



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
HELENA REGULATORY OFFICE
10 WEST 15TH STREET, SUITE 2200
HELENA, MONTANA 59626

November 6, 2017

Regulatory Branch
Montana State Program
Corps No. **NWO-2017-01818-MTH**

Subject: Walter Wunsch - Stream Alteration/ Bank Stabilization - Golmeyer Creek -
(Park County)

Walter Wunsch
PO Box 36
Emigrant, Montana 59027

Dear Mr. Wunsch:

We are responding to your request for Nationwide Permit (NWP) verification for the above-mentioned project. The project is located at Latitude 45.345438°, Longitude -110.827616°, on Golmeyer Creek, within Section 1, Township 6 S, Range 7 E, Park County, Montana.

Specifically, you requested authorization for the following work in waters of the U.S.:

Work Item	Description
a.	Repair Hercules Road at point A–A, as identified on the drawing entitled “Hercules Road Erosions” and dated 05-OCT-2017, to a width of approximately 21 feet. Approximately a 5-foot wide by 100-foot long stretch of Hercules road will be rebuilt through the deposition of 130 cubic yards of dirt, gravel, and rock rip rap that is sloped back at a 2:1 ratio. This will impact approximately 500 square feet of Golmeyer Creek.
b.	Repair the approach to Hercules Road at point B, as identified on the drawing entitled “Hercules Road Erosions” and dated 05-OCT-2017. Approximately a 3-foot wide by 100-foot long stretch of the Hercules road approach will be rebuilt with the deposition approximately 33 cubic yards of rock rip rap. This will impact approximately 300 square feet of Golmeyer Creek.

Based on the information you provided, the proposed activity, permanently affecting approximately 800 square feet of Golmeyer Creek, is authorized by NWP 3, found in the January 6, 2017, Federal Register (82 FR 1860), Reissuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this NWP and lists the General and Regional Conditions that must be adhered to for this authorization to remain valid.

Please note that deviations from the original plans and specifications of your project could require additional authorization from this office.

You are responsible for ensuring that all work is performed in accordance with the terms and conditions of the NWP. If a contractor or other authorized representative will be conducting work on your behalf it is strongly recommended that they be provided a copy of this letter and the enclosed conditions. Failure to comply with the General and Regional Conditions of this NWP may result in the suspension or revocation of your authorization and may be subject to appropriate enforcement action.

The Montana Department of Environmental Quality has provided the enclosed CWA Section 401 water quality certification for this NWP which includes General Conditions, all of which must be complied with for that certification to remain valid. This does not eliminate the need to obtain other permits that may be required by that agency.

This verification is valid until March 18, 2022, when the existing NWPs are scheduled to be modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified, reissued or revoked, you will have twelve (12) months from the date of the modification, reissuance or revocation of the NWP to complete the activity under the present terms and conditions unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d). Activities completed under the authorization of an NWP which was in effect at the time the activity was completed continue to be authorized by that NWP.

In compliance with General Condition 30, we have enclosed a "compliance certification" form, which must be signed and returned within 30 days of completion of the project, including any required mitigation. Your signature on this form certifies that you have completed the work in accordance with the terms and conditions of the NWP.

The Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

Please refer to identification number **NWO-2017-01818-MTH** in any correspondence concerning this project. If you have any questions, please contact Dylan Hickey by email at *Dylan.J.Hickey@usace.army.mil*, or telephone at (406) 441-1364.

Sincerely,

HICKEY.DYLAN.JEREMIAH.1535865112
MIAH.1535865112

Digitally signed by
HICKEY.DYLAN.JEREMIAH.1535865112
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=USA,
cn=HICKEY.DYLAN.JEREMIAH.1535865112
Date: 2017.11.06 08:00:14 -07'00'

Dylan Hickey
Regulatory Project Manager

Enclosures:

Compliance Certification

NWP 3 Fact Sheet with Regional Conditions

Montana DEQ CWA Section 401 Water Quality Certification

COMPLIANCE CERTIFICATION

Corps File Number: NWO-2017-01818-MTH
Permit Type: **NWP 3**
Name of Permittee: Walter Wunsch
County: Park County, Montana
Date of Issuance: November 6, 2017
Corps Project Manager: Dylan Hickey

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

US Army Corps of Engineers
Omaha District
Montana Regulatory Office
10 West 15th Street, Suite 2200
Helena, Montana 59626-9705

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 the conditions of this permit, you are subject to permit suspension, modification, or revocation.

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.

Signature of Permittee

Date

CENWO-ODR-MT

Corps File Number: NWO-2017-01818-MTH

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Memorandum Documenting General Permit Verification

Applicant:

Walter Wunsch
PO Box 36
Emigrant, Montana 59027

Project Location (Waterway, Section, Township, Range, City, County, State):
Latitude 45.345438°, Longitude -110.827616°, on Golmeyer Creek, within Section 1, Township 6 S, Range 7 E, Park County, Montana.

