



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

August 16, 2007

REPLY TO  
ATTENTION OF:  
Regulatory Branch  
(2007-765)

Mr. David L. Flick  
Terra Technologies  
4707 West 135<sup>th</sup> Street, Suite 280  
Leawood, Kansas 66224

Dear Mr. Flick:

As requested by an application received on behalf of Hunt Midwest Real Estate Development, enclosed is a proposed Department of the Army (DA) permit, in duplicate, with drawings attached. When executed, the permit will authorize plans to place fill material within waters of the U.S. for development of commercial property. The project is located in Sections 1 and 2, Township 51 North, Range 34 West, Platte County, Missouri

A copy of the water quality certification issued for your work, by the Missouri Department of Natural Resources has been attached to the enclosed DA permit. As stated in general condition "5" of the enclosed permit document, the conditions presented in the state's water quality certification are incorporated into the special conditions of the permit by reference.

This letter contains an initial proffered permit for the proposed project. If you object to the permit because of certain terms and conditions therein, you may request that the permit be modified accordingly. Enclosed you will find a Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form. If you request reconsideration of this decision you must submit a completed RFA form to the Kansas City District at the following address:

District Commander  
ATTN: William R. Jeffries  
Acting 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

In order for an RFA to be accepted by the U.S. Army Corps of Engineers (Corps), the Corps must determine that it is complete, that it meets the criteria for reconsideration under 33 C.F.R. Part 331.6.b., and that it has been received by the District 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

OCT 15 2007

It is not necessary to submit an RFA form to the District Office if you do not object to the provisions of your initial proffered permit. If you wish to accept the permit in its present form, please sign the original and duplicate copy of the enclosed permit document. Each copy of the permit document should be signed on page 3 above the word "Permittee," dated, and returned within 30 days from the date of this letter. Also, the application fee of \$100 should be paid by check made payable to USAED-KC and remitted with the permit document. A preaddressed envelope is enclosed for your convenience. Upon receipt of the properly signed documents and the application fee, the permit will be executed and returned to you for your files. Your signature on the standard permit means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

Special condition "a" of the permit document requires you to complete and return a "Compliance Certification" upon completion of the authorized work and any required mitigation. The "Compliance Certification" form will be provided to you when your DA permit is executed.

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 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.

If you have any questions concerning this matter, please contact Brian Donahue at (816) 389-3703.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. D. Frazier', written in a cursive style.

Mark D. Frazier  
Regulatory Program Manager  
Regulatory Branch, Operations Division

Enclosures

## DEPARTMENT OF THE ARMY PERMIT

Permittee Hunt Midwest Real Estate Development, Inc.

Permit No. NWK-2007-765

Issuing Office U.S. Army Engineer District, Kansas City

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 of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below, and with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Project Description: This permit authorizes the placement of fill material within a 0.13 acre pond, 0.42 acres of wetland, 20 linear feet of intermittent stream channel and 2,789 linear feet of ephemeral stream channel for commercial and residential development of an unimproved 320 acre site within Kansas City, Missouri.

Permit Drawing(s): Location map, plan view Sheets 3 of 3, dated, 24 July 2007

Project Location: In Sections 1 and 2, Township 51 North, Range 34 West, Platte County, Missouri

(Lat: 39.2578, Long: -94.6750)

### Permit Conditions:

#### General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2009. 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 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 of 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 in accordance with the terms and conditions of your permit.

**Special Conditions:**

See continuation sheets, pages 4 and 5, of this document.

**Further Information:**

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

- ☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorization 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 on 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 measures 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 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.

\_\_\_\_\_  
(PERMITTEE)

\_\_\_\_\_  
(DATE)

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

\_\_\_\_\_  
(DISTRICT ENGINEER)

ROGER A. WILSON, JR., COLONEL

BY: Mark D. Frazier

Regulatory Program Manager

Regulatory Branch, Operations Division

\_\_\_\_\_  
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) 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:**

- a. You must sign and return a "Compliance Certification" after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and specific conditions, and that any required mitigation was completed in accordance with the permit conditions.
- b. You must enhance and protect from further disturbance a total of 1.15 acres of wetland and a 3.82-acre riparian area alongside 1685 linear feet of a tributary of Rush Creek as indicated and described in the mitigation plan and shown on the map attached to this permit.
- c. A conservation easement or deed restriction must be submitted and approved by the Corps of Engineers for the protection and preservation of the mitigation area prior to performing work within waters of the U.S. on the project site. All mitigation work must be accomplished in accordance with Regulatory Guidance Letter 02-02 dated 26 December 2002, Regulatory Guidance Letter(RGL) 06-03 dated 19 September 2006 and the mitigation details submitted for this work, dated April 2006 and attached to this permit. The applicant and/or his authorized agent shall be responsible for meeting the success criteria of the mitigation plan and submitting an annual report for a period of five years or until these criteria have been met and the mitigation work deemed fully successful by this office.
- d. If any part of the authorized work is performed by a contractor, before starting work you must discuss the terms and conditions of this permit with the contractor; and, you must give a copy of this entire permit to the contractor.
- e. You must use clean, uncontaminated materials for fill in order to minimize excessive turbidity by leaching of fines, as well as to preclude the entrance of deleterious and/or toxic materials into the waters of the United States by natural runoff or by leaching.
- f. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a nonwetland area above the ordinary high water mark and at a location where the concrete and wash water cannot enter the water body or an adjacent wetland area.
- g. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- h. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body.
- i. You must not dispose of any construction debris or waste materials below the ordinary high water mark of any water body, in a wetland area, or at any location where the materials could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.
- j. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.

