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## Llave Construction and Real Estate Services

# Fax

020052

**To:** Marty Eckert **From:** Bob Keeran  
**Fax:** 505-884-0214 **Pages:** 6 including cover page  
**Phone:** 505-884-2215 **Date:** 5/7/2005  
**Re:** Section 404 Nationwide Permit No. 39 **CC:**

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

● **Comments:** Enclosed please find a copy for your records of the written authorization dated May 4, 2005, from the Army Corps of Engineers authorizing Llave Construction, Inc., to proceed under authority of the nationwide permit No. 39 to build the channel, (Action No. 2005 00084).

If you have any questions, please don't hesitate to call me @ 249-1502.

Cc: Brad Bingham, City of Albuquerque

David Soule, Rio Grande Engineering



DEPARTMENT OF THE ARMY  
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS  
4101 JEFFERSON PLAZA NE  
ALBUQUERQUE NM 87109-3435

May 4, 2005

Operations Division  
Regulatory Branch

Mr. Ken Marron  
Marron & Associates, Inc.  
7511 4th Street NW  
Albuquerque, New Mexico 87107-6629

Dear Mr. Marron:

This is in reference to your April 10, 2005, letter regarding Llave Construction, Incorporated's proposed channelization, concrete lining, and utility box in the Arroyo de la Cueva in Albuquerque, Bernalillo County, New Mexico. You provided supplemental information on April 26, and May 2, 5 and 6, 2005. We have assigned Action No. 2005 00084 to this activity.

The Corps of Engineers has published Nationwide Permits pursuant to Section 404 of the Clean Water Act (33 CFR 330). Nationwide Permit No. 39 authorizes discharges of dredged or fill materials as residential, commercial, and institutional developments into waters of the United States. A summary of Nationwide Permit No. 39 is enclosed for your information.

After reviewing the project in accordance with the nationwide permit pre-construction notification procedures (General Condition No. 13), we have determined that the proposed work will not result in more than minimal individual or cumulative adverse environmental effects. The public interest would best be served by allowing the work to proceed under the nationwide permit with special conditions.

Llave Construction is therefore authorized to proceed under authority of the nationwide permit for residential, commercial, and institutional developments. In addition to the conditions described in the permit summary, the following conditions must be met:

a. Use silt curtains, dikes, straw bales, or other erosion control measures to control turbidity and to prevent sediment-laden runoff from entering the waterway downstream of the construction area.

b. Use existing maintenance yards to store and service construction equipment. Clean construction equipment prior to construction to ensure that no leaks or discharges of lubricants,

hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Inspect construction equipment daily. Store and dispense fuels, lubricants, hydraulic fluids and other petrochemicals outside the floodplain. Contain and remove any petrochemical spills, including contaminated soil, and dispose of these materials at an approved upland site.

c. If construction is planned during the breeding season (March-September), an additional migratory bird survey should be conducted before construction begins. If migratory bird nests or eggs are discovered, coordinate with the U.S. Fish and Wildlife Service regarding avoidance of the site during breeding or relocation requirements.

d. Revegetate all upland areas not required for permanent facilities using native vegetation or seeds.

e. Construct a habitat corridor swale on each side of the trapezoidal channel adjacent to the maintenance road (see enclosed drawing). Each swale will be more than 2 feet wide and approximately 6-inches deep. The swales will include mini-dams of rock to capture local runoff. Vegetate the swales in native grasses, forbs, and shrubs; mulch or compost as needed to insure at least 30 percent cover in 3 growing seasons.

f. In the event that cultural resources are found, the U.S. Army Corps of Engineers and the New Mexico State Historic Preservation Office will be contacted for advice on the appropriate action to be taken.

The permittee must insure compliance with all conditions of the permit, including submittal of the enclosed Compliance Certification required by General Condition No. 14.

The proposed project is located in an ephemeral stream. Water quality certification for activities in ephemeral streams was issued by the New Mexico Environment Department on March 15, 2002, for use of this nationwide permit (copy enclosed). Please note the special conditions in the certification.

General Condition No. 11 requires that no activity is authorized under any Nationwide Permit which is likely to jeopardize the continued existence of a listed or proposed threatened or endangered species, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. We have determined that the proposed work, as described, will have no affect on any listed or proposed endangered or threatened species or its critical habitat.

