



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
www.epa.gov/region8

**JUL 27 2017**

Ref: 8ENF-W-WO

**CERTIFIED MAIL #7012 2210 0000 5367 5487**  
**RETURN RECEIPT REQUESTED**

Mr. James Parkman  
600 Lilley Yeager Loop North  
Cleveland, Texas 77328

Re: Administrative Order on Consent

Dear Mr. Parkman:

Enclosed please find a copy of the fully executed administrative order on consent (AOC) to address unresolved violations of the Clean Water Act caused by alleged unauthorized discharges of dredged and fill material to waters of the United States by Michael F. Gard, Richard P. Gard and Professional Home Design, Inc. The discharges occurred to property consisting of lots 21 and 22 of the River Park Subdivision located in the southeast quarter of the southwest quarter of Section 24, Township 41 North, Range 106 West, Fremont County, Wyoming. The U.S. Environmental Protection Agency has the authority to issue this AOC under section 309(a) of the CWA, 33 U.S.C. § 1319(a).

If you have any questions, please feel free to contact me at 303-312-6359. I am available to assist you and answer questions as you satisfy the terms of the AOC. If you are represented by an attorney who has questions, please ask the attorney to contact Peggy Livingston, Senior Enforcement Attorney, at 303-312-6858. We appreciate your cooperation in working to resolve this matter.

Sincerely,

A handwritten signature in black ink that reads "Monica Heimdal".

Monica Heimdal  
Environmental Engineer  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure

cc: Richard Chong, U.S. Army Corps of Engineers (via email)  
Mike Happold, U.S. Army Corps of Engineers (via email)  
Brian Remlinger, Alder Environmental, LLC (via email)  
Paige Wolken, U.S. Army Corps of Engineers (via email)

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2017 JUL 27 PM 12:44

**IN THE MATTER OF:** )

James Parkman )  
600 Lilley Yeager Loop North )  
Cleveland, Texas 77328 )

**Respondent.** )  
\_\_\_\_\_ )

FILED  
EPA REGION VIII  
HEARING CLERK

**ADMINISTRATIVE ORDER  
ON CONSENT**

Docket No. **CWA-08-2017-0019**

**I. INTRODUCTION**

1. This Administrative Order on Consent (Consent Order) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and James Parkman (Respondent). This Consent Order concerns the implementation of restoration activities to address unresolved environmental damage caused by alleged unauthorized discharges of dredged and fill material to waters of the United States by Michael F. Gard and Richard P. Gard (the Gards) and Professional Home Design, Inc., named respondents in an administrative order for compliance previously issued by the EPA. The discharges occurred to property consisting of lots 21 and 22 of the River Park Subdivision (the Site) located in the southeast quarter of the southwest quarter of Section 24, Township 41 North, Range 106 West, Fremont County, Wyoming.

**II. STATUTORY AUTHORITY**

2. This Consent Order is issued under section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). This Consent Order is based on the following findings of violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), which, among other things, prohibits the discharge of pollutants into waters of the United States except as in compliance with section 404 of the CWA, 33 U.S.C. § 1344.

### **III. PARTIES BOUND**

3. This Consent Order shall apply to and be binding upon the EPA and upon Respondent and Respondent's agents, successors and assigns. Each signatory to this Consent Order certifies that he or she is authorized to execute and legally bind the party he or she represents to this Consent Order. No change in ownership of the Site or legal status of Respondent shall alter Respondent's responsibilities under this Consent Order unless the EPA, Respondent and the transferee agree in writing to allow the transferee to assume such responsibilities. Additionally, no later than thirty (30) calendar days prior to such transfer, Respondent shall notify the EPA at the address specified in paragraph 44, below.

### **IV. STATEMENT OF THE PARTIES**

4. The following FINDINGS OF FACT AND OF VIOLATION are made solely by the EPA. In signing this Consent Order, Respondent neither admits nor denies the FINDINGS OF FACT AND OF VIOLATION. Notwithstanding the foregoing, in order to provide for resolution of the alleged CWA violations at the Site and without acknowledging any liability, Respondent consents to the issuance of this Consent Order and agrees to abide by all of its conditions. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Respondent further agrees not to challenge the jurisdiction of the EPA or the FINDINGS OF FACT AND OF VIOLATION below in any proceeding to enforce this Consent Order or in any action under this Consent Order.

5. The parties desire to enter into this Consent Order for a restoration plan pursuant to which Respondent would implement restoration activities, as described below, for previous impacts to 0.81 acre of wetlands at the Site in exchange for which the EPA agrees not to pursue any other civil enforcement action against Respondent relating to these previous CWA violations, outside of enforcing this Consent Order.

## **V. FINDINGS OF FACT AND OF VIOLATION**

6. Professional Home Design, Inc. (PHD) is a corporation incorporated under the laws of the State of Wyoming. The address of the registered office for PHD is 202 South 2<sup>nd</sup> Street East, Riverton, Wyoming 82501. Its registered agent at that address is Richard P. Gard.
7. Michael F. Gard, doing business as Gard Enterprises, is an individual. At all relevant times, he has been the president of PHD.
8. Richard P. Gard, doing business as Gard Enterprises, is an individual. At all relevant times, he has been the vice president of PHD.
9. Respondent, James Parkman, is an individual with a mailing address of 600 Lilley Yeager Loop North, Cleveland, Texas 77328.
10. Respondent has expressed an interest in purchasing the Site, which is currently owned, controlled, managed and/or operated by PHD and the Gards.
11. The Wind River flows adjacent to wetlands at the Site. The Wind River is, and was at all relevant times, a navigable-in-fact water. The Wind River is tributary to the Big Horn River, which is tributary to the Yellowstone River, which is tributary to the Missouri River. The Big Horn River, Yellowstone River and Missouri River are, and were at all relevant times, navigable interstate waters. Furthermore, the United States Army Corps of Engineers (Corps) has determined that the Wind River is a traditional navigable water.
12. Between the first week of June 2008 and April 8, 2009, approximately 0.81 acre of wetlands was partially drained, excavated and filled at the Site. The work was reportedly done for the purpose of developing two lots for the future construction of two homes for the Gards.
13. On April 2, 2009, the Corps received a report of a developer clearing and draining wetlands at the Site. The caller identified the contractor doing the work as PHD. The Corps had received a similar report from a different source the previous week.

14. On April 7, 2009, the Corps spoke with Michael F. Gard, who told the Corps that the work at the Site entailed draining and filling the property. Mr. Gard indicated that two pads had been constructed in preparation for building two cabins. The Corps told Mr. Gard that, based on recent discussions with local, state and federal agencies, as well as information Mr. Gard provided, the work was likely being done in wetlands and could be in violation of the CWA. The Corps advised Mr. Gard to discontinue work until the Corps could conduct a site inspection.

15. On April 22, 2009, the Corps inspected the Site and found that PHD and the Gards had discharged or allowed the discharge of dredged and fill material to 0.68 acre of wetlands adjacent to the Wind River. Specifically, the Corps found that two trenches, each three to four feet deep and 60 feet long, had been cut in the wetlands in June 2008 to determine the groundwater level on the property, resulting in the discharge of sidecast material to the wetlands. In March 2009, four perforated drain pipes had been installed, which involved the excavation and filling of two new trenches through the wetlands. Within the wetlands, offsite material was used to construct the building pad and access road, and additional material was stockpiled. These activities resulted in 0.68 acre of wetlands filled. Surface material excavated from wetlands at the Site and used as base fill for the building pad and access road resulted in additional unauthorized impacts to another 0.13 acre of wetlands at the Site.

16. On May 8, 2009, via a certified mail, return receipt letter addressed to Mr. Michael Gard, Gard Enterprises, the Corps issued a cease and desist order directing “Gard Enterprises and any other parties responsible for these unauthorized activities . . . to cease and desist any further earth moving activities at the property in the vicinity of the Wind River.” The Corps’ letter indicated that the case had been referred to the EPA.

17. On December 22, 2009, the EPA issued an Administrative Order for Compliance (AO), Docket No. CWA-08-2010-0003, to PHD and the Gards to address the alleged violations that are the subject of this Consent Order. The AO directed PHD and the Gards to prepare a restoration or mitigation plan and, following the EPA’s approval of that plan, to implement it.

18. On May 14, 2010, a consultant for the Gards submitted a draft restoration and mitigation plan to the EPA for comment. Three subsequent drafts were submitted to the EPA between May 24, 2011, and January 30, 2013. The EPA approved the final submittal on March 27, 2013.

19. During 2013, the Gards experienced significant delays in initiating restoration and mitigation activities due to difficulties securing a third party to manage the 3.71-acre conservation easement that was a component of the approved restoration and mitigation plan. As a result, the Gards requested that restoration and mitigation activities be postponed until 2014. Additional delays ensued and on September 30, 2014, the EPA provided written confirmation to the Gards' consultant that it did not object to the Gards moving forward with restoration and mitigation activities at the Site without having yet secured a third party to manage the conservation easement.

20. On November 24, 2014, the Corps provided written confirmation to the Gards that the proposed restoration and mitigation activities were authorized by Nationwide Permit 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities. On January 14, 2015, the Gards' consultant notified the EPA that the Gards were ready to begin restoration activities.

21. On October 6, 2015, the EPA was contacted by a consultant representing a prospective buyer of the Site. On December 8, 2015, the Gards' consultant indicated to the EPA that he was unaware of any plans to sell the Site and that the current plan was to initiate restoration activities in 2016. On December 15, 2015, the Gards' consultant confirmed in writing that restoration was scheduled for early spring of 2016, following snowmelt.

22. On September 6, 2016, a real estate agent notified the EPA that he had a client interested in purchasing the Site. He noted that his client was aware of the unresolved CWA violations at the Site and had obtained cost estimates for implementing the restoration and mitigation activities. The client was reportedly interested in voluntarily restoring the Site and placing deed restrictions on it.

23. On January 17, 2017, Respondent's consultant submitted a draft plan for restoration of the Site to the EPA. At EPA's request, revisions were made to the draft plan and submitted on February 7, March 3 and April 10 of 2017.
24. The Site includes wetlands adjacent to the Wind River. These wetlands are waters of the United States. The wetlands at the Site have a continuous surface connection with the Wind River.
25. The discharges described in paragraphs 14 and 15, above, resulted in the direct elimination of 0.81 acre of wetlands and the dewatering of an unknown amount of additional wetlands adjacent to the Wind River. The wetlands provided various functions and values such as water quality improvement, wildlife habitat, groundwater recharge, flood attenuation and aesthetics.
26. The activities described in paragraphs 14 and 15, above, were performed using common earthmoving vehicles and equipment.
27. PHD and the Gards are each a "person" as defined in section 502(5) of the CWA, 33 U.S.C. § 1362(5).
28. The material discharged at the Site and described in paragraphs 14 and 15, above, is and was at all relevant times "dredged material" or "fill material" as defined in 33 C.F.R. § 323.2(c) or 33 C.F.R. § 323.2(e), respectively, and "pollutants" as defined in section 502(6) of the CWA, 33 U.S.C. § 1362(6).
29. The vehicles and equipment referenced in paragraph 26, above, are and were at all relevant times each a "point source" as defined in section 502(14) of the CWA, 33 U.S.C. § 1362(14).
30. The Wind River and its adjacent wetlands at the Site, referenced in paragraphs 11, 15, 24 and 25, above, are and were at all relevant times "waters of the United States" as defined in 33 C.F.R. § 328.3(a) and therefore "navigable waters" as defined in section 502(7) of the CWA, 33 U.S.C. § 1362(7).
31. The placement of dredged and fill material into wetlands adjacent to the Wind River constitutes the "discharge of pollutants" as defined in section 502(12) of the CWA, 33 U.S.C. § 1362(12).

32. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits, among other things, the discharge of pollutants by any person into waters of the United States except as in compliance with section 404 of the CWA, 33 U.S.C. § 1344(a).

33. Section 404 of the CWA, 33 U.S.C. § 1344, sets forth a permitting system authorizing the Secretary of the Army, acting through the Chief of Engineers of the Corps, to issue permits for the discharge of dredged or fill material into navigable waters, which are defined as waters of the United States.

34. According to 33 C.F.R. § 323.3(a), a permit issued by the Corps is required for the discharge of dredged or fill material into waters of the United States unless an exemption pursuant to 33 C.F.R. § 323.4 applies.

35. PHD and the Gards are not and never have been authorized by a permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, to conduct any of the activities described in paragraphs 14 and 15, above.

36. The activities conducted by PHD and the Gards, and/or by persons acting on their behalf, as described in paragraphs 14 and 15, above, violate section 301(a) of the CWA, 33 U.S.C. § 1311(a). Each discharge of pollutants from a point source by PHD and the Gards into waters of the United States without the required permit(s) issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, constitutes a violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a). Each day the discharges remain in place without the required permit(s) constitutes an additional day of violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

37. Activities to be carried out under this Consent Order are remedial, not punitive, and are necessary to achieve the CWA's objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," as specified in section 101(a) of the CWA, 33 U.S.C. § 1251(a). Restoration is appropriate to address the actual and potential harm to water quality, aquatic

habitat and wildlife habitat, as well as other functions and values, caused by PHD's and the Gards' unpermitted activities.

38. This Consent Order was issued after consultation and coordination with the Corps' Omaha District, Wyoming Regulatory Office.

## **VI. ORDER FOR COMPLIANCE**

Based upon the foregoing FINDINGS OF FACT AND OF VIOLATION and pursuant to the authority vested in the Administrator of the EPA pursuant to section 309(a) of the CWA, 33 U.S.C. § 1319(a), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED:

39. Respondent shall immediately terminate any and all unauthorized discharges of dredged and fill material, now and in the future, into waters of the United States, unless specifically authorized by the Corps under a valid permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344. This prohibition includes all mechanical land clearing, dredging, filling, grading, leveling, installation of utilities, construction and any other activities that result in a discharge of dredged or fill material into waters of the United States.

40. Respondent shall conduct restoration activities for impacts to waters of the United States resulting from the unauthorized discharges of dredged and fill material at the Site in accordance with the schedule and other requirements set forth in the restoration plan attached to this Consent Order as Exhibit A (Plan), which is hereby approved by the EPA and made an enforceable part of this Consent Order.