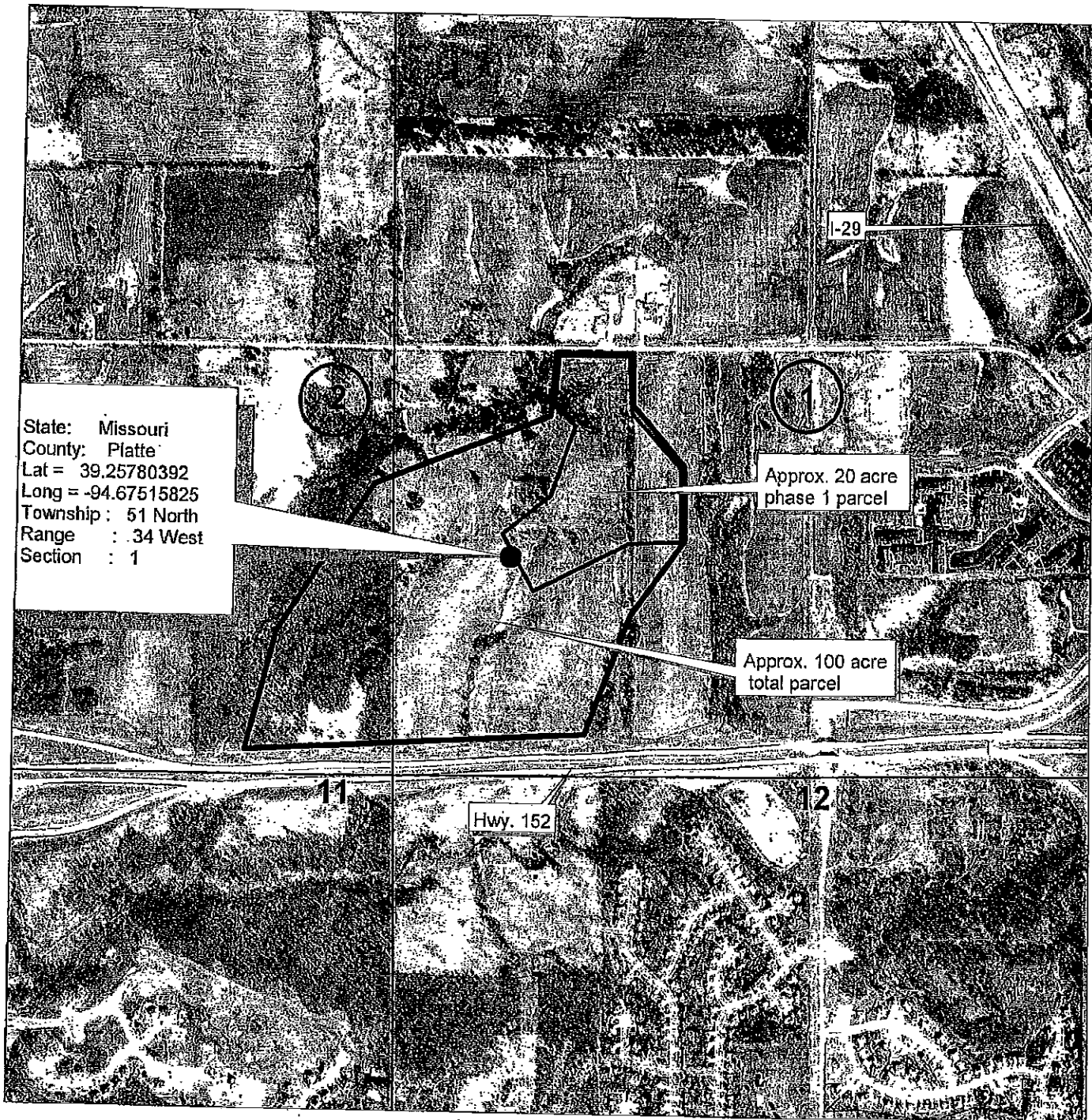
k. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or unvegetated condition.

l. Upon completion of earthwork operations, you must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction. If seeding does not successfully vegetate the disturbed areas by the end of the first growing season, you must implement alternate measures to protect the disturbed areas from further erosion. You must contact the Kansas City District, Regulatory Branch prior to beginning work on any additional erosion control measures so that a determination can be made whether further authorization is required.

m. You must take the actions required to record this permit with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property. You must furnish a copy of the recorded instrument, with the recorder's stamp, to the Kansas City District within 2 months from the date of this permit.

n. You must use only graded rock and/or quarry-run rock for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume.

