

REQUEST FOR LEGISLATIVE ACTION

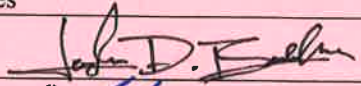
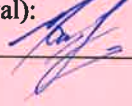
Completed by County Counselor's Office:

Res/Ord No.: 19750

Sponsor(s): Dennis Waits

Date: February 26, 2018

SUBJECT	<p>Action Requested <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance</p> <p>Project/Title: <u>Transferring \$94,150 within the Special Road and Bridge Fund and Authorizing the purchase of Wetland and Stream Mitigation Credits for the first phase of construction of the Rock Island Corridor Shared Use Plan from Swallow Tail LLC c/o Terra Technologies of Overland Park, Kansas in the amount of \$94,150 as a Sole Source Purchase.</u></p>														
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1"> <tr> <td>Amount authorized by this legislation this fiscal year:</td><td>\$94,150</td></tr> <tr> <td>Amount previously authorized this fiscal year:</td><td></td></tr> <tr> <td>Total amount authorized after this legislative action:</td><td>\$94,150</td></tr> <tr> <td>Amount budgeted for this item * (including transfers):</td><td>\$94,150</td></tr> <tr> <td>Source of funding (name of fund) and account code number:</td><td></td></tr> <tr> <td>TRANSFER FROM: 004-3601-56570 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Maintenance and Repair – Miscellaneous</td><td>\$94,150</td></tr> <tr> <td>TRANSFER TO: 004-3601-56790 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Other Contractual Services</td><td>\$94,150</td></tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: _____ Estimated Use: _____</p> <p>Prior Year Budget (if applicable): _____ Prior Year Actual Amount Spent (if applicable): _____</p>	Amount authorized by this legislation this fiscal year:	\$94,150	Amount previously authorized this fiscal year:		Total amount authorized after this legislative action:	\$94,150	Amount budgeted for this item * (including transfers):	\$94,150	Source of funding (name of fund) and account code number:		TRANSFER FROM: 004-3601-56570 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Maintenance and Repair – Miscellaneous	\$94,150	TRANSFER TO: 004-3601-56790 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Other Contractual Services	\$94,150
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PRIOR LEGISLATION	<p>Prior ordinances and (date): _____ Prior resolutions and (date): _____</p>														
CONTACT INFORMATION	<p>RLA drafted by (name, title, & phone): Barbara Casamento, Purchasing Administrator, 881-3253</p>														
REQUEST SUMMARY	<p>In order to proceed with construction of the first phase of the Rock Island Corridor Shared Use Path, Jackson County, Missouri is required by the United States Army Corps of Engineers (USACE) to purchase credits to mitigate wetland and stream areas that are being disturbed. The credits will be used by the USACE to replace the wetland and stream habitats in another area. Alternates to disturbing the wetland and stream areas were evaluated and the cost of avoiding these areas greatly exceeds the cost of mitigation credits.</p> <p>Pursuant to Section 1030.1 of the Jackson County Code, the Director of Finance and Purchasing recommends the purchase of Wetland and Stream Mitigation Credits from Swallow Tail LLC c/o Terra Technologies of Overland Park, Kansas as a Sole Source. Research has indicated they are the only USACE approved supplier of both Wetland and Stream Mitigation Credits in this area.</p> <p>The Director of Finance and Purchasing also requests that the following transfer be made:</p> <table> <tr> <td>004-3601-56570 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Maintenance and Repair – Miscellaneous</td> <td>FROM: \$94,150</td> <td>TO:</td> </tr> <tr> <td>004-3601-56790 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Other Contractual Services</td> <td></td> <td>\$94,150</td> </tr> </table>	004-3601-56570 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Maintenance and Repair – Miscellaneous	FROM: \$94,150	TO:	004-3601-56790 Special Road and Bridge Fund, Rock Island Rail Corridor Authority, Other Contractual Services		\$94,150								
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CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) N/A <input type="checkbox"/> Business License Verified (Purchasing & Department) N/A <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office) N/A	
COMPLIANCE	<input type="checkbox"/> MBE Goals - N/A <input type="checkbox"/> WBE Goals - N/A <input type="checkbox"/> VBE Goals - N/A	
ATTACHMENTS	Memorandum from Josh Boehm of the Rock Island Rail Corridor Authority; a letter from the United States Army Corps of Engineers, the Missouri Department of Natural Resources and the Quote from Swallow Tail LLC c/o Terra Technologies	
REVIEW	Department Director: 	Date: 2/15/2013
	Finance (Budget Approval): If applicable 	Date: 2/15/18
	Division Manager:	Date:
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- ☐ This expenditure was included in the annual budget.
- ☐ Funds for this were encumbered from the _____ Fund in ____.
- ☒ There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- ☐ Funds sufficient for this expenditure will be/were appropriated by Ordinance #
- ☐ Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- ☐ This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- ☐ This legislative action does not impact the County financially and does not require Finance/Budget approval.

