



US Army Corps
of Engineers
Omaha District

DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public

Permit No.: RGP 2014-01 (Corps File No. NWO-2007-03483-MTB)

Issuing Office: U.S. Army Corps of Engineers, Omaha District, Billings Regulatory Office

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

YELLOWSTONE MOUNTAIN CLUB DEVELOPMENT
Appendix A lists detailed description of authorized work
Appendix B lists special conditions
Appendix C lists application procedure

Project Location: Jurisdictional waters located within the boundaries of the Yellowstone Mountain Club (YC) development, near Big Sky in Madison County, Montana. The YC is located in Sections 34, 35, 36, Township 6 South, Range 2 East; Sections 31 and 32, Township 6 South, Range 3 East; Sections 1-4, 9-15, 23 and 24; Township 7 South, Range 2 East; and Sections 5-8, and 17-20, Township 7 South, Range 3 East. The RGP applies only to housing areas already approved for development in the Updated December 2007 Yellowstone Mountain Club Master Plan and is limited to the following: Yellowstone Mountain Club Subdivision Phases 1 & 2, Phase 1A, Phase 3, Phase 3A, Phase 4 (Warren Miller Lodge), Phase 5, and Phase 6, Phase 6A (Enclave); Andesite Pointe, Sunrise Ridge Phase 1, Slopeside Subdivision, Overlook Subdivision and Golf Course Subdivision Phase 1. Large acreage subdivisions/lots that have already been platted including Rainbow Minor Subdivision, Club Cabin Minor Subdivision, COS 1554-A, COS 1738, COS 1873 and Base Area 160 are excluded from using the RGP. Areas not labeled at all and/or labeled for conservation easements and future development in the Master Plan are not eligible to use the RGP, including but not limited to, Eglise Ridge, COS 1554, Corral, 20 Remote Cabins, Rainbow Lodge, Pioneer Subdivision, American Spirit Subdivision, Village, and COS Book 7 Page 1962. Only locations with existing recreation amenities are eligible to use the RGP. Recreational amenities in new areas are not permitted under the RGP.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 19, 2019 which is 5 years after validation. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area. This RGP expires on December 19, 2019.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

6. You must allow representatives from this office 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 your permit.

Special Conditions: See Appendix B.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

DISTRICT ENGINEER
Joel R. Cross
Colonel, Corps of Engineers
District Commander

By: Signature on File

Martha S. Chieply
| Chief, Regulatory Branch,
Operations Division

(DATE): 12/19/2014

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEEE)

(DATE)

APPENDIX A DETAILED DESCRIPTION OF WORK

In accordance with the terms and conditions of this Regional General Permit (RGP), the Yellowstone Mountain Club (YC) and landowners within the YC development as previously described are authorized by the Secretary of the Army to construct new culverts, bridges, access roads (including driveways), and utility lines; to extend, modify or repair existing culverts, bridges, access roads (including driveways), and utility lines; and to protect existing infrastructure within the YC development. The proposed activity is located within the boundaries of the YC development, near Big Sky in Madison County, Montana. The YC is located in Sections 34, 35, 36, Township 6 South, Range 2 East; Sections 31 and 32, Township 6 South, Range 3 East; Sections 1-4, 9-15, 23 and 24; Township 7 South, Range 2 East; and Sections 5-8, and 17-20, Township 7 South, Range 3 East. The RGP will apply only to housing areas already approved for development in the Updated December 2007 Yellowstone Mountain Club Master Plan, including Big Sky Ridge (Phase 3A), Pine Ridge (Phase 3), Overlook Subdivision, Andesite Mountain (Phases 1, 1A & 2), Sunrise Ridge, Slopeside Subdivision, Enclave (Phase 6A), Phase 6, Mountain Chalets (Phases 5A, 5B & 5C), and Warren Miller Lodge (Phase 4). Areas not labeled and/or labeled for conservation easements and future development in the master plan will not be eligible to use the RGP, including Eglise Ridge, COS 1554, Corral, 20 Remote Cabins, Rainbow Lodge, Pioneer Subdivision, American Spirit Subdivision, Village, COS Book 7 Page 1962, COS 1738 Ranches, and the Golf Course Subdivision. Only community recreational amenities in community recreation areas that have already been developed as of the date of issuance of this RGP are eligible to use the RGP. Community recreational amenities in areas not developed as of the date of issuance of this RGP will not be permitted under the RGP.

