



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT
601 E. 12TH STREET, 635 FEDERAL BUILDING
KANSAS CITY, MO 64106-2824

January 4, 2024

Regulatory Branch
(NWK-2014-00945)
Jackson, MO NWP 29

Mr. Josh Wilhelm
Snyder and Associates, Inc.
900 Bell Drive SW
Cedar Rapids, IA 52404

Dear Mr. Wilhelm:

This letter is in response to your recent request submitted on behalf of Whispering Woods Land, LLC, for a Department of the Army permit. It was received on November 6, 2023. The proposed work concerns a residential development within an approximate 2-acre area of a larger project site which will involve the placement of fill material within Mouse Creek and an adjacent wetland. The project is located in Section 24, Township 47 north, Range 32 west, Jackson County, Missouri.

This letter contains an approved jurisdictional determination for your project site. This jurisdictional determination is valid for a 5-year period from the date of this letter unless new information warrants revision of the determination before the expiration date. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Administrative Appeal Options and Process and Request for Appeal (NAO-RFA) form. If you request to appeal this determination, you must submit a completed NAO-RFA form to the Northwestern Division Office at the following address:

Division Engineer
U.S. Army Corps of Engineers, Northwestern Division
ATTN: Susan L. Baker, Regulatory Appeals Review Officer
1201 NE Lloyd Blvd., Suite 400
Portland, OR 97232
Telephone: 716-578-9127

In order for an NAO-RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAO-RFA. Should you decide to submit an NAO-RFA form, it must be received at the above address by March 4, 2024. It is not necessary to submit an NAO-RFA form to the Division Office if you do not object to the determination in this letter.

In the event that you disagree with an approved jurisdictional determination, and you have **new information** not considered in the original determination, you may request reconsideration of that determination by the Corps District prior to initiating an appeal. To request this reconsideration based upon new information, you must submit the completed NAO-RFA form and the new information to the District Office so that it is received within 60 days of the date of the NAO-RFA. Send approved jurisdictional determination reconsideration requests to:

District Commander
U.S. Army Engineer District, Kansas City
ATTN: David R. Hibbs, Chief, Regulatory Branch
601 East 12th Street, Suite 402
Kansas City, MO 64106-2824
Telephone: 816-389-3990

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 320-332.

We have reviewed the information furnished and have determined that your project is authorized by nationwide permit **(NWP) 29, Residential Developments**, provided you ensure that the conditions listed in the enclosed copy of excerpts from the January 13, 2021, U.S. Army Corps of Engineers (Corps) (86 FR 2744 and the correction at 86 FR 27274), Reissuance and Modification of Nationwide Permits, are met. You must also comply with the Kansas City District Regional NWP Conditions posted at: <http://www.nwk.usace.army.mil/Missions/RegulatoryBranch/NationWidePermits.aspx>.

In addition to the general and regional conditions of this NWP, a special condition has been added in order to replace the lost aquatic resources that result from the authorized project.

The applicant must purchase 0.18 wetland acres or 1.35 wetland credits; and 4,387 stream credits from an approved mitigation provider within this service area. At this time, credits may be obtained only from the ESS Green, Blackwater-Lamine Umbrella Bank and the Swallowtail LLC-Blackwater-Lamine Umbrella Bank. Credit availability is subject to market change; therefore, you must contact this office to verify credit availability prior to completing the transaction. The purchase of the compensatory mitigation must be completed prior to the commencement of work within our regulatory jurisdiction.

You must notify the project proponent that they must submit a receipt of payment from the mitigation sponsor that includes the amount of credits purchased and the date of credit purchase. Receipts submitted by authorized agents will not be accepted. For further information regarding the purchase of wetland and stream credits to offset the impact of the proposed project, please contact Mr. Eric Mann with ESS GREEN 1, LLC at 816-221-3500 or by email at eric.mann@emerysapp.com or Mr. Shane Staten with Swallow Tail LLC at 314-984-0050 or by email at sstaten@swallowtailenvironmental.com.

Please be aware that the endangered Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*) and northern long-eared bat (*Myotis septentrionalis*) may be present within your project area. To “not adversely affect” these listed species, you must not cut trees during the bats’ active season, April 1 – October 31, during any year this permit verification remains valid. If implementation of the seasonal tree cutting restriction is not possible, please contact the Corps of Engineers, Regulatory Branch, for further consultation with the United States Fish and Wildlife Service.

The Missouri Department of Natural Resources has certified that this NWP will not violate existing state water quality standards provided you comply with the conditions included in the attached Missouri Section 401 Water Quality Certification (WQC) document. All conditions included in the WQC are conditions of the NWP authorization. Please review all conditions associated with this NWP. Per 40 CFR Part 121.11(c) the Corps is responsible for enforcing WQC conditions that are incorporated into this permit verification. If you

have any questions concerning state WQC standards or compliance issues with the associated certification conditions, please contact the project manager at the phone number and/or email provided below.

General condition 30 requires you to sign and submit the enclosed "Compliance Certification" within 30 days of completing the authorized activity or the completion of the implementation of any required compensatory mitigation.

This NWP verification is valid until March 14, 2026. Should your project plans change or if your activity is not complete within this specified verification term, you must contact this office for another permit determination. Although the Corps has verified your project would meet the terms and conditions of a nationwide permit, other Federal, state and/or local permits may be required. You should verify this yourself.

The delineation included herein has been conducted to identify the location and extent of the aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of an NRCS Certified Wetland Determination with the local USDA service center, prior to starting work.

We are interested in your thoughts and opinions concerning your experience with the Kansas City District, Corps of Engineers Regulatory Program. Please feel free to complete our Customer Service Survey form on our website at: <https://regulatory.ops.usace.army.mil/customer-service-survey/>. You may also call and request a paper copy of the survey which you may complete and return to us by mail.

Mr. Brian Donahue, Project Manager, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact him at 816-389-3703 or by email at brian.t.donahue@usace.army.mil. Please reference Permit No. NWK-2014-00945 in all comments and/or inquiries relating to this project. This letter is only being provided to you electronically at: jwilhelm@snyder-associates.com.

Enclosures

cc (electronically w/o enclosures):

Environmental Protection Agency,
Watershed and Grants Branch
U.S. Fish and Wildlife Service, Columbia, Missouri
Missouri Department of Natural Resources,
Water Protection Program
State Historic Preservation Office
Missouri Department of Conservation

COMPLIANCE CERTIFICATION

General condition 30 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 within 30 days of completing the authorized activity or the completion of the implementation of any required compensatory mitigation.

APPLICATION NUMBER: NWK-2014-00945

APPLICANT: Whispering Woods Land, LLC
803 PCA Road
Warrensburg, MO 64093

PROJECT LOCATION: In waters of Mouse Creek and adjacent wetlands located within. Section 24, Township 47 north, Range 32 west, Jackson County, Missouri.

- 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
Kansas City District, ODR
601 East 12th Street, Suite 402
Kansas City, MO 64106-2824
Email: Regulatory.KansasCity@usace.army.mil