DEPARTMENT OF THE ARMY PERMIT

Permittee:

V. Ottozawa-Chatupron
Arizona State Land Department
Drainage & Engineering Section
1616 West Adams Street
Phoenix, Arizona 85007

Permit Number: 1999-16129-RWF

Issuing Office: Los Angeles 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 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: To impact a total of 34.08 acres of Section 404 (Clean Water Act) jurisdictional area during the course of constructing road crossings, flood control facilities, utility systems, golf course facilities, and building pads as associated with the Paradise Ridge development as shown on the attached drawings.

Project Location: In unnamed washes at (Sections 15, 22, 27, 33, and 34, T4N, R4E), Phoenix, Maricopa County, Arizona.

Permit Conditions

General Conditions:

1. The time limit for completing the authorized activity ends on May 1, 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 from 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 with the terms and conditions of your permit.

Special Conditions: See attached sheet.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

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 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.

4. 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.

5. 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:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. 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 to 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 measure 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.

6. 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 you 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.

Michael E. Anable 5/1/02

(PERMITTEE) MIKE E. ANABLE, Commissioner (DATE)
(for the ARIZONA STATE LAND DEPARTMENT)

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

Cindy Lester 5/2/02

Mark F. Sudol, D.Env. (DATE)
for Chief, Regulatory Branch
(for the District Engineer)

If either the structures or work authorized by this permit are still in existence or the activities authorized under this permit are uncompleted at the time property transfer, the terms and conditions of this permit pertaining to such property will be fully assumed by and continue to be legally binding upon the transferee 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)

SPECIAL CONDITIONS
PERMIT NO. 1999-16129-RWF

a. For purposes of this permit, the term "permittee" means the Arizona State Land Department or any subsequent transferee of all or a portion of any right to or interest in parcels of land within the Paradise Ridge development. For purposes of this permit, the term "transferee" means purchaser, lessee, sublessee, use permitee, or any other successor in interest of parcel(s) of land within the Paradise Ridge development. The permitte shall advise all transferees of, and obtain their agreement to comply with the terms and conditions of this permit. To accomplish this, the permittee shall obtain the signature of each transferee on the transferee block located on the signature page of this permit. By signature on the transferee block, the transferees acknowledge being provided a complete copy of this permit and agree to comply with all terms and conditions of this permit. All transferees shall provide the Corps of Engineers with copies of the signature page with a signed transferee block, maps and detailed drawings depicting the location and proposed development of the subject property, and a mitigation and/or historic obligation associated with the subject property. This information shall be provided to the Corps of Engineers for review and approval 30 days prior to initiation of construction. If the permittee or transferee does not receive a response from the Corps within 30 days, the permittee or transferee shall assume the Corps has approved these drawings and maps. The Corps of Engineers will then modify the permit to substitute the transferee for the permittee for the transferred parcel of land. The Corps of Engineers will provide each new permittee with a modified copy of the permit.

b. The permittee or transferee shall comply with all requirements and conditions in the state water quality certification that the Arizona Department of Environmental Quality signed on October 12, 2001. This certification demonstrates that the permittee has complied with Section 401(a) of the Clean Water Act. A copy of this letter is enclosed.

c. The permittee or transferee shall mitigate the 34.08 acres of unavoidable impacts to waters of the United States by implementing, in full, the Habitat Mitigation and Monitoring Plan dated April 30, 2002 that was developed for the Paradise Ridge development.

d. Transferees of all parcels within the Paradise Ridge development that contain mitigation areas which are sold at auction must record a deed restriction over the mitigation areas within the patented parcel to ensure such mitigation areas are protected in perpetuity. The deed restriction shall be in form and substance satisfactory to the Corps of Engineers (sample enclosed). For parcels containing preserved waters of the United States and associated buffers, the deed restriction shall be recorded within 30 days following the issuance of the patent for said parcel. For reconstructed mitigation areas, the deed restriction shall be recorded within 400 days following commencement of construction at

the parcel containing the reconstructed mitigation component. The Corps of Engineers shall be provided a copy of the recorded deed restriction within 30 days following recordation.