# Site location for The Reserve

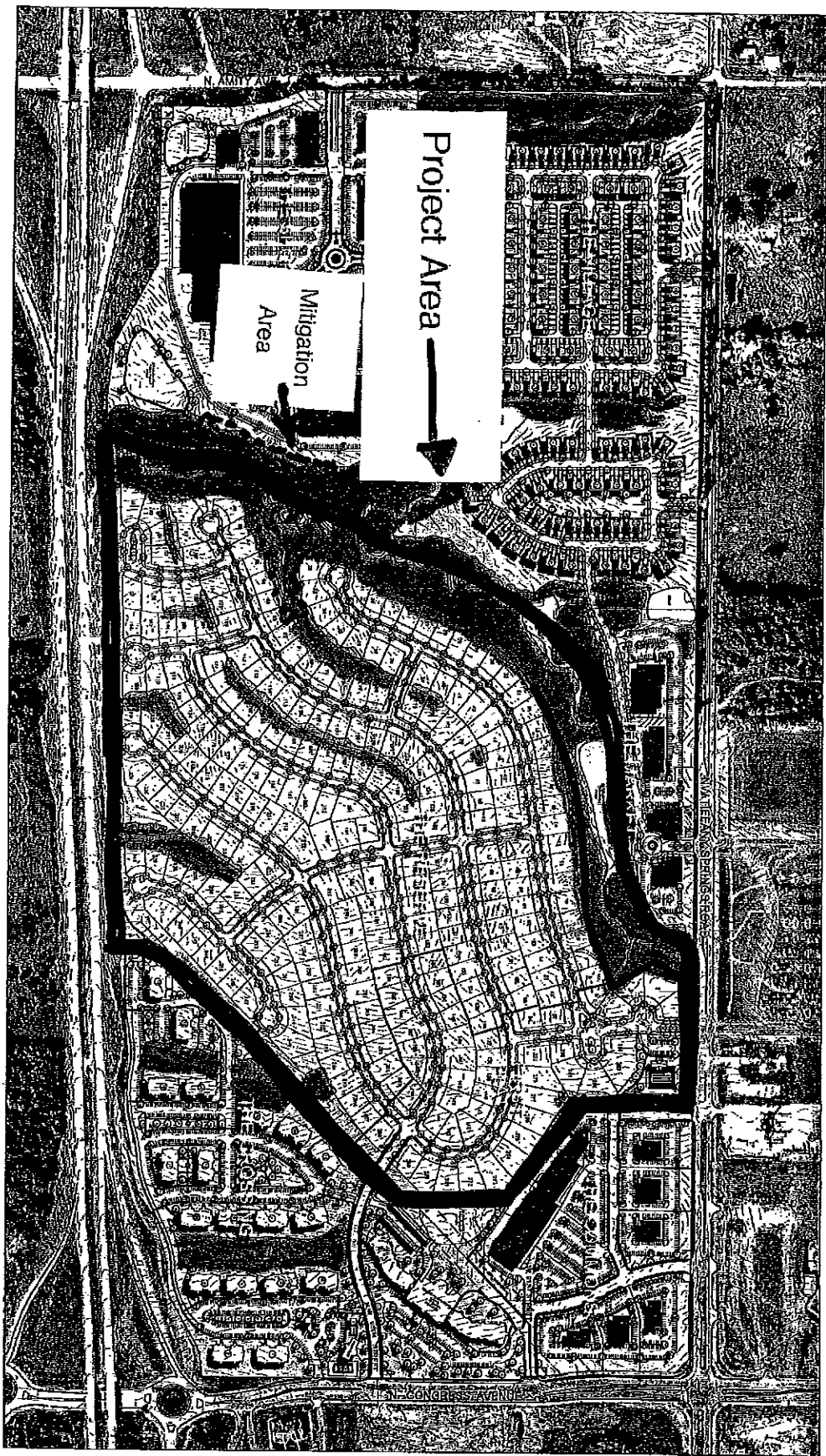


0 0.1 0.2 0.3 0.4 0.5 Miles



PERMIT NO. NWK-2007-765  
HUNT MIDWEST REAL ESTATE  
THE RESERVE RESIDENTIAL DEVELOPMENT  
PLATTE COUNTY, MISSOURI  
SHEET 1 OF 3, DATED 24 JULY 2007