Fiscal Note:

Funds sufficient for this transfer are available from the sources indicated below.

PC# _____

Date: February 15, 2018

RES # 19750

<u>Department / Division</u>	<u>Character/Description</u>	<u>From</u>	<u>To</u>
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Special Road & Bridge Fund - 004

3601 - Rock Island RCA	56570 - M&R - MISC	\$ 94,150	\$ -
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3601 - Rock Island RCA	56790 - Other Contractual Svcs		94,150
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		\$ 94,150	\$ 94,150
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 2/15/18

County Auditor / Budget Officer



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

October 3, 2017

Regulatory Branch
(NWK-2017-01209)
(Jackson, MO, NWP NO. 42)

Mr. Kelsey Kropp
TranSystems
2400 Pershing Road, Suite 400
Kansas City, Missouri 64108

Dear Mr. Kropp:

This letter pertains to an application you submitted, on behalf of the Rock Island Rail Corridor Authority, for a Department of the Army (DA) permit. A complete application was received on August 17, 2017. The work concerns the grading and filling of 0.23 acres of wetlands and 500 linear feet (LF) of ephemeral stream and realignment or reshaping 570 LF of ephemeral stream to allow for construction of the Rock Island Shared Use Path. The project is located in unnamed tributary to Cedar Creek and adjacent wetlands in Section 18, Township 47 North, Range 31 West, in Jackson County, Missouri.

This letter contains a preliminary jurisdictional determination (PJD) of the waters of the United States on the project site which was completed in accordance with Corps regulations at 33 CFR Part 331. PJDs, while sufficient for permit determinations, are not appealable. If you wish, you may request an Approved Jurisdictional Determination (which may be appealed) by contacting our office for further instructions. The PJD is described in the enclosed *Preliminary Jurisdictional Determination Form*. We request that you sign the signature block, and return the form to our office. If you do not concur with the jurisdictional determination, then you will need to obtain an Approved Jurisdictional Determination from our office prior to impacting any waters identified in the PJD.

Based upon a review of the information furnished, we have made a preliminary jurisdictional determination that the unnamed tributary to Cedar Creek and the adjacent wetlands are jurisdictional waters of the United States. Therefore, the placement of dredged or fill material below the ordinary high water elevation or within the wetland as proposed by your project requires permit authorization from this office. 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) **42, Recreational Facilities**, provided you ensure that the conditions listed in the enclosed copy of excerpts from the January 6, 2017 Federal Register, Issuance 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>

Section 401 water quality certification (Certification) has been denied for this Section 404 NWP in Missouri. Therefore, in order for the NWP authorization to be valid for your project, you must obtain an individual Certification from the Missouri Department of Natural Resources (MDNR) before starting work. If MDNR does not act on your written request for Certification within 60 days, a waiver may occur. In order to verify a waiver, you must submit a copy of your written request for Certification to us. MDNR may

request an extension to act on your request, up to a maximum of one year. Any condition included in the Certification becomes a condition of this NWP authorization. You must apply for Certification by writing to the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, Missouri 65102-0176. You may also contact the office at 573-526-3589 or by email at wpssc401cert@dnr.mo.gov.