This RGP 2014-01 authorizes the expansion, modification, improvement, repair, rehabilitation, or replacement of any previously authorized and currently serviceable culverts, bridges, access roads (including driveways) and utility lines. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized.

RGP 2014-01 authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures and the placement of new or additional riprap to protect the structures. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. RGP 2014-01 also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity.

RGP 2014-01 authorizes activities required for the construction of new culverts, bridges, and access roads (including driveways) in waters of the U.S. Any stream channel modification, including bank

stabilization, is limited to the minimum necessary to construct or protect the project, such modifications must be in the immediate vicinity of the project.

RGP 2014-01 authorizes temporary structures, fills, and work necessary to construct new culverts, bridges, and access roads (including driveways). Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials and be placed in a manner that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated.

RGP 2014-01 authorizes bank stabilization activities necessary to protect existing upland infrastructure, including facilities constructed prior to issuance of this RGP that are not water dependent, provided the activity is no more than 200 feet in length along the bank and will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark. No material will be placed in excess of the minimum needed for erosion protection.

RGP 2014-01 authorizes the construction, maintenance, or repair of utility lines, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the U.S., provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a waters of the U.S., such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area. Material resulting from trench excavation may be temporarily side cast into waters of the U.S. for no more than 30 days, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The District Commander may extend the period of temporary side casting for no more than a total of 60 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, creating a French drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each water body.

Restrictions-RGP 2014-01 cannot be used to authorize building pads for structures such as homes, garages, utility buildings or shops. This exclusion applies to new structures and the expansion of existing structures. RGP 2014-01 also does not authorize construction of ski runs or trails, or new stream channelization or stream relocation projects. Projects involving filling activities, permanent and/or temporary, that would impair the flow in and out of wetlands, are to be avoided if possible. If avoidance is not possible, mitigation of the impacts will be required. Projects located within the

boundaries of a wetland area or environmentally sensitive areas, such as spawning, nesting, feeding and resting areas, river chutes, backwater areas, etc., are to be avoided if possible. If avoidance is not possible, mitigation for the impacts will be required. Projects in fens will not be considered under RGP 2014-01.

Bridges–Bridge structures should accommodate the bankfull channel width with a clear span, and avoid constricting the channel during major flood events. Designs should pass estimated flood peaks without significant backwater (pooling) upstream.

Culverts–Culverts must adequately pass peak flows, debris and ice, and allow the passage of aquatic species. Culverts must accommodate the bankfull channel width and avoid constricting the channel. Culverts must be placed slightly below grade of the natural stream bed. Fish passage considerations may require oversized pipes, baffled culverts, open-bottomed arches, or bridges. Multiple side-by-side culverts are not authorized by RGP 2014-01.

All stream crossings should be designed and located to facilitate minimal impact at the crossing. Crossings should be at narrow, relatively stable channel sections.

The cumulative impacts of this regional general permit may be subject to reevaluation at the discretion of the District Commander at any time, but will be reevaluated at the end of five (5) years.

The District Commander has the discretion to require an individual permit on a case-by-case basis for any of the activities authorized herein.

APPENDIX B SPECIAL CONDITIONS

All activities authorized under this regional general permit must comply with the following Special Conditions:

- 1. Minimization:** Permittees are required to minimize the effects of the projects by:
 - a. Properly disposing of all construction debris (including excess dredge and/or fill materials, wood, cleared vegetation, concrete, and all other materials not specifically addressed in the permit) in an appropriate upland area in such a manner that it cannot enter a waterway or wetland.
 - b. Operating all project related equipment during construction in a manner that prevents dumping or spilling the material into the wetlands and/or waters of the U.S. except as approved by the permit. Care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water. The use of machinery in water will generally not be allowed. Work should be performed from the bank or on a work platform; specific authorization would be needed to allow machinery to be placed in water.
 - c. Performing work in the waterway in such a manner so as to minimize increases in suspended solids and turbidity that may degrade water quality and damage aquatic life outside the immediate area of operation.
 - d. Utilizing only clean riprap materials in order to minimize the potential for the introduction of fines that would result in excessive local turbidity. Riprap should be sized accordingly per stream type.
 - e. Utilizing only clean rock material from a non-streambed source for riprap or associated with the placement of riprap. Use of streambed source materials for cofferdam construction is allowed provided the material is returned to the source area and the bottom elevation is restored to pre-project contours.
 - f. Limit clearing of riparian or wetland vegetation to the absolute minimum necessary and practical. Where temporary riparian or wetland vegetation impacts are unavoidable, it must be mowed or cut off above the ground and topsoil and root mass must be left intact.
 - g. Conducting close coordination with downstream water users, advising them of any water quality changes to be caused by the construction.
 - h. All earthwork operations on shore will be carried out in such a manner that sediment runoff and soil erosion to the river are controlled.
 - i. Complying with remedial measures given by the District Commander if there has been notification that the filling and/or dredging activity associated with the project is adversely affecting fish or wildlife resource or the harvest thereof. This may include suspending or modifying the activity to the extent necessary to mitigate or eliminate the adverse effect.
 - j. All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place and

