurbish existing sewage dump site for visitors utilizing the campground.
It is assumed that the existing tank is in good condition and requires only the necessary surface equipment to become operational. Not included in the cost estimate for this item is the cost to pump/empty the tank on a regular basis, which should be considered before the Town decides to make the dump site operational. This item will require engineering design and permitting through the Wyoming Department of Environmental Quality. **Estimated Cost: \$10,280.00**

Big Muddy Operators (items formerly owned by Linc Energy) clean-up.

As previously stated, there are various structures scattered throughout the site belonging to this company. Many of these have become weathered, with metal that has rusted or structures needing some fresh paint. They have been contacted and are working with the Town to assist in improvement activities. They have been onsite and are agreeable to determining which items remain in use, which items might be removed or repaired, and whether the Town may be allowed to paint or add fencing to improve the appearance of the park.

Phase II

The following items are recommended for Phase II:

- Timing and scoring booth replacement.
The rodeo arena currently has an existing timing and scoring booth on its west side that needs to be replaced. The Town would also like to add an electronic scoreboard.
Estimated Cost: \$34,500.00

- Covered stands for the rodeo arena.

Currently the rodeo arena's stands are not covered, and so there is no protection from the elements, such as rain, sun, etc., and the existing stands are only in fair condition. The Town would like to provide covered stands for the rodeo arena. **Estimated Cost: \$450,225.00**
- Increase number of picnic sites. This plan reflects an addition of 15 picnic sites (including picnic table and pedestal BBQ grate) to the South Recreation Area. There is currently an existing dirt drive along the Creek on the west side of the park that could provide access to up to 10 additional picnic sites on that side of Deer Creek. **Estimated Cost: \$19,406.25 (\$1293.75/picnic site)**
- Additional restroom facilities.

Additional restroom facilities are recommended with the addition of camping and picnicking sites, as well as the possibility of increased use on the west side of the park. Vaulted toilets could be provided near the proposed parking area on the west side of the park (see exhibit) in an area that is out of Zone A of the FEMA indicated floodplain. Toilets added on the east side of the park (or any area within the indicated Zone A) would need to be vaulted above a determined flood plain elevation. These should be designed by an engineer and approved by the Department of Environmental Quality. **Estimated Cost: \$29,550.00 (\$14,775.00 each)**
- Expanded parking and drives and rodeo campground area - as indicated on Exhibit. Again, the areas shown can be modified or finished in segments as the Town sees fit. Cost estimate is provided based on graveled finish (4" of crushed base over prepared subgrade) of the entire area indicated. The rodeo campground for this phase consists basically of oversized parking spots, which will provide the space needed for overnight stays for rodeo participants and their campers/trailers/livestock. This item will also require engineering design and administration in addition to labor and materials. **Estimated Cost: \$223,020.00 (\$13.67/sy)**
- Campground host and possible pay station.

With the addition of the rodeo campground and an increase in the number of available campsites at the Park, the Town may choose to begin charging for these amenities, in

which case it may become helpful to have a “Campground Host” onsite. This person could be provided with campsite, utilities, and wage in return for their services throughout the summer months (from Memorial Day through Labor Day is suggested).
Estimated Cost: \$12,937.50 per season (Host), \$1,150.00 (Pay Station)

Phase III

The following items are recommended for Phase III:

- Water hookups for campsites.

As there are already potable water spigots in the existing campground area, it is assumed that the 5 additional campsites could be provided with hose bibs from the existing line. Providing water to the proposed rodeo campground area will require a new line from the water supply, as well as three potable water spigots for campers and two spigots for the proposed horse troughs within the camping area. This item will also require permitting through the Department of Environmental Quality, engineering design and administration. Permitting for this could be acquired with the same application as the well improvements if the Town opts to complete the two items together as one project. **Estimated Cost: \$35,412.50**

- Pavilion in Picnic Area.

The addition of a pavilion in the picnic area, which could be utilized for group picnics, etc., was suggested by the Steering Committee. The Town has such a structure in its Town Park, and feedback seemed to be that this facility is well utilized and appreciated. The Town could rent the facility for additional income to aid in upkeep for the park.

Estimated Cost: \$28,347.50

- Pavilion at west end of arena.

The addition of a pavilion at the west end of the arena, which could be utilized for group picnics, etc., was suggested by the Steering Committee. As previously stated, feedback is that this type of facility would be well utilized and appreciated. Again, the Town could rent the facility for additional income to aid in upkeep for the park. **Estimated Cost:**

\$28,347.50

- Shade covers for baseball/softball bleachers.

The Town has replaced the bleachers for the baseball/softball fields, but would like to provide shade covers to protect spectators from the sun. Cost estimate is for fabric shade covers for six sets of five-row bleachers, 21 feet long. Hard cover permanent structures would be significantly more expensive. **Estimated Cost: \$62,100.00**

Phase IV

The following items are recommended for Phase IV:

- Walking/Running/Biking pedestrian pathways throughout the park, including lighting and benches. A tentative layout for the pathway is shown on the attached exhibit, but this could be modified or finished in segments as the Town sees fit. Cost Estimates are provided for both gravel and asphalt surfacing, depending on financing and preferences by the Town. It is believed that this pathway would be highly utilized, and even without a dry crossing for Deer Creek, would make good use of the open space on the west side of the park. This item will require engineering design and administration in addition to labor and materials. **Estimated Cost: \$414,418.75 (asphalt path - \$43/LF) / \$136,262.50 (gravel path - \$14/LF), \$10,350.00 – benches and lighting**

West side access – pedestrian.

As previously stated, approximately half of the park's 80 acres of area are located on the west side of Deer Creek. There is currently no dry crossing for either pedestrians or vehicles to this side of the recreation area. A pedestrian bridge of some sort would provide at least dry foot passage across the creek and better access to improvements on the west side of the park such as pedestrian pathways and picnic areas. This item will require engineering design and administration, as well as coordination with the Army Corp of Engineers. **Estimated Cost: \$47,250.00**

Phase V

- West side access – vehicular crossing.

As previously stated, approximately half of the park's 80 acres of area are located on the west side of Deer Creek. There is currently no dry crossing for either pedestrians or vehicles to this side of the recreation area. It is recommended that the Town consider installing a set of large box culverts which would serve as a vehicle crossing between the two sides. This could be designed to carry the average flows in Deer Creek, with

major flooding events overtopping the culvert. This will require engineering design and administration, and would need to be approved through the Army Corp of Engineers.

Estimated Cost: \$337,500.00

- Pavilion – west side.

The addition of a pavilion on the west side of the park, which could be utilized for group picnics, weddings, etc., was suggested by the Steering Committee. As previously noted, these types of facilities are expected to be well utilized and appreciated, and could generate income for the Town to aid in upkeep for the park. **Estimated Cost: \$34,229.75**

Phase VI

Pedestrian pathway that connects to town.

Ultimately, the Town would like to provide connection to the proposed pedestrian pathway at the park from the Town limits. There is currently a dirt pathway that follows Deer Creek toward town, and it was suggested that this may be best and safest route, as it would be away from the highway. This would need to be coordinated with the property owners for appropriate easements. This pathway could be constructed of gravel or asphalt, much like the proposed pedestrian pathway within the park. It is estimated that a pedestrian pathway that connects the facility to Town would cost **a minimum of \$150,000.**

Phase VII

Fishing Pond/Fishing Area

There was strong public support to provide a fishing pond or area at the South Recreation Area. There appear to be two areas that could be utilized for this purpose. One area is approximately midway through the park on the east side of Deer Creek. There is currently an area here that collects water during times of higher flows; however, this area become stagnant once the flows diminish. It is possible that this area could be cleared and “pond” area designed so that there is appropriate flow in and out, providing a healthy habitat for fish. This would require engineering design, and would need to be coordinated and permitted through the Army Corp of Engineers with consideration of the FEMA floodplain dynamics for the area.

The other area for a possible fishing pond would be near the northeast corner of the park, where spring runoff collects and is carried northward via an existing culvert. Again, during

times of low flow, this area becomes stagnant with no continuous supply of fresh water. Therefore, consideration would need to be given to aeration and other possible requirements for the appropriate habitat.

The creation of a fishing area at the South Recreation Area would require much further study, and it is estimated the cost to the Town would be **a minimum of \$150,000.**

Utility/Stormwater/Groundwater/Floodplain Considerations

With the completion of any onsite improvements, consideration should be given to the following:

1. Protection of groundwater and surface waters – any disturbance over one acre will require permitting through the Wyoming Department of Environmental Quality – Water Quality Division.
2. Existing buried utilities throughout the park. Care should be taken in locating all underground utilities, including coordination with Big Muddy Operators, prior to any digging/excavation activities. There are also several abandoned irrigation lines throughout the park. These were installed several years ago as part of a plan to construct a golf course onsite, though it was never built.
3. Any necessary permitting/coordination that may be required. As noted, any changes to the Town’s onsite wells, the addition of vaulted toilets, the refurbishing and use of the existing dump station, and the suggested waterline hookups/improvements will need to be engineered and permitted through the Wyoming Department of Environmental Quality. Pedestrian and vehicular crossings for Deer Creek will need to be engineered and coordinated with the Army Corp of Engineers. All improvements involving the construction of buildings or structures, filling, grading, paving or excavation should be approved by the County, including review by the Converse County Floodplain Administrator.
4. Wetlands disturbance – any disturbance should be considered by the design engineer regarding the need for delineation and possible mitigation of wetlands. Disturbances of over half an acre of wetlands require mitigation and coordination with the Wyoming Department of Environmental Quality – Water Quality Division. It is expected that the construction of pathways throughout the park may require these considerations.
5. Flood damage prevention, maintenance of the floodplain and flow path for Deer Creek throughout the Park.

As previously noted, a significant portion of the South Recreation Area lies within a Zone A floodplain. Some types of improvements within a Zone A floodplain will require that a Base Flood Elevation be determined, with verification that the structure is installed at the proper elevation – i.e. vaulted toilets and well heads. Some improvements will require more significant study to demonstrate that they do not create a rise of more than one foot in floodwater elevations. This would be the case when designing the pedestrian and/or vehicular crossings for Deer Creek. It should also be noted that any new or replacement structures, such as pavilions, grandstand covers, and the timing/scoring and announcing booths need to be installed in such a way that they would not become “uprooted” during a major flood. This protects the Town’s investment in the structures, as well as preventing them from creating downstream blockage – at the Interstate 25 underpass, for instance. Converse County provides guidelines for anchoring and other such considerations in their “Flood Damage Prevention Regulations.” All other improvements suggested in this Master Plan are expected to have minimal effect on the terrain or floodwater flow path throughout the park. It is expected that roadways, parking areas, and pathways will be designed/engineered closely to the existing surface topography and so, will not create any significant change in floodwater flows throughout the park. If necessary, fill areas could be countered with cut areas in a manner that maintains floodwater flows and elevations, but this should be designed and verified by an engineer. The suggested improvements that are expected to require engineering design, including floodway management and flood damage prevention include Engineering Design, Permitting and/or Administration line items in the following cost estimates.

5.0 PRELIMINARY COST ESTIMATES

Note that these are per the current (2017) market.

Town of Glenrock - South Recreation Area					
ENGINEERS ESTIMATE OF PROBABLE COSTS					
<i>Phase 1</i>					
ITEM	UNIT	ESTIMATED UNIT PRICE	ESTIMATED QUANTITY	ESTIMATED COST	NOTES
PLAYGROUND EQUIPMENT					
Labor & Materials	LS	\$ 26,000.00	1	\$ 26,000.00	
Contingency (15%)	LS	\$ 3,900.00	1	\$ 3,900.00	
			subtotal	\$ 29,900.00	
POTABLE WATER WELL IMPROVEMENTS					
Engineering Design and Permitting	LS	\$ 4,000.00	1	\$ 4,000.00	
Labor & Materials	LS	\$ 3,000.00	1	\$ 3,000.00	
Contingency (15%)	LS	\$ 450.00	1	\$ 450.00	
			subtotal	\$ 7,450.00	

Phase I (Continued):

RODEO FACILITY IMPROVEMENTS - CHUTES, PENS, ALLEYS, CAT WALKS					
Project Previously Bid	LS	\$100,000	1	\$	100,000.00
Contingency (15%)	LS	\$ 15,000.00	1	\$	15,000.00
			subtotal	\$	115,000.00
ANNOUNCING BOOTH UPGRADE					
Labor & Materials	LS	\$ 10,000.00	1	\$	10,000.00
Contingency (15%)	LS	\$ 1,500.00	1	\$	1,500.00
			subtotal	\$	11,500.00
POWER UPGRADE TO RODEO ARENA					
Labor & Materials	LS	\$ 5,000.00	1	\$	5,000.00
Contingency (15%)	LS	\$ 750.00	1	\$	750.00
			subtotal	\$	5,750.00
SPRINKLER SYSTEM FOR RODEO ARENA					
Labor & Materials	LS	\$ 5,000.00	1	\$	5,000.00
Contingency (15%)	LS	\$ 750.00	1	\$	750.00
			subtotal	\$	5,750.00
CAMPSITE INCREASE/IMPROVEMENTS					
Campground Site Number Posts	EA	\$ 50.00	5	\$	250.00
Fire Rings	EA	\$ 450.00	5	\$	2,250.00
Picnic Tables	EA	\$ 700.00	5	\$	3,500.00
10'x20'x4" Concrete Pad	EA	\$ 1,300.00	5	\$	6,500.00
Contingency (15%)	LS	\$ 1,837.50	1	\$	1,837.50
			subtotal	\$	14,337.50
SHOWER FACILITY (Addition to Existing Concessions Building)					
Building Costs	SF	\$ 340.00	250	\$	85,000.00
Architectural Design	LS	\$ 8,500.00	1	\$	8,500.00
Engineering Design and Permitting	LS	\$ 10,000.00	1	\$	10,000.00
Contingency (15%)	LS	\$ 12,750.00	1	\$	12,750.00
			subtotal	\$	116,250.00
SNOW/WIND FENCE SW OF ARENA					
Labor & Materials	LS	\$ 5,000.00	1	\$	5,000.00
Contingency (15%)	LS	\$ 750.00	1	\$	750.00
			subtotal	\$	5,750.00
SIGNAGE					
Campground Site Number Posts	EA	\$ 50.00	5	\$	250.00
Interior Signs	EA	\$ 500.00	4	\$	2,000.00
Offsite Signs	EA	\$ 1,000.00	3	\$	3,000.00
Interstate 25 Sign	EA	\$ 5,000.00	1	\$	5,000.00
Contingency (15%)	LS	\$ 1,537.50	1	\$	1,537.50
			subtotal	\$	11,787.50
GATE NEAR CONCESSIONS BUILDING					
Barrier Gate	LS	\$ 1,500.00	1	\$	1,500.00
Sign ("Access Closed")	FA	\$ 200.00	1	\$	200.00
Contingency (15%)	LS	\$ 255.00	1	\$	255.00
			subtotal	\$	1,955.00
REFURBISH DUMP STATION (Assuming no changes are needed to holding tank)					
Surface Equipment	LS	\$ 7,000.00	1	\$	7,000.00
Sign	EA	\$ 200.00	1	\$	200.00
Engineering Design and Permitting	LS	\$ 2,000.00	1	\$	2,000.00
Contingency (15%)	LS	\$ 1,080.00	1	\$	1,080.00
			subtotal	\$	10,280.00
			ESTIMATED COST	\$	335,710.00

Town of Glenrock - South Recreation Area

ENGINEERS ESTIMATE OF PROBABLE COSTS

Phase 2

ITEM	UNIT	ESTIMATED UNIT PRICE	ESTIMATED QUANTITY	ESTIMATED COST	NOTES
TIMING AND SCORING BOOTH REPLACEMENT					
Labor & Materials Structure	LS	\$ 15,000.00	1	\$ 15,000.00	
Labor & Materials Scoreboard	LS	\$ 15,000.00	1	\$ 15,000.00	
Contingency (15%)	LS	\$ 4,500.00	1	\$ 4,500.00	
			subtotal	\$ 34,500.00	
COVERED STANDS FOR RODEO ARENA					
Labor & Materials (Stands)	LS	\$ 120,000.00	1	\$ 120,000.00	elevated aluminum-10 rows x 99'
Labor & Materials (Cover)	LS	\$ 250,000.00	1	\$ 250,000.00	
Concrete Pad (labor and materials) 110' x 30' x 4"	LS	\$ 21,500.00	1	\$ 21,500.00	
Contingency (15%)	LS	\$ 58,725.00	1	\$ 58,725.00	
			subtotal	\$ 450,225.00	
PICNIC SITE INCREASE					
Picnic Tables	EA	\$ 700.00	15	\$ 10,500.00	
Pedestal BBQ Grates	EA	\$ 150.00	15	\$ 2,250.00	
4" Crushed Base Pad (10'x20')	EA	\$ 275.00	15	\$ 4,125.00	
Contingency (15%)	LS	\$ 2,531.25	1	\$ 2,531.25	
			subtotal	\$ 19,406.25	
VAULTED TOILETS - EAST AND WEST SIDE					
Vault	EA	\$ 2,500.00	2	\$ 5,000.00	
Structure and fixtures	EA	\$ 1,000.00	2	\$ 2,000.00	
Labor/Construction	LS	\$ 5,000.00	2	\$ 10,000.00	
Engineering Design and Permitting	LS	\$ 5,000.00	2	\$ 10,000.00	
Contingency (15%)	LS	\$ 2,550.00	1	\$ 2,550.00	
			subtotal	\$ 29,550.00	
ADDITIONAL ROADS AND PARKING AND RODEO CAMPGROUND					
Dirt Work (Clearing, Grubbing, Cut, Subgrade Prep)	SY	\$ 3.00	16320	\$ 48,960.00	
4" Crushed Base	SY	\$ 7.00	16320	\$ 114,240.00	
Interior Signs	EA	\$ 500.00	4	\$ 2,000.00	
Contingency (15%)	LS	\$ 24,780.00	1	\$ 24,780.00	
Engineering Design and Administration	LS	\$ 33,040.00	1	\$ 33,040.00	
			subtotal	\$ 223,020.00	
CAMPGROUND HOST					
Campsite with utilities	LS/season	\$ 1,250.00	1	\$ 1,250.00	Site \$10/day and Utilities \$50/month
Salary	LS/season	\$ 10,000.00	1	\$ 10,000.00	Memorial Day thru Labor Day (\$3000/mo)
Contingency (15%)	LS	\$ 1,687.50	1	\$ 1,687.50	
			subtotal	\$ 12,937.50	
PAY STATION					
Labor & Materials	LS	\$ 1,000.00	1	\$ 1,000.00	
Contingency (15%)	LS	\$ 150.00	1	\$ 150.00	
			subtotal	\$ 1,150.00	
			ESTIMATED COST	\$ 770,788.75	

Town of Glenrock - South Recreation Area

ENGINEERS ESTIMATE OF PROBABLE COSTS

Phase 3

ITEM	UNIT	ESTIMATED		ESTIMATED COST	NOTES
		UNIT PRICE	ESTIMATED QUANTITY		
WATER HOOKUPS FOR CAMPSITES					
2" Service Line	LF	\$ 10.00	1500	\$ 15,000.00	feeds to rodeo campground & arena/picnic pavilions
Hose Bib Services (lines and spigots)	EA	\$ 750.00	13	\$ 9,750.00	6 campground, 5 rodeo campground, 2 arena pavilion
Contingency (15%)	LS	\$ 3,712.50	1	\$ 3,712.50	
Permitting, Engineering Design and Administration	LS	\$ 6,950.00	1	\$ 6,950.00	
			subtotal	\$ 35,412.50	
PAVILION - PICNIC AREA					
Picnic Tables	EA	\$ 700.00	6	\$ 4,200.00	
Pedestal BBQ Grates	EA	\$ 150.00	3	\$ 450.00	
Structure and Pad (Labor and Materials)	LS	\$20,000.00	1	\$ 20,000.00	
Contingency (15%)	LS	\$ 3,697.50	1	\$ 3,697.50	
			subtotal	\$ 28,347.50	
PAVILION - WEST END OF ARENA					
Picnic Tables	EA	\$ 700.00	6	\$ 4,200.00	
Pedestal BBQ Grates	EA	\$ 150.00	3	\$ 450.00	
Structure and Pad (Labor and Materials)	LS	\$20,000.00	1	\$ 20,000.00	
Contingency (15%)	LS	\$ 3,697.50	1	\$ 3,697.50	
			subtotal	\$ 28,347.50	
SHADE COVERS FOR BASEBALL/SOFTBALL BLEACHERS					
Labor & Materials	LS	\$54,000.00	1	\$ 54,000.00	
Contingency (15%)	LS	\$ 8,100.00	1	\$ 8,100.00	
			subtotal	\$ 62,100.00	
			ESTIMATED COST	\$ 154,207.50	

Town of Glenrock - South Recreation Area

ENGINEERS ESTIMATE OF PROBABLE COSTS

Phase 4

ITEM	UNIT	ESTIMATED		ESTIMATED COST	NOTES
		UNIT PRICE	ESTIMATED QUANTITY		
WEST SIDE ACCESS - PEDESTRIAN BRIDGE					
Labor & Materials	LS	\$35,000.00	1	\$ 35,000.00	
Contingency (15%)	LS	\$ 5,250.00	1	\$ 5,250.00	
Engineering Design and Administration	LS	\$ 7,000.00	1	\$ 7,000.00	
			subtotal	\$ 47,250.00	
8' PEDESTRIAN PATH - OPTION 1- GRAVEL					
Dirt Work (Clearing, Grubbing, Cut, Subgrade Prep)	SY	\$ 3.00	9675	\$ 29,025.00	
4" Crushed Base	SY	\$ 7.00	9675	\$ 67,725.00	
Contingency (15%)	LS	\$14,512.50	1	\$ 14,512.50	
Engineering Design and Administration	LS	\$25,000.00	1	\$ 25,000.00	
			subtotal	\$ 136,262.50	
8' PEDESTRIAN PATH - OPTION 2 - ASPHALT					
Dirt Work (Clearing, Grubbing, Cut, Subgrade Prep)	SY	\$ 5.00	9675	\$ 48,375.00	
4" Crushed Base	SY	\$ 7.00	9675	\$ 67,725.00	
4" Asphalt	SY	\$ 23.00	9675	\$ 222,525.00	
Contingency (15%)	LS	\$50,793.75	1	\$ 50,793.75	
Engineering Design and Administration	LS	\$25,000.00	1	\$ 25,000.00	
			subtotal	\$ 414,418.75	
BENCHES AND LIGHTING					
Benches along Pedestrian Path	EA	\$ 500.00	10	\$ 5,000.00	
Solar Lighting along Pedestrian Path (every 500")	EA	\$ 200.00	20	\$ 4,000.00	
Contingency (15%)	LS	\$ 1,350.00	1	\$ 1,350.00	
			subtotal	\$ 10,350.00	
			ESTIMATED COST	\$ 472,018.75	(Asphalt Pathway)
			ESTIMATED COST	\$ 193,862.50	(Gravel Pathway)

Town of Glenrock - South Recreation Area					
ENGINEERS ESTIMATE OF PROBABLE COSTS					
Phase 5					
ITEM	UNIT	ESTIMATED UNIT PRICE	ESTIMATED QUANTITY	ESTIMATED COST	NOTES
WEST SIDE ACCESS - VEHICLE CROSSING					
Labor & Materials	LS	\$250,000.00	1	\$ 250,000.00	
Contingency (15%)	LS	\$ 37,500.00	1	\$ 37,500.00	
Engineering Design and Administration	LS	\$ 50,000.00	1	\$ 50,000.00	
			subtotal	\$ 337,500.00	
PAVILION - WEST SIDE					
Dirt Work (Clearing, Grubbing, Cut, Subgrade Prep)	SY	\$ 3.00	155	\$ 465.00	
4" Crushed Base	SY	\$ 7.00	155	\$ 1,085.00	
4" Asphalt	SY	\$ 23.00	155	\$ 3,565.00	
Picnic Tables	EA	\$ 700.00	6	\$ 4,200.00	
Pedestal BBQ Grates	EA	\$ 150.00	3	\$ 450.00	
Structure and Pad (Labor and Materials)	LS	\$ 20,000.00	1	\$ 20,000.00	
Contingency (15%)	LS	\$ 4,464.75	1	\$ 4,464.75	
			subtotal	\$ 34,229.75	
			ESTIMATED COST	\$ 371,729.75	

6.0 CONCLUSION

Proposed phasing and costs for the suggested improvements to the South Recreation Facility are as follows:

Phase I:

Playground Equipment	\$ 29,900.00
Potable Water Well Improvements	\$ 7,450.00
Rodeo Facility Improvements (chutes, pens, alleys, catwalks)	\$115,000.00
Announcing Booth Upgrade	\$ 11,500.00
Power Upgrade to Rodeo Arena	\$ 5,750.00
Sprinkler System for Rodeo Arena	\$ 5,750.00
Campsite Increase/Improvements	\$ 14,337.50
Shower Facility (Addition to Concessions Bldg)	\$116,250.00
Snow/Wind Fence SW of Arena	\$ 5,750.00
Signage	\$ 11,787.50
Gate Near Concessions Building	\$ 1,955.00
Refurbish Existing Dump Station	\$ 10,280.00
Total	<u>\$335,710.00</u>

Phase II:

Timing and Scoring Booth Replacement	\$ 34,500.00	
Covered Stands for Rodeo Arena	\$450,225.00	
Picnic Site Increase	\$ 19,406.25	
Vaulted Toilets (East & West Sides)	\$ 29,550.00	
Additional Roads, Parking & Rodeo Campground	\$223,020.00	
Campground Host	\$ 12,937.50	(yearly)
Pay Station	\$ 1,150.00	
Total	<u>\$770,788.75</u>	

Phase III:

Water Hookups for Campsites	\$ 35,412.50	
Pavilion – Picnic Area	\$ 28,347.50	
Pavilion – West End of Arena	\$ 28,347.50	
Shade Covers for Baseball/Softball Bleachers	\$ <u>62,100.00</u>	
Total	<u>\$154,207.50</u>	

Phase IV:

West Side Access – Pedestrian Bridge	\$ 47,250.00	
8' Pedestrian Path (Gravel)	\$136,262.50	
8' Pedestrian Path (Asphalt)	\$414,418.75	
Benches and Lighting	\$ <u>10,350.00</u>	
Total	(asphalt path)	<u>\$472,018.75</u>
Total	(gravel path)	<u>\$193,862.50</u>

Phase V:

West Side Access – Vehicle Crossing	\$337,500.00	
Pavilion – West Side	\$ <u>34,229.75</u>	
Total	<u>\$371,729.75</u>	

Phase VI:

Pedestrian Pathway Connected to Town	\$ <u>150,000.00</u>	
Total	<u>\$150,000.00</u>	

Phase VII:

Fishing Pond/Area		<u>\$150,000.00</u>
Total		<u>\$150,000.00</u>
GRAND TOTAL-ALL PHASES	(gravel path)	\$2,126,298.50
	(asphalt path)	\$2,404,454.75

7.0 ATTACHMENTS

1. Aerial View Map
2. Flood Zone Map and FIRMettes
3. 2004 Water System Study by WARWS
4. Water Right Permit Summaries
5. Information from Qwest, Pacific Power and Linc regarding Easements
6. Converse County Flood Damage Prevention Regulations
7. Construction Requirements in the Special Flood Hazard Area (A and AE Zones)
8. Information regarding Wetlands Regulations/Permits
9. Code of Federal Regulations – Title 33, regarding permitting through the Army Corp of Engineers.

AERIAL VIEW MAP

FLOOD ZONE MAP

FIRMETTES

7/2015



**TOWN OF GLENROCK
SOUTH RECREATION FACILITY**

Project #: 160056
Date: 09.19.16
Drawn By: MFM

Aerial View



- PROPERTY BOUNDARY
- - - - - DEER CREEK
- - - - - POSSIBLE PEDESTRIAN PATHWAY
- PROPOSED PAVILION (SHELTER)



ZONE X

ZONE A

ZONE A:

SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD WHERE NO BASE FLOOD ELEVATIONS ARE DETERMINED. THE 1% ANNUAL CHANCE FLOOD (100-YEAR FLOOD), ALSO KNOWN AS THE BASE FLOOD, IS THE FLOOD THAT HAS A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR. THE BASE FLOOD ELEVATION IS THE WATER-SURFACE ELEVATION OF THE 1% ANNUAL CHANCE FLOOD.

ZONE X:

AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.



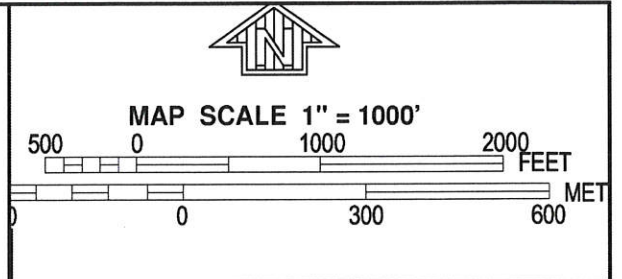
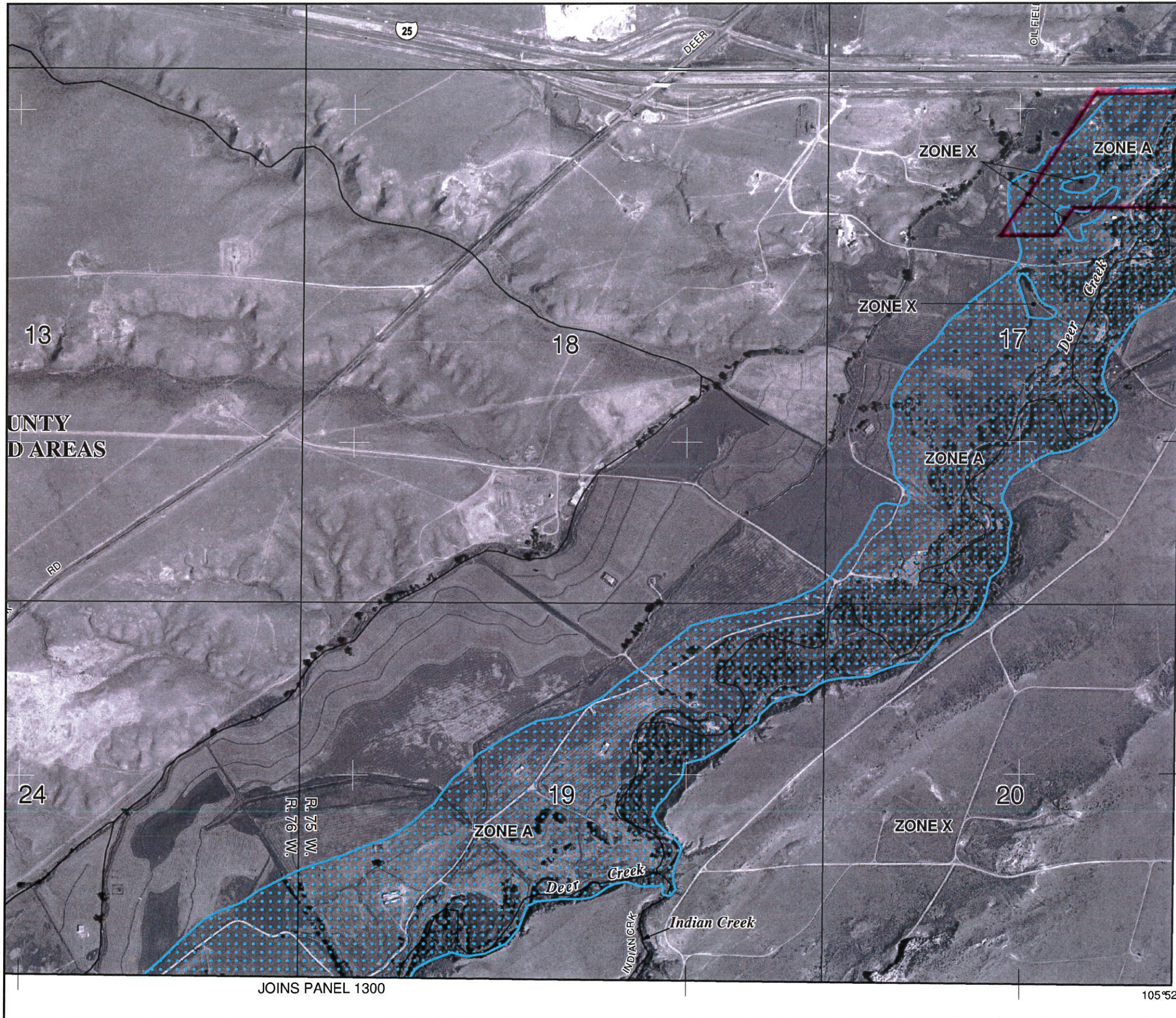
PROPERTY BOUNDARY
DEER CREEK



**TOWN OF GLENROCK
SOUTH RECREATION FACILITY**

Project #: 160056
Date: 09.19.16
Drawn By: MFM

Flood Zone Map



UNTY
D AREAS

JOINS PANEL 1300

42°48'45.00"
105°52'30.00"

NATIONAL FLOOD INSURANCE PROGRAM

NFIP

PANEL 1285D


FIRM
FLOOD INSURANCE RATE MAP
CONVERSE COUNTY,
WYOMING
AND INCORPORATED AREAS

PANEL 1285 OF 2250
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
CONVERSE COUNTY	560082	1285	D
GLENROCK, TOWN OF	560014	1285	D

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER
56009C1285D

EFFECTIVE DATE
NOVEMBER 4, 2009

Federal Emergency Management Agency

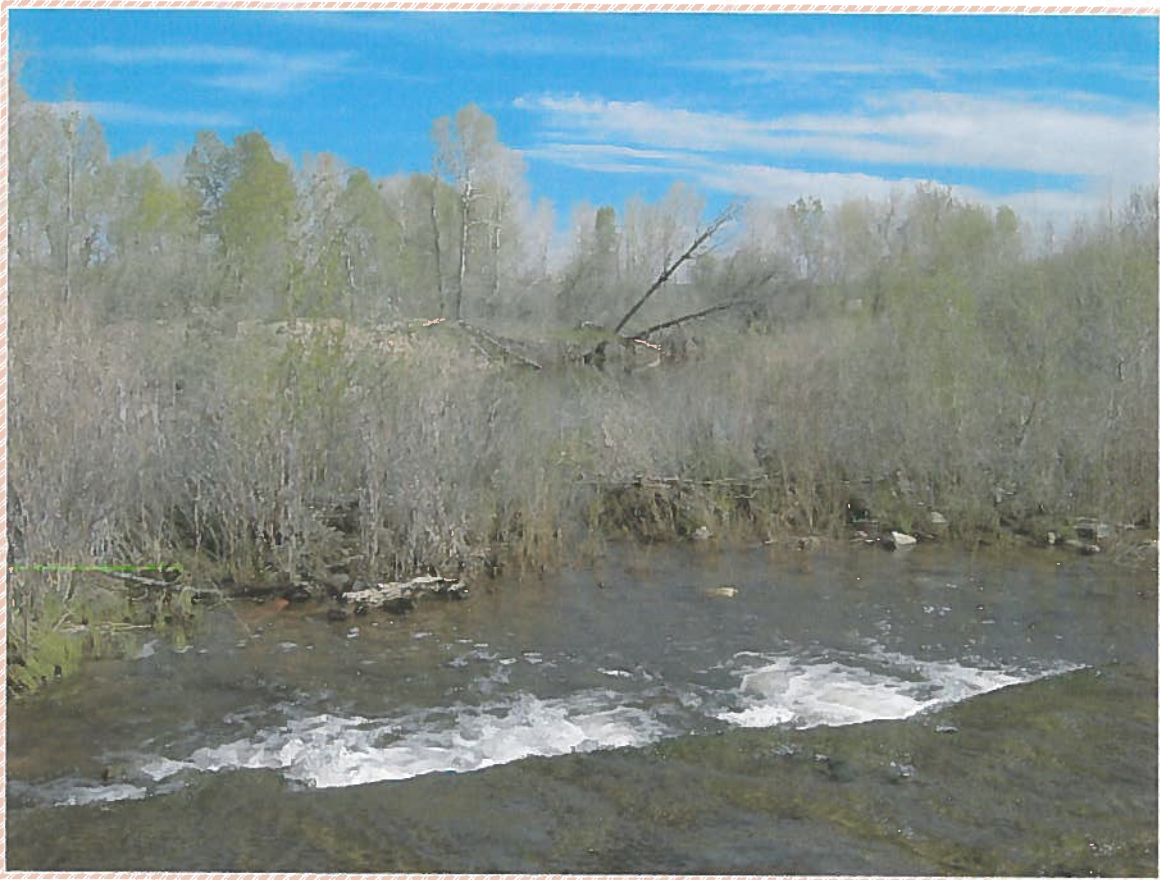
This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

2004

WATER SYSTEM STUDY

BY

WARWS



GLENROCK SOUTH RECREATION WATER SYSTEM

Prepared by Tom Arnbrister
WARWS
May 10 2004

The following evaluation was conducted by Tom Arnbrister of Wyoming Association of Rural Water and Dave Andrews, Public Works Director with the town of Glenrock Wyoming.

The South Recreation Complex is located south of Glenrock on the Mormon Canyon road. This facility is used during the summer months for public water usage. There are numerous activity areas supported by the complex that the public water system services.

Camp Areas:

The complex is available for day use and camping areas. These areas are supplied water to strategic areas of the camp grounds. The means of water delivery is by yard hydrants with hose bib threads. The hydrants are typically frost free and drain the water of out a seep hole located in the bottom of the hydrant under the soil.



Old Style yard Hydrant

It is recommended that the old style hydrants be replaced with the new backflow preventive frost free sanitary style hydrant (see example attached). These hydrants should replace the old style as the old hydrants need replacement.

This system also has a dual water system. Irrigation well is used to irrigate the baseball ball field. Care should be taken and definite signage of all non-potable water lines should be done to insure a cross-connection or usage is not possible with the potable water system.

Rodeo Arena:

The complex also has a rodeo arena serviced by the potable water system. There are approximately 4 hose bibs used for water troughs around the arena area and 2 more hose bibs used at the baseball field. During inspection a hose was observed inside the water trough, and connected to the hose bib.



Water system personnel have installed hose bib vacuum breakers on all of the hose bibs around the rodeo arena. These are good for minimal protection but can be removed or circumvented.

It is highly recommended because of the high possibility of fecal contamination that stringent protection be used on the water line that services the rodeo arena. It was also noted that rodeo affiliates are using the potable water for irrigation and/or dust control on the arena. This also can have serious effects should contamination be introduced into the potable water system. Since there already is an auxiliary water source on property it would be the recommendation that dust control and irrigation on the rodeo grounds be utilized with the non-potable irrigation well. Signage should be posted concerning the irrigation system being a non-potable source and human consumption and/or bathing should not be practiced.

Usage of the sprinkler system(s) should be utilized during the very late part of the night to discourage any activities by patrons in the irrigation water. And signage posted prohibiting the use of the sprinkler system as a water sport activity.

Potable Water System # 5601069:

The public water system that services the complex is used on a seasonal basis. It is turned off during the winter months and reactivated usually around April or May as weather permits.

The well is located inside a well house; chlorination is introduced inside the same well house.

There are septic vaults that support the concession stand and the men and women's bathroom. There is also a free standing lavatory that is also vaulted and is pumped as needed. This site also has a sewage dump station equipped with a hose bib off of the potable water system. There is a hose bib vacuum breaker installed on the hose bib but considering the probability of a cross connection with raw sewage more stringent protection should be installed at this location.



Water supply should be protected from sewage cross connection with a Reduced Principle Backflow assembly or at minimum a atmospheric vacuum breaker



This well site is well maintained and operated in a safe and has good protection from vandalism or mischief. Proper signage is posted on the well house door.

