

WHEN RECORDED RETURN TO:

Utah Regulatory Office
Attention: Mike Pector
533 West 2600 South, Suite 150
Bountiful, Utah 84010

ENTRY NO. 01171150

08/18/2021 03:26:22 PM B: 2686 P: 0945

Declaration PAGE 1/29

RHONDA FRANCIS, SUMMIT COUNTY RECORDER

FEE 40.00 BY WISE EARTH CONCEPTS INC



THIS SPACE FOR RECORDER'S USE ONLY

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS is made as of June 8, 2021, by Capital Assets Financial Services ("Declarant").

WHEREAS, Declarant intends to protect the certain real property located in the City of Francis, County of Summit, Utah, described and illustrated in Exhibit "A" (Map of Preserve Area) attached hereto and incorporated hereby by this reference (hereinafter "Preserve Area") by recordation of this Declaration of Restrictions, as wildlife habitat and a wetland preserve area, to be so held in perpetuity subject to restrictions in accordance with the provisions of the **Section 404 Permit Identification # SPK-2006-50167-UO** (hereinafter "Permit") Exhibit "B" issued to Capital Assets Financial Services, by the U.S. Army Corps of Engineers (hereinafter "Corps") in connection with the surrounding property of which the Preserve Area is a part, and in accordance with the provisions of the *Mitigation and Monitoring Plan* (Exhibit "C") attached hereto (hereinafter "Plan").

WHEREAS, this Declaration of Restrictions is intended to implement the provisions of the Permit and Plan requiring a binding covenant running with the land, but shall not be construed to impose restrictions in addition to those provided for in the Permit and Plan; and

WHEREAS, the Preserve Area consists of both jurisdictional wetland features and may include associated natural upland areas;

WHEREAS, the Declaration will benefit all parties to the Declaration, and their successors, in that it will assist in preserving and maintaining the wetland open space in the Preserve Area;

NOW THEREFORE, Declarant declares as follows:

1. The wetlands avoided, created, restored, enhanced or preserved as compensation for work authorized by the Permit and any included upland buffer areas, shall not be made the subject of a future individual or general Department of the Army permit application for fill or any other development, except for the purposes of enhancing or restoring these areas associated with this project.

2. Covenant Running with Land. In consideration of the foregoing benefits flowing to all parties; in consideration of the benefits obtained from the Permit, and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Declarant does hereby covenant and agree to restrict, and does by this instrument intend to restrict, the future use of the Preserve Area as set forth below, by the establishment of this Covenant running with the land.

3. Restrictions Concerning the Preserve Areas. Except for those actions necessary to accomplish preservation, maintenance, repair, or enhancement as has been, or in the future is authorized by the Corps, consistent with the Permit and the Plan, and except for the purpose of

maintaining the irrigation easement and Francis City sign within the preserve area, no person shall engage in any of the following restricted activities in the Preserve Area:

- a) No plowing or cultivation of the Preserve Area or any portion of such area, shall be done or permitted except by the Declarant or its successors and assigns to the Preserve Area, as described in the Plan and with prior approval from the Corps;
- b) No materials or debris shall be stored or placed (whether temporarily or permanently) within the Preserve Area or any portion of such area;
- c) No discharge of any dredged or fill material shall be done or permitted within the Preserve Area or any portion of such area except as consistent with the terms and conditions of the Permit;
- d) No discharge, dumping, disposal, storage or placement of any trash, refuse, rubbish, grass clippings, cuttings or other waste materials within the Preserve Area or any portion of such area shall be done or permitted;
- e) No leveling, grading or landscaping within the Preserve Area or any portion of such area shall be done or permitted;
- f) No dumping or storage of snow shall occur within the Preserve Area;
- g) No destruction or removal of any natural tree, shrub or other vegetation that exists upon the Preserve Area shall be done or permitted except by the Declarant or its successors and assigns to the Preserve Area, for the purposes of thatch management or the removal of noxious or dangerous plants as necessary to maintain the Preserve Area. Written authorization from the Corps shall be required prior to any such activity;
- h) No motorized vehicles shall be ridden, brought, used or permitted on any portion of the Preserve Area, except as provided for in (a) above or;
- i) No roads, trails, benches, equipment storage, or other structures or activities shall occur within the Preserve Area.
- j) Untreated stormwater shall not be discharged into the Preserve Area. At a minimum, primary treatment (i.e. detention to settle out suspended solids, oil/water separator, etc) of stormwater shall be required if it is to be discharged into the Preserve Area.
- k) Except for permitted activities, no future actions shall be taken within the permitted project site to reduce surface water flows or otherwise negatively impact wetland hydrology within the Preserve Area.
- l) Utilities, Francis City and Beaver Shingle Creek Irrigation Company shall have the right to install, maintain and operate their equipment above and below ground and all other related facilities within the Easements as noted on the official plat.

4. Not An Offer to Dedicate: No Rights of Public Use. The provisions of this Declaration of Restrictions do not constitute an offer for public use. This instrument does not constitute an irrevocable offer to dedicate.

5. Successors and Assign/Bound. Declarant hereby agrees and acknowledges that the Preserve Area shall be held, sold, conveyed, owned and used subject to the applicable terms, conditions and obligations imposed by this Agreement relating to the use, repair, maintenance and/or improvement of the Preserve Area, and matters incidental thereto. Such terms, conditions and obligations are a burden and restriction on the use of the Preserve Area, as applicable.

The provisions of this Agreement shall (subject to the limitations contained in this Agreement and without modifying the provisions of this Agreement) be enforceable as equitable servitudes and conditions, restrictions and covenants running with the land and shall be binding on the Declarant and upon each and all of its respective heirs, devisees, successors, and assigns, officers, directors, employees, agents, representatives, executors, trustees, successor trustees, beneficiaries and administrators, and upon future owners of the Preserve Area and each of them.

6. Severability. The provisions of the Declaration are severable and the violation of any of the provisions of this Declaration by a Court shall not affect any of the other provisions which shall remain in full force and effect.