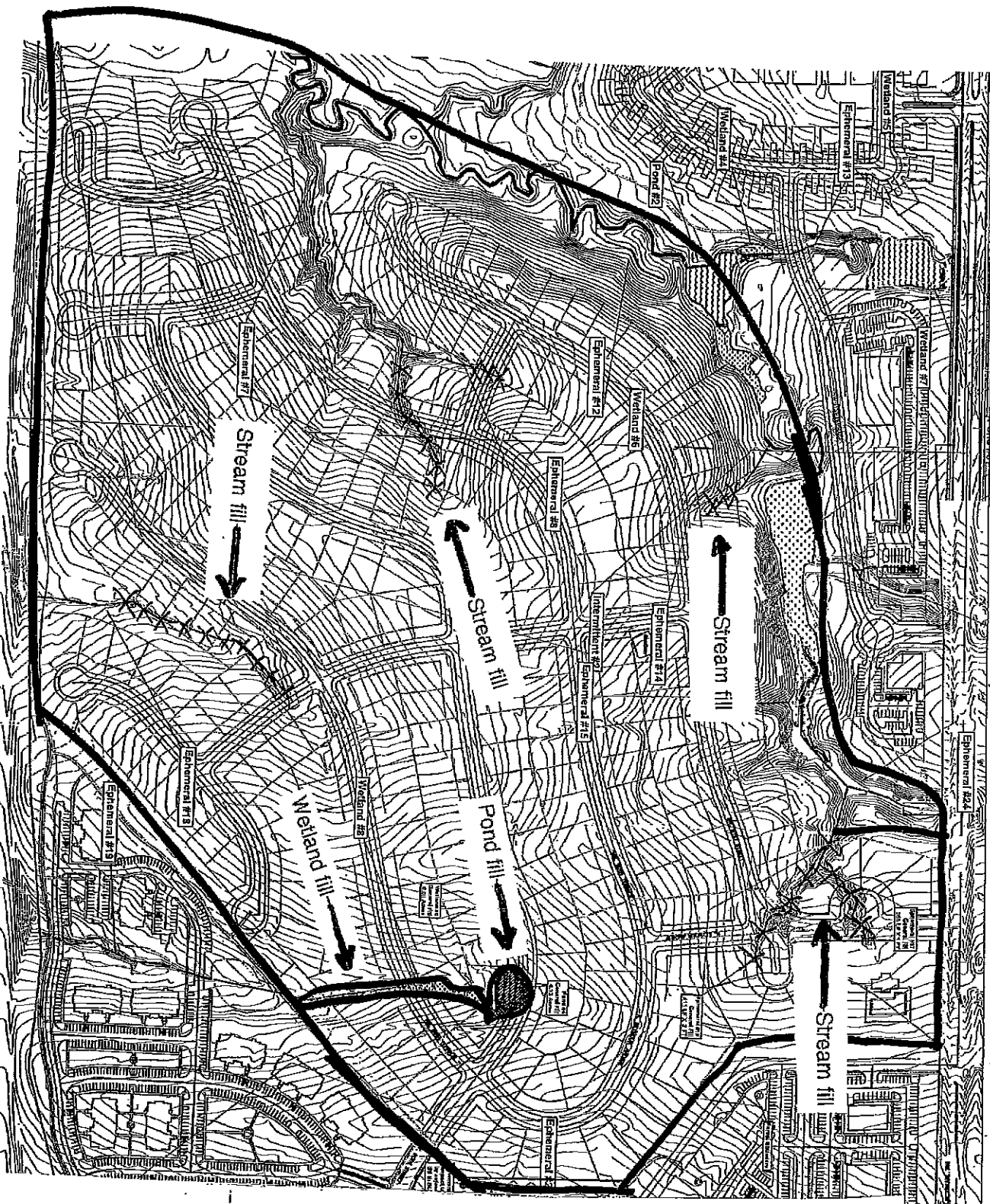




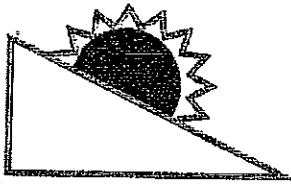
# RIVERSTONE

PROPOSED  
MASTER PLAN  
NOVEMBER 2006

PERMIT NO. NWK-2007-765  
HUNT MIDWEST REAL ESTATE  
THE RESERVE RESIDENTIAL DEVELOPMENT  
PLATTE COUNTY, MISSOURI  
SHEET 2 OF 3, DATED 24 JULY 2007



PERMIT NO. NWK-2007-765  
HUNT MIDWEST REAL ESTATE  
THE RESERVE RESIDENTIAL DEVELOPMENT  
PLATTE COUNTY, MISSOURI  
SHEET 3 OF 3, DATED 24 JULY 2007



# TERRA TECHNOLOGIES

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## MITIGATION PLAN Permit 2007-0765 (Hunt Midwest)

### BASELINE INFORMATION

#### Definition of Location, Type, Function of Impact Debit

Impact debit type and function are described for ephemeral and intermittent channels on an attached worksheet titled "Adverse Impact Factors for Riverine Systems Worksheet". The worksheet was developed by the Kansas City branch of the US Army Corps of Engineers (CE) in cooperation with the State of Missouri Department of Natural Resources Water Pollution Control Department (MDNR) and other state and federal agencies to quantify the type and function of tributaries impacted by the placement of fill at or below the ordinary high water mark.

The worksheet determines that nine thousand nine hundred and eighty eight (9,988) functional debits result from the proposed construction of The Reserves residential subdivision per the development plan included with Permit 2007-0765 (Individual 404 Permit Application).

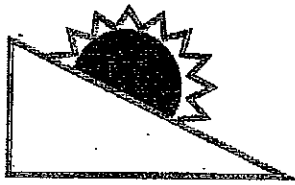
Additionally, the project proposed to impact 0.42 acres of a single jurisdictional wetland and 0.13 acres of jurisdictional other waters (open water pond).

Impacts are located in an upland setting on a tract of land currently in agricultural row crop production.

### GOALS OF THE MITIGATION

The mitigation goal of this project is three-fold;

- (1) Replace functions lost through the fill of upland ephemeral and intermittent tributaries resulting in the credit of nine thousand nine hundred and ninety four (9,994) credits as shown on the attached "Riparian Buffer Creation, Enhancement, Restoration, and Preservation Worksheet" developed by the CE and MDNR.
- (2) Replace functions lost through the fill of a single wetland.
- (3) Protect and preserve, through avoidance, the remainder of jurisdictional waters within and adjacent to the proposed development site.