Summary and recommendations:

Because of the immediate contamination sources surrounding the potable well supply it is highly recommended that a well head study be conducted on this site. After further study it may be necessary to have the disinfection for the water system redundant. Possibly Ultra-violet disinfection or a backup chemical injection pump that would automatically start if there was a failure.

To insure that the source water is not being influenced by surrounding surface water, sounding the static water level should be conducted twice yearly during high and low points of the creek and ponds. Some concern may be that the irrigation ditch has an impact on the well which should be taken into consideration at the time of sounding.

This water system should have its own cross-connection protection and should be supplied at the source water point and the trailer dump station should be isolated with the appropriate backflow protection.

This system is operating within the rules and regulations of the EPA and has no violations. These reviews and recommendations are to aid the water operator in evaluating the water system to insure that the quality and integrity of the system is sustained.

The Model S3 hydrant is designed for use anywhere potable water is required.

The S3 is equipped with a diverter spout which allows the hydrant to be operated independently from the backflow preventer. The diverter allows the reservoir to be evacuated with each use of the hydrant. The diverter also allows air to enter the system when hydrant is shut off, allowing backflow preventer and head assembly to drain into reservoir avoiding freezing of hydrant even with hose attached. No water is introduced into the subsoil under normal use.

An important feature of the S3 is easy maintenance. The entire working portion of the hydrant can be removed from the reservoir without any excavation.

SPECIFICATIONS:

HOSE CONNECTION BACKFLOW PREVENTER

- NIDEL® Model 37HF
- ASSE 1052 Approved
- Field Testable (see instruction sheet)
- Two Check Valves

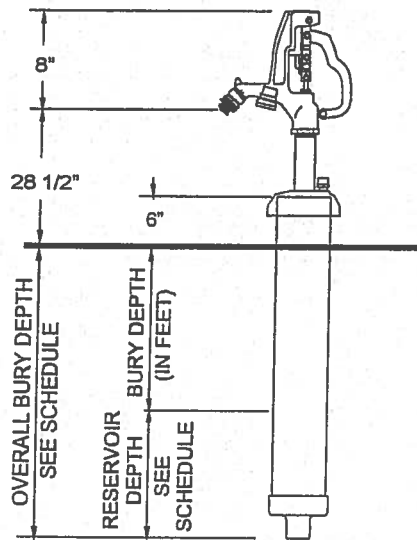
PATENT - U.S. Patent numbers: 5246028 & 5701925
(Additional Patents Pending)

FEMALE INLET - 1" N.P.T.

MIN PRESSURE - 20 psi

MAX PRESSURE - 100 psi

MAX TEMPERATURE - 120° F



Bury Depth	1'	2'	3'	4'	5'	6'	7'
Reservoir Depth	10 1/2"	11 7/8"	13 1/4"	14 5/8"	16"	17 3/8"	18 3/4"
Overall Bury Depth	22 1/2"	35 7/8"	49 1/4"	62 5/8"	76"	89 3/8"	102 3/4"
Weight (lbs)	38	42	48	54	59	65	71

*Must ship by truck due to length.

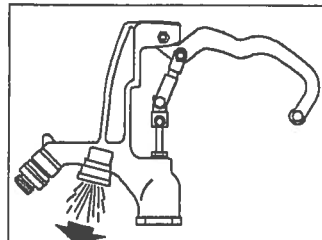
When ordering, specify bury depth.

**Backflow Protected
Automatic Draining
Freezeless**

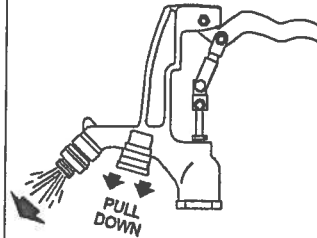
WOODFORD



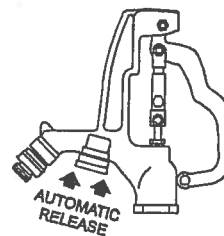
Sanitary Yard Hydrant Model S3



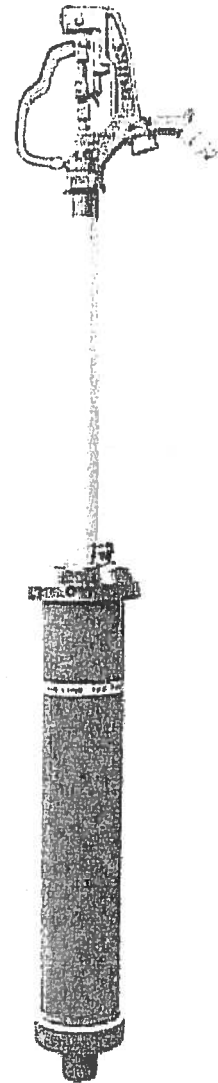
When the hydrant is opened to an ON position, water will flow through the diverter spout.



By pulling down on the diverter sleeve during flow, water will be diverted through the backflow preventer, and allow use with a hose.



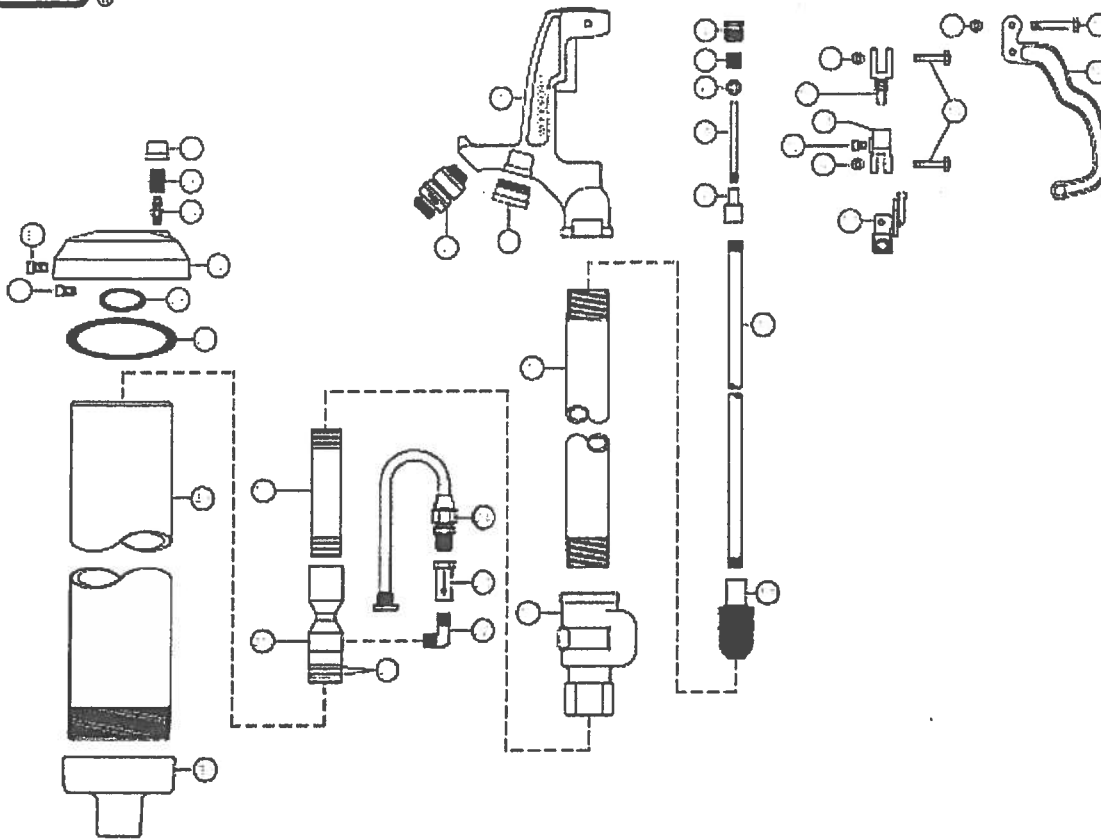
When the hydrant is closed to an OFF position, the diverter will automatically release, allowing the hydrant to drain into the reservoir. The hydrant will drain even if a pressurized or non pressurized hose is attached.



NOTICE

FOR WINTER USE: The hydrant must be operated at full flow, through the diverter, for a minimum of 30 seconds before and after each use to drain the hydrant and prevent freezing.

WOODFORD



MODEL S3 PARTS LIST

ITEM	PART #	DESCRIPTION
	15219	S3 Head Assembly (Includes Items 1-16)
1	10449	Head
2	55053	37HF Backflow Preventer
3	15220	Diverter Assembly
4	10100	Packing Nut
5	10101	Packing
6	10102	Packing Support Washer
7	10104	Brass Rod Stem
8	10011	Reducing Coupling
9	10206	Hex Nut
10	10444	Upper Link
11	15211	Lower Link (with set screw 10019)
12	10019	Set Screw
13	15241	Cam and Clevis Assembly (blue)
14	10020	Link Bolt
15	10021	Lever Bolt
16	10443	Lever
17	10106	Plunger
18	10017	Valve Body (1" NPT Inlet)
	RK-Y1	Repair Kit (Includes Items 4-7 & 17)
	RK-SHL	Repair Kit (Includes Items 9-15)

ITEM	PART #	DESCRIPTION
19		1" EXTENSION PIPE (Bury Depth & Length)
	10411	1' Bury (5 5/8" Long)
	10412	2' Bury (7" Long)
	10413	3' Bury (8 3/8" Long)
	10414	4' Bury (9 1/4" Long)
	10415	5' Bury (11 1/8" Long)
	10416	6' Bury (12 1/2" Long)
	10417	7' Bury (13 7/8" Long)
20	15189	Venturi Assembly
21	10321	Valve Body O-Ring (2 Required)
22	10432	Brass Elbow
23	10408	Check Valve
24	15216	Siphon Tube Assembly
25	10446	Vent Cap
26	10445	3/8" Pipe Nipple
27	15136	Sniffer Valve
28	10405	Hydrant O-Ring
29	10410	Reservoir O-Ring
30	10409	Reservoir Clamp Screw
31	10404	Hydrant Clamp Screw
32	15218	Casing Cover w/Warning Label
33	10401	Inlet Casting

ITEM	PART #	DESCRIPTION
34		OPERATING PIPE (Bury Depth & Length)
	10023	1' Bury (35 1/2" Long)
	10024	2' Bury (47 1/2" Long)
	10025	3' Bury (59 1/2" Long)
	10026	4' Bury (71 1/2" Long)
	10027	5' Bury (83 1/2" Long)
	10028	6' Bury (95 1/2" Long)
	10029	7' Bury (107 1/2" Long)
35		1 1/4" PIPE CASING (Bury Depth & Length)
	10055	1' Bury (35 1/2" Long)
	10056	2' Bury (47 1/2" Long)
	10057	3' Bury (59 1/2" Long)
	10058	4' Bury (71 1/2" Long)
	10059	5' Bury (83 1/2" Long)
	10060	6' Bury (95 1/2" Long)
	10061	7' Bury (107 1/2" Long)
36		RESERVOIR PIPE (Bury Depth & Length)
	10421	1' Bury (26" Long)
	10422	2' Bury (39 1/4" Long)
	10423	3' Bury (52 1/4" Long)
	10424	4' Bury (66" Long)
	10425	5' Bury (79 1/4" Long)
	10426	6' Bury (92 1/4" Long)
	10427	7' Bury (106 1/4" Long)
	15201	Warning Label Kit

For more information contact...

WOODFORD MANUFACTURING COMPANY

2121 Waynoka Road, Colorado Springs, Colorado 80915 • Phone: (719) 574-1101 • Fax: (719) 574-7621
To view our complete product line visit: www.woodfordmfg.com

WATER RIGHT

PERMIT SUMMARIES

[Print](#)

Permit Summary

Instrument: WELLS AND SPRINGS

Facility Name: R & R #1	Water Right Status:
Application Number:	Date Accepted for Processing:
Temporary File Number:	Priority Date: 11/09/1984
Permit Number: P69069.0W	Division: 1 District: 15
Proof Number:	SC Original Expiration Date:
Docket Number:	SC Extended Expiration Date:
Order Number:	SC Actual Date: 04/30/1985
Certificate Record Number:	BU Original Expiration Date:
Auto Cancellation Date:	BU Extended Expiration Date:
Extended Auto Cancellation Date:	BU Actual Date: 04/30/1985
Last Modified By:	Last Modified Date: 01/01/1800
Created By:	

General Info

Type Of Diversion	Supply Type	Special Cases
Well	Original Supply	
Appropriation Amount :	25.000 GPM	
Prefix	Water Right Number	Suffix

Appropriator(s)

Appropriator	Last Name	First Name	Company	City	State
Applicant			Town of Glenrock	Glenrock	Wyoming

Agent

Beneficial Uses

Beneficial Uses:	Miscellaneous-- Ground Water
------------------	------------------------------

Water Right POD

Principal Meridian	Township	Range	Section	Quarter	Qtr-Qtr	SurveyType	Number	Primary POD
06	033N	075W	17	NE	NENE	Lot	1	Y

Water Right POU

Construction

Diversion Type	Construction Type	Construction Description	Total Depth (feet)	Casing Height (feet)	static water level (feet)
			25.00		7.00

Pump/Flow

Well Log/Water Quality

Total Depth (feet)	Well Diameter (inches)	WaterBearing Formation (feet)	WaterBearing Formation Top (feet)	WaterBearing Formation Bottom (feet)	Water Quality
		7.00	-1.00	-1.00	

Comments

Created Date	Comment Details	Created by
1/1/1800 12:00:00 AM	FOLLOWING DATE CHANGES MADE ON 07/24/90 FOR COMPUTER ACCEPTANCE. DAY OF COMPLETION DATE CHANGED FROM "00" TO "30". DAY OF BENEFICIAL USE DATE CHANGED FROM "00" TO "30". MISCELLANEOUS USE IS FOR POTABLE SUPPLY FOR PICNIC AREA, CAMPING AREA AND BALL PARK. T33N, R75W HAS BEEN DEPENDENTLY RESURVEYED. LOT 7 REFLECTED ABOVE IS A LOT OF U.S. HAY RESERVATION OF AN ORIGINAL SURVEY. LOTS 1 AND 2 REFLECTED ABOVE AND BELOW ARE U.S. HAY RESERVATION LOTS OF A DEPENDENT RESURVEY. THIS PERMIT IS APPROVED SUBJECT TO THE CONDITION THAT THE PROPOSED USE SHALL NOT INTERFERE WITH ANY EXISTING RIGHTS TO GROUND WATER FROM THE SAME SOURCE OF SUPPLY AND IS SUBJECT TO REGULATION AND CORRELATION WITH SURFACE WATER RIGHTS, IF THE GROUND AND SURFACE WATERS ARE INTERCONNECTED. THE PERMIT RECORD REFLECTS THE DEPTH TO FIRST WATER BEARING FORMATION AS BEING 6 TO 7 FEET.	MIGRATED
1		

Documents

Document Type	Document Name	Document Date	Document Created by	Document Uploaded by	Uploaded Date	View
	Correspondence					
	Notice					
	Permit					

Remarks

Appropriation for Ground Water

Appropriation Amount (GPM)	25.00
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Related Transactions

Instrument Type	Instrument Name	Instrument Code	WR Number Type	WR Number
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Print

Permit Summary

Instrument: FIRST PERMIT ON A FACILITY FOR A DITCH, PIPELINE OR PUMP

Facility Name: <input type="text" value="GEORGE DITCH"/>	Water Right Status: <input type="text" value="FULLY ADJUDICATED"/>
Application Number: <input type="text"/>	Date Accepted for Processing: <input type="text"/>
Temporary File Number: <input type="text"/>	Priority Date: <input type="text" value="11/01/1899"/>
Permit Number: <input type="text" value="P2358.0D"/>	Division: <input type="text" value="1"/> District: <input type="text" value="5"/>
Proof Number: <input type="text"/>	SC Original Expiration Date: <input type="text" value="10/22/1901"/>
Docket Number: <input type="text"/>	SC Extended Expiration Date: <input type="text"/>
Order Number: <input type="text"/>	SC Actual Date: <input type="text"/>
Certificate Record Number: <input type="text"/>	BU Original Expiration Date: <input type="text"/>
Auto Cancellation Date: <input type="text"/>	BU Extended Expiration Date: <input type="text"/>
Extended Auto Cancellation Date: <input type="text"/>	BU Actual Date: <input type="text"/>
Last Modified By: <input type="text"/>	Last Modified Date: <input type="text" value="01/01/1800"/>
Created By: <input type="text"/>	

General Info

Type Of Diversion		Supply Type	Special Cases
Stream		Original Supply	
Prefix	Water Right Number		Suffix

Appropriator(s)

Appropriator	Last Name	First Name	Company	City	State
Applicant	Devoe	Geo.		Glenrock	Wyoming
Applicant	WALKINSHAW	GEO.		Glenrock	Wyoming

Agent

Beneficial Uses

Beneficial Uses:	Irrigation-- Surface water
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Water Right POD

Principal Meridian	Township	Range	Section	Quarter	Qtr-Qtr	SurveyType	Number	Primary POD
06	033N	075W	17	NE	SWNE			Y

Stream Source					
Source	Tributary Of	Tributary Of	Tributary Of	WR Number Type	WR Number
Deer Creek	North Platte River	Platte River	Missouri River	P	2358

Water Right POU										
Principal Meridian	Township	Range	Section	Quarter	Q-Q	WR Status	Acres	Use	Sub Use	Supply Type
06	033N	075W	08	SE	SESE	ADJUDICATED	25.000	Irrigation-- Surface water		ORIGINAL
06	033N	075W	16			ADJUDICATED	4.000	Irrigation-- Surface water		ORIGINAL
06	033N	075W	16					Irrigation-- Surface water		ORIGINAL
06	033N	075W	16			ADJUDICATED	1.000	Irrigation-- Surface water		ORIGINAL
06	033N	075W	16					Irrigation-- Surface water		ORIGINAL
06	033N	075W	17					Irrigation-- Surface water		ORIGINAL
06	033N	075W	17			ADJUDICATED	12.000	Irrigation-- Surface water		ORIGINAL
06	033N	075W	17					Irrigation-- Surface water		ORIGINAL
06	033N	075W	17			ADJUDICATED	35.000	Irrigation-- Surface water		ORIGINAL
06	033N	075W	17					Irrigation-- Surface water		ORIGINAL

1 [2](#)

Supply Type	Acres
Original	92.000

Total acres irrigated: 92.000

Comments		
Created Date	Comment Details	Created by
1/1/1800 12:00:00 AM	Board Petition I-98-1-7, Town of Glenrock, petitioner, was GRANTED a Change of Point of Diversion and Means of Conveyance of a Portion of the Lila M. Barber, et. al. Appropriation, Permit No.2358. It is further Ordered that the petitioner be allowed to pump the South Rec. Well at a rate not to exceed 0.67 cfs, or 300.0 GPM, except when surplus water is available at the original point of diversion, which would allow the well to pump at a rate of 1.34 cfs, or 600.0 GPM. It is further Ordered that the amount of water diverted at the point of diversion of the Olsen and Heller Ditch be reduced by 0.67 cfs during times when the appropriation is entitled to its first appropriation; and by 1.34 cfs when the right is entitled to surplus water.As recorded in Order Record 50 Page 498.	MIGRATED
1/1/1800 12:00:00 AM	Remuna AprAmt,AprUnit,Use :0.21CFSIRR	MIGRATED

1

Documents

Document Type	Document Name	Document Date	Document Created by	Document Uploaded by	Uploaded Date	View
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**Map****Micro film****Remarks****Appropriation Amount**

Permitted Amount for Surface Water (Irrigation-- Surface water)

Permitted Amount:

Total Flow (CFS)	Total Capacity (AF/Yr)	Diversion capacity at the headgate (CFS)
1.310	0.000	

Related Transactions

Instrument Type	Instrument Name	Instrument Code	WR Number Type	WR Number
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Print

Permit Summary

Instrument: WELLS AND SPRINGS

Facility Name:	<input type="text" value="SOUTH REC. WELL"/>	Water Right Status:	<input type="text" value="CANCELLED"/>
Application Number:	<input type="text"/>	Date Accepted for Processing:	<input type="text"/>
Temporary File Number:	<input type="text" value="25-1-194W"/>	Priority Date:	<input type="text" value="03/26/1997"/>
Permit Number:	<input type="text" value="P105472.0W"/>	Division:	<input type="text" value="1"/> District: <input type="text" value="15"/>
Proof Number:	<input type="text"/>	SC Original Expiration Date:	<input type="text" value="12/31/1998"/>
Docket Number:	<input type="text"/>	SC Extended Expiration Date:	<input type="text"/>
Order Number:	<input type="text"/>	SC Actual Date:	<input type="text" value="08/01/1997"/>
Certificate Record Number:	<input type="text"/>	BU Original Expiration Date:	<input type="text"/>
Auto Cancellation Date:	<input type="text"/>	BU Extended Expiration Date:	<input type="text"/>
Extended Auto Cancellation Date:	<input type="text"/>	BU Actual Date:	<input type="text"/>
Last Modified By:	<input type="text"/>	Last Modified Date:	<input type="text" value="01/01/1800"/>
Created By:	<input type="text"/>		

General Info

Type Of Diversion	Supply Type	Special Cases
Well, Production Well	Original Supply	
Appropriation Amount :	50.000 GPM	
Prefix	Water Right Number	Suffix

Appropriator(s)

Appropriator	Last Name	First Name	Company	City	State
Applicant			Town of Glenrock	Glenrock	Wyoming

Agent

Beneficial Uses

Beneficial Uses:	Miscellaneous-- Ground Water
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Water Right POD

Principal Meridian	Township	Range	Section	Quarter	Qtr-Qtr	SurveyType	Number	Primary POD
06	033N	075W	17	NE	NWNE			Y

Water Right POU										
Principal Meridian	Township	Range	Section	Quarter	Q-Q	WR Status	Acres	Use	Sub Use	Supply Type
06	033N	075W	17	NE	NENE	CANCELLED				ORIGINAL
06	033N	075W	17	NE	SENE	CANCELLED				ORIGINAL
06	033N	075W	17	NE	SWNE	CANCELLED				ORIGINAL

1										
									Supply Type	Acres
									Original	0.000
Total acres irrigated:									0.000	

Construction					
Diversion Type	Conctruction Type	Construction Description	Total Depth (feet)	Casing Height (feet)	static water level (feet)
			18.40		3.80

Pump/Flow

Well Log/Water Quality					
Total Depth (feet)	Well Diameter (inches)	WaterBearing Formation (feet)	WaterBearing Formation Top (feet)	WaterBearing Formation Bottom (feet)	Water Quality
		-1.00	-1.00	-1.00	



Comments

Created Date	Comment Details	Created by
1/1/1800 12:00:00 AM	STATE ENGINEER'S OFFICE LETTER MAILED TO APPLICANT ADVISING OF NORTH PLATTE RIVER IMPLICATIONS. WRITTEN CONFIRMATION OF APPLICANT'S APPRISAL OF AREA SITUATION RECEIVED WITH INSTRUCTIONS TO PROCEED WITH APPLICATION REVIEW AND APPROVAL. SEE BOTH LETTERS FILED IN MISCELLANEOUS NOTICES. A METER ACCEPTABLE TO THE STATE ENGINEER IS REQUIRED TO ACCURATELY MEASURE THE TOTAL QUANTITY OF WATER PRODUCED FROM THIS WELL. AN ANNUAL REPORT SHALL BE SUBMITTED TO THE STATE ENGINEER NO LATER THAN FEBRUARY 15 OF EACH YEAR STATING THE TOTAL AMOUNT OF WATER PRODUCED FROM THIS WELL EACH MONTH DURING THE PREVIOUS JANUARY 1 TO DECEMBER 31, TWELVE (12) MONTH PERIOD. THE REPORT SHALL IDENTIFY THE WELL BY NAME, LOCATION, PERMIT NUMBER, AND SHALL IDENTIFY THE TYPE OF METER USED FOR THE MEASUREMENT. THE REPORT SHALL CONTAIN AT LEAST TWO (2) SEMI-ANNUAL MEASUREMENTS OF THE STATIC WATER LEVEL IN THE WELL AS MEASURED TWENTY-FOUR (24) CONSECUTIVE HOURS AFTER PUMPING HAS CEASED. THE DATES THE MEASUREMENTS WERE OBTAINED AND THE PERIOD OF TIME THE WELL WAS "SHUT-IN" PRIOR TO OBTAINING THE MEASUREMENTS MUST BE SPECIFIED. THE STATE ENGINEER MAY, UPON WRITTEN REQUEST, WAIVE ALL OR ANY PORTION OF THESE CONDITIONS AND LIMITATIONS. THE WATER APPROPRIATED UNDER THIS GROUND WATER PERMIT HAS BEEN DETERMINED TO CONSTITUTE ONE SOURCE OF SUPPLY AND THE PROVISIONS OF SECTION 41-3-916, WYOMING STATUTES, SHALL APPLY AS FOLLOWS: "41-3-916. PRIORITY OF RIGHTS WHEN ONE (1) SOURCE OF SUPPLY. WHERE UNDERGROUND WATERS IN DIFFERENT AQUIFERS ARE SO INTERCONNECTED AS TO CONSTITUTE IN FACT ONE SOURCE OF SUPPLY, OR WHERE UNDERGROUND WATERS AND THE WATERS OF SURFACE STREAMS ARE SO INTERCONNECTED AS TO CONSTITUTE IN FACT ONE SOURCE OF SUPPLY, PRIORITIES OF RIGHTS TO THE USE OF SUCH INTERCONNECTED WATERS SHALL BE CORRELATED AND SUCH SINGLE SCHEDULE OF PRIORITIES SHALL RELATE TO THE WHOLE COMMON WATER SUPPLY. THE STATE ENGINEER MAY BY ORDER ADOPT ANY OF THE CORRECTIVE CONTROLS SPECIFIED IN SECTION 17 OF THIS ACT [41-3-915]. SOURCE: LAWS 1957, CH. 169, 18; W.S. 1957, 41-133." AS SUCH, ANY REQUIRED REGULATION OF WATER	MIGRATED

RIGHTS IN THE FUTURE SHALL CONSIDER THIS PERMIT UNDER THE PRIORITY DATE SHOWN, TOGETHER WITH ALL OTHER RIGHTS TO USE WATER. EXPLANATORY LETTER RECEIVED. SEE LETTER FILED IN MISCELLANEOUS NOTICES. BOARD OF CONTROL PETITION DOCKET I-98-1-7 WAS GRANTED FOR CHANGE OF POINT OF DIVERSION AND MEANS OF CONVEYANCE OF A PORTION OF THE LILA M BARBER, ET AL APPROPRIATION, DIVERTING FROM DEER CREEK, TRIBUTARY OF NORTH PLATTE RIVER, THROUGH THE GEORGE DITCH AS PREVIOUSLY CHANGED TO THE OLSEN AND HELLER DITCH, UNDER P2358D, WITH PRIORITY OF NOVEMBER 1, 1899, TO THE SOUTH REC., WELL, P105472W. (THIS WELL IS NOW COVERED UNDER (SURFACE WATER, P2358D RATHER THAN P105472W). PERMIT P105472W IS HEREBY CANCELLED.

1

Documents

Document Type	Document Name	Document Date	Document Created by	Document Uploaded by	Uploaded Date	View
	Notice					
	Permit					

Remarks**Appropriation for Ground Water**

Appropriation Amount (GPM)	50.00
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Related Transactions

Instrument Type	Instrument Name	Instrument Code	WR Number Type	WR Number
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EASEMENT INFORMATION

PACIFIC POWER

QWEST

LINC ENGERGY



Estimating Department
2840 E. Yellowstone Hwy.
Casper, WY 82609
307-261-7011
800-691-0035

February 28, 2003

Town of Glenrock
Attn: Kathy Anderson, Planning\Building Inspector
P. O. Box 417
Glenrock, WY 82637

Dear Kathy:

Enclosed are the easements that Pacific has on record for the power lines in and around the South Recreation Complex south of Glenrock. I hope they are helpful.

If you have any questions, give me a call.

Sincerely,

A handwritten signature in blue ink that reads "Peg Carpenter".

Peg Carpenter
Estimator

RECORDED APR 11 4 1960 AT 4:00 O'CLOCK PM.
IN BOOK 328 OF MISC. PAGE 509
NO. 295744 LLOYD FROBATT COUNTY CLERK

BOOK 328 PAGE 509

CONVEYANCE OF RIGHT OF WAY

Robert D. and Shirley Moffett, husband and wife

Grantor_s of Converse County, and State of Wyoming, for and in consideration of ONE (\$1.00) DOLLAR, and other valuable considerations in hand paid, receipt whereof is hereby acknowledged, do hereby grant and convey to PACIFIC POWER & LIGHT COMPANY, a corporation, Grantee, its successors and assigns, an easement or right of way for an electric transmission and distribution line of one or more wires and all necessary or desirable appurtenances (including telephone and telegraph wires, towers, poles, props, guys and other supports and the right to place all or any part of such line in underground conduits) at or near the location and along the general course now located and staked out by the Grantee over, across and upon the following described real property in Converse County, State of Wyoming, hereby releasing and waiving for the purposes of this conveyance, all rights under and by virtue of the homestead exemption laws of the said state, to-wit:

↓ Lot 9
Lots 5, 6, 7 and 8 of Section 17, Township 33 North, Range 75 West, 6th P.M.

and located as shown on the attached map, which by this reference is made a part hereof.



Together with the right of ingress and egress over the adjacent lands of the Grantor_s for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing such line and appurtenances, and exercising other rights hereby granted.

The Grantee shall pay to the Grantor_s reasonable compensation for any damage caused by Grantee, or its agents, to any property or crops (growing or to be grown) on the above described property, arising out of the construction, reconstruction, operation or maintenance of said transmission and distribution line.

All such rights hereunder shall cease if and when such line shall have been abandoned.

Dated this 9th day of Feb., 1960.

Robert D. Moffett
Shirley Moffett

STATE OF WYOMING
COUNTY OF A CONVERSE } ss.

On this 9th day of Feb., 1960, before me personally appeared

Robert D. and Shirley Moffett

to me known to be the person_s described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Robert H. Dist
Notary Public

My Commission Expires on the 12 day of Oct., 1962.

9935
ER 31-9355-986
W.F.D. 113283

12/30/5

15544

CONVEYANCE OR RIGHT OF WAY.

ROBERT D. HOFFETT, ET UX

TO

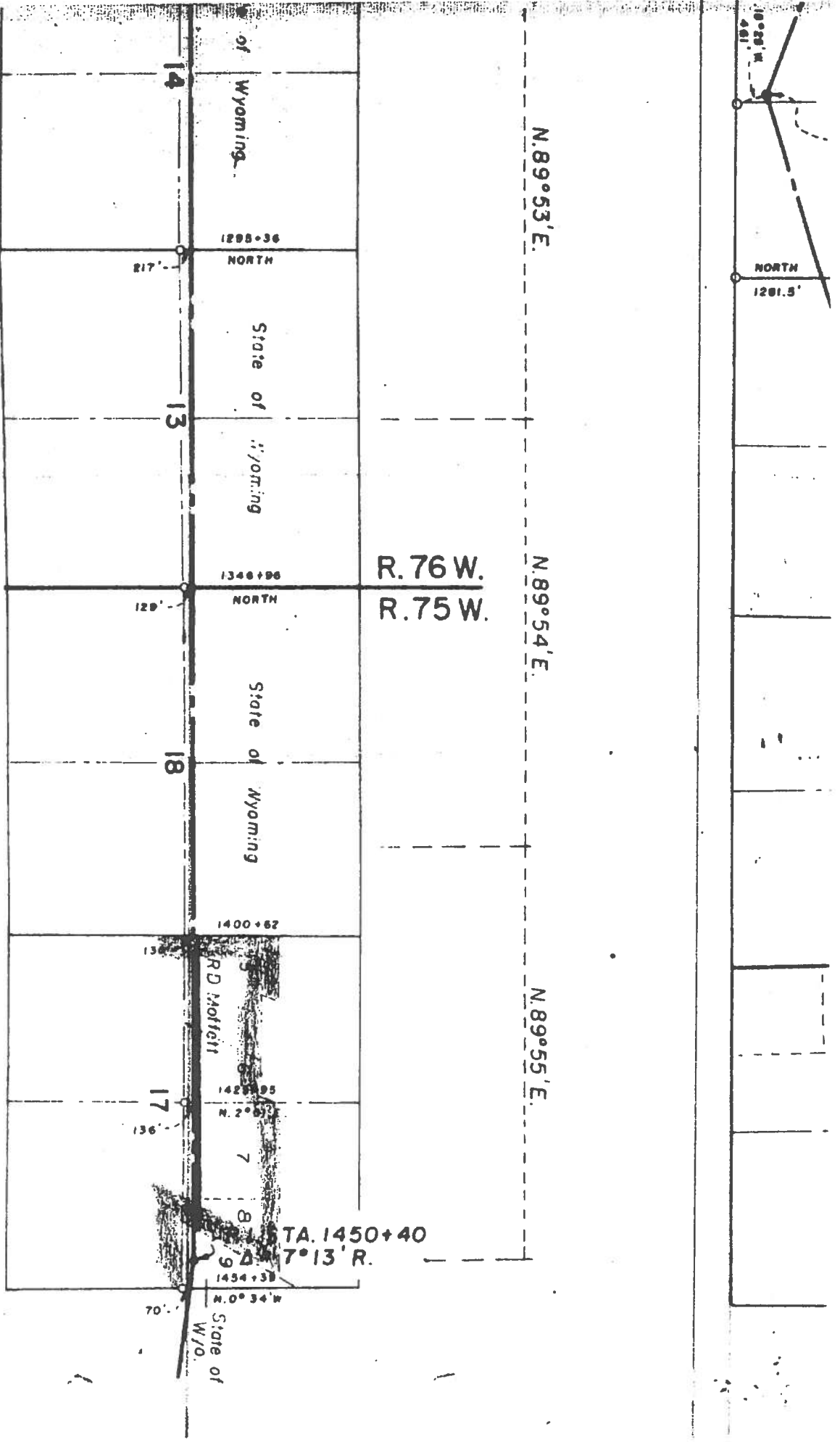
PACIFIC POWER & LIGHT COMPANY

FILING No. 21,234
OFFICE OF THE REGISTER OF DEEDS
STATE OF WYOMING,
County of Converse } ss.
This instrument was filed for record this
day of APR - 4, 1958 A. D. 19
at 4:50 o'clock P. M., and duly recorded in
Book 328 Page 509
Myr. Spind
County Clerk and Ex-Officio Register of Deeds.

PHOTOSTAT
MADE
INSTRUCT

BOOK 328 PAGE 510

5/28/27



T. 33 N.
SCALE 1" = 2000'

Pacific Power & Light Co
PROPOSED 115KV TRANSMISSION LINE
ACROSS PROPERTY OF
R.D. MOFFETT, et al
TERRITORY

WYOMING STATE HIGHWAY DEPARTMENT

UTILITY EASEMENT

Project I-25-3(2)
Road Casper-Glenrock
County Converse

THE STATE OF WYOMING, acting by and through THE STATE HIGHWAY COMMISSION, hereinafter called the "Department", hereby grants and conveys an easement to Pacific Power & Light Company, hereinafter called the "Company", to construct, reconstruct, maintain, use, operate and remove a 7.2 kv power line crossing Interstate #25 located in Lot 2 Section 17 Township 33N Range 75W, hereinafter called the "Facility", upon the property of the Department, acquired for and utilized in the operation and maintenance of a State highway. The locations and positions are in strict accordance with the specifications shown on the print dated 1-11-66, attached hereto, marked Exhibit "A", and by this reference specifically made a part hereof.

The Department hereby recognizes and agrees that the relocation, reconstruction, or alteration of the Company's facilities as shown on Exhibit "A", as above referred to, is for the benefit and convenience of the Department, and that the within easement is granted in consideration of such relocation, reconstruction or alteration of the Company's facilities. The within grant of easement is subject to the following covenants entered into by the parties hereto, to wit:

ONE The work of construction and altering the Facility shall be prosecuted and completed in a good and workmanlike manner in accordance with the requirements of the appropriate recognized standards and to the satisfaction of the Department. The work shall be done in accordance with the provisions of the agreement entered into by the parties on 6-10-65. Such work of construction and alteration of the facilities shall be done in such manner so that no unnecessary or unreasonable interference with the use, operation and maintenance by the Department of a State highway for State highway purposes shall result therefrom, and in such manner that the general public in its use of said State highway right of way shall not be unnecessarily or unreasonably endangered. The Department shall bear 100% of the total cost of the future construction and alteration of the Facility made necessary by future highway construction, providing the Facility is still located as shown on Exhibit "A".

TWO The said Company shall give to the Department at least ten (10) days notice, in writing, before entering upon the State highway right of way for the purpose of the construction or alteration of the Facility or to make necessary repairs, except in case of genuine emergency requiring immediate repair; then, in that event, the Company shall notify the Department or the local maintenance authority, via telephone or telegraph, and immediately enter upon the highway right of way and make the necessary repairs.

THREE The said Company agrees to indemnify and hold the Department harmless from any and all liability for damage to life or property, including the costs and expenses incident thereto, arising from its occupancy or use of the State highway property under this grant provided, nothing herein shall be construed to indemnify the Department, its agents, employees, contractors, permittees or licensees, against its and/or their own negligence.

FOUR The Department reserves the right to use, occupy and enjoy its right of way for a State highway and for State highway purposes. In the event the Department reconstructs the highway shown on Exhibit "A" in any manner which necessitates an adjustment in the Facility, the Department shall pay all costs in the same proportion as before mentioned in paragraph ONE. Any betterments to the Facility not actually required by such highway construction shall be excluded from such costs. The costs of any adjustment in the Facility made by the Company without the request or demand by the Department shall be borne by the Company.

FIVE The Department shall have the right to insist that the Facility be kept in good repair to avoid any hazardous condition. Upon written notice of said hazardous condition, or in case of emergency, by telephone or telegraph, the Company shall promptly repair said Facility in order to remove the hazardous condition in a manner meeting the requirement of the appropriate recognized standards. Upon the refusal or failure of the Company so to do, the Department may repair the Facility and each and every part thereof to remove the hazardous conditions and the said Company hereby agrees promptly to pay to the Department the cost of said repairs to the Facility, and each and every part thereof.

SIX The Company by these presents accepts notice and agrees that any expense or damages incurred by the Company through the abandonment or relocation of this State highway by the Department shall be borne by said Company at no expense whatsoever to the Department. It is agreed that relocation shall not include widening. This paragraph shall not be construed to apply to a different crossing of the same Facility.

#2

22263-64 PACIFIC POWER & LIGHT COMPANY
PORTLAND OFFICE
PD-9-WY(T)11 4-8

105/213

SWORN The provisions of this instrument shall be binding upon and inure to the benefit of the successors and assigns of parties hereto. It being understood, however, that the Company shall give immediate notice to the Department of any assignment or transfer to any person or corporation of the rights granted herein.

IN WITNESS WHEREOF, the State of Wyoming, acting by and through its State Highway Commission has caused the State Highway Superintendent to execute this Easement on the 18th day of February, A. D., 1966

ATTEST:

THE STATE OF WYOMING, acting by and through its State Highway Commission

John W. Platt
Assistant Secretary

By: H. E. Sutton
DEPUTY STATE HIGHWAY ENGINEER

The undersigned, the Company mentioned in the foregoing Easement, hereby accepts the same, subject to the terms and conditions contained therein.

ATTEST:

PACIFIC POWER & LIGHT COMPANY
Company
By: E. R. de Luccia
Title VICE-PRESIDENT

M. E. Thompson
Assistant Secretary

(SEAL)

ACKNOWLEDGEMENT FOR STATE

STATE OF WYOMING)
COUNTY OF LARAMIE) ss

On this 18th day of February, 1966, before me appeared W. E. Sutton and John W. Platt, to me personally known, who, by me being duly sworn, did say that they are the Deputy State Highway Engineer of the Wyoming Highway Department and the Assistant Secretary of the Wyoming Highway Commission, respectively, and that the seal affixed to said instrument is the seal of said Commission and that said instrument was signed and sealed on behalf of said Commission and said W. E. Sutton and John W. Platt acknowledged said instrument to be the free act and deed of said Commission.