DECLARANT: Capital Assets Financial Services
By: Rob Haertel per.
Date: 6/8/2021
By: Rob Haertel, President

STATE OF UTAH
County of Salt Lake

On 6/8/2021, before me,
Vance Twitchell, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

Personally appeared Rob Haertel, President of Capital Assets Financial Services,
Name(s) of Signer(s)
 personally known to me
 proved to me on the basis of satisfactory evidence

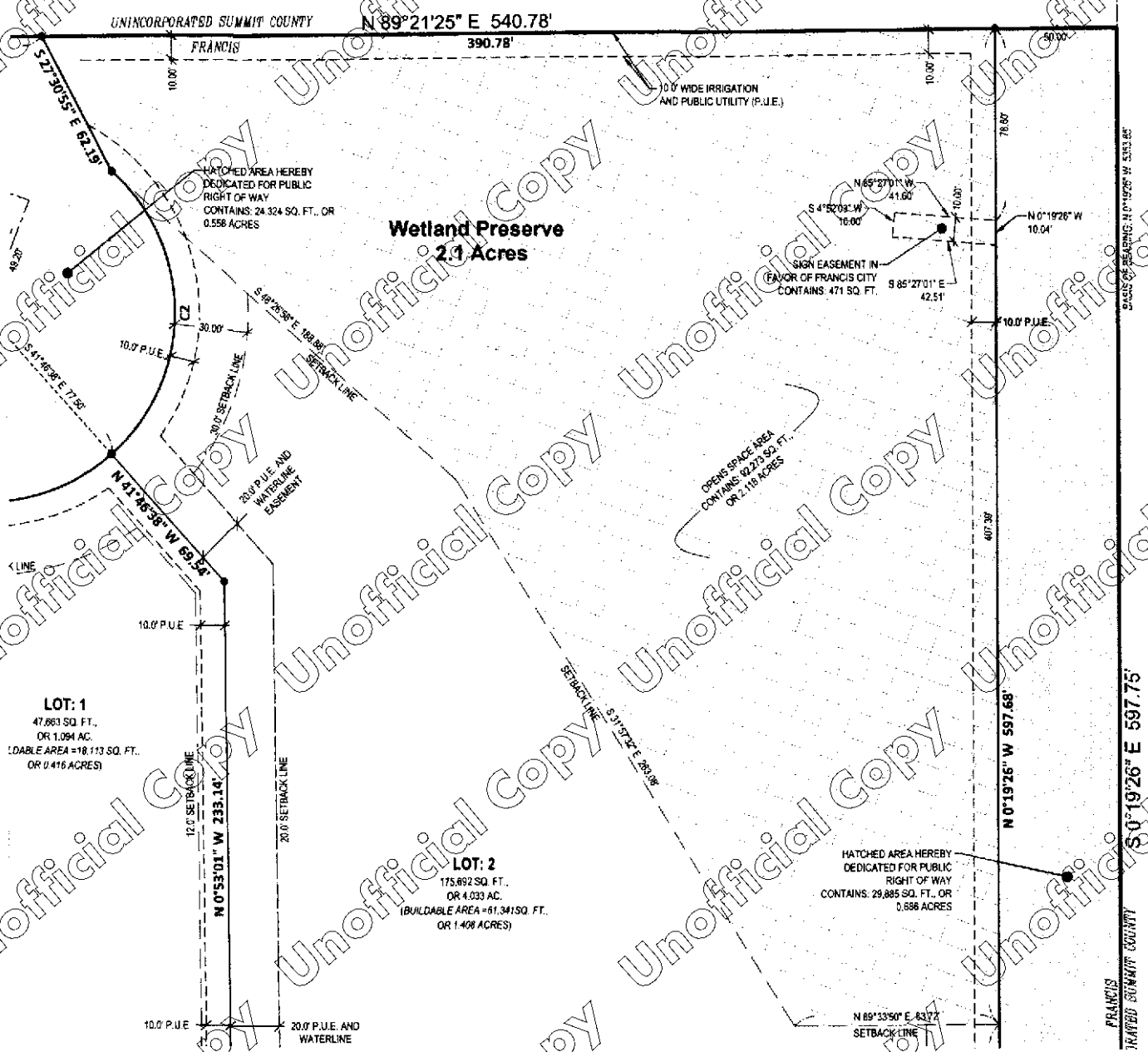
to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
[Signature]
Signature of Notary Public



EXHIBIT A – MAP OF PRESERVE AREA

**Map of Preserve Area
Lot 2 - Village East Subdivision**



NORTHEAST CORNER OF SECTION 20,
TOWNSHIP 2 SOUTH, RANGE 6 EAST,
SALT LAKE BASE & MERIDIAN
(FOUND SUMMIT COUNTY BRASS
MONUMENT SET IN RING & LID)

EAST QUARTER CORNER OF SECTION 20,
TOWNSHIP 2 SOUTH, RANGE 6 EAST,
SALT LAKE BASE & MERIDIAN.
(NOT FOUND)

HATCHED AREA HEREBY
DEDICATED FOR PUBLIC
RIGHT OF WAY
CONTAINS: 24,324 SQ. FT., OR
0.556 ACRES

**Wetland Preserve
2.1 Acres**

SIGN EASEMENT IN
FAVOR OF FRANCIS CITY
CONTAINS: 471 SQ. FT.

OPENS SPACE AREA
CONTAINS: 2,275 SQ. FT.,
OR 2.11 ACRES

LOT: 1
47,863 SQ. FT.,
OR 1.094 AC.
LOADABLE AREA = 18,113 SQ. FT.,
OR 0.416 ACRES)

LOT: 2
175,692 SQ. FT.,
OR 4.033 AC.
(BUILDABLE AREA = 61,341 SQ. FT.,
OR 1.408 ACRES)

HATCHED AREA HEREBY
DEDICATED FOR PUBLIC
RIGHT OF WAY
CONTAINS: 29,885 SQ. FT., OR
0.686 ACRES

EXHIBIT B – 404 PERMIT # SPK-2006-50167-UO

Declaration of Restrictions



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

October 1, 2010

Regulatory Division (SPK-2006-50167-UO)

Alma Hansen
Capital Assets Financial Services
6000 Fashion Blvd, Suite 200
Murray, Utah 84107

Dear Mr. Hansen:

We are responding to your request for a Department of the Army permit for the Capitol Assets Commercial project. This approximately 10-acre project involves activities, including discharges of dredged or fill material, in waters of the United States to construct a commercial pad and a three-lot commercial development. The project is located at Lambert Lane and State Route 32 in Francis within Section 21, Township 2 South, Range 6 East, Latitude 40.63°, Longitude -111.28°, Salt Lake Base and Meridian, Summit County, Utah.

Based on the information you provided, the proposed activity in approximately 0.49 acres of palustrine emergent wetland is authorized by Nationwide Permit Number 39. Your work must comply with the general terms and conditions listed on the enclosed Nationwide Permit information sheets and the following **special conditions**:

- 1. To insure construction compliance, the map entitled Capital Assets Commercial Proposed Plan Sheet 6, dated 12/24/2009, is incorporated by reference as a condition of this authorization.**
- 2. You shall develop a final comprehensive mitigation and monitoring plan compliant with the April 10, 2008 Final Mitigation Rule, which must be approved by the Army Corps of Engineers prior to initiation of construction activities. The purpose of this requirement is to insure replacement of functions and values of the aquatic environment that would be lost through project implementation.**
- 3. To ensure successful compensatory mitigation for Corps permit project file number 200650167, in accordance with 33 CFR Part 332, you shall establish a financial assurance in the form of a performance bond, letter of credit, escrow account or casualty insurance, subject to review and approval by the Corps of Engineers. Financial assurance funds must be payable at the direction of the Corps to a designee or standby trust agreement. The financial assurance must be in place in final form prior to start of any construction activities in waters of the U.S., and must be in the form that assures that the Corps will receive notification 120 days before termination or revocation of the financial assurance.**

The financial assurance for the mitigation must document and include the mitigation establishment estimated costs of: land acquisition, planning and engineering, legal fees, mobilization and demobilization, materials and construction, and monitoring.

