



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

REPLY TO
ATTENTION OF:

December 4, 2006

Regulatory Branch
(200502253)

Mr. Matthew M. Adam
Mills Farm Development, LLC
8101 College Boulevard, Suite 202
Overland Park, Kansas 66210

Dear Mr. Adam:

Permit No. 200502253 has been executed. One copy is enclosed for your records and one copy has been retained for our files.

Special condition "a" of the permit requires you to sign and return the enclosed "Compliance Certification" upon completion of the authorized work and any required mitigation.

Sincerely,

A handwritten signature in black ink, appearing to read "M. D. Frazier", is written over a horizontal line.

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

Enclosures

Copies Furnished:

Mr. Christopher Thomas
Adaptive Ecosystems Inc.
801 Main Street, Suite 103
Grandview, Missouri 64030 w/enclosures

Environmental Protection Agency,
Water Resources Protection Branch w/enclosures
U.S. Fish and Wildlife Service,
Manhattan, Kansas w/enclosures

Copies Furnished: (cont.)

Kansas Department of Health and
Environment w/enclosures

Kansas Department of Wildlife and Parks
w/enclosures

Kansas Department of Agriculture
w/enclosures

DEPARTMENT OF THE ARMY PERMIT

Permittee Milis Farm Development LLC

Permit No. 200502253

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 filling of .09 acres of jurisdictional wetland and 2155 linear feet of stream channel associated with the construction of a residential housing development known as Mills Farm Development. Approximately 304 linear feet of intermittent stream channel will be filled for road crossings, 974 feet of intermittent stream channel for the construction of two open water impoundments and site grading impacts to an additional 165 linear feet of intermittent stream channel. Other work on the site associated with site grading and development would fill 712 linear feet of ephemeral stream channel and a 0.09 acre emergent wetland. Mitigation for impacts to waters of the U.S. will be accomplished through on-site construction, maintenance and preservation of wetland and riparian habitat.

Permit Drawing(s): Location map, plan view, Sheets 1 through 2, dated October 23, 2006

Project Location: In tributaries of Coffee Creek located in Section 14, Township 14 south, Range 24 east, Johnson County, Kansas

(lat:38-49-59.5200 lon:94-43-9.1920)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2010. 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).

(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.

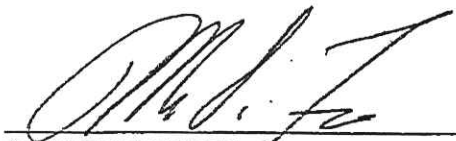
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable 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)

11/21/06
(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

DEC 4 2006

(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:

- OCTOBER 31ST
- 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. The applicant must create and preserve a minimum of 6 acres of riparian stream corridor habitat along a portion an intermittent tributary of Coffee Creek. This work shall include the planting of native grass/forbs and establishment of native hardwood trees. All work shall be carried out in accordance with the attached mitigation plan and map (Exhibit 1).
 - c. The applicant must protect and preserve a minimum of 16.9 acres of riparian stream corridor habitat along a portion of two intermittent tributaries of Coffee Creek. These areas shall include 4 parcels of land of varying size and must not be disturbed or altered during construction activities with the exception of prior approved work. All work shall be carried out in accordance with the attached mitigation plan and map (Exhibit 1).
 - d. The applicant must create and preserve an emergent palustrine herbaceous wetland a minimum of 0.15 acres in size within the project area. All work shall be carried out in accordance with the attached mitigation plan and map (Exhibit 1).
 - e. 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 Exhibit 1. 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 the success criteria have been met and the mitigation work deemed fully successful by this office.
 - f. The applicant must preserve by means of permanent conservation easement or other approved method, all acreage described as mitigation sites in Exhibit 1. The easement shall be granted for the purpose of maintaining the area in the present condition and free from further unauthorized development. The conservation areas subject to restricted use shall be located within and along both sides of tributaries to Coffee Creek. A draft copy of the proposed easement description must be submitted for approval by this office prior to recording 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 final recorded instrument, with the recorder's stamp, to the Kansas City District within 2 months from the date of this permit.
 - g. 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.
 - h. 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.

- i. 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.
- j. 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.
- k. 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.
- l. 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.
- m. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- n. 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.
- o. 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.
- p. You must use only graded rock, 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.