P & L Co.
Counsel
State
3/28/66

Given under my hand and notarial seal the day and year last written above.

(SEAL)

My commission expires August 28, 1969

John C. Cole
Notary Public

ACKNOWLEDGMENT FOR CORPORATION

STATE OF OREGON)
COUNTY OF MULTNOMAH) ss

On this 26th day of April, 1966, before me appeared E. Robert de Luccia and M. E. Thompson to me personally known, who, being by me duly sworn, did say that they are the Vice President and Assistant Secretary of Pacific Power & Light Company and that the seal affixed to said instrument is the seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of the Board of Directors, and said officers acknowledged said instrument to be the free act and deed of said corporation.

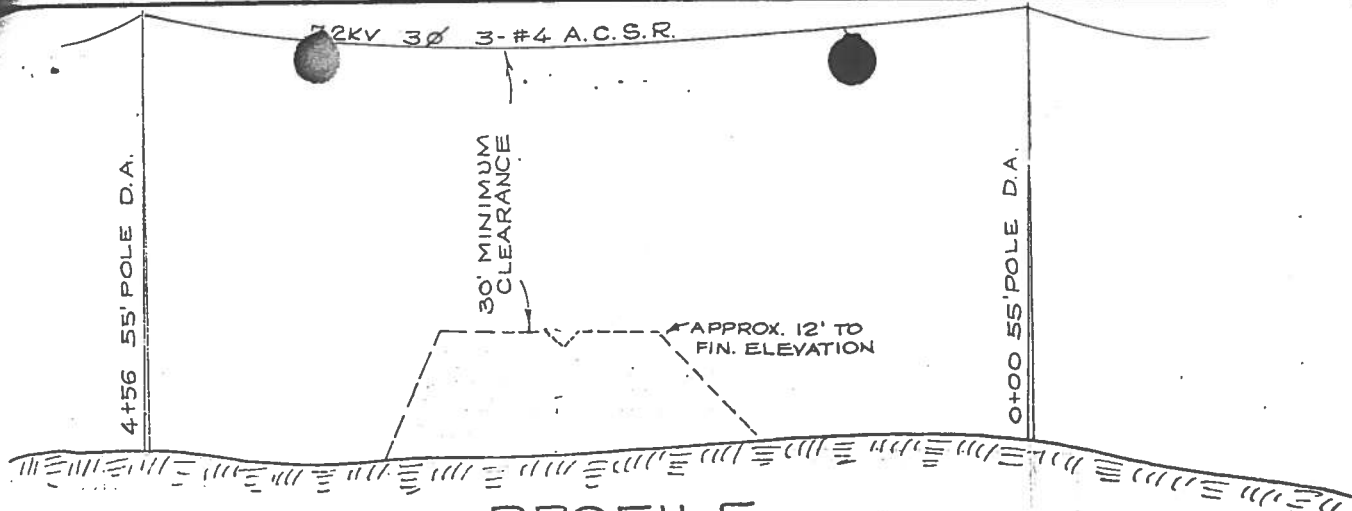
Given under my hand and notarial seal the day and year last above written.

(SEAL)

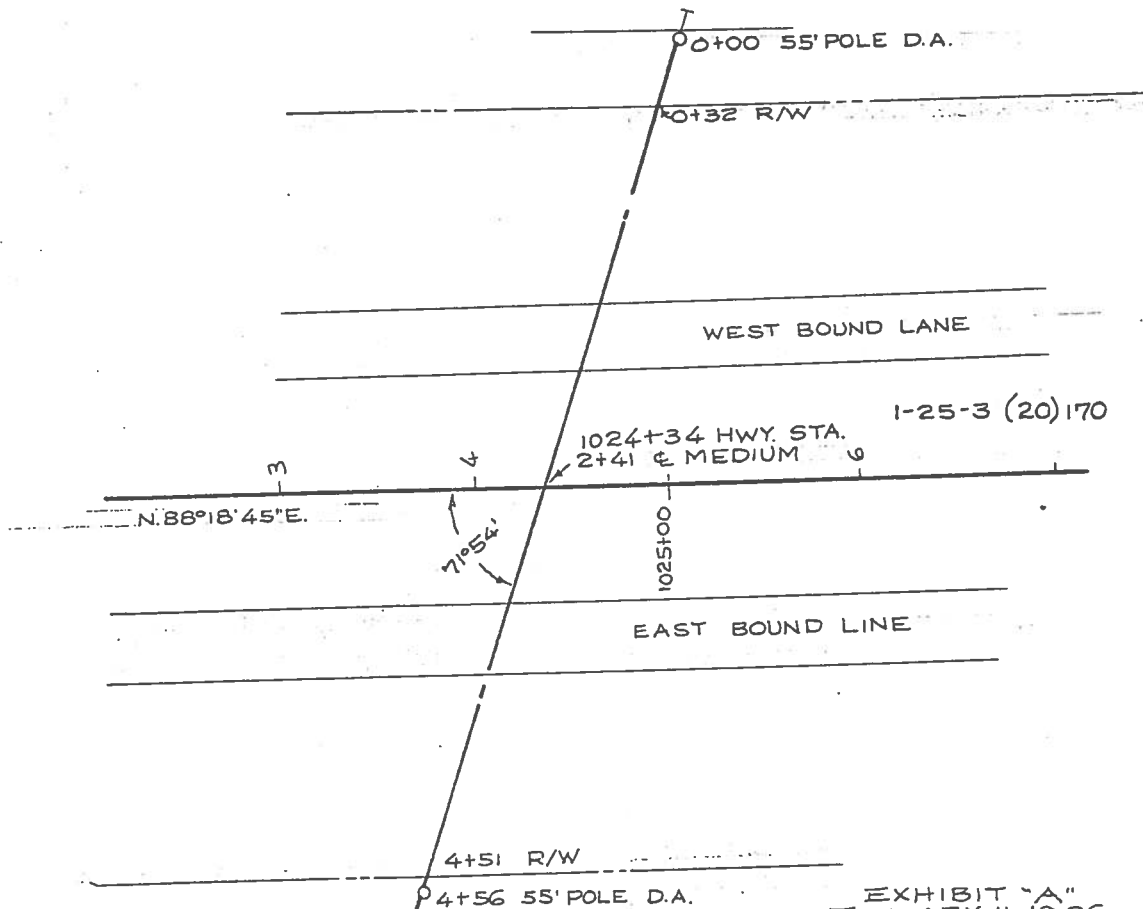
My commission expires April 23, 1969

Richard J. Dack
Notary Public

100/007



PROFILE
 Scale: 1" = 100' Hor.
 1" = N.T.S. Ver.



GENERAL LOCATION:
 LOT 2, SECTION 17,
 T.33N., R.75W., 6th PM.
 CONVERSE CO., WYO.

PLAN
 Scale: 1" = 100'

EXHIBIT "A"
 JANUARY 11, 1966
 7.2KV POWER LINE
 UTILITY EASEMENT
 ACROSS

INTERSTATE # 25
 GLENROCK, WYO.

205/213

NOTE: This exhibit to
 Cancel and
 supersede
 Exhibit "A"
 Dated Mar. 9, 1965
 (Sta. 1027+28)

BY
PACIFIC POWER & LIGHT COMPANY
 PORTLAND, OREGON
 WYOMING DIVISION

APPROVED *[Signature]* DATE 3-9-65
 ENGINEER

SCALE AS SHOWN **PAW**

DRAWN	Marvin Ross	1-11-	1966
TRACED	Marvin Ross	1-11-	1966
CHECKED			19
APPROVED			19

ALTERED

62-01

WARRANTY DEED

HERMAN WERNER and GRACE WERNER, husband and wife, and
WERNER, INC., a corporation,

grantor S, of Natrona County, and State
of Wyoming, for and in consideration of

-----One Dollar and other good and valuable considerations-----
in hand paid, receipt whereof is hereby acknowledged, CONVEY AND WARRANT TO
PACIFIC POWER & LIGHT COMPANY, a corporation,

grantee, of Natrona County and State of Wyoming
the following described real estate, situate in Converse County and State
of Wyoming, hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of the State,
to-wit:

- Township 33 North, Range 74 West of the 6th Principal Meridian
- Section 8: That portion of the N $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ lying South of the right of way of the Chicago, Burlington and Quincy Railroad Company; NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, (N $\frac{1}{2}$ S $\frac{1}{2}$), S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 5: All that portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ lying South and East of the right of way of the Chicago, Burlington and Quincy Railroad Company
- Section 17: That portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ lying North of the center line of the North Platte River; NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$

Township 33 North, Range 75 West of the 6th Principal Meridian
Section 12: That portion of the N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ lying South of the center line of the North Platte River.

Subject to easements, rights of way, reservations, conditions and exceptions, in place or of record. Excepting and reserving, however, to the grantor owning the same, all minerals in, upon and under the lands hereinabove described, subject to the restriction that in exploring for or removing any such minerals, such operations shall in no way interfere with any lawful use that grantee, its successors and assigns, may make of said premises.

93-5912

WITNESS our hands this 12th day of February, 1962.
Herman Werner
Grace Werner
WERNER, INC., a corporation
By: Herman Werner
Secretary President

THE STATE OF WYOMING,
County of NATRONA ss.
On this 12th day of February, 1962, before me personally appeared
Herman Werner and Grace Werner, husband and wife,

to me known to be the person S described in and who executed the foregoing instrument, and acknowledged that they
executed the same as their free act and deed.
Notary Public
My commission expires on the 7th day of October, A. D., 1962

BOOK 343 PAGE 326

STATE OF WYOMING)
) SS.
COUNTY OF NATRONA)

On this 27 day of February, 1962, before me personally appeared Herman Werner, to me personally known, who, being by me first duly sworn, did say that he is the President of Werner, Inc., a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and said Herman Werner acknowledged said instrument to be the free act and deed of said corporation.

Given under my hand and notarial seal the day and year in this certificate first above written.

My commission expires October 7, 1962

Joseph F. [Signature]
Notary Public



WARRANTY DEED

HERMAN WERNER ET AL.
TO

PACIFIC POWER & LIGHT COMPANY

OFFICE OF THE REGISTER OF DEEDS

THE STATE OF WYOMING,
County of SARVENE) ss.

This instrument was filed for record at 1:10

o'clock 1 M., on the

day of FEB 15 1962 19

and duly recorded in Book 343

on Page 325

Lloyd Proggan

County Clerk and Ex-Officio Register of Deeds.

By Margaret S. [Signature]
Deputy

No. 308984 Fees, \$ 1.60

TRUSTEES
INDEXED
REGISTERED

*at the office of the Register of Deeds
at Cheyenne, Wyoming
2/15/62*

BOOK 337 PAGE 356

RECORDED 1, 1961 AT 9:50 O'CLOCK A.M.
IN BOOK 337 OF MISC. PAGE 356
N.J. 939926 LOU K. MUEBNER COUNTY CLERK

County NATRONA AND CONVERSE

No. 759

The State of Wyoming

GRANT OR EASEMENT FOR TRANSMISSION LINE

TO

RECORDED Jan. 23 1961 AT 11:00 O'CLOCK A.M.
IN BOOK 337 OF MISC. PAGE 356
NO. 801573 LLOYD PROGGATT COUNTY CLERK

PACIFIC POWER & LIGHT COMPANY

KNOW ALL MEN BY THESE PRESENTS, That the Board of Land Commissioners of the State of Wyoming, acting within the authority vested in it by and under the Constitution of the State of Wyoming and the Wyoming Compiled Statutes, doth, for and in consideration of the payment of NINE HUNDRED THIRTEEN AND 70/100 DOLLARS

(\$ 913.70) grant to PACIFIC POWER & LIGHT COMPANY

for the uses and purposes and upon the conditions hereinafter set forth, an easement for TRANSMISSION LINE

over a certain tract of land more particularly described as follows:

A strip of land for a Transmission Line One Hundred feet (100') in width being Fifty feet (50') on each side of a center line across Lot 4, South Half Northwest Quarter (S $\frac{1}{2}$ N $\frac{1}{2}$ W $\frac{1}{4}$) East Half Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) Southwest Quarter Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) Section Two (2), North Half Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) Southeast Quarter Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) Section Eleven (11), Township Thirty-three (33) North, Range Seventy-eight (78) West, South Half North Half (S $\frac{1}{2}$ N $\frac{1}{2}$) Section Sixteen (16), South Half North Half (S $\frac{1}{2}$ N $\frac{1}{2}$) Section Fifteen (15), South Half North Half (S $\frac{1}{2}$ N $\frac{1}{2}$) Section Fourteen (14), South Half North Half (S $\frac{1}{2}$ N $\frac{1}{2}$) Section Thirteen (13), Township Thirty-three (33) North, Range Seventy-six (76) West; Southwest Quarter Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$): North Half Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$): North Half Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) Section Sixteen (16), South Half North Half (S $\frac{1}{2}$ N $\frac{1}{2}$) Section Eighteen (18), Lot 9 Section Seventeen (17), Township Thirty-three (33) North, Range Seventy-five (75) West of the 6th P. M. in Natrona and Converse Counties, Wyoming being more particularly described as follows:

Beginning at a point on the West section line of Section 2, Township 33 North, Range 78 West, 6th P. M., said point being located South 903.3 feet from the Northwest Corner of said Section 2, thence S 39°35' E. a distance of 1057.8 feet to the north right of way fence of the Chicago, Burlington and Quincy Railroad, end of State land, thence S 39°35' E a distance of 206.0 feet to a point on the South line of the Chicago, Burlington & Quincy Railroad, beginning of State land, thence S 39°35' E. a distance of 559.0 feet, end of State land, to a point on the north right of way of the Wyoming Highway Department, Highway No. 20-26-87, thence S 39°35' E a distance of 561.0 feet to a point on the south right of way of the Chicago and North Western Railway Company, beginning of State land, thence S 39°35' E. a distance of 436.0 feet to a point on the South line of said Section 2, said point being located 979.7 feet S 89°07' E from the south 1/4 Corner of said Section 2, thence S 39°35' E. a distance of 2121.0 feet, thence S 86°48' E a distance of 261.0 feet to a point in the East Section line of Section 11, Township 33 North, Range 78 West, 6th P. M., said point being located North 1012.9 feet from the East 1/4 Corner of said Section 11. Thence beginning at a point on the West section line of Section 16, Township 33 North, Range 76 West, 6th P. M., said point being located North 1138.1 feet from the West 1/4 Corner of said Section 16, thence S 79°13' E a distance of 5373.0 feet to a P.I., thence N 89°52' E. a distance of 5.0 feet to a point on the East section line of said Section 16, said point being located North 102.8 feet from the East 1/4 Corner of said Section 16, thence N 89°52' E. a distance of 5234 feet to a point on the East section line of Section 15, Township 33 North, Range 76 West, 6th P. M., said point being located N 0°49' W.

56 1/2

(Continued on other side)

The above described tract being more specifically shown upon a map in the office of the Commissioner of Public Lands, filed with and made a part of an application for right of way.

TO HAVE AND TO HOLD for continuous use said easement over the above described land for the use and benefit, construction, operation, maintenance and removal of said Transmission Line.

BOOK 337 PAGE 357

PROVIDED, That the easement granted hereby shall never be used so as to interfere with or impair the full development of the land embraced therein for its minerals or coal, or interfere with or impair the full or complete extraction therefrom by the State of Wyoming or its legal grantees or lessees of all minerals or coal contained in said land, including oil and gas.

PROVIDED FURTHER, That the easement granted hereby shall not be used to the detriment or injury of the grazing or agricultural lessees or purchasers of said land from the State of Wyoming, or their livestock or property, or so as to interfere with their use and enjoyment of the surface embraced in the easement for grazing purposes or the cultivation of crops.

PROVIDED FURTHER, That upon the abandonment or discontinuance of the use of said tract of land for said purpose for which granted, the rights of said grantee to the use of said land and easement shall terminate and cease, and all rights and interest vested in said grantee by this grant of easement shall revert to the State of Wyoming, its successors and assigns, the same as if this grant had never been made.

IN TESTIMONY WHEREOF, The Board of Land Commissioners has caused this instrument to be signed by its President and countersigned by its Secretary, and its seal to be hereunto affixed the 16th day of January, A. D. 1961.

Countersigned:



Tim Bell
Commissioner of Public Lands, Secretary.

Jack Hays
Lieut. Governor, President Board of Land Commissioners.

Examined
Entered Payment and Fee JANUARY 10, 1961
COMMON SCHOOL
PENITENTIARY LAND
PERMANENT FUND - UNIVERSITY LAND

BOOK 337 PAGE 358
(continued)

- 57

121.0 feet from the East 1/4 Corner of said Section 15, thence N 89°53' E. a distance of 5256 feet to a point on the East section line of Section 14, Township 33 North, Range 76 West, 6th P. M., said point being located 217.0 feet North of the East 1/4 Corner of said Section 14, thence N 89°53' E. a distance of 5160 feet to a point on the East section line of Section 13, Township 33 North, Range 76 West, 6th P. M., said point being located 129.0 feet North of the East 1/4 Corner of said Section 13, thence N 89°54' E. a distance of 5366 feet to a point on the East section line of Section 18, Township 33 North, Range 75 West, 6th P. M., said point being located 130.0 feet North of the East 1/4 Corner of said Section 18, end of State land, thence N 89°54' E. a distance of 4408.0 feet to a point on the West line of Lot 9, Section 17, Township 33 North, Range 75 West, 6th P. M., beginning of State land, thence N 89°54' E. a distance of 570.0 feet to a P. I., thence S 82°51' E. a distance of 399.0 feet to a point on the East section line of Said Section 17, said point being located N 0°34' W. 70.0 feet from the East 1/4 Corner of said Section 17, thence S 82°51' E. a distance of 4343.0 feet to a P. I., thence N 83°20' E. a distance of 707.0 feet to a point on the East section line of Section 16, Township 33 North, Range 75 West, 6th P. M., said point being located South 438.0 feet from the East 1/4 Corner of said Section 16.

The above described land containing 91.37 acres more or less.

INDEXED
939926 **ABSTRACTED**
PHOTOSTAT RECORDED
State of Wyoming
To:
Pacific Power & Light Co.

PHOTOSTAT RECORDED
ABSTRACTED
No. 301573

THE STATE OF WYOMING
Grant of Easement to
PACIFIC POWER & LIGHT COMPANY

OFFICE OF THE REGISTER OF DEEDS
THE STATE OF WYOMING, } ss.
County of Converse

I hereby certify that this instrument was filed
for record in my office at 11:00 o'clock A. M.,
on the JAN 23 1961 day of
A. D. 1961, and duly recorded in Book 337
of

Page 35k
Shirley Stewart
County Clerk and ex-officio Register of Deeds

Deputy
No. _____ Fees, \$ _____

STATE OF WYOMING } ss.
County of Natrona }
This instrument was filed for record in
54 at am on FEB 1 - 1967
of _____
in Book 90 of A.C.S. 5k
Louis J. Musser
County Clerk and ex-officio Register of Deeds.

2115
Wm. Marvin Bass
Pacific Power & Light
Box 860
Cooper, Wyo.

PIERCE PRINTING CO.
PHOTOSTATED
INDEXED
ABSTRACTED ✓

AMENDMENT TO EASEMENT NO. 149

APPLICATION NO: 6144
 PURPOSE: Relocate Power Line
 APPLICANT: Pacific Power & Light Company
 WYOMING BOARD OF LAND COMMISSIONERS' APPROVAL GRANTED: May 4, 1965
 ADDITIONAL CONSIDERATION: \$32.40

A strip of land to relocate Power Line Fifty feet (50') in width, being Twenty-five feet (25') on each side of a center line across the North Half Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$): Northeast Quarter Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Section Eighteen (18), Township Thirty-three (33) North, Range Seventy-five (75) West of the 6th P. M. in Converse County, Wyoming, being more particularly described as follows:

Beginning at a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T33N., R75W., 6th P. M., said point being located S. 38° 31' W. 659.2 feet from the Northeast Corner of said Section 18, thence S. 86° 47' W. a distance of 1,270 feet, thence N. 67° 24' W. a distance of 1,555.5 feet to a point, said point being located S. 87° 19' W., 482.1 feet from the North 1/4 corner of said Section 18.

The above described land containing 3.24 acres more or less.

PHOTOSTATED ✓
 INDEXED ✓
 ABSTRACTED ✓

FILING No. 337195
OFFICE OF THE REGISTER OF DEEDS STATE OF WYOMING
County of Converse ss.
This instrument was filed for record this JUL 19 1966
..... day of A. D. 19.....
at 9:30 o'clock A M., and duly
recorded in Book 387 on Page 45
<i>Wm. D. Dugan</i> County Clerk and Ex-Officio Register of Deeds

562-108
 31-3008-563

Relocation - 69 kV trans. line Casper - Burnsey
 Microstate Map # 25

08/1/66

AMENDMENT TO EASEMENT NO. 149

APPLICATION NO: 6134

PURPOSE: Relocate Power Line

APPLICANT: Pacific Power & Light Company

WYOMING BOARD OF LAND COMMISSIONERS' APPROVAL GRANTED: April 1, 1965

ADDITIONAL CONSIDERATION: \$47.30

A strip of land to relocate Power Line One Hundred Feet (100') in Width, being Fifty feet (50') on each side of a center line across the North Half Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) Section Eleven (11), Township Thirty-three (33) North, Range Seventy-six (76) West of the 6th P. M., in Converse County, Wyoming, being more particularly described as follows:

Beginning at a point on the East line of Section 11, T. 33 N., R. 76 W., 6th P. M., said point being located 1,378 feet North of the Southeast Corner of said Section 11, thence N. 79° 07' W. 253 feet to the beginning of relocation, thence N. 6° 00' E. a distance of 483 feet, thence N. 82° 00' W. a distance of 900.0 feet, thence S. 76° 19' W. a distance of 1,040.4 feet to a point on existing line.

Existing line: 1,817 feet x 10 feet wide = 0.83 acres
 Rerouted line: 2,423.4 feet x 100 feet wide = 5.56 acres
 Difference: 4.73 acres

The above described land containing 5.56 acres more or less.

PHOTOSTATED ✓
 INDEXED ✓
 ABSTRACTED ✓

FILING No. 337196
 OFFICE OF THE REGISTER OF DEEDS
 STATE OF WYOMING } ss.
 County of Converse }
 This instrument was filed for record this.....
 day of JUL 19 1966 A. D. 19.....
 at 9:30 o'clock A. M., and duly
 recorded in Book 387 on Page 46
Ray J. Bennett
 County Clerk and Ex-Officio Register of Deeds

562-108
 31-3008-563

Relocation = Casper-Guernsey 69 kv trans. line
 Interstate Hwy # 25

200/200

RECORDED IN BOOK 414 OF MISC. PAGE 279 AT 11:00 O'CLOCK A.M. APR. 26 1968 ANNA FROGGATT COUNTY CLERK

File No. 563-1312 ER/WO No. 3278

No charge

RIGHT-OF-WAY EASEMENT (Individual)

For value received the undersigned, hereinafter referred to as Grantors, (whether singular or plural), do hereby grant to PACIFIC POWER & LIGHT COMPANY, a corporation, its successors and assigns, the Grantee, an easement or right-of-way for an electric transmission and distribution line of one or more wires and all necessary or desirable appurtenances (including telephone and telegraph wires, towers, poles, props, guys, anchors and other supports and the right to place all or any part of such line underground) at or near the location and along the general course now located and staked out by the Grantee over, across and upon the following described real property in Converse County, State of Wyoming, to wit:

SW-1/4 of NW-1/4 of Section 17, Township 33 North, Range 75 West, 6th P.M.

Blunrode Red

CPR SECT ENTERED MAPPED APPROVED

Together with the right of ingress and egress over the adjacent lands of the Grantors for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing such line and appurtenances, and exercising other rights hereby granted.

Grantors reserve the right to use said right-of-way for roads, agricultural crops or other purposes not inconsistent with the easement granted hereby, but in using or operating any irrigation pipes, motorized vehicles or other equipment, or in any other such use of said right-of-way, Grantors and Grantors' heirs or assigns, shall conform strictly to the provisions of any then applicable safety code or regulation pertaining to required clearances from the wires or conductors of such line.

All rights hereunder shall cease if and when such line shall have been abandoned.

Dated this 23rd day of April, 1968.

(SEAL) Max T. Howrey (SEAL) (SEAL) Odetta J. Howrey (SEAL)

STATE OF Wyoming } ss. County of Natrona

On this 23rd day of April, 1968, personally appeared before me a notary public in and for said State, the within named Max T. Howrey & Odetta J. Howrey to me known to be the identical persons described therein and who executed the foregoing instrument, and acknowledged to me that They executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year above written.

Gene A. Salzman Notary Public for Natrona County Residing at Casper, Wyo My commission expires: Oct 18, 1971

205/203

Vol. 563

RIGHT OF WAY

MAX T. HOWREY, ET AL

TO

PACIFIC POWER & LIGHT COMPANY

364802

OFFICE OF THE REGISTER OF DEEDS
STATE OF WYOMING

County of Converse

This instrument was filed for record this
APR 26 1988

Day of _____ A. D. 19__

11 00

at _____ o'clock A. M. and duly

recorded in Book _____ 414 on Page 279

[Signature]

County Clerk and Ex-Officio Register of Deeds

PROTESTANTS ✓

FILED ✓

REGISTER ✓

When recorded

Send to -

Pacific Power & Light

Box 860

Converse

W.M.

C.W. Goodbeck

February 17, 2003

Town of Glenrock
P.O. Box 417
Glenrock, WY 82637



Attn: Kathy Anderson, Planner/Building Inspector

Dear Kathy:

Enclosed are copies of the easements that Qwest shows in Section 17, T33N, R75,W. I wasn't really able to tell where lots 1,2, and 6 are in the section so I'm sending what applies to the whole section. Call if you have questions, 235-2479.

Yours truly,

A handwritten signature in blue ink that reads "Jeff Parker". The signature is written in a cursive, flowing style.

Jeff Parker
Field Engineer

Index Listing Report

M.S.T. & T. Co.
Right of Way No. 6158 (Memo only)

RIGHT OF WAY

from

Wyoming State Highway Department

to

THE MOUNTAIN STATES TEL. & TEL. CO.

Lots or Tract

~~XXXXX~~ Section 8 8. & 17

~~XXXXXX~~ Township 33 North

~~XXXXXX~~ Range 75 West

Job No. W-5-5226

Exchange Glenrock

Line & No. B-112

Sta. 75+82 to 80+32 incl.
P.C. Numbers

Joint Ownership %

4-14-65

Attached
MSR.

Plant Records Posted:

Date 2-21-66 By EP

MAIL TO

The Mountain States Telephone and Telegraph Co.

City Cheyenne State Wyoming

Attention J. L. Tucker
W.O.P.E.

WYOMING STATE HIGHWAY DEPARTMENT

R/W6158

APPROVED

By A.W. Snuffer
Engineer

Date Apr 5 1965

Project I-25-3(2)178

Road Casper - Glenrock

County Converse

LICENSE

THE STATE OF WYOMING, acting by and through THE STATE HIGHWAY COMMISSION, (hereinafter called the "Department"), hereby grants a license to The Mountain States Telephone & Telegraph Company (hereinafter called the "Licensee"), to construct, maintain, use and operate a buried cable line

located in Section *See below Township..... Range....., upon the property of the State of Wyoming, acquired for and utilized in the operation and maintenance of a state highway, in the locations and positions and in strict accordance with the specifications shown on the print dated 3-24-65, attached hereto, marked Exhibit "A", and by this reference specifically made a part hereof.

This license is granted upon such express terms and conditions as are inserted below, and should the Licensee at any time violate any of the said terms or conditions herein contained or use or attempt to use said facility for any other or different purpose than that above specified, or refuse or fail to comply with any rule or direction of the State Highway Superintendent, made by said Superintendent under his general supervisory powers of control and supervision of state highways for the use and safety of the general public then the Department may, at its option, terminate the license.

The foregoing license is subject to the following conditions:

FIRST. The work of constructing, altering and maintaining of the Facility shall be prosecuted and completed in a good and workmanlike manner at the sole expense of the Licensee and under the supervision of, and to the satisfaction of, the State Highway Superintendent. Such work of construction, alteration and maintenance of the Facility shall be done in such a manner as to in no way interfere with the use, operation and maintenance by the State of a state highway for state highway purposes, and in such manner as to in no way endanger the general public in its use of said state highway right of way, said maintenance shall be conducted at all times from off the highway right of way.

SECOND. The said Licensee shall give to the Department at least ten days notice, in writing, before entering upon the state highway right of way for the purpose of the construction or alteration of the Facility or to make necessary repairs, except in case of genuine emergency requiring immediate repair, then in that event, the Licensee shall notify the Department or local maintenance authority via telephone or telegraph and immediately enter upon the highway right of way and make the necessary repairs.

THIRD. Should extenuating circumstances require the utility to enter upon the State highway right of way for the purpose of construction or alteration of the facility or to make emergency or other repairs as set forth in condition two, such special access will be permitted only when appropriate means of ingress and egress are provided independent of the freeway travelways. Under no circumstances will the utility occupy the freeway thoroughfare or intrude on the freeway roadbeds within the boundaries of the area defined by the outside road ditches.

FOURTH. The said Licensee agrees to forever indemnify the State and the Department, or either of them, against and save them harmless from all liability for damage to property or injury to or death of persons, including all costs and expenses incident thereto, arising wholly or in part from or in connection with the existence of, construction, alteration, maintenance, repair, renewal, reconstruction, operation, use or removal of the said Facility as it pertains to state highway property.

FIFTH. The Department reserves the right to use, occupy and enjoy its right of way for a state highway and for state highway purposes, in such manner and at such times as it shall desire, the same as if this instrument had not been executed by it. If any such use shall at any time necessitate any change in the location or manner of use of said Facility, or any part thereof, upon the demand of the State Highway Superintendent, and neither the Department nor the State of Wyoming shall be liable to the said Licensee on account thereof, or on account of any damage growing out of any use which the State of Wyoming or the Department, or either of them, may make of its said right of way.

*Section 8, Township 33 North, Range 75 West
Section 17, Township 33 North, Range 75 West

WYOMING STATE HIGHWAY DEPARTMENT

14-3 0000
00000000

SIXTH. The Department shall have the right at any time to revoke this license by the giving of thirty (30) days notice in writing to the said licensee, and at the expiration of the time limited by said notice, or upon the express revocation of this license for any of the causes enumerated herein, the Licensee shall promptly and in the manner directed by The State Highway Superintendent remove said Facility and each and every part thereof, hereby authorized, from the premises of the state highway right of way and leave said premises in the same condition in which they were before the installation of said Facility. Upon the refusal or failure of the Licensee so to do, the Department may remove the Facility and each and every part thereof and restore the premises to the condition existing at the time of the granting of this license, and the said Licensee hereby agrees promptly to pay to the Department the cost of said removal of the Facility, and each and every part thereof.

SEVENTH. The State of Wyoming and the Department, for the purposes of this license, hereby disclaims any representation or implication that it retains any title in any state highway right of way other than a perpetual easement for road purposes for so much land as described by the instrument conveying such easement. The Licensee by these presents accepts notice and agrees that any expenses or damages incurred by the Licensee through the abandonment, removal, reconstruction or alteration of any state highway or incurred by said Licensee as a result of this disclaimer shall be borne by said Licensee at no expense whatsoever to the Department or the State of Wyoming. It shall be also understood that on Access Facility Highways, ingress and egress shall be limited to those locations as designated by the Department and shown on plans on file in the office of the State Highway Superintendent.

EIGHTH. The waiver of any breach of any of the terms or conditions of this License shall be limited to the act or acts constituting such breach, and shall never be construed as being a continuing or permanent waiver of any such term or condition, all of which shall be and remain in full force and effect, as to the future acts or happenings, notwithstanding any such individual waiver or any breach thereof.

No official or employee of the Department, other than the State Highway Superintendent, shall have authority to waive any term or condition herein contained.

IN WITNESS WHEREOF, The State of Wyoming, acting by and through its State Highway Commission has caused the State Highway Superintendent to execute this license on the 8th day of April, A.D., 1965.

(SEAL)

THE STATE OF WYOMING, acting by and through its STATE HIGHWAY COMMISSION.

ATTEST:

N. E. Sutton
FOR State Highway Superintendent

John W. ...
Assistant Secretary

The undersigned, the Licensee mentioned in the foregoing License, hereby accepts the same, subject to the terms and conditions contained therein.

ATTEST:

E. H. Dempster
Wyoming Chief Engineer

[Signature]
Wyoming Outside Plant Engineer

(SEAL)
R/W # 6158

R 75 - W

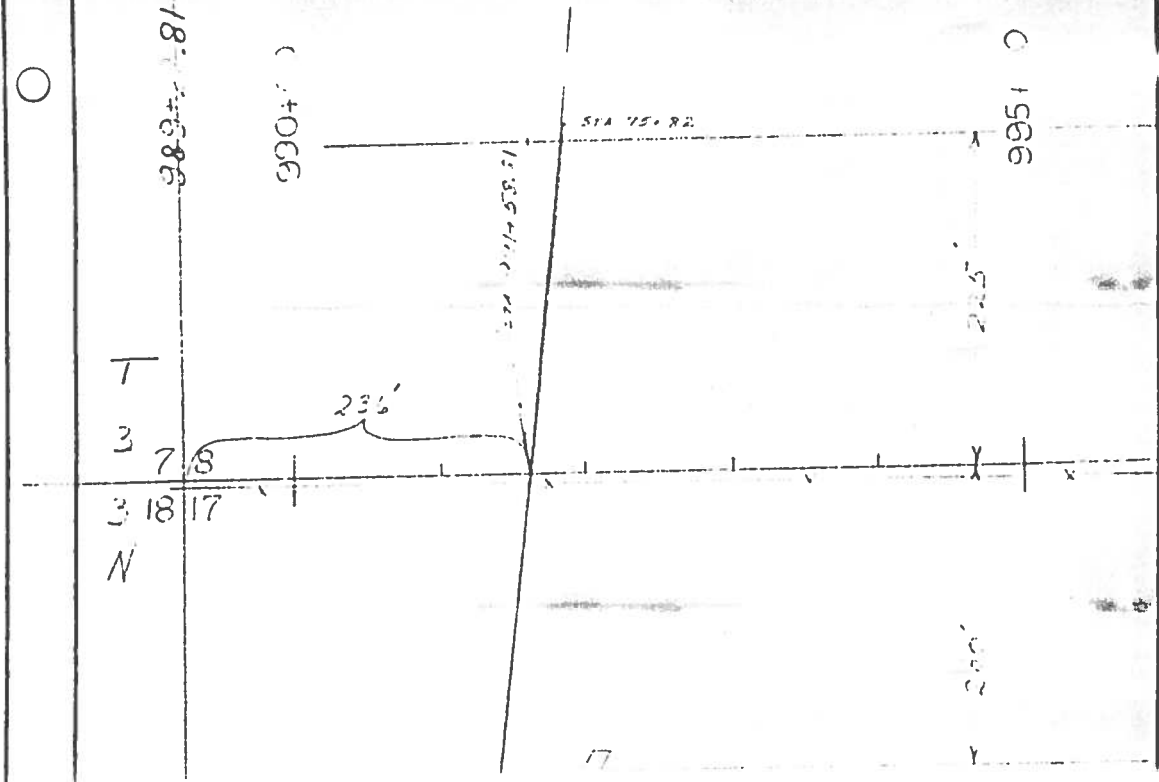
ISSUE

ONE

DATE

3-29-65

FEDERAL AID PROJECT NUMBER 1-25-3(28)170



NOTE

STA 15+92 TO 15+82 CABLE
TYPE PLACED IN 3" DIA. P.I.P.
DURING 5' FILL DEEP

DATE 6/58



M.S.T. & T. CO. FORM 3060 (6-59)

EXHIBIT A

PROJECT *W-5-5228*

LOCATION *SHAWNEE, WYO.*

TAX-AREA *CONVERSE, COUNTY*

ENG'ND BY *TOT* DRAWN BY *TOT*

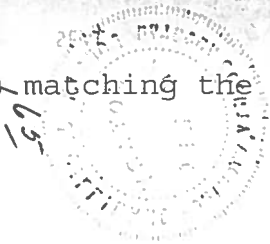
CHECKED BY *TOT* APPROVED *[Signature]*

SHEET *1* OF *1* SHEETS

Glenrock #B-112

REFERRAL TRACKING TOOL
Index Listing Report

Items matching the entered criteria were found.



65

FILING No. 29163
 OFFICE OF THE REGISTER OF DEEDS
 STATE OF WYOMING
 County of C. _____
 This instrument recorded in D. _____
 day of _____ A. D. 1965
 at 1305 _____
 recorded in D. _____
 County Clerk _____
 and Ex-Officio Register of Deeds _____
 on Page 575
 373
 Registered
 INSTRUMENT

RIGHT OF WAY AGREEMENT
 IRA LEE ELLIOTT, ET AL
 TO
 THE MOUNTAIN STATES TELEPHONE AND
 TELEGRAPH COMPANY

M.S.T. & T. Co. 6133
Right of Way No. _____

RIGHT OF WAY

from
Ira Lee Elliott

THE MOUNTAIN STATES TEL. EL. CO.

Lots or Tract _____

Section _____ 17

Township _____ 33 Nor

Range _____ 75 Wes

Job No. _____ W-5-52

Exchange _____ Glenrock

Line & No. _____ B-112

Station Numbers 78+19 to 86-0 Incl.

Buried drop wire Station 82-40 to

13+09 Incl.

Plant Records Posted: _____
 Date 3-21-65 By: 5-2

This space for use of County Clerk and Recorder

US 373 576

Mail to:
 The Mtn. Sts. Tel. & Tel. Co.
 City Cheyenne State Wyoming
 Attention: J. L. Tucker
 W.O.P.E.

REFERRAL TRACKING TOOL

INDEX OF WAY AGREEMENT

BOOK 373 PAGE 575

ts matching the entered criteria were found.

Correct:

Approved:

[Signature]
Right of Way Engineer

[Signature]
WYO. OUTSIDE PLANT ENGINEER

Received of THE MOUNTAIN... Dollars (\$ 25.00- -)
Twenty five and no/100-

in consideration of which the undersigned hereby grants, bargains, sells and conveys unto said Company, its associated and allied companies, its and their respective successors, assigns, lessees and agents, a right of way and easement to construct, operate, maintain, replace and remove such communication systems as the grantees may from time to time require, consisting of buried cables and wires, surface testing terminals, and surface markers, over, under and across the land which the undersigned owns or in which the undersigned has any interest in the following described strip of land:

NW¼ NW¼ of Section 17, Township 33 North, Range 75 West of the 6th P.M.

County of Converse, and State of Wyoming.

This grant and conveyance also provides and includes the following rights for the grantees; of ingress and egress over, along and across the land owned by the undersigned to and from the above described strip for the purpose of exercising all rights herein granted; to clear and keep cleared all trees, roots, brush, and other obstructions from the surface and subsurface of said strip.

The undersigned grantor, and the undersigned's successors, assigns and agents shall have the following rights which are hereby reserved, to use the surface area of the easement and the property upon which the easement is located, such use to include the placement of fences, provided, however, that no such use will interfere with or damage the communication system or property of Grantee installed pursuant to this grant, or with the maintenance, repair, and replacement of said system and property; to require reasonable relocation of any markers placed beyond the limits of the Right of Way and Easement hereby granted.

The Grantees agree that the said communication systems shall be originally placed at least thirty (30) inches deep in order to reduce the possibility of interference with the ordinary and reasonable use of the Grantor's land, and to reimburse the owner for actual losses resulting from damage to fences, ditches and growing crops caused by or arising out of the construction and or maintenance of the aforesaid system.