Pre-Construction Notification Receipt Date: 20-OCT-2017

Complete? Yes No

Additional Information Requested: 2-NOV-2017

Additional Information Received: 2-NOV-2017

Site Visit: None

Waters of the US: The Golmeyer Creek is a relatively permanent water that is a tributary to the Yellowstone River, a traditionally navigable water of the U.S. and a Section 10 water as identified by the Rivers and Harbors Act of 1899 (33 USC 403).

Authority: Section 404

Project Description (Describe activities in waters of the U.S. considered for verification):

Work Item	Description
a.	Repair Hercules Road at point A--A, as identified on the drawing entitled "Hercules Road Erosions" and dated 05-OCT-2017, to a width of approximately 21 feet. Approximately a 5-foot wide by 100-foot long stretch of Hercules road will be rebuilt through the deposition of 130 cubic yards of dirt, gravel, and rock rip rap that is sloped back at a 2:1 ratio. This will impact approximately 500 square feet of Golmeyer Creek.
b.	Repair the approach to Hercules Road at point B, as identified on the drawing entitled "Hercules Road Erosions" and dated 05-OCT-2017.

	Approximately a 3-foot wide by 100-foot long stretch of the Hercules road approach will be rebuilt with the deposition approximately 33 cubic yards of rock rip rap. This will impact approximately 300 square feet of Golmeyer Creek.
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Type of Permit Requested: NWP 3

Pre-construction Notification Required: Yes No

Waiver required to begin work (see GC 27 (a)(2) as applied to appropriate NWPs):
 Yes No Rationale: Project is being verified within the limits of NWP 3.

Coordination with Agencies/Tribes Needed: Yes No **Date:**
 Resolution:

Commenting Agencies:

Substantive Issues Raised and Corps Resolution (Consideration of Comments):

Compliance with Other Federal Laws (If specific law is not applicable write N/A):

a) Endangered Species Act: In Compliance

Name of species present:

PARK COUNTY		
SCIENTIFIC NAME	COMMON NAME	STATUS
<i>Lynx canadensis</i>	Canada Lynx (contiguous U.S. population)	T/CH

Canada lynx habitat can generally be described as moist boreal forests that have cold, snowy winters and a high-density snowshoe hare prey base. The predominant vegetation of boreal forest is conifer trees, primarily species of spruce (*Picea* spp.) and fir (*Abies* spp.). In mountainous areas, the boreal forests that lynx use are characterized by scattered moist forest types with high hare densities in a matrix of other habitats (e.g., hardwoods, dry forest, non-forest) with low hare densities. In these areas, lynx incorporate the matrix habitat (non-boreal forest habitat elements) into their home ranges and use it for traveling between patches of boreal forest that support high hare densities where most foraging occurs. Since this project will not adversely impact high quality lynx habitat, there will be no effect to Canada lynx

Effects determination: see above

Date of Service(s) concurrence: N/A

Basis for "no effect" determination: No federally-listed species or designated critical habitat will be affected by this project.

Additional information: Project location is within a half mile of the Gallatin Range population but is likely to be nothing more than incidental or pass through habitat.

b) Magnuson-Stevens Act (Essential Fish Habitat): N/A

Name of species present:

Effects determination:

Date of Service(s) concurrence: Basis for "no effect" determination:

Additional information (optional):

c) Section 106 of the National Historic Preservation Act:

Determine the Permit Area: The Corps project manager determined the extent of the "permit area" by considering these three criteria described in 33 CFR 325 Appendix C (1)(g):

1. Would the proposed activity in uplands not occur but for the work within waters of the US? No Yes
2. Is the proposed activity in uplands integrally related to the work within waters of the US (or, conversely, is the work in WUS essential to the completeness of the overall project)?
 No Yes
3. Is the proposed activity in uplands directly associated (first order impact) with the work to be authorized? No Yes

The APE for this project is the permit area. The permit area consists of waters (including adjacent wetlands, if present) directly affected by the proposed work or structures and any uplands directly affected as a result of authorizing the work or structures. The permit area includes the aquatic resources affected and any associated borrow and/or mitigation areas, access routes, equipment staging areas, and/or any temporary work platforms, diversions or detours. The permit area for this project is defined as a 20-foot wide corridor from the centerline of the road and a 200-foot long segment from each point A-A and B.

Known site present: yes no

Survey required/conducted: yes no

Effects determination: Not Likely to Cause Effect

Rationale: As a result of a search of the Montana State Antiquities Database no apparent historic properties were located in the APE.