41. Within fourteen (14) calendar days after receipt of this Consent Order, Respondent shall submit to the EPA the name and qualifications, including professional resume, of a consultant experienced in wetlands restoration who will directly supervise all work performed pursuant to the Plan.

42. All restoration activities conducted pursuant to this Consent Order and involving the use of heavy construction equipment shall be undertaken under the direct, on-site supervision of the consultant retained pursuant to paragraph 41, above.

43. This Consent Order is not a permit or an authorization to place or discharge dredged or fill material in waters of the United States. Respondent shall consult with the Corps and the Wyoming Department of Environmental Quality (WDEQ) at the addresses and telephone numbers below to determine if any work to be performed pursuant to this Consent Order requires a permit from the Corps under section 404 of the CWA, 33 U.S.C. § 1344, or from the WDEQ under section 402 of the CWA, 33 U.S.C. § 1342. If any such permit is required, Respondent shall obtain such permit(s) and provide a copy or copies to the EPA pursuant to paragraph 44, below, prior to initiating any work that is to be performed pursuant to this Consent Order.

U.S. Army Corps of Engineers  
Wyoming Regulatory Office  
2232 Dell Range Boulevard, Suite 210  
Cheyenne, Wyoming 82009  
Telephone: (307) 772-2300

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

44. Respondent shall submit all notifications under this Consent Order and related correspondence to:

Monica Heimdal, 8ENF-W-WO  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
Telephone: (303) 312-6359  
Email: [heimdal.monica@epa.gov](mailto:heimdal.monica@epa.gov)

45. In addition to the notification requirements set forth in paragraph 43, above, after issuance of any Corps authorization for the restoration work, Respondent shall submit all notifications and correspondence to the Corps in accordance with the terms and conditions in the Corps permit(s).

46. Any non-compliance with the Plan, reports, specifications, schedules, permits or attachments shall be deemed a failure to comply with this Consent Order and shall be subject to EPA enforcement.

47. Until termination of this Consent Order, the EPA and its authorized representatives and contractors shall have the authority at all reasonable times to enter the Site to:

- a. Inspect and monitor progress of the activities required by this Consent Order;
- b. Inspect and monitor compliance with this Consent Order;
- c. Inspect and review any records relevant to this Consent Order; and
- d. Verify and evaluate data and other information submitted to the EPA.

This Consent Order shall in no way limit or otherwise affect the EPA's authority or the authority of any other governmental agency to enter the Site, conduct inspections, have access to records, issue notices and orders for enforcement, compliance or abatement purposes or monitor compliance pursuant to any statute, regulation, permit or court order.

48. This Consent Order, or the signature pages thereof, may be executed in counterparts, each of which shall have full force and effect as an original, including admission into evidence, and facsimile signatures shall constitute originals for all purposes.

49. This Consent Order shall be effective upon receipt by Respondent of a fully executed copy.

50. Issuance of this Consent Order shall not be deemed an election by the United States to forego any civil or criminal action to seek penalties, fines or other appropriate relief under the CWA for any violation of this Consent Order or violation of the CWA from and after the effective date of this Consent Order.

51. The EPA agrees to submit all notifications and correspondence for Respondent to:

James Parkman  
600 Lilley Yeager Loop North  
Cleveland, Texas 77328

52. Any party hereto may, by notice, change the address to which future notices shall be sent or the identities of the persons designated to receive notices hereunder.

53. If an event causes or may cause delay in the achievement of the requirements of this Consent Order, Respondent shall notify the EPA orally as soon as possible and in writing within ten (10) working days from the date Respondent first knew of such event or should have known of such event by exercise of due diligence, whichever is earlier. Respondent's written notice shall specify the length of the anticipated delay, the cause(s) of the delay, the measures taken or to be taken by Respondent to minimize the delay and a timetable by which those measures will be or have been implemented.

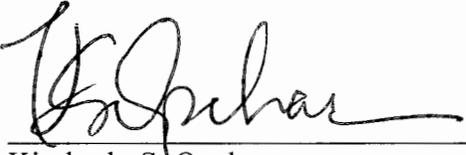
Notification to the EPA pursuant to this paragraph of any anticipated delay, by itself, shall not excuse the delay or the obligation of Respondent to comply with the requirements and deadlines of this Consent Order, unless the EPA grants in writing an extension of the applicable requirement or deadline.

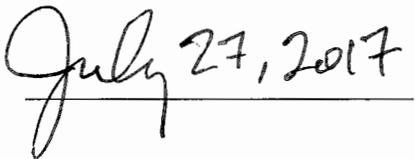
54. If Respondent demonstrates to the EPA's satisfaction that the delay or anticipated delay has been or will be entirely caused by circumstances beyond Respondent's control (or the control of any of Respondent's agents) that Respondent could not have foreseen and prevented despite due diligence, and that Respondent has taken all reasonable measures to prevent or minimize such delay, the EPA may excuse performance or extend the time for performance of such requirement for a period not to exceed the actual delay resulting from such circumstances. The EPA's determination on these matters shall be made as soon as possible, and in writing within ten (10) working days, after the receipt of Respondent's written notification of the event. The parties agree that changed economic circumstances shall not be considered circumstances beyond the control of Respondent.

55. Each party shall bear its own costs and attorney fees in connection with this matter.

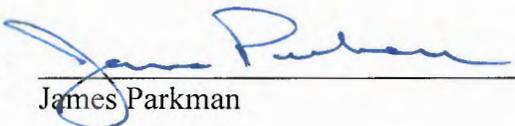
56. Respondent understands and acknowledges the following:
- a. Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as adjusted for inflation by 40 C.F.R. part 19, authorizes civil penalties of up to \$52,414 per day for each violation of an order issued by the Administrator of the EPA under section 309(a) of the CWA, 33 U.S.C. § 1319(a).
  - b. Compliance with the terms and conditions of this Consent Order shall not be construed to relieve Respondent of his obligations to comply with any applicable federal, state or local law or regulation.
  - c. Failure by Respondent to complete the tasks described herein in the manner and time frame specified pursuant to this Consent Order may subject Respondent to a civil action under section 309 of the CWA, 33 U.S.C. § 1319, for violation of this Consent Order.

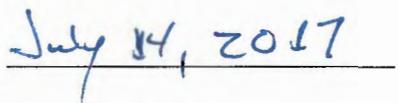
**FOR UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**

BY:   
\_\_\_\_\_  
Kimberly S. Opekar  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

DATE:   
\_\_\_\_\_

**FOR JAMES PARKMAN**

BY:   
\_\_\_\_\_  
James Parkman

DATE:   
\_\_\_\_\_

## **Exhibit A**

# Restoration Plan

---

**Prepared for:**

James Parkman  
600 Lilley Yeager Loop North  
Cleveland, TX 77328

**River Park Subdivision 2nd Filing  
Lots 21 & 22 Doc 1295464  
Dubois, Fremont County, WY**

April 10, 2017

**Prepared by:**

*Water • Wetlands • Ecological Consulting*

P.O. 6519  
Jackson, Wyoming 83002  
(307) 733-5031

---

March 3, 2017

**Amendment to Restoration Plan for River Park Subdivision 2<sup>nd</sup> Filing, Lots 21 & 22 Doc 1295464,  
(dated February 6, 2017)**

---

The purpose of this amendment is to address concerns and additional information requested from Paige Wolken with the US Army Corps of Engineers (USACE) in an email dated February 24, 2017 and from a phone conversation on March 2, 2017 with Monica Heimdal with the US Environmental Protection Agency (USEPA) regarding the Restoration Plan for River Park Subdivision, Lots 21 and 22 in Dubois, WY. The following numbered list shows the requested information from USACE, along with our provided information:

1. *A site figure showing the number and approximate locations/lengths of monitoring transects.*

Five (5) permanent line transects will be established during the first year of annual monitoring by marking beginning and end points on the ground with rebar and recording GPS locations. These transects will be 100 feet long and will overlay the restoration area, perpendicular to the Wind River. Transect locations are shown in the enclosed Exhibit A. A data collection plot will be established every 10 feet along each 100 foot transect. At each data plot, a one (1) yard square area centered on the transect line will be established. The absolute percent cover of vegetation, plant species present and their wetland indicator status will be recorded for each plot. Individual plot data, and average percent cover for all plots across all transects will be reported. Each plot center will be recorded using a GPS unit and marked on the ground with a rebar stake to ensure that the same plot locations will be monitored annually.

2. *A statement that annual monitoring reports will be provided to the Corps (in addition to the EPA).*

A copy of the annual monitoring report submitted each year to the EPA by November 30<sup>th</sup> will also be submitted to the USACE, Wyoming Regulatory Office. This annual report will be provided to document the success of wetland restoration and to determine if the restored wetlands meet the established performance standards. The annual report will include findings of the field survey, site photos, and maps showing the vegetative cover types.

3. *Wetland determination forms will be completed for each monitoring transect and submitted as part of annual monitoring reports.*

Wetland determination forms for random sample points will be included with the annual monitoring report submitted to the EPA and the USACE. One wetland sample point and wetland determination form will be completed for each transect.

4. *A wetland delineation will be completed prior to the final monitoring report to confirm that the required wetland acreage has been successfully restored.*

A complete wetland delineation will be performed after the five (5) years of annual monitoring. This will include a map of the wetland types and acreage of these wetland types. This delineation will help ensure that the wetland acreage required to be restored as in the Restoration Plan has been achieved.

5. It should be assumed that any reference to specific Department of the Army Nationwide Permit numbers should generically reference Department of the Army Nationwide Permits, since it is unknown at this point which permit will be used to authorize proposed restoration and driveway activities on the property.

Enclosed:

**Exhibit A – Map of Monitoring Transect Locations**

**James  
Parkman**  
**RESTORATION  
PLAN  
AMENDMENT**

Lots 21 & 22, River Park  
Fremont County, WY

**EXHIBIT A:**

**Monitoring  
Transect  
Locations**

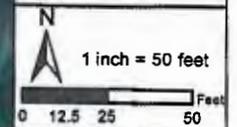
March 3, 2017

**Legend:**

-  Lot Lines (Approx.)
-  Corps Wetland Bdry.
-  Restoration Area
-  Driveway to Lot 20
-  Building Envelope
-  Monitoring  
Transect  
(100 ft)

Aerial Imagery 9/22/2015

Property Lines adapted  
from Fremont County GIS  
& GPS unit



**ALDER ENVIRONMENTAL**  
Water • Wetlands • Ecological Consulting  
P.O. Box 6519, Jackson, Wyoming 83002  
(307) 733-5031 www.alderenvironmental.com

# Restoration Plan

---

**Prepared for:**

James Parkman

600 Lilley Yeager Loop North  
Cleveland, TX 77328

**River Park Subdivision 2nd Filing  
Lots 21 & 22 Doc 1295464  
Dubois, Fremont County, WY**

February 6, 2017

**Prepared by:**

*Mizer • Wetlands • Ecological Consulting*

P.O. 6519  
Jackson, Wyoming 83002  
(307) 733-5031

---

**TABLE OF CONTENTS**

**EXECUTIVE SUMMARY .....2**

**CHAPTER 1. RESPONSIBLE PARTIES .....2**

    1.1. APPLICANT..... 2

    1.2. DESIGNATED AGENT ..... 3

**CHAPTER 2. PROJECT REQUIRING RESTORATION .....3**

    2.1. LOCATION..... 3

    2.2. EXISTING SITE CONDITIONS ..... 3

**CHAPTER 3. DESCRIPTION OF UNAUTHORIZED ACTIVITIES.....4**

**CHAPTER 4. EPA ADMINISTRATIVE ORDER ON CONSENT (AOC) .....5**

**CHAPTER 5. RESTORATION PLAN .....6**

    5.1. RESTORATION OVERVIEW ..... 6

    5.2. RESTORATION DESIGN ..... 7

    5.3. RESTORATION PLAN ..... 9

    5.4. RESTORATION GOALS ..... 11

    5.5. MONITORING PLAN..... 11

    5.6. IMPLEMENTATION PLAN AND SCHEDULE: ..... 13

    5.7. CONTINGENCY PLAN ..... 13

    5.8. OTHER PERMIT CONDITIONS ..... 13

    5.9. COMPLETION OF RESTORATION RESPONSIBILITIES ..... 14

**CHAPTER 6. REFERENCES .....15**

    6.1. PREVIOUSLY APPROVED PLANS ..... 15

**ATTACHMENTS .....16**

## **EXECUTIVE SUMMARY**

---

Professional Home Design, Inc. (Gard Enterprises), was found in violation of Section 404 of the Clean Water Act (CWA) by the Environmental Protection Agency (EPA), and was issued an Administrative Order for Compliance (AO) [EPA Docket No. CWA-08-2011-003] for the fill and excavation of wetlands on two residential lots [Lots 21 and 22] (**Attachment 1: Figure 1 – Figure 3 and Attachment 2**).

Gard Enterprises, the seller of the property, has transferred responsibility for the restoration to James Parkman, the prospective buyer of Lots 21 & 22. Therefore, Parkman assumes responsibility for restoration of the property under the EPA's Administrative Order on Consent (AOC). The purpose of this restoration plan is to fulfill the desires of the new landowner, James Parkman. This document, prepared by Alder Environmental, is based off the December 2012 Restoration and Mitigation Plan and Errata prepared by Cardno ENTRIX, cited in the references.

James Parkman is prepared to offset impacts to 0.81 acre of wetlands by a combination of direct restoration and placement of portions of Lots 21 and 22 under a deed restriction recorded with Fremont County. Parkman will make every effort to satisfy EPA's AOC and to develop a restoration strategy which will meet or exceed EPA's requirements for wetland restoration and which will also meet the desire for Parkman to maintain access to the building pad on Lot 20. Details of these restoration activities are included in this Restoration Plan (Plan).

Once EPA has granted approval of this Plan, Parkman is prepared to obtain the necessary US Army Corps of Engineers (Corps) Nationwide Permit 14- Linear Transportation Projects and Nationwide Permit 27- Aquatic Habitat Restoration, Establishment, and Enhancement Activities and WY Department of Environmental Quality (WYDEQ) stormwater and Section 402 permits, and any other necessary permits for the restoration of wetlands and maintenance of the driveway access. Understanding that no work within Lots 21 and 22 will be allowable prior to obtaining the necessary permits, Parkman wishes to use this Plan as part of these future permitting activities. It is expected that this Plan, once approved, will meet or exceed Corps expectations for wetland restoration measures required for Nationwide Permit 27 permitting, and that this plan can be used as support in the filing of future permits.