Please note under Further Information in the nationwide permit that this verification does not grant any property rights or privileges. Llave Construction must possess the authority, including property rights, to undertake the work described in your April 10, 2005 letter and supplements.

This verification will be valid for 2 years unless the nationwide permit is modified, reissued or revoked. The verification will remain valid if, during that time, the nationwide permit is reissued without modification or the activity complies with any subsequent modification of the nationwide permit authorization. If the nationwide permit authorization expires, is suspended, revoked, or modified such that the activity would no longer comply with the terms and conditions of the nationwide permit, the provisions of 33 CFR 330.6(b) will apply.

If you or Llave Construction have any questions regarding these regulations, please feel free to contact me at (505) 342-3216 or by e-mail at [jean.e.manger@usace.army.mil](mailto:jean.e.manger@usace.army.mil). At your convenience, please complete and return the attached Customer Service Survey.

Sincerely,



Daniel Malanchuk  
Chief, Regulatory Branch

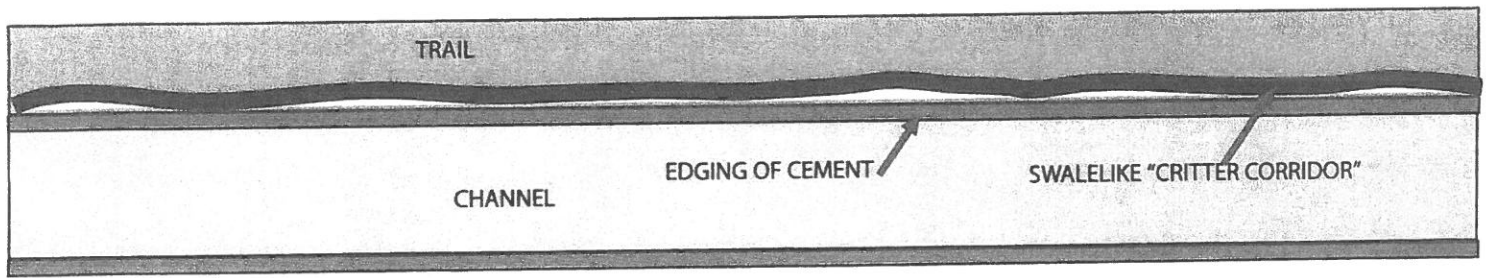
5 Enclosures

1. Nationwide Permit No. 39 Summary
2. Habitat Corridor Drawing
3. Compliance Certification form
4. Water quality certification letter
5. Customer Service Survey

Copies furnished:

Mr. Neal Schaeffer (w/cy incoming)  
NMED - Surface Water Quality Bureau  
ATTN: 401 Certification Program  
P.O. Box 26110  
Santa Fe, NM 87502-6110

