

DEPARTMENT OF THE ARMY PERMIT

Permittee: John Thomas, P.E.
Utah Department of Transportation
4001 South 700 East, Suite 450
Salt Lake City, Utah 84107

Permit Number: 200350493

Issuing Office: U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 "J" Street
Sacramento, California 95814-2922

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. A notice of appeal options is enclosed.

Project Description: The project begins in Salt Lake City, at the intersection of 2100 North and I-215. It ends in Farmington at the U.S. Highway 89 and I-15 interchange, in Davis County.

The project purpose is to help meet existing and projected travel demand through 2020 in the North Corridor by providing additional north-south transportation capacity. The 14-mile freeway will consist of 2 lanes in each direction separated by a 50'-wide grassed center median. A continuous trail for pedestrians, bicyclists, and equestrians will parallel the roadway. Other project features include:

- Widening I-215 to three lanes in each direction, from 2100 North to a location 1,476 feet west of the Redwood Road interchange.
- New interchange on I-215, 0.3 miles west of the Redwood Road interchange.
- New service interchanges at:
 - 500 South in Woods Cross
 - Parrish Lane in Centerville
- Overpasses at (Legacy Parkway remains at-grade):
 - Center Street in North Salt Lake
 - Glovers Lane, State Street (Clark Lane), Burke/Park Lane in Farmington
 - 1250 West in Centerville
- Three frontage roads, beginning at:
 - (1) The proposed 500 South interchange in Woods Cross. The road continues north, along the west side of the alignment to the Bountiful Landfill.
 - (2) 1100 West in West Bountiful and proceeds northeast along the eastern side of the alignment to Porter Lane.

- (3) 1250 West 950 North and ends east of the southern terminus of 650 West in Farmington. The frontage road will be parallel to and located on the west side of the alignment through Centerville.
- Culverted crossings at Shepard, Farmington, Steed, Ricks, Barnard, Parrish, Duel/Stone Creeks.
 - Bridges over the Jordan River and Mill Creek.
 - Landscaped earthen berm between the roadway and trail along:
 - east side between 500 South and Porter Lane in West Bountiful
 - west side between Glovers Lane and State Street in Farmington
 - 2,098-acre Legacy Nature Preserve to mitigate for indirect and direct impacts to wetlands and wildlife. Within this preserve, UDOT would create 12 acres of wetlands and restore and enhance the wetland functions of 778 acres of wetlands.

All work is to be completed in accordance with the attached sheets 3 through 9.

PERMIT CONDITIONS:

Special Conditions:

1. All mitigation measures described in Attachment 1 (Record of Decision, Section G, Table 5, *Mitigation Measures*), are incorporated as conditions of the permit. UDOT shall provide an Environmental Oversight Manager who will ensure effective implementation of the mitigation measures and all necessary remedial actions.
2. All terms and conditions of the December 5, 2000, Section 401 Water Quality Certification are incorporated as conditions of the permit.
3. To mitigate the loss of 103 acres of wetlands and indirect effects on 575 acres of wetlands, UDOT will implement mitigation as described in Appendix F of the Final Supplemental EIS, *Mitigation Plan for the Legacy Nature Preserve*, (Draft October 2005). This would include the implementation of the *Adaptive Management Plan* (UDOT & SWCA 2005). The draft Mitigation Plan will be revised to include the following:

Quantitative success criteria, with proposed survey methods, used to monitor characteristic vegetation and hydrology and measure success.

- a. The minimum acreage of wetland-wildlife habitat that needs to be maintained in good condition is shown in Table 11. (Using wetland-wildlife habitat acreage rather than the acreage from the 2000 wetland delineation map will allow the inclusion of riparian areas along the Jordan River and updated 2004 habitat mapping.)
- b. Relative cover of noxious/invasive weeds in each plant community shall not exceed 20%.

Table 1. Habitat Success Criteria for Preserve

Habitat (acres) Success Criteria by Management Area					
	Evaporative Riverine	Basins	Alkali Flats	Wet Meadow	Farmington Bay
Wetland Complex/ Riparian Habitats	63	193	137 + 12	138	363

Note: Wetland complex/riparian wildlife habitat is not synonymous with "jurisdictional wetlands" as defined in Section 4.12, *Wetlands*, of the Final Supplemental EIS. Wetland complex/riparian wildlife habitat includes jurisdictional areas as well as non-jurisdictional riparian areas and other mesic habitats. This difference is discussed in greater detail in Appendix B of the *Legacy Parkway Wildlife Impacts Analysis Technical Memorandum* (Jones & Stokes 2005).

