

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: City of Jonesboro

Effective Date: 31 Aug 2004

PERMIT NUMBER: MVM-2004-317-JLS

ISSUING OFFICE: Memphis District

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: The City of Jonesboro, Arkansas (the "City") proposes improvements to Turtle Creek for the purpose of flood reduction and flood storage, while accommodating a mall development on property adjacent to Turtle Creek. Project improvements along Turtle Creek include the relocation of approximately 1,675 linear feet of channel north of Highland Drive. Two Hundred and Fifty-Five (255) linear feet of the relocated channel will be encased at the end of the channel relocation section. Approximately 3,090 linear feet of man-made channel running in an easterly to westerly direction will be encased. South of Highland Drive, 1,520 linear feet of new channel, with the addition of a 9-acre overbank storage area, will be constructed. The addition of four inlet culverts, in combination with weirs, will permit the water surface elevations of the storage region to be consistent with water surface elevations of Turtle Creek.

A Greenway will be constructed throughout the improved reach of Turtle Creek and overbank storage area. The Greenway will include intermittent berms with hardy deciduous and evergreen plantings, a pedestrian walkway, benches, and trash receptacles. A hedgerow of Cherry *Elaeagnus (Elaeagnus multiflora)* or similar alternate will be placed along the east bank of Turtle Creek north of Highland Drive creating a natural barrier to assist with safety measures.

All work is to be completed in accordance with the attached plan map and the general and special conditions listed below.

PROJECT LOCATION: The project is located in Sections 21 and 27, Township 14N, Range 4E in Craighead County, Arkansas, at approximate latitude 35.7293 and longitude 90.4735 on the Jonesboro 7.5 minute quadrangle map. The project is located in Jonesboro at the intersection of Highland Drive (Highway 18) and Stadium Blvd. The project will impact sections of Turtle Creek north and south of Highland Drive.

Attachments: Attachment 1 of 3 (Public Notice with Location Map); Attachment 2 of 3 (Water Quality Certification) Attachment 3 of 3 (plan map)

PERMIT CONDITIONS:

General Conditions:

1. The time limit for completing the work authorized ends on 31 Aug 2007. 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. 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. The attached 401 certification dated July 15, 2004, shall be met.
2. The newly constructed ditch banks must be planted in vegetative cover immediately and must be stabilized before the old section of ditch is connected or filled. The nine-acre flood storage area must be stabilized immediately with the infall and outfall pipes and weir protected to prevent erosion. The City of Jonesboro, as a Phase II City is required to have storm water monitoring regulations. These Phase II requirements will provide built-in monitoring of erosion controls of both temporary and permanent erosion control measures (Best Management Practices). Additionally, highly erosive regions where rigid protection will be required, will be designed for a "green" approach using items similar to "pyramat" or other erosion protection measures. A hedgerow of Cherry Elaeagnus (*Elaeagnus multiflora*) will be planted along the east bank of Turtle Creek north of Highland Drive creating a natural barrier to assist with safety measures. North of Highland Drive, the area along the pedestrian greenway between the top of the landscape berm, east to the public roadway shall be mowed and maintained regularly. South of Highland Drive, the area between the residential area and the pedestrian greenway shall be mowed and maintained regularly.
3. BA Engineering has indicated the nine-acre storage area will be dedicated to the City of Jonesboro and maintenance of the subject project area will be their responsibility. A weir shall be constructed in the outfall ditch immediately upstream of the confluence with Turtle Creek. The weir and tailrace should be fortified using riprap and/or vegetation such as cattails. The maintenance plan should include provisions for periodic brush and debris removal in the diversion channel and the nine-acre storage area. These maintenance requirements are needed to ensure the project functions in the future similar to the as built construction period.
4. Riprap or similar erosion control measures will be needed to prevent detrimental impacts to the right descending bank of Turtle Creek between stream miles 0.679 to 0.875. With the lowering of the top bank to approximately 246.5 the transfer of flow in the overbank will become more frequent. It should be noted the water has the potential to flow in two directions and the final protection should be designed for both conditions.
5. Riprap or similar erosion control measures should also be designed in the new diversion channel and culvert inlet and outlet. Mr. Auld has concurred that protection will be provided and designed for the maximum velocities anticipated. A review of final construction plans should be conducted by the Corps of Engineers and other interested parties for final design acceptance.
6. If any archeological materials are found during construction, all activities are to cease and appropriate persons, including state and tribal NAGPRA representatives, the local sheriff, and the Corps archaeologist shall be contacted.

7. A monitoring plan must be submitted each year for a period of five years. This plan must show success of erosion control measures and maintenance, success of plantings, and report that the project is functioning as designed.

The permittee understands and agrees, that, if future operations by the United States require the removal, relocation or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Further Information:

Congressional Authorities: You have been authorized to undertake the activity described above pursuant to: Section 404 of the Clean Water Act (33 U.S.C. 1344).

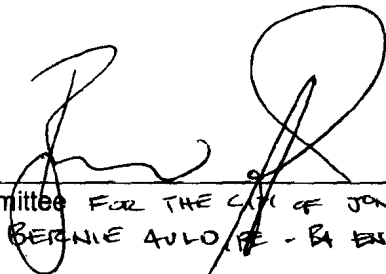
1. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
2. 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.
3. 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.
 - a. 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:
 - b. You fail to comply with the terms and conditions of this permit.
 - c. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

d. 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.

4. 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.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



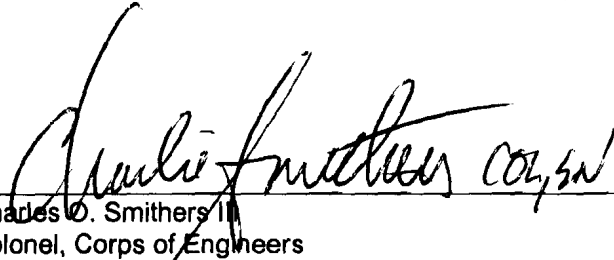
Permittee FOR THE CITY OF JONESBORO, AR
BERNIE AVLOIE - BA ENGINEERING

8/27/04

Date

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

Issued for and in behalf of Charles O. Smithers III Colonel, Corps of Engineers



Charles O. Smithers III
Colonel, Corps of Engineers

8/31/04

Date

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 associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

Transferee

Date