



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

September 3, 2008

REPLY TO  
ATTENTION OF:

Regulatory Branch  
(NWK-2007-123)  
(Johnson, KS, NW 42)

Mr. Matt Kapfer  
Payne and Brockway, P.A.  
426 South Kansas Ave  
Olathe, Kansas 66061

Dear Mr. Kapfer:

This is in response to an application received on behalf of Darol Rodrock for a Department of the Army (DA) permit. The proposed work concerns construction of a pond referred to in your application as East Rodrock Lake involving the placement of fill material within a tributary of Wolf Creek. The project is located in Section 11, Township 15 South, Range 24 East, Johnson County, Kansas.

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. An approved jurisdictional determination was previously provided for the tributary reach associated with the project site.

We have reviewed the information furnished and have determined that your project is authorized by nationwide permit (NWP) 42 provided you ensure that the conditions listed in the enclosed copy of excerpts from the March 12, 2007 Federal Register, Issuance of Nationwide Permits, as corrected, 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>.

The Kansas Department of Health and Environment (KDHE) has certified that this NWP will not violate existing state water quality standards provided you comply with the conditions included in their attached letter. All conditions included in the water quality certification become conditions of the NWP authorization, please carefully review all conditions associated with this NWP. If you have any questions concerning state water quality standards or compliance issues with the associated certification conditions, please contact KDHE at 785-296-5573, Bureau of Water – NPS Section, 1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367.

**General condition 26** requires you to sign and submit the enclosed "Compliance

Certification" upon completion of the authorized work and any required mitigation.

This NWP verification is valid for two years from the date of this letter. Should your project plans change or if your activity is not complete within the specified verification term, you must contact this office for another permit determination.

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

The mitigation plan submitted by Terra Technologies per letter dated August 25, 2008 for the impact of the project upon jurisdictional tributary channel within the project area must be carried out as proposed in the mitigation plan documents. The stream impacts assessed for the project equaled 2,480 debits that will be mitigated by stream channel restoration, riparian corridor and wetland work equivalent to 2,484 credits at a 3<sup>rd</sup> party mitigation site owned by Habitat Missouri, LLC on a tributary of Coffee Creek. A conservation easement provided to MMOA for this mitigation area will provide for protection of the site. A copy of this easement must be provided to this office within 90 days of any work within jurisdictional waters of the U.S. at the project site.

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

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. Brian T. Donahue, Regulatory Specialist, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Mr. Donahue at 816-389-3703 (FAX 816-389-2032). Please reference Permit No. 2007-123 in all comments and/or inquiries relating to this project.

Enclosures

Copies Furnished:

Terra Technologies, Inc.

Kansas Department of Wildlife  
and Parks wo/enclosures  
U.S. Fish and Wildlife Service,  
Manhattan, Kansas wo/enclosures  
Kansas Department of Agriculture  
wo/enclosures



## COMPLIANCE CERTIFICATION

General condition 14 of this Nationwide Permit requires that you submit a signed certification regarding the completed work and any required mitigation. This certification page satisfies this condition if it is provided to the Kansas City District at the address shown at the bottom of this page upon completion of the project.

**APPLICATION NUMBER:** 2007-123

**APPLICANT:** Darol Rodrock

**PROJECT LOCATION:** Section 11, Township 15 South, Range 24 East, Johnson County, Kansas.

a. I certify that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions.

b. I certify that the mitigation was completed in accordance with the permit conditions.

c. Your signature below, as permittee, indicates that you have completed the authorized project as certified in paragraphs a and b above.

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

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

Return this certification to:

U.S. Army Corps of Engineers  
ATTN: CENWK-OD-R  
601 East 12th Street Room 706  
Kansas City, MO 64106-2896