## **CHAPTER 1. RESPONSIBLE PARTIES**

---

### **1.1. Applicant**

James Parkman  
600 Lilley Yeager Loop North  
Cleveland, TX 77328  
Tel (713) 333-8400  
[jparkman@parkmanwhaling.com](mailto:jparkman@parkmanwhaling.com)

## 1.2. Designated Agent

Brian Remlinger, *Professional Wetland Scientist*  
Alder Environmental LLC  
1130 Maple Way, Suite 1E  
Jackson, WY 83001  
Tel (307) 733-5031 office  
[brian@alderenvironmental.com](mailto:brian@alderenvironmental.com)

## CHAPTER 2. PROJECT REQUIRING RESTORATION

---

### 2.1. Location

Lots 21 and 22 (the Site) are a part of River Park Subdivision platted in 1974, located approximately 5 miles east of Dubois, Wyoming; SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 24, Township 41 North, Range 106 West, Fremont County, Wyoming. Torrey Lake Quadrangle. Lots 21 and 22 are 1.39 acres and 2.75 acres in size respectively totaling 4.14 acres.

### 2.2. Existing Site Conditions

The Site is located between the Wind River and US HWY 26/287 (Figures 1-3), and bounded by undeveloped property to the west. The elevation is approximately 6,600 feet above mean sea level. The Wind River is a navigable water of the U.S. and is located east of the Site. The Wind River is a tributary of the Big Horn River, which is a tributary to the Yellowstone River that flows into the Missouri River, establishing the regulatory jurisdiction of the Site's wetlands.

The Site is predominantly flat and located approximately 5 feet below the grade of Highway 26/287 and approximately 5 feet above the ordinary high water mark of the Wind River. The low Site terrain and elevated highway suggests the Site may have been used as a borrow source for highway construction decades ago. Access to the Site includes access via a Wyoming Department of Transportation (WYDOT) approach fill constructed in 1983 located in the northwestern corner of the Site. This approach fill was previously placed by WYDOT and runs from the northwestern corner of the Site approximately one quarter of the distance between the property boundary and the Wind River (Attachment 3).

The Site vegetation includes narrowleaf cottonwoods (*Populus angustifolia*) along the Wind River bank, sandbar willow (*Salix exigua*), sedges (*Carex aquatilis*) and rushes (*Juncus balticus*) along the central portion of the site. The Site includes the presence of persistent palustrine scrub-shrub and emergent wetlands adjacent to the Wind River on the property (see green boundary of wetlands identified by Corps on Figure 4).

The Site hydrology is supported by a large seep originating from the highway embankment along the western property boundary and from overland flow associated with stormwater and excess irrigation discharge from adjacent landowners to the north. The seep along the western boundary is

as high as three feet above the grade of the Site, and originates from property west of the Site where an unlined irrigation ditch is actively used and excess irrigation water is stored during spring and summer months. The seepage is visibly flowing during late spring through summer months, when irrigation is flowing, and supports wetland vegetation growing along the highway embankment (Attachment 2; Photographs 1-2). Site hydrology is also derived as a result of a US-26/287 culvert discharging stormwater and excess irrigation water onto a property located north of the Site. Presently the Site receives excess irrigation water when water is diverted from adjacent landowners. Excess irrigation water runs into the Site from the north in the form of overland sheet flow across the property. An objection letter addressed to Shelby G. Carlson (WYDOT District Engineer) from Craig Cooper (retired Water Quality Engineer, State of Wyoming) discussing what is believed to be inconsistencies about previously installed culverts at the Site is included in this report as Attachment 4.

As a result of excess surface water received from both the seep along the western property boundary and overland flow from the north, an eight-inch PVC drain line was installed through the center of the Site (Figure 4). This drain line was discovered during excavation and fill activities on the Site and was installed by previous landowners. This drain line is believed to have been installed as early as the 1970s.

### CHAPTER 3. DESCRIPTION OF UNAUTHORIZED ACTIVITIES

In March 2009, Gard Enterprises placed 0.68 acre of fill material into wetlands, excavated 0.13 acre wetlands, and installed four perforated PVC drain pipes into wetlands to support construction of two residences on Lots 21 and 22 (Figure 4). A summary of the unauthorized activities are detailed below in Table 1. This includes: placement of fill to extend the existing WYDOT approach from US-26/287 (0.12 acre driveway), placement of fill for two residences (0.40 acre pad), placement of fill between the Pad and Driveway (0.14 acre shallow fill), placement of fill as a dirt pile (0.02 dirt pile) near the pad, and excavation of wetland topsoil (0.13 acre excavated wetland) (Photographs 3-4; Figure 4). The total acreage of unauthorized activities, including filled wetlands and excavated wetlands, is 0.81 acre.

Table 1. Unauthorized Activities (Illustrated in Figure 4)

Site Name	Disturbance	Acres
Driveway	Fill	0.12
Pad	Fill	0.40
Shallow Fill	Fill	0.14
Dirt Pile	Fill	0.02
Excavated Wetland	Excavation	0.13
<b>Total</b>		<b>0.81</b>

The fill activities associated with the driveway, pad, shallow fill, and dirt pile covered 0.68 acres of wetland vegetation with between 6 and 24 inches of soil and gravel from an off-site source. Wetland excavation occurred in a 0.13 acre area by removal of 2 to 6 inches of topsoil and vegetation.

The Site's hydrology does not appear to be detrimentally altered by unauthorized wetland fill and excavation activities. These unauthorized activities were not conducted in such a manner to negatively affect the supply of water to the Site. Hydrology within the Site appears to have been only temporarily affected by the unauthorized fill and excavation activities. Field investigations in April 28, 2010 and September 2012, documented hydrology throughout the Site as evidenced by the presence of surface water and persistent wetland vegetation across the site, and in some cases growing up and through the areas which have been filled. The fill materials added are permeable, so all precipitation has continued to percolate down to the water table.

Four perforated four-inch PVC drain pipes were installed approximately four feet below ground surface within the Site to manage groundwater in preparation of residential construction. Three drain pipes were installed in Lots 21 and 22 to promote the stability of the residential pad and to manage surface and subsurface flow originating from the large seep along the west side of the Site. One drain pipe was installed along the northern boundary of the Site to control surface and subsurface water flow into the Site from the water source located north of the Site.

In an effort to further manage surface water flow originating from the water source north of the Site, Gard Enterprises excavated 0.13 acre of upland vegetation and soil adjacent to the Wind River (Figure 4). This activity is not considered unauthorized, as the excavation was not within wetlands or Waters of the US.

#### **CHAPTER 4. EPA ADMINISTRATIVE ORDER ON CONSENT (AOC)**

---

To satisfy this AOC request, Parkman shall have the Restoration Plan approved, and appropriate permits obtained, prior to initiating any further ground disturbing work within the Site which may result in the discharge of dredged or fill material to wetland or other waters of the US or violation of State regulations. Upon EPA's approval of this Plan, Parkman will consult with and permit "previously unauthorized work" and any other proposed activities resulting in wetland disturbance through the Corps and the WYDEQ. This would include completion of permits required for compliance with Section 404 of the CWA or from the WDEQ under Section 402 of the CWA. Parkman shall obtain all required permits and provide copies to EPA prior to initiating any work to be performed pursuant of the approved Restoration Plan.

The Corps Wyoming Regulatory Office was consulted regarding CWA Section 404 permit pre-construction notifications. Corps permitting includes application and completion of permits to conduct restoration activities on the unauthorized 0.77 acres of filled and/or disturbed wetlands, maintain an existing 0.04-acre driveway with access to the building pad on Lot 20, and remove the four drain lines in

order to restore wetland hydrology. The previously verified NPs # 27 and 29 (Reference File NWO-2009-01064 verified on November 24, 2014) will either be revised and transferred to James Parkman, the new owner of Lots 21 and 22, or NPs # 14 and 27 may need to be reissued if they are more applicable.

Parkman will apply for a dewatering permit and/or a stormwater permit through the WYDEQ under section 402 of the CWA for proposed activities. If it is determined necessary, WYDEQ permitting would also include application and completion of permits to complete the removal of the four newly installed drain lines.

Parkman will make timely application for each permit required to implement the EPA-approved Restoration Plan and to conduct restoration in accordance with the approved Plan, including the schedule specified in the Plan, with all granted permits. Copies of all granted permits, along with any amendments will be submitted to EPA to demonstrate proof of permits receipt prior to initiating any work to be done pursuant of EPA's Order.

## **CHAPTER 5. RESTORATION PLAN**

---

### **5.1. Restoration Overview**

Restoration efforts will be conducted to ensure there will be no net loss of the wetlands exceeding 1/10 acre. This will be achieved through onsite restoration and preservation of wetlands in the form of a deed restriction placed on portions of the property to compensate for the 0.81 acre of unauthorized impacts to wetlands (Table 2).

Parkman will remove unauthorized fill and restore wetlands to pre-impact conditions within portions of the driveway (0.08 acre), pad (0.40 acre), shallow fill (0.14 acre), dirt pile (0.02 acre), and excavated wetlands (0.13 acre). A portion of the driveway with access to the building pad on Lot 20 will remain permanently filled (0.04 acres) (See Table 2 and Figure 5). The removal of fill and wetland restoration in the remaining areas will result in direct restoration of 0.77 acres of wetlands. Additionally, Parkman will remove the four drain lines and restore any disturbed areas resulting from removal of the drains.

Parkman will place 1.6 acres of Lots 21 and 22 under a deed restriction recorded with Fremont County for the preservation of wetlands and riparian habitat. This deed restriction will be preserved in perpetuity at a 10:1 ratio for a total of 0.16 acres mitigation credit. (See Table 2, Figure 6, and Attachment 5- Example Deed Restriction).

Parkman will conduct annual vegetation monitoring across the site for five years following restoration of wetlands. Annual monitoring will include surveys to document wetland vegetation and identify maintenance activities, which will aid the site in meeting the success criteria identified below.

Parkman will ensure the continued hydrologic connection to the Site by conducting restoration activities in such a manner so as not to negatively affect the continued flow of water onto the Site. Removal of

the four newly installed drain lines will help ensure hydrology is restored. Therefore, piezometers for groundwater monitoring are not planned. Soil pits and sample points observed during monitoring events will indicate wetland hydrology.

Table 2. Summary of Restoration

Site Name	Activity	Acres	Ratio	Mitigation Credit	Acres Filled
Driveway (0.12 acres) (0.04 acres to remain filled for driveway to Lot 20)	Removal of Fill/ Wetland Restoration	0.08	1:1	0.08	0.04
Pad (0.40 acres)	Removal of Fill/ Wetland Restoration	0.40	1:1	0.40	
Shallow Fill (0.14 acres)	Removal of Fill/ Wetland Restoration	0.14	1:1	0.14	
Dirt Pile (0.02 acres)	Removal of Fill/ Wetland Restoration	0.02	1:1	0.02	
Excavated Wetland (0.13 acres)	Wetland Restoration	0.13	1:1	0.13	
4 new drain lines	Remove drain lines and restore minor disturbances	N/A			
<b>WETLAND LOSS</b>				<b>-0.04</b>	<b>-0.04</b>
<b>WETLAND GAIN (Restoration)</b>		<b>+0.77</b>		<b>+0.77</b>	
<b>Lots 21 &amp; 22</b>	<b>Deed Restriction</b>	<b>1.60</b>	<b>10:1</b>	<b>+0.16</b>	
<b>TOTAL</b>				<b>0.89</b>	

## 5.2. Restoration Design

The proposed restoration area will replace the same functional values of the current wetland complex on the 4.14 acre Site by restoring 0.77 acres of wetland (Figure 5) and by placing 1.6 acres of Lots 21 and 22 under a deed restriction (Figure 6). Successful restoration will be accomplished by maintaining hydrology within the Site, by removal or excavation of excess material to connect subsurface hydrology to the surface, leveling the restored areas the approximate original contour, seeding of approved wetland vegetation, and planting of woody cuttings of native wetland plants.

Wetland hydrology to the restored wetland areas will be self-sustaining from existing on-site and near-site water sources. Field visits to the site in 2010 and again in 2012 indicate that hydrology to the Site does not appear to have been negatively affected by the placement of fill and wetland excavation in 2009, and will require no additional design beyond that which is already in place. Hydrology to the site is derived as a result of the large agriculture induced seep along the western boundary of the Site, and by

perennial flow from a culvert that runs underneath HWY 26/287 from a property north of the Site. Both water sources are a direct result of agricultural practices in adjacent properties and appear to support enough seasonal water flow to support wetlands on the Site. While these water sources are beyond the control of Parkman, on-going agricultural practices in the vicinity will ensure a continuous hydrologic subsurface connection to the restored wetlands. Also, the placement of two culverts under the proposed driveway to Lot 20 at the pre-fill ground surface elevation are anticipated to maintain wetland hydrology and surface water conveyance to Lots 21 and 22.

All four new drain lines will be removed. The three drains adjacent to the pad were identified by the EPA as being a concern due to their potential to drain adjacent wetlands. Because they will be removed, wetland hydrology is assumed to support sufficient hydrology to sustain wetland vegetation growth. Two culverts will be placed under the proposed driveway to Lot 20 at the pre-fill ground surface elevation. These culverts are anticipated to maintain wetland hydrology and surface water conveyance to Lots 21 and 22. Therefore, no piezometers are planned for installation. Upon removal, the disturbed area will be restored to the original contour and seeded with the approved wetland seed mix.

Restoration will be performed in areas so as not to create additional wetland impacts. The active restoration areas will be clearly marked and construction equipment will be confined to those areas only. Silt fencing will be installed along the boundary of wetlands and the Wind River. Construction will begin after all sensitive areas have been fenced off to mark clearing limits and to minimize degradation of sensitive wetland areas. Vehicle parking, equipment parking, and storage will be confined to upland areas. All equipment will be operated in upland areas outside of jurisdictional wetlands.

Removal of fill will be accomplished using light construction equipment (bobcat or small rubber track excavator). Fill removal and final grading will be conducted to restore the wetlands back to the approximate original contour and to a level where the topsoil is exposed to subsurface hydrology. All removed fill will be taken off the property and placed in upland areas. Upon reaching the desired depth, the surface of the wetland will be re-contoured and raked to a level which closely approximates the surrounding terrain. Upon completion, construction activities will be followed by restoration of wetland vegetation.