- maintained until construction is completed and the area is stabilized.
- k.** All erosion control blanket or fabric used in or adjacent to waters of the U.S. must be natural and biodegradable to ensure decomposition. Do not use material that includes a synthetic or ultraviolet (UV) stabilized mesh, as those products take a long time to degrade and can trap small mammals, birds, amphibians, and fish.
 - l.** All areas along the bank disturbed or newly created by the construction activity must be seeded as soon as practical thereafter with vegetation indigenous to the project area for protection against subsequent erosion and to minimize adverse impacts to fish and wildlife resources. This may require maintenance such as reseeded, watering, fencing, etc., as necessary to ensure survival of the replacement vegetation.
 - m.** Disturbed areas shall be monitored following the project construction until site stabilization is achieved and noxious weeds (i.e., Canada thistle, purple loosestrife, leafy spurge and other invasive exotic species) are controlled in accordance with Montana state law.
 - n.** All temporary fills shall be removed in their entirety and the area revegetated and restored to its preconstruction contours.
 - o.** Culverts must adequately pass peak flows, debris and ice, and allow passage of aquatic species. Culverts must accommodate the bankfull channel width and avoid constricting the channel.
 - p.** Culverts must be placed slightly below grade of the natural stream bed. Fish passage considerations may require oversized pipes, baffled culverts, open-bottomed arches, or bridges. Multiple side-by-side culverts are not authorized.
 - q.** Utilize natural channel design principles for design of crossing structures. Streambed material placed in culverts or under bridges must be uncrushed material and must match the cohesiveness and gradation of the adjacent streambed material.
 - r.** No tributaries, side channels, oxbows or other backwater areas will be “cut off”.
 - s.** The cross-sectional areas of channels will not be reduced. The cross-sectional area of the stream is determined by multiplying channel depth by channel width along a transverse section of the stream.
 - t.** No more than half of the stream channel shall be blocked at any one time so as not to diminish the flow downstream of the project.
 - u.** Where practicable, construction will occur during low flow or no flow conditions.
 - v.** The authorized activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows.
 - w.** All culverts and culvert outlet riprap aprons must not impede movement of aquatic life, including fish.
 - x.** Compensatory mitigation for all wetland impacts is required, and must be in accordance with the Montana Regulatory Program Mitigation Ratios. Options to satisfy compensatory wetland mitigation requirements include:
 - 1.** Development of a suitable compensatory mitigation project on-site.
 - 2.** Development of an off-site mitigation project.
 - 3.** Participation in an approved in-lieu fee program.

4. Purchase of credits from an approved mitigation bank.
 5. Any combination of the above.
2. **Wetlands and Other Waters:** Total area of waters of the U.S. that can be permanently filled by a single and complete project must be less than 0.10 acre.
 3. **Water Quality:** The permittee must comply with the conditions established by the MDEQ 401 certification.
 4. **Historic Properties:** Any proposed project that is located in an area containing historic, cultural, or archeological sites as listed in the National Register of Historic Places; or those known to be eligible for such listing, and all monthly supplement thereto; or is located in a site included in the National Registry of Natural Landmarks; or any other known historic, cultural, or archaeological site will not be considered under this regional general permit if it would result in an adverse impact to that site. The project must comply with the provisions of 33 CFR Part 325, Appendix C, pursuant to the National Historic Preservation Act of 1966.
 5. **Threatened and Endangered Species:** No activity is authorized that would result in adverse impacts to federally listed threatened and/or endangered species or their critical habitat. The project must comply with the Endangered Species Act of 1972. If a nest, den, or important site for any threatened or endangered species is found adjacent to the project area, construction activities will be curtailed. USFWS will be consulted for recommendations and additional conditions may be imposed in order to avoid impacts. All occurrences of Canada lynx within the project area must be reported to the USFWS Office in Helena, Montana.