c. Detailed construction, implementation, and monitoring methods for the creation of 12 acres of slope wetlands. Details will include, but not be limited to, specific locations with plan and cross section drawings, target vegetation and hydrology, site preparation and construction techniques, irrigation/water delivery system descriptions, quantifiable success criteria, monitoring methods, documentation and schedule, and maintenance activities. The Corps recommends that sufficient wetland hydrology be demonstrated prior to any planting or seeding, if planting or seeding is proposed.

d. Clarification of the roles, responsibilities, membership and relationship of the Preserve Manger, Preserve Management Team, Science Advisory Committee, Collaborative Design Team, and the Legacy Nature Preserve 501(c)(3) Board of Directors.

e. Reporting Requirements will include a description and location map of restoration tasks/measures completed and restoration measures remaining. The mitigation will not be deemed successful until all restoration mitigation tasks have been completed.

f. Reporting Requirements will include annual monitoring until the success criteria for each management area are met. This period will commence upon completion of the creation/construction of 12 acres of wetlands. Additionally, continued success of the mitigation wetlands, with routine maintenance, must be demonstrated for three consecutive years, once the success criteria have been met. The time period to achieve success may be different for each management area. The revised Mitigation Plan must be approved by the Corps prior to initiation of construction activities.

4. Construction of 12 acres of slope wetlands must be completed in advance of the construction of the Parkway, unless protection measures for the bald eagle or acquisition of water rights require delay. In no case will initiation of the construction of compensatory mitigation be delayed beyond October 2006. Construction of compensatory mitigation will be completed no later than March 2007. If modifications are made to the original construction plan/design for the Preserve, as-built drawings of the completed work will be provided to the Corps no later than 60 days after the completion of construction of the mitigation wetlands.

5. UDOT will record deed restrictions maintaining the Legacy Nature Preserve as wetland and wildlife habitat in perpetuity. Deed restrictions will be recorded once all properties are obtained under a single legal description. A copy of the proposed deed restriction language shall be provided to the Corps for approval within 90 days of UDOT obtaining title to all properties comprising the Legacy Nature Preserve, prior to recordation.

6. Uses and activities needed for wildlife habitat management, maintenance, or research are allowed on the Preserve, provided they are consistent with the long-term management goals described in the Adaptive Management Plan (UDOT 2005).

a. The construction of administrative, maintenance, research facilities and associated parking areas shall be minimized to the maximum extent. The facilities shall not compromise the integrity of the Preserve's wetland habitat and function, or wildlife behavior or population size.

b. The planning of facilities for public access and education shall occur in collaboration with resource agencies, neighboring education centers, the Collaborative Design Team, the Preserve Management Team, and when established, the Legacy Nature Preserve 501(c)(3) Board of Directors.

c. The facilities cannot compromise the integrity of the Preserve's wetland habitat and function, or wildlife behavior or population size.

d. The direct and indirect impact to wetland wildlife habitat needs to be minimized to the maximum extent practical. Locating these facilities outside of the Preserve, including at the 121-acre 500 South Property, must be given preference and evaluated as a suitable, least damaging alternative.

e. The Corps must approve the location and type of amenities for the public facilities prior to construction.

7. To ensure the long-term viability of the Preserve, UDOT will continue to maintain and monitor the Preserve until the following has occurred.

a. A fully funded endowment has been established to provide for long-term maintenance, as described in the *Legacy Nature Preserve Adaptive Management Plan* (UDOT & SWCA 2005).

b. Permanent conservation easement(s) shall be recorded maintaining the Legacy Nature Preserve as wetland and wildlife habitat in perpetuity. An appropriate conservation-oriented third party entity (entities) has been designated to hold the conservation easement and administer the endowment funding long-term maintenance needs. Copy of the proposed conservation easement language shall be provided to the Corps for approval prior to recordation.

Compliance: Compliance with the above-detailed permit conditions will be demonstrated and monitored as follows.

8. UDOT will submit an annual report documenting success in implementing mitigation measures listed in Attachment 1, *Mitigation Measures*. UDOT can provide an aerial photograph identifying the type and location of the constructed conveyance structures to demonstrate installation of floodplain and surface water mitigation measures. The location of floodplains, wetlands and streamzones should also be placed on the map. UDOT can also provide the final parkway design to demonstrate the width of the berms have been reduced.
9. UDOT will submit wetland mitigation monitoring reports to the Corps by December 1 of each year for a minimum of 5 years. Monitoring and reporting will continue to until success has been achieved and maintained for 3 consecutive years for each management area. It is acknowledged that some management areas may reach success earlier than others.

General Conditions:

1. The time limit for completing the work authorized ends on **January 31, 2010**. 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.
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. 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. For your convenience, a copy of the certification dated December 5, 2000 is attached if it contains such conditions.
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.

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 projects.
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 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.