Date consultation complete (if necessary): N/A

Additional information (optional): The following criteria apply to this project:

- (1) Certain types of work or structures that are of such limited nature and scope that there is little likelihood of impinging upon a historic property even if such properties were to be present within the affected area.

d) Section 401 Water Quality Certification:

Individual certification required: yes no

MT DEQ programmatically issued WQC via letter dated March 6, 2017. A copy will be provided to the applicant.

e) Coastal Zone Management Act: N/A

Individual certification required: yes no

Issued Waived Denied

Additional information (optional): Not located in a coastal area

f) Wild and Scenic Rivers Act:

Project located on designated or "study" river: yes no

Managing Agency:

Date written determination provided that the project will not adversely affect the Wild and Scenic River designation or study status:

Additional information (optional):

Special Conditions Required (include rationale for each required

condition/explanation for requiring no special conditions): yes no - This project will have minimal impacts to aquatic resources and meets the terms & conditions of NWP 13 as issued.

Compensatory Mitigation Determination: The applicant has avoided and minimized impacts to the maximum extent practicable.

- (1) Is compensatory mitigation required for unavoidable impacts to jurisdictional aquatic resources to reduce the individual and cumulative adverse environmental effects to a minimal level? yes no
- (2) Compensatory mitigation is not required due to the limited scope and minimal nature of the project. This project meets the terms and conditions of NWP 13, as issued, including any applicable regional conditions.
- (3) Is the impact in the service area of an approved mitigation bank? yes no
 - i. Does the mitigation bank have appropriate number and resource type of credits available? yes no
- (4) Is the impact in the service area of an approved in-lieu fee program? yes no

- i. Does the in-lieu fee program have appropriate number and resource type of credits available? yes no

(5) Check the selected compensatory mitigation option(s):

- mitigation bank credits
 in-lieu fee program credits
 permittee-responsible mitigation under a watershed approach
 permittee-responsible mitigation, on-site and in-kind
 permittee-responsible mitigation, off-site and out-of-kind

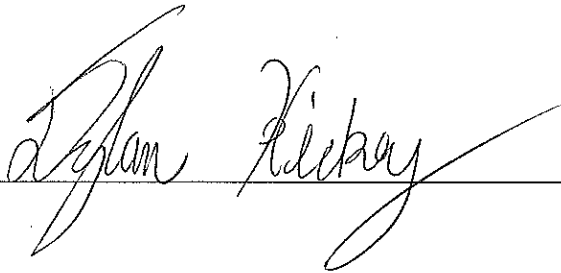
(6) If a selected compensatory mitigation option deviates from the order of the options presented in §332.3(b)(2)-(6), explain why the selected compensatory mitigation option is environmentally preferable. Address the criteria provided in §332.3(a)(1) (i.e., the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project):

Determination (Reference General Condition 27(e)): The proposed activity would result in no more than minimal individual and cumulative adverse environmental effects and would not be contrary to the public interest. This project complies with all terms and conditions of NWP 13 including any applicable regional conditions.

PREPARED BY:

Dylan Hickey
Project Manager

Signature & Date:

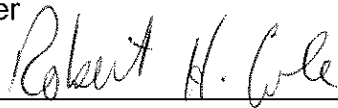


06 Nov 2017

REVIEWED BY:

Robert H. Cole
Senior Project Manager

Signature & Date:

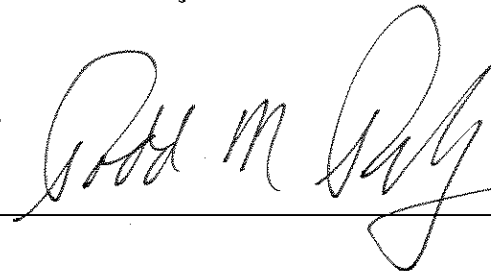


06 NOV-2017

APPROVED BY:

Todd N. Tillinger, P.E.
Montana Program Manager

Signature & Date:



03 Nov 2017



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Montana Ecological Services Field Office
585 Shepard Way, Suite 1
Helena, MT 59601-6287
Phone: (406) 449-5225 Fax: (406) 449-5339

In Reply Refer To:
Consultation Code: 06E11000-2018-SLI-0052
Event Code: 06E11000-2018-E-00083
Project Name: NWO-2017-01818-MTH

November 02, 2017

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the

human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Montana Ecological Services Field Office

585 Shepard Way, Suite 1

Helena, MT 59601-6287

(406) 449-5225

Project Summary

Consultation Code: 06E11000-2018-SLI-0052

Event Code: 06E11000-2018-E-00083

Project Name: NWO-2017-01818-MTH

Project Type: TRANSPORTATION

Project Description: Hercules Road repair along the Golmeyer Creek.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/45.345411924722356N110.82743346569515W>



Counties: Park, MT

Endangered Species Act Species

There is a total of 2 threatened, endangered, or candidate species on this species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
Canada Lynx <i>Lynx canadensis</i> Population: Contiguous U.S. DPS There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3652	Threatened
North American Wolverine <i>Gulo gulo luscus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5123	Proposed Threatened

Critical habitats

There are no critical habitats within your project area under this office's jurisdiction.