4. In no case shall initiation of the construction of compensatory mitigation be delayed beyond May 15, 2011. Construction of compensatory mitigation shall be completed no later than July 1, 2011.

5. You shall establish and maintain a preserve of the avoided and enhanced waters of the United States, as depicted on the exhibit entitled Sheet 2, in perpetuity. This preserve must be deed restricted by July 15, 2011 with Summit County utilizing the attached Utah Regulatory Office Declaration of Restrictions. The purpose of this preserve is to insure that functions and values of the aquatic environment are protected.

6. To assure success of the preserved and enhanced waters of the United States, you shall monitor compensatory mitigation, avoidance, and preservation areas for 5 years or until the success criteria described in the approved mitigation plan are met, whichever is greater. This period shall commence upon completion of the construction of the mitigation wetlands. Additionally, continued success of the mitigation wetlands, without human intervention, must be demonstrated for three consecutive years, once the success criteria have been met. The mitigation plan will not be deemed successful until this criterion has been met.

7. You shall submit monitoring reports to this office by November 1 for each year of the 5-year monitoring period, and for each additional year, if remediation is required. You shall submit an additional monitoring report at the end of the 3-year period demonstrating continued success of the mitigation program without human intervention.

8. To insure that your compensatory mitigation is completed as required, you shall notify the Corps' Summit County Regulatory Project Manager of the start date and the completion date of the mitigation construction, in writing and no later than 10 calendar days after each date.

9. To prevent unauthorized access and disturbance, you shall install fencing the entire perimeter of the preserve and wetland mitigation by July 1, 2011. All fencing surrounding wetland mitigation and preserve shall allow unrestricted visibility of these areas to discourage vandalism or disposing of trash or other debris in these areas. Examples of this type of fencing include chain link, split rail and wrought iron.

10. You shall contact the Corps' Summit County Project Manager for a site visit within 20 calendar days of the mitigation completion and construction completion dates.

11. The following State of Utah 401 water quality certification conditions must also be satisfied:

- a) Whenever a permittee causes the causes the water turbidity in an adjacent surface water to increase 10 NTUs or any visible increase in turbidity as a result of the project, the permittee shall notify the Utah Division of Water Quality.

b) The permittee shall not use any fill material which may leach organic chemicals (e.g., discarded asphalt) or nutrients (e.g., phosphate rock) into the receiving water.

c) Permittees shall protect any potentially affected fish spawning areas.

d) Utah Code Annotated 19-5-114 requires that any spill or discharge of oil or other substance which may cause pollution to waters of the State must be immediately reported to the Utah Division of Water Quality.

e) In an effort to abate pollution as a result of NWP activities, the permittee shall remediate riparian areas along stream banks to minimize water quality impacts, if vegetation is disturbed as a result of the project.

12. You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.

This verification is valid for two years from the date of this letter or until the Nationwide Permit is modified, reissued, or revoked, whichever comes first. All of the nationwide permits are scheduled to be modified, reissued or revoked prior to March 18, 2012. We will issue a public notice when the NWPs are reissued. If you commence or are under contract to commence this activity before the date that Nationwide Permit 34 is modified or revoked, you will have 12 months from the date of the modification or revocation to complete your activity under the present terms and conditions of this nationwide permit. Further, failure to comply with the General Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the *Customer Service Survey* from the link on our District website at: www.spk.usace.army.mil/regulatory.html. Please select the Sacramento District and the Bountiful Utah field office in the lower portion of the survey.

Please refer to identification number SPK-2006-50167-UO in any correspondence concerning this project. If you have any questions, please contact Hollis Jencks at the Utah Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010, email Hollis.G.Jencks@usace.army.mil, or telephone 801-295-8380, extension 18.