[Signature]
[Signature]
Grantors

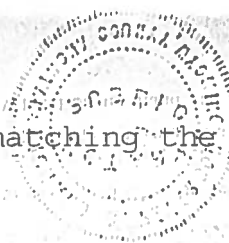
THE STATE OF WYOMING
COUNTY OF Converse SS

On this 6th day of April 1965 before me, personally appeared ~~Tra Lee and Shirley Ann Elliott~~ to me known to be the person described in and who executed the foregoing instrument, and acknowledged that ~~he and she~~ executed the same as ~~his and her~~ their free act and deed.

WITNESS my hand and Notarial Seal this 6th day of April
[Signature]
Notary Public



MY COMMISSION EXPIRES Feb. 14, 1968



REFERRAL TRACKING TOOL
Index Listing Report

sets matching the entered criteria were found

Monthly Billing

M.S.A.T. Co. 7593
Right of Way No. 7593

RIGHT OF WAY

from

Ira Lee Elliott, ETUX

THE MOUNTAIN STATES TEL. & TE. CO.

Quarter-Section 14

Section 17

Township 33 North

Rector Range 75 West

Job No. W-8-3706

Exchange Glanrock, Wyoming

Line & No. 112D

Lead Code 1120L

Station or Meter No. 0 + 00 to 15 - 60

70 NOV 1968

(Note: Mailing information for return of this form to Telephone Company is to be filled out by Right of Way Agent before form is left with County Recorder for recording.)

Right of way approved and accepted on behalf of Telephone Company

By *[Signature]*
Wyoming Outside Plant Engineer
(Title)

12-12-68 end

COUNTY RECORDERS
RECEPTION NUMBER:

SPACE BELOW IS RESERVED
FOR RECORDERS CERTIFICATE.

RIGHT OF WAY
IRA LEE ELLIOTT, ET AL
TO

MOUNTAIN STATES TELEPHONE AND TELEGRAPH
COMPANY

THING No. 372859
OFFICE OF THE REGISTER OF DEEDS
STATE OF WYOMING
County of Converse

This instrument was filed for record on 13
day of December A. D. 19 68
at 10:32 o'clock A. M. and duly
recorded in Book 446 on Page 3
County Clerk and Ex-Officio Register of Deeds

RECORDED
INDEXED

MAIL TO
THE MOUNTAIN STATES TEL. & TEL. CO.

1912 Capitol Ave. (Room No. 508)

Cheyenne WYOMING

Wyoming 82001
(State) (Zip Code)

Attention (Right-of-Way Agent)

ets matching the entered criteria were found. UNDERGROUND RIGHT-OF-WAY EASEMENT (Private Property) BOOK 446 PAGE 3 R/W NUMBER 7593

RECEIVED of grantee, The Mountain States Telephone and Telegraph Company, \$1.00, in consideration of which the undersigned grantor(s) hereby grant(s), bargain(s), and convey(s) unto said Company, its associated and allied corporations, its and their respective successors, assigns, lessees, and agents, a right of way, easement, and the right to construct, operate, maintain, replace, reconstruct, enlarge, improve, repair, and remove such underground communication line facilities as said grantee may from time to time require; consisting, without limitation, of: (1) underground cables, underground wires, conduits, manholes, drains, and splicing boxes, (2) testing terminals, located on the surface of the land hereinafter described, and the right to use the same under and across the following-described strip of land which the undersigned own(s) or in which the undersigned have (has) any interest, to wit:

A strip of land 16 feet in width, being 8 feet on each side of a centerline across the NW 1/4 of Section 17 Township 33 North Range 75 West of the 6th P.M., being more particularly described as follows:

Commencing at the NW Section corner of Section 17 Township 33 North Range 75 West; thence East 213 feet; thence S. 7° 07' W., 420' BEING THE POINT OF BEGINNING 0 + 00; thence S. 58° 15' E., 765 feet; thence, S. 80° 18' W., 135 feet; thence S. 56° 48' E., 369' feet; thence S. 59° 42' E., 231 feet; thence S. 62° 03' E., 460 feet.

RECORDED Dec. 13 1968 AT 10:30 CLOCK A.M. IN BOOK 446 OF Misc. PAGE 3 ANNA FROGGATT COUNTY CLERK NO. 372899

situate in County of Converse, State of Wyoming TOGETHER with the following rights: (a) of ingress and egress over and across the lands of the undersigned to and from above-described strip for the purpose of exercising the rights herein granted; (b) to place location-markers on the surface, on or beyond said strip, for the said underground facilities; (c) to clear and keep cleared all trees, roots, brush and other obstructions from the surface and subsurface of said strip, without grantee being obligated to do so; (d) to permit other corporations to use trenches jointly with the said Company; (e) to open and re-close any fences crossing said strip or when agreed to by grantor(s), to install gates and stiles in such fences.

UNDERSIGNED landowner(s) for them self(ves), their heirs, executors, administrators, successors and assigns, while reserving the right to use said strip of land for all purposes not inconsistent with the rights herein granted to said Company, hereby covenant(s) that no structures shall be erected or permitted on said strip and that the said strip shall not be used in any manner which will interfere with or damage the communications facilities installed pursuant to this grant, or interfere with the maintenance, repair, and replacement of said facilities.

GRANTEE agrees that the said communications facilities shall be originally placed at least Twenty (20) inches deep in order to reduce the possibility of interference with the ordinary and reasonable use of the said strip by the undersigned, and to pay for damages to fences, landscaping, and growing crops arising from the construction and maintenance of the aforesaid facilities.

Signed and sealed this 2nd day of October, A.D. 1968,

Signatures of landowners: Ira Lee Elliott, Shirley Ann Elliott, and two blank lines for additional signatures.

NOTARY'S ACKNOWLEDGMENT: (When this document is prepared, insert below the private-party acknowledgment form as required by statute of the State in which the said property is located.) (See Appendix 1, Sect. 5 of I.M. 173.)

THE STATE OF WYOMING COUNTY OF Converse } SS:

On this 2nd day of October 1968, before me personally appeared Ira Lee Elliott & Shirley Ann Elliott to me known to be the persons described herein and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed, hereby freely and voluntarily releasing and waiving all rights under and by virtue of the Homestead Laws of this State.

WITNESS my hand and official seal. Notary Public signature and seal. My Commission expires 2-14-1972

STATE OF WYOMING
COUNTY OF Converse

On this 14th day of JAN 1937 before me, personally appeared
George H. Jakes and Azalea Jakes, husband and wife and E. B. Shaffner,
Guardian of the Estate of Lola Jakes, all of whom are competent
to me known to be the persons described in and

who executed the foregoing instrument, and acknowledged that they
executed the same as their free act and deed.

WITNESSES my hand and Notarial Seal this 14th day of JAN 1937
A. B. Shaffner
Notary Public

MY COMMISSION EXPIRES January 18th, 1939

1010

No officer or employee of this Company is authorized to procure a receipt to a vendor, except upon payment in full and the COMPANY hereby gives notice that if this voucher is signed without payment being made, it shall be void.

RIGHT OF WAY

From.....
Section No. 17
Township No. 53N
Range No. 75W
..... Line
Letter File No. *Glenrock*
Date..... 1937

MAIL TO
The Mountain States Telephone and Telegraph Co.

TOWN STATE

No officer or employee of this Company is authorized to procure a receipt to a voucher, except upon payment of its amount, and the COMPANY hereby gives notice, that if this voucher is signed without payment being made, it is done at the SIGNER'S OWN RISK.

Line

Contract: Geo. Cunningham Approved: _____
R. W. Agent. State Const. Engineer State Plant Superintendent

\$5.00 RECEIVED OF THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH CO.

Five and No/100 Dollars, in consideration of which we hereby grant unto said Company, its successors and assigns, the right, privilege and authority to construct, operate and maintain its lines of Telephone and Telegraph, including the necessary underground conduit, poles, cables, wires and fixtures upon, over and across the property which we own, or in which we have any interest, in the Lots 3 & 4 and part of Lot 5 of Section 17 Township 33 North, Range 75 West of the 6th P.M.

County of Converse and State of Wyoming

and upon and along the roads, streets or highways adjoining the said property, with the right to permit the attachment of the wires of any other company, and the right to trim any trees along said lines so as to keep the wires cleared at least forty-eight inches, to erect and set the necessary guy and brace poles and anchors and to attach thereto the necessary guy wires.

Witness our hands and seals this 17th day of Jan A. D. 1917 at Glenrock, Wyoming
(Postoffice Address)

Witnesses: T.A. Gardner George H. Jolley
Beren Bailey A. J. Allen (SEAL)
E. J. Stappner (SEAL) Guardian
of the Estate of Lela Mott
Incompetent.

Index Listing Report
ts matching the entered criteria were found



FILING NO. **366177**
 OFFICE OF THE REGISTER OF DEEDS
 STATE OF WYOMING
 County of Converse
 This instrument was filed for record this
 day of **JUN 5** 1968 A. D.
 at **9:00** o'clock A. M.
 recorded in Book **414** of Page **324**

 County Clerk and Ex-Officio Registrar of

RIGHT OF WAY EASEMENT
 MAX T. HOWEY, ET AL
 TO
 THE MOUNTAIN STATES TELEPH
 AND TELEGRAPH COMPANY

PHOTOSTATS
 MADE
 1/15/68
 LASTED
 No 20

M.A.T.A. Co.
 Right of Way No. 7592

RIGHT OF WAY
 from
 Max T. Howey, ETUX

THE MOUNTAIN STATES TEL. & TEL. CO.

Quarter-Section SE 2 NW 2 SW 2 NE 2 NE 2 SE 2
 Section 17
 Township 33 North
 Range 75 West
 Job No. W-8-3706
 Exchange Glenrock, Wyoming
 Line & No. 11201
 Lead Code 11201
 Station of 19+60 to 36+81

(Note: Mailing-information for return of this form to Telephone Company is to be filled out by Right of Way Agent before form is left with County Recorder for recording.)
 Right of way approved and accepted on behalf of Telephone Company
 By _____
 Wyoming Outside Plant Engineer
 (Title)

COUNTY RECORDER'S RECEIPTION NUMBER:

3 PAGE BELOW IS RESERVED FOR RECORDER'S CERTIFICATE.

MAIL TO
 THE MOUNTAIN STATES TEL. & TEL. CO.
 1912 Capitol Ave. (Room No. 508)
 Cheyenne, Wyoming (City)
 82001 (Zip Code)
 Attention: (Right-of-Way Agent)

Index Listing Report

UNDERGROUND RIGHT OF WAY EASEMENT

(Private Property)

R/W NUMBER 7592

BOOK 414 PAGE 324

RECEIVED of grantee, The Mountain States Telephone and Telegraph Company, \$1.00, in consideration of which the undersigned grantor(s) hereby grant(s), bargain(s), and convey(s) unto said Company, its associated and allied corporations, its and their respective successors, assigns, lessees, and agents, a right of way, easement, and the right to construct, operate, maintain, replace, reconstruct, enlarge, improve, repair, and remove such underground communication line facilities as said grantee may from time to time require, consisting, without limitation, of: (1) underground cables, underground wires, conduits, manholes, drains, and splicing boxes; (2) testing-terminals, located on the surface or underground; and (3) other appurtenances; upon, over, under and across the following-described strip of land which the undersigned own(s) or in which the undersigned have (has) any interest, to wit:

A strip of land 16 feet in width, being 8 feet on each side of a centerline across the SE 1/4 NW 1/4, SW 1/4 NE 1/4, NE 1/4 SE 1/4 of Section 17 Township 33 North Range 75 West of the 6th P.M., being more particularly described as follows: Commencing at the N 1/16 corner of 17 and 18 Township 33 North Range 75 THE POINT OF BEGINNING, West thence East 1590 feet, to Engineer Station 19 + 60; Thence S. 62° 3' E., 160 feet; thence S. 32° 23' E., 258 feet, thence S. 22° 53' E., 602 feet; thence S. 41° 17' E., 120 feet; thence S. 20° 43' E., 281 feet.

NO. 366177 ANNA F. OGGATI COUNTY CLERK

situate in County of Converse State of Wyoming TOGETHER with the following rights: (a) of ingress and egress over and across the lands of the undersigned to and from above-described strip for the purpose of exercising the rights herein granted; (b) to place location-markers on the surface, on or beyond said strip, for the said underground facilities; (c) to clear and keep cleared all trees, roots, brush and other obstructions from the surface and subsurface of said strip, without grantee being obligated to do so; (d) to permit other corporations to use trenches jointly with the said Company; (e) to open and re-close any fences crossing said strip or, when agreed to by grantor(s), to install gates and stiles in such fences.

UNDERSIGNED landowner(s) for them self(ves), their heirs, executors, administrators, successors and assigns, while reserving the right to use said strip of land for all purposes not inconsistent with the rights herein granted to said Company, hereby covenant(s) that no structures shall be erected or permitted on said strip and that the said strip shall not be used in any manner which will interfere with or damage the communications facilities installed pursuant to this grant, or interfere with the maintenance, repair, and replacement of said facilities.

GRANTEE agrees that the said communications facilities shall be originally placed at least Twenty (20) inches deep in order to reduce the possibility of interference with the ordinary and reasonable use of the said strip by the undersigned, and to pay for damages to fences, landscaping, and growing crops arising from the construction and maintenance of the aforesaid facilities.

Signed and sealed this _____ day of _____, A.D. 19____

(Signatures) (Landowner) (Seal) Alex T. Hawsey (Landowner) (Seal) (Landowner) (Seal) (Landowner) (Seal) (Landowner) (Seal) (Landowner) (Seal)

NOTARY'S ACKNOWLEDGMENT: (When this document is prepared, insert below the private-party acknowledgment forms as required by statute of the State in which the said property is located.) (See Appendix I, Sect. 5 of I.M. 173.) THE STATE OF WYOMING COUNTY OF Natrona SS: On this 6th day of May, 1965, before me personally appeared Alex T. and Odette J. Hawsey to me known to be the person(s) described herein and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed, hereby freely and voluntarily releasing and waiving all rights under and by virtue of the Homestead Laws of this State. WITNESS my hand and official seal. Charles W. Berry Notary Public

M.S.T. & T. Co. MEMO ONLY
Right of Way No. 19572

COUNTY RECORDER'S
RECEPTION NUMBER:

RIGHT OF WAY

from

State of Wyoming

App. #7984

to

THE MOUNTAIN STATES TEL. & TEL. CO.

Quarter-Section SE 1/4 NE 1/4

Section

Township 33 North

Grant or Range 75 West

Job No. R-E-107

Exchange or Toll Glenrock

Line & No. R.L. 120-E

Lead Code

Station or Pole Numbers 0+00 = 6+43

App'd. 6-6-70

(Note: Mailing information for return of this form to Telephone Company is to be filled out by Right-of-Way Agent before form is left with County Recorder for recording.)

Right of way approved and accepted on behalf of Telephone Company

By _____

MAIL TO
THE MOUNTAIN STATES TEL. & TEL. CO.

(Street Address) (Room No. _____)

(City)

(State)

(Zip Code)

SPACE BELOW IS RESERVED
FOR RECORDER'S CERTIFICATE.

matching the entered criteria were found.

STATE OF WYOMING

No. 3028

GRANT OF EASEMENT FOR Buried Telephone Line
TO

MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY

KNOW ALL MEN BY THESE PRESENTS, that the Board of Land Commissioners of the State of Wyoming, acting within the authority vested in it by and under the Constitution and laws of the State of Wyoming, does, for and in consideration of the payment of Twenty Five and no/100 Dollars (\$ 25.00) grant to Mountain States Telephone & Telegraph Company for the uses and purposes and upon the conditions hereinafter set forth, an easement for Buried Telephone Line over a certain tract of land situated in the County of Converse State of Wyoming more particularly described as follows:

Right of way for a telephone line 16 feet in width being 8 feet on each side of a centerline across the following described land:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 17, Township 33 North, Range 75 West, 6th P.M., Converse County, Wyoming

The course of said telephone line being more particularly described as follows:

Beginning at a point on the east section line SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 17, T.33N., R.75W., 6th P.M, Engineer's Station 0+00 from which the southeast corner of said Section 17 bears S.0°47'44"E., 3302.61 feet; thence N.49°45'00"W., 643 feet to Engineer's Station 6+43 where survey ends, from which the southeast corner of said Section 17 bears S.08°12'47.72"E., 3756.28 feet.

The above described strip of land contains 0.236 acres, more or less.

The above described tract being more specifically shown upon a map in the office of the Commissioner of Public Lands, filed with and made a part of an application for right of way.

TO HAVE AND TO HOLD for continuous use said easement over the above described land for the use and benefit, construction, operation, maintenance and removal of said facility.

PROVIDED, That the easement granted hereby shall never be used so as to interfere with or impair the full development of the land embraced therein for its minerals or coal, or interfere with or impair the full or complete extraction therefrom by the State of Wyoming or its legal grantees or lessees of all minerals or coal contained in said land, including oil and gas.

PROVIDED FURTHER, That the easement granted hereby shall not be used to the detriment or injury of the grazing or agricultural lessees or purchasers of said land from the State of Wyoming, or their livestock or property, or so as to interfere with their use and enjoyment of the surface embraced in the easement for grazing purposes or the cultivation of crops.

PROVIDED FURTHER, That upon the abandonment or discontinuance of the use of said tract of land for said purpose for which granted, the rights of said grantee to the use of said land and easement shall terminate and cease, and all rights and interest vested in said grantee by this grant of easement shall revert to the State of Wyoming, its successors and assigns, the same as if this grant had never been made.

PROVIDED FURTHER, That if the herein described land is ever required or to be used for a public purpose beneficial to the State of Wyoming, then the grantor will, upon proper notice from the grantor, remove or relocate at its own expense any facility, utility or other use granted by this easement.
(Provision added as per Board Action of July 14, 1966)

IN TESTIMONY WHEREOF, The Board of Land Commissioners has caused this instrument to be signed by its President and countersigned by its Secretary, and its seal to be hereunto affixed the 14 day of Feb, A.D. 1968

Countersigned

[Signature]
COMMISSIONER OF PUBLIC LANDS, SECRETARY

[Signature]
GOVERNOR, FEDERAL BOARD OF LAND COMMISSIONERS

(SEAL)

App. No. 7284 Examined MW/laa
Permanent Fund PENITENTIARY FUND



Mountain Bell

Cheyenne, Wyoming
January 24, 1983

Mr. Oscar E. Swan
Commissioner of Public Lands
2424 Pioneer Ave.
Cheyenne, Wyoming 82002

Dear Mr. Swan:

Consideration Fees -- State Application #7870, #7893, #7942, #7807 & #7984
-- Mountain Bell

Enclosed are three drafts totaling \$846.25 for payment of the consideration fees for subject State Applications, Mountain Bell R/W #18854, 19040, 18842, 18506 & 19572.

The Affidavit Proof of Construction forms are currently on file in your office.

When complete, please forward the easements to the undersigned.

Yours very truly,

Michael T. McNulty
Manager-Distribution Services (R/W)

Encl.



THE STATE OF WYOMING

Commissioner of Public Lands and Farm Loans

2424 PIONEER AVENUE
PIONEER BUILDING

CHEYENNE, WYOMING 82002

November 6, 1981 PLEASE ADDRESS REPLY

Mountain States Telephone & Telegraph Co.
P. O. Box 428
Cheyenne, Wyoming 82001

Gentlemen:

The following applications for buried telephone line rights of way were approved by the Board of Land Commissioners at their meeting held November 5, 1981.

- App. #7701 (R/W 17524) \$239.60 based on \$200.00 per acre
- #7796 (R/W 18259) \$148.00 based on \$100.00 per acre
- #7807 (R/W 18506) \$50.00 based on \$25.00 for each 40-acre sub-division crossed
- #7838 (R/W 18550) \$340.00 based on \$100.00 per acre
- #7839 (R/W 18678) \$167.97 based on \$75.00 per acre
- #7847 (R/W 18795) \$218.70 based on \$75.00 per acre
- #7848 (R/W 18809) \$146.25 based on \$75.00 per acre
- #7870 (R/W 18854) \$280.50 based on \$50.00 per acre
- #7893 (R/W 19040) \$276.00 based on \$200.00 per acre
- #7942 (R/W 18842) \$214.75 based on \$125.00 per acre
- #7946 (R/W 19430) \$165.20 based on \$80.00 per acre
- #7950 (R/W 19680) \$94.00 based on \$200.00 per acre
- #7983 (R/W 19481) \$116.85 based on \$75.00 per acre
- ✓ GLURK #7984 (R/W 19572) \$25.00 based on \$25.00 for each 40-acre sub-division crossed
- #7986 (R/W 19705) \$195.97 based on \$75.00 per acre
- #8051 (R/W 20220) \$87.29 based on \$75.00 per acre
- #8052 (R/W 20226) \$53.47 based on \$75.00 per acre
- #8055 (R/W 20321) \$25.00 based on \$25.00 for each 40-acre sub-division crossed
- #8084 (R/W 20247) \$1,140.39 based on \$100.00 per acre
- #8085 (R/W 20310) \$25.00 based on \$25.00 for each 40-acre sub-division crossed
- #8087 (R/W 20499) \$127.87 based on \$75.00 per acre

Affidavit Proof of Construction forms are on file in this office. Upon receipt of Consideration fees as set out above, right of way easements will be issued.

Yours very truly,

OSCAR E. SWAN
COMMISSIONER OF PUBLIC LANDS

BY Martha M. Tafoya
Martha M. Tafoya
Permits Specialist

Cheyenne, Wyoming
September 17, 1981

Mr. Oscar E. Swan
Commissioner of Public Safety
2424 Pioneer Avenue
Cheyenne, Wyoming, 82001

Dear Mr. Swan:

Affidavit Proof of Construction -- Application No. 7984 -- Right-
of-Way No. 19572 -- Glenrock, Wyoming.

Enclosed is an appraisal form and one Affidavit Proof of
Construction for the above subject application.

Mountain Bell is offering 30% of the value per acre to cover the
consideration fee for right of way for a telephone line in
Converse County, Wyoming.

If our offer meets with your approval, please advise.

Yours truly,

G. J. Weidenbach
District Manager-Distribution Services

Enclosures

MW/lt

AFFIDAVIT PROOF OF CONSTRUCTION

States Telephone and Telegraph
Company for a right of way at
Glenrock

R/W No. 19572
Application No. 7984

STATE OF WYOMING)
) SS
COUNTY OF LARAMIE)

G. J. WEIDENBACH being duly sworn, on oath deposes and says that he is the District Manager-Distribution Services of The Mountain States Telephone and Telegraph Company; that the telephone line in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, Township 33 North, Range 75 West, 6th P.M., Converse County, Wyoming was completed on the 22nd day of August, 1979, in accordance with the map and field notes filed in the office of the Commissioner of Public Lands under the date of March 28, 1978.

G. J. Weidenbach
District Manager-Distribution Services

September . 19 81 .

Walter M. Wilcox
NOTARY PUBLIC

THE STATE OF WYOMING



Commissioner of Public Lands and Farm Loans

2424 PIONEER AVENUE
PIONEER BUILDING

CHEYENNE, WYOMING 82002

June 6, 1978

PLEASE ADDRESS REPLY
TO THE COMMISSIONER

The Mountain States Telephone & Telegraph Company
P. O. Box 428
Cheyenne, Wyoming 82001

Re: R/W App.7983(Your No.19481) R/W App.7987(Your No.19711)
 R/W App.7984(Your No.19572) ✓ R/W App.7988(Your No.19735)
 R/W App.7986(Your No.19705) R/W App.7990(Your No.19640)

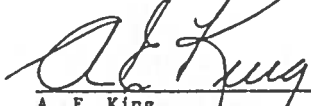
Gentlemen:

This acknowledges receipt of the above noted applications for buried telephone line rights of ways.

In compliance with your letters of application, permission is hereby granted to install buried telephone lines subject to approval of the Board of Land Commissioners.

Permission is subject to your advising our grazing lessees of your installations and negotiation of payment to them for actual surface damage caused by your installation, if any. Damage payment checks should be made payable to the Commissioner of Public Lands and the lessee of record and submitted to this office for further handling.

Yours very truly,


A. E. King
Commissioner of Public Lands

mt

Comp 3-28
12-79

Cheyenne, Wyoming
March 28, 1978

Hr. A. E. King
Commissioner of Public Lands
2424 Pioneer Avenue
Cheyenne, Wyoming 82001

Dear Mr. King:

Application for Right of Way Across State Land -- Glenrock
RL 120-E -- Right-of-Way No. 19572 -- Converse County, Wyoming

The Mountain States Telephone and Telegraph Company hereby applies for a right of way for a telephone line 16 feet in width being 8 feet on each side of a centerline across the following described land: SE 1/4 NE 1/4 Section 17, T. 33 N., R. 75 W., 6th P.M.

Said telephone line to traverse or cover the portions of the above described lands as is more particularly set forth on the map attached hereto and made a part hereof.

The course of said telephone line being more particularly described as follows:

Beginning at a point on the East Section line SE 1/4 NE 1/4 Section 17, T. 33 N., R. 75 W., 6th P.M., Engineer's Station 0+00 from which the Southeast Corner of said Section 17 bears S.0°47'44"E., 3302.61 feet, thence N.49°45'00"W., 643 feet to Engineer's Station 6+43 where survey ends. from which the Southeast Corner of said Section 17 bears S.0°47'44"E., 3302.61 feet.

The above described strip of land contains 0.236 acres more or less.

Enclosed is our Company's Draft No. 337666 for \$10.00 in payment of the filing fee and recording fee for this application.

Due to the length of time expected to obtain the rights of way on lands adjoining the subject application, the amount to be paid is unknown at this time. Therefore, we are requesting your granting Mountain Bell advance approval for this right of way.

If advance approval is granted the Right-of-Way Appraisal Forms will be forwarded as soon as possible.

Mr. A. E. King
March 28, 1978
Page 2

If it is necessary to return this application and map for correction or alteration please return it to the undersigned.

Yours very truly,

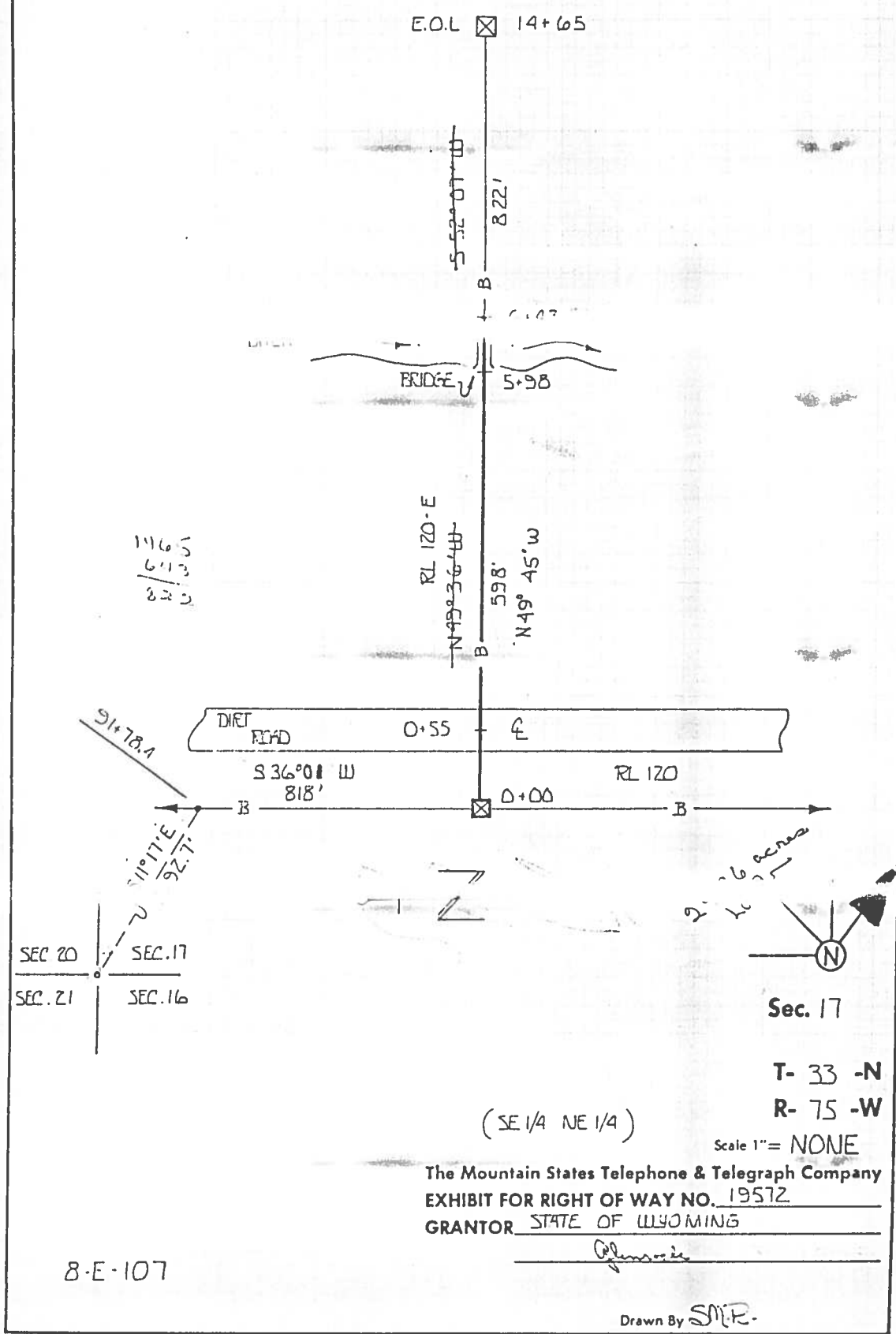
R. H. Bergholm
Staff Manager-Facilities

Enclosure

MW:os

REFERRAL TRACKING TOOL
Index Listing Report

atching the entered criteria were found.



REFERRAL TRACKING TOOL

Index Listing Report

No. Matching the entered criteria were found.

M.S.T.A. No. 19573

COUNTY RECORDERS RECEPTION NUMBER:

RIGHT OF WAY

AGENT *22212*
DRAFT *2357151*
AMOUNT *\$500⁰⁰*

From *B. GARVIN*

To *.. to*

Quarter-Sec. *NET*

Section *17*

Township *33 N*

Range *75 W*

Job No. *8-E-107*

Exchange or Toll *Glenrock*

Line & No. *120-E*

Lead Code *U*

Station or Pole Number *6+43 to 14+65*

Right of way approved and accepted on behalf of Telephone Company
By *B. Garvin*
MTH Staff Manager Facilities (Title)

Mail To
Yellowstone Rd. (Street Address) (Room No. *33*)
Chayenne (City)
Wyoming (State) 82001 (Post Code)
Attention *Supv. Engr. R/W* (Right of Way Agent)

REFERRAL TRACKING TOOL
Index Listing Report

atching the entered criteria were found:

BOOK 678 PAGE 595

(7-15)

103

R.W. 19573

RIGHT-OF-WAY EASEMENT

The Undersigned Grantor (and each and all of them if more than one) for and in consideration of Ten and no/100- - - - - Dollars (\$10.00- - - - -) in hand paid by the Grantee, the receipt whereof is hereby acknowledged, hereby grants, bargains and conveys unto The Mountain States Telephone and Telegraph Company, a Colorado corporation, 931 14th Street, Denver, Colorado 80202, Grantee, its successors, assigns, lessees, licensees and agents a Right-of-Way Easement and the right to construct, operate, maintain and remove such communication and other facilities, from time to time, as said Grantee may require upon, over, under and across the following described land which the Grantor owns or in which the Grantor has any interest in County

of Converse State of Wyoming
hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of this State:

As more particularly described on the attached Exhibit for Right-of-Way No. 19573 a strip of land ~~sixteen~~ ^{Eight (8) feet} feet in width being ~~eight~~ ^{Four} feet on each side of a 'B' line across a portion of the ~~S+NE~~ Section 17, Township 33 North, Range 75 West of the 6th P.M.

IN BOOK 678 OF Misc PAGE 595
NO. 525084 ANNA FROGGATT COUNTY CLERK

TOGETHER with the right of ingress and egress over and across the lands of the Grantor to and from the above described property, the right to clear and keep cleared all trees and other obstructions as may be necessary.

The Grantor reserves the right to occupy, use, and cultivate said property for all purposes not inconsistent with the rights herein granted.

Signed and delivered this 12th day of July, 19 78
James A. Garvid Colette Garvid

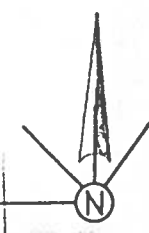
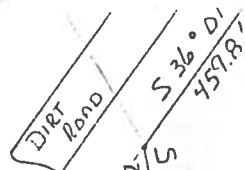
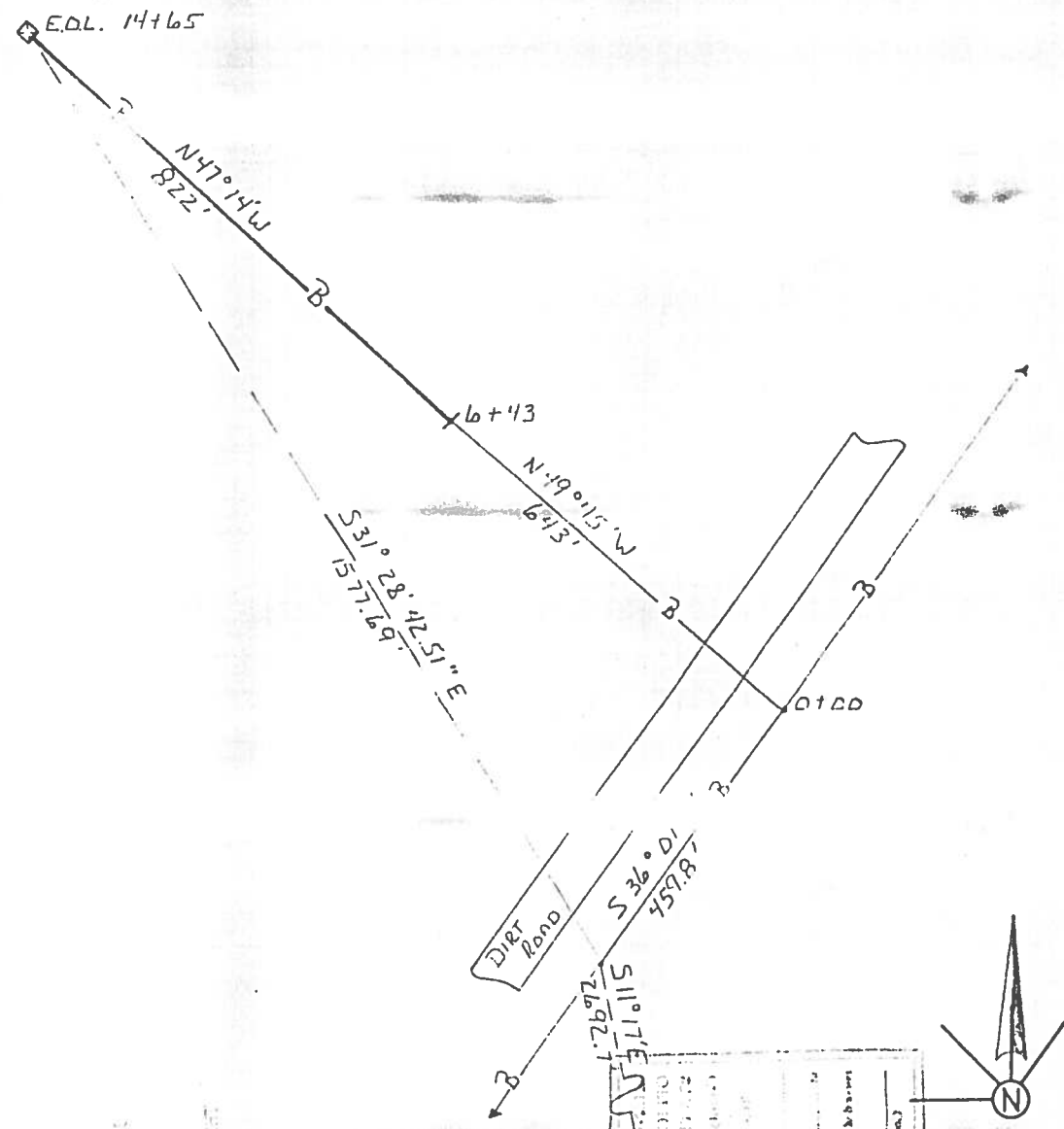
STATE OF Wyoming)
COUNTY OF Natrona) SS:

The foregoing instrument was acknowledged before me this 12th day of July, 19 78
By James A. & Colette Garvid
husbands & wife



Witness my hand and official seal.
Anna Froggatt
Notary Public
My Commission Expires: March 4, 1981

atching the entered criteria were found.



SEC 21	SEC 21	SEC 21	SEC 21
SEC 20	SEC 20	SEC 20	SEC 20
SEC 19	SEC 19	SEC 19	SEC 19
SEC 18	SEC 18	SEC 18	SEC 18

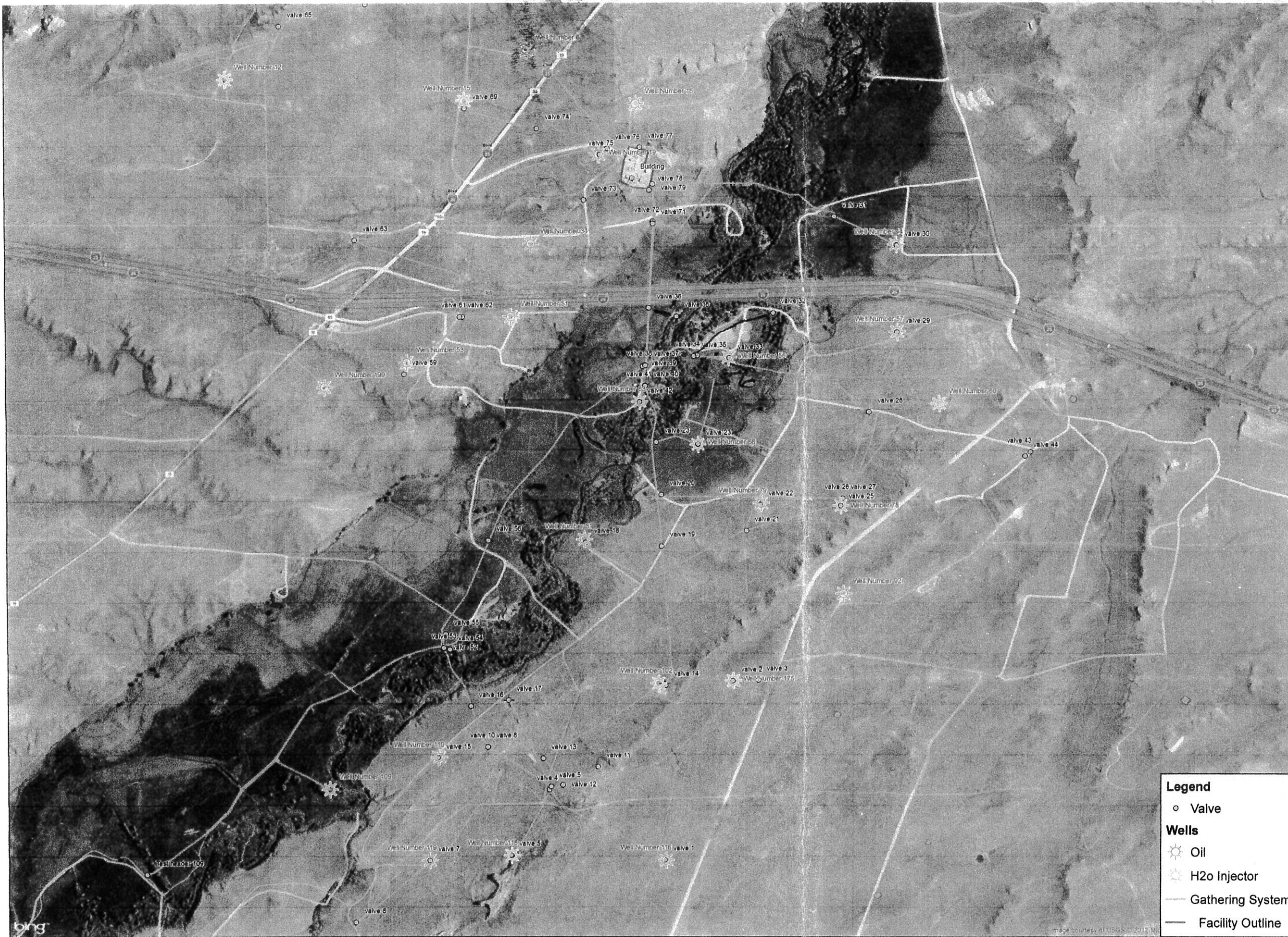
S 1/2 NE 1/4 Sec. 17

T-33 -N
R-75 -W

Scale 1" = 200'

The Mountain States Telephone & Telegraph Company
 EXHIBIT FOR RIGHT OF WAY NO. 419573
 GRANTOR JAMES GARVIN

8-E-107
 P1 120-E



N 1/2 17 33N 75W

Converse County, Wyoming
 Source: Linc Energy, Converse Co. Oil, BLM, WDOG, WYDGC
 Date: 5/6/2013
 Created By: M.K. & L.H.
 Document Path: X:\Survey_Data\Map_Valve_Location\Valve_Location_Air_Wells.mxd

VALVE, WELL LOCATIONS AND GATHERING LINES GLENROCK A AND B

1 inch equals 932 feet



CONVERSE COUNTY

FLOOD DAMAGE

PREVENTION

REGULATIONS

CONVERSE COUNTY

FLOOD DAMAGE PREVENTION REGULATIONS



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Approved and Adopted by the Converse County Board of Commissioners November 3, 2009
These Flood Damage Prevention Regulations supersede and replace any previous regulations adopted.