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 18, 2022. 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. 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 District Engineer has waived the 300 linear foot limit for this authorization, and has determined that the adverse environmental effects of this project are minimal, both individually and cumulatively, with the inclusion of the following special permit conditions:

1. You must purchase **0.23 wetland** and **3,076 stream** credits from an approved compensatory mitigation bank and/or in lieu fee program with credit available in the service area of the project. The current approved mitigation bank available in the service area of your project is Clear Fork Wetland and Stream Mitigation Bank. The current approved in lieu fee program available in the service area of your project with released credits is the Missouri Conservation Heritage Foundation – Stream Stewardship Trust Fund. The compensatory mitigation credit purchase 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 bank and/or in lieu fee program that includes the amount of credits purchased and the date of credit purchase. Receipts submitted by authorized agents will not be accepted.

2. You must provide a copy of this permit to all contractors, subcontractors, and/or workers performing the work authorized by the permit and ensure they have knowledge of the terms and conditions of the permit, including all General and Special Conditions.

3. 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.

4. Effective sediment and erosion control measures shall be installed and maintained before, during, and after construction to minimize erosion and the introduction of sediments and/or contaminants into the unnamed tributary to Cedar Creek. These structures shall remain in place until all fills (including bank slopes) and other disturbed areas subject to potential erosion have been permanently stabilized. Active sloughing, increased water turbidity and sediment shall be evidence of insufficient stabilization.

5. 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.

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: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. You may also call and request a paper copy of the survey which you may complete and return to us by mail.

Mr. Justin Hughes, Regulatory Project Manager, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Mr. Hughes at (816) 389-3211. Please reference Permit No. NWK-2017-01209 in all comments and/or inquiries relating to this project.

Enclosures

cc (electronically w/o enclosures):

Environmental Protection Agency,
Watershed Planning and Implementation 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-2017-01209

APPLICANT: Mr. Josh Boehm
Rock Island Rail Corridor Authority
22501 Woods Chapel Road
Blue Springs, MO 64105

PROJECT LOCATION: The project is located in unnamed tributary to Cedar Creek and adjacent wetlands in Section 18, Township 47 North, Range 31 West, in Jackson County, Missouri (Latitude: 38.894436, Longitude: -94.389757).

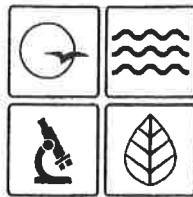
- a. I certify that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions.
-
- b. I certify that any required mitigation was completed in accordance with the permit conditions.
- c. Your signature below, as permittee, indicates that you 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



Missouri Department of dnr.mo.gov

NATURAL RESOURCES

Eric R. Greitens, Governor

Carol S. Comer, Director

DEC 14 2017

Mr. Josh Boehm
Rock Island Rail Corridor Authority
415 East 12th Street, Floor 4M
Kansas City, MO 64106

RE: NWK-2017-01209/CEK007252 in Jackson County

Dear Mr. Boehm:

The Missouri Department of Natural Resources' Water Protection Program has reviewed your request for Clean Water Act Section 401 Water Quality Certification (WQC) to accompany the U.S. Army Corps of Engineers' (USACE) Nationwide Permit (NWP) 42 for "Recreational Facilities." The original WQC was issued to TranSystems, consultant of Rock Island Rail Corridor Authority, on December 1, 2017. This revised WQC is being issued to the project owner with no changes to the condition requirements.

The Rock Island Rail Corridor Authority is proposing to grade and fill 0.23 acre of wetlands and 500 linear feet (LF) of ephemeral stream and realign or reshape 570 LF of ephemeral stream for the construction of the Rock Island Shared Use Path.

According to the state of Missouri's General Condition 10, the Department determines whether or not individual WQC is required when a NWP 42 is authorized by the USACE for which the district engineer waives the impact limit related to LF. For the proposed project, the Department has determined an individual WQC is necessary due to the length of impact and requirements for stream and wetland mitigation.