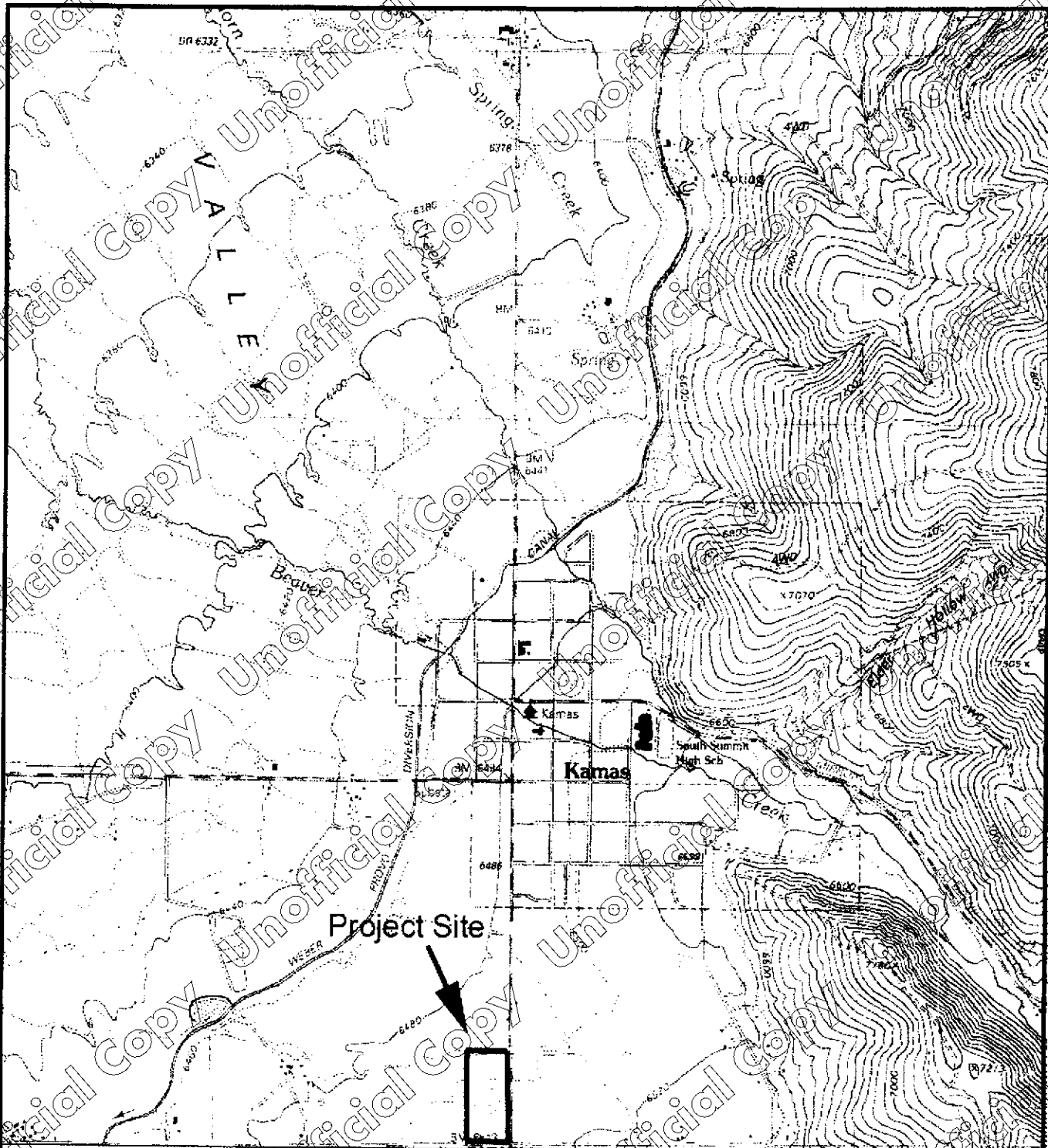
Sincerely,


Jason Gipson
Chief, Nevada-Utah Regulatory Branch

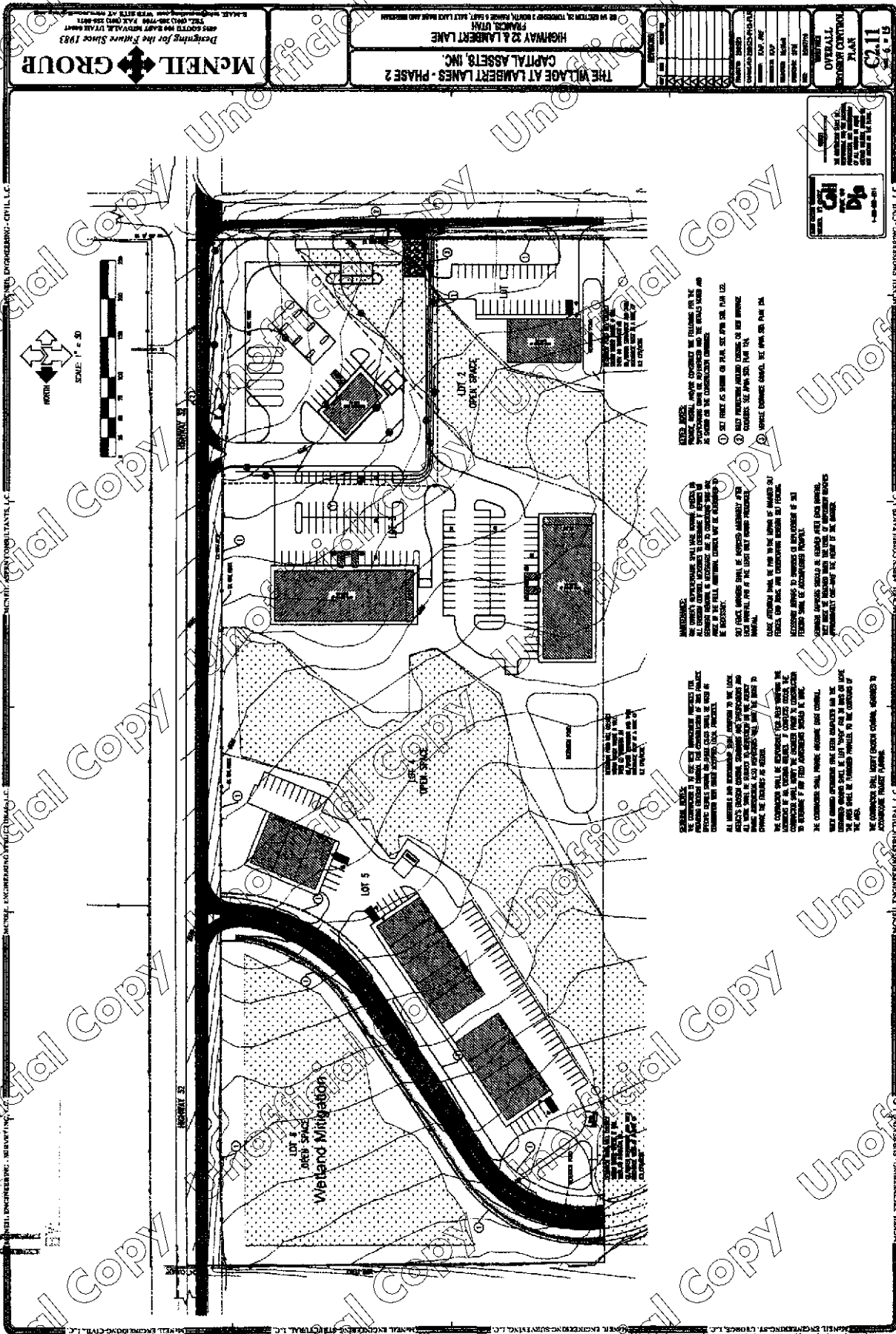
Enclosures

Copy furnished:

Harriet Natter, Wise Earth, Post Office Box 980994, Park City, Utah 84098



<p>Wise Earth PO Box 980994 Park City, Utah 84098 (435) 615-6724</p>	<p>Capital Assets Commercial Development Lambert Lane at SR 32 Francis, Utah</p>	<p>Location Map USGS 7.5' Topo Kamas</p>	<p>Sheet 1</p>
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McNEIL GROUP
 Designing for the Future Since 1983
 485 SOUTH WASHBURN AVENUE, DENVER, CO 80202
 TEL: 303.733.9000 FAX: 303.733.9001
 E-MAIL: engineering@mcneilgroup.com www.mcneilgroup.com

THE VILLAGE AT LAMBERT LANES - PHASE 2
 CAPITAL ASSETS, INC.
 FRANCIS UTMS
 HIGHWAY 32 & LAMBERT LANE

DATE	11/15/11
PROJECT	THE VILLAGE AT LAMBERT LANES - PHASE 2
CLIENT	CAPITAL ASSETS, INC.
DESIGNER	McNEIL ENGINEERING & CONSULTANTS, L.P.
SCALE	1" = 50'
PROJECT NO.	01171150
DRAWING NO.	01171150-11
DATE	11/15/11
BY	...
CHECKED	...
APPROVED	...

McNEIL ENGINEERING & CONSULTANTS, L.P.
 485 SOUTH WASHBURN AVENUE, DENVER, CO 80202
 TEL: 303.733.9000 FAX: 303.733.9001
 E-MAIL: engineering@mcneilgroup.com www.mcneilgroup.com



GENERAL NOTES:
 1. THE OWNER'S RESPONSIBILITY IS TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
 2. THE DESIGNER'S RESPONSIBILITY IS TO DESIGN THE PROJECT IN ACCORDANCE WITH ALL APPLICABLE CODES AND REGULATIONS.
 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
 5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.

WETLAND MITIGATION:
 1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
 5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.

COMPLIANCE CERTIFICATION

Permit File Number: SPK-2006-50167-UO

Nationwide Permit Number: 39

Permittee: Alma Hansen
Capital Assets Financial Services
6000 Fashion Blvd, Suite 200
Murray, Utah 84107

County: Summit

Date of Verification: October 1, 2010

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010
FAX: 801-295-8892

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the Corps of Engineers at 801-295-8380.

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.

