



DEPARTMENT OF THE ARMY  
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS  
SOUTHERN COLORADO REGULATORY OFFICE  
200 S. SANTA FE, SUITE 301  
PUEBLO, COLORADO 81003

REPLY TO  
ATTENTION OF:

February 3, 2009

Operations Division  
Regulatory Branch

Brett Weiland  
CH2MHill  
90 S Cascade  
Suite 700  
Colorado Springs, CO 80903

Dear Weiland:

This replies to your February 2, 2009 e-mail regarding the proposed CDOT's Dillon Drive Project in Pueblo, Pueblo County, Colorado. We have assigned Action No. SPA-2009-00050-SCO to this activity.

We have evaluated the information you provided and studied the project description, other records, and documents available to us. It appears that no waters of the United States are located within the project site. However, a site visit was not made and waters of the United States may be located on the site. The project is not regulated under the provisions of Section 404 of the Clean Water Act and a Department of the Army permit will not be required if there are no Corps of Engineers' jurisdictional waters on the site.

Our disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, state and local laws may apply to the activities. Therefore, the Colorado Department of Transportation should also contact other Federal, state and local regulatory authorities to determine whether the activities may require other authorizations or permits.

This letter contains an approved jurisdictional determination for your proposed project. If you object to this determination, you may request an administrative appeal under Corps' regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address:

Douglas R. Pomeroy, Appeal Review Officer  
U.S. Army Corps of Engineers, CESPDPDS-O  
1455 Market Street, Room 1760  
San Francisco, CA 94103-1399  
Tel. (415) 503-6574 FAX (415) 503-6646

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by April 4, 2009.

It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This determination will be valid for 2 years from the date of this letter unless new information warrants revision of the determination within that time. Please be aware that since no site visit was made, waters of the United States may be present on the project site and a Section 404 permit may be needed for some work.

If you have any questions, please feel free to contact me at 719-543-6915 or e-mail me at [van.a.truan@usace.army.mil](mailto:van.a.truan@usace.army.mil). For more information about the regulatory program, please see our web site at [www.spa.usace.army.mil/reg](http://www.spa.usace.army.mil/reg).

Sincerely,

A handwritten signature in black ink, appearing to read "Van A. Truan", written over a horizontal line.

Van A. Truan  
Chief, Southern Colorado  
Regulatory Office

Enclosures:

REQUEST FOR APPEAL (RFA)

Name of Appellant: \_\_\_\_\_

Corps File Number: SPA-2009-00050-SCO

Date Filed: \_\_\_\_\_  
(for Corps Use Only)

Reason(s) for Appeal: (attach additional pages as needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

**CONDITIONS:**

1. The reason(s) for requesting an appeal should be clearly stated, and your explanation must contain detailed information explaining the grounds for your appeal of the permit decision, or your appeal of the declined individual permit.

2. The appeal of a permit denial, or a declined individual permit, is limited to a review of the administrative record, the record of the appeal conference, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant or the Corps may raise new issues during the appeal process, but both parties may provide additional information as needed to clarify issues already identified in the administrative record.

3. You must grant right-of-entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a **15 day notice** of any site investigation, and will have the opportunity to participate in all site investigations.

***I have read and fully understand the above conditions. I am signing this document to request initiation of an administrative appeal.***

\_\_\_\_\_  
Appellant