CONVERSE COUNTY FLOOD DAMAGE PREVENTION REGULATIONS

CHAPTER I

STATUTORY AUTHORIZATION

Sec. 1

Authority

The Board, pursuant to Section 18-3-504, Wyoming Statutes, 1977 Republished Edition, as amended, is authorized to provide for the general welfare of the county.

CHAPTER II

FINDING OF FACT, PURPOSE AND OBJECTIVES

Sec. 1 Findings of Fact

- A. The flood hazard areas of Converse County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

Sec. 2 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; to minimize prolonged business interruptions;
- D. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- E. To help maintain a stable tax base by providing for the use and development of areas of special flood hazard so as to minimize future flood blight areas;
- F. To insure that potential buyers are notified that property is in an area of special flood hazard; and,
- G. To ensure that those who occupy an area of special flood hazard assume responsibility for their actions.

Approved and Adopted by the Converse County Board of Commissioners November 3, 2009
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Sec. 3 Method of Reducing Flood Losses

In order to accomplish their purpose, these regulations include methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses which are vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Preventing or regulating the construction of flood barriers which will impact natural floodwaters or which may increase flood hazards in other areas.

CHAPTER III GENERAL PROVISIONS

Sec. 1 Lands to which these Regulations Apply

These regulations shall apply to all area of special flood hazards within the jurisdiction of Converse County, Wyoming.

Sec. 2 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, “The Flood Insurance Study for the unincorporated areas of Converse County, Wyoming” (FIS) dated November 4, 2009, with an accompanying Flood Insurance Rate Map (FIRM) is hereby adopted by reference and declared to be a part of these regulations. The Flood Insurance Study and Flood Insurance Rate Map are on file at the Special Projects Office, 107 N. 5th Street, Suite B-6, Douglas, WY 82633.

Adoption of revised FIS and FIRMs require a Public Notice, Public Hearing and approval by the Board.

Sec. 3 Compliance

No structure of land shall hereafter be constructed, located, extended, converted, or altered within the area of special flood hazard without full compliance with the terms of these regulations and other applicable county regulations.

Sec. 4 Penalties for Non-Compliance

Violation of the provisions of these regulations by failure to comply with any of these requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of the requirements shall, upon conviction thereof, be fined not more than \$300.00 or imprisonment for not more than 10 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Converse County from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 5 Abrogation and Greater Restrictions

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and other regulations, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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Sec. 6 Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 7 Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Converse County, any officer or employee thereof, of the Federal Insurance Administration, for flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

CHAPTER IV ADMINISTRATION

Sec. 1 Establishment of Construction Permit

A Flood Plan Construction (FPC) Permit shall be obtained before construction or development begins within any area of special flood hazard established in Chapter III, Section 2. Application for a Construction (FPC) Permit shall be made on forms furnished by the Special Projects Office and may include, but is not limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;
- B. Elevation in relation to mean sea level to which any non-residential structure has been flood proofed;
- C. Certification by a registered professional engineer or architect that the flood proof methods for any non-residential structure meet the flood proof criteria in Chapter V, Section 1.; and,
- D. Description of the extent to which any watercourse will be altered or relocated as the result of proposed development.

Sec. 2 Designation of the Director of Special Projects

The Director of Special Projects is hereby appointed to administer and implement these regulations by granting or denying construction permit applications in accordance with their provisions.

Sec. 3 Duties and Responsibilities of the Director of Special Projects

Duties of the Director of Special Projects or his designee shall include, but not be limited to:

- A. Permit Review
 - (1) Review all FPC permits to determine that the permit requirements of these regulations have been satisfied.

- (2) Review all FPC permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
- (3) Review all FPC permits to determine if the proposed improvements and or construction adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of these regulations, “adversely affects” means that the cumulative effect of the proposed improvements and/or construction when combined with all other existing and anticipated improvements and/or construction will not increase the water surface elevation of the base flood more than one foot at any point.
- (4) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development within areas of special flood hazard area on the community’s FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

B. Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Chapter III, Section 2, Basis for Establishing the Areas of Special Flood Hazard, The Special Projects Office shall obtain, review and reasonably utilize any flood elevation and floodway data available from the federal, state, or other source, in order to administer Chapter V, Section 2, Specific Standards.

C. Information to be Obtained and Maintained.

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved flood proof structures:
 - a. Obtain and record the actual elevation (in relation to sea level) to which the structure has been flood proof.
 - b. Maintain the flood proof certifications required in Chapter IV, Section 1.
- (3) Maintain for public inspection all records pertaining to the provisions of these regulations.
- (4) Alteration of Watercourses.

Approved and Adopted by the Converse County Board of Commissioners November 3, 2009
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- a. Notify adjacent communities and Wyoming Office of Homeland Security prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (5) Interpretation of FIRM Boundaries.

Make interpretations, where needed, as to the exact location of the boundaries of the area of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided.

Sec. 4 Variance Procedure, Appeal Board

- A. The Board as established by these regulations shall hear and decide appeals and requests for variances from the requirements of these regulations.
- B. The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Director of Special Projects in the enforcement or administration of these regulations.
- C. Those aggrieved by the decision of the Board or any taxpayer, may appeal such decisions to the Wyoming District Court, as provided in Wyoming.
- D. In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of these regulations; and,
 - (1) The danger that materials may be swept into other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;

- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with the existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site; and,
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets and bridges.
 - a. Upon consideration of the factors of Chapter IV, Section 4, and the purposes of these regulations, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.
 - b. The Director of Special Projects shall maintain the records of all appeal actions, including technical information, and report any variance to the Federal Emergency Management Agency.

Sec. 5 Conditions for Variances

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (1-11) in Chapter IV, Section 4-D, have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increase.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section. Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Approved and Adopted by the Converse County Board of Commissioners November 3, 2009
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- C. Variances shall only be issued upon a determination that the variances are the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances shall only be issued upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or regulations.
- E. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.
- F. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (1) The criteria outlined in Chapter IV, Section 4, D items (1-11) are met, and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

CHAPTER V PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 1 General Standards

In all areas of special flood hazards, the following standards are required:

A. Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- (2) All manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist floatation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:
 - a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 - b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
 - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
 - d. Any addition to the manufactured home be similarly anchored.

B. Construction Materials and Methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

Approved and Adopted by the Converse County Board of Commissioners November 3, 2009
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- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage system shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

- (1) **Converse County Subdivision Regulations do not allow subdivisions in the 100-Year Floodplain.**

E. Encroachments.

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

Sec. 2. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Chapter III, Section 2, Basis for Establishing the Areas of Special Flood Hazard, of Chapter IV, Section 3-B, Use of Other Base Flood Data, the following provisions are required:

A. Residential Construction.

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation.

B. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) Be flood proof so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certification shall be provided to the official as set forth in Chapter IV, Section 3-C-(2).

C. Openings in Enclosures Below the Lowest Floor

For all new construction and substantial improvements, fully closed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (2) The bottom of all openings shall be no higher than one foot above grade;
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater

D. Manufactured Homes

- (1) Manufactured homes shall be anchored in accordance with Chapter V, Section 1-A.
- (2) All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system.

- (3) Manufactured homes shall be required to be placed or substantially improved on sites in an existing manufactured home part with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Chapter V, Sec. 2, D (1) through D(2) of this section and be elevated so that either:
 - (a) the lowest floor of the manufactured home is at or above the base flood elevation, or
 - (b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
- F. Recreational Vehicles – all recreational vehicles placed on sites within zones A1-30, AH and AE on the community's FIRM either:
- (1) be on a site for fewer than 180 consecutive days,
 - (2) be fully licensed and ready for highway use, or
 - (3) meet the permit requirements of Chapter IV, Section 1 (A), and the elevation and anchoring requirements for “manufactured homes” in Chapter V, Sec. 2 (D). A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

CHAPTER VI

DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations their most reasonable application.

APPEAL means a request for a review of the Director of Special Projects' interpretation of any provisions of these regulations or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD means the land in the floodplain within a community subject to a one-percent or greater change of flooding in any given year.

BASE FLOOD means the flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

BOARD - means The Board of Commissioners of Converse County.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DIRECTOR OF SPECIAL PROJECTS - means The County Director of Special Projects employed or retained by the Board.

ELEVATED BUILDING - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of

breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE MAP (FIRM) - means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood and the water surface elevation of the base flood.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a) by an approved state program as determined by the Secretary of the Interior or;
 - b) directly by the Secretary of the Interior in states without approved programs

IMPROVEMENTS AND/OR CONSTRUCTION - means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so to render the structure in violation of the applicable non-elevation design requirements of these regulations.

MANUFACTURED HOME - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes part trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

MANUFACTURED HOME PARK - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION - means structures for which the "state of construction" commenced on or after the effective date of these regulations or substantial improvement to such structures.

PLANNING COMMISSION - means The Converse County Planning and Zoning Commission.

RECREATIONAL VEHICLE - means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL PROJECTS OFFICE - means the office of the County Director of Special Projects.

STATE OF CONSTRUCTION - includes substantial improvement, and means the date the Flood Plan Construction Permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building or manufactured home that is principally above ground.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started, or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE - means a grant of relief from the requirements of these regulations, which permits construction in a manner that would otherwise be prohibited by these regulations.

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

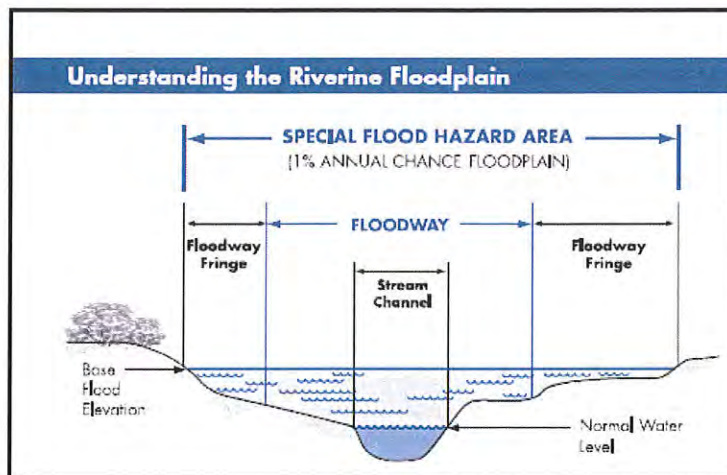
**CONSTRUCTION
REQUIREMENTS IN
SPECIAL FLOOD
HAZARD AREAS**

Construction Requirements in the Special Flood Hazard Area (A and AE Zones)

Any development in the floodway and 100 year floodplain (floodway fringe), also known as the Special Flood Hazard Area, must meet specific construction requirements in order to provide a certain level of protection to the building, its contents, and its occupants during a flood. In addition, certain land uses are restricted or prohibited in the floodway, 100 year floodplain, and 500 year floodplain.

To see if your property is in the Special Flood Hazard Area, you may use the city's GIS maps at <http://gis.albany.ga.us/external>. These directions may help you navigate the GIS: [Directions for Using the GIS Map](#). You may also call **Planning and Development Services at 229-438-3901** for further information and guidance.

The Special Flood Hazard Area (SFHA) is the floodway and floodway fringe. It is shown as Zones A and AE on our Flood Insurance Rate Maps. All proposed development in the Special Flood Hazard Area must be reviewed by Planning and Development Services prior to developing.

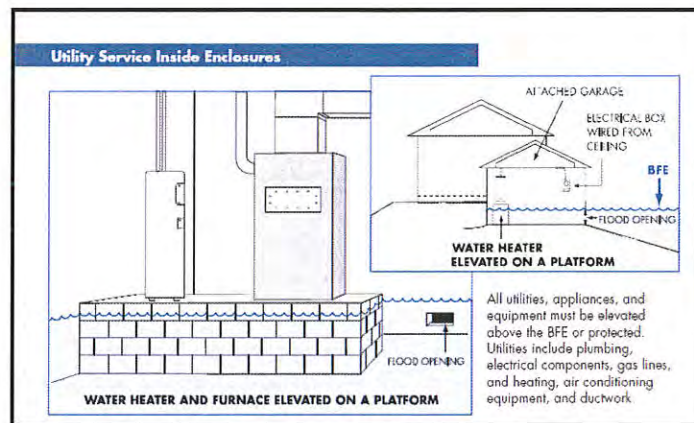
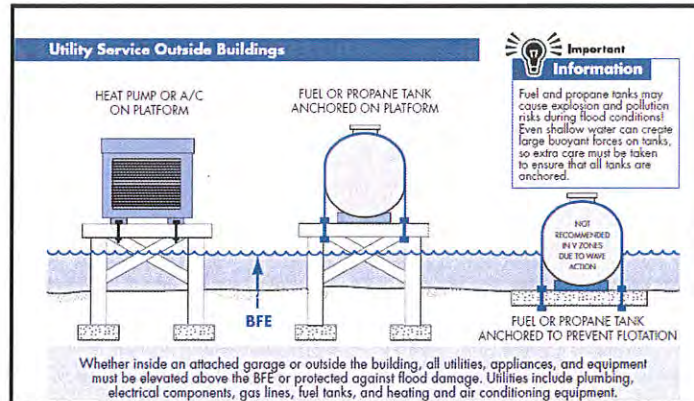
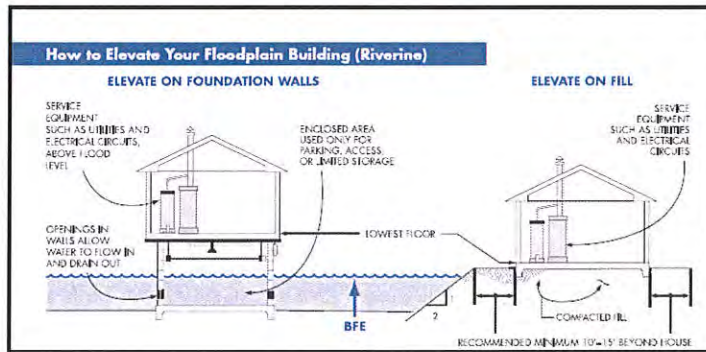


Development includes any man-made change to the land or buildings, including, but not limited to,

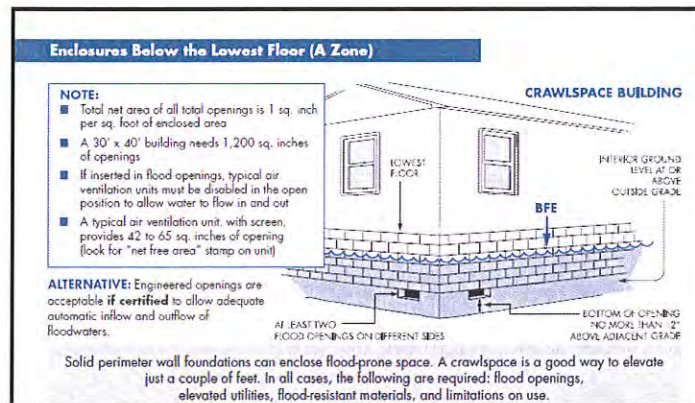
- *the construction of structures or additions to structures,*
- *the placement of mobile homes or accessory structures,*
- *the renovation, repair or improvement of the interior and/or exterior of existing structures,*
- *the conversion of garages, carports, storage rooms, porches, patios and similar spaces into living space,*
- *the addition or replacement of any machinery and equipment (HVAC units, propane tanks, etc.) servicing the building,*
- *mining, dredging, filling, grading, paving, excavating, drilling,*
- *the storage of materials or equipment.*

Elevation Requirements: Buildings that are being constructed in a flood hazard area are required to be elevated. The lowest finished floor of the living space and utilities or equipment servicing the building must be at least 1 foot above the Base Flood Elevation (BFE) in the city and at least 3 feet above the BFE in the county.

If the building is raised up high enough, then parking, storage, and building access areas may be located underneath the elevated floor of the building provided that the spaces are unfinished, the walls are constructed of flood resistant materials, and required flood openings are provided. This area cannot be utilized for living space. An affidavit must be signed by the owner indicating that this area will not be converted into living space.



Flood Vent Requirements: The enclosure or crawl space below the building must contain a sufficient number of flood vent openings so that flood waters can flow under the building and not buckle the foundation. The flood vents must be properly located: on at least two different sides of the building (preferably opposite sides) and with the bottom of the opening no more than 12" above the adjacent grade. The vents must be in a permanent open position with the tabs broken off. Engineered flood vents require less than half the number of openings, but are more expensive to purchase. Flood vents that are not at the proper height or location, or not locked in a permanent open position with the tabs broken off, cannot be counted as flood vents by the surveyor filling out the EC - or by the building inspector. If there are not enough flood vents, the building is then rated by the insurance company as having no flood vents at all; with a much higher flood insurance rate.

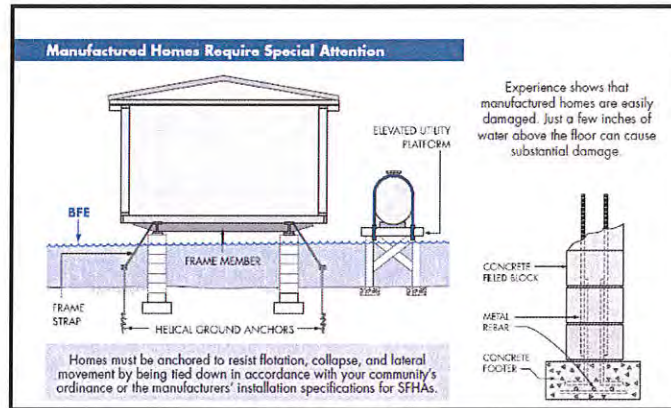


An **Elevation Certificate** is a form that is completed and certified by a licensed Land Surveyor. It documents the elevation of the ground and building at various points. It also documents the elevation of equipment servicing the building, such as the HVAC unit, water heater or propane tank. With new construction, building and ground elevations must be documented at three stages during the construction process: preconstruction, during construction and finished construction. We must have an original, signed and sealed "finished construction" EC that is accurate and that indicates compliance with the elevation and flood venting requirements before a Certificate of Occupancy can be granted.

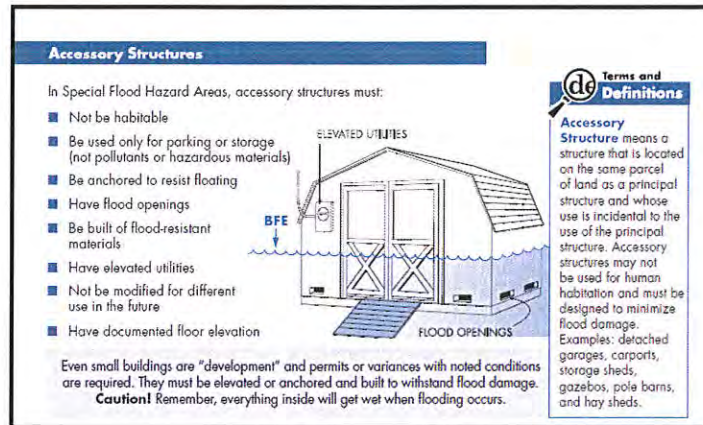
The floodway is extremely dangerous because it is an area of rapidly moving water during a flood. Development in the floodway is very restricted by our regulations. Most development in the floodway must receive Special Use Permit approval by the Floodplain Management Review Board. Any proposed encroachment in the floodway requires a technical evaluation by a licensed professional engineer to demonstrate that the project will not affect flood heights. A No-Rise Certification supported by technical data must be submitted by the professional engineer.

Floodproofing instead of elevation is acceptable for non-residential buildings in Special Flood Hazard Zones. Buildings must be floodproofed a minimum of 1 foot above the BFE in the city and a minimum of 3 feet above the BFE in the county. Floodproofing compliance must be documented on a Floodproofing Certificate and certified by a licensed engineer or architect.

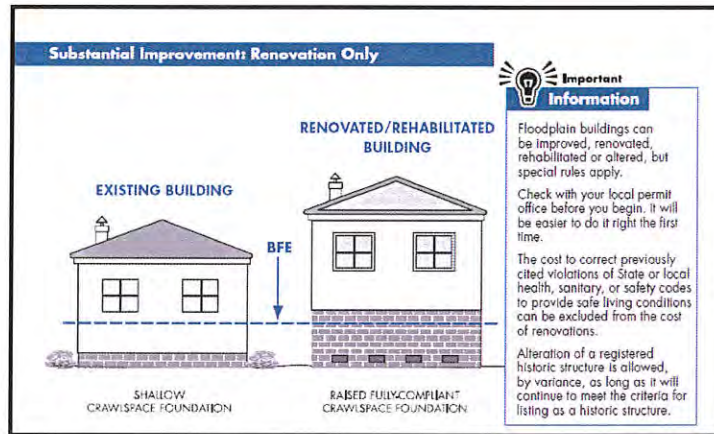
Manufactured (mobile) homes are required to be elevated on a permanent foundation and anchored, in accordance with FEMA guidelines. The elevation requirement for mobile homes is at least 1 ft. above BFE in the city and at least 3 ft. above BFE in the county. Some exceptions apply for manufactured homes in mobile home parks existing before 1978. In these parks, the mobile home only needs to be elevated and anchored three feet above ground level.



Accessory Structures that are not utilized for living space do not have to be elevated. However, they must be anchored, be constructed of flood resistant materials and have the required flood vent openings. Any utilities serving the accessory structure must be elevated at least 1 foot above BFE in the city and at least 3 feet above BFE in the county. An affidavit must be signed by the owner indicating that the building will not be converted into living space.



Substantial Improvement or Substantial Damage: The owner or the building contractor of **existing structures in the flood hazard area that will be renovated, repaired, improved or added onto** needs to provide a cost estimate of the proposed work before any permits can be issued. Depending on the cost of improvements, the year built, and the building's location in the city or county, the addition or the whole building may be required to be brought into compliance with current floodplain management ordinance standards for elevation or floodproofing.



Illustrations are from the "Floodplain Management in Georgia Quick Guide", published by the Georgia Dept. of Natural Resources in 2009. This publication is an excellent guide and is available online.

Specific regulations for development in the Special Flood Hazard Area are found in our [city](#) and [county](#) floodplain management ordinances. Additional regulations in regard to building near wetlands, streams and rivers are found in our [zoning ordinance](#), Title II, Articles 8 and 9.

WETLAND

REGULATION/PERMITTING

INFORMATION

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- [Oil Spill Prevention/Planning](#)
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Wetlands Regulations/Permits

This section of the CICA website provides a plain language explanation of how construction activity in wetlands is regulated. Included is an overview of federal rules and procedures and a discussion of how state governments participate in the permitting process. The specific permitting procedures for your construction project may deviate significantly from what is described here because of differences in state and local regulations. To further help you, we have developed a state wetlands information tool. This tool provides an overview of each state's regulations with links to more detailed information. Also, the tool provides links to state regulatory/permitting agencies and points of contact. Once you have read through the information presented here, it is recommended that you contact someone at your state environmental agency and Army Corps of Engineers district office for guidance.



[Army Corps and EPA Improve Wetland and Stream Mitigation](#)
 The U.S. Army Corps of Engineers and U.S. Environmental Protection Agency released an important rule on March 31, 2008 to clarify how to provide compensatory mitigation for unavoidable impacts to the nation's wetlands and streams. The rule enables the agencies to promote greater consistency, predictability and ecological success of mitigation projects under the Clean Water Act.

Contents of this web page:

- [Federal Law](#)
 - [Does My Proposed Project Require a Permit?](#)
 - [Applying for a Section 404 Permit](#)
 - [Permit Decisions](#)
 - [Types of Permits](#)
 - [Enforcement](#)
- [More Information on Section 404 Permits](#)
- [State Law](#)
 - [State Wetlands Information Tool \(SWIFT\)](#)

Federal Law

Although there are numerous federal and state laws that affect wetlands, the Clean Water Act (CWA) is the main regulatory tool. There are two sections of the CWA that are of particular significance:

- Section 404 of the Clean Water Act enables the Army Corps of Engineers (Corps) to grant permits for certain activities within waterways and wetlands. Construction projects affecting wetlands in any state cannot proceed until a §404 permit has been issued. In deciding whether to grant or deny a permit, the Corps must follow certain guidelines, which are discussed below.

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- Section 401 of the Clean Water Act gives EPA the authority to prohibit an activity, including a construction project, if it can impact water quality or have other unacceptable environmental consequences. For most states, EPA has delegated this authority to state environmental agencies.

These two regulatory activities are usually conducted cooperatively through use of a joint application form. The Army Corps of Engineers reviews permit applications to determine if practical alternatives to the project exist. They also impose mitigation requirements on the developer and perform a public interest review. The Corps also determines if other environmental laws must be addressed, including the National Environmental Policy Act, Endangered Species Act, and the National Historic Preservation Act. If the Corps' review reveals that the project should not proceed, they have the authority to either deny or condition the project. Then, using their §401 authority, state agencies review the permit application, looking closely at potential water quality impacts. When warranted, the states grant "§401 certification," which is needed before a §404 permit can be issued by the Corps.

Does My Proposed Project Require a §404 Permit? To answer this question you need to know the definition of a wetland and understand what constitutes a regulated construction activity.

From a federal standpoint (state definitions may vary), the term wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. To help add consistency to the process of determining if an area qualifies as a wetland and to delineate its boundaries, the Corps of Engineers published the [Federal Manual for Identifying and Delineating Jurisdictional Wetlands](#). There are two versions of this manual, the 1987 edition and the 1989 edition. Due to some political maneuvering (an explanation is beyond the scope of this web page), the 1987 version is the one that is used by the Corps.

The kinds of activities regulated under §404 of the CWA have expanded over the past 30 years, due mostly to changes in definitions of the terms found in the laws. Initially, regulated activities were limited to dredging operations and the "discharge of dredged materials" into waters of the U.S. It is important to mention this because, the law still limits the Corps authority to "waters of the U.S." and "discharge of dredged materials," but the interpretation of these terms has changed.

- Waters of the U.S. are defined in [33 CFR Part 238](#). This definition is very broad and encompassing and includes lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds.
- The definition of "discharge of dredged materials" was significantly expanded in the 1990's and clarified in 2001 to include any addition, including any redeposit of dredged material into waters of the U.S., which is incidental to any activity including mechanized land clearing, ditching, channelization or other excavation. Importantly, this revised definition prohibits the *incidental fallback* of a material during removal activities without a permit, unless the material falls back to substantially the same place as the initial removal.

In essence, it is difficult to avoid the permit process for any kind of construction activity within a wetland.

Applying for a §404 Permit. The Corps of Engineers issues two types of §404 permits applicable to the construction industry, general permits and individual permits. It is advisable that you contact the Corps and your state environmental agency prior to submitting a [§404 permit application form](#). The Corps will make a determination as to which permit, if any, will be required. The Corps may choose to make a site visit before making this determination. Each type of §404 permit is discussed below.

Once a complete application is received, the formal review process begins. Corps districts operate under a project manager system, where one individual is responsible for handling an application from receipt to final decision. The project manager prepares a public notice, evaluates the impacts of the project and all comments received, negotiates necessary modifications of the project if required, and drafts or oversees drafting of appropriate documentation to support a recommended permit decision. The permit decision document includes a discussion of the environmental impacts of the project, the findings of the public interest review process, and any special evaluation required by the type of proposed activity.

Types of Permits. There are two types of Section 404 permits issued by the Corps of Engineers, individual and general permits. The applicability of each type is described below.

Individual Permits. Activities in wetlands that involve more than minimal impacts require an individual permits. Most individual permits are issued through a process (see diagram), which begins with a permit application to a Corps office. Once a permit application is submitted, the Corps must notify the applicant of any deficiencies in the application within 15 days. After the applicant has supplied all required information the Corps will determine if the application is complete. Within 15 days of that determination, the Corps is required to issue a public notice of the application for posting at governmental offices, facilities near the proposed project site, and other appropriate sites. In the public notice, the Corps requires that any comments be provided within a specified period of time, usually 30 days.

The following is a summary of the typical processing procedure for a standard individual permit:

1. Pre-application consultation (optional)
2. Applicant submits ENG Form 4345 to district regulatory office.

3. Application received and assigned identification number.
4. Public notice issued (within 15 days of receiving all information).
5. 15 to 30 day comment period depending upon nature of activity.
6. Proposal is reviewed by Corps and:
 - Public
 - Special interest groups
 - Local agencies
 - State agencies
 - Federal agencies
7. Corps considers all comments.
8. Other Federal agencies consulted, if appropriate.
9. District engineer may ask applicant to provide additional information.
10. Public hearing held, if needed.
11. District engineer makes decision.
12. Permit issued or permit denied and applicant advised of reason.

General Permits. There are two types of §404 general permits, *regional permits* and *nationwide permits*. In both cases, these types of permits are issued when the proposed activities are minor in scope with minimal projected impacts. General permits reduce the amount of paperwork and time required to start a construction project. Regional permits, which are typically applicable to a certain state or area within a state, are not used for construction activities in wetlands and therefore are not discussed here. Nationwide permits (NWP) authorize specific types of activity, including construction activities. Permit applications may not be required for activities authorized by a general permit (the rules vary from permit to permit). General permits are valid only if the conditions applicable to the permits are met. If the conditions cannot be met, an individual permit will be required.

Previously, the most widely used NWP for construction activities related to residential and commercial development was NWP 26. NWP 26 was replaced by five new and six modified NWPs, all of which took effect on June 7, 2001. Two of the new NWPs cover work on stormwater-management facilities and two other new NWPs cover activities relating to mining and the construction of recreational facilities. Each of these NWPs is limited in scope and contains numerous conditions that preempt their use except of very specific projects. The recreational-facility nationwide permit (NWP 42) covers only facilities that do not substantially alter the natural landscape, like hiking trails. Small fills at golf courses may be eligible for coverage, but the majority of recreational facilities will not qualify. [NWP 39](#) is the replacement permit covering residential, commercial and institutional real estate development activities. To be eligible for that permit, projects cannot result in the fill of more than ½ acre of wetlands. A pre-construction notification must be filed with the Corps if the project will result in the fill of more than a specified acreage of wetlands. A list of NWPs can be found here: <http://www.spn.usace.army.mil/Missions/Regulatory/RegulatoryOverview/Nationwide.aspx>.

Permit Decisions. In deciding whether to grant a permit for a given wetland activity the Corps must follow permitting regulations (CWA Section 404(b)(1)), which are referred to as "sequencing guidelines." Applicants first must establish that impacts to wetlands cannot be avoided. Permit applicants then must demonstrate that reasonable efforts to minimize impacts to wetlands have been made in the design and construction plans. Having taken the first two steps, applicants then must provide a plan for compensation, usually through mitigation, for unavoidable impacts.

On average, individual permit decisions are made within two to three months from receipt of a complete application. In emergencies, decisions can be made in a matter of hours. Applications requiring Environmental Impact Statements (far less than one percent) are averaging about three years to process. The preparation of Environmental Impact Statements is governed by regulations implementing the [National Environmental Policy Act](#) (NEPA).

Enforcement. The laws that serve as the basis for the Corps regulatory program contain several enforcement provisions, which provide for criminal, civil, and administrative penalties. The responsibility for implementing enforcement provisions relating to Section 404 is jointly shared by the Corps and EPA. For this reason Army has signed a [Section 404 enforcement memorandum of agreement \(MOA\) with EPA](#) to ensure that the most efficient use is made of available Federal resources. Pursuant to this MOA, the Corps generally assumes responsibility for enforcement actions with the exception of those relating to certain specified violations involving unauthorized activities.

If a legal action is instituted against the person responsible for an unauthorized activity, an application for an after-the-fact permit cannot be accepted until final disposition of all judicial proceedings, including payment of all fees as well as completion of all work ordered by the court.

Presently about 5,100 alleged violations are processed in Corps district offices each year relating to Section 404.

More Information on §404 Permits:

[See Corps of Engineers Regulatory Program Overview](#)

[Find Your Corps of Engineers District Office](#)

State Law

Most states have enacted laws and regulations to protect wetlands. In many cases, these rules are established to define the state's role in the §404 permit/§401 certification process. However, some state laws have other impacts. For example, states may adopt a definition of wetlands or regulated activities that are different than the federal definitions. This could for example, qualify an area as a wetland that does not meet the federal definition.

Use the [State Wetlands Information Tool](#) to find out more about your state's rules.

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General Permit for Wetlands Mitigation

Fact Sheet

General Permit for Wetland Mitigation

REGULATORY BASIS: In 1972, the federal Clean Water Act (CWA) was amended to provide that the discharge of any pollutants from a point source into surface waters of the United States had to be regulated through the issuance of a NPDES permit. Under the CWA, states were given the authority to assume "primacy" to administer the NPDES program and issue such permits. The State of Wyoming obtained primacy in 1974.

Chapter 2, Wyoming Water Quality Rules and Regulations, provides the mechanism for general permitting under the WYPDES (Wyoming Pollutant Discharge Elimination System) program. The general permit is an administrative "tool" which can be used to issue a large number of permits with a relatively small administrative burden. Under the general permitting approach, a single generic permit is issued to cover a large number of facilities conducting similar activities within a common geographic area.

The most recent revision of Chapter 2, Wyoming Water Quality Rules and Regulations, was effective as of November 4, 2004, and the Wyoming "National Pollutant Discharge Elimination System" (NPDES) program was renamed the "Wyoming Pollutant Discharge Elimination System" (WYPDES) program. Chapter 2 states that owners or operators of any point source within the State of Wyoming who propose to commence discharging wastes into the waters of the state must file WYPDES permit applications and obtain a WYPDES permit. The revised Chapter 2 also includes mitigation requirements for activities that cause the destruction, damage, or impairment of naturally occurring isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands, the purpose of this general permit.

General Permit for Wetland Mitigation: This general permit for isolated wetlands mitigation authorizes the discharge of fill or dredge material into 1) naturally occurring *isolated* wetlands or 2) man-made *isolated* wetlands used to mitigate the loss of naturally occurring wetlands. According to the Clean Water Act, wetlands may be destroyed, but their loss must be compensated for by the restoration, creation, or enhancement of other wetlands. In theory, this strategy should result in "no net loss" of wetlands. "Mitigation" means all actions to avoid, minimize, restore, and compensate for ecological functions or wetlands values lost (35-11-103). This permit applies to the loss or destruction of greater than a cumulative one (1) acre of isolated wetland habitat for the total project.

"Isolated wetlands" means wetlands as defined by the Environmental Quality Act and Part I of this permit which do not meet the federal definition of waters of the United States but meet the state's definition of waters of the state as defined in the Environmental Quality Act and Part I of this permit. "Isolated water" means any surface water of the state which is not connected by a defined channel to a surface tributary system and is not within the 100 year flood plain of any river or stream and does not occupy the fringe of any still water body which is connected by a defined channel to a surface tributary system. Any discharge of dredge or fill material into wetlands isolated from Class 1, 2, or 3 waters (Per Chapter 1, Wyoming Water Quality Rules and Regulations) requires authorization under this permit. Those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division, are exempt from this requirement.

Prospective permittees shall file with the administrator a notice of intent (NOI) for coverage under an isolated wetlands mitigation general permit and a Mitigation Plan. Such Notices of Intent and Mitigation Plans must be filed and approved by the administrator prior to the commencement of the activity which will cause the wetland loss. The NOI requires characterization of 1) the activity which will impair an isolated wetland and 2) a Mitigation Plan for mitigating wetlands to offset the loss of wetland functions and values. The administrator shall approve all Mitigation Plans utilizing Wyoming Wetland Banked Credits in accordance with the "Wyoming Statewide Wetland Mitigation Bank - Guidelines for Interpretation and Implementation," April 1995, and consider alternate plans on a case-by-case basis. Facilities must implement the provisions of their Mitigation Plan as a condition of this permit.

The DEQ will review the NOI and Mitigation Plan and determine if the proposed activity is eligible for coverage under this permit. If the proposed activity is eligible for coverage under the general permit, the DEQ will send the operator notification, through a written facility certification form, that coverage has been granted.

General Permit for Wetlands Mitigation

Part I of the permit includes monitoring requirements. Monitoring reports are to be submitted to the Wyoming DEQ/WQD WYPDES Program by January 28, of each year. The permit also includes criteria for termination of the permit.

Activities Not Covered By This Permit:

Permit By Rule: This general permit does *not* apply to activity that affects one acre or less. According to permit by rule per Chapter 2, discharges of dredged or fill material into naturally occurring isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands which cause the loss or destruction of one acre or less of wetland habitat for the total project are permitted by rule and *do not require coverage* under this general permit.

The permit by rule discharge must also be in accordance with the following requirements: There shall be no discharge of solid wastes (as defined in Chapter 1, Section 1 [f] of the Department's Hazardous Waste Management Rules and Regulations), hazardous wastes, hazardous materials, hazardous constituents, radioactive material or any toxic substance.

This permit by rule is not applicable to those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division.

Other Activities Not Covered by this Permit:

- Those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division are not covered under this general permit.
- The discharge of chemicals, fuel, lubricants, sewage, and waste materials into the isolated wetlands are prohibited. Only clean fill material, free of toxic constituents in other than trace quantities shall be used.
- Wetland loss or mitigation impacting Class 1 surface waters are not authorized under this permit. The permit is scheduled to expire on April 30, 2011.

Once the isolated wetlands discharge has ceased and wetland mitigation is accomplished, a Notice of Termination must be submitted to the DEQ. Following a review, the Administrator will terminate coverage, deny termination, or request additional information.

If you have any questions or need additional information, contact Roland Peterson, WYPDES Permitting, at 307-777-7090.

General Permit for Wetlands Mitigation

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AUTHORIZATION FOR WETLAND MITIGATION UNDER THE WYOMING POLLUTANT DISCHARGE

ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, (hereinafter referred to as "the Act"), and the Wyoming Environmental Quality Act, facilities located within the State of Wyoming which involve wetland mitigation activities are hereby authorized to perform wetland mitigation in the State of Wyoming in accordance with the requirements of this permit.