EMFS
by: Alma Hansen S.V.P.
Signature of Permittee

8/15/14
Date



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

May 7, 2015

Regulatory Division (SPK-2006-50167-UO)

Capital Assets Financial Services
Attn: Mr. Alma Hansen
6000 Fashion Blvd, Suite 200
Murray, Utah 84107

Dear Mr. Hansen:

Based upon your monitoring reports prepared by Harriet Natter of Wise Earth, and a site visit on October 23, 2014, we have determined that your mitigation site associated with the subject project is successful. Therefore, additional monitoring reports are not required. Please keep in mind that your permit requires that the authorized structure be properly maintained.

Please refer to identification number SPK-2006-50167-UO in any correspondence concerning this project. If you have any questions, please contact Hollis Jencks at the Utah Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010, by email at Hollis.G.Jencks@usace.army.mil, or telephone at 801-295-8380, extension 18.

Sincerely,

Hollis Jencks
Project Manager, Utah Regulatory Office
Sacramento Division

cc:

Harriet Natter, Wise Earth, WiseEarth@msn.com

EXHIBIT C – MITIGATION AND MONITORING PLAN

**MITIGATION AND MONITORING PLAN
FOR WETLAND IMPACTS**

**Capital Assets Commercial Site at SR 32 & Lambert Lane
(Corps File #SPK-2006-50167-UO)**

**1200 South SR 32
Francis, Utah 84036**

October, 2010

Prepared for:

**Capital Assets Financial Services
6000 Fashion Blvd., Suite 200
Murray, Utah 84107**

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Appendix 1 Site Maps

Sheet M1 Location Map (USGS Topographic Map)

Sheet M2 Wetland Impacts

Sheet M3 Mitigation Site Design Details

1. RESPONSIBLE PARTIES

This mitigation and monitoring plan has been developed to comply with requirements of Section 404 Permits for the Capital Assets Commercial Site at Lambert Lane (SPK-2006-50167-UO).

The permittee is Capital Assets Financial Services.

Alma Hansen
Capital Assets Financial Services
6000 Fashion Blvd., Suite 200
Murray, Utah 84107
(801) 269-9988
hansenalma@gmail.com

The current designated agent is Wise Earth Concepts Inc. and this plan has been prepared by Wise Earth. Contact information for Wise Earth is as follows:

Harriet Natter
Wise Earth Concepts, Inc.
PO Box 980994
Park City, UT 84098
(435) 901-1079
wisearth@msn.com

2. PROJECTS REQUIRING MITIGATION

The Capital Assets commercial site is located in the town of Francis in Summit County, Utah at the intersection of SR 32 and Lambert Lane. The general location is shown on Sheet M1 in Appendix 1.

2.1. Overall Project Description

The Capital Assets Commercial layout will cross a wetland area in the southeast corner nearest the SR 32 and Lambert Lane intersection as needed for the corner building area and traffic flow required to connect to Lambert Lane. There is also a small road impact on the northeast corner. Total impacts are 0.48 acre (Sheet M2).

2.2. Site Characteristics of Impacted Wetlands

All impacted wetlands are classified as seasonally saturated wet meadow. They cross the development site in sloughs running from southeast to northwest as is typical of Kamas Valley. The site has historically been irrigated and grazed by livestock. Wetlands are dominated by sedges (*Carex nebrascensis*), rushes (*Juncus arcticus*) and grasses with very little broadleaf herbaceous vegetation and no woody vegetation.

TABLE 1			
WETLAND IMPACTS			
Impact	Size	Wetland/Water Type	Purpose
Fill	0.48	WMWSS	Road and corner building area

WMWSS – Wet Meadow Wetland Seasonally Saturated

The wetland functions provided by this seasonally wet meadow include groundwater recharge, filtration of sediment and nutrient cycling. A few very small temporarily ponded areas may also provide water for wildlife and small aquatic organisms. These have primarily occurred when wetlands were supplemented with irrigation water which has been discontinued.

3. MITIGATION SITE DESIGN

3.1. Location

Mitigation will be within a 0.21 acre wetland on site and within 0.4 acres of wet meadow adjacent to the west of the site. Wetland function will be enhanced by removal of grazing and mowing and by addition of vegetation types not currently present. See Sheet 2 for mitigation area locations.

3.2. Basis for Design

Characteristics of Design Reference Site: The wetland meadows on the commercial development site are typical of Kamas Valley and these are used for the design reference site. These areas primarily contain Spreading bentgrass (*Agrostis stolonifera*), Nebraska sedge (*Carex nebrascensis*) and Arctic rush var. Baltic (*Juncus arcticus*).

Proposed Mitigation Sites: The proposed mitigation and preservation areas are the design reference site. The existing wet meadow will primarily remain as is. However, it is very homogeneous habitat. Therefore, introduced diversity is proposed by: 1) excavation to create vegetated shallows, and 2) addition of woody vegetation.

3.3. Created/Restored Habitat

Compensation Ratios: Current mitigation enhancements are designed to compensate for up to on half acre of impacted wet meadow at a ratio of 5 to 1 mitigation to impacted wetland. Utilities will be within roads and so there are no additional temporary impacts anticipated due to construction.

Long-Term Goals: The goal of mitigation is to increase diversity of wetland habitat by successfully establishing vegetated shallows and woody vegetation within permanently protected existing wetlands.

Hydrology/Topography and Aquatic Function: Excavation to create an area for emergent vegetation will modify hydrology and topography to add diversity for aquatic functions and also compensate for any minimal aquatic function there may have previously been from ponding due to flood irrigation. The vegetated shallows will be created in areas already saturated so there will be essentially no additional water use/loss due to evaporation.

Soils/Substrate: Essentially no change.

Vegetation: Saturated wet meadow vegetation (primarily sedges and rushes) will be excavated and replaced with bulrush (*Scirpus*) seed. The resulting vegetated shallow will likely eventually contain bulrush and cattails and possibly also sedges and rushes. Woody vegetation will also be added to the wet meadows. Details of planting and vegetation modifications are outlined in section 5.

3.4. Restoration of Temporary Impacts

There are no temporary impacts anticipated outside of the proposed permanent fill areas because utilities will be within the permanent fill. However, if during construction any wetlands are impacted outside of those permitted for fill, they will be restored to original grade and revegetated by using vegetation and soil plugs from existing wet meadow vegetation or by adding wetland seed if necessary.

4. SUCCESS CRITERIA AND MONITORING

Within the mitigation area new vegetation in shallows and new woody vegetation need to be successfully established and self sustaining. Specific success criteria and monitoring methods are outlined in Table 2.

TABLE 2
MITIGATION SUCCESS CRITERIA

Mitigation Area ¹	Habitat Type	Quantity	Success Criteria ²	Monitoring Method
On-site WM northeast	Vegetated shallow	6.62 ac	90% vegetated, including more than one dominant wetland species and permanent saturation	Visual estimate of cover by species
On-site WM northeast	Woody vegetation	Within 2.1 ac area	Minimum of 2 woody species present. Total number of live plants not less than 40.	Count total number of live woody plants and number of species present.
Off-site WM at west property line	Woody vegetation	Within 0.4 ac area	Minimum of 2 woody species present. Total number of live plants not less than 20.	Count total number of live woody plants and number of species present.