# TERRA TECHNOLOGIES

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## **SITE SELECTION**

The mitigation area is adjacent to the primary intermittent stream channel and associated riparian corridor bordering the proposed residential development on the west and northern site extents. The intermittent channel exists with the highest function for terrestrial and aquatic habitat, and contributes significantly to water quality through the maintenance of grass and tree buffers between flood plain and upland agricultural fields. Although the site has not likely been managed for ecological health and diversity, a significant number of native hardwood overstory trees are present throughout the riparian corridor, and the adjacent flood plain appears undisturbed by agricultural practices, with the exception of abandoned agricultural ponds in upstream segments of the channel.

The practicability of this mitigation endeavor is ensured through the use of sound soil ecological principles and practices. No less than 12 species of native shrubs and vines are proposed for establishment from local sources of containerized plantings. Additionally, the herbaceous biodiversity of an existing undisturbed in-stream wetland will be enhanced through the planting of no less than 42 species of native grasses, sedges, bulrushes, rushes, and forbs to improve function and habitat value.

All improvements will occur on site, within the existing watershed. The proposed ecological enhancement will result in the enhancement of approximately 3.82 acres of riparian corridor and 1.15 acres of wetlands.

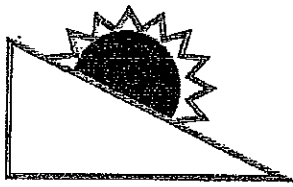
## **MITIGATION WORK PLAN**

Mitigation plan details are provided on sheets 1 titled "Mitigation Plan Senior Assisted Living/The Reserves" dated 6-29-07 and sheet 2 titled "Mitigation Details The Reserves Permit 2007-0765: dated 6-29-07 as developed by Terra Technologies Inc.

## **ECOLOGICALLY BASED SUCCESS CRITERIA**

Since the proposed improvements are engineered as ecological improvements to an existing naturalized area requiring little to no maintenance from the owner, no detailed management interaction is provided with this plan. The mitigation will be inspected annually to ensure the adequacy of survival for containerized plantings. A final report will document the mitigation success prior to filing of the Certificate of Completion required under 404 permit authorization.

Terra Technologies is retained by Hunt Midwest Real Estate Development Incorporated to provide construction oversight and long-term inspection of the project area. Any required maintenance tasks will be conducted under the supervision of Terra Technologies.



# TERRA TECHNOLOGIES

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## **SITE PROTECTION**

A conservation easement, proposed for assignment to the Midwest Mitigation Oversight Association, will be filed with the Recorder of Deeds at Platte County Missouri to provide independent verification that the site is preserved through perpetuity.

The Midwest Mitigation Oversight Association is a Missouri Limited Liability Company whose sole purpose is to hold conservation easements and provide independent verification of property use oversight per the specific details of the site specific conservation declaration approved by the Corps of Engineers.

## **CONTINGENCY PLAN**

Not applicable.

## **FINANCIAL ASSURANCES**

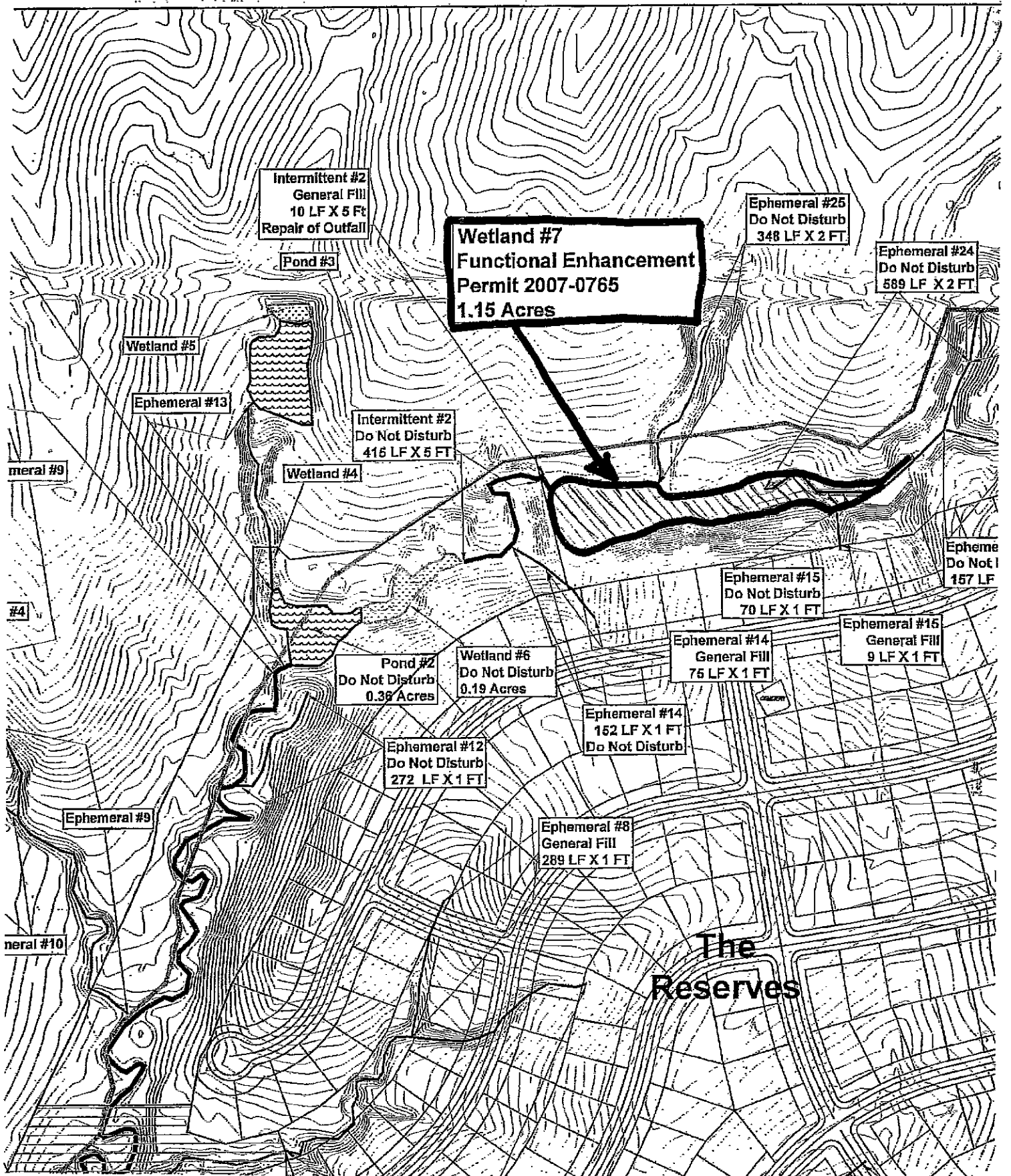
Contract documents require the general contractor to provide necessary bonding to ensure project completion and maintenance.