This general WYPDES permit is issued under the provisions of Wyoming Water Quality Rules and Regulations Chapters 1 and 2.

This permit becomes effective on May 1, 2016. This permit shall expire on April 30, 2021.

Kevin Frederick, Administrator
Water Quality Division

Date

Todd Parfitt
Director - Department of Environmental Quality

Date

General Permit for Wetlands Mitigation

PART I 1.

AUTHORIZATION TO DISCHARGE

1.1. Coverage Under This Permit

1.1.1. Permit Area

This permit covers all areas within the State of Wyoming except areas within the Wind River Indian Reservation where the state does not have jurisdiction.

2. Activities Covered Under This Permit

2.1. This permit may provide coverage for any person who proposes a point source discharge of dredged or fill material into a naturally occurring isolated wetland or man-made isolated wetlands used to mitigate the loss of a naturally occurring wetland in such a manner that causes the loss or destruction of greater than a cumulative one (1) acre of wetland habitat for the total project;

3. Activities Not Covered Under This Permit:

3.1. Permit by rule

Discharges of dredged or fill material into naturally occurring isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring wetlands which cause the loss or destruction of *one acre or less* of wetland habitat for the total project are permitted by rule and do not require coverage under this general permit.

3.1.1. The permit by rule discharge must be in accordance with the following requirements:

3.1.1.1. There shall be no discharge of solid wastes (as defined in Chapter 1, Section 1 [f] of the Department's Hazardous Waste Management Rules and Regulations), hazardous wastes, hazardous materials, hazardous constituents, radioactive material or any toxic substance.

3.1.1.2. This permit by rule is not applicable to those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division.

3.2. Those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division are not covered under this general permit.

3.3. The discharge of chemicals, fuel, lubricants, sewage, and waste materials into the isolated wetlands are prohibited. Only clean fill material, free of toxic constituents in other than trace quantities shall be used

3.4. Wetland loss or mitigation impacting Class 1 surface waters are not authorized under this permit.

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4. Definitions

- 4.1. "**Compensatory mitigation**" means replacement, substitution or enhancement of ecological functions and wetland values to offset anticipated losses of those values caused by filling, draining or otherwise damaging a wetland;
- 4.2. "**Ecological function**" means the ability of an area to support vegetation and fish and wildlife populations, recharge aquifers, stabilize base flows, attenuate flooding, trap sediment and remove or transform nutrients and other pollutants;
- 4.3. "**Finally Stabilized**" means that all soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of 70% of the native background hydrophytic vegetative cover for the area has been established on the mitigated wetland.
- 4.4. "**Isolated water**" means any surface water of the state which is not connected by a defined channel to a surface tributary system and is not within the 100 year flood plain of any river or stream and does not occupy the fringe of any still water body which is connected by a defined channel to a surface tributary system.
- 4.5. "**Isolated wetlands**" means wetlands as defined by the Environmental Quality Act and Part I of this permit which do not meet the federal definition of waters of the United States but meet the state's definition of waters of the state as defined in the Environmental Quality Act and Part I of this permit.
- 4.6. "**Man-made wetlands**" means those wetlands that are created intentionally or occur incidental to human activities. This includes any enhancement made to an existing wetland which increases its function or value.
- 4.7. "**Mitigation**" means all actions to avoid, minimize, restore and compensate for ecological functions or wetland values lost;
- 4.8. "**Natural wetlands**" means those wetlands that occur independently of human manipulation of the landscape;
- 4.9. "**Waters of the state**" means all surface and ground water, including waters associated with wetlands, within Wyoming; Part I Page 4
- 4.10. "**Wetland value**" means those socially significant attributes of wetlands such as uniqueness/heritage, recreation, aesthetics and a variety of economic values.
- 4.11. "**Wetlands**" means those areas in Wyoming having all three (3) essential characteristics:
 - (1) Hydric soils; and
 - (2) Hydrophytic vegetation;
 - (3) Wetland hydrology.

5. Request for Authorization

5.1. Notice of Intent and Mitigation Plan

- 5.1.1. In order to be considered eligible for authorization to discharge dredge and fill material to isolated wetlands under the terms and conditions of this permit, the owner, operator, and/or authorized agent of any facility desiring to discharge dredge and fill material to wetlands must file with the administrator a

General Permit for Wetlands Mitigation

complete notice of intent (NOI) for coverage under an isolated wetlands mitigation general permit and a Mitigation Plan designed to offset the loss of wetland functions and values on a form provided by the Administrator (See Appendix A).

5.1.2. The NOI and Mitigation Plan must be submitted at least 30 days prior to the first anticipated date of discharge which will cause wetland loss and at a minimum must contain the following information in addition to a Mitigation Plan that is designed to offset the loss of wetland function and values.

5.1.3. Facilities must implement the provisions of their Mitigation Plan as a condition of this permit.

5.2. NOI Contents

5.2.1. Name, address, and phone number of the applicant;

5.2.2. Location and description of the isolated wetland that will be impacted, including the area of impact in acres, type of wetland, probable functional values, and source of water. The location of the wetland shall be reported in both the legal description (Quarter/Quarter, Section Township, and Range) and geographical (latitude/ and longitude in decimal degrees);

5.2.3. Name(s) and address(s) of property owners of the impacted property (ies);

5.2.4. Name(s) and address(s) of adjacent property owners who may be affected by the activity;

5.2.5. Applicant status as a federal, state, private, public, or other entity;

5.2.6. The NOI must be signed in accordance with Part II, Paragraph 1.11 of the permit;

5.2.7. The expected volume of dredge or fill material expected to be discharged into the wetland.

5.3. Mitigation Plan Contents at a minimum must contain the following: 5.3.1. Name,

address, and phone number of the applicant;

5.3.2. Location and description of the isolated wetland that will be impacted, including the area of impact in acres, type of wetland, probable functional values, and source of water. The location of the wetland shall be reported in both the legal description (Quarter/Quarter, Section Township, and Range) and geographical (latitude/ and longitude in decimal degrees);

5.3.3. Delineation of the impacted wetland using the U.S. Army Corps of Engineer's 1987 wetland delineation manual including maps, drawings, data sheets and conclusions;

5.3.4. Name(s) and address(s) of adjacent property owners who may be affected by the activity;

5.3.5. Name(s) and address(s) of property owners of the impacted property (ies), if property owner is different than the applicant;

5.3.6. Description of the activity causing the wetland impact;

5.3.7. Description of actions to be taken to fully offset damage to the impacted wetland;

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- 5.3.8. Where the proposed mitigation involves the construction of replacement wetlands or destruction and/or the enhancement of existing wetlands the location and description of the mitigation area including the name and address of the landowner, construction plans, maps, water sources and construction time tables;
- 5.3.9. Where the proposed mitigation involves the use of wetland credits recorded in the “Wyoming Statewide Wetland Mitigation Bank” a written authorization signed by the credit owner referencing the wetland credit file number and the amount of credit authorized for use;
- 5.3.10. List of related permissions and/or authorizations necessary to successfully complete the planned mitigation including but not limited to water rights, easements, and associated federal, state, or local permits.
- 5.3.11. If requested by the administrator or the administrator’s authorized agent, the permittee shall provide access to, physical locations associated with this permit including, but not limited to, any waters of the state associated with the permit at the point of discharge.
- 5.3.12. Photographs of each are of wetland impact displaying the condition and size of the wetland prior to discharge activities.
- 5.4. The NOI and Mitigation Plan shall be submitted to:
- Wyoming Department of Environmental Quality Water Quality
Division - WYPDES Program 122 West 25th Street (4th Floor)
Cheyenne, Wyoming 82002
- 5.4.1. Discharge of dredge and fill material to isolated wetlands, under the terms and conditions of this permit, receive coverage when the Administrator provides a written authorization to the applicant that the Notice of Intent has been accepted and the permitted activity is covered under the general permit. In the case of disapproval, the Administrator shall specify in writing the reason(s) for the disapproval and action(s) that the applicant must take to gain approval.
- 5.5. Processing procedures for notices of intent.
- 5.5.1. The administrator shall review each notice of intent and make a completeness determination within 30 days of receipt of the notice of intent. If the notice of intent and supplemental information are deemed to be complete, processing of the notice of intent shall proceed in accordance with Section 4 (f) of Chapter 2, Wyoming Water Quality Rules and Regulations, and Part I, Section 5 of this permit. If the administrator determines that the notice of intent is incomplete, a notice shall be provided to the applicant, describing the additional information needed in order to complete the processing of the notice of intent, within 45 days of receipt of the notice of intent. The completeness of any notice of intent shall be judged independently of the status of any other notice of intent for the same facility or activity.
- 5.5.2. Upon determination of completeness or as specified in the general permit, the administrator, or his authorized representative, shall make a determination on issuance or denial of the authorization for coverage under the general permit. If the administrator, or his authorized representative, proposes that the discharge be authorized, the administrator, or his authorized representative, will also identify any conditions of authorization.
- 5.5.3. Discharges associated with wetland destruction/mitigation activities receive coverage under this permit when the Administrator provides a written authorization to the applicant that the Notice of Intent has been

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accepted and the permitted activity is covered under the general permit.

5.6. The Criteria For Approval Of Mitigation Plans Under The General Permit

5.6.1. The administrator shall approve all Mitigation Plans utilizing Wyoming Wetland Banked Credits in accordance with the "Wyoming Statewide Wetland Mitigation Bank - Guidelines for Interpretation and Implementation," April 1995;

5.6.2. The administrator shall approve all Mitigation Plans involving the creation of new replacement wetlands, the restoration of degraded wetlands, or the enhancement of existing wetlands that are not recorded in the Statewide Wetland Mitigation Bank but meet the substantial elements of the wetland banking guidelines;

5.6.3. The administrator may approve types of mitigation other than those described in the April 1995 Wetland Mitigation Bank Guidelines on a case-by-case basis after consideration of the ecological function and wetland value of the impacted wetlands and the net environmental benefit of the proposed mitigation. Such types of mitigation may include but are not limited to the acquisition of conservation easements, contributions to specific private or public habitat improvement projects, or modifications to the geographic and ecological limitations expressed in the wetland banking guidelines.

6. If requested by the administrator or the administrator's authorized agent, the permittee shall provide access to, physical locations associated with this permit including, but not limited to, any waters of the state associated with the permit at the point of discharge

7. Self-Monitoring And Inspection Requirements

7.1. Active Mitigation Sites

During wetland construction, qualified personnel having wetland training, provided by the permittee, shall inspect the site at least monthly. At a minimum, the inspection must include an evaluation of:

7.1.1. Disturbed areas for uncontrolled erosion;

7.1.2. Erosion control Best Management Practices (BMPs) utilized on site to determine if the BMPs are functioning properly;

7.1.3. Chemical storage areas and vehicles for leaks, drips, and/or spills;

7.1.4. Percentage of the regrowth of vegetation at the site.

All instances of uncontrolled erosion, improperly functioning BMPs and discharges of chemicals to a surface water of the state must be identified in the inspection report and corrected within 2 working days. Identified discharge of chemicals must be mitigated immediately and reported within 24 hours as a spill and would be subject to possible enforcement as an unpermitted discharge. The steps to correct the problems must also be identified in the inspection report.

7.2. Inactive Mitigation Sites

During seasonal shutdowns and during the period following completion of mitigation, but prior to return of the site to "finally stabilized" conditions and termination of coverage under the permit, qualified personnel (provided by the permittee) shall inspect the site at least twice a year, once in the spring and once in the fall. The inspection must

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include an evaluation, as appropriate, of the following conditions:

- 7.2.1. Disturbed areas for uncontrolled erosion;
- 7.2.2. Erosion control BMPs utilized on site to determine if the BMPs are functioning properly;
- 7.2.3. Chemical storage areas and vehicles for leaks, drips and/or spills;
- 7.2.4. The percentage of the regrowth of vegetation at the site.

7.3. The operator shall keep a record of inspections and retain them for three years as per Part I, Section 11 of this permit.

7.3.1. The permittee must submit an annual report that includes copies of the inspection report that includes copies of the inspection reports referenced above to the administrator by January 28 of each year.

7.3.2. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part II., Paragraph 1.11), and submitted to:

Wyoming Department of Environmental Quality Water Quality
Division, WYPDES Program Herschler Building, 4 West 122
West 25th Street
Cheyenne, WY 82002 Telephone: (307)
777-7781 7.3.3.

8. Notice of Termination

8.1. When a site has been finally stabilized according to the definition in Part I (4) of this permit, the permittee is no longer required to have coverage under this permit. At that time the permittee shall submit to the Administrator a Notice of Termination (NOT), as provided by the Administrator (or, Appendix B of this permit). Following a review, the Administrator will terminate coverage, deny termination, or request additional information.

8.2. The permittee will receive a written confirmation of the Administrator's actions.

9. Surface Water Quality Standards.

Nothing in this permit in any way relieves the permittee from complying with water quality standards as defined in Wyoming Department of Environmental Quality Rules and Regulations and/or the Environmental Quality Act or any other local, state, or federal regulations.

10. Test Procedures

Test procedures for the analysis of pollutants, collection of samples, sample containers, sample preservation, and holding times, shall conform to regulations published pursuant to 40 CFR, Part 136, unless other test procedures have been specified in this permit.

11. Records Retention

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The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the administrator at any time. Data collected on site, copies of Discharge Monitoring Reports and a copy of this WYPDES permit must be maintained on site during the duration of activity at the permitted location.

12. Penalties for Tampering

The Act provides that any person who falsifies, tampers with or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or both.

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PART II

1. MANAGEMENT REQUIREMENTS

1.1. Changes

The permittee shall give notice to the administrator of the Water Quality Division as soon as possible of any physical alterations or additions to the permitted facility. Notice is required when:

1.1.1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29 (b); or

1.1.2. The alteration or addition could change the nature or increase the quantity of pollutants discharged.

1.2. Noncompliance Notification

1.2.1. The permittee shall give advance notice of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

1.2.2. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances. The report shall be made to the Water Quality Division, Wyoming Department of Environmental Quality at (307) 777-7781.

1.2.3. A written submission shall be provided within five (5) days of the time that the permittee becomes aware of a noncompliance circumstance as described in paragraph b. above.

1.2.4. The written submission shall contain:

1.2.4.1. A description of the noncompliance and its cause;

1.2.4.2. The period of noncompliance, including exact dates and times;

1.2.4.3. The estimated time noncompliance is expected to continue if it has not been corrected; and

1.2.4.4. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

1.2.5. The following occurrences of unanticipated noncompliance shall be reported by telephone to the Water Quality Division, Watershed Management Section, WYPDES Program (307) 777-7781 by the first workday following the day the permittee became aware of the circumstances.

1.2.5.1. Any unanticipated bypass that exceeds any effluent limitation in the permit;

1.2.5.2. Any upset which exceeds any effluent limitation in the permit; or

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1.2.5.3. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.

1.2.5.4. The administrator of the Water Quality Division may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Quality Division, Watershed Management Section, WYPDES Program (307) 777-7781.

1.2.5.5. The permittee shall report all instances of noncompliance that have not been specifically addressed in any part of this permit at the time the monitoring reports are due.

1.3. Facilities Operation

1.3.1. The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

1.4. Adverse Impact

1.4.1. The permittee shall take all reasonable steps to minimize any adverse impact to waters of the state resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

1.5. Bypass of Treatment Facilities

1.5.1. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

1.5.2. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section. Return of removed substances to the discharge stream shall not be considered a bypass under the provisions of this paragraph.

1.5.3. Notice:

1.5.3.1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice at least 60 days before the date of the bypass.

1.5.3.2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.A.2.

1.5.4. Prohibition of bypass.

1.5.4.1. Bypass is prohibited and the administrator of the Water Quality Division may take enforcement action

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against a permittee for a bypass, unless:

- 1.5.4.2. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
- 1.5.4.3. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- 1.5.4.4. The permittee submitted notices as required under paragraph 1.5.3. of this section.
- 1.5.4.5. The administrator of the Water Quality Division may approve an anticipated bypass, after considering its adverse effects, if the administrator determines that it will meet the three conditions listed above in paragraph 1.5.4.1 of this section.

1.6. Upset Conditions

- 1.6.1. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improper designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 1.6.2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph c. of this section are met.
- 1.6.3. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
 - 1.6.3.1. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - 1.6.3.2. The permitted facility was at the time being properly operated;
 - 1.6.3.3. The permittee submitted notice of the upset as required under Part II, Paragraph 1.2; and 1.6.3.4. The permittee complied with any remedial measures required under Part II, Paragraph 1.4.
- 1.6.3.5. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

1.7. Removed Substances

- 1.7.1. Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters or intake waters shall be disposed of in a manner such as to prevent any pollutant from such

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materials from entering waters of the state.

1.8. Power Failures

- 1.8.1. In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:
- 1.8.2. In accordance with a schedule of compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities; or
- 1.8.3. If such alternative power source as described in paragraph a. above is not in existence and no date for its implementation appears in Part I, take such precautions as are necessary to maintain and operate the facility under its control in a manner that will minimize upsets and insure stable operation until power is restored.

1.9. Duty to Comply

- 1.9.1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal act and the Wyoming Environmental Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the administrator of the Water Quality Division advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.

1.10. Duty to Mitigate

- 1.10.1. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

1.11. Signatory Requirements

- 1.11.1. All applications, reports or information submitted to the administrator of the Water Quality Division shall be signed and certified.
- 1.11.2. All permit applications shall be signed as follows:
 - 1.11.2.1. For a corporation: by a responsible corporate officer;
 - 1.11.2.2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
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 - 1.11.2.3. For a municipality, state, federal or other public agency: by either a principal executive officer or ranking elected official.
- 1.11.3. All reports required by the permit and other information requested by the administrator of the Water Quality Division shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 1.11.3.1. The authorization is made in writing by a person described above and submitted to the administrator of the Water Quality Division; and

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1.11.3.2. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

1.11.3.2.1. If an authorization under paragraph II.A.11.b. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph II.A.11.b must be submitted to the administrator of the Water Quality Division prior to or together with any reports, information or applications to be signed by an authorized representative.

1.11.3.3. Any person signing a document under this section shall make the following certification:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. RESPONSIBILITIES

2.1. Inspection and Entry

2.1.1. If requested, the permittee shall provide written certification from the surface landowner(s), if different than the permittee, that the administrator or the administrator's authorized agent has access to all physical locations associated with this permit including well heads, discharge points, reservoirs, monitoring locations, and any waters of the state.

2.1.2. The permittee shall allow the administrator of the Water Quality Division or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

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2.1.2.1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

2.1.2.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

2.1.2.3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

2.1.2.4. Sample or monitor, at reasonable times, to assure permit compliance or as otherwise authorized by

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the federal act, any substances or parameters at any location.

2.2. Transfer of Ownership or Control

2.2.1. In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the regional administrator of the Environmental Protection Agency and the administrator of the Water Quality Division. The administrator of the Water Quality Division shall then provide written notification to the new owner or controller of the date in which they assume legal responsibility of the permit. The permit may be modified or revoked and reissued to change the name of the permittee and incorporate such other requirements as described in the federal act.

3. Availability of Reports

3.1. Except for data determined to be confidential under Section 308 of the federal act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Wyoming Department of Environmental Quality and the regional administrator of the Environmental Protection Agency. As required by the federal act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the federal act.

4. Toxic Pollutants

4.1. The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the federal act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Changes in Discharge of Toxic Substances

5.1. Notification shall be provided to the administrator of the Water Quality Division as soon as the permittee knows of, or has reason to believe:

5.1.1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

5.1.1.1. One hundred micrograms per liter (100 µg/l);

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5.1.1.2. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

5.1.1.3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21 (g) (7); or

General Permit for Wetlands Mitigation

5.1.1.4. The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).

5.2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

5.2.1. Five hundred micrograms per liter (500 µg/l);

5.2.2. One milligram per liter (1 mg/l) for antimony;

5.2.3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21 (g) (7); or

5.2.4. The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).

6. Civil and Criminal Liability

6.1. Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. As long as the conditions related to the provisions of "Bypass of Treatment Facilities" (Part II.A.5), "Upset Conditions" (Part II.A.6), and "Power Failures" (Part II.A.8) are satisfied then they shall not be considered as noncompliance.

7. Need to Halt or Reduce Activity not a Defense

7.1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

8. Oil and Hazardous Substance Liability

8.1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under Section 311 of the federal act.

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9. State Laws

9.1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to any applicable state or federal law or regulation. In addition, issuance of this permit does not substitute for any other permits required under the Clean Water Act or any other federal, state, or local law.

10. Property Rights

General Permit for Wetlands Mitigation

10.1. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringement of federal, state or local laws or regulations.

11. Duty to Reapply

11.1. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.

12. Duty to Provide Information

12.1. The permittee shall furnish to the administrator of the Water Quality Division, within a reasonable time, any information which the administrator may request to determine whether cause exists for modifying, revoking and reissuing or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the administrator, upon request, copies of records required by this permit to be kept.

13. Other Information

13.1. When the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or any report to the administrator of the Water Quality Division, it shall promptly submit such facts or information.

14. Permit Action

14.1. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

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General Permit for Wetlands Mitigation
PART III

1. OTHER REQUIREMENTS

1.1. Flow Measurement

1.1.1. At the request of the administrator of the Water Quality Division, the permittee must be able to show proof of the accuracy of any flow measuring device used in obtaining data submitted in the monitoring report. The flow measuring device must indicate values of within plus or minus ten (10) percent of the actual flow being measured.

2. 208(b) Plans

2.1. This permit may be modified, suspended or revoked to comply with the provisions of any 208(b) plan certified by the Governor of the State of Wyoming.

3. Reopener Provision

3.1. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary) or other appropriate requirements if one or more of the following events occurs:

3.1.1. The state water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit;

3.1.2. A total maximum daily load (TMDL) and/or watershed management plan is developed and approved by the state and/or the Environmental Protection Agency which specifies a wasteload allocation for incorporation in this permit;

3.1.3. A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit;

3.1.4. Downstream impairment is observed and the permitted facility is contributing to the impairment;

3.1.5. The limits established by the permit no longer attain and/or maintain applicable water quality standards;

3.1.6. The permit does not control or limit a pollutant that has the potential to cause or contribute to a violation of a state water quality standard.

3.1.7. If new applicable effluent guidelines and/or standards have been promulgated and the standards are more stringent than the effluent limits established by the permit.

3.1.8. In order to protect water quality standards in neighboring states, effluent limits may be incorporated into this permit or existing limits may be modified to ensure that the appropriate criteria, water quality standards and assimilative capacity are attained.

4. Permit Modification

4.1. After notice and opportunity for a hearing, this permit may be modified, suspended or revoked

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in whole or in part during its term for cause including, but not limited to, the following:

- 4.1.1. Violation of any terms or conditions of this permit;
- 4.1.2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- 4.1.3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- 4.1.4. If necessary to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b) (2) (C) and (D), 304 (b) (2) and 307 (a) (2) of the federal act, if the effluent standard or limitation so issued or approved:
- 4.1.5. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
- 4.1.6. Controls any pollutant not limited in the permit.

5. Toxicity Limitation - Reopener Provision

- 5.1. This permit may be reopened and modified (following proper administrative procedures) to include a new compliance date, additional or modified numerical limitations, a new or different compliance schedule, a change in the whole effluent protocol or any other conditions related to the control of toxicants if one or more of the following events occur:
 - 5.1.1. Toxicity was detected late in the life of the permit near or past the deadline for compliance;
 - 5.1.2. The TRE results indicate that compliance with the toxic limits will require an implementation schedule past the date for compliance and the permit issuing authority agrees with the conclusion;
 - 5.1.3. The TRE results indicate that the toxicant(s) represent pollutant(s) that may be controlled with specific numerical limits and the permit issuing authority agrees that numerical controls are the most appropriate course of action;
 - 5.1.4. Following the implementation of numerical controls on toxicants, the permit issuing authority agrees that a modified whole effluent protocol is necessary to compensate for those toxicants that are controlled numerically;
 - 5.1.5. The TRE reveals other unique conditions or characteristics which, in the opinion of the permit issuing authority, justify the incorporation of unanticipated special conditions in the permit.

6. Severability

- 6.1. The provisions of this permit are severable and if any provision of this permit, or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit, shall not be affected thereby.

7. Penalties for Falsification of Reports

- 7.1. The federal act provides that any person who knowingly makes any false statement, representation or

General Permit for Wetlands Mitigation

certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation or by imprisonment for not more than two years per violation or both.

General Permit for Wetlands Mitigation

APPENDIX A NOTICE OF INTENT FOR WETLANDS MITIGATION

This Notice of Intent is being filed for:

0 An isolated wetlands mitigation project which does not currently have coverage under a general permit for discharges.

MITIGATION PLAN: Please complete this form and include a Mitigation Plan:

1) Name, address, and telephone number of the company, individual, or organization which will have responsibility for the isolated wetlands impairment and mitigation and which will be the permit holder.

Name: Address:

Telephone: _____

Characterization of the Activity Which Will Impair Wetland

a) Location and description of the isolated wetland that will be impacted, including the area of impact in acres, type of wetland, probable functional values, and source of water;

Project Name:

2) Quarter: _____ Section: _____ Township: _____ Range: _____ County: _____

Latitude _____ Longitude _____
Area of impact in acres _____

Type of wetland

Probable functional values _____ Source of
water

General Permit for Wetlands Mitigation

b. Delineation of the impacted wetland using the U.S. Army Corps of Engineer's 1987 Wetland Delineation Manual, including maps, drawings, data sheets and conclusions;

c) Name(s) and address(s) of impacted property owner(s) (if different from applicant):

Name:

Address:

Telephone:

d) Name(s) and address(s) of adjacent property owner(s) who may be affected by the impacted wetland area;

Name: Address:

Telephone:

e) Description of the activity causing the wetland impairment;

f) Name of the drainage basin and nearest waters to the isolated wetlands:

General Permit for Wetlands Mitigation

3) MITIGATED WETLAND CHARACTERIZATION:

- a. Description of actions to be taken to fully offset damage to the impacted wetland;
- b. Does the proposed mitigation involve the construction of replacement wetlands or the enhancement of existing wetlands?
 - i. Where the proposed mitigation involves the construction of replacement wetlands or the enhancement of existing wetlands, this permit requires the location and description of the mitigation area including the name and address of the landowner, construction plans, maps, water sources and construction time tables;
- c. Does the proposed mitigation involve the use of wetland credits recorded in the “Wyoming Statewide Wetland Mitigation Bank?”
 - i. Where the proposed mitigation involves the use of wetland credits recorded in the “Wyoming Statewide Wetland Mitigation Bank”, this permit requires a written authorization signed by the credit owner referencing the wetland credit file number and the amount of credit authorized for use;
- d. List of related permissions and/or authorizations necessary to successfully complete the planned mitigation including but not limited to water rights, easements, and associated federal, state or local permits.
- e. Administrator’s authorized agent, the permittee shall provide access to, physical locations associated with this permit including, but not limited to, any waters of the state associated with the permit at the point of discharge.

General Permit for Wetlands Mitigation

20. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

<i>Authorized signatories for this notice of intent are the following:</i>	
<i>For corporations:</i>	<i>A principal executive officer of at least the level of vice president, or the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the overall operation of the facility from which the discharge originates.</i>
<i>For partnerships:</i>	<i>A general partner.</i>
<i>For a sole proprietorship:</i>	<i>The proprietor.</i>
<i>For a municipal, state, federal or other public facility:</i>	<i>Either a principal executive officer or ranking elected official.</i>

Printed Name of Person SigningTitle

Signature of Applicant*DateTelephone

Mail this application to:
WYPDES Permits Section
DEQ/WQD
Herschler Building - 4 W
122 West 25th Street
Cheyenne, WY 82002

*All permit applications must be signed in accordance with 40 CFR Part 122.22, "for" or "by" signatures are not acceptable.

Section 35-11-901
of Wyoming Statutes

<i>FOR AGENCY USE ONLY</i>							
<i>Certification Number</i>							
<i>W</i>	<i>Y</i>	<i>W</i>	<i>E</i>	<i>T</i>			
<i>Date Received</i>							
<i>MM</i>		<i>DD</i>			<i>YY</i>		

provides that:
Any person who knowingly makes any false statement, representation, or certification in any application ... shall upon conviction be fined not more than \$10,000 or imprisoned for not more than one year, or both.

General Permit for Wetlands Mitigation

*APPENDIX B
TERMINATION NOTICE*

Name, address, and telephone number of the company, individual, or organization that received authorization for an isolated wetlands discharge under the attached general permit.

1. Name: _____

Address: _____

Telephone: _____

2. Identification number assigned to this temporary discharge: WYWET _____

3. Project Name: _____

Certification:

I certify under penalty of law that the isolated wetlands discharge identified above has been completed and that the discharge locations have been returned to approximate pretest conditions. I understand that by submitting this notice I am terminating coverage under Wyoming's general WYPDES permit for isolated wetlands discharges. I also understand that if, at a later date, it is determined that the site was inadequately reclaimed and pollutant discharge results, I may be liable for discharging pollutants without a permit.

Printed Name of Person Signing

Title

Signature

Date

Telephone

Section 35-11-901 of Wyoming Statutes provides that:

"Any person who knowingly makes any false statement, representation, or certification in any application ... shall, upon conviction, be fined not more than \$10,000 per day for each violation or imprisoned for not more than one (1) year or both."

Upon completion, remove this notice from the permit and mail to:

WYPDES Permits Section
DEQ/WQD
Herschler Building - 4 W
122 West 25th Street
Cheyenne, WY 82002

TITLE 33

ARMY CORP

OF

ENGINEERS

Code of Federal Regulations

Title 33 - Navigation and Navigable Waters

Volume: 3

Date: 2012-07-01

Original Date: 2012-07-01

Title: PART 332 - COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES

Context: Title 33 - Navigation and Navigable Waters. CHAPTER II - CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE.

Pt. 332

PART 332—COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES

Sec.

332.1 Purpose and general considerations.

332.2 Definitions.

332.3 General compensatory mitigation requirements.

332.4 Planning and documentation.

332.5 Ecological performance standards.

332.6 Monitoring.

332.7 Management.

332.8 Mitigation banks and in-lieu fee programs.

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; and Pub. L. 108-136.

Source: 73 FR 19670, Apr. 10, 2008, unless otherwise noted.

§ 332.1 Purpose and general considerations.

(a) *Purpose.* (1) The purpose of this part is to establish standards and criteria for the use of all types of compensatory mitigation, including on-site and off-site permittee-responsible mitigation, mitigation banks, and in-lieu fee mitigation to offset unavoidable impacts to waters of the United States authorized through the issuance of Department of the Army (DA) permits pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344) and/or sections 9 or 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403). This part implements section 314(b) of the 2004 National Defense Authorization Act (Pub. L. 108-136), which directs that the standards and criteria shall, to the maximum extent practicable, maximize available credits and opportunities for mitigation, provide for regional variations in wetland conditions, functions, and values, and apply equivalent standards and criteria to each type of compensatory mitigation. This part is intended to further clarify mitigation requirements established under U.S. Army Corps of Engineers (Corps) and U.S. Environmental Protection Agency (U.S. EPA) regulations at 33 CFR part 320 and 40 CFR part 230, respectively.

(2) This part has been jointly developed by the Secretary of the Army, acting through the Chief of Engineers, and the Administrator of the Environmental Protection Agency. From time to time guidance on interpreting and implementing this part may be prepared jointly by U.S. EPA and the Corps at the national or regional level. No modifications to the basic application, meaning, or intent of this part will be made without further joint rulemaking by the Secretary of the Army, acting through the Chief of Engineers and the Administrator of the Environmental Protection Agency, pursuant to the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

(b) *Applicability.* This part does not alter the regulations at § 320.4(r) of this title, which address the general mitigation requirements for DA permits. In particular, it does not alter the circumstances under which compensatory mitigation is required or the definitions of "waters of the United States" or "navigable waters of the United States," which are provided at parts 328 and 329 of this chapter, respectively. Use of resources as compensatory mitigation that are not otherwise subject to regulation under section 404 of the Clean Water Act and/or sections 9 or 10 of the Rivers and Harbors Act of 1899 does not in and of itself make them subject to such regulation.

(c) *Sequencing.* (1) Nothing in this section affects the requirement that all DA permits subject to section 404 of the Clean Water Act comply with applicable provisions of the Section 404(b)(1) Guidelines at 40 CFR part 230.

(2) Pursuant to these requirements, the district engineer will issue an individual section 404 permit only upon a determination that the proposed discharge complies with applicable provisions of 40 CFR part 230, including those which require the permit applicant to take all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the United States. Practicable means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Compensatory mitigation for unavoidable impacts may be required to ensure that an activity requiring a section 404 permit complies with the Section 404(b)(1) Guidelines.

(3) Compensatory mitigation for unavoidable impacts may be required to ensure that an activity requiring a section 404 permit complies with the Section 404(b)(1) Guidelines. During the 404(b)(1) Guidelines compliance analysis, the district engineer may determine that a DA permit for the proposed activity cannot be issued because of the lack of appropriate and practicable compensatory mitigation options.

(d) *Public interest.* Compensatory mitigation may also be required to ensure that an activity requiring authorization under section 404 of the Clean Water Act and/or sections 9 or 10 of the Rivers and Harbors Act of 1899 is not contrary to the public interest.

(e) *Accounting for regional variations.* Where appropriate, district engineers shall account for regional characteristics of aquatic resource types, functions and services when determining performance standards and monitoring requirements for compensatory mitigation projects.

(f) *Relationship to other guidance documents.* (1) This part applies instead of the "Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks," which was issued on November 28, 1995, the "Federal Guidance on the Use of In-Lieu Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act," which was issued on November 7, 2000, and Regulatory Guidance Letter 02-02, "Guidance on Compensatory Mitigation Projects for Aquatic Resource Impacts Under the Corps Regulatory Program Pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899" which was issued on December 24, 2002. These guidance documents are no longer to be used as compensatory mitigation policy in the Corps Regulatory Program.

(2) In addition, this part also applies instead of the provisions relating to the amount, type, and location of compensatory mitigation projects, including the use of preservation, in the February 6, 1990, Memorandum of Agreement (MOA) between the Department of the Army and the Environmental Protection Agency on the Determination of Mitigation Under the Clean Water Act Section 404(b)(1) Guidelines. All other provisions of this MOA remain in effect.

§ 332.2 Definitions.

For the purposes of this part, the following terms are defined:

Adaptive management means the development of a management strategy that anticipates likely challenges associated with compensatory mitigation projects and provides for the implementation of actions to address those challenges, as well as unforeseen changes to those projects. It requires consideration of the risk, uncertainty, and dynamic nature of compensatory mitigation projects and guides modification of those projects to optimize performance. It includes the selection of appropriate measures that will ensure that the aquatic resource functions are provided and involves analysis of monitoring results to identify potential problems of a compensatory mitigation project and the identification and implementation of measures to rectify those problems.

Advance credits means any credits of an approved in-lieu fee program that are available for sale prior to being fulfilled in accordance with an approved mitigation project plan. Advance credit sales require an approved in-lieu fee program instrument that meets all applicable requirements including a specific allocation of advance credits, by service area where applicable. The instrument must also contain a schedule for fulfillment of advance credit sales.

Buffer means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

Compensatory mitigation means the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting

unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Compensatory mitigation project means compensatory mitigation implemented by the permittee as a requirement of a DA permit (*i.e.*, permittee-responsible mitigation), or by a mitigation bank or an in-lieu fee program.

Condition means the relative ability of an aquatic resource to support and maintain a community of organisms having a species composition, diversity, and functional organization comparable to reference aquatic resources in the region.

Credit means a unit of measure (e.g., a functional or areal measure or other suitable metric) representing the accrual or attainment of aquatic functions at a compensatory mitigation site. The measure of aquatic functions is based on the resources restored, established, enhanced, or preserved.

DA means Department of the Army.

Days means calendar days.

Debit means a unit of measure (e.g., a functional or areal measure or other suitable metric) representing the loss of aquatic functions at an impact or project site. The measure of aquatic functions is based on the resources impacted by the authorized activity.

Enhancement means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation) means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area and functions.

Fulfillment of advance credit sales of an in-lieu fee program means application of credits released in accordance with a credit release schedule in an approved mitigation project plan to satisfy the mitigation requirements represented by the advance credits. Only after any advance credit sales within a service area have been fulfilled through the application of released credits from an in-lieu fee project (in accordance with the credit release schedule for an approved mitigation project plan), may additional released credits from that project be sold or transferred to permittees. When advance credits are fulfilled, an equal number of new advance credits is restored to the program sponsor for sale or transfer to permit applicants.

Functional capacity means the degree to which an area of aquatic resource performs a specific function.

Functions means the physical, chemical, and biological processes that occur in ecosystems.

Impact means adverse effect.

In-kind means a resource of a similar structural and functional type to the impacted resource.

In-lieu fee program means a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for DA permits. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor. However, the rules governing the operation and use of in-lieu fee programs are somewhat different from the rules governing operation and use of mitigation banks. The operation and use of an in-lieu fee program are governed by an in-lieu fee program instrument.

In-lieu fee program instrument means the legal document for the establishment, operation, and use of an in-lieu fee program.

Instrument means mitigation banking instrument or in-lieu fee program instrument.

Interagency Review Team (IRT) means an interagency group of federal, tribal, state, and/or local regulatory and resource agency representatives that reviews documentation for, and advises the district engineer on, the establishment and management of a mitigation bank or an in-lieu fee program.

Mitigation bank means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by DA permits. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument.

Mitigation banking instrument means the legal document for the establishment, operation, and use of a mitigation bank.

Off-site means an area that is neither located on the same parcel of land as the impact site, nor on a parcel of land contiguous to the parcel containing the impact site.

On-site means an area located on the same parcel of land as the impact site, or on a parcel of land contiguous to the impact site.

Out-of-kind means a resource of a different structural and functional type from the impacted resource.

Performance standards are observable or measurable physical (including hydrological), chemical and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

Permittee-responsible mitigation means an aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility.

Preservation means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Reference aquatic resources are a set of aquatic resources that represent the full range of variability exhibited by a regional class of aquatic resources as a result of natural processes and anthropogenic disturbances.

Rehabilitation means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Release of credits means a determination by the district engineer, in consultation with the IRT, that credits associated with an approved mitigation plan are available for sale or transfer, or in the case of an in-lieu fee program, for fulfillment of advance credit sales. A proportion of projected credits for a specific mitigation bank or in-lieu fee project may be released upon approval of the mitigation plan, with additional credits released as milestones specified in the credit release schedule are achieved.

Restoration means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riparian areas are lands adjacent to streams, rivers, lakes, and estuarine-marine shorelines. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality.

Service area means the geographic area within which impacts can be mitigated at a specific mitigation bank or an in-lieu fee program, as designated in its instrument.

Services mean the benefits that human populations receive from functions that occur in ecosystems.

Sponsor means any public or private entity responsible for establishing, and in most circumstances, operating a mitigation bank or in-lieu fee program.

Standard permit means a standard, individual permit issued under the authority of section 404 of the Clean Water Act and/or sections 9 or 10 of the Rivers and Harbors Act of 1899.

Temporal loss is the time lag between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site. Higher compensation ratios may be required to compensate for temporal loss. When the compensatory mitigation project is initiated prior to, or concurrent with, the permitted impacts, the district engineer may determine that compensation for temporal loss is not necessary, unless the resource has a long development time.

Watershed means a land area that drains to a common waterway, such as a stream, lake, estuary, wetland, or ultimately the ocean.