¹ Total size of mitigation areas is 2.5 acres.

² Success criteria must be met for two consecutive years plus be self sustaining for an additional 3 years.

Monitoring Methods for Specified Success Criteria: The constructed vegetated shallows must be dominated by emergent vegetation suited to permanently saturated conditions. Additionally, total vegetation cover must cover 80% of the surface area by visual estimation with no large areas of bare soil or open water. Noxious weeds cannot exceed 10% of total vegetative cover. Data collection and documentation of wetland characteristics will be similar to that of a typical wetland delineation. A minimum of 1 sample location will be required representative of typical constructed emergent wetland conditions. The boundary of permanently saturated area and emergent species will be mapped on an aerial photograph and included in the final monitoring report.

Woody plants will be counted and identified by species. Total live plant numbers will be reported by species annually. At least 60 woody plants must survive over a minimum of 2 years to initially meet success criteria and continue to survive on their own for another 3 years after that.

Monitoring Schedule: Monitoring of the mitigation site will begin the first autumn after construction and planting. At or before that time the Corps will be given written documentation of as-built conditions. Annual monitoring reports will be submitted to the Corps each November for a total of 5 years of monitoring or until success criteria are met and continue for 3 consecutive years, whichever is greater.

Photo Documentation: Permanent photo points will be established and baseline pre mitigation work photos will be taken. Each monitoring report will contain photo documentation for the current year as well as copies of the baseline photos. If additional photo points are found to better document revegetation progress they will be added as necessary.

5. IMPLEMENTATION PLAN

Excavation of vegetated shallows will be done using wide tracked equipment to minimize disturbance of existing wetland vegetation. It will be done either while the ground is frozen or during the driest time of year. Woody vegetation required will be planted in the spring and/or fall as appropriate based on plant availability and work schedule. The planting plan is shown on Sheet M3.

5.1. Site Preparation

When fill is placed for commercial development silt fencing will be installed at the edge of the existing wetland and/or the proposed edge of fill to protect wetlands from land disturbance and sediment impacts. Silt fence will be removed as soon as the disturbed area has revegetated sufficiently to stabilize soils.

The town of Francis desires to place a welcome sign at their north edge of town on SR 32 within the northeast wetland mitigation area. This will require installing 2 posts in the wetland. Finish grade around the posts will be at the same elevation as was present prior to installation.

5.2. Planting/Seeding

The constructed emergent wetland is designed to be permanently saturated or inundated. It will be planted with hardstem bulrush (*Scirpus acutus*) and threesquare bulrush (*Scirpus pungens*). Rush and sedge already present are expected to move into the excavated area because they can tolerate the wetter conditions. Cattail is also expected due to its invasive nature. The proposed emergent wetland seed mix is shown in Table 3. Any disturbed wetland meadow will be restored by spreading salvaged wetland plants and soil/seed source in the area.

Woody vegetation will be planted approximately as shown on the attached map (Sheet M3). Specific planting locations will be determined in the field based on micro variations in topography and hydrology. Multiple species will be planted to maximize variety but some are likely to survive better than others. Species composition after success criteria are met likely will not reflect the percentages of each species planted.

TABLE 3
CONSTRUCTED WETLAND SEEDING RATES & WOODY VEGETATION

Emergent Wetland Species ¹	Common Name	Percent of Mix	Wetland Classification
<i>Scirpus acutus</i>	Hardstem bulrush	50	OBL
<i>Scirpus pungens</i>	Three-square	50	OBL
Woody Species	Common Name	Percent of Total	Wetland Classification
<i>Salix (various native species)</i>	Willows	30	FACW-OBL
<i>Salix exigua</i>	Coyote willow	30	OBL
<i>Ribes aureum</i>	Golden currant	30	FACW
<i>Populus angustifolia</i>	Narrow-leaf cottonwood	10	FAC*

¹ Seed at 10 lbs. per acre = two tenths of a pound for the 0.02 acre area

5.3. Irrigation/Water Conveyance

The constructed vegetated shallow is designed to maintain saturation from groundwater and the selected woody vegetation is suited to existing natural conditions as determined in the spring season prior to irrigation. There will be no irrigation to establish or sustain the wetland enhancements.

5.4. Implementation Schedule

Construction of the mitigation was voluntarily initiated spring, 2010 with installation of most of the woody vegetation. Excavation for vegetated shallow was completed in the summer when conditions were as dry as possible in order to minimize disturbance to vegetation. Pre-construction photos were taken summer 2010.

6. MAINTENANCE DURING MONITORING PERIOD

During the monitoring period the following maintenance needs may arise: 1) weed control, 2) reseeding or replanting if installed vegetation does not meet success criteria, 3) topographic adjustments if the excavated area fails to remain sufficiently saturated to sustain the proposed emergent vegetation. These needs will likely be most intensive in the first two years.

Beginning soon after construction, weeds will be monitored and sprayed. If weed cover appears to be less than 5% they will be sprayed twice during the summer (June and August). If weed cover approaches 10% they will be sprayed monthly from April through October. In uplands greater than 25 feet from wetlands Weed Master (2-4D) or an equivalent may be used. In areas within 25 feet of wetlands and in wetlands containing no surface water Aqua Master or an equivalent will be used. In wetlands containing surface water weeds will be removed without spraying.

7. MONITORING REPORTS

Monitoring reports will be submitted to the Corps no later than November 1 each year after the mitigation site is constructed. This will continue for a minimum of 5 years if success criteria is met in year two and continues to be met self sustained for another 3 years. In any case, monitoring will continue for 3 years after success criteria has initially been met. The reports will contain monitoring data, maintenance activities of the previous year, photo documentation and if necessary proposed actions or contingency efforts to better meet success criteria.

As-Builts: An as-built drawing will be submitted to the Corps with the first monitoring report. At the end of the monitoring period a final as-build drawing and accounting of successful revegetation will be included in the last monitoring report.

8. POTENTIAL CONTINGENCY MEASURES

Contingency measures may be necessary to ensure the success of the mitigation site. If monitoring indicates contingency measures are needed they will be applied immediately and these efforts will be documented in annual reports.

Vegetation and Weed Control: Contingency measures for this include planting and reseeding if necessary until the density of vegetative cover meets success criteria. If weed control measures outlined herein fail to keep weed cover below 10% it will be handled by a more aggressive spraying schedule and/or mechanical removal.

Hydrology: Natural wetland hydrology appears to be present sufficiently to maintain the existing well established wetland vegetation. However, this vegetation was likely established and thrived while the site was also irrigated. Without irrigation graminoid wetland vegetation will likely survive but not thrive. Woody vegetation will be difficult to establish with only seasonally naturally wet conditions but once it is well established it is expected to survive without human intervention.