## **MITIGATION TYPES**

The proposed project represents the manipulation of physical, chemical, and biological characteristics of the site with the goal of improving natural/historic riparian and wetland functions. Mitigation types thus include wetland enhancement and riparian corridor enhancement.

Submitted by,  
**TERRA TECHNOLOGIES INC.**

David L. Flick  
Principal



**Wetland #7**  
**Functional Enhancement**  
**Permit 2007-0765**  
**1.15 Acres**

Intermittent #2  
General Fill  
10 LF X 5 Ft  
Repair of Outfall  
Pond #3

Ephemeral #25  
Do Not Disturb  
348 LF X 2 FT

Ephemeral #24  
Do Not Disturb  
589 LF X 2 FT

Wetland #5  
Ephemeral #13

Intermittent #2  
Do Not Disturb  
416 LF X 5 FT

Wetland #4

Pond #2  
Do Not Disturb  
0.38 Acres

Wetland #6  
Do Not Disturb  
0.19 Acres

Ephemeral #15  
Do Not Disturb  
70 LF X 1 FT

Ephemeral #15  
Do Not Disturb  
157 LF

Ephemeral #15  
General Fill  
9 LF X 1 FT

Ephemeral #14  
General Fill  
76 LF X 1 FT

Ephemeral #14  
152 LF X 1 FT  
Do Not Disturb

Ephemeral #12  
Do Not Disturb  
272 LF X 1 FT

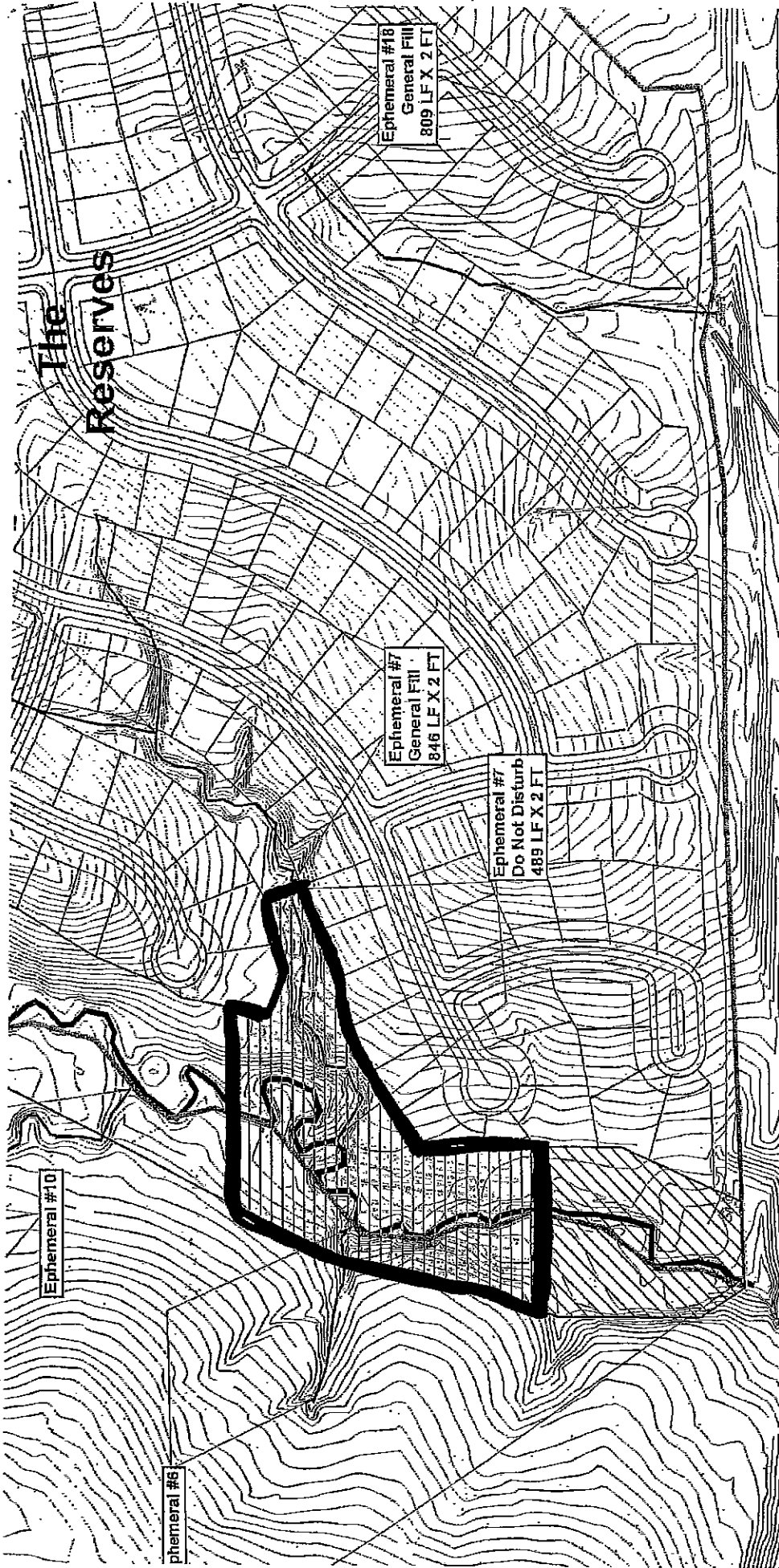
Ephemeral #8  
General Fill  
289 LF X 1 FT

