



**DEPARTMENT OF THE ARMY**  
KANSAS CITY DISTRICT, CORPS OF ENGINEERS  
700 FEDERAL BUILDING  
KANSAS CITY, MISSOURI 64106-2896

REPLY TO  
ATTENTION OF:

September 27, 2006

Regulatory Branch  
(200602159)  
(Cass, MO, NW 39)

David L. Flick  
Principal  
Terra Technologies, Inc.  
8680 West 96th Street Suite 100  
Overland Park, Kansas 66212-3315

Dear Dr. Flick:

This is in response to your application received on July 12, 2006, for a Department of the Army (DA) permit concerning the Hickory Hills residential development in a tributary of Big Creek. The project is located in Section 16, Township 46 north, Range 30 west, Cass County, Missouri.

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320-330.

This letter contains a preliminary determination (JD) of the waters of the United States on the project site. In addition, a Notification of Administrative Appeal Options and Process and Request for Appeal form (FORM) describes your options in Section E of the FORM. This preliminary JD cannot be appealed. If you object to this preliminary JD, you may request an approved JD by contacting our office at the following address:

District Commander  
ATTN: Chief, Regulatory Branch  
U.S. Army Engineer District, Kansas City  
601 East 12<sup>th</sup> Street, Room 706  
Kansas City, MO 64106-2896  
Voice: 816-389-3990 – FAX: 816-389-2032

We have reviewed the information furnished and have determined that your project is authorized by nationwide permit (NWP) 39, provided you ensure that the conditions listed in the enclosed copy of excerpts from the January 15, 2002 Federal Register, Issuance of Nationwide Permits; Notice (67 FR 2020), and the February 13, 2002 Correction (67 FR 6692) are met.

You must also comply with the Kansas City District Regional NWP Conditions posted at <http://www.nwk.usace.army.mil/regulatory/regulatory.htm>. **General condition 9** requires you to obtain a Section 401 water quality certification (see water quality certification paragraph below). **General condition 14** requires you to sign and submit the enclosed "Compliance Certification" upon completion of the authorized work and any required mitigation.

In addition to the general conditions of this permit verification, the following special condition applies to this permit:

A mitigation plan for the impact of the project upon 0.05 acres of stream channel and 0.20 acres of wetland within the project area must be submitted and approved by this office prior to performing work in jurisdictional waters on the project site. On-site mitigation plans must describe the establishment, maintenance, protection and size of any areas proposed for this use within the project area. The use of an in-lieu fee mitigation agreement is approved for the mitigation of impacts associated with this project. If this option is pursued, please submit written verification of the executed mitigation agreement prior to the commencement of work within jurisdictional waters of the U.S. at the project site.

This NWP verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modifications or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

Although an individual DA permit is not required, other Federal, state and/or local permits may be required. You should verify this yourself.

**MISSOURI WATER QUALITY CERTIFICATION DENIAL:** Section 401 water quality certification (Certification) has been denied for this Section 404 NWP in Missouri. Therefore, in order for the NWP authorization to be valid for your project, you must obtain an individual Certification from the Missouri Department of Natural Resources (MDNR) before starting work. If MDNR does not act on your written request for Certification within 60 days, a waiver may occur. In order to verify a waiver, you must submit a copy of your written request for Certification to us. MDNR may request an extension to act on your request, up to a maximum of one year. Any condition included in the Certification becomes a condition of this NWP authorization. You must apply for Certification by writing to Chief of the Planning Section, Water Pollution Control Program, MDNR, Post Office Box 176, Jefferson City, Missouri 65102-0176. You may call 573-751-1404 for information.

We are interested in your thoughts and opinions concerning your experience with the Kansas City District, Corps of Engineers Regulatory Program. We have placed an automated version of our Customer Service Survey form on our website at: <http://per2.nwp.usace.army.mil/survey.html>.

At your request, we will mail you a paper copy that you may complete and return to us by mail or fax.

Mr. Neil Bass, Environmental Protection Specialist, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Mr. Bass at 816-389-3667 (FAX 816-389-2032). Please reference Permit No. 200602159 in all comments and/or inquiries relating to this project.

Enclosures

Copies Furnished:

Missouri Department of Natural Resources wo/enclosures

Missouri Department of Conservation wo/enclosures