



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

ORDER OF THE STATE ENGINEER

FOR STREAM ALTERATION APPLICATION NUMBER 13-35-51SA
IN THE NAME OF RAY BOWDEN FOR ALTERATION TO SMITH CREEK TRIBUTARY
IN WEBER COUNTY, UTAH

This **ORDER** is issued pursuant to statute and in accord with the statutory criteria for approval of a stream alteration application that are described at UTAH CODE ANN. § 73-3-29. The State Engineer has determined that this application does meet the necessary legal criteria to **ORDER** the approval of the application based upon the following information and reasoning set forth in the Findings of Fact and Discussion.

FINDINGS OF FACT

1. The application was received by the Division of Water Rights ("Division") on October 22, 2013, and made available for comment on the Division's webpage, provided to pertinent governmental agencies, and to other entities as warranted, for a period of 20 calendar days, said period concluding prior to November 11, 2013.
2. The application contains the following information:
 - The stated description of the proposed project is: Rehabilitation/construction of pond/detention basin associated with Smith Creek tributary in Weber County.
 - The stated purpose of the proposed project is: To facilitate a new subdivision.
3. The Division received comments or objections on the proposed project from:
 - U.S. Army Corps of Engineers (Corps), Hollis Jencks
 - Weber County Engineering, Chad Meyerhoffer

The comments or objections received by the Division are summarized as follows:

- The Corps has indicated that due to possible wetland impacts, the applicant needs to contact them. Hollis Jencks can be contacted at 801-295-8380.
- Weber County Engineering has noted the following: 1) The county likes to see culverts designed for a 100 year storm, and it appears that the information submitted meets or exceeds that capacity; 2) The applicant should ensure the riprap at the outlet of the pipe is the necessary size to prevent erosion or movement; 3) It does not appear that this work will be in a delineated flood plain so a flood plain development permit will not be required.



DISCUSSION

1. Based on a review of the Division's water rights records and/or a review of the application by personnel of the Division's regional office, it is the opinion of the State Engineer that the project will not impair vested water rights.
2. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily affect recreational use or the natural stream environment.
3. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily endanger aquatic wildlife.
4. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.
5. Other comments or concerns submitted by interested persons or parties are not believed to be within the purview of the State Engineer in evaluating an Application to Alter a Natural Stream.

ORDER

Stream Alteration Application No. **13-35-51SA**, submitted in the name of Ray Bowden, applicant, in order to complete rehabilitation/construction of pond/detention basin associated with Smith Creek tributary, a natural stream located in Weber County, Utah, is hereby APPROVED, as a STATE ONLY PERMIT, contingent upon the conditions outlined in this **ORDER**. The applicant is hereby authorized to conduct the work detailed in the application and supporting documentation, as described in this **ORDER**. Any modification or addition to the work may require additional authorization and/or application resubmittal.

1. The expiration date of this order is **December 3, 2015**. Work affecting the bed and/or banks of the stream may not be conducted after this date. A request for extension must be submitted in writing to the Division and include an explanation for project delay. The request must be submitted at least 30 days prior to expiration of the order.
2. A copy of this order must be kept onsite at any time the work authorized under this order is in progress.
3. We suggest that you coordinate with potentially impacted landowners.
4. Photos must be taken before and after project construction and submitted to this office.
5. Riprap at the end of the outlet pipe needs to be of the size necessary to prevent erosion or movement.
6. Machinery must be properly cleaned and fueled offsite prior to construction.

7. Disturbed areas must be planted with a variety of appropriate vegetation (especially woody vegetation where feasible) to help hold the soil around riprap, prevent excessive erosion, and to help maintain other riverine functions. Successful revegetation efforts must be monitored and reported to this office.
8. Best Management Practices should be implemented and maintained during any streamside or instream work to minimize sedimentation, temporary erosion of stream banks, and needless damage or alteration to the streambed.
9. Approval of this application does not authorize trespass, easements, rights-of-way, or any other access and land use permits. It is the responsibility of the applicant to obtain any such authorizations as may be necessary for this proposal.
10. Excavated material and construction debris may not be wasted in any stream channel or placed in flowing waters, this will include material such as grease, oil, joint coating, or any other possible pollutant. Excess materials must be wasted at an upland site well away from any channel. Construction materials, bedding material, excavated material, etc. may not be stockpiled in riparian or channel areas.
11. The applicant must maintain existing stream shade on all Class 3 A streams. Destruction of any stream shade vegetation within the project area must be replaced at a 1:1 shade ratio at mature life stage with native vegetation along a Class 3 A stream. If stream shade vegetation is to be removed, the applicant must submit an estimate in their restoration plan of the portion of the water surface area within the project area that is shaded by estimating areas with no shade, poor shade, and shade prior to the commencement of work. Time of the year, time of the day, and weather can affect your observation of shading. Therefore, the relative amount of shade is a professional best-guess estimate. Ideally the applicant would be measuring when the sun is at an angle that provides maximum stream shade and the vegetation is in full leaf-out. As noted in General Condition #6 of PGP 40 the destruction of mature trees is to be avoided to the maximum extent possible and the permittee is ultimately responsible for revegetation success.
12. Erosion control, revegetation, and noxious weed control must be implemented and monitored until revegetation becomes well established. Success of these measures must also be reported prior to the compliance inspection. This is especially important for all disturbed areas, including fill, in order to prevent sediments from entering flowing water. Particular attention is required to assure that silt fencing is properly installed and left in place until after revegetation becomes established at which time the silt fence can then be carefully removed.
13. If historical or archaeological resources such as human remains (skeletons), prehistoric arrowheads/spear points, waste flakes from stone tool production, pottery, ancient fire pits, historical building foundations/remains, historical artifacts (glass, ceramic metal, etc.) are found during construction, the permit holder is advised to cease work and contact the Division of State History at 801-533-3555.