Ephemeral #9

Ephemeral #10

The  
Reserves





Permit 2007-0765 Hunt Midwest  
3.82 Acres Riparian Enhancement (9,994 Credits)



Matt Blunt, Governor • Doyle Childers, Director

## DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

July 19, 2007

Hunt Midwest Real Estate Development, Inc.  
8300 NE Underground Drive  
Kansas City, MO 64161

Platte County  
PN07-765/CEK004303

Dear Sir or Madam:

The Missouri Department of Natural Resources' Water Protection Program has reviewed Public Notice No. PN07-765/CEK004303 in which the applicant proposes to develop the approximate 100-acre site for single-family residential housing including streets, utilities and associated facilities. The project as planned would impact a total of 20 linear feet of intermittent stream, 2,789 linear feet of ephemeral stream (0.12 acre), 0.13 acre of open water pond and 0.42 acre of wetland. The applicant proposes to mitigate within and adjacent to the project area for impacts to jurisdictional waters. Mitigation will consist of stream riparian buffer as well as wetland enhancement and preservation.

A total of approximately 0.42 acre of wetland associated with an open water farm pond and a vegetated drainage swale would be filled for development.

The project is located within Sections 1 and 2, Township 51 north, Range 34 west in Platte County, Missouri. The area is generally located between Amity and Congress Streets on the west and east respectively, and by Tiffany Springs Road on the north and Missouri Highway 152 on the south.

This office certifies that the proposed project will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in the Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

1. Storm water detention shall not be located in stream.
2. Stream crossing shall not be designed so they do not create drops/dams or create other impediments to fish passage.
3. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment and any solid waste shall not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. All precautions shall be taken to avoid the release of fuel to streams and other adjacent water bodies as a result from this project.



Hunt Midwest Real Estate Development, Inc. (2007-765/CEK004303)

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July 19, 2007

4. Only clean nonpolluting fill shall be used.
5. Clearing of vegetation/trees shall be the minimum necessary to accomplish the activity.
6. The following materials are not suitable for bank stabilization and shall not be used due to their potential to cause violations of the general criteria of the Water Quality Standards, 10 CSR 20-7.031 (A) - (H):
  - a. Earthen fill, gravel, broken concrete where the material does not meet the specifications outlined below, and fragmented asphalt, since these materials are usually not substantial enough to withstand erosive flows;
  - b. Concrete with exposed rebar;
  - c. Tires, vehicles or vehicle bodies, construction or demolition debris are solid waste and are excluded from placement in the waters of the state;
  - d. Liquid concrete, including grouted riprap, if not placed as part of an engineered structure; and
  - e. Any material containing chemical pollutants (for example: creosote or pentachlorophenol).

Recycled or broken concrete may be used provided that it is reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Applicants must break all large slabs to conform to the well-graded requirement. Generally, the maximum weight of any piece shall not be more than 500 pounds. Gravel and dirt shall not exceed 15% of the total fill volume. All protruding reinforcement rods, trash, asphalt and other extraneous materials must be removed from the broken concrete prior to placement.

Recycled or broken concrete being used simply as fill need not conform to the well-graded requirement. It shall, however, be free of extraneous materials and shall be placed to eliminate voids within the fill.

7. Streambed gradient shall not be permanently altered during project construction.
8. Mitigation shall be in accordance with the mitigation plan submitted by Terra Technologies on July 5, 2007. The mitigation area shall be protected by a conservation restriction. The restriction covering this tract must be recorded and filed as a conservation easement. Copies of purchase documents and protective covenants shall be provided to the Missouri Department of Natural Resources, Water Protection Program, NPDES Permits and Engineering Section, ATTN: Ms. Shannon Slater, P.O. Box 176, Jefferson City, MO 65102-0176; and to Army Corps of Engineers, Kansas City District, Mr. Brian T. Donahue, 700 Federal Building, Kansas City, MO 64106-2896.