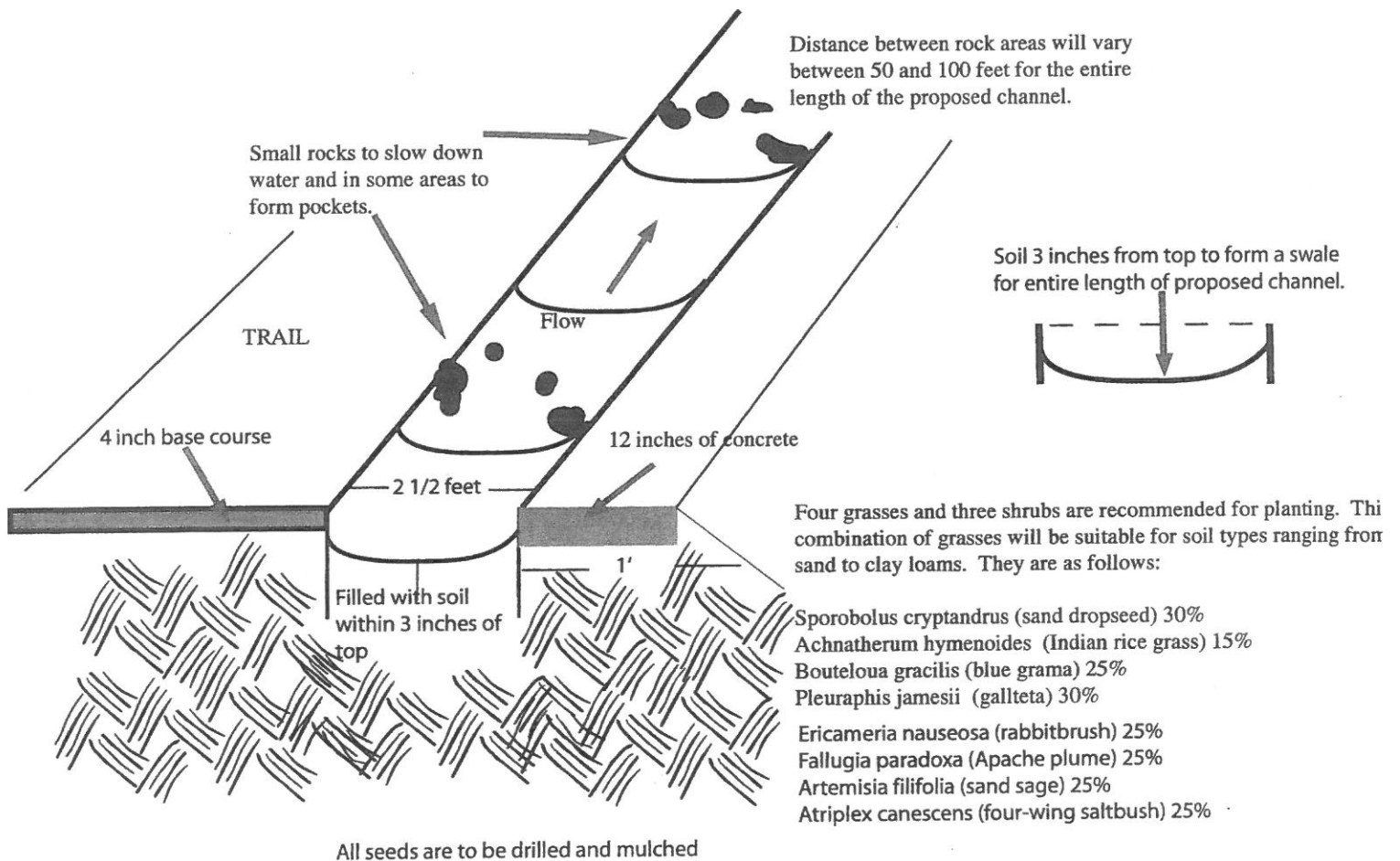
✓ Mr. Bob Keeran  
Llave Construction, Inc.  
P.O. Box 93642  
Albuquerque, NM 87199-3642



CORRIDOR TO MEANDER THE LENGTH OF THE PROPOSED CHANNEL

LA CUEVA CHANNEL IMPROVEMENTS

TO BE INCLUDED IN FINAL DESIGN



BLOW-UP OF "A" FROM THE TYPICAL CHANNEL SECTION FIGURE 5

**Certification of Compliance  
with Department of the Army Nationwide Permit**

Action Number: 2005 00084

Name of Permittee: **Llave Construction, Inc.**

Project: Channelization, concrete lining, and utility box in the  
Arroyo de la Cueva in Albuquerque, Bernalillo County,  
New Mexico

Nationwide Permit: **No. 39, Residential, Commercial, and  
Institutional Developments**

Upon completion of the activity authorized by this permit and any  
mitigation required by the permit, sign this certification and  
return it to the following address:

District Engineer  
Albuquerque District, Corps of Engineers  
ATTN: Regulatory Branch  
4101 Jefferson Plaza, NE  
Albuquerque, New Mexico 87109-3435

Please note that your permitted activity is subject to a compliance  
inspection by an Army Corps of Engineers representative. If you  
fail to comply with this permit you are subject to permit  
suspension, modification, or revocation.

Please enclose photographs showing the completed project (if  
available).

I hereby certify that the work authorized by the above referenced  
permit has been completed in accordance with the terms and  
conditions of the said permit, and required mitigation was  
completed in accordance with the permit conditions.

Date Work Started \_\_\_\_\_

Date Work Completed \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Permittee