



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET - SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

November 30, 2006

*Lina Artemis*  
*JRC*

2007 FEB -1 AM 8:51

EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-L

Robert Cross  
Wolf Creek Associates, LLC  
7309 49<sup>th</sup> Ave. East  
Bradenton, FL 34203

Re: Administrative Order on Consent, Docket  
# CWA-08-2007-0006 - Attachment 2

Dear Mr. Cross:

Enclosed please find a copy of Attachment 2, which was inadvertently omitted from the final signed copy of the Administrative Order on Consent ("AOC") that was mailed to you on November 28, 2006. The acreage figure in paragraph II. of Attachment 2 has been revised in accordance with comment received from you and Mr. Powers, and I have inserted the Docket Number for the AOC in the second "Whereas" clause. Once you have executed the Conservation Restriction of Deed, it should be filed in the Clerk and Recorder's office in Mineral County.

I apologize for any confusion caused by our failure to include Attachment 2 with the AOC. If you have any questions regarding this letter or Attachment 2, please feel free to contact Ken Champagne at 303-312-6608, or your attorney may contact me at 303-312-6637.

Sincerely,

*Wendy I. Silver*

Wendy I. Silver  
Enforcement Attorney

Enclosure

cc: Charles C. Powers, Esq.  
Deanna Cummings, U.S. Army Corps of Engineers



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**ATTACHMENT 2**

## CONSERVATION RESTRICTION OF DEED

This Conservation Restriction of Deed is made this \_\_\_\_ day of \_\_\_\_\_, 2006, by Robert Cross and Wolf Creek Associates, LLC, a Colorado company.

WHEREAS, Robert Cross and Wolf Creek Associates, LLC are the owners of a tract of land in Mineral County, Colorado, in Section 24, Township 39 North, Range 2 East, described in the attached Exhibit A (the "Property"), and whereas certain areas thereof provide significant habitat for fish, wildlife, and plants and have substantial ecological, scientific, educational and aesthetic value in its present state as natural areas; and

WHEREAS, pursuant to an Administrative Order on Consent, Docket No. CWA-08-2007-0006, between the parties hereto and the U.S. Environmental Protection Agency, Region 8 ("Consent Order"), Robert Cross and Wolf Creek Associates, LLC have agreed to implement a Mitigation Plan that requires 7.91 acres of wetlands on the Property to be constructed and preserved. The portions of the Property on which wetlands currently exist and on which wetlands will be constructed is delineated on the map attached hereto as Exhibit B, hereinafter referred to as the "Wetlands Tracts"; and

WHEREAS, the parties hereto recognize the importance of the Wetlands Tracts and have the common purpose of conserving the natural values of the Wetlands Tracts; and

WHEREAS, the parties recognize the importance of preserving the natural character of the 33.42 acres of uplands south of the South Fork of the Rio Grande;

NOW, THEREFORE, THE PARTIES AGREE,

I. The Wetlands Tracts, in gross, shall be retained and maintained as wetlands habitat as more particularly described below and in the Consent Order and Mitigation Plan attached thereto; and the parties agree to restrict the use and title of the Wetlands Tracts as follows:

1. There shall be no construction or placement of structures or mobile homes, fences, signs, or other structures, whether temporary or permanent, on the land.
2. There shall be no filling, draining, excavating, dredging, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals or other materials.
3. There shall be no building of roads or paths for vehicular travel nor any change in the topography of the land. Wooden boardwalks for pedestrians are permitted.
4. There shall be no removal, destruction, mowing, or cutting of trees or plants, grazing of animals, farming, tilling of soil, or other agricultural activity.
5. There shall be no operation of all-terrain vehicles or any other type of motorized vehicle on the land.

II. The 33.42 acres of uplands south of the South Fork of the Rio Grande shall not be developed with permanent or temporary buildings, manufactured home, trailers, roads or other improvements except boardwalks, walking paths, picnic tables, pavilions and similar amenities for outdoor recreation consistent with the natural character of the property are allowed.

Said restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title, or interest in the property, their heirs, successors, and assigns. Any activity or use of the Wetlands Tract inconsistent with this Conservation Restriction of Deed, the Consent Order or the Mitigation Plan is prohibited. However, any and all uses of the Wetlands Tract which are consistent with and not in derogation of this Conservation Restriction of Deed, the Consent Order or the Mitigation Plan are reserved to all parties having any right, title, or interest in the property, their heirs, executors, and assigns and shall be permitted in perpetuity.

IN WITNESS WHEREOF, Robert Cross and Wolf Creek Associates, LLC, have caused this Conservation Deed Restriction to be executed by a duly authorized officer of the corporation.

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Robert Cross  
Individually

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Robert Cross, Manager  
Wolf Creek Associates LLC  
A Colorado Limited Liability  
Company