



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

May 9, 2008

REPLY TO
ATTENTION OF:

Regulatory Branch
(200600202)

Mr. David Flick
Terra Technologies
8680 West 96th
Overland Park, Kansas 66212

Dear Mr. Flick:

This is in response to your January 8, 2008, letter of request for a modification of Department of the Army (DA) permit No. 200600202. The request for transfer of the permit for the Lakeshore Meadows residential development on behalf of Kansas Land Development, LLC, has been reviewed in accordance with Federal regulation 33 CFR 325.7.

Therefore, in accordance with your request, DA Permit Number 200600202 is hereby transferred from Heritage Development, Inc. to Kansas Land Development, LLC. This is a legal document. We request that you attach this letter to your copy of both permits. If you do not agree that the conditions of this modification are acceptable and correct, you must notify the District Engineer within 10 days of the date of this letter or be legally bound by the terms and conditions thereof.

If you have any questions concerning the permit transfer authorized by this letter, please feel free to write me or call Brian T. Donahue at 816-389-3703 (FAX 816-389-2032).

Sincerely,

Roger A. Wilson, Jr.
Colonel, Corps of Engineers
District Commander

A handwritten signature in black ink, appearing to read "M. D. Frazier".

By: Mark D. Frazier
Chief, Regulatory Branch
Operations Division

Enclosure

DEPARTMENT OF THE ARMY PERMIT

Permittee Heritage Development of Kansas, Inc.

Permit No. 200600202

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: Discharge fill material for a residential development known as Lakeshore Meadows. Grading and fill activities will impact an estimated 2,163 linear feet of ephemeral stream channel (0.12 acre), 0.83 acre of open water pond at two pond locations and 0.37 acre of associated wetland. Two roadway crossings and a detention basin will be built within the main ephemeral drainage channel through the project site. Additional work will result in temporary impacts associated with sewer and other utility crossings.

Permit Drawing(s): Location map, plan view, Sheets 4 of 4, dated 02 May 2006

Project Location: In tributaries and adjacent wetlands of Cedar Creek located in Section 32, Township 13 south, Range 23 east, Johnson County, Kansas

(let:38-52-25.1040 let:94-52-43.1040)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2008. 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 sheet(s), page(s) 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).

(X) 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.

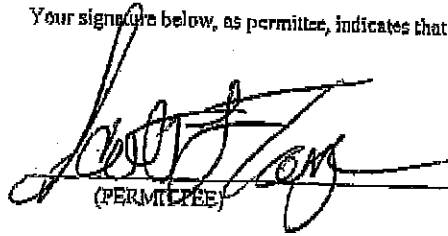
d. Design or construction deficiencies associated with the permitted work.

- 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)

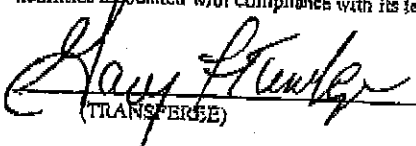
6-8-08
(DATE)

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


(DISTRICT ENGINEER)
MICHAEL A. ROSSI, COLONEL
BY: Mark D. Frazier
 Regulatory Program Manager
Regulatory Branch, Operations Division

6/28/06
(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)

5/5/08
(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 create 1.2 acres of wetland and 0.61 acres of riparian habitat within the project site in accordance with Corps of Engineers Regulatory Guidance Letter 02-2, dated December 24, 2002, as described below and as shown on Sheets 3 and 4 of the mitigation plan attached to this permit.

Mitigation Requirements: You are required to mitigate for the loss of aquatic resources associated with the permitted work by constructing an emergent palustrine wetland around the constructed detention basin located on the east side of the development as shown on Sheet 3 of this permit. You must restore an approximate 260 foot length of stream channel and restore at least .61 acres of riparian buffer along ephemeral tributary 1 at the location of a former impoundment indicated on Sheet 2 of this permit as Pond 3. The riparian area must at least 100 feet in width as measured from the center of the stream channel and approximately 260 feet in length.

Maintenance: You are required to maintain the riparian corridor as a natural preservation corridor. No work of any type is allowed in this area. This includes but is not limited to, mowing, spraying, cutting, and/or farming.

Completion: The riparian and wetland plantings component of the mitigation plan must be started no later than 60 days and completed no later than 120 days after work begins in waters of the United States.

Monitoring: You must submit a mitigation monitoring report annually for a period of three years. Monitoring requirements will be complete when three consecutive years achieve success. Please submit an initial completion report with photos showing the completed mitigation no later than three months after completion of the mitigation plan. The monitoring reports must include a biological survey of planted species.

Success: Success will be achieved after three years of monitoring with 75% success rate of planted riparian and wetland species and acreages on the site. Additional plantings will be required if the success rate falls below 75%. If success criteria has been achieved for a period of three consecutive years, no additional monitoring reports will be required.

- c. 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.
- d. 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.
- e. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a non-wetland 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.

- f. 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.
- g. 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.
- h. 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.
- i. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- j. 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.
- k. 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, such as placing riprap, slope terracing with untreated railroad ties, gabions or concrete blocks, or additional vegetative plantings, 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.
- l. 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.
- m. You must use only graded rock, quarry-run rock and/or clean concrete rubble 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. If you use concrete rubble, you must break all large slabs to conform to the well graded requirement, and remove all exposed reinforcement rods, trash, asphalt, and other extraneous materials before you place the rubble in the water of the United States.

Regulatory Branch