Watershed approach means an analytical process for making compensatory mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed. It involves consideration of watershed needs, and how locations and types of compensatory mitigation projects address those needs. A landscape perspective is used to identify the types and locations of compensatory mitigation projects that will benefit the watershed and offset losses of aquatic resource functions and services caused by activities authorized by DA permits. The watershed approach may involve consideration of landscape scale, historic and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial connections between aquatic resources when determining compensatory mitigation requirements for DA permits.

Watershed plan means a plan developed by federal, tribal, state, and/or local government agencies or appropriate non-governmental organizations, in consultation with relevant stakeholders, for the specific goal of aquatic resource restoration, establishment, enhancement, and preservation. A watershed plan addresses aquatic resource conditions in the watershed, multiple stakeholder interests, and land uses. Watershed plans may also identify priority sites for aquatic resource restoration and protection. Examples of watershed plans include special area management plans, advance identification programs, and wetland management plans.

§ 332.3 General compensatory mitigation requirements.

(a) *General considerations.* (1) The fundamental objective of compensatory mitigation is to offset environmental losses resulting from unavoidable impacts to waters of the United States authorized by DA permits. The district engineer must determine the compensatory mitigation to be required in a DA permit, based on what is practicable and capable of compensating for the aquatic resource functions that will be lost as a result of the permitted activity. When evaluating compensatory mitigation options, the district engineer will consider what would be environmentally preferable. In making this determination, the district engineer must assess the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project. In many cases, the environmentally preferable compensatory mitigation may be provided through mitigation banks or in-lieu fee programs because they usually involve consolidating compensatory mitigation projects where ecologically appropriate, consolidating resources, providing financial planning and scientific expertise (which often is not practical for permittee-responsible compensatory mitigation projects), reducing temporal losses of functions, and reducing uncertainty over project success. Compensatory mitigation requirements must be commensurate with the amount and type of impact that is associated with a particular DA permit. Permit applicants are responsible for proposing an appropriate compensatory mitigation option to offset unavoidable impacts.

(2) Compensatory mitigation may be performed using the methods of restoration, enhancement, establishment, and in certain circumstances preservation. Restoration should generally be the first option considered because the likelihood of success is greater and the impacts to potentially ecologically important uplands are reduced compared to establishment, and the potential gains in terms of aquatic resource functions are greater, compared to enhancement and preservation.

(3) Compensatory mitigation projects may be sited on public or private lands. Credits for compensatory mitigation projects on public land must be based solely on aquatic resource functions provided by the compensatory mitigation project, over and above those provided by public programs already planned or in place. All compensatory mitigation projects must comply with the standards in this part, if they are to be used to provide compensatory mitigation for activities authorized by DA permits, regardless of whether they are sited on public or private lands and whether the sponsor is a governmental or private entity.

(b) *Type and location of compensatory mitigation.* (1) When considering options for successfully providing the required compensatory mitigation, the district engineer shall consider the type and location options in the order presented in paragraphs (b)(2) through (b)(6) of this section. In general, the required compensatory mitigation should be located within the same watershed as the impact site, and should be located where it is most likely to successfully replace lost functions and services, taking into account such watershed scale features as aquatic habitat diversity, habitat connectivity, relationships to hydrologic sources (including the availability of water

rights), trends in land use, ecological benefits, and compatibility with adjacent land uses. When compensating for impacts to marine resources, the location of the compensatory mitigation site should be chosen to replace lost functions and services within the same marine ecological system (e.g., reef complex, littoral drift cell). Compensation for impacts to aquatic resources in coastal watersheds (watersheds that include a tidal water body) should also be located in a coastal watershed where practicable. Compensatory mitigation projects should not be located where they will increase risks to aviation by attracting wildlife to areas where aircraft-wildlife strikes may occur (e.g., near airports).

(2) *Mitigation bank credits.* When permitted impacts are located within the service area of an approved mitigation bank, and the bank has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from the sponsor. Since an approved instrument (including an approved mitigation plan and appropriate real estate and financial assurances) for a mitigation bank is required to be in place before its credits can begin to be used to compensate for authorized impacts, use of a mitigation bank can help reduce risk and uncertainty, as well as temporal loss of resource functions and services. Mitigation bank credits are not released for debiting until specific milestones associated with the mitigation bank site's protection and development are achieved, thus use of mitigation bank credits can also help reduce risk that mitigation will not be fully successful. Mitigation banks typically involve larger, more ecologically valuable parcels, and more rigorous scientific and technical analysis, planning and implementation than permittee-responsible mitigation. Also, development of a mitigation bank requires site identification in advance, project-specific planning, and significant investment of financial resources that is often not practicable for many in-lieu fee programs. For these reasons, the district engineer should give preference to the use of mitigation bank credits when these considerations are applicable. However, these same considerations may also be used to override this preference, where appropriate, as, for example, where an in-lieu fee program has released credits available from a specific approved in-lieu fee project, or a permittee-responsible project will restore an outstanding resource based on rigorous scientific and technical analysis.

(3) *In-lieu fee program credits.* Where permitted impacts are located within the service area of an approved in-lieu fee program, and the sponsor has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from the sponsor. Where permitted impacts are not located in the service area of an approved mitigation bank, or the approved mitigation bank does not have the appropriate number and resource type of credits available to offset those impacts, in-lieu fee mitigation, if available, is generally preferable to permittee-responsible mitigation. In-lieu fee projects typically involve larger, more ecologically valuable parcels, and more rigorous scientific and technical analysis, planning and implementation than permittee-responsible mitigation. They also devote significant resources to identifying and addressing high-priority resource needs on a watershed scale, as reflected in their compensation planning framework. For these reasons, the district engineer should give preference to in-lieu fee program credits over permittee-responsible mitigation, where these considerations are applicable. However, as with the preference for mitigation bank credits, these same considerations may be used to override this preference where appropriate. Additionally, in cases where permittee-responsible mitigation is likely to successfully meet performance standards before advance credits secured from an in-lieu fee program are fulfilled, the district engineer should also give consideration to this factor in deciding between in-lieu fee mitigation and permittee-responsible mitigation.

(4) *Permittee-responsible mitigation under a watershed approach.* Where permitted impacts are not in the service area of an approved mitigation bank or in-lieu fee program that has the appropriate number and resource type of credits available, permittee-responsible mitigation is the only option. Where practicable and likely to be successful and sustainable, the resource type and location for the required permittee-responsible compensatory mitigation should be determined using the principles of a watershed approach as outlined in paragraph (c) of this section.

(5) *Permittee-responsible mitigation through on-site and in-kind mitigation.* In cases where a watershed approach is not practicable, the district engineer should consider opportunities to offset anticipated aquatic resource impacts by requiring on-site and in-kind compensatory mitigation. The district engineer must also consider the practicability of on-site compensatory mitigation and its compatibility with the proposed project.

(6) *Permittee-responsible mitigation through off-site and/or out-of-kind mitigation.* If, after considering opportunities for on-site, in-kind compensatory mitigation as provided in paragraph (b)(5) of this section, the district engineer determines that these compensatory mitigation opportunities are not practicable, are unlikely to compensate for the permitted impacts, or will be incompatible with the proposed project, and an alternative, practicable off-site and/or out-of-kind mitigation opportunity is identified that has a greater likelihood of offsetting

the permitted impacts or is environmentally preferable to on-site or in-kind mitigation, the district engineer should require that this alternative compensatory mitigation be provided.

(c) *Watershed approach to compensatory mitigation.* (1) The district engineer must use a watershed approach to establish compensatory mitigation requirements in DA permits to the extent appropriate and practicable. Where a watershed plan is available, the district engineer will determine whether the plan is appropriate for use in the watershed approach for compensatory mitigation. In cases where the district engineer determines that an appropriate watershed plan is available, the watershed approach should be based on that plan. Where no such plan is available, the watershed approach should be based on information provided by the project sponsor or available from other sources. The ultimate goal of a watershed approach is to maintain and improve the quality and quantity of aquatic resources within watersheds through strategic selection of compensatory mitigation sites.

(2) *Considerations.* (i) A watershed approach to compensatory mitigation considers the importance of landscape position and resource type of compensatory mitigation projects for the sustainability of aquatic resource functions within the watershed. Such an approach considers how the types and locations of compensatory mitigation projects will provide the desired aquatic resource functions, and will continue to function over time in a changing landscape. It also considers the habitat requirements of important species, habitat loss or conversion trends, sources of watershed impairment, and current development trends, as well as the requirements of other regulatory and non-regulatory programs that affect the watershed, such as storm water management or habitat conservation programs. It includes the protection and maintenance of terrestrial resources, such as non-wetland riparian areas and uplands, when those resources contribute to or improve the overall ecological functioning of aquatic resources in the watershed. Compensatory mitigation requirements determined through the watershed approach should not focus exclusively on specific functions (e.g., water quality or habitat for certain species), but should provide, where practicable, the suite of functions typically provided by the affected aquatic resource.

(ii) Locational factors (e.g., hydrology, surrounding land use) are important to the success of compensatory mitigation for impacted habitat functions and may lead to siting of such mitigation away from the project area. However, consideration should also be given to functions and services (e.g., water quality, flood control, shoreline protection) that will likely need to be addressed at or near the areas impacted by the permitted impacts.

(iii) A watershed approach may include on-site compensatory mitigation, off-site compensatory mitigation (including mitigation banks or in-lieu fee programs), or a combination of on-site and off-site compensatory mitigation.

(iv) A watershed approach to compensatory mitigation should include, to the extent practicable, inventories of historic and existing aquatic resources, including identification of degraded aquatic resources, and identification of immediate and long-term aquatic resource needs within watersheds that can be met through permittee-responsible mitigation projects, mitigation banks, or in-lieu fee programs. Planning efforts should identify and prioritize aquatic resource restoration, establishment, and enhancement activities, and preservation of existing aquatic resources that are important for maintaining or improving ecological functions of the watershed. The identification and prioritization of resource needs should be as specific as possible, to enhance the usefulness of the approach in determining compensatory mitigation requirements.

(v) A watershed approach is not appropriate in areas where watershed boundaries do not exist, such as marine areas. In such cases, an appropriate spatial scale should be used to replace lost functions and services within the same ecological system (e.g., reef complex, littoral drift cell).

(3) *Information needs.* (i) In the absence of a watershed plan determined by the district engineer under paragraph (c)(1) of this section to be appropriate for use in the watershed approach, the district engineer will use a watershed approach based on analysis of information regarding watershed conditions and needs, including potential sites for aquatic resource restoration activities and priorities for aquatic resource restoration and preservation. Such information includes: current trends in habitat loss or conversion; cumulative impacts of past development activities, current development trends, the presence and needs of sensitive species; site conditions that favor or hinder the success of compensatory mitigation projects; and chronic environmental problems such as flooding or poor water quality.

(ii) This information may be available from sources such as wetland maps; soil surveys; U.S. Geological Survey topographic and hydrologic maps; aerial photographs; information on rare, endangered and threatened species and critical habitat; local ecological reports or studies; and other information sources that could be used to identify locations for suitable compensatory mitigation projects in the watershed.

(iii) The level of information and analysis needed to support a watershed approach must be commensurate with the scope and scale of the proposed impacts requiring a DA permit, as well as the functions lost as a result of those impacts.

(4) *Watershed scale*. The size of watershed addressed using a watershed approach should not be larger than is appropriate to ensure that the aquatic resources provided through compensation activities will effectively compensate for adverse environmental impacts resulting from activities authorized by DA permits. The district engineer should consider relevant environmental factors and appropriate locally developed standards and criteria when determining the appropriate watershed scale in guiding compensation activities.

(d) *Site selection*. (1) The compensatory mitigation project site must be ecologically suitable for providing the desired aquatic resource functions. In determining the ecological suitability of the compensatory mitigation project site, the district engineer must consider, to the extent practicable, the following factors:

(i) Hydrological conditions, soil characteristics, and other physical and chemical characteristics;

(ii) Watershed-scale features, such as aquatic habitat diversity, habitat connectivity, and other landscape scale functions;

(iii) The size and location of the compensatory mitigation site relative to hydrologic sources (including the availability of water rights) and other ecological features;

(iv) Compatibility with adjacent land uses and watershed management plans;

(v) Reasonably foreseeable effects the compensatory mitigation project will have on ecologically important aquatic or terrestrial resources (e.g., shallow sub-tidal habitat, mature forests), cultural sites, or habitat for federally- or state-listed threatened and endangered species; and

(vi) Other relevant factors including, but not limited to, development trends, anticipated land use changes, habitat status and trends, the relative locations of the impact and mitigation sites in the stream network, local or regional goals for the restoration or protection of particular habitat types or functions (e.g., re-establishment of habitat corridors or habitat for species of concern), water quality goals, floodplain management goals, and the relative potential for chemical contamination of the aquatic resources.

(2) District engineers may require on-site, off-site, or a combination of on-site and off-site compensatory mitigation to replace permitted losses of aquatic resource functions and services.

(3) Applicants should propose compensation sites adjacent to existing aquatic resources or where aquatic resources previously existed.

(e) *Mitigation type*. (1) In general, in-kind mitigation is preferable to out-of-kind mitigation because it is most likely to compensate for the functions and services lost at the impact site. For example, tidal wetland compensatory mitigation projects are most likely to compensate for unavoidable impacts to tidal wetlands, while perennial stream compensatory mitigation projects are most likely to compensate for unavoidable impacts to perennial streams. Thus, except as provided in paragraph (e)(2) of this section, the required compensatory mitigation shall be of a similar type to the affected aquatic resource.

(2) If the district engineer determines, using the watershed approach in accordance with paragraph (c) of this section that out-of-kind compensatory mitigation will serve the aquatic resource needs of the watershed, the district engineer may authorize the use of such out-of-kind compensatory mitigation. The basis for authorization of out-of-kind compensatory mitigation must be documented in the administrative record for the permit action.

(3) For difficult-to-replace resources (e.g., bogs, fens, springs, streams, Atlantic white cedar swamps) if further avoidance and minimization is not practicable, the required compensation should be provided, if practicable, through in-kind rehabilitation, enhancement, or preservation since there is greater certainty that these methods of compensation will successfully offset permitted impacts.

(f) *Amount of compensatory mitigation*. (1) If the district engineer determines that compensatory mitigation is necessary to offset unavoidable impacts to aquatic resources, the amount of required compensatory mitigation must be, to the extent practicable, sufficient to replace lost aquatic resource functions. In cases where appropriate functional or condition assessment methods or other suitable metrics are available, these methods should be used where practicable to determine how much compensatory mitigation is required. If a functional or condition assessment or other suitable metric is not used, a minimum one-to-one acreage or linear foot compensation ratio must be used.

(2) The district engineer must require a mitigation ratio greater than one-to-one where necessary to account for the method of compensatory mitigation (e.g., preservation), the likelihood of success, differences between the functions lost at the impact site and the functions expected to be produced by the compensatory mitigation project, temporal losses of aquatic resource functions, the difficulty of restoring or establishing the desired aquatic resource type and functions, and/or the distance between the affected aquatic resource and the compensation site. The rationale for the required replacement ratio must be documented in the administrative record for the permit action.

(3) If an in-lieu fee program will be used to provide the required compensatory mitigation, and the appropriate number and resource type of released credits are not available, the district engineer must require sufficient compensation to account for the risk and uncertainty associated with in-lieu fee projects that have not been implemented before the permitted impacts have occurred.

(g) *Use of mitigation banks and in-lieu fee programs*. Mitigation banks and in-lieu fee programs may be used to compensate for impacts to aquatic resources authorized by general permits and individual permits, including after-the-fact permits, in accordance with the preference hierarchy in paragraph (b) of this section.

(h) *Preservation*. (1) Preservation may be used to provide compensatory mitigation for activities authorized by DA permits when all the following criteria are met:

(i) The resources to be preserved provide important physical, chemical, or biological functions for the watershed;

(ii) The resources to be preserved contribute significantly to the ecological sustainability of the watershed. In determining the contribution of those resources to the ecological sustainability of the watershed, the district engineer must use appropriate quantitative assessment tools, where available;

(iii) Preservation is determined by the district engineer to be appropriate and practicable;

(iv) The resources are under threat of destruction or adverse modifications; and

(v) The preserved site will be permanently protected through an appropriate real estate or other legal instrument (e.g., easement, title transfer to state resource agency or land trust).

(2) Where preservation is used to provide compensatory mitigation, to the extent appropriate and practicable the preservation shall be done in conjunction with aquatic resource restoration, establishment, and/or enhancement activities. This requirement may be waived by the district engineer where preservation has been identified as a high priority using a watershed approach described in paragraph (c) of this section, but compensation ratios shall be higher.

(i) *Buffers*. District engineers may require the restoration, establishment, enhancement, and preservation, as well as the maintenance, of riparian areas and/or buffers around aquatic resources where necessary to ensure the long-term viability of those resources. Buffers may also provide habitat or corridors necessary for the ecological functioning of aquatic resources. If buffers are required by the district engineer as part of the compensatory mitigation project, compensatory mitigation credit will be provided for those buffers.

(j) *Relationship to other federal, tribal, state, and local programs*. (1) Compensatory mitigation projects for DA permits may also be used to satisfy the environmental requirements of other programs, such as tribal, state, or local wetlands regulatory programs, other federal programs such as the Surface Mining Control and Reclamation Act, Corps civil works projects, and Department of Defense military construction projects, consistent with the terms and requirements of these programs and subject to the following considerations:

(i) The compensatory mitigation project must include appropriate compensation required by the DA permit for unavoidable impacts to aquatic resources authorized by that permit.

(ii) Under no circumstances may the same credits be used to provide mitigation for more than one permitted activity. However, where appropriate, compensatory mitigation projects, including mitigation banks and in-lieu fee projects, may be designed to holistically address requirements under multiple programs and authorities for the same activity.

(2) Except for projects undertaken by federal agencies, or where federal funding is specifically authorized to provide compensatory mitigation, federally-funded aquatic resource restoration or conservation projects undertaken for purposes other than compensatory mitigation, such as the Wetlands Reserve Program, Conservation Reserve Program, and Partners for Wildlife Program activities, cannot be used for the purpose of generating compensatory mitigation credits for activities authorized by DA permits. However, compensatory

mitigation credits may be generated by activities undertaken in conjunction with, but supplemental to, such programs in order to maximize the overall ecological benefits of the restoration or conservation project.

(3) Compensatory mitigation projects may also be used to provide compensatory mitigation under the Endangered Species Act or for Habitat Conservation Plans, as long as they comply with the requirements of paragraph (j)(1) of this section.

(k) *Permit conditions*. (1) The compensatory mitigation requirements for a DA permit, including the amount and type of compensatory mitigation, must be clearly stated in the special conditions of the individual permit or general permit verification (see 33 CFR 325.4 and 330.6(a)). The special conditions must be enforceable.

(2) For an individual permit that requires permittee-responsible mitigation, the special conditions must:

(i) Identify the party responsible for providing the compensatory mitigation;

(ii) Incorporate, by reference, the final mitigation plan approved by the district engineer;

(iii) State the objectives, performance standards, and monitoring required for the compensatory mitigation project, unless they are provided in the approved final mitigation plan; and

(iv) Describe any required financial assurances or long-term management provisions for the compensatory mitigation project, unless they are specified in the approved final mitigation plan.

(3) For a general permit activity that requires permittee-responsible compensatory mitigation, the special conditions must describe the compensatory mitigation proposal, which may be either conceptual or detailed. The general permit verification must also include a special condition that states that the permittee cannot commence work in waters of the United States until the district engineer approves the final mitigation plan, unless the district engineer determines that such a special condition is not practicable and not necessary to ensure timely completion of the required compensatory mitigation. To the extent appropriate and practicable, special conditions of the general permit verification should also address the requirements of paragraph (k)(2) of this section.

(4) If a mitigation bank or in-lieu fee program is used to provide the required compensatory mitigation, the special conditions must indicate whether a mitigation bank or in-lieu fee program will be used, and specify the number and resource type of credits the permittee is required to secure. In the case of an individual permit, the special condition must also identify the specific mitigation bank or in-lieu fee program that will be used. For general permit verifications, the special conditions may either identify the specific mitigation bank or in-lieu fee program, or state that the specific mitigation bank or in-lieu fee program used to provide the required compensatory mitigation must be approved by the district engineer before the credits are secured.

(l) *Party responsible for compensatory mitigation*. (1) For permittee-responsible mitigation, the special conditions of the DA permit must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.

(2) For mitigation banks and in-lieu fee programs, the instrument must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project(s). The instrument must also contain a provision expressing the sponsor's agreement to assume responsibility for a permittee's compensatory mitigation requirements, once that permittee has secured the appropriate number and resource type of credits from the sponsor and the district engineer has received the documentation described in paragraph (l)(3) of this section.

(3) If use of a mitigation bank or in-lieu fee program is approved by the district engineer to provide part or all of the required compensatory mitigation for a DA permit, the permittee retains responsibility for providing the compensatory mitigation until the appropriate number and resource type of credits have been secured from a sponsor and the district engineer has received documentation that confirms that the sponsor has accepted the responsibility for providing the required compensatory mitigation. This documentation may consist of a letter or form signed by the sponsor, with the permit number and a statement indicating the number and resource type of credits that have been secured from the sponsor. Copies of this documentation will be retained in the administrative records for both the permit and the instrument. If the sponsor fails to provide the required compensatory mitigation, the district engineer may pursue measures against the sponsor to ensure compliance.

(m) *Timing*. Implementation of the compensatory mitigation project shall be, to the maximum extent practicable, in advance of or concurrent with the activity causing the authorized impacts. The district engineer shall require, to the extent appropriate and practicable, additional compensatory mitigation to offset temporal losses of aquatic functions that will result from the permitted activity.

(n) *Financial assurances.* (1) The district engineer shall require sufficient financial assurances to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with applicable performance standards. In cases where an alternate mechanism is available to ensure a high level of confidence that the compensatory mitigation will be provided and maintained (e.g., a formal, documented commitment from a government agency or public authority) the district engineer may determine that financial assurances are not necessary for that compensatory mitigation project.

(2) The amount of the required financial assurances must be determined by the district engineer, in consultation with the project sponsor, and must be based on the size and complexity of the compensatory mitigation project, the degree of completion of the project at the time of project approval, the likelihood of success, the past performance of the project sponsor, and any other factors the district engineer deems appropriate. Financial assurances may be in the form of performance bonds, escrow accounts, casualty insurance, letters of credit, legislative appropriations for government sponsored projects, or other appropriate instruments, subject to the approval of the district engineer. The rationale for determining the amount of the required financial assurances must be documented in the administrative record for either the DA permit or the instrument. In determining the assurance amount, the district engineer shall consider the cost of providing replacement mitigation, including costs for land acquisition, planning and engineering, legal fees, mobilization, construction, and monitoring.

(3) If financial assurances are required, the DA permit must include a special condition requiring the financial assurances to be in place prior to commencing the permitted activity.

(4) Financial assurances shall be phased out once the compensatory mitigation project has been determined by the district engineer to be successful in accordance with its performance standards. The DA permit or instrument must clearly specify the conditions under which the financial assurances are to be released to the permittee, sponsor, and/or other financial assurance provider, including, as appropriate, linkage to achievement of performance standards, adaptive management, or compliance with special conditions.

(5) A financial assurance must be in a form that ensures that the district engineer will receive notification at least 120 days in advance of any termination or revocation. For third-party assurance providers, this may take the form of a contractual requirement for the assurance provider to notify the district engineer at least 120 days before the assurance is revoked or terminated.

(6) Financial assurances shall be payable at the direction of the district engineer to his designee or to a standby trust agreement. When a standby trust is used (e.g., with performance bonds or letters of credit) all amounts paid by the financial assurance provider shall be deposited directly into the standby trust fund for distribution by the trustee in accordance with the district engineer's instructions.

(o) *Compliance with applicable law.* The compensatory mitigation project must comply with all applicable federal, state, and local laws. The DA permit, mitigation banking instrument, or in-lieu fee program instrument must not require participation by the Corps or any other federal agency in project management, including receipt or management of financial assurances or long-term financing mechanisms, except as determined by the Corps or other agency to be consistent with its statutory authority, mission, and priorities.

§ 332.4 Planning and documentation.

(a) *Pre-application consultations.* Potential applicants for standard permits are encouraged to participate in pre-application meetings with the Corps and appropriate agencies to discuss potential mitigation requirements and information needs.

(b) *Public review and comment.* (1) For an activity that requires a standard DA permit pursuant to section 404 of the Clean Water Act, the public notice for the proposed activity must contain a statement explaining how impacts associated with the proposed activity are to be avoided, minimized, and compensated for. This explanation shall address, to the extent that such information is provided in the mitigation statement required by § 325.1(d)(7) of this chapter, the proposed avoidance and minimization and the amount, type, and location of any proposed compensatory mitigation, including any out-of-kind compensation, or indicate an intention to use an approved mitigation bank or in-lieu fee program. The level of detail provided in the public notice must be commensurate with the scope and scale of the impacts. The notice shall not include information that the district engineer and the permittee believe should be kept confidential for business purposes, such as the exact location of a proposed mitigation site that has not yet been secured. The permittee must clearly identify any information being claimed as confidential in the mitigation statement when submitted. In such cases, the notice must still provide enough information to enable the public to provide meaningful comment on the proposed mitigation.

(2) For individual permits, district engineers must consider any timely comments and recommendations from other federal agencies; tribal, state, or local governments; and the public.

(3) For activities authorized by letters of permission or general permits, the review and approval process for compensatory mitigation proposals and plans must be conducted in accordance with the terms and conditions of those permits and applicable regulations including the applicable provisions of this part.

(c) *Mitigation plan*—(1) *Preparation and approval*. (i) For individual permits, the permittee must prepare a draft mitigation plan and submit it to the district engineer for review. After addressing any comments provided by the district engineer, the permittee must prepare a final mitigation plan, which must be approved by the district engineer prior to issuing the individual permit. The approved final mitigation plan must be incorporated into the individual permit by reference. The final mitigation plan must include the items described in paragraphs (c)(2) through (c)(14) of this section, but the level of detail of the mitigation plan should be commensurate with the scale and scope of the impacts. As an alternative, the district engineer may determine that it would be more appropriate to address any of the items described in paragraphs (c)(2) through (c)(14) of this section as permit conditions, instead of components of a compensatory mitigation plan. For permittees who intend to fulfill their compensatory mitigation obligations by securing credits from approved mitigation banks or in-lieu fee programs, their mitigation plans need include only the items described in paragraphs (c)(5) and (c)(6) of this section, and the name of the specific mitigation bank or in-lieu fee program to be used.

(ii) For general permits, if compensatory mitigation is required, the district engineer may approve a conceptual or detailed compensatory mitigation plan to meet required time frames for general permit verifications, but a final mitigation plan incorporating the elements in paragraphs (c)(2) through (c)(14) of this section, at a level of detail commensurate with the scale and scope of the impacts, must be approved by the district engineer before the permittee commences work in waters of the United States. As an alternative, the district engineer may determine that it would be more appropriate to address any of the items described in paragraphs (c)(2) through (c)(14) of this section as permit conditions, instead of components of a compensatory mitigation plan. For permittees who intend to fulfill their compensatory mitigation obligations by securing credits from approved mitigation banks or in-lieu fee programs, their mitigation plans need include only the items described in paragraphs (c)(5) and (c)(6) of this section, and either the name of the specific mitigation bank or in-lieu fee program to be used or a statement indicating that a mitigation bank or in-lieu fee program will be used (contingent upon approval by the district engineer).

(iii) Mitigation banks and in-lieu fee programs must prepare a mitigation plan including the items in paragraphs (c)(2) through (c)(14) of this section for each separate compensatory mitigation project site. For mitigation banks and in-lieu fee programs, the preparation and approval process for mitigation plans is described in § 332.8.

(2) *Objectives*. A description of the resource type(s) and amount(s) that will be provided, the method of compensation (*i.e.*, restoration, establishment, enhancement, and/or preservation), and the manner in which the resource functions of the compensatory mitigation project will address the needs of the watershed, ecoregion, physiographic province, or other geographic area of interest.

(3) *Site selection*. A description of the factors considered during the site selection process. This should include consideration of watershed needs, on-site alternatives where applicable, and the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the compensatory mitigation project site. (See § 332.3(d).)

(4) *Site protection instrument*. A description of the legal arrangements and instrument, including site ownership, that will be used to ensure the long-term protection of the compensatory mitigation project site (see § 332.7(a)).

(5) *Baseline information*. A description of the ecological characteristics of the proposed compensatory mitigation project site and, in the case of an application for a DA permit, the impact site. This may include descriptions of historic and existing plant communities, historic and existing hydrology, soil conditions, a map showing the locations of the impact and mitigation site(s) or the geographic coordinates for those site(s), and other site characteristics appropriate to the type of resource proposed as compensation. The baseline information should also include a delineation of waters of the United States on the proposed compensatory mitigation project site. A prospective permittee planning to secure credits from an approved mitigation bank or in-lieu fee program only needs to provide baseline information about the impact site, not the mitigation bank or in-lieu fee project site.

(6) *Determination of credits*. A description of the number of credits to be provided, including a brief explanation of the rationale for this determination. (See § 332.3(f).)

- (i) For permittee-responsible mitigation, this should include an explanation of how the compensatory mitigation project will provide the required compensation for unavoidable impacts to aquatic resources resulting from the permitted activity.
- (ii) For permittees intending to secure credits from an approved mitigation bank or in-lieu fee program, it should include the number and resource type of credits to be secured and how these were determined.
- (7) *Mitigation work plan.* Detailed written specifications and work descriptions for the compensatory mitigation project, including, but not limited to, the geographic boundaries of the project; construction methods, timing, and sequence; source(s) of water, including connections to existing waters and uplands; methods for establishing the desired plant community; plans to control invasive plant species; the proposed grading plan, including elevations and slopes of the substrate; soil management; and erosion control measures. For stream compensatory mitigation projects, the mitigation work plan may also include other relevant information, such as planform geometry, channel form (e.g., typical channel cross-sections), watershed size, design discharge, and riparian area plantings.
- (8) *Maintenance plan.* A description and schedule of maintenance requirements to ensure the continued viability of the resource once initial construction is completed.
- (9) *Performance standards.* Ecologically-based standards that will be used to determine whether the compensatory mitigation project is achieving its objectives. (See § 332.5.)
- (10) *Monitoring requirements.* A description of parameters to be monitored in order to determine if the compensatory mitigation project is on track to meet performance standards and if adaptive management is needed. A schedule for monitoring and reporting on monitoring results to the district engineer must be included. (See § 332.6.)
- (11) *Long-term management plan.* A description of how the compensatory mitigation project will be managed after performance standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for long-term management. (See § 332.7(d).)
- (12) *Adaptive management plan.* A management strategy to address unforeseen changes in site conditions or other components of the compensatory mitigation project, including the party or parties responsible for implementing adaptive management measures. The adaptive management plan will guide decisions for revising compensatory mitigation plans and implementing measures to address both foreseeable and unforeseen circumstances that adversely affect compensatory mitigation success. (See § 332.7(c).)
- (13) *Financial assurances.* A description of financial assurances that will be provided and how they are sufficient to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with its performance standards (see § 332.3(n)).
- (14) *Other information.* The district engineer may require additional information as necessary to determine the appropriateness, feasibility, and practicability of the compensatory mitigation project.

§ 332.5 Ecological performance standards.

- (a) The approved mitigation plan must contain performance standards that will be used to assess whether the project is achieving its objectives. Performance standards should relate to the objectives of the compensatory mitigation project, so that the project can be objectively evaluated to determine if it is developing into the desired resource type, providing the expected functions, and attaining any other applicable metrics (e.g., acres).
- (b) Performance standards must be based on attributes that are objective and verifiable. Ecological performance standards must be based on the best available science that can be measured or assessed in a practicable manner. Performance standards may be based on variables or measures of functional capacity described in functional assessment methodologies, measurements of hydrology or other aquatic resource characteristics, and/or comparisons to reference aquatic resources of similar type and landscape position. The use of reference aquatic resources to establish performance standards will help ensure that those performance standards are reasonably achievable, by reflecting the range of variability exhibited by the regional class of aquatic resources as a result of natural processes and anthropogenic disturbances. Performance standards based on measurements of hydrology should take into consideration the hydrologic variability exhibited by reference aquatic resources, especially wetlands. Where practicable, performance standards should take into account the expected stages of the aquatic resource development process, in order to allow early identification of potential problems and appropriate adaptive management.

§ 332.6 Monitoring.

(a) *General.* (1) Monitoring the compensatory mitigation project site is necessary to determine if the project is meeting its performance standards, and to determine if measures are necessary to ensure that the compensatory mitigation project is accomplishing its objectives. The submission of monitoring reports to assess the development and condition of the compensatory mitigation project is required, but the content and level of detail for those monitoring reports must be commensurate with the scale and scope of the compensatory mitigation project, as well as the compensatory mitigation project type. The mitigation plan must address the monitoring requirements for the compensatory mitigation project, including the parameters to be monitored, the length of the monitoring period, the party responsible for conducting the monitoring, the frequency for submitting monitoring reports to the district engineer, and the party responsible for submitting those monitoring reports to the district engineer.

(2) The district engineer may conduct site inspections on a regular basis (e.g., annually) during the monitoring period to evaluate mitigation site performance.

(b) *Monitoring period.* The mitigation plan must provide for a monitoring period that is sufficient to demonstrate that the compensatory mitigation project has met performance standards, but not less than five years. A longer monitoring period must be required for aquatic resources with slow development rates (e.g., forested wetlands, bogs). Following project implementation, the district engineer may reduce or waive the remaining monitoring requirements upon a determination that the compensatory mitigation project has achieved its performance standards. Conversely the district engineer may extend the original monitoring period upon a determination that performance standards have not been met or the compensatory mitigation project is not on track to meet them. The district engineer may also revise monitoring requirements when remediation and/or adaptive management is required.

(c) *Monitoring reports.* (1) The district engineer must determine the information to be included in monitoring reports. This information must be sufficient for the district engineer to determine how the compensatory mitigation project is progressing towards meeting its performance standards, and may include plans (such as as-built plans), maps, and photographs to illustrate site conditions. Monitoring reports may also include the results of functional, condition, or other assessments used to provide quantitative or qualitative measures of the functions provided by the compensatory mitigation project site.

(2) The permittee or sponsor is responsible for submitting monitoring reports in accordance with the special conditions of the DA permit or the terms of the instrument. Failure to submit monitoring reports in a timely manner may result in compliance action by the district engineer.

(3) Monitoring reports must be provided by the district engineer to interested federal, tribal, state, and local resource agencies, and the public, upon request.

§ 332.7 Management.

(a) *Site protection.* (1) The aquatic habitats, riparian areas, buffers, and uplands that comprise the overall compensatory mitigation project must be provided long-term protection through real estate instruments or other available mechanisms, as appropriate. Long-term protection may be provided through real estate instruments such as conservation easements held by entities such as federal, tribal, state, or local resource agencies, non-profit conservation organizations, or private land managers; the transfer of title to such entities; or by restrictive covenants. For government property, long-term protection may be provided through federal facility management plans or integrated natural resources management plans. When approving a method for long-term protection of non-government property other than transfer of title, the district engineer shall consider relevant legal constraints on the use of conservation easements and/or restrictive covenants in determining whether such mechanisms provide sufficient site protection. To provide sufficient site protection, a conservation easement or restrictive covenant should, where practicable, establish in an appropriate third party (e.g., governmental or non-profit resource management agency) the right to enforce site protections and provide the third party the resources necessary to monitor and enforce these site protections.

(2) The real estate instrument, management plan, or other mechanism providing long-term protection of the compensatory mitigation site must, to the extent appropriate and practicable, prohibit incompatible uses (e.g., clear cutting or mineral extraction) that might otherwise jeopardize the objectives of the compensatory mitigation project. Where appropriate, multiple instruments recognizing compatible uses (e.g., fishing or grazing rights) may be used.

(3) The real estate instrument, management plan, or other long-term protection mechanism must contain a provision requiring 60-day advance notification to the district engineer before any action is taken to void or modify the instrument, management plan, or long-term protection mechanism, including transfer of title to, or establishment of any other legal claims over, the compensatory mitigation site.

(4) For compensatory mitigation projects on public lands, where federal facility management plans or integrated natural resources management plans are used to provide long-term protection, and changes in statute, regulation, or agency needs or mission results in an incompatible use on public lands originally set aside for compensatory mitigation, the public agency authorizing the incompatible use is responsible for providing alternative compensatory mitigation that is acceptable to the district engineer for any loss in functions resulting from the incompatible use.

(5) A real estate instrument, management plan, or other long-term protection mechanism used for site protection of permittee-responsible mitigation must be approved by the district engineer in advance of, or concurrent with, the activity causing the authorized impacts.

(b) *Sustainability*. Compensatory mitigation projects shall be designed, to the maximum extent practicable, to be self-sustaining once performance standards have been achieved. This includes minimization of active engineering features (e.g., pumps) and appropriate siting to ensure that natural hydrology and landscape context will support long-term sustainability. Where active long-term management and maintenance are necessary to ensure long-term sustainability (e.g., prescribed burning, invasive species control, maintenance of water control structures, easement enforcement), the responsible party must provide for such management and maintenance. This includes the provision of long-term financing mechanisms where necessary. Where needed, the acquisition and protection of water rights must be secured and documented in the permit conditions or instrument.

(c) *Adaptive management*. (1) If the compensatory mitigation project cannot be constructed in accordance with the approved mitigation plans, the permittee or sponsor must notify the district engineer. A significant modification of the compensatory mitigation project requires approval from the district engineer.

(2) If monitoring or other information indicates that the compensatory mitigation project is not progressing towards meeting its performance standards as anticipated, the responsible party must notify the district engineer as soon as possible. The district engineer will evaluate and pursue measures to address deficiencies in the compensatory mitigation project. The district engineer will consider whether the compensatory mitigation project is providing ecological benefits comparable to the original objectives of the compensatory mitigation project.

(3) The district engineer, in consultation with the responsible party (and other federal, tribal, state, and local agencies, as appropriate), will determine the appropriate measures. The measures may include site modifications, design changes, revisions to maintenance requirements, and revised monitoring requirements. The measures must be designed to ensure that the modified compensatory mitigation project provides aquatic resource functions comparable to those described in the mitigation plan objectives.

(4) Performance standards may be revised in accordance with adaptive management to account for measures taken to address deficiencies in the compensatory mitigation project. Performance standards may also be revised to reflect changes in management strategies and objectives if the new standards provide for ecological benefits that are comparable or superior to the approved compensatory mitigation project. No other revisions to performance standards will be allowed except in the case of natural disasters.

(d) *Long-term management*. (1) The permit conditions or instrument must identify the party responsible for ownership and all long-term management of the compensatory mitigation project. The permit conditions or instrument may contain provisions allowing the permittee or sponsor to transfer the long-term management responsibilities of the compensatory mitigation project site to a land stewardship entity, such as a public agency, non-governmental organization, or private land manager, after review and approval by the district engineer. The land stewardship entity need not be identified in the original permit or instrument, as long as the future transfer of long-term management responsibility is approved by the district engineer.

(2) A long-term management plan should include a description of long-term management needs, annual cost estimates for these needs, and identify the funding mechanism that will be used to meet those needs.

(3) Any provisions necessary for long-term financing must be addressed in the original permit or instrument. The district engineer may require provisions to address inflationary adjustments and other contingencies, as appropriate. Appropriate long-term financing mechanisms include non-wasting endowments, trusts, contractual arrangements with future responsible parties, and other appropriate financial instruments. In cases where the

long-term management entity is a public authority or government agency, that entity must provide a plan for the long-term financing of the site.

(4) For permittee-responsible mitigation, any long-term financing mechanisms must be approved in advance of the activity causing the authorized impacts.

§ 332.8 Mitigation banks and in-lieu fee programs.

(a) *General considerations.* (1) All mitigation banks and in-lieu fee programs must have an approved instrument signed by the sponsor and the district engineer prior to being used to provide compensatory mitigation for DA permits.