Wetland vegetation restoration will be accomplished by broadcast of a native wetland seed mixture and by planting of woody shrub cuttings. This vegetation will be established in the restoration wetlands to replace removed vegetation. The wetland seed mixture and woody shrub lists are identified below in Tables 3 and 4. The quantities of woody wetland species to be planted is justified based on an approximately 6 foot on-center spacing, which would result in approximately 40 square feet per shrub. This will achieve greater than 50% shrub cover, which would qualify the area as scrub-shrub wetland.

**Table 3: Proposed Wetland Seed Mixtures and Application Rate**

Common Name	Scientific Name	PLS Pounds/Acre
Baltic Rush FACW	<i>Juncus baeticus</i>	0.25
Water sedge OBL	<i>Carex aquatilis</i>	0.05
Field Horsetail FAC or Rough Horsetail FACW	<i>Equisetum arvense</i> <i>Equisetum hyemale</i>	3.00
Alkali Bulrush OBL	<i>Schoenoplectus maritimus</i>	0.35
Nebraska Sedge OBL	<i>Carex nebrascensis</i>	1.00
Prairie Cordgrass OBL	<i>Spartina pectinata</i>	3.00
<b>Total</b>		<b>7.65</b>

**Table 4: Recommended Woody Wetland Species to be planted at Restoration Site**

Common Name	Scientific Name	# of Plantings	Container Size
Golden Currant FAC	<i>Ribes aureum</i>	80	5 gallon
Red-osier Dogwood FACW	<i>Cornus stolonifera</i>	100	5 gallon
Narrowleaf Cottonwood FACW	<i>Populus angustifolia</i>	60	5 gallon
River Birch FACW	<i>Betula occidentalis</i>	40	5 gallon
Sandbar Willow OBL	<i>Salix exigua</i>	500	*whips
<b>Total</b>		<b>780</b>	

Courtesy: High Mountain Nursery, Draper Utah. April 27, 2011.

\*10 cubic inch tubing (1 inch wide by 10 inches tall)

### 5.3. Restoration Plan

Parkman has proposed direct restoration of 0.77 acres of wetlands, placement of 1.6 acres under a deed restriction, and permanent impacts to 0.04 acres of wetland for the driveway leading to Lot 20. This will be conducted to offset 0.81 acres of unauthorized wetland impacts to the Site.

Parkman has proposed restoration of 0.64 acres of filled wetlands (see Figure 5). Unauthorized fill associated with portions of the driveway, pad, shallow fill, and dirt pile will be carefully removed by using light construction equipment. This equipment will be used for loading and transporting the removed fill onto a truck to be taken off the property and placed in upland areas. It is estimated that between 3 and 24 inches of fill will need to be removed to return these areas to pre-impact conditions. Where work within wetlands is unavoidable, fill will be manually removed by raking and shoveling—working back from the furthest point from the driveway pad. Stakes with reference elevation lines will be installed to monitor the removal process, and to ensure the topography is contoured back to its final grade (see existing and proposed elevations Sections 'A-A and B-B', Figure 7). After the soil has been restored to its original grade, a seed mixture prepared by the Granite Seed Company or Wind River Seed Company will be used to seed this area (see Table 2).

Parkman will restore 0.13 acres of excavated wetland by manually recontouring the area to match the surrounding terrain. Since the removal of soil in 2009, the excavated wetland area has begun to revegetate with wetland species (willows, sedges, rushes, and horsetail). Parkman will not add soil to bring the excavated area to the original pre-impact contour as adding soil would likely reset wetland recovery and detrimentally affect the growth of existing wetland plant species. After the excavated area has been recontoured to match the surrounding relief, the native wetland seed mixture will be used to seed this area (see Table 2).

Parkman will remove the four drain lines more recently installed on Lots 21 and 22. Hydrology is assumed to be restored from this as well. Upon removal, the disturbed area will be restored to the original contour and seeded with the approved wetland seed mix.

The broadcast method will be used for applying wetland seed mixtures. To protect the seeds from predation by rodents and birds, and to increase the rate of germination, seeds will be raked into the soil to maintain adequate contact and protective cover. Mulch in the form of broadcast straw, fiber matting, or hydromulch will be applied to retain moisture and increase germination rates. All seed mixtures and straw mulch will be approved as certified weed free. Seeding and stock plantings would take place during late fall when air temperatures are low and the chance of precipitation is high. Stock cuttings will be planted in such a way that the water table would intersect the base of the cuttings during the growing season to ensure woody shrub survival. Success of the seeding and stock plantings would be conducted annually as part of the Monitoring Plan.

Parkman will monitor and maintain the restoration process across the restored wetlands, and will respond with appropriate maintenance measures in a timely manner to promote Site stabilization and growth of wetland vegetation. These maintenance activities would include: identification and repair of erosion controls by installation of silt fencing or erosion control logs; installation of fencing to protect plants from herbivores; plant replacement; and control of weeds.

As part of the Restoration Plan, weed management will be implemented to control the spread of noxious and invasive weeds in the restoration areas. Weedy species will be identified and documented annually and will be included in the annual monitoring report. The goal of the onsite weed management will be to maintain less than 10 percent aerial cover of noxious and invasive weeds throughout the restoration wetland areas, while encouraging the establishment of native herbaceous and woody wetland species. Parkman will manage noxious and invasive weed by conducting manual removal of weed species and disposal of the weedy vegetative materials in an approved off-site source. While the Site is small enough to manually manage weedy species, application of approved herbicides may be necessary if weed management is beyond the efforts manual removal and control. If it is determined herbicide application is necessary to control weedy species in the Site, Parkman will consult with regional EPA, Corps, or Wyoming Department of Agriculture staff to identify appropriate chemical controls approved for use in jurisdictional wetlands.

After the EPA approves the completion of all restoration responsibilities, a deed restriction will be filed with Fremont County on the selected areas of the property depicted in Figure 6.

#### **5.4. Restoration Goals**

The goal of the Restoration Plan is to restore the functional values of wetland impacts at the Site. The restoration goals will provide the following:

- Increase species diversity, richness and abundance
- Provide food for forage
- Increase bank stability
- Increase wildlife habitat
- Limit human access to river
- Flood attenuation
- Seclusion
- Shelter/Cover
- Protection
- General aesthetics

#### **5.5. Monitoring Plan**

##### **5.5.1. Success Criteria and Monitoring:**

The success of wetland restoration will be evaluated on an annual basis, or until the Performance Standards have been met. This will be achieved by: documenting successful establishment of wetland vegetation and implementation of maintenance activities to promote the persistence of wetland vegetation; documenting and monitoring wetland hydrology; documenting and monitoring weedy species; and completion of annual monitoring reports. Findings of the annual reports will be used to monitor the success of wetland restoration and for the identification of additional maintenance activities necessary to promote wetland restoration.

Annual monitoring will be conducted during the growing season for five years at all restoration sites. An annual monitoring report will be submitted to EPA by November 30, each year. The annual report will be provided to document the success of wetland restoration and to determine if the restored wetlands meet the established performance standards. The annual report will include findings of the field survey, site photos, and maps showing the vegetative cover types.

Successful establishment of wetland vegetation will be determined when wetland vegetation meets the following performance standards: where more than 50 percent of the dominant plant species in all wetland restoration areas will be of a facultative (FAC) or wetter indicator status, where aerial plant cover is 80 percent or greater, and where the presence of noxious weeds is less than 10 percent. Vegetation within the Site will be monitored by completing annual field surveys for five years to document vegetative growth within the restored wetlands. During the field visits, Parkman will document the dominant vegetative species, identify the wetland indicator status of each, and calculate of the average percent cover for each dominant vegetative species including noxious and invasive weeds.

Wetland hydrology will be determined successful when the restored wetlands are inundated for a minimum of 14 consecutive days. Hydrology within the Site will be monitored through the wetland soil pits dug annually at the time of monitoring.

Photos will be taken of the restored areas during each monitoring period to document that the same functional values are achieved as the existing onsite wetlands. Photos will be taken from the same vantage point and in the same direction every year, and shall reflect findings discussed in the annual monitoring report. When percent cover estimates are made of aerial cover, photographs will be taken of the sampling transects.

#### **5.5.2. Performance Standards:**

To achieve success criteria the following must be met:

- Plant community within the restored wetlands will be dominated with native wetland vegetation where more than 50 percent of the dominant plant species in all wetland restoration areas will be of a facultative (FAC) or wetter indicator status.
- Achieve and maintain aerial plant cover of at least 80 percent.
- Wetlands will be inundated for a minimum of 14 consecutive days during the growing season in a normal rainfall year.
- Control noxious and invasive weeds in the restoration areas (less than 10 percent).

#### **5.5.3. Methods:**

The restoration wetland areas will be monitored annually for five years during the early summer growing season (May to July). Monitoring will entail the evaluation of wetland vegetation by use of line transects and by monitoring depth to ground water in the soil pits dug at the time of monitoring.

Wetland vegetation will be monitored and documented by the establishment of three permanent line transects across the restored and mitigation wetlands. The line transects will be identified and staked in the Site during the first annual vegetation survey. The line transects will employ the belt transect method to document plant species occurring within in the transect and to record canopy cover as a means of calculating aerial cover. The percent cover of wetland species and canopy cover will be calculated within each of the transects, and recorded on data forms. A photograph of each transect will be taken annually, as well as four additional photos.

Wetland hydrology will be monitored and documented annually for five years during peak runoff or during times of peak agricultural water release (May to July). Depth to ground water will be measured annually during this period to identify depth to groundwater in the restored wetlands and within the reference site. Depth to groundwater will be measured with a tape measure at wetland soil pits that will be dug at the time of monitoring. Data on ground water depth will be recorded on data forms and included in the annual monitoring report.

## **5.6. Implementation Plan and Schedule:**

- **Permitting - Identify and obtain permits from WYDEQ prior to initiating restoration activities. WYDEQ permits will be obtained upon approval of this Plan.**
- **Permitting - Obtain Permits from Corps and WYDOT prior to initiating restoration activities upon approval of this plan. Corps and WYDOT permits will be obtained upon approval of this Plan.**
- **Installation of Best Management Practices (BMPs) - Silt fence and boundary Identifiers will be installed around construction perimeter and all restoration areas particularly adjacent to the Wind River. Installation of silt fence will be completed prior to initiating restoration activities.**
- **Construction – Construction required to restore wetlands will be performed in accordance with those practices and BMPs as outlined in this Plan. Construction activities will include fill removal and final grading. Construction will be initiated upon completion of permitting and installation of BMPs.**
- **Restoration and Seeding – Restoration, seeding, and woody stock planting will be performed as outlined in this Plan. Wetland restoration will be initiated upon completion of final site preparation and grading.**
- **Monitoring Restoration Area – Monitoring of the restoration wetlands will be initiated in the first growing season after restoration has been completed. It is expected that this would initiate in the spring of 2017 and would be completed in 2022, or before if performance standards are met.**
- **Deed Restriction – The deed restriction will be recorded with Fremont County as soon as applicable. It is expected that this could be filed upon EPA’s approval of successful restoration has been accomplished, or sooner if approved by EPA.**

Scheduled activities will be initiated no later than 60 days after EPA approves this plan, weather permitting, or within 60 days after weather permits. Other than annual monitoring reports, all activities identified above will be completed sequentially in the order identified.

## **5.7. Contingency Plan**

Parkman will make timely application for each permit required to implement EPA-approved plan and to conduct restoration in accordance with the approved plan, including the schedule specified in the plan, with all granted permits. Copies of all granted permits, along with any amendments will be submitted to EPA to demonstrate proof of permits receipt prior to initiating any work to be done pursuant of EPA’s Order.

## **5.8. Other Permit Conditions**

### **5.8.1. Threatened and Endangered Species:**

The U.S. Fish and Wildlife Service (Service) list of threatened, endangered, candidate, and proposed (TECP) species for Fremont County, Wyoming (updated March 2011) was reviewed prior to conducting the field survey. Note that candidate species are not offered protection under the Endangered Species Act (ESA), although the Service recommends species protection where possible to avoid future listing of candidate species. During the Site survey, a search for

protected species and their habitats was conducted. Search was conducted for potential raptors nest habitat within the two lots and a 100-foot buffer of the perimeter.

No TECP listed species or their habitats were identified within the Site, or within 100 feet of the perimeter of the site. Based on the literature reviewed and Site surveys, Lots 21 and 22 do not have any TECP species present. No raptors nest was observed within the lots or 100-foot buffer.

## **5.9. Completion of Restoration Responsibilities**

### **5.9.1. Notification:**

Upon completion of all restoration responsibilities, Parkman will send a notification of completion to the Corps Wyoming Regulatory Office (Cheyenne, WY) and EPA Region 8 office (Denver, CO) with submittal of final annual monitoring report.

### **5.9.2. EPA and Corps Confirmation:**

The EPA will be responsible to evaluate Parkman's compliance with the Administrative Order on Consent (AOC) and the final approved restoration plan. EPA is also responsible for determining whether or not restoration efforts required by the AOC are successful and complete. Parkman will also coordinate with the Corps to ensure that all requirements and/or other special conditions of a permit have been appropriately completed. If all permits conditions have been met, Parkman will receive confirmation from the Corps that all requirements have been completed as requested by the permit.

### **5.9.3. Property Ownership:**

The restoration site will be managed by Parkman and/or in accordance with any applicable deed restrictions. After EPA approves the completion of all restoration responsibilities, part of the restored area and the remainder of the property outside of the driveway and a reserved building pad and driveway location (approximately 1.6 acres – combination of both Lots 21 and 22) will be placed under a deed restriction and recorded with Fremont County. EPA will receive, for comment, draft copies of the applicable deed restrictions for all areas to be protected and preserved, as well as final executed copies, and that the deed restrictions will be recorded with county real property records.

### **5.9.4. Costs:**

An estimated summary of costs for all proposed restoration activities is included in Table 5 below.