The proposed project is located in an unnamed tributary to Cedar Creek and adjacent wetlands in Section 18, Township 47 North, Range 31 West in Lee's Summit, Jackson County, Missouri. Impact type, impact size, and approximate geographic coordinates for each wetland and the upstream limits of stream impacts are as follows:

Wetland	Impact	Impact Size (acre)	Latitude (°N)	Longitude (°W)
Scrub/Shrub Wetland	Grade/Fill	0.05	38.894797	94.390530
Scrub/Shrub Wetland	Grade/Fill	0.04	38.894718	94.390336
Emergent Wetland	Grade/Fill	0.14	38.894280	94.389388
Stream	Impact	Impact Size (LF)	Latitude (°N)	Longitude (°W)
Ephemeral Channel	Realign	570	38.893537	94.387639
Ephemeral Channel	Grade/Fill	500		



Recycled paper

This WQC is being issued under Section 401 of Public Law 95-217, The Clean Water Act of 1977 and subsequent revisions. This office certifies the ongoing activities will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

1. Rock Island Rail Corridor Authority shall purchase 0.23 wetland acre as mitigation credit from the Camp Branch Stream and Wetland Mitigation Bank or another approved in-lieu fee provider or mitigation bank. A copy of the purchase document shall be provided to the Department at the address below prior to the start of work within jurisdictional waters at the site.
2. The 1,070 LF of stream impacts were assessed using the 2013 State of Missouri Stream Mitigation Method and determined to require 3,076 stream mitigation credits. Compensatory mitigation shall be satisfied by the purchase of 3,076 stream credits from the Stream Stewardship Trust Fund or another approved in-lieu fee provider or mitigation bank. A copy of the purchase document shall be provided to the Department at the address below prior to the start of work within jurisdictional waters at the site.
3. Antidegradation requirements dictate all appropriate and reasonable Best Management Practices (BMPs) related to erosion and sediment control, project stabilization, and prevention of water quality degradation are applied and maintained; for example, preserving vegetation, streambank stability, and basic drainage. BMPs shall be properly installed prior to conducting authorized activities and maintained, repaired, and/or replaced as needed during all phases of the project to limit the amount of discharge of water contaminants to waters of the state. The project shall not involve more than normal stormwater or incidental loading of sediment caused by project activities so as to comply with Missouri's general water quality criteria [10 CSR 20-7.031(4); Page 16 at <http://www.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c20-7a.pdf>].
4. Streambed gradient shall not be adversely altered downstream of the proposed project. No project shall accelerate bed or bank erosion.
5. The project shall not allow the filling of jurisdictional springs such as those associated with a water body's point of origin or located in a streambed.
6. Conduct project activity at low flows and water levels to limit the amount of sediment disturbance caused by the heavy equipment. Limit the duration and extent that any heavy equipment is required to be instream.
7. Care shall be taken to keep machinery out of the water way as much as possible. If work in the water way is unavoidable, it shall be performed in a way that minimizes the duration and amount of any disturbance to banks, substrate, and vegetation to prevent increases in turbidity. Fuel, oil and other petroleum products, equipment, construction materials, and any solid waste shall not be stored below the ordinary high water mark at any time or in the adjacent flood-prone areas beyond normal working hours. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent waters as a result of this operation.

8. Petroleum products spilled into any water or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible, but no later than 24 hours after discovery to the Department's Environmental Emergency Response phone line at 573-634-2436 or website at <http://dnr.mo.gov/env/esp/esp-eer.htm>.
9. Only clean, nonpolluting fill shall be used.
10. Any waste concrete or concrete rinsate shall be disposed of in a manner that does not result in any discharge to the jurisdictional water ways.
11. Clearing of vegetation and trees shall be the minimum necessary to accomplish the activity, except for the removal of invasive or noxious species and placement of ecologically beneficial practices.
12. The disturbed areas shall be restored to a stable condition to protect water quality as soon as possible. Seeding, mulching, and needed fertilization should be within three days of final contouring. To ensure erosion and deposition of soil in waters of the state are not occurring from this project, onsite inspections of these areas should be conducted as necessary to ensure successful revegetation and stabilization.
13. Acquisition of a WQC shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded, including Clean Water Act Section 402 National Pollutant Discharge Elimination System Permits. Permits or any other requirements shall remain in effect. Questions regarding permit requirements may be directed to the Department's Kansas City Regional Office by phone at 816-251-0700.
14. Land disturbance activities disturbing one or more acres of total area for the entire project or less than one acre for sites that are part of a common promotional plan of development may require a stormwater permit. Instructions on how to apply for and receive the online land disturbance permit are located at www.dnr.mo.gov/env/wpp/epermit/help.htm. Questions regarding permit requirements may be directed to the Department's Land Disturbance phone line at 573-526-2082 or toll free at 855-789-3889.
15. The city of Lee's Summit is covered under Municipal Separate Storm Sewer System Permit MO-R040016 with measures to control and possibly treat stormwater. You shall comply with all stormwater requirements of the city's Stormwater Management Plan and any related ordinances.
16. Representatives from the Department shall be allowed upon request on the project property, which includes the site(s) where the authorized activity takes place and any associated compensatory mitigation site(s), to inspect the authorized activity and mitigation efforts as deemed necessary by the Department to ensure compliance with WQC conditions and water quality standards. The applicant or their consultant shall submit any requested information deemed necessary by the Department to ensure compliance with WQC conditions.

