



DEPARTMENT OF THE ARMY
TULSA DISTRICT, CORPS OF ENGINEERS
P.O. BOX 61
TULSA, OKLAHOMA 74121-0061

CR-319

EXHIBIT B

March 11, 1999

Planning, Environmental, and Regulatory Division
Regulatory Branch

Mr. Neal McCaleb, P.E.
Director
Oklahoma Turnpike Authority
Post Office Box 11357
Oklahoma City, OK 73136

Dear Mr. McCaleb:

Enclosed is an executed copy of your Department of the Army Permit No. OKR2006339. Please retain this copy for your files.

We request that in conjunction with this permit, you complete and return the enclosed self-addressed "Permittee Construction Schedule" form. Should construction be initiated prior to 30 days from receipt of this letter, please return the completed form as soon as possible. If you prefer, you may contact Mr. Steven R. Votaw at 918-669-4904 to inform this office regarding the construction start date.

Following completion of your proposed activity, complete and return the enclosed self-addressed "Permittee Compliance Certification" form, as required by Permit Special Condition 2.

Sincerely,

David A. Manning
Chief, Regulatory Branch

Enclosures

Copies Furnished:

U.S. Fish and Wildlife Service
Tulsa, OK 74127

Mr. Jon Craig
Water Quality Programs
Department of Environmental Quality
Oklahoma City, OK 73101-1677

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DEPARTMENT OF THE ARMY PERMIT

Permittee: Mr. Neal McCaleb, P.E., Oklahoma Turnpike Authority

Permit No.: ~~OKA 200633~~

Issuing Office: U.S. Army Corps of Engineers, Tulsa District, Regulatory Branch

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: This permit authorizes construction of the bridges, box culverts, roadway fills, and creek channelization efforts required to develop the Broken Arrow South Loop Turnpike. The western end of the proposed 11.8-mile highway will connect with the existing Creek Turnpike at the U.S. Highway 169 terminus. The Broken Arrow Loop transitions south and then east through the community of Broken Arrow before turning north ultimately connecting with the Muskogee Turnpike.

A total of 64 jurisdictional waterways and wetlands will be affected. Of the 64 crossings, 55 have been previously authorized by General and Nationwide Permits, leaving 9 impact sites to be evaluated pursuant to this Standard Permit review as follows:

Field Site A-2. Construction of a new channel and culvert to redirect the creek beneath the turnpike main line and associated ramps. Final design requires excavation of 1,140 cubic yards of alluvial material and placement of 5,400 cubic yards of permanent fill resulting in a total disturbance area of 1.13 acres and 912 linear feet of the creek.

Field Sites A-4, A-6, and A-7. These areas are hydraulically connected and are comprised of an unnamed tributary to Little Haikey Creek, a main channel pond, and another tributary to Little Haikey Creek, respectively. These sites are being considered as one individual site.

Approximately 1,306 cubic yards of permanent fill will be placed during access ramp construction which will affect 557 feet of creek channel resulting in an area impact of 0.16 acre.

Several ramps will be affected in the area of Site A-6 associated with the U.S. Highway 169 interchange. Approximately 3,200 cubic yards of permanent fill will be placed in the waterway during culvert construction. The area impact is roughly 0.49 acre.

Three ramps, West to South, West to North, and South to East will be constructed over the waterway at A-7. A drainage channel will be constructed requiring excavation of approximately 325 cubic yards of alluvial fill and placement of approximately 850 cubic yards of permanent fill. Approximately 780 feet of the creek modification will result in a disturbance area of 0.26 acre.

The cumulative impacts at these three areas, considered as one extended site, are: 325 cubic yards of excavation; 5,356 cubic yards of permanent fill; 1,337 linear feet of creek; and 0.91 acre of impact.

Field Site F.1. Aspen Creek rechannelization into a 10- by 8-foot box culvert beneath the turnpike main lines and one entrance ramp. Redesign of the channel modification reduced the expected impacts to 0.41 acre. Approximately 725 linear feet of the creek will be affected by excavating roughly 1,320 cubic yards of alluvial material. Final grading requires placement of approximately 3,960 cubic yards of permanent fill.

Field Site K-2. Construction of two parallel bridges over this section of Broken Arrow Creek. Channel modification redesign resulted in a decrease of area impact to 0.50 acre and minimized the linear footage of creek channel disturbance to 600 feet. Approximately 453 cubic yards of material will be excavated and 2,234 cubic yards of permanent fill will be required to meet the final grade.