**Table 5: Estimated Costs for Restoration**

<b>Task</b>	<b>Cost</b>
Environmental Consulting - Revise Restoration Plan, USACE Pre-Construction Notification, Restoration Supervision	\$8,000
Restoration – Removal of Fill	\$10,000
Seeding	\$4,000
Woody Stock Planting	\$4,550
Restoration – Monitoring for 5 years	\$11,000
Deed Restriction	\$1,500
<b>TOTAL</b>	<b>\$39,050</b>

**Disclaimer:**

Any Approval by EPA of a final restoration plan submitted on behalf of Parkman will apply only to information that falls within the scope of the Region 8 guidelines for restoration plans. Extraneous information or information for legal defenses that are included in the final plan, but that are not required in order to evaluate the plan or are beyond the scope of the restoration activities, will not be considered to be part of the plan and therefore will not be evaluated or approved by EPA.

## **CHAPTER 6. REFERENCES**

---

### **6.1. Previously Approved Plans**

James, Aaron. (December 2012). *Revised Restoration and Mitigation Plan, Gard Enterprises Docket No. CWA-08-2010-003*. Cardno ENTRIX. Salt Lake City, UT.

ERRATA: Corrections in Text and Figures in response to United States Environmental Protection Agency (EPA) January 15, 2013 Electronic Comments – Re: *Draft Restoration and Mitigation Plan Gard Enterprises Docket No. CWA-08-2010-003*.

## **ATTACHMENTS**

---

### **Attachment 1 Figures**

- **Figure 1 – Location Map**
- **Figure 2 – Topographic Map**
- **Figure 3 – Aerial Map**
- **Figure 4 – Site Map of Unauthorized Activities and Existing Conditions**
- **Figure 5 – Proposed Retained Development & Wetland Restoration**
- **Figure 6 – Proposed Deed Restriction**
- **Figure 7 – Cross-Sections**

### **Attachment 2 Site Photographs (taken from Cardno Entrix 2012 Plan)**

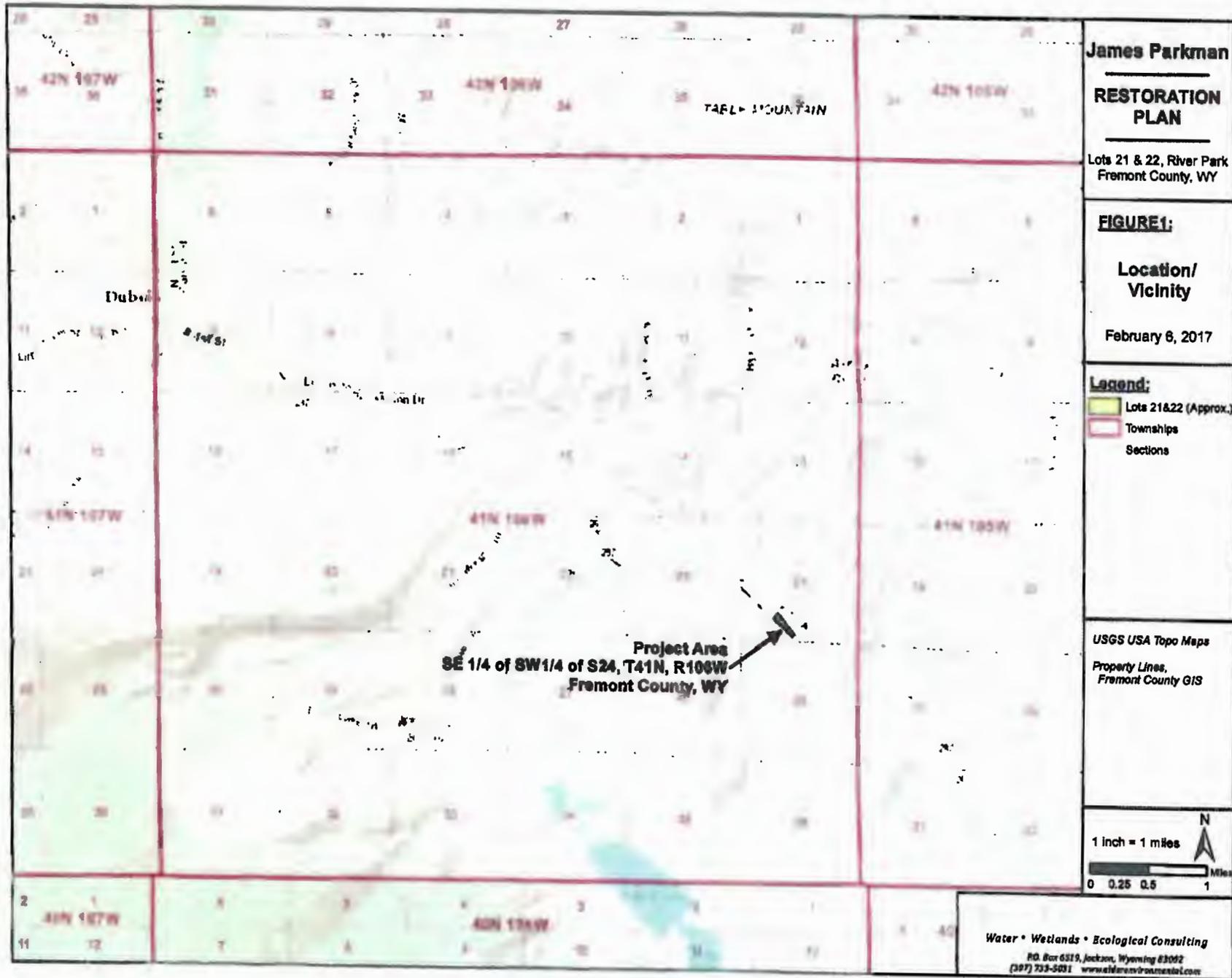
### **Attachment 3 Wyoming Department of Transportation dated April 18, 2011 (taken from Cardno Entrix 2012 Plan)**

### **Attachment 4 Craig Cooper's objection to Wyoming Department of Transportation Letter dated April 18, 2011 (taken from Cardno Entrix 2012 Plan)**

### **Attachment 5 Example Deed Restriction**

## **ATTACHMENT 1**

### **Figures**



**James Parkman**

**RESTORATION PLAN**

Lots 21 & 22, River Park  
Fremont County, WY

**FIGURE 1:**

**Location/  
Vicinity**

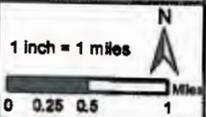
February 6, 2017

**Legend:**

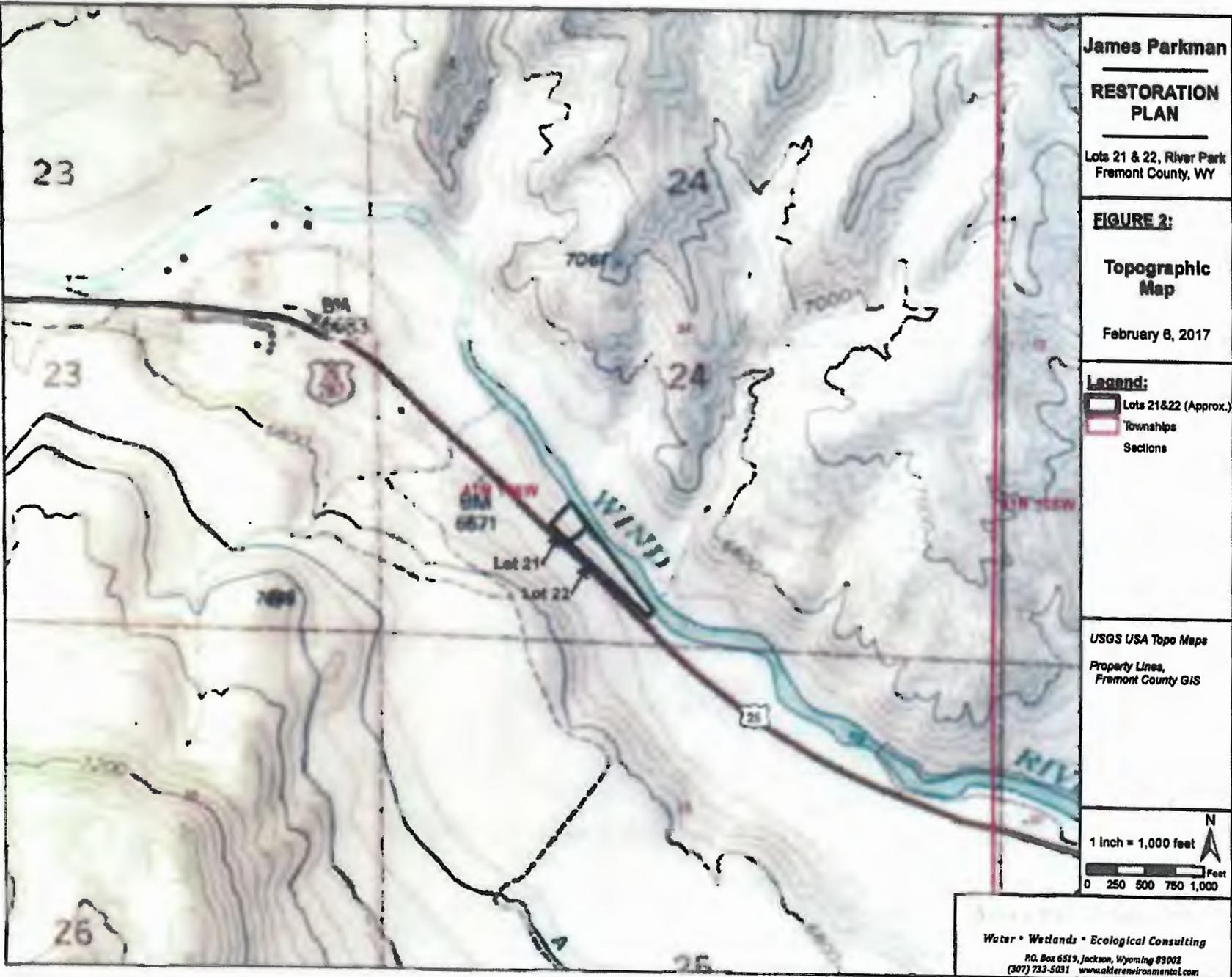
- Lots 21&22 (Approx.)
- Townships
- Sections

USGS USA Topo Maps

Property Lines,  
Fremont County GIS



**Water • Wetlands • Ecological Consulting**  
 P.O. Box 6319, Jackson, Wyoming 83062  
 (307) 733-5831 [www.waterwetlands.com](http://www.waterwetlands.com)



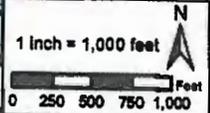
**James Parkman**  
**RESTORATION**  
**PLAN**

Lots 21 & 22, River Park  
 Fremont County, WY

**FIGURE 2:**  
**Topographic**  
**Map**  
 February 8, 2017

- Legend:**
- Lots 21&22 (Approx.)
  - Townships
  - Sections

USGS USA Topo Maps  
 Property Lines,  
 Fremont County GIS



*Water • Wetlands • Ecological Consulting*  
 P.O. Box 6519, Jackson, Wyoming 83302  
 (307) 733-5031 [www.aldereenvironmental.com](http://www.aldereenvironmental.com)



**James Parkman**

**RESTORATION  
PLAN**

Lots 21 & 22, River Park  
Fremont County, WY

**FIGURE 3:**

**Aerial  
Map**

February 6, 2017

**Legend:**

 Lots 21&22 (Approx.)

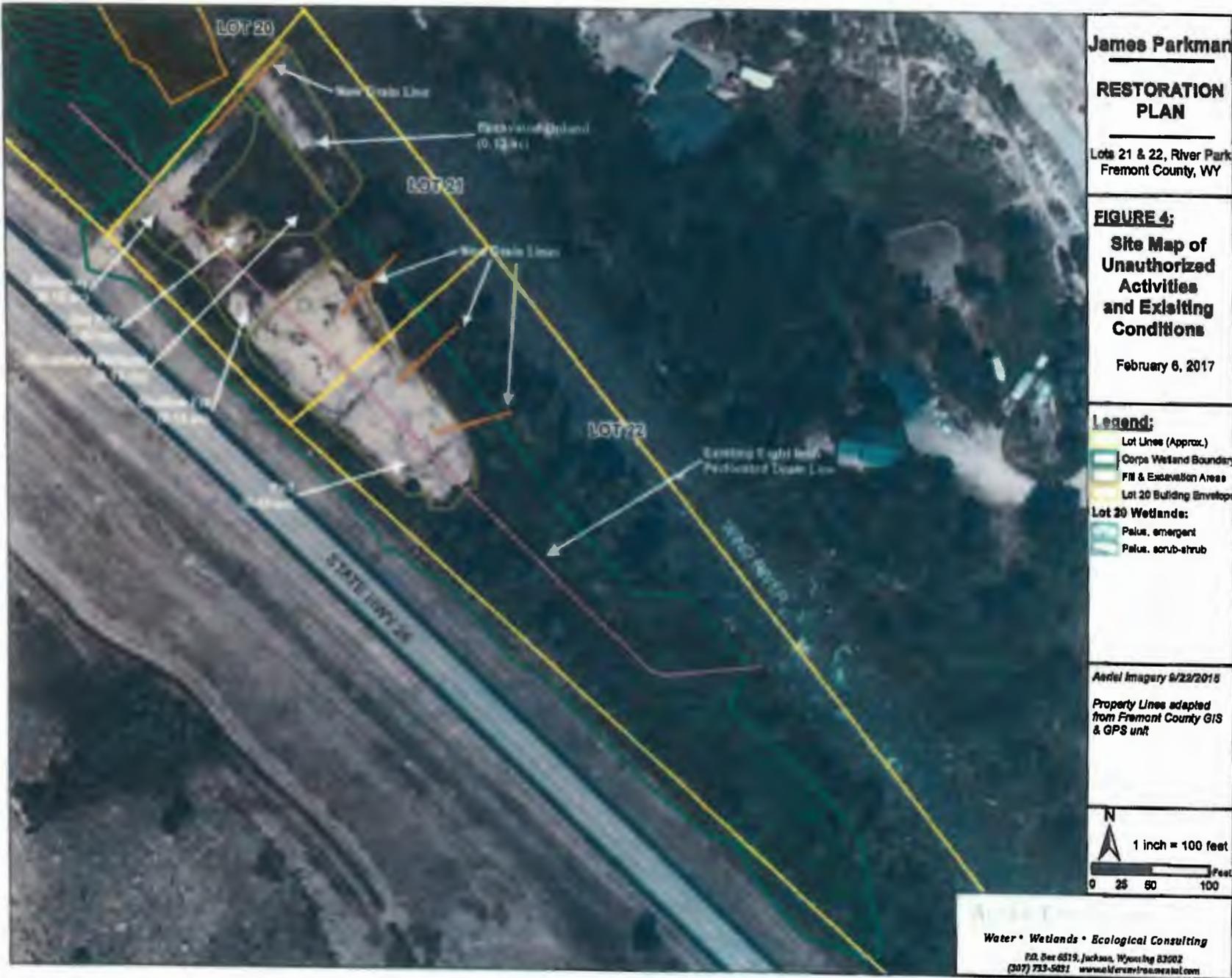
USDA Aerial Imagery,  
9/22/2015

Property Lines,  
Fremont County GIS

1 inch = 300 feet



**Air & Earth**  
Water • Wetlands • Ecological Consulting  
P.O. Box 6519, Jackson, Wyoming 83002  
(307) 733-5631 [www.airandearth.com](http://www.airandearth.com)