17. The WQC is based on the plans as submitted. Should any plan modifications occur, please contact the Department to determine whether the WQC remains valid or needs to be amended or revoked.


Pursuant to Chapter 644, RSMo, commonly referred to as the Missouri Clean Water Law, and fee regulations under 10 CSR 20-6.011(2)(I), this WQC shall be valid only upon payment of a fee of \$150. Payment was received on December 5, 2017. Upon receipt of the fee, the applicable office of the USACE was informed the WQC is now in effect and final.

If you were adversely affected by this decision, you may be entitled to an appeal before the Administrative Hearing Commission (AHC) pursuant to 10 CSR 20-1.020 and Section 621.250, RSMo. To appeal, you must file a petition with the AHC within 30 days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the AHC. Contact information for the AHC is by mail at Administrative Hearing Commission, United States Post Office Building, Third Floor, 131 West High Street, P.O. Box 1557, Jefferson City, MO 65102, by phone at 573-751-2422, by fax at 573-751-5018, and by website at www.oa.mo.gov/ahc.

This WQC is part of the USACE's permit. Water Quality Standards must be met during any operations authorized. If you have any questions, please contact Mr. Mike Irwin by phone at 573-522-1131, by email at mike.irwin@dnr.mo.gov, or by mail at Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176. Thank you for working with the Department to protect our environment.

Sincerely,

WATER PROTECTION PROGRAM



Chris Wieberg
Director

CW:mip

- c: Ms. Sherry Bell, Fiscal Management Section, Budget and Fees Unit
Mr. Buck Brooks, Missouri Department of Transportation
Mr. Jesse Cochran, Kansas City Regional Office
Ms. Kathy Harvey, Missouri Department of Transportation
Mr. Justin Hughes, U.S. Army Corps of Engineers, Kansas City District
✓ Mr. Kelsey Kropp, TranSystems
Ms. Corinne Rosania, Kansas City Regional Office
Mr. Steve Sturgess, Kansas City Regional Office
Ms. Gayle Unruh, Missouri Department of Transportation
Ms. Terrie Williams, Kansas City Regional Office

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "*may be*" waters of the U.S. and/or that there "*may be*" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: Sep 27, 2017

B. NAME AND ADDRESS OF PERSON REQUESTING PJD: Mr. Kelsey Kropp, TranSystems
2400 E. Pershing Rd, Suite 400, Kansas City, MO 64108

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Kansas City, Rock Island Shared Use Path, NWK-2017-01209

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR
AQUATIC RESOURCES AT DIFFERENT SITES)

State: MO County/parish/borough: Jackson County City: Lee's Summit

Center coordinates of site (lat/long in degree decimal format):

Lat.: 38.894436 Long.: -94.389757

Universal Transverse Mercator:

Name of nearest waterbody: Cedar Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: Sep 27, 2017

☐ Field Determination. Date(s): Aug 30, 2017

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Stream 1	38.896569	-94.394374	50	Non-wetland	Section 404
Stream 2	38.896207	-94.393128	1070 LF	Non-wetland	Section 404
Wetland 1	38.894809	-94.390086	0.09 Acre	Wetland	Section 404
Wetland 2	38.894260	-94.388968	0.14 Acre	Wetland	Section 404

wetland credits, a single purchase of both credits from Swallow Tail LLC is recommended. The total cost of this purchase is \$94,150.