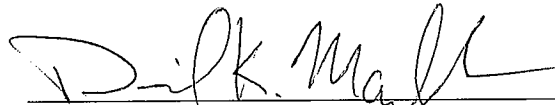
14. Ingress and egress access should be kept to a minimum.
15. Work must be accomplished during a period of low flow. Sediment introduced into stream flows during construction must be controlled to prevent increases in turbidity downstream. Flows must be diverted away from the construction area using a non-erodible cofferdam or other means of bypass.
16. Riprap must consist of only clean, properly sized angular rock, which must be keyed deeply into the streambed to prevent undercutting. A filter must be placed behind if necessary (i.e., if soils are fine grained, non-cohesive, and/or erodible). Demolition debris or refuse will not be allowed, nor material such as bricks, concrete, asphaltic material [either natural (tar sand, oil shale, etc.) or man-made].
17. Disturbed riparian areas must be planted with naturally occurring vegetation. Plantings shall be protected from grazing animals by fencing. If beaver or other rodent damage should occur, other methods such as metal collars placed around the trees must be included.
18. Culverts shall be placed at locations that will minimize the possibility of washouts. Areas adjacent to meanders must be avoided as water may be directed toward the edges, rather than the center of the culvert. Culverts must be placed at GRADE and create no change in the profile of the stream bottom to avoid upstream erosion. Fill, adjacent to the culvert, must be adequately compacted to prevent piping and washout of the crossing.
19. Cement is toxic to aquatic organisms, and its introduction into waters of the United States would constitute a violation of the Clean Water Act. Cement or concrete may not be allowed to enter stream flows. Water must be excluded from areas where concrete or cement is used until it has set. Contaminated water pumped from the construction area may not be discharged in a manner that will allow it to enter flows. Equipment used during this type of work must be washed well away from the channel.
20. Bedding and backfill material, placed around the pipe, may not be more free draining than existing soils in stream channels, banks, and riparian zones. Loosely compacted material may act to violate this condition. Bedding and backfill materials must be either fine grained or constructed in such a manner that it does not act as a drain. This shall include placing clay cutoff collars, or utilizing compaction techniques.
21. Fill materials should be free of fines, waste, pollutants, and noxious weeds/seeds.
22. The construction of small dams also falls within the State Engineer's authority to regulate dams under 73-5a of the Utah Code. Dave Marble can be contacted at 801-538-7376 for more information.

Your contact with the Division is Daren Rasmussen, who can be reached at telephone number 801-538-7377.

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This **ORDER** is subject to the provisions of UTAH ADMIN. CODE R. 655-6-17 of the Division of Water Rights and to UTAH CODE ANN. §§ 63G-4-302 and 73-3-14, which provide for persons or parties with legal standing to file either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this **ORDER**. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this **ORDER**, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken within 20 days after the Request is filed.

Dated this 3rd day of December, 2013.



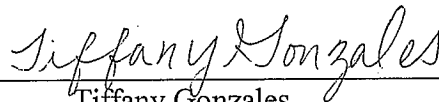
David K. Marble, P.E.
Assistant State Engineer

Mailed a copy of the foregoing Order this 3rd day of December, 2013, to:

RAY BOWDEN
5393 EAST 6850 NORTH
EDEN UT 84320

Corps of Engineers
Ross Hansen - Regional Engineer
Richard Clark - EPA
Scott Walker - Regional Wildlife Habitat Manager
Great Basin Engineering
Hollis Jencks
Chad Meyerhoffer, Weber County Engineering, cmeyerho@co.weber.ut.us

By:



Tiffany Gonzales
Secretary