**James Parkman**

**RESTORATION PLAN**

Lots 21 & 22, River Park  
Fremont County, WY

**FIGURE 4:**  
**Site Map of Unauthorized Activities and Existing Conditions**

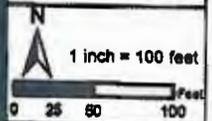
February 6, 2017

**Legend:**

- Lot Lines (Approx.)
- Corps Wetland Boundary
- Fill & Excavation Area
- Lot 20 Building Envelope
- Lot 20 Wetlands:**
  - Palus. emergent
  - Palus. scrub-shrub

Aerial Imagery 9/22/2015

Property Lines adapted from Fremont County GIS & GPS unit



**Water • Wetlands • Ecological Consulting**  
P.O. Box 6819, Jackson, Wyoming 83002  
(307) 733-5631 [www.waterwetlandseco.com](http://www.waterwetlandseco.com)

**James Parkman  
RESTORATION  
PLAN**

Lots 21 & 22, River Park  
Fremont County, WY

**FIGURE 5:  
Proposed  
Retained  
Development &  
Wetland  
Restoration**  
February 6, 2017

- Legend:**
- Lot Lines (Approx.)
  - Corps Wetland Boundary
  - Restoration Area
  - Driveway to Lot 25
  - Building Envelope
  - 20' Wetlands
  - Poles, emergent
  - Poles, scrub-shrub

Aerial Imagery 07/27/2015  
Property Lines adapted  
from Fremont County GIS  
& GPS unit



**Wesler - Wetlands - Ecological Consulting**  
PO Box 5215, Jackson, Wyoming 83002  
(877) 792-5281 www.weslerwetlands.com



James Parkman

# RESTORATION PLAN

Lots 21 & 22, River Park  
Fremont County, WY

FIGURE 8:

## Proposed Dead Restriction

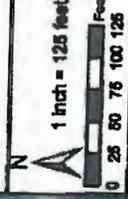
February 6, 2017

### Legend:

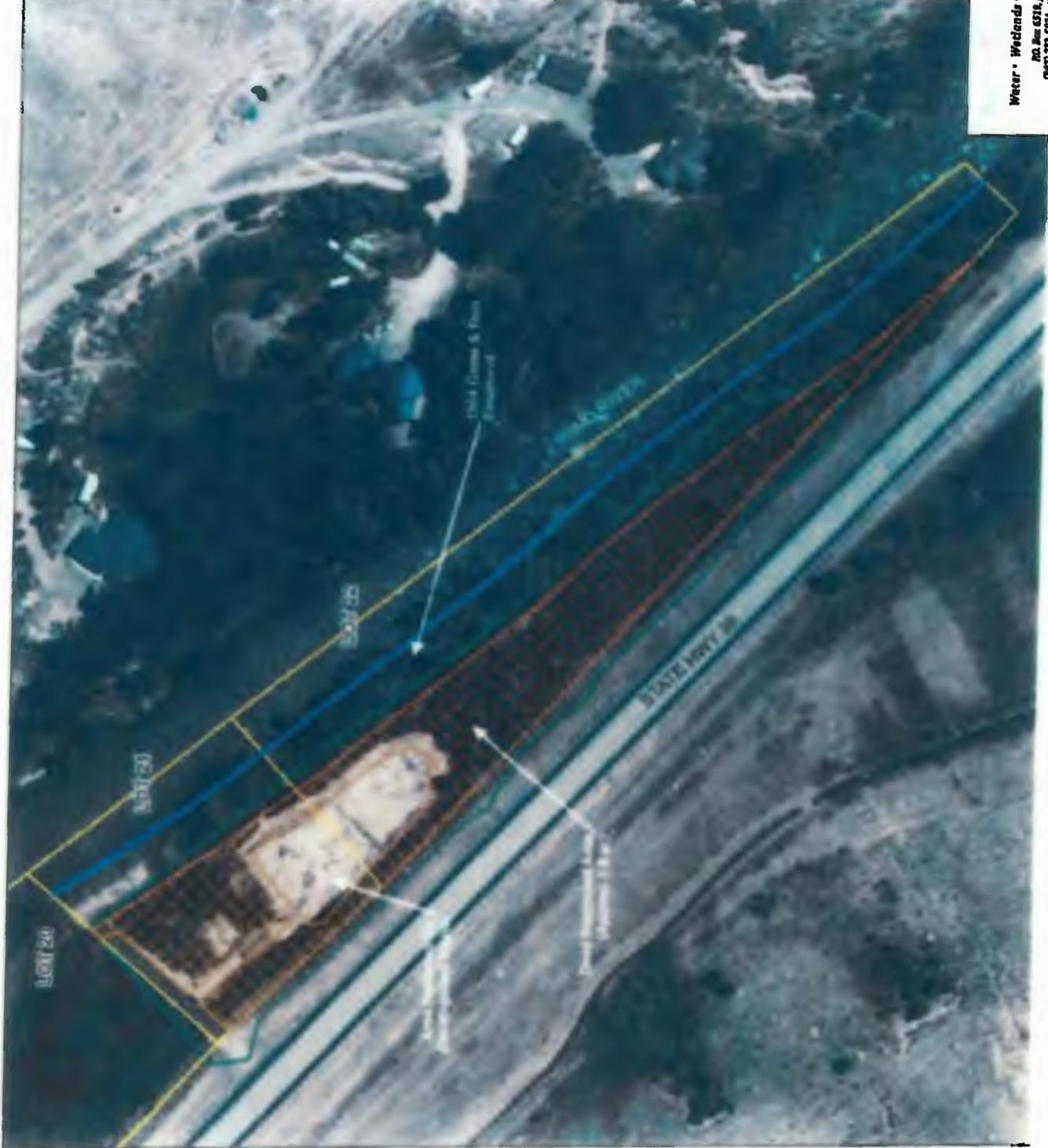
- Lot Lines (Approx.)
- Driveway to Lot 20
- Crops Wetland Boundary
- Approximate "High Water Line"
- Dead Restricted Site

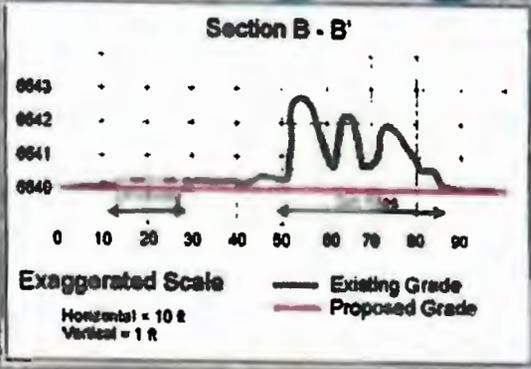
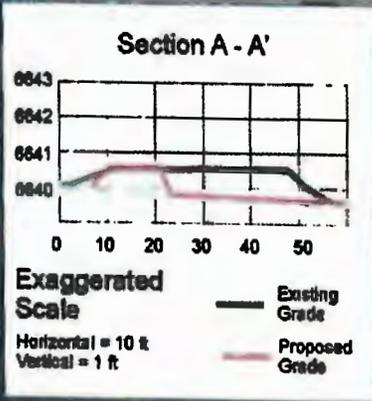
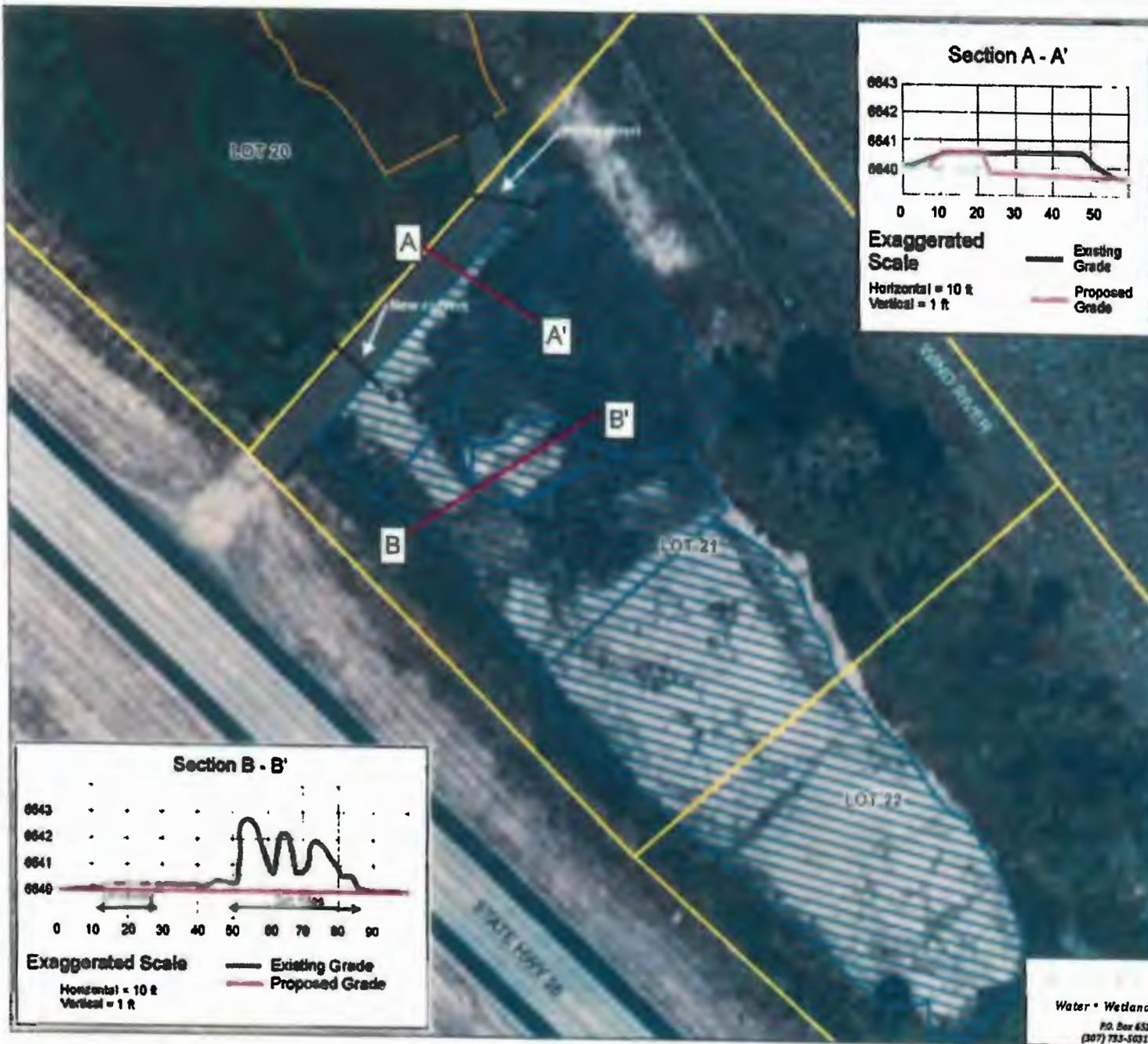
Aerial Imagery 9/23/2016

Property Lines adopted from Fremont County GIS & GPS unit



Water - Wetlands - Ecological Consulting  
PO Box 6518 Jackson, Wyoming 83002  
(307) 733-5831 www.waterwetlands.com





**James Parkman**  
**RESTORATION PLAN**  
Lots 21 & 22, River Park  
Fremont County, WY

**FIGURE 7:**  
**Cross-Sections**  
  
February 6, 2017

**Legend:**

- Lot Lines (Approx.)
- Restoration Area
- Driveway to Lot 20
- Building Envelope
- Lot 20 Wetlands

Aerial Imagery 6/22/2015  
Property Lines adapted from Fremont County GIS & GPS unit

N  
1 inch = 50 feet  
0 12.5 25 50 Feet

Water • Wetlands • Ecological Consulting  
P.O. Box 6329, Jackson, Wyoming 83002  
(307) 733-5031 www.kalderemontromano.com

**ATTACHMENT 2**  
**Site Photographs**

*Gard Enterprises*  
KPA Docket No.: CWA-00-2010-0003

May 2010

**SITE PHOTOGRAPHS**



1. Photograph of Stream Bed from Hillside



2. Photograph of Stream Bed from Hillside

*Gard Enterprises*  
EPA Docket No.: CWA-08-2010-0003

May 2010



3) Photograph of Driveway and Fill Piles



4) Photograph of Aggregate Pile

*Gard Enterprises*  
EPA Docket No.: CWA-08-2010-0003

May 2010



51 Photograph of Area 1 Exclosure



52 Photograph of Conservation Area Lot 2

**ATTACHMENT 3**

**Wyoming Department of Transportation Letter *Dated April 18 2011***



Matthew H. Mead  
Governor

Wyoming

Department of Transportation

Wyoming's State, Safe, and Efficient Transportation System

P O Box 461

Cheyenne Wyoming 82003

Phone (307)296-5400

Fax (307)296-4006

April 18, 2011



John F. Carr  
Director

Mr. Craig Cooper  
Cooper Consulting, LLC  
1627 Major Avenue  
Riverston, WY 82501

Re: Lot 21 & 22, River Park Second File,  
Fremont County Wyoming

Dear Mr. Cooper:

This is in response to your March 21, 2011 letter regarding wetlands and possible mitigation efforts as related to the property noted above.