Built in contingency based on minimum mitigation ratios. Corps regulations typically require a mitigation ratio of 5:1 for enhanced wetlands. As shown in Table 2, at that ratio this mitigation plan provides compensation for a 0.5 acre impact providing an additional 0.2 acre for contingency. If success criteria were only marginally met this small contingency is intended to help compensate.

Contingency in the event of a significant failure. Additional acreage or vegetation would need to be added to the mitigation plan. There are other existing wetlands on site that could contribute to this effort.

9. COMPLETION OF MITIGATION RESPONSIBILITIES

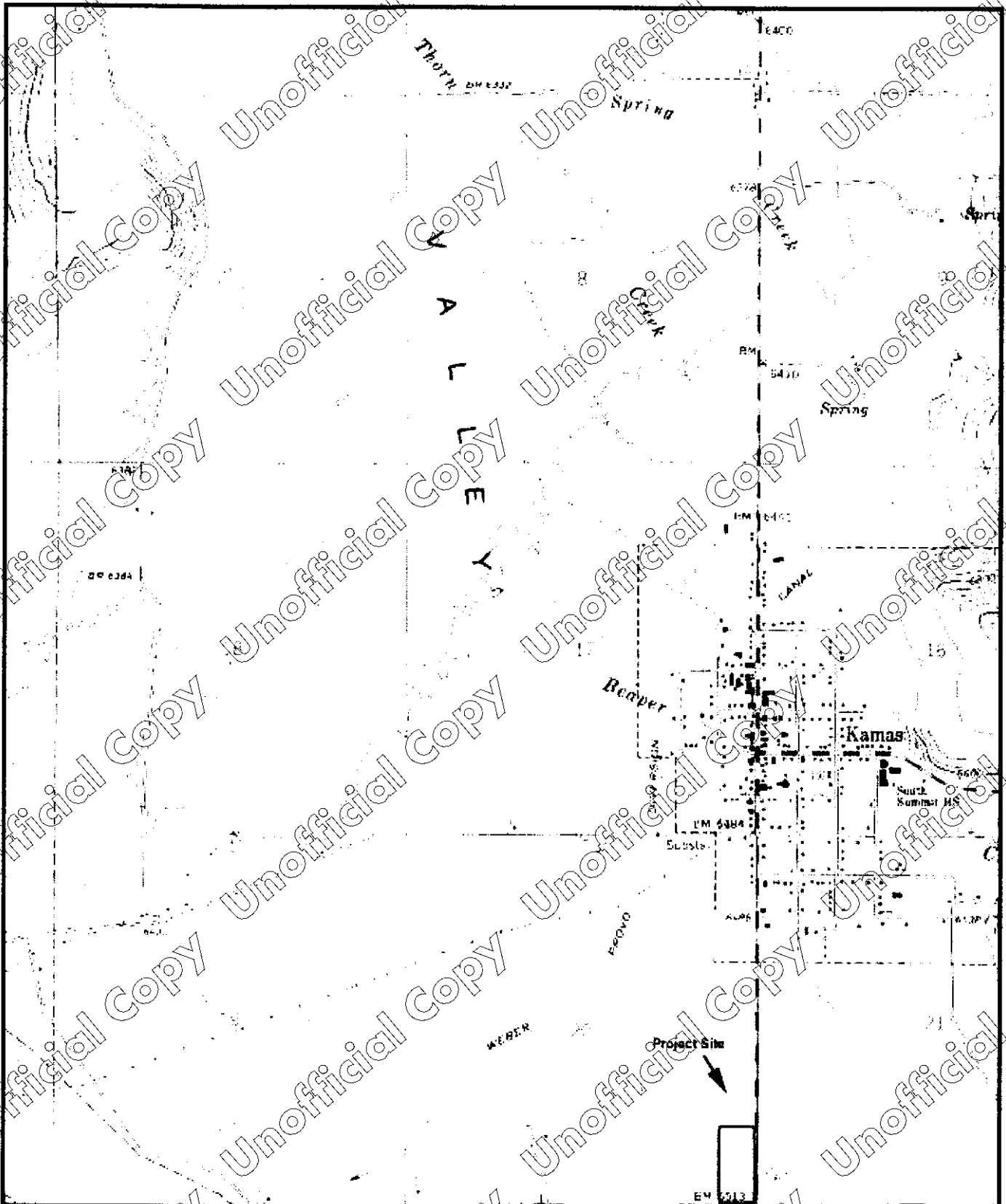
Confirmation of mitigation completion from the Corps will be requested when success criteria have been met and sustained for three years and all required documentation has been submitted. The permittee understands the site will not be released from mitigation obligations until written notice of completion has been received from the Corps.

10. LONG-TERM MANAGEMENT AND PROTECTION

Ownership, Management and Site Protection: The mitigation site will be platted as open space, deed restricted and fenced. Long-term management of this open space will be handled by the land owner. It will be managed as natural open space according to its jurisdictional wetland status and the deed restrictions.

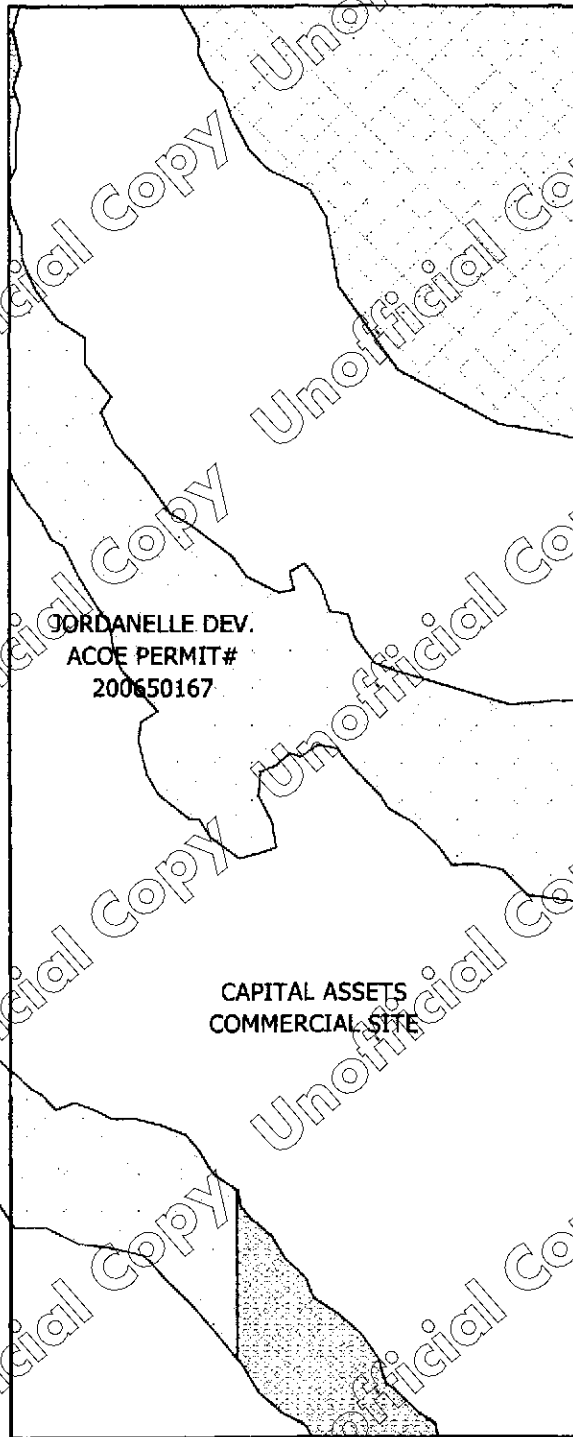
Appendix 1

Maps



<p>Wise Earth PO Box 980994 Park City, Utah 84098 (435) 615-6724</p>	<p>Capital Assets Commercial Site SR 32 & Lambert Lane Francis, Utah</p>	<p>Location Map USGS 7.5' Topo Kamas</p>	<p>Sheet M1 2010</p>
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WETLAND IMPACTS & MITIGATION AREAS
SR 32 & LAMBERT LANE, FRANCIS, UTAH