Hunt Midwest Real Estate Development, Inc. (2007-765/CEK004303)

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July 19, 2007

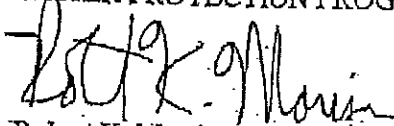
Pursuant to Chapter 644.052.9, RSMo, commonly referred to as the Missouri Clean Water Law, this 401 Water Quality Certification shall be valid only upon payment of a fee of seventy-five dollars (\$75.00). The enclosed invoice mailed to Mr. David L. Flick, Terra Technologies, Inc., contains the necessary information on how to submit your fee. Payment must be received within ten (10) days of receipt of this certification. Upon receipt of the fee, a copy of the certification will be mailed to the applicable office of the Corps of Engineers to inform them the certification is now in effect and final.

You may appeal to have the matter heard by the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty (30) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.

Water Quality Standards must be during any operations authorized by these permits. If you have any questions, please contact Ms. Slater at (573) 526-1535, e-mail [shannon.slater@dnr.mo.gov](mailto:shannon.slater@dnr.mo.gov), or at the above referenced address.

Sincerely,

WATER PROTECTION PROGRAM



Robert K. Morrison, P.E., Chief  
Water Pollution Control Branch

RKM:ssp

Enclosure

- c: Mr. Brian T. Donahue, Army Corps of Engineers, Kansas City District
- Mr. David L. Flick, Terra Technologies, Inc.
- Ms. Gail Wilson, Terra Technologies, Inc.
- DNR - KCRO

## DEPARTMENT OF THE ARMY PERMIT

Permittee Hunt Midwest Real Estate Development, Inc.

Permit No. NWK-2007-765

Issuing Office U.S. Army Engineer District, Kansas City

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 of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below, and with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Project Description: This permit authorizes the placement of fill material within a 0.13 acre pond, 0.42 acres of wetland, 20 linear feet of intermittent stream channel and 2,789 linear feet of ephemeral stream channel for commercial and residential development of an unimproved 320 acre site within Kansas City, Missouri.

Permit Drawing(s): Location map, plan view Sheets 3 of 3, dated, 24 July 2007

Project Location: In Sections 1 and 2, Township 51 North, Range 34 West, Platte County, Missouri

(Lat: 39.2578, Long: -94.6750)

### Permit Conditions:

#### General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2009. 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 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 of 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 in accordance with the terms and conditions of your permit.

Special Conditions:

See continuation sheets, pages 4 and 5, of this document.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - ☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
  - ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).
  - ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorization 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 on 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 measures 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 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.

\_\_\_\_\_  
(PERMITTEE)

\_\_\_\_\_  
(DATE)

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

\_\_\_\_\_  
(DISTRICT ENGINEER)  
ROGER A. WILSON, JR., COLONEL

\_\_\_\_\_  
(DATE)

BY: Mark D. Frazier  
Regulatory Program Manager  
Regulatory Branch, Operations Division

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) 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:**

- a. You must sign and return a "Compliance Certification" after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and specific conditions, and that any required mitigation was completed in accordance with the permit conditions.
- b. You must enhance and protect from further disturbance a total of 1.15 acres of wetland and a 3.82-acre riparian area alongside 1685 linear feet of a tributary of Rush Creek as indicated and described in the mitigation plan and shown on the map attached to this permit.
- c. A conservation easement or deed restriction must be submitted and approved by the Corps of Engineers for the protection and preservation of the mitigation area prior to performing work within waters of the U.S. on the project site. All mitigation work must be accomplished in accordance with Regulatory Guidance Letter 02-02 dated 26 December 2002, Regulatory Guidance Letter(RGL) 06-03 dated 19 September 2006 and the mitigation details submitted for this work, dated April 2006 and attached to this permit. The applicant and/or his authorized agent shall be responsible for meeting the success criteria of the mitigation plan and submitting an annual report for a period of five years or until these criteria have been met and the mitigation work deemed fully successful by this office.
- d. If any part of the authorized work is performed by a contractor, before starting work you must discuss the terms and conditions of this permit with the contractor; and, you must give a copy of this entire permit to the contractor.
- e. You must use clean, uncontaminated materials for fill in order to minimize excessive turbidity by leaching of fines, as well as to preclude the entrance of deleterious and/or toxic materials into the waters of the United States by natural runoff or by leaching.
- f. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a nonwetland area above the ordinary high water mark and at a location where the concrete and wash water cannot enter the water body or an adjacent wetland area.
- g. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- h. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body.
- i. You must not dispose of any construction debris or waste materials below the ordinary high water mark of any water body, in a wetland area, or at any location where the materials could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.
- j. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.

k. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or unvegetated condition.

l. Upon completion of earthwork operations, you must seed, replant or otherwise protect from erosion all fills in the water or on shore, and other areas on shore disturbed during construction. If seeding does not successfully vegetate the disturbed areas by the end of the first growing season, you must implement alternate measures to protect the disturbed areas from further erosion. You must contact the Kansas City District, Regulatory Branch prior to beginning work on any additional erosion control measures so that a determination can be made whether further authorization is required.

m. You must take the actions required to record this permit with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property. You must furnish a copy of the recorded instrument, with the recorder's stamp, to the Kansas City District within 2 months from the date of this permit.

n. You must use only graded rock and/or quarry-run rock for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume.