



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
201 WEST 8TH STREET, SUITE 350
PUEBLO, CO 81003

March 24, 2023

Regulatory Division

SUBJECT: Nationwide Permit Verification (SPA-2022-00429)

Empire Lodge Homeowners Association
Attn: Ken Berendt
585 Empire Valley Drive
Leadville, CO 80461
Beaverlake.Treasurer@gmail.com

Dear Mr. Berendt:

We are responding to your preconstruction notification (PCN), dated February 9, 2023, submitted to us for verification of authorization under Nationwide Permit (NWP) No. 18, Minor Discharges, for the Beaver Lakes Estates ditch relocation project. The project site is located approximately 3.25-miles east of the intersection of County Road 7 and County Road 52, south of Leadville, Lake County, Colorado at approximately latitude 39.19256, longitude -106.27552.

Based on the information provided, we have determined that the Beaver Lakes Estates ditch relocation project involves the discharge of dredged and fill material into waters of the United States, subject to Section 404 of the Clean Water Act. The specific activities that require Corps authorization are the installation of a headgate and rock riprap surrounding the headgate, excavation of the new ditch segment within wetlands, and the discharge of excavated fill material to construct berms on both sides of the ditch. The project will permanently impact approximately 3,548-square feet (0.08-acre) of wetland and permanently impact approximately 125-square feet of streambed within the ordinary high-water mark of an unnamed ditch. The project will be constructed as described in the referenced PCN.

We have determined that activities associated with the project are authorized by 2021 NWP No. 18, Minor Discharges. A summary of this NWP and the 2021 Colorado, Regional Conditions are available on our website at www.spa.usace.army.mil/reg/nwp. Failure to comply with all terms and conditions of this NWP may result in the suspension or revocation of this authorization. As required by General Condition 30, you shall sign the enclosed Compliance Certification (Enclosure 1) and return it to this office within 30 days after completion of the authorized work. For specific information regarding compliance with water quality certification (WQC) requirements, please refer to our website at www.spa.usace.army.mil/reg/wqc. In addition, the work must comply with the following **special condition**:

1. The permittee is reminded of Colorado Regional Condition No. 3., Peatlands, which revokes the use of NWP No. 18, Minor Discharges, to authorize work within peatlands, which includes fens and bogs, as defined by Regional Condition No. 3. Should soil conditions meeting the definition of peatlands or fens be encountered during excavation, work shall immediately cease, and the permittee shall notify the Corps Regulatory Division-Pueblo Field Office.

Our review of this project also addressed its effects on threatened and endangered species and historic properties in accordance with General Conditions 18 and 20. Based on the information provided, we have determined that this project will have no effect to federally listed species or their critical habitat. Additionally, the project has no potential to cause effect to historic properties. However, these determinations may be invalidated if the project is not completed as authorized or you did not provide accurate information in your PCN.

This permit verification is valid until March 14, 2026, unless the NWP is modified, suspended, reissued, or revoked prior to that date. Continued confirmation that an activity complies with the terms and conditions, and any changes to the NWP, is the responsibility of the permittee. Activities that have commenced, or are under contract to commence, in reliance on an NWP will remain authorized provided the activity is completed within 12 months of the date of the NWP's expiration, modification, or revocation.

This letter does not constitute approval of the project design features, nor does it imply that the construction is adequate for its intended purpose. This permit does not authorize any injury to property or invasion of rights or any infringement of federal, state, local, or tribal laws or regulations. The permittee and/or any contractors acting on behalf of the permittee must possess the authority and any other approvals required by law, including property rights, to undertake the proposed work.

The landowner must allow Corps representatives to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been, accomplished in accordance with the terms and conditions of the permit.

We would appreciate your feedback on this permit action including your interaction with our staff or suggestions for improving our program. For more information about our program or to complete our Regulatory Program national customer service survey, visit our website at <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/>.

Please refer to identification number SPA-2022-00429 in any correspondence concerning this project. If you have any questions, please contact me by email at Daniel.i.Delgado@usace.army.mil, or telephone at (907) 753-5556 ext. 1.

Sincerely,

Daniel Delgado
Regulatory Project Manager
Southern Colorado Branch

Enclosure

COMPLIANCE CERTIFICATION

Action Number: SPA-2022-00429

Name of Permittee: Empire Lodge Homeowners Association, Attn: Ken Berendt

Nationwide Permit: NWP No. 18, Minor Discharges

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification, and return it to one of the following addresses:

U.S. Army Corps of Engineers, Albuquerque District
Southern Colorado Branch-Pueblo Field Office
201 West 8th Street, Suite 350
Pueblo, CO 81003

OR

CESPA-RD-CO@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

Please enclose photographs showing the completed project (if available).

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Date Work Started _____

Date Work Completed _____

Signature of Permittee

Date