In order to minimize negative human-bear interactions, it is recommended that the following measures occur at the YC:

- a) All construction workers and residents will be informed that they are in grizzly country and provided with information on how to avoid encounters.
 - b) All food items or other potential bear attractants such as petroleum products and antifreeze will be removed from vehicles.
 - c) Construction workers will be advised that their lunches and other attractants must be stored properly, and that they must remove all food materials, garbage, and other attractants on a daily basis. All waste will be deposited in bear-proof containers.
 - d) Impacts to timber or cover corridors along streams must be restored and projects must provide wildlife crossing areas.
 - e) Free-ranging dogs and other pets are not allowed.
 - f) Feeding large mammal wildlife is not allowed.
 - g) Only companion family pets are permitted. Swine, sheep, cattle, horses, goats, llamas and other similar livestock should not be allowed.
6. **Spawning Areas:** Activities in spawning areas during spawning seasons must be avoided. Site-

specific activities may be allowed after notification and review and only after specific approval.

- 7. Tribal Rights:** No activity is authorized that would impair reserved tribal rights, including, but not limited to, water, fishing, and hunting rights.
- 8. Suitable Fill Material:** No discharge may consist of unsuitable material (e.g. trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic materials in toxic amounts as required by Section 307 of the CWA. In Montana, the Corps issued a notice of prohibition against the use of certain material as fill in a Special Public Notice dated May 24, 2002.
- 9. Proper Maintenance:** Any fill material must be properly maintained, including maintenance necessary to ensure public safety.
- 10. Water Supply Intakes:** No discharge may occur in the proximity of any water supply intake.
- 11. Stockpiling:** Temporary and permanent storage of excess soil, sediment, unwanted vegetation or other material in waters of the U.S., including wetlands, is not authorized for more than 30 days unless specifically extended by the District Commander. This does not prohibit the construction of temporary crossings or cofferdams.
- 12. Time:** Activities authorized under this Regional General Permit must be started within one (1) year of such authorization and must be completed within three (3) years of said authorization unless revoked or specifically extended.

APPENDIX C APPLICATION PROCEDURE

All persons who desire to construct projects in accordance with this (RGP) 2014-01 are required to submit a Pre-construction Notification (PCN) using the Montana Joint Application Form to the Corps at the following address at least 45 days prior to the anticipated start of construction.

U.S. Army Corps of Engineers
Helena Regulatory Office
10 West 15th street, Suite 2200
Helena, Montana 59626

All PCNs must contain sufficient information for the Corps to determine if a project complies with the terms and conditions of RGP 2014-01. All applications must contain the information described below. However, the Corps may require more detailed information if necessary to ensure compliance.

- 1. Applicant:** Name, address, and telephone number of the applicant (landowner) and contact person.
- 2. Project Location:** A legal description of the project location, including borrow and disposal sites, by quarter, section, township, and range. An enlarged copy of the appropriate portion of the U.S. Geological Survey topographic map for the area is the preferred method of specifying location information.
- 3. Project Description:** A brief written description of the project including the primary purpose; compositions and volume (cubic yards) of all fill material and areas of excavation; number of locations of project features, areas of fill in waters of the U.S. and wetlands. If wetlands are to be filled with the project, the application must include a wetland delineation (see item 5 below); types and numbers of construction equipment to be used, total area of surface disturbance, including uplands; and any other pertinent information.
- 4. Project Drawings:** Drawings of the project, preferably on 8 ½ x 11-inch paper. Drawings must include a plan view with all project features easily discernible on it. For projects that involve fills in wetlands, a baseline wetland delineation map showing existing wetland boundaries and water features.
- 5. Wetland Delineations:** Projects that involve fills in wetlands must include a wetland delineation for the entire project area, including all wetland areas that could be impacted. Delineations must be completed by qualified individuals in accordance with the U.S. Army

Corps of Engineers Wetland Delineation Manual dated January, 1987 and any updates and supplements thereto. Delineation maps must show all areas that meet the definition of a wetland as defined in the manual and all other water features such as ditches, streams, ponds and lakes.

- 6. Stream Baseline Conditions:** Projects that involve fill in streams must have a baseline description that includes the location of any riffle and pool complexes in the project area, and the locations of any other existing structures in the project area. The baseline condition should include stream plan, profile and pattern information.
- 7. Photographs:** The applicant is encouraged to provide color photographs of the project area, especially typical wetland/upland boundaries, in order to facilitate permit processing.