

November 16, 2005

Regulatory Branch  
(200502054)  
(Johnson, KS, NW 39)

Mr. David Flick  
Horticulturist  
Terra Technologies  
8680 West 96th, Suite 100  
Overland Park, Kansas 66212

Dear Mr. Flick:

This is in response to your application and subsequent supporting information and plans previously received for a Department of the Army (DA) permit concerning the Prairie Center commercial development. The project is located in Section 33, Township 13 south, Range 23 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.

The enclosed Jurisdictional Determination (JD) form describes the extent of waters of the United States on the project site. Also, the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal form (FORM) describes your options in Section D of the FORM. If you choose to appeal, and you have new information concerning the elevation of the OHWM, you should complete Section II of the FORM and return the FORM to this office. If you choose to appeal, but have no new information, please submit the completed FORM directly to **U.S. Army Corps of Engineers, Commander, Northwestern Division (ATTN: CENWD-CM-OR), 12565 West Center Road, Omaha, NE 68144-3869.**

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 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 verification and in consideration of waiving the normal 300-foot stream length impact limit applicable to this Nationwide Permit, the following special conditions apply to this action:

- a. The description of work and methods to mitigate the impacts of the proposed development must be implemented and completed as shown and stated in the attached mitigation plan dated October 2005.
- b. An annual monitoring report of the mitigation site must be submitted for a period of 5 years or until conditions at the site are deemed fully successful by the Corps of Engineers. A notice of the proposed annual inspection date and time must be submitted 2 weeks in advance to allow attendance by personnel from this office.
- c. A total of 2,631 linear feet of ephemeral stream channel, 2,957 linear feet of intermittent stream channel and 3.3 wetland acres located within the project area must be protected and maintained by deed restriction or permanent conservation easement. (Exhibit 1) A signed copy of this agreement must be submitted within 2 months of the date of this letter.
- d. A map showing the text, number and placement of signs used to identify the location of the mitigation site and areas protected by conservation easement must be submitted to this office prior to the first inspection of these sites.
- e. The release of stormwater from the embankment and detention structure constructed on intermittent tributary #2 must be temporary (except for constructed wetland pockets) and in accordance with the figures shown on page 2 of the mitigation plan.
- f. A total of 0.12 acres of stream fill and 0.21 acres of wetland fill is authorized under this permit verification.

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. 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.

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 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 816-983-3703 (FAX 816-426-2321). Please reference Permit No. 200502054 in all comments and/or inquiries relating to this project.

Enclosures

Copies Furnished:

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:** 200502054

**APPLICANT:** Prairie Center Development, LLC  
122 North Water Street  
Olathe, KS 66061

**PROJECT LOCATION:** Prairie Center commercial/residential development in Section 33, Township 13 south, Range 23 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 any required 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 (200502054)  
601 East 12th Street Room 706  
Kansas City, MO 64106-2896