e. For parcels within Paradise Ridge that contain preserved and/or reconstructed mitigation areas that are leased, the permittee and transferee will include the deed restriction language of paragraph d (above) relating to mitigation as a condition of the lease. The restriction shall be in form and substance satisfactory to the Corps of Engineers. The Corps shall be provided a copy of any such lease agreement containing the lease condition within 30 days following execution of said lease agreement. For reconstructed mitigation areas, any such lease shall stipulate that mitigation component shall be completed no later that 365 days following commencement of construction at the parcel containing the reconstructed mitigation component.

f. Prior to initiation of construction, the permittee or transferee shall accurately delineate the limits of the preserved mitigation areas by the placement of temporary construction fencing and signage. These signs and fencing shall be erected to prevent equipment or personnel from impacting areas that are to remain free from disturbance. The signs and fencing shall be removed only after the ground disturbing construction activities have been completed within the given parcel.

g. The permittee or transferee shall erect and maintain permanent signs, written in both English and Spanish, along the perimeter of all mitigation areas stating, in effect, that the area beyond the sign has been set aside for mitigation purposes and that vegetation and ground disturbing activities (including vehicular traffic) are strictly prohibited.

h. Nothing in this permit shall prohibit the permittee or transferee from selling, leasing, permitting or otherwise transferring any interest in property within the Paradise Ridge development before the Corps of Engineers has discharged its responsibilities under Section 106 of the National Historic Preservation Act with respect to the eligible or potentially eligible archaeological sites within the Paradise Ridge development. The Register-eligible or potentially Register-eligible sites in the Paradise Ridge Development consist of the following: AZ U:5:33 (ASM), AZ U:5:91 (ASM), AZ U:5:92 (ASM), AZ U:5:93 (ASM), AZ U:5:94 (ASM), and including for purposes of this permit IO 29 and IO 49. The permittee or transferee shall not conduct any ground disturbing activities (with the exception of necessary testing and/or data recovery) within a minimum of a 50-foot radius around the sites that have been determined to be eligible or potentially eligible for listing in the National Register of Historic Places (sites AZ U:5:33(ASM), AZ U:5:91(ASM), AZ U:5:92(ASM), AZ U:5:93(ASM), and AZ:U:5:94(ASM)) and Isolated Occurrences (IO 29 and IO 49) until such a time that the Corps of Engineers issues written notification that the National Historic Preservation Act issues have been satisfactorily resolved. The Corps of Engineers will issue written notification for each site or portion of a site (listed above) as appropriate. The Arizona State Land Department

and/or permittee shall be responsible for notifying transferees of parcels containing any of the sites, AZ U:5:33(ASM), AZ U:5:91(ASM), AZ U:5:92(ASM), AZ U:5:93(ASM), and AZ:U:5:94(ASM)) and Isolated Occurrences (IO 29 and IO 49), of their subsequent obligations under this permit. This notification shall be in writing and shall be accomplished prior to issuance of the patent or execution of a lease agreement for said properties.

i. Due to the sensitivity of the area and likelihood for identification of additional resources, the permittee shall require as a condition to property disposal (transfer or lease) that archaeological monitoring be undertaken throughout the project site, during initial mass grading activities (including those areas in which cultural resources and isolated occurrences have not been identified to date). The onsite archaeological monitoring activities shall be accomplished by qualified archaeologist(s) who regularly engages in this type of field activity. The archaeologist shall be responsible for immediately notifying the Corps of Engineers, the Arizona State Land Department, and SHPO upon discovery of previously unknown historic properties and shall be delegated the necessary authority to stop the ground disturbing construction activities within a minimum of a 50-foot radius of the find until additional direction is provided by the Corps of Engineers.

j. A copy of the permit shall be on the job site at all times during construction. The permittee or transferee shall provide a copy of this permit to all contractor(s), subcontractor(s), foreperson(s), and construction representatives. The permittee or transferee shall require that all contractor(s), subcontractor(s), foreperson(s), and construction representatives read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein. The permittee or transferee shall hold a pre-construction meeting with the contractor(s), the Corps of Engineers, and other appropriate resource agencies to discuss the special conditions of this authorization, as well as other relevant approvals.