(2) To the maximum extent practicable, mitigation banks and in-lieu fee project sites must be planned and designed to be self-sustaining over time, but some active management and maintenance may be required to ensure their long-term viability and sustainability. Examples of acceptable management activities include maintaining fire-dependent habitat communities in the absence of natural fire and controlling invasive exotic plant species.

(3) All mitigation banks and in-lieu fee programs must comply with the standards in this part, if they are to be used to provide compensatory mitigation for activities authorized by DA permits, regardless of whether they are sited on public or private lands and whether the sponsor is a governmental or private entity.

(b) *Interagency Review Team.* (1) The district engineer will establish an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks and in-lieu fee programs. The district engineer or his designated representative serves as Chair of the IRT. In cases where a mitigation bank or in-lieu fee program is proposed to satisfy the requirements of another federal, tribal, state, or local program, in addition to compensatory mitigation requirements of DA permits, it may be appropriate for the administering agency to serve as co-Chair of the IRT.

(2) In addition to the Corps, representatives from the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, NOAA Fisheries, the Natural Resources Conservation Service, and other federal agencies, as appropriate, may participate in the IRT. The IRT may also include representatives from tribal, state, and local regulatory and resource agencies, where such agencies have authorities and/or mandates directly affecting, or affected by, the establishment, operation, or use of the mitigation bank or in-lieu fee program. The district engineer will seek to include all public agencies with a substantive interest in the establishment of the mitigation bank or in-lieu fee program on the IRT, but retains final authority over its composition.

(3) The primary role of the IRT is to facilitate the establishment of mitigation banks or in-lieu fee programs through the development of mitigation banking or in-lieu fee program instruments. The IRT will review the prospectus, instrument, and other appropriate documents and provide comments to the district engineer. The district engineer and the IRT should use a watershed approach to the extent practicable in reviewing proposed mitigation banks and in-lieu fee programs. Members of the IRT may also sign the instrument, if they so choose. By signing the instrument, the IRT members indicate their agreement with the terms of the instrument. As an alternative, a member of the IRT may submit a letter expressing concurrence with the instrument. The IRT will also advise the district engineer in assessing monitoring reports, recommending remedial or adaptive management measures, approving credit releases, and approving modifications to an instrument. In order to ensure timely processing of instruments and other documentation, comments from IRT members must be received by the district engineer within the time limits specified in this section. Comments received after these deadlines will only be considered at the discretion of the district engineer to the extent that doing so does not jeopardize the deadlines for district engineer action.

(4) The district engineer will give full consideration to any timely comments and advice of the IRT. The district engineer alone retains final authority for approval of the instrument in cases where the mitigation bank or in-lieu fee program is used to satisfy compensatory mitigation requirements of DA permits.

(5) *MOAs with other agencies.* The district engineer and members of the IRT may enter into a memorandum of agreement (MOA) with any other federal, state or local government agency to perform all or some of the IRT review functions described in this section. Such MOAs must include provisions for appropriate federal oversight of the review process. The district engineer retains sole authority for final approval of instruments and other documentation required under this section.

(c) *Compensation planning framework for in-lieu fee programs.* (1) The approved instrument for an in-lieu fee program must include a compensation planning framework that will be used to select, secure, and implement

aquatic resource restoration, establishment, enhancement, and/or preservation activities. The compensation planning framework must support a watershed approach to compensatory mitigation. All specific projects used to provide compensation for DA permits must be consistent with the approved compensation planning framework. Modifications to the framework must be approved as a significant modification to the instrument by the district engineer, after consultation with the IRT.

(2) The compensation planning framework must contain the following elements:

(i) The geographic service area(s), including a watershed-based rationale for the delineation of each service area;

(ii) A description of the threats to aquatic resources in the service area(s), including how the in-lieu fee program will help offset impacts resulting from those threats;

(iii) An analysis of historic aquatic resource loss in the service area(s);

(iv) An analysis of current aquatic resource conditions in the service area(s), supported by an appropriate level of field documentation;

(v) A statement of aquatic resource goals and objectives for each service area, including a description of the general amounts, types and locations of aquatic resources the program will seek to provide;

(vi) A prioritization strategy for selecting and implementing compensatory mitigation activities;

(vii) An explanation of how any preservation objectives identified in paragraph (c)(2)(v) of this section and addressed in the prioritization strategy in paragraph (c)(2)(vi) satisfy the criteria for use of preservation in § 332.3 (h);

(viii) A description of any public and private stakeholder involvement in plan development and implementation, including, where appropriate, coordination with federal, state, tribal and local aquatic resource management and regulatory authorities;

(ix) A description of the long-term protection and management strategies for activities conducted by the in-lieu fee program sponsor;

(x) A strategy for periodic evaluation and reporting on the progress of the program in achieving the goals and objectives in paragraph (c)(2)(v) of this section, including a process for revising the planning framework as necessary; and

(xi) Any other information deemed necessary for effective compensation planning by the district engineer.

(3) The level of detail necessary for the compensation planning framework is at the discretion of the district engineer, and will take into account the characteristics of the service area(s) and the scope of the program. As part of the in-lieu fee program instrument, the compensation planning framework will be reviewed by the IRT, and will be a major factor in the district engineer's decision on whether to approve the instrument.

(d) *Review process.* (1) The sponsor is responsible for preparing all documentation associated with establishment of the mitigation bank or in-lieu fee program, including the prospectus, instrument, and other appropriate documents, such as mitigation plans for a mitigation bank. The prospectus provides an overview of the proposed mitigation bank or in-lieu fee program and serves as the basis for public and initial IRT comment. For a mitigation bank, the mitigation plan, as described in § 332.4(c), provides detailed plans and specifications for the mitigation bank site. For in-lieu fee programs, mitigation plans will be prepared as in-lieu fee project sites are identified after the instrument has been approved and the in-lieu fee program becomes operational. The instrument provides the authorization for the mitigation bank or in-lieu fee program to provide credits to be used as compensatory mitigation for DA permits.

(2) *Prospectus.* The prospectus must provide a summary of the information regarding the proposed mitigation bank or in-lieu fee program, at a sufficient level of detail to support informed public and IRT comment. The review process begins when the sponsor submits a complete prospectus to the district engineer. For modifications of approved instruments, submittal of a new prospectus is not required; instead, the sponsor must submit a written request for an instrument modification accompanied by appropriate documentation. The district engineer must notify the sponsor within 30 days whether or not a submitted prospectus is complete. A complete prospectus includes the following information:

(i) The objectives of the proposed mitigation bank or in-lieu fee program.

- (ii) How the mitigation bank or in-lieu fee program will be established and operated.
 - (iii) The proposed service area.
 - (iv) The general need for and technical feasibility of the proposed mitigation bank or in-lieu fee program.
 - (v) The proposed ownership arrangements and long-term management strategy for the mitigation bank or in-lieu fee project sites.
 - (vi) The qualifications of the sponsor to successfully complete the type(s) of mitigation project(s) proposed, including information describing any past such activities by the sponsor.
 - (vii) For a proposed mitigation bank, the prospectus must also address:
 - (A) The ecological suitability of the site to achieve the objectives of the proposed mitigation bank, including the physical, chemical, and biological characteristics of the bank site and how that site will support the planned types of aquatic resources and functions; and
 - (B) Assurance of sufficient water rights to support the long-term sustainability of the mitigation bank.
 - (viii) For a proposed in-lieu fee program, the prospectus must also include:
 - (A) The compensation planning framework (see paragraph (c) of this section); and
 - (B) A description of the in-lieu fee program account required by paragraph (i) of this section.
- (3) *Preliminary review of prospectus.* Prior to submitting a prospectus, the sponsor may elect to submit a draft prospectus to the district engineer for comment and consultation. The district engineer will provide copies of the draft prospectus to the IRT and will provide comments back to the sponsor within 30 days. Any comments from IRT members will also be forwarded to the sponsor. This preliminary review is optional but is strongly recommended. It is intended to identify potential issues early so that the sponsor may attempt to address those issues prior to the start of the formal review process.
- (4) *Public review and comment.* Within 30 days of receipt of a complete prospectus or an instrument modification request that will be processed in accordance with paragraph (g)(1) of this section, the district engineer will provide public notice of the proposed mitigation bank or in-lieu fee program, in accordance with the public notice procedures at 33 CFR 325.3. The public notice must, at a minimum, include a summary of the prospectus and indicate that the full prospectus is available to the public for review upon request. For modifications of approved instruments, the public notice must instead summarize, and make available to the public upon request, whatever documentation is appropriate for the modification (e.g., a new or revised mitigation plan). The comment period for public notice will be 30 days, unless the district engineer determines that a longer comment period is appropriate. The district engineer will notify the sponsor if the comment period is extended beyond 30 days, including an explanation of why the longer comment period is necessary. Copies of all comments received in response to the public notice must be distributed to the other IRT members and to the sponsor within 15 days of the close of the public comment period. The district engineer and IRT members may also provide comments to the sponsor at this time, and copies of any such comments will also be distributed to all IRT members. If the construction of a mitigation bank or an in-lieu fee program project requires a DA permit, the public notice requirement may be satisfied through the public notice provisions of the permit processing procedures, provided all of the relevant information is provided.
- (5) *Initial evaluation.* (i) After the end of the comment period, the district engineer will review the comments received in response to the public notice, and make a written initial evaluation as to the potential of the proposed mitigation bank or in-lieu fee program to provide compensatory mitigation for activities authorized by DA permits. This initial evaluation letter must be provided to the sponsor within 30 days of the end of the public notice comment period.
- (ii) If the district engineer determines that the proposed mitigation bank or in-lieu fee program has potential for providing appropriate compensatory mitigation for activities authorized by DA permits, the initial evaluation letter will inform the sponsor that he/she may proceed with preparation of the draft instrument (see paragraph (d)(6) of this section).
- (iii) If the district engineer determines that the proposed mitigation bank or in-lieu fee program does not have potential for providing appropriate compensatory mitigation for DA permits, the initial evaluation letter must discuss the reasons for that determination. The sponsor may revise the prospectus to address the district

engineer's concerns, and submit the revised prospectus to the district engineer. If the sponsor submits a revised prospectus, a revised public notice will be issued in accordance with paragraph (d)(4) of this section.

(iv) This initial evaluation procedure does not apply to proposed modifications of approved instruments.

(6) *Draft instrument.* (i) After considering comments from the district engineer, the IRT, and the public, if the sponsor chooses to proceed with establishment of the mitigation bank or in-lieu fee program, he must prepare a draft instrument and submit it to the district engineer. In the case of an instrument modification, the sponsor must prepare a draft amendment (e.g., a specific instrument provision, a new or modified mitigation plan), and submit it to the district engineer. The district engineer must notify the sponsor within 30 days of receipt, whether the draft instrument or amendment is complete. If the draft instrument or amendment is incomplete, the district engineer will request from the sponsor the information necessary to make the draft instrument or amendment complete. Once any additional information is submitted, the district engineer must notify the sponsor as soon as he determines that the draft instrument or amendment is complete. The draft instrument must be based on the prospectus and must describe in detail the physical and legal characteristics of the mitigation bank or in-lieu fee program and how it will be established and operated.

(ii) For mitigation banks and in-lieu fee programs, the draft instrument must include the following information:

(A) A description of the proposed geographic service area of the mitigation bank or in-lieu fee program. The service area is the watershed, ecoregion, physiographic province, and/or other geographic area within which the mitigation bank or in-lieu fee program is authorized to provide compensatory mitigation required by DA permits. The service area must be appropriately sized to ensure that the aquatic resources provided will effectively compensate for adverse environmental impacts across the entire service area. For example, in urban areas, a U.S. Geological Survey 8-digit hydrologic unit code (HUC) watershed or a smaller watershed may be an appropriate service area. In rural areas, several contiguous 8-digit HUCs or a 6-digit HUC watershed may be an appropriate service area. Delineation of the service area must also consider any locally-developed standards and criteria that may be applicable. The economic viability of the mitigation bank or in-lieu fee program may also be considered in determining the size of the service area. The basis for the proposed service area must be documented in the instrument. An in-lieu fee program or umbrella mitigation banking instrument may have multiple service areas governed by its instrument (e.g., each watershed within a state or Corps district may be a separate service area under the instrument); however, all impacts and compensatory mitigation must be accounted for by service area;

(B) Accounting procedures;

(C) A provision stating that legal responsibility for providing the compensatory mitigation lies with the sponsor once a permittee secures credits from the sponsor;

(D) Default and closure provisions;

(E) Reporting protocols; and

(F) Any other information deemed necessary by the district engineer.

(iii) For a mitigation bank, a complete draft instrument must include the following additional information:

(A) Mitigation plans that include all applicable items listed in § 332.4(c)(2) through (14); and

(B) A credit release schedule, which is tied to achievement of specific milestones. All credit releases must be approved by the district engineer, in consultation with the IRT, based on a determination that required milestones have been achieved. The district engineer, in consultation with the IRT, may modify the credit release schedule, including reducing the number of available credits or suspending credit sales or transfers altogether, where necessary to ensure that all credit sales or transfers remain tied to compensatory mitigation projects with a high likelihood of meeting performance standards;

(iv) For an in-lieu fee program, a complete draft instrument must include the following additional information:

(A) The compensation planning framework (see paragraph (c) of this section);

(B) Specification of the initial allocation of advance credits (see paragraph (n) of this section) and a draft fee schedule for these credits, by service area, including an explanation of the basis for the allocation and draft fee schedule;

(C) A methodology for determining future project-specific credits and fees; and

(D) A description of the in-lieu fee program account required by paragraph (i) of this section.

(7) *IRT review.* Upon receipt of notification by the district engineer that the draft instrument or amendment is complete, the sponsor must provide the district engineer with a sufficient number of copies of the draft instrument or amendment to distribute to the IRT members. The district engineer will promptly distribute copies of the draft instrument or amendment to the IRT members for a 30-day comment period. The 30-day comment period begins 5 days after the district engineer distributes the copies of the draft instrument or amendment to the IRT. Following the comment period, the district engineer will discuss any comments with the appropriate agencies and with the sponsor. The district engineer will seek to resolve issues using a consensus based approach, to the extent practicable, while still meeting the decision-making time frames specified in this section. Within 90 days of receipt of the complete draft instrument or amendment by the IRT members, the district engineer must notify the sponsor of the status of the IRT review. Specifically, the district engineer must indicate to the sponsor if the draft instrument or amendment is generally acceptable and what changes, if any, are needed. If there are significant unresolved concerns that may lead to a formal objection from one or more IRT members to the final instrument or amendment, the district engineer will indicate the nature of those concerns.

(8) *Final instrument.* The sponsor must submit a final instrument to the district engineer for approval, with supporting documentation that explains how the final instrument addresses the comments provided by the IRT. For modifications of approved instruments, the sponsor must submit a final amendment to the district engineer for approval, with supporting documentation that explains how the final amendment addresses the comments provided by the IRT. The final instrument or amendment must be provided directly by the sponsor to all members of the IRT. Within 30 days of receipt of the final instrument or amendment, the district engineer will notify the IRT members whether or not he intends to approve the instrument or amendment. If no IRT member objects, by initiating the dispute resolution process in paragraph (e) of this section within 45 days of receipt of the final instrument or amendment, the district engineer will notify the sponsor of his final decision and, if the instrument or amendment is approved, arrange for it to be signed by the appropriate parties. If any IRT member initiates the dispute resolution process, the district engineer will notify the sponsor. Following conclusion of the dispute resolution process, the district engineer will notify the sponsor of his final decision, and if the instrument or amendment is approved, arrange for it to be signed by the appropriate parties. For mitigation banks, the final instrument must contain the information items listed in paragraphs (d)(6)(ii), and (iii) of this section. For in-lieu fee programs, the final instrument must contain the information items listed in paragraphs (d)(6)(ii) and (iv) of this section. For the modification of an approved instrument, the amendment must contain appropriate information, as determined by the district engineer. The final instrument or amendment must be made available to the public upon request.

(e) *Dispute resolution process.* (1) Within 15 days of receipt of the district engineer's notification of intent to approve an instrument or amendment, the Regional Administrator of the U.S. EPA, the Regional Director of the U.S. Fish and Wildlife Service, the Regional Director of the National Marine Fisheries Service, and/or other senior officials of agencies represented on the IRT may notify the district engineer and other IRT members by letter if they object to the approval of the proposed final instrument or amendment. This letter must include an explanation of the basis for the objection and, where feasible, offer recommendations for resolving the objections. If the district engineer does not receive any objections within this time period, he may proceed to final action on the instrument or amendment.

(2) The district engineer must respond to the objection within 30 days of receipt of the letter. The district engineer's response may indicate an intent to disapprove the instrument or amendment as a result of the objection, an intent to approve the instrument or amendment despite the objection, or may provide a modified instrument or amendment that attempts to address the objection. The district engineer's response must be provided to all IRT members.

(3) Within 15 days of receipt of the district engineer's response, if the Regional Administrator or Regional Director is not satisfied with the response he may forward the issue to the Assistant Administrator for Water of the U.S. EPA, the Assistant Secretary for Fish and Wildlife and Parks of the U.S. FWS, or the Undersecretary for Oceans and Atmosphere of NOAA, as appropriate, for review and must notify the district engineer by letter via electronic mail or facsimile machine (with copies to all IRT members) that the issue has been forwarded for Headquarters review. This step is available only to the IRT members representing these three federal agencies, however other IRT members who do not agree with the district engineer's final decision do not have to sign the instrument or amendment or recognize the mitigation bank or in-lieu fee program for purposes of their own programs and authorities. If an IRT member other than the one filing the original objection has a new objection based on the district engineer's response, he may use the first step in this procedure (paragraph (e)(1) of this section) to provide that objection to the district engineer.

(4) If the issue has not been forwarded to the objecting agency's Headquarters, then the district engineer may proceed with final action on the instrument or amendment. If the issue has been forwarded to the objecting agency's Headquarters, the district engineer must hold in abeyance the final action on the instrument or amendment, pending Headquarters level review described below.

(5) Within 20 days from the date of the letter requesting Headquarters level review, the Assistant Administrator for Water, the Assistant Secretary for Fish and Wildlife and Parks, or the Undersecretary for Oceans and Atmosphere must either notify the Assistant Secretary of the Army (Civil Works) (ASA(CW)) that further review will not be requested, or request that the ASA(CW) review the final instrument or amendment.

(6) Within 30 days of receipt of the letter from the objecting agency's Headquarters request for ASA(CW)'s review of the final instrument, the ASA(CW), through the Director of Civil Works, must review the draft instrument or amendment and advise the district engineer on how to proceed with final action on that instrument or amendment. The ASA(CW) must immediately notify the Assistant Administrator for Water, the Assistant Secretary for Fish and Wildlife and Parks, and/or the Undersecretary for Oceans and Atmosphere of the final decision.

(7) In cases where the dispute resolution procedure is used, the district engineer must notify the sponsor of his final decision within 150 days of receipt of the final instrument or amendment.

(f) *Extension of deadlines.* (1) The deadlines in paragraphs (d) and (e) of this section may be extended by the district engineer at his sole discretion in cases where:

(i) Compliance with other applicable laws, such as consultation under section 7 of the Endangered Species Act or section 106 of the National Historic Preservation Act, is required;

(ii) It is necessary to conduct government-to-government consultation with Indian tribes;

(iii) Timely submittal of information necessary for the review of the proposed mitigation bank or in-lieu fee program or the proposed modification of an approved instrument is not accomplished by the sponsor; or

(iv) Information that is essential to the district engineer's decision cannot be reasonably obtained within the specified time frame.

(2) In such cases, the district engineer must promptly notify the sponsor in writing of the extension and the reason for it. Such extensions shall be for the minimum time necessary to resolve the issue necessitating the extension.

(g) *Modification of instruments*—(1) *Approval of an amendment to an approved instrument.* Modification of an approved instrument, including the addition and approval of umbrella mitigation bank sites or in-lieu fee project sites or expansions of previously approved mitigation bank or in-lieu fee project sites, must follow the appropriate procedures in paragraph (d) of this section, unless the district engineer determines that the streamlined review process described in paragraph (g)(2) of this section is warranted.

(2) *Streamlined review process.* The streamlined modification review process may be used for the following modifications of instruments: changes reflecting adaptive management of the mitigation bank or in-lieu fee program, credit releases, changes in credit releases and credit release schedules, and changes that the district engineer determines are not significant. If the district engineer determines that the streamlined review process is warranted, he must notify the IRT members and the sponsor of this determination and provide them with copies of the proposed modification. IRT members and the sponsor have 30 days to notify the district engineer if they have concerns with the proposed modification. If IRT members or the sponsor notify the district engineer of such concerns, the district engineer shall attempt to resolve those concerns. Within 60 days of providing the proposed modification to the IRT, the district engineer must notify the IRT members of his intent to approve or disapprove the proposed modification. If no IRT member objects, by initiating the dispute resolution process in paragraph (e) of this section, within 15 days of receipt of this notification, the district engineer will notify the sponsor of his final decision and, if the modification is approved, arrange for it to be signed by the appropriate parties. If any IRT member initiates the dispute resolution process, the district engineer will so notify the sponsor. Following conclusion of the dispute resolution process, the district engineer will notify the sponsor of his final decision, and if the modification is approved, arrange for it to be signed by the appropriate parties.

(h) *Umbrella mitigation banking instruments.* A single mitigation banking instrument may provide for future authorization of additional mitigation bank sites. As additional sites are selected, they must be included in the

mitigation banking instrument as modifications, using the procedures in paragraph (g)(1) of this section. Credit withdrawal from the additional bank sites shall be consistent with paragraph (m) of this section.

(i) *In-lieu fee program account.* (1) The in-lieu fee program sponsor must establish a program account after the instrument is approved by the district engineer, prior to accepting any fees from permittees. If the sponsor accepts funds from entities other than permittees, those funds must be kept in separate accounts. The program account must be established at a financial institution that is a member of the Federal Deposit Insurance Corporation. All interests and earnings accruing to the program account must remain in that account for use by the in-lieu fee program for the purposes of providing compensatory mitigation for DA permits. The program account may only be used for the selection, design, acquisition, implementation, and management of in-lieu fee compensatory mitigation projects, except for a small percentage (as determined by the district engineer in consultation with the IRT and specified in the instrument) that can be used for administrative costs.

(2) The sponsor must submit proposed in-lieu fee projects to the district engineer for funding approval. Disbursements from the program account may only be made upon receipt of written authorization from the district engineer, after the district engineer has consulted with the IRT. The terms of the program account must specify that the district engineer has the authority to direct those funds to alternative compensatory mitigation projects in cases where the sponsor does not provide compensatory mitigation in accordance with the time frame specified in paragraph (n)(4) of this section.

(3) The sponsor must provide annual reports to the district engineer and the IRT. The annual reports must include the following information:

(i) All income received, disbursements, and interest earned by the program account;

(ii) A list of all permits for which in-lieu fee program funds were accepted. This list shall include: The Corps permit number (or the state permit number if there is no corresponding Corps permit number, in cases of state programmatic general permits or other regional general permits), the service area in which the authorized impacts are located, the amount of authorized impacts, the amount of required compensatory mitigation, the amount paid to the in-lieu fee program, and the date the funds were received from the permittee;

(iii) A description of in-lieu fee program expenditures from the account, such as the costs of land acquisition, planning, construction, monitoring, maintenance, contingencies, adaptive management, and administration;

(iv) The balance of advance credits and released credits at the end of the report period for each service area; and

(v) Any other information required by the district engineer.

(4) The district engineer may audit the records pertaining to the program account. All books, accounts, reports, files, and other records relating to the in-lieu fee program account shall be available at reasonable times for inspection and audit by the district engineer.

(j) *In-lieu fee project approval.* (1) As in-lieu fee project sites are identified and secured, the sponsor must submit mitigation plans to the district engineer that include all applicable items listed in § 332.4(c)(2) through (14). The mitigation plan must also include a credit release schedule consistent with paragraph (o)(8) of this section that is tied to achievement of specific performance standards. The review and approval of in-lieu fee projects will be conducted in accordance with the procedures in paragraph (g)(1) of this section, as modifications of the in-lieu fee program instrument. This includes compensatory mitigation projects conducted by another party on behalf of the sponsor through requests for proposals and awarding of contracts.

(2) If a DA permit is required for an in-lieu fee project, the permit should not be issued until all relevant provisions of the mitigation plan have been substantively determined, to ensure that the DA permit accurately reflects all relevant provisions of the approved mitigation plan, such as performance standards.

(k) *Coordination of mitigation banking instruments and DA permit issuance.* In cases where initial establishment of the mitigation bank, or the development of a new project site under an umbrella banking instrument, involves activities requiring DA authorization, the permit should not be issued until all relevant provisions of the mitigation plan have been substantively determined. This is to ensure that the DA permit accurately reflects all relevant provisions of the final instrument, such as performance standards.

(l) *Project implementation.* (1) The sponsor must have an approved instrument prior to collecting funds from permittees to satisfy compensatory mitigation requirements for DA permits.

(2) Authorization to sell credits to satisfy compensatory mitigation requirements in DA permits is contingent on compliance with all of the terms of the instrument. This includes constructing a mitigation bank or in-lieu fee project in accordance with the mitigation plan approved by the district engineer and incorporated by reference in the instrument. If the aquatic resource restoration, establishment, enhancement, and/or preservation activities cannot be implemented in accordance with the approved mitigation plan, the district engineer must consult with the sponsor and the IRT to consider modifications to the instrument, including adaptive management, revisions to the credit release schedule, and alternatives for providing compensatory mitigation to satisfy any credits that have already been sold.

(3) An in-lieu fee program sponsor is responsible for the implementation, long-term management, and any required remediation of the restoration, establishment, enhancement, and/or preservation activities, even though those activities may be conducted by other parties through requests for proposals or other contracting mechanisms.

(m) *Credit withdrawal from mitigation banks.* The mitigation banking instrument may allow for an initial debiting of a percentage of the total credits projected at mitigation bank maturity, provided the following conditions are satisfied: the mitigation banking instrument and mitigation plan have been approved, the mitigation bank site has been secured, appropriate financial assurances have been established, and any other requirements determined to be necessary by the district engineer have been fulfilled. The mitigation banking instrument must provide a schedule for additional credit releases as appropriate milestones are achieved (see paragraph (o)(8) of this section). Implementation of the approved mitigation plan shall be initiated no later than the first full growing season after the date of the first credit transaction.

(n) *Advance credits for in-lieu fee programs.* (1) The in-lieu fee program instrument may make a limited number of advance credits available to permittees when the instrument is approved. The number of advance credits will be determined by the district engineer, in consultation with the IRT, and will be specified for each service area in the instrument. The number of advance credits will be based on the following considerations:

(i) The compensation planning framework;

(ii) The sponsor's past performance for implementing aquatic resource restoration, establishment, enhancement, and/or preservation activities in the proposed service area or other areas; and

(iii) The projected financing necessary to begin planning and implementation of in-lieu fee projects.

(2) To determine the appropriate number of advance credits for a particular service area, the district engineer may require the sponsor to provide confidential supporting information that will not be made available to the general public. Examples of confidential supporting information may include prospective in-lieu fee project sites.

(3) As released credits are produced by in-lieu fee projects, they must be used to fulfill any advance credits that have already been provided within the project service area before any remaining released credits can be sold or transferred to permittees. Once previously provided advance credits have been fulfilled, an equal number of advance credits is re-allocated to the sponsor for sale or transfer to fulfill new mitigation requirements, consistent with the terms of the instrument. The number of advance credits available to the sponsor at any given time to sell or transfer to permittees in a given service area is equal to the number of advance credits specified in the instrument, minus any that have already been provided but not yet fulfilled.

(4) Land acquisition and initial physical and biological improvements must be completed by the third full growing season after the first advance credit in that service area is secured by a permittee, unless the district engineer determines that more or less time is needed to plan and implement an in-lieu fee project. If the district engineer determines that there is a compensatory mitigation deficit in a specific service area by the third growing season after the first advance credit in that service area is sold, and determines that it would not be in the public interest to allow the sponsor additional time to plan and implement an in-lieu fee project, the district engineer must direct the sponsor to disburse funds from the in-lieu fee program account to provide alternative compensatory mitigation to fulfill those compensation obligations.

(5) The sponsor is responsible for complying with the terms of the in-lieu fee program instrument. If the district engineer determines, as a result of review of annual reports on the operation of the in-lieu fee program (see paragraphs (p)(2) and (q)(1) of this section), that it is not performing in compliance with its instrument, the district engineer will take appropriate action, which may include suspension of credit sales, to ensure compliance with the in-lieu fee program instrument (see paragraph (o)(10) of this section). Permittees that secured credits from the in-lieu fee program are not responsible for in-lieu fee program compliance.

- (o) *Determining credits.* (1) *Units of measure.* The principal units for credits and debits are acres, linear feet, functional assessment units, or other suitable metrics of particular resource types. Functional assessment units or other suitable metrics may be linked to acres or linear feet.
- (2) *Assessment.* Where practicable, an appropriate assessment method (e.g., hydrogeomorphic approach to wetlands functional assessment, index of biological integrity) or other suitable metric must be used to assess and describe the aquatic resource types that will be restored, established, enhanced and/or preserved by the mitigation bank or in-lieu fee project.
- (3) *Credit production.* The number of credits must reflect the difference between pre- and post-compensatory mitigation project site conditions, as determined by a functional or condition assessment or other suitable metric.
- (4) *Credit value.* Once a credit is debited (sold or transferred to a permittee), its value cannot change.
- (5) *Credit costs.* (i) The cost of compensatory mitigation credits provided by a mitigation bank or in-lieu fee program is determined by the sponsor.
- (ii) For in-lieu fee programs, the cost per unit of credit must include the expected costs associated with the restoration, establishment, enhancement, and/or preservation of aquatic resources in that service area. These costs must be based on full cost accounting, and include, as appropriate, expenses such as land acquisition, project planning and design, construction, plant materials, labor, legal fees, monitoring, and remediation or adaptive management activities, as well as administration of the in-lieu fee program. The cost per unit credit must also take into account contingency costs appropriate to the stage of project planning, including uncertainties in construction and real estate expenses. The cost per unit of credit must also take into account the resources necessary for the long-term management and protection of the in-lieu fee project. In addition, the cost per unit credit must include financial assurances that are necessary to ensure successful completion of in-lieu fee projects.
- (6) *Credits provided by preservation.* These credits should be specified as acres, linear feet, or other suitable metrics of preservation of a particular resource type. In determining the compensatory mitigation requirements for DA permits using mitigation banks or in-lieu fee programs, the district engineer should apply a higher mitigation ratio if the requirements are to be met through the use of preservation credits. In determining this higher ratio, the district engineer must consider the relative importance of both the impacted and the preserved aquatic resources in sustaining watershed functions.
- (7) *Credits provided by riparian areas, buffers, and uplands.* These credits should be specified as acres, linear feet, or other suitable metrics of riparian area, buffer, and uplands, respectively. Non-aquatic resources can only be used as compensatory mitigation for impacts to aquatic resources authorized by DA permits when those resources are essential to maintaining the ecological viability of adjoining aquatic resources. In determining the compensatory mitigation requirements for DA permits using mitigation banks and in-lieu fee programs, the district engineer may authorize the use of riparian area, buffer, and/or upland credits if he determines that these areas are essential to sustaining aquatic resource functions in the watershed and are the most appropriate compensation for the authorized impacts.
- (8) *Credit release schedule.* (i) *General considerations.* Release of credits must be tied to performance-based milestones (e.g., construction, planting, establishment of specified plant and animal communities). The credit release schedule should reserve a significant share of the total credits for release only after full achievement of ecological performance standards. When determining the credit release schedule, factors to be considered may include, but are not limited to: The method of providing compensatory mitigation credits (e.g., restoration), the likelihood of success, the nature and amount of work needed to generate the credits, and the aquatic resource type(s) and function(s) to be provided by the mitigation bank or in-lieu fee project. The district engineer will determine the credit release schedule, including the share to be released only after full achievement of performance standards, after consulting with the IRT. Once released, credits may only be used to satisfy compensatory mitigation requirements of a DA permit if the use of credits for a specific permit has been approved by the district engineer.
- (ii) For single-site mitigation banks, the terms of the credit release schedule must be specified in the mitigation banking instrument. The credit release schedule may provide for an initial debiting of a limited number of credits once the instrument is approved and other appropriate milestones are achieved (see paragraph (m) of this section).

(iii) For in-lieu fee projects and umbrella mitigation bank sites, the terms of the credit release schedule must be specified in the approved mitigation plan. When an in-lieu fee project or umbrella mitigation bank site is implemented and is achieving the performance-based milestones specified in the credit release schedule, credits are generated in accordance with the credit release schedule for the approved mitigation plan. If the in-lieu fee project or umbrella mitigation bank site does not achieve those performance-based milestones, the district engineer may modify the credit release schedule, including reducing the number of credits.

(9) *Credit release approval.* Credit releases for mitigation banks and in-lieu fee projects must be approved by the district engineer. In order for credits to be released, the sponsor must submit documentation to the district engineer demonstrating that the appropriate milestones for credit release have been achieved and requesting the release. The district engineer will provide copies of this documentation to the IRT members for review. IRT members must provide any comments to the district engineer within 15 days of receiving this documentation. However, if the district engineer determines that a site visit is necessary, IRT members must provide any comments to the district engineer within 15 days of the site visit. The district engineer must schedule the site visit so that it occurs as soon as it is practicable, but the site visit may be delayed by seasonal considerations that affect the ability of the district engineer and the IRT to assess whether the applicable credit release milestones have been achieved. After full consideration of any comments received, the district engineer will determine whether the milestones have been achieved and the credits can be released. The district engineer shall make a decision within 30 days of the end of that comment period, and notify the sponsor and the IRT.

(10) *Suspension and termination.* If the district engineer determines that the mitigation bank or in-lieu fee program is not meeting performance standards or complying with the terms of the instrument, appropriate action will be taken. Such actions may include, but are not limited to, suspending credit sales, adaptive management, decreasing available credits, utilizing financial assurances, and terminating the instrument.

(p) *Accounting procedures.* (1) For mitigation banks, the instrument must contain a provision requiring the sponsor to establish and maintain a ledger to account for all credit transactions. Each time an approved credit transaction occurs, the sponsor must notify the district engineer.

(2) For in-lieu fee programs, the instrument must contain a provision requiring the sponsor to establish and maintain an annual report ledger in accordance with paragraph (i)(3) of this section, as well as individual ledgers that track the production of released credits for each in-lieu fee project.

(q) *Reporting.* (1) *Ledger account.* The sponsor must compile an annual ledger report showing the beginning and ending balance of available credits and permitted impacts for each resource type, all additions and subtractions of credits, and any other changes in credit availability (e.g., additional credits released, credit sales suspended). The ledger report must be submitted to the district engineer, who will distribute copies to the IRT members. The ledger report is part of the administrative record for the mitigation bank or in-lieu fee program. The district engineer will make the ledger report available to the public upon request.

(2) *Monitoring reports.* The sponsor is responsible for monitoring the mitigation bank site or the in-lieu fee project site in accordance with the approved monitoring requirements to determine the level of success and identify problems requiring remedial action or adaptive management measures. Monitoring must be conducted in accordance with the requirements in § 332.6, and at time intervals appropriate for the particular project type and until such time that the district engineer, in consultation with the IRT, has determined that the performance standards have been attained. The instrument must include requirements for periodic monitoring reports to be submitted to the district engineer, who will provide copies to other IRT members.

(3) *Financial assurance and long-term management funding report.* The district engineer may require the sponsor to provide an annual report showing beginning and ending balances, including deposits into and any withdrawals from, the accounts providing funds for financial assurances and long-term management activities. The report should also include information on the amount of required financial assurances and the status of those assurances, including their potential expiration.

(r) *Use of credits.* Except as provided below, all activities authorized by DA permits are eligible, at the discretion of the district engineer, to use mitigation banks or in-lieu fee programs to fulfill compensatory mitigation requirements for DA permits. The district engineer will determine the number and type(s) of credits required to compensate for the authorized impacts. Permit applicants may propose to use a particular mitigation bank or in-lieu fee program to provide the required compensatory mitigation. In such cases, the sponsor must provide the permit applicant with a statement of credit availability. The district engineer must review the permit applicant's compensatory mitigation proposal, and notify the applicant of his determination regarding the acceptability of using that mitigation bank or in-lieu fee program.

(s) *IRT concerns with use of credits.* If, in the view of a member of the IRT, an issued permit or series of issued permits raises concerns about how credits from a particular mitigation bank or in-lieu fee program are being used to satisfy compensatory mitigation requirements (including concerns about whether credit use is consistent with the terms of the instrument), the IRT member may notify the district engineer in writing of the concern. The district engineer shall promptly consult with the IRT to address the concern. Resolution of the concern is at the discretion of the district engineer, consistent with applicable statutes, regulations, and policies regarding compensatory mitigation requirements for DA permits. Nothing in this section limits the authorities designated to IRT agencies under existing statutes or regulations.

(t) *Site protection.* (1) For mitigation bank sites, real estate instruments, management plans, or other long-term mechanisms used for site protection must be finalized before any credits can be released.

(2) For in-lieu fee project sites, real estate instruments, management plans, or other long-term protection mechanisms used for site protection must be finalized before advance credits can become released credits.

(u) *Long-term management.* (1) The legal mechanisms and the party responsible for the long-term management and the protection of the mitigation bank site must be documented in the instrument or, in the case of umbrella mitigation banking instruments and in-lieu fee programs, the approved mitigation plans. The responsible party should make adequate provisions for the operation, maintenance, and long-term management of the compensatory mitigation project site. The long-term management plan should include a description of long-term management needs and identify the funding mechanism that will be used to meet those needs.

(2) The instrument may contain provisions for the sponsor to transfer long-term management responsibilities to a land stewardship entity, such as a public agency, non-governmental organization, or private land manager.

(3) The instrument or approved mitigation plan must address the financial arrangements and timing of any necessary transfer of long-term management funds to the steward.

(4) Where needed, the acquisition and protection of water rights should be secured and documented in the instrument or, in the case of umbrella mitigation banking instruments and in-lieu fee programs, the approved mitigation site plan.

(v) *Grandfathering of existing instruments—*(1) *Mitigation banking instruments.* All mitigation banking instruments approved on or after July 9, 2008 must meet the requirements of this part. Mitigation banks approved prior to July 9, 2008 may continue to operate under the terms of their existing instruments. However, any modification to such a mitigation banking instrument on or after July 9, 2008, including authorization of additional sites under an umbrella mitigation banking instrument, expansion of an existing site, or addition of a different type of resource credits (e.g., stream credits to a wetland bank) must be consistent with the terms of this part.

(2) *In-lieu fee program instruments.* All in-lieu fee program instruments approved on or after July 9, 2008 must meet the requirements of this part. In-lieu fee programs operating under instruments approved prior to July 9, 2008 may continue to operate under those instruments for two years after the effective date of this rule, after which time they must meet the requirements of this part, unless the district engineer determines that circumstances warrant an extension of up to three additional years. The district engineer must consult with the IRT before approving such extensions. Any revisions made to the in-lieu fee program instrument on or after July 9, 2008 must be consistent with the terms of this part. Any approved project for which construction was completed under the terms of a previously approved instrument may continue to operate indefinitely under those terms if the district engineer determines that the project is providing appropriate mitigation substantially consistent with the terms of this part.



ENVIRONMENTAL & CIVIL SOLUTIONS, LLC
PROFESSIONAL ENGINEERS & LAND SURVEYORS
AN EQUAL OPPORTUNITY EMPLOYER

111 WEST SECOND STREET, SUITE 600 – CASPER, WY 82601 – PHONE: 307.337.2883

371 COFFEEN AVENUE - SHERIDAN, WY 82801 – PHONE: 307.675.1919

FAX: 888.424.6090

WEB: www.ecsengineers.net – EMAIL: info@ecsengineers.net