WYDOT's highway project has caused extensive wetland impacts along the Tetonese Pass Corridor and we will be balanced for mitigation. Unfortunately, we do not have any acres of wetland available to share and it will take a number of years to know if we get full credits for what is constructed. Similar to your situation, WYDOT is responsible to mitigate at a higher ratio than 1:1 dependent on type of wetland and location, and finding adequate area within close proximity to the project is difficult and construction and on-going monitoring is costly.

I have reviewed the 1983, P-030-2(12), as-constructed project plans and the 1998, 159Q, as-constructed plans for the area of the subdivided lots 21 & 22 as referenced above. WYDOT replaced the two historic culvert crossings as referenced in your letter in 1983 with the same size culvert and in the same location as they were in the original roadway construction in 1978. The evidence from the culvert located to the west of Lot 21 indicates into a wetland lot. The flow is restricted from entering your client's property by the approach fill to the lot 21 property line which extends across to the river. The evidence from the culvert located at the east end of lot 22 outlets into a defined channel which flows east and away from your client's property.

Your letter stated that a new culvert was placed during the 1983 construction near the west end of your client's property. This was not declared in the as-constructed plans, so we performed a site visit and walked the highway right-of-way for the entire length of lots 21 & 22, in an attempt to locate the referenced pipe. We were unable to locate an additional culvert crossing. The site inspection also indicated that our roadway slopes above immediately indicate evidence of long term maintenance which is leaching into our roadway fill from springs or groundwater. The area of your client's property had mature, typical wetland.

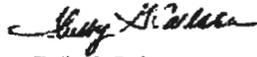
The wetland map from the US Fish & Wildlife Service indicates two different types of wetland present on lots 21 & 22. These are similar to the wetlands that are naturally occurring east and west of your client's property along the river's edge, and in some cases located south further from the highway.

Lot 21 & 22, River Park Second Filing  
April 18, 2011  
Page 2

Based on the above information, WYDOT does not have any wetland mitigation acreage available to share and I believe that the wetlands present on your client's property are naturally occurring based on the river's location and available ground water and not related to the highway culverts.

I sympathize with your client's situation. For many years, we have had to work through the complications associated with wetland impacts caused by highway projects and the difficulty involved in locating acceptable mitigation sites. Please feel free to direct any other questions on this issue to me at (307) 568-3400.

Respectfully,



Shelby G. Carlson  
WYDOT District Engineer

cc: Robert Scheidtmittel, P.E., Resident Engineer, Riverton  
Lyle Lamb, P.E., Resident Engineer, Dubois  
Deb Ferguson, Wetland Specialist, Cheyenne  
Don DeGuzare, Area Foreman, Lander  
Paul Boudetour, Crew Foreman, Dubois  
Road Section file

**ATTACHMENT 4**

**Craig Cooper objection to Wyoming Department of Transportation Letter  
*Dated April 18 2011***

May 15, 2011

Craig Cooper  
Cooper Consulting, LLC  
1627 Major Ave.  
Riverton, WY 82501

Shelby G. Carlson  
WYDOT District Engineer  
P.O. Box 461  
Basin, WY 82410

Dear Shelby:

Thank you for your letter of April 18, 2011 responding to mine of March 21, 2011. Obviously, my clients were disappointed that WYDOT feels no responsibility in this matter. There were some things in your letter that we felt were inconsistent with what we understand about the situation, and want to go on record in that regard.

First, in my initial discussion and review of the 1983 as-constructed plans with Mr. Scheidemantel, he advised and gave me a copy of the plans that showed there were two previously-existing culverts in the project area—one five lots upstream from my clients property near where Red Hill Road connects to Highway 26, and the other near the east end of Lot 22. Both of these culverts were replaced during that job. He said the culvert of concern in this matter, which is between those two and empties onto Lot 20, the lot just west of my client's property, was not there prior to the 1983 construction job, and was placed new during that project. Your letter indicates the opposite. The fourth paragraph of your letter says you "walked the right-of-way the entire length of lots 21 & 22 in an attempt to locate the referenced pipe." You will note that my letter never mentions a pipe on lots 21 or 22—it says the pipe is "a short distance west of my clients' west property boundary." You will also note that my letter recognized we weren't giving you detailed specifics of our concerns at this time pending your initial response. If we had been invited on the site visit, we could have shown you what we were talking about.

Second, your letter says that the flow from that culvert (the one that empties onto Lot 20) "is restricted from entering your client's property by the approach fill on the Lot 21 property line which extends almost to the river." This is absolutely incorrect. Had you been on those properties last summer, you would have seen expansive amounts of water emerging from that culvert, running north along the west side of the approach fill, going around its north end and flooding east across both Lots 20 and 21. My clients have numerous photographs of that occurrence should you care to see them.

Third, we were not really asking for your opinion as to whether you thought my clients' property is "wetland" or not. We were asking if you felt your agency had any responsibility for

the discharge from that culvert. There is an extensive history of activity on these properties which argues with the US Fish & Wildlife Service's delineations, and we reject your cursory opinion that my clients' property is "mature, typical wetland" that is "naturally occurring." We doubt if your research in answering our letter included delving into that history and thus feel your assessment was hasty in that regard. Thank you.

Sincerely yours,

**ATTACHMENT 5**  
**Example Deed Restriction**

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR THE  
JAMES PARKMAN / RIVER PARK SUBDIVISION LOTS 21 & 22  
RESTORATION & PRESERVATION**

**THIS DECLARATION** is made to be effective this \_\_\_\_ day of \_\_\_\_\_, 2017, by **JAMES PARKMAN**, 600 Lilley Yeager Loop North, Cleveland, Texas 77328 ("Declarant").

**RECITALS**

**WHEREAS**, Declarant is the owner of real property that contains a \_\_\_\_-acre site described in Exhibit A, attached hereto and by this reference incorporated herein (the "Site");

**WHEREAS**, Declarant has designated the Site for restoration and preservation purposes in accordance with special conditions of Administrative Order on Consent (Order), as defined in a letter from the U.S. Environmental Protection Agency, Region 8 ("EPA") to Declarant dated \_\_\_\_\_, 2017;

**WHEREAS**, Declarant desires and intends to provide for the perpetual protection and conservation of the wetland and/or waterway functions and values of the Site and for management of the Site and improvements thereon, and to this end desires to subject the Site to the covenants, restrictions, access easement, and other encumbrances hereinafter set forth, each and all of which is and are for the benefit of the Site; and

**WHEREAS**, the EPA has accepted the James Parkman / River Park Subdivision Lots 21 & 22 Restoration Plan for the Site dated \_\_\_\_\_, 2017.

**ARTICLE I  
DEFINITIONS**

1.1 "Declaration" shall mean the covenants, restrictions, access easement, and all other provisions set forth in this Declaration of Covenants and Restrictions.

1.2 "Declarant" shall mean and refer to James Parkman, its successors or assigns.

1.3 "EPA" shall mean the U.S. Environmental Protection Agency, Region 8.

1.4 "Permits" shall mean Department of the Army Nationwide Permits, and all related documents, including the Restoration Plan approved by the EPA defined above in the Recitals, that formally establishes the restoration and preservation site and stipulates terms and conditions of its construction, operation and long-term management as filed by the EPA under Order No. \_\_\_\_\_.

1.5 "Site" shall mean and refer to all real property subject to this Declaration, as more

particularly set forth in Exhibit A.

**ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION**

The real property where the Site is located shall be held, transferred, sold, conveyed, and occupied subject to this Declaration. The Site is in Fremont County, Wyoming and is more particularly described in Exhibit A.

**ARTICLE III  
DECLARANT REPRESENTATIONS**

Declarant represents and warrants that after reasonable investigation, and to the best of its knowledge, that no hazardous materials or contaminants are present that conflict with the conservation purposes intended; the Site is in compliance with all federal, state, and local laws, regulations, and permits; and there is no pending litigation affecting, involving, or relating to the Site that would conflict with the intended conservation use. Declarant affirms that the Site is free and clear of any and all liens, claims, restrictions, easements, and encumbrances which would interfere with the ability to protect and conserve the Site with the exception of existing Wyoming Game and Fish Commission fishing access and river bed and bank improvement easement and corrective deed of easement recorded in 1964 and presented in Exhibit B.

**ARTICLE IV  
GENERAL DECLARATION**

Declarant, in order to discharge in part its obligations under the Permits declares that the Site shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, access easement, and other encumbrances hereinafter set forth in this Declaration, in order that it shall remain substantially in its restored, enhanced, preserved, open and natural condition, in perpetuity. The terms and conditions of this Declaration of Covenants and Restrictions shall be both implicitly and explicitly included in any subsequent transfer, conveyance, or encumbrance affecting all or any part of the Site. These restrictions cannot be released or modified unless authorized in writing by the EPA. Any amendments shall be signed by the EPA and shall be recorded in the official records of the county in which the Site is located.

**ARTICLE V  
USE RESTRICTIONS, MANAGEMENT RESPONSIBILITIES,  
AND RESERVED RIGHTS**

Declarant and all users of the Site are subject to any and all easements, covenants and restrictions of record.

A. **USE RESTRICTIONS.** Except as necessary to conduct, remediate or maintain the restoration site consistent with the Permits, the actions encompassed as prohibited by this covenant shall include:

1. There shall be no disturbance or change in the natural habitat of the Site unless it is consistent with the federal and other regulations including existing or future federal Clean Water Act regulations and promotes wetland restoration goals and objectives.

2. There shall be no filling, excavating, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock minerals, or other materials, nor any storage or dumping of ashes, trash, garbage, or of any other materials; and no changing of the topography of the land of the Site in any manner after existing and restored wetlands, as shown by the Department of Army wetland boundary in Exhibit A, are established unless approved in writing by the EPA.

3. There shall be no construction or placing of buildings, mobile homes, advertising signs, billboards, or other advertising material, vehicles, or other structures on the Site.

4. There shall be no legal or de facto division, subdivision, or partitioning of the Site.

5. Use of motorized off-road vehicles to traverse the Site for purposes other than bank stabilization and Wyoming Game and Fish bed and bank improvements is prohibited.

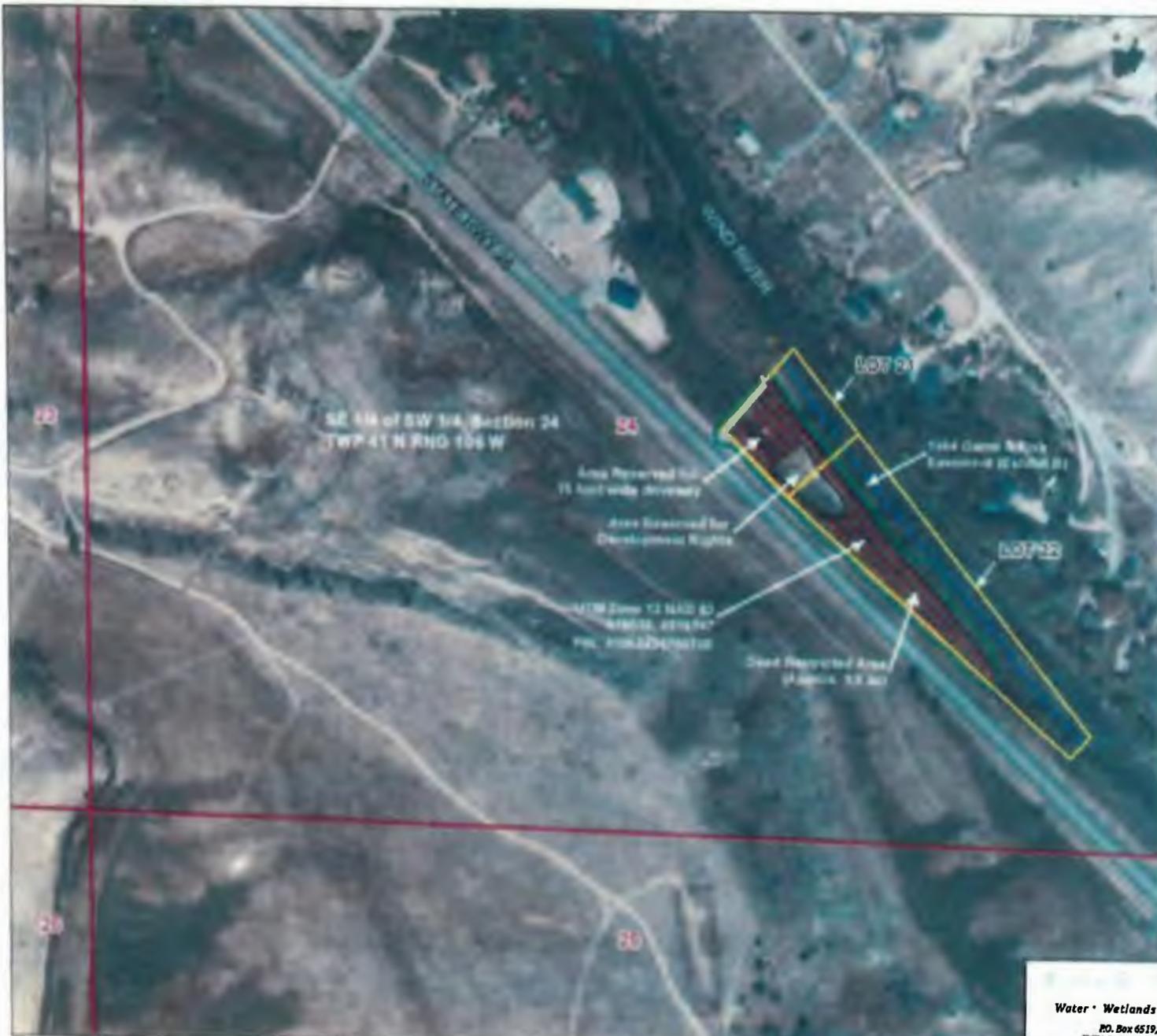
**B. MANAGEMENT RESPONSIBILITIES.** Declarant will take action to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the restoration purposes of the Site or that are otherwise inconsistent with this Declaration.

**C. RESERVED RIGHTS.** Declarant reserves all other rights accruing from its ownership of the Site, including but not limited to the exclusive possession of the Site; the right to transfer or assign their interest in the same; the right to take action necessary to prevent erosion on the Site; the right to protect the Site from losing its wetland or waterway functions and values; the right to take action necessary to protect public health or safety; the right to use motorized maintenance vehicles to traverse the Site; and the right to use the Site in any manner not prohibited by this Declaration and which would not defeat or diminish the conservation purpose of this Declaration.

