



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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EPA REGION 8
ENVIRONMENTAL PROTECTION AGENCY

Ref: 8ENF-W

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED
#7009-3410-0000-2594-6479

Joseph and Ronald Muth
DOECK, LLC
400 North Rowley Street
Mitchell, South Dakota 57301

Re: Approval – Amended Wetland Mitigation Plan
Brookfield Subdivision, Rapid City, SD

Dear Messrs. Muth:

This letter concerns the Wetland Mitigation Plan (Plan) required by the U.S. Environmental Protection Agency's (EPA) administrative order on consent (Order), Docket No. CWA-08-2009-0016, issued to you on June 11, 2009. In accordance with the Order, the EPA approved your Plan for the Brookfield Subdivision on June 24, 2010. The U.S. Army Corps of Engineers (Corps) subsequently authorized the EPA-approved Plan on August 12, 2010, under Nationwide Permit #32.

In October 2011, you and your consultant, Sperlich Consulting, Inc., contacted the EPA and the U.S. Army Corps of Engineers (Corps) to discuss the possibility of relocating the approved wetland creation site immediately upstream of the Brookfield Subdivision. The EPA and the Corps agreed to this request as long as the relocation was environmentally beneficial to the project and the compensatory wetland mitigation ratio was increased to offset the temporal wetland impacts associated with the delay in completing the approved wetland creation site.

Pursuant to the Order, and after consultation with the Corps, the EPA is granting conditional approval of the July 23, 2012, Mitigation Plan for the Brookfield Subdivision (Amended Plan) resubmitted by Sperlich Consulting, Inc. As identified in the Amended Plan, 3.86 acres of wetlands will be created as compensatory mitigation, which includes an increase of 0.74 acres of wetlands to offset the temporal wetland impacts. The EPA's conditional approval is contingent upon your submittal of an acceptable revised schedule (page 10 of the Amended Plan) to this office within twenty-one (21) days of receipt of this letter for all work to be accomplished by the Amended Plan.

Please note that this approval does not include construction of the future Three Forks Drive Crossing. Any future plans to proceed with this crossing will need to be discussed with the Corps to determine whether any additional permits will be necessary.



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In accordance with paragraphs 35 and 36 of Section IV of the Order, you must obtain all necessary permits to implement the Amended Plan. In order to demonstrate that all necessary permits have been granted, please provide complete copies of all such permits (and any amendments thereto) to the EPA within seven (7) calendar days of their issuance. Construction may proceed upon receipt of written verification from the Corps that the work is authorized under Section 404 of the Clean Water Act, and submittal to the EPA of copies of all other applicable permits. The Amended Plan is now incorporated into the Order and enforceable in accordance with the terms and conditions of the Order.

The EPA appreciates your efforts to adequately address the Clean Water Act violations. Please inform the EPA immediately if there are any substantive changes in the designs or plans for the project or if you anticipate any problems meeting any conditions of the Amended Plan. If you have any technical questions regarding this matter, the most knowledgeable person on my staff is Kenneth Champagne, Section 404 Enforcement Officer, who can be reached at 303-312-6608. Any legal questions should be directed to Sheldon Muller, Senior Attorney, at 303-312-6916. The EPA looks forward to completion of the project.

Sincerely,

for *Eddie A. Sierra*
Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

cc: Kale R. McNaboe, P.E., Sperlich Consulting, Inc.
Steven E. Naylor, Corps of Engineers
David L. LaGrone, Corps of Engineers
Tina Artemis, EPA, 8RC