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Field Site O-1. Bridge construction and grading requirements necessitating the relocation of Broken Arrow Creek. Construction activities require excavation of approximately 935 cubic yards of alluvial material and placement of approximately 3,046 cubic yards of permanent fill to meet final grading requirements. The work will result in disturbance to 520 linear feet of creek bed.

Field Site P-4. Construction requires channelizing the creek and redirecting flows from adjacent on-site areas into the box culverts. In addition, excavation and fill will be required to bring the site to final grade. Construction activities along this unnamed tributary will affect 1,427 linear feet of channel. Approximately 740 cubic yards of alluvial material excavation and roughly 3,500 cubic yards of permanent fill will be required.

Field Site RR-3. This area will be affected by construction of the travel lanes and ramps at the Broken Arrow Loop and Muskogee Turnpike interchange. Construction along the creek will affect 960 linear feet resulting in an estimated impact area of 0.95 acre. Approximately 30,600 cubic yards of permanent fill will be placed to facilitate construction.

A total of 4.84 wetland and 4.2 riparian woodland acres will be affected. Approximately 6,481 linear feet of stream channel will be altered during bridge and reinforced-concrete box installation. This also includes channelization work associated with bridge construction.

Work shall be performed in accordance with the attached drawings 6339-1 through 6339-11 for the sites listed under this review. The remainder of the project of which the jurisdictional areas were authorized by Nationwide and General permits must be constructed according to the design specifications identified in the submittal plans.

Project Location:

Field Site A-2. Little Halkey Creek located in the Northwest 1/4 of Section 19, Township 18 North, Range 14 East, Tulsa County, Oklahoma. The project site can be found on the Broken Arrow, Oklahoma, 7.5 Minute USGS Quadrangle map.

Field Sites A-4, A-6, and A-7. Two unnamed tributaries and a main-channel pond located in the Northwest 1/4 of Section 19, Township 18 North, Range 14 East, Tulsa County, Oklahoma. The project site can be found on the Broken Arrow, Oklahoma, 7.5 Minute USGS Quadrangle map.

Field Site F-1. Aspen Creek located in the Southeast 1/4 of Section 33, Township 18 North, Range 14 East, Tulsa County, Oklahoma. The project site can be found on the Leonard, Oklahoma, 7.5 Minute USGS Quadrangle map.

Field Site K-2. Broken Arrow Creek located in the Southwest 1/4 of Section 36, Township 18 North, Range 14 East, Tulsa County, Oklahoma. The project site can be found on the Leonard, Oklahoma, 7.5 Minute USGS Quadrangle map.

Field Site O-1. Unnamed tributary to Broken Arrow Creek located in the Southeast 1/4 of Section 30, Township 18 North, Range 15 East, Wagoner County, Oklahoma. The project site can be found on the Oneta, Oklahoma, 7.5 Minute USGS Quadrangle map.

Field Site P-4. Unnamed tributary to Broken Arrow Creek located in the Northeast 1/4 of Section 30, Township 18 North, Range 15 East, Wagoner County, Oklahoma. The project site can be found on the Oneta, Oklahoma, 7.5 Minute USGS Quadrangle map.

Field Site RR-3. Unnamed tributary to Broken Arrow Creek located in the Southwest 1/4 of Section 8, Township 18 North, Range 15 East, Wagoner County, Oklahoma. The project site can be found on the Oneta, Oklahoma, 7.5 Minute USGS Quadrangle map.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on March 31, 2002. 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.

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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. 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. For your convenience, a copy of the certification 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.

Special Conditions:

1. Complete and return the enclosed self-addressed "Permittee Construction Schedule" form. Should construction be initiated prior to 30 days from receipt of this letter, please return the completed form as soon as possible. If you prefer, you may telephone 918-669-7400 to inform the U.S. Army Corps of Engineers (Corps) regarding the construction start date.
2. Following completion of the authorized activity, the permittee shall submit a signed certification regarding the completed work and any required mitigation. A copy of the "Permittee Compliance Certification" form will be provided to the permittee and will accompany the validated permit and final authorization letter.
3. A minimum of 18 acres of functional wetland mitigation shall be performed in an in-kind and on-site manner and shall incorporate the following:
 - a. Shallow, vegetated, and open water areas (less than 18 inches),
 - b. deep water areas or "pockets" (less than 30 inches),
 - c. native woody and herbaceous species at appropriate planting ratios,
 - d. small islands or "hummocks",
 - e. varied or undulating basin floor elevation, and
 - f. upland buffer zones surrounding the mitigation site.