Declarant reserves the right to comply with the Wyoming Game and Fish easement as presented in Exhibit B and recorded at Fremont County, WY in 1964.

Declarant reserves the right to maintain existing functions of the property, to fish, to recreate, and to hunt, to the extent that the reserved rights are consistent with terms and conditions enumerated in the EPA Order.





**James Parkman**  
**PARKMAN RESTORATION & PRESERVATION SITE**

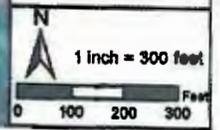
Lots 21 & 22, River Park  
 Fremont County, WY

**EXHIBIT A:**  
**Deed Restriction Location**

March 27, 2017

- Legend:**
- PLSS Section
  - Lots 21&22
  - Driveway to Lot 20
  - Approximate "High Water Line"
  - Dept. of Army Wetland Boundary
  - Deed Restricted Site

Aerial Imagery 9/22/2015  
 Property Lines adapted from Fremont County GIS & GPS unit  
 Ownership, Fremont County GIS



Water • Wetlands • Ecological Consulting  
 P.O. Box 6519, Jackson, Wyoming 83002  
 (307) 733-3031 www.alderanironmental.com

STATE OF WYOMING  
Public Records  
No. 607622

Recorded at  
MAR 16 1964

JAMES A. EARTHING  
County Clerk of Wyoming

EASEMENT

Theodor and Rennelta Blehm, husband and wife, of Dubois, Fremont County, Wyoming, Grantors, for and in consideration of Ten dollars (\$10.00) and other good and valuable consideration, in hand paid, receipt of which is hereby acknowledged, to hereby grant unto the State of Wyoming Game and Fish Commission, Grantee, for the use of the public the following rights and privileges, to-wit:

1. A permanent easement and access for public fishing in and to the Big Wind River and Jakey's Fork insofar as they traverse the following described lands, to-wit:

T. 41 N., R. 106 W. of the 6th P.M., Fremont County, Wyoming;

Section 15: ~~S10NE1/4, N1/2SW1/4~~

Except a one acre tract of land in the ~~SW1/4NW1/4~~ and ~~N1/2SW1/4~~ more particularly described as follows: Beginning at Corner No. 1, which point is located S. 87°06' E. 1,007.7 feet from the West 1/4 section corner of said Sec. 15, thence N. 3°12' E. 290.8 feet to Corner No. 2; thence S. 83°51' E. 150.0 feet to Corner No. 3; thence S. 3°12' W. 290.8 feet to Corner No. 4; thence N. 83°51' W. 150.0 feet, more or less, to Corner No. 1, the point of beginning.

Section 23: ~~SE1/4NE1/4~~; that part of the ~~SW1/4NE1/4~~ lying South of the Big Wind River.

Section 24: ~~SW1/4~~; ~~SW1/4NW1/4~~;

Section 25: ~~N1/2NE1/4~~

Said easement shall extend from midstream on each of said streams in both directions to a point fifty (50) feet above and beyond the high water line on each side of both of said streams insofar as said streams traverse and are located in the above described portion of Section 15, T. 41 N., R. 106 W. 6th P.M., Fremont County, Wyoming, the ~~SE1/4NE1/4~~ of Section 23, T. 41 N., R. 106 W. 6th P.M., Fremont County, Wyoming, the ~~SW1/4~~ and the ~~SW1/4NW1/4~~ of Sec. 24, T. 41 N., R. 106 W. 6th P.M., Fremont County, Wyoming and the ~~N1/2NE1/4~~ of Section 25, T. 41 N., R. 106 W. of the 6th P.M.

INDEXED  
ABSTRACTED  
PHOTOSTATIC RECORDED

Fremont County, Wyoming. Said easement shall, however, extend from midstream of the Big Wind River outward to a point fifty (50) feet above and beyond the high water line on the south side of said river only insofar as said river traverses and is located in the SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> of Section 23, T. 41 N., R. 106 W. of the 6th P.M., Fremont County, Wyoming.

2. A permanent easement for public parking in and to the following-described areas, to-wit:

(a) A parcel of land in Section 15, T. 41 N., R. 106 W., 6th P.M., Fremont County, Wyoming; and being more particularly described as follows: Beginning at a point on the south right-of-way line of U.S. Highway 287 which bears N. 60° 22' W. a distance of 1627.7 feet, more or less, from the NW corner of the SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Section 15; thence N. 61° 29' W. along the south right-of-way line of U.S. Highway 287 a distance of 76.8 feet, more or less; thence S. 60° 15' W. a distance of 141.8 feet, more or less; thence S. 55° 59' E. a distance of 147.50 feet, more or less; thence N. 30° 19' E. a distance of 135.00 feet, more or less, to the point of beginning. Said parcel contains 0.33 acres, more or less.

(b) A parcel of land in Section 24, T. 41 N., R. 106 W., 6th P.M., Fremont County, Wyoming; being more particularly described as follows: Beginning at a point which bears S. 45° 18' E. a distance of 1236.58 feet, more or less, from the west one quarter corner of Section 24; thence S. 17° 34' E. a distance of 27.9 feet, more or less; thence S. 88° 44' E. a distance of 157.6 feet, more or less; thence N. 24° 56' W. a distance of 122.0 feet, more or less; thence S. 72° 36' W. a distance of 133.3 feet, more or less; thence S. 17° 34' E. a distance of 42.6 feet, more or less, to the point of beginning. Said parcel contains 0.32 acres, more or less.

3. A permanent public vehicular access and right-of-way in and to the parking area described in paragraph 2(b) 20 feet on each side of the following described center line, located in Section 24, T. 41 N., R. 106 W., 5th P.M., Fremont County, Wyoming, being 20.0 feet on each side of the following described center line: beginning at a point which bears S. 45° 18' E. a distance of 1236.58 feet, more or less, from the west one-quarter corner of Section 24; thence S. 72° 06' W. a distance of 268.00 feet, more or less, to the north right-of-way line of U.S. Highway 287. Said right-of-way contains 0.025 acres, more or less.

4. The right of Grantee to improve the beds and banks of the Big Wind River and Jakey's Fork as a fishery by constructing cribs, squares, triangles, or such other devices as may be desired by Grantee for purposes of creating holes, eddies, and shadings at such places as may hereafter be desired by Grantee.

5. The right of the Grantee to construct, where necessary, foot bridges of reasonable width and design across the Big Wind River and Jakey's Fork.

Grantors do hereby agree and covenant to restrict and control the utilization of all herbicides, insecticides, or other chemicals on said premises so that their use will in no way harm, endanger or interfere with the fishery on said lands and that in no event will any such herbicides, insecticides, or other chemicals be used on the above-described premises unless permission in writing be first secured from Grantee. Said covenant to run with the land to be binding on subsequent grantees, lessees, heirs or devisees.

Grantors hereby warranting to said grantee that they are fully seized in fee of all lands described herein and that said lands are free from any encumbrances of whatever nature as may operate to terminate or interfere with any of the rights and interests herein granted.

Hereby releasing and waiving any and all rights under and by virtue of the homestead exemption laws insofar as they may effect the rights and interests herein granted.

Dated this 11 day of March, 1964.

Theodor Blehm  
Theodor Blehm

Rennelta Blehm  
Rennelta Blehm

STATE OF WYOMING, }  
COUNTY OF FREMONT } SS.

On this 11 day of March, 1964, before me personally appeared Theodor Blehm and Rennelta Blehm, husband and wife; 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.



Lawrence Waller  
Notary Public

My commission expires: Sept. 4, 1965

Recorded in Book 129  
APR 9 1984  
JAMES A. FARHING  
County Clerk and Ex-Officio Registrar of Deeds  
Fremont, Wyoming

CORRECTIVE DEED OF EASEMENT

Theodor and Rennelta Blehm, husband and wife, of Dubois, Fremont County, Wyoming, Grantors, for and in consideration of Ten dollars (\$10.00) and other good and valuable consideration, in hand paid, receipt of which is hereby acknowledged, do hereby grant unto the State of Wyoming Game and Fish Commission, Grantee, for the use of the public the following rights and privileges, to-wit:

1. A permanent easement and access for public fishing in and to the Big Wind River and Jakey's Fork insofar as they traverse the following described lands, to-wit:

T. 41 N., R. 106 W. of the 6th P.M., Fremont County, Wyoming,

Section 15: ~~S1/4NW1/4, N1/2SW1/4~~

Except a one acre tract of land in the ~~SW1/4NW1/4~~ and ~~NW1/4SW1/4~~ more particularly described as follows: Beginning at Corner No. 1, which point is located S. 87°06' E. 1,007.7 feet from the West 1/4 section corner of said Sec. 15, thence N. 3°12' E. 290.8 feet to Corner No. 2; thence S. 83°51' E. 150.0 feet to Corner No. 3; thence S. 3°12' W. 290.8 feet to Corner No. 4; thence N. 83°51' W. 150.0 feet, more or less, to Corner No. 1, the point of beginning.

Section 23: ~~SE1/4NE1/4~~; that part of the ~~SW1/4NE1/4~~ lying South of the Big Wind River.

Section 24: ~~SW1/4~~; ~~SW1/4NW1/4~~

Section 25: ~~N1/2NE1/4~~

Said easement shall extend from midstream on each of said streams in both directions to a point fifty (50) feet above and beyond the high water line on each side of both of said streams insofar as said streams traverse and are located in the above described portion of Section 15, T. 41 N., R. 106 W. 6th P.M., Fremont County, Wyoming, the ~~SE1/4NE1/4~~ of Section 23, T. 41 N., R. 106 W. 6th P.M., Fremont County, Wyoming, the ~~SW1/4~~ and the ~~SW1/4NW1/4~~ of Sec. 24, T. 41 N., R. 106 W. 6th P.M., Fremont County, Wyoming and the ~~N1/2NE1/4~~ of Section 25, T. 41 N., R. 106 W. of the 6th P.M.,

INDEXED  
ABSTRACTED  
PHOTOSTATIC RECORDER

Fremont County, Wyoming. Said easement shall, however, extend from midstream of the Big Wind River outward to a point fifty (50) feet above and beyond the high water line on the south side of said river only insofar as said river traverses and is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23, T. 41 N., R. 106 W. of the 6th P.M., Fremont County, Wyoming.

2. A permanent easement for public parking in and to the following-described areas, to-wit:

(a) A parcel of land in Section 15, T. 41 N., R. 106 W., 6th P.M., Fremont County, Wyoming; and being more particularly described as follows: Beginning at a point on the south right-of-way line of U.S. Highway 287 which bears N. 60° 22' W. a distance of 1627.7 feet, more or less, from the NW corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 15; thence N. 61° 29' W. along the south right-of-way line of U.S. Highway 287 a distance of 76.8 feet, more or less; thence S. 60° 15' W. a distance of 141.8 feet, more or less; thence S. 55° 59' E. a distance of 147.50 feet, more or less; thence N. 30° 19' E. a distance of 135.00 feet, more or less, to the point of beginning. Said parcel contains 0.33 acres, more or less.

(b) A parcel of land in Section 24, T. 41 N., R. 106 W., 6th P.M., Fremont County, Wyoming; being more particularly described as follows: Beginning at a point which bears S. 46° 18' E. a distance of 1236.58 feet, more or less, from the west one quarter corner of Section 24; thence S. 17° 34' E. a distance of 27.9 feet, more or less; thence S. 88° 44' E. a distance of 157.6 feet, more or less; thence N. 24° 56' W. a distance of 122.0 feet, more or less; thence S. 72° 36' W. a distance of 133.3 feet, more or less; thence S. 17° 34' E. a distance of 42.6 feet, more or less, to the point of beginning. Said parcel contains 0.32 acres, more or less, together with the right of the Grantee to contain said parking areas with open pole enclosures and to construct thereon such sanitation and other facilities as Grantee might desire.

3. A permanent public vehicular access and right-of-way in and to the parking area described in paragraph 2(B) 20 feet on each side of the following described center line, located in Section 24, T. 41 N., R. 106 W., 6th P.M., Fremont County, Wyoming; being 20.0 feet on each side of the following described center line; beginning at a point which bears S. 45°18' E. a distance of 1236.58 feet, more or less, from the west one-quarter corner of Section 24; thence S. 72°06' W. a distance of 268.00 feet, more or less, to the north right-of-way line of U.S. Highway 287. Said right-of-way contains 0.025 acres, more or less, together with right of Grantee to construct or reconstruct said access as desired and to thereafter maintain and repair the same.

4. The right of Grantee to improve the beds and banks of the Big Wind River and Jakey's Fork as a fishery by constructing cribs, squares, triangles, or such other devices as may be desired by Grantee for purposes of creating holes, eddies, and shadings at such places as may hereafter be desired by Grantee.

5. The right of the Grantee to construct, where necessary, foot bridges of reasonable width and design across the Big Wind River and Jakey's Fork.

Grantors do hereby agree and covenant to restrict and control the utilization of all herbicides, insecticides, or other chemicals on said premises so that their use will in no way harm, endanger or interfere with the fishery on said lands and that in no event will any such herbicides, insecticides, or other chemicals be used on the above-described premises unless permission in writing be first secured from Grantee. Said covenant to run with the land to be binding on subsequent grantees, lessees, heirs or devisees.

Grantors hereby warranting to said grantee that they are fully seized in fee of all lands described herein and that said lands are free from any encumbrances of whatever nature as may operate to terminate or interfere with any of the rights and interests herein granted.

Hereby releasing and waiving any and all rights under and by virtue of the homestead exemption laws insofar as they may effect the rights and interests herein granted.

This deed is made to correct any and all defects in a certain deed of easement executed by the grantors herein named on March 11, 1964 which deed was recorded at Page 31 of Book 58 of Misc., Fremont County Records on March 16, 1964.

Dated this 7<sup>th</sup> day of April, 1964.

Theodor Blehm  
Theodor Blehm

Rennelta Blehm  
Rennelta Blehm

STATE OF WYOMING }  
COUNTY OF FREMONT } SS.

On this 7 day of April, 1964, before me personally appeared Theodor Blehm and Rennelta Blehm, husband and wife, 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.



Paul J. Jansland  
Notary Public

My Commission expires: Jan 9-1965