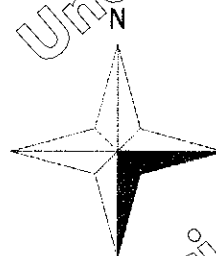


MITIGATION
ON-SITE
2.1 Acres

MITIGATION
ADJACENT
0.4 Acres

JORDANELLE DEV.
ACOE PERMIT#
200650167

CAPITAL ASSETS
COMMERCIAL SITE



0

















500 ft

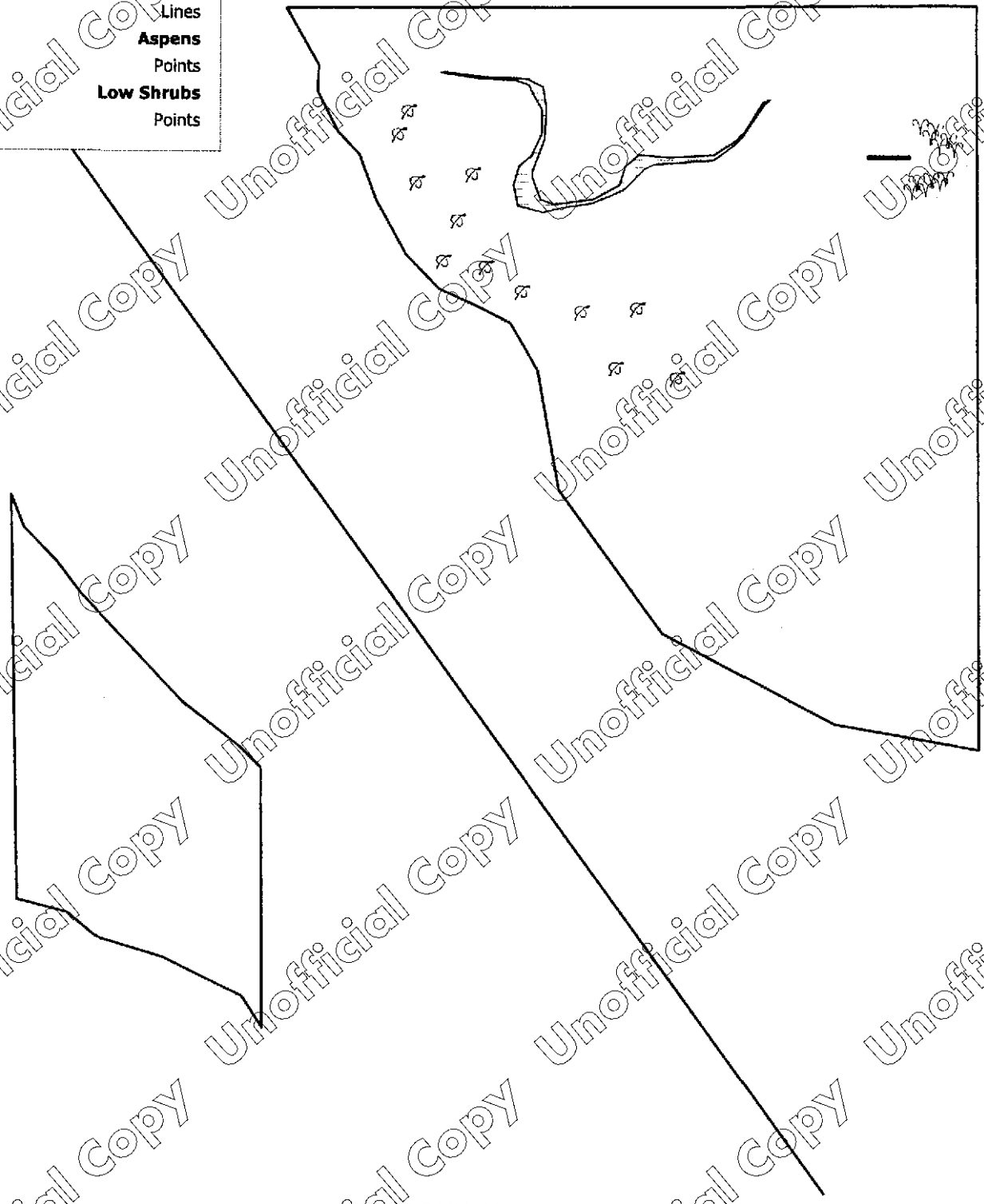
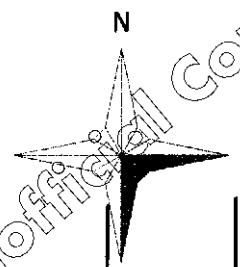


SHEET M2

4/2010

Page 27 of 29 Summit County

-  **Mitigation Areas**
-  Areas
-  Lines
-  **Emergent Veg 0.02 ac**
-  Areas
-  **Willow**
-  Points
-  **Other Woody Veg**
-  Points
-  **Francis Town Sign Mound**
-  Areas
-  Lines
-  **Aspens**
-  Points
-  **Low Shrubs**
-  Points



NORTHEAST MITIGATION AREA
 CAPITAL ASSETS COMMERCIAL AT LAMBERT LANE

SHEET M3a

**Capital Assets Northeast Wetland Preserve Area
Open Space Preserve Operations and Management Plan**

This O&M plan provides management guidance for the Northeast Wetland Preserve Area for Capital Assets Commercial Parcel (Permit #2006-50167).

Site Conditions

1. Primary wetland classification: Seasonally saturated wet meadow/grassland and herbaceous species with successful addition of emergent wetland in excavated areas and establishment of willows near the emergent wetland.
2. This preservation area includes existing fencing on the north and east sides. Additional fencing was not required.

Operations & Maintenance

1. Grazing is not excluded by deed restriction and is therefore, acceptable for vegetation management so long as plants are not entirely destroyed or removed in conflict with declaration of restrictions item g. Fencing the preserve area boundary would be prudent for pasture rotation as needed to avoid destruction of vegetation.
2. Removal of noxious weeds is allowed but not required.
3. Addition of vegetation suited to wetlands is allowed but not required.