The final wetland mitigation plan must be submitted to and approved by the District Engineer prior construction.

4. The mitigation areas and their upland buffer zones shall be preserved in perpetuity to prevent future disturbance, development, or manipulation which would result in any alteration of the mitigation area or hydrology sources. A copy of the property deed restriction must be submitted to the Corps, Regulatory Branch within 60 days of filing.
5. Following mitigation site development, the permittee will be responsible for the submittal of quarterly developmental monitoring reports. These reports will be provided for a 5-year period consisting of no less than five complete growing seasons. These reports will include evaluation of all mitigation sites, including wetland creation, restoration, enhancement, and

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preservation. Natural habitat, riparian corridors, and natural successional areas are to be included as part of the overall monitoring program. Monitoring should include the following:

5a. Photographic documentation included in monitoring reports will be from fixed points as appropriate with maps indicating the location of panoramic views, and the sequence and direction of individual photographs in the panoramic views.

5b. Evaluation of the vegetational success of each of the wetland mitigation sites will include percent coverage by naturally recruited species, species identification, and percent composition of those natural succession species. A minimum of 80 percent survival success for all planted vegetation is required.

6. The permittee will maintain all mitigation properties (wetland and riparian) in a manner consistent with the purposes and goals of the mitigation.

7. Any materials and fuels used in excavation/construction operations shall be stored above the Ordinary High Water Mark and removed from a likely flood zone prior to any predicted flood.

8. Required flood plain permit(s) must be obtained from the appropriate Flood Plain Administrator.

9. Woody and herbaceous vegetational clearing shall be held to the minimum necessary for channel construction and vehicular access.

10. All temporary work roads shall be removed upon completion.

11. All water diversion berms shall be held to a minimum size necessary to control expected flows. All work within the creek channels and wetlands shall be performed during dry- or low-flow conditions.

12. You shall abide by the special conditions listed within the State Water Quality Certification.

13. All exposed earthen areas shall be immediately revegetated upon completion of the specific area. Erosion and sediment control measures are to be implemented and maintained during construction.

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.

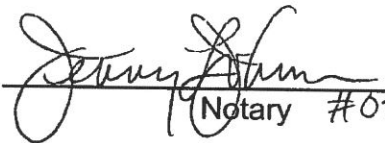
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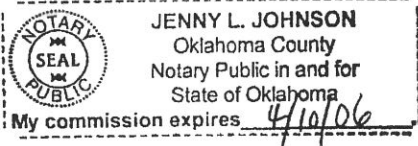
STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA)

Before me, the undersigned, a notary public within and for the above names State, on this 14th day of January, 2004, personally appeared Phil Tomlinson to me known to be the Director of the Oklahoma Transportation Authority, and the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same in his capacity as Director of the Oklahoma Transportation Authority, as his free and voluntary act and deed, and as the free and voluntary act and deed as such Director of the Oklahoma Transportation Authority for the purposes therein set forth.

Witness my hand and seal the day and year above written.


Notary #02004070

My Commission Expires: 4/10/06



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EXHIBIT A

A strip, piece on parcel of land lying in part of the Southwest Quarter (SW ¼) of Section 20, Township 18 North, Range 14 East of the Meridian Base and Meridian, Tulsa County, Oklahoma. Said parcel being described as follows:

Beginning at the Southwest Corner of said Southwest Quarter (SW ¼); Thence North 01°23'58" West along the West line of said Southwest Quarter (SW ¼) a distance of 2543.96 feet; Thence North 88°35'45" East a distance of 1473.44 feet; Thence South 09°35' 52" West a distance of 573.96 feet; Thence North 75°38' 52" East a distance of 143.42 feet; Thence South 04°19' 32" West a distance of 201.00 feet; Thence South 16°55' 00" East a distance of 196.05 feet; Thence South 17°23' 34" West a distance of 1819.46 feet; Thence South 88°30' 50" West a distance of 520.00 feet; Thence North 34°26' 57" West a distance of 238.37 feet; Thence South 88°30' 50" West a distance of 300.00 feet; Thence South 01°23' 58" East a distance of 200.00 feet to the point of beginning at the Southwest corner of said Southwest Quarter (SW/ ¼).