Because the purchase of mitigation credits are not an eligible use of construction grant funds, we are also requesting transfer of funds within the 2018 Rock Island "Maintenance & Repair – Miscellaneous" (004-3601-56570) account to Other Contractual Services (004-3601-56790) for this purchase. Funds from other sources are anticipated that could later be appropriated to replace these maintenance funds.

Cc: Brian Gaddie
Enclosures: 404 Permit Letter (USACE) and 401 Permit Letter (MDNR)
Mitigation Agreement with Swallow Tail, LLC
Quote from Missouri Stream Stewardship Trust Fund (alternate stream credit provider)



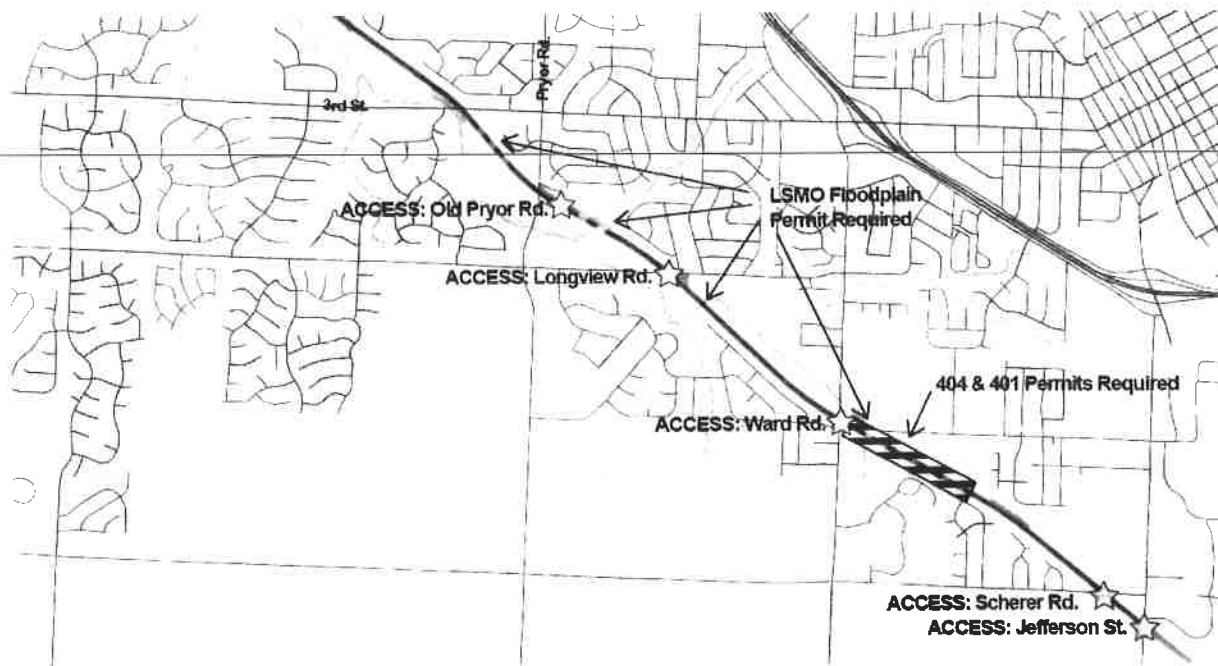
Rock Island Rail Corridor Authority

(816) 503-4845
jdboehm@jacksongov.org

ROCK ISLAND RAIL CORRIDOR AUTHORITY
22501 WOODS CHAPEL ROAD
BLUE SPRINGS, MISSOURI 64015
WWW.JACKSONGOV.ORG
WWW.ROCKISLANDCORRIDOR.ORG

Date: Friday, January 19, 2018
To: Barbara Casamento
From: Josh Boehm
Subject: Wetland and Stream Mitigation (US Army Corps of Engineers Permits)

In order to proceed with construction of the first phase of construction on the Rock Island Corridor Shared Use Path, Jackson County is required to purchase credits to mitigate wetland and stream areas that are being disturbed. Alternatives to disturbing the wetland and stream areas were evaluated, however, the cost of avoidance greatly exceeds the cost of the mitigation credits.



The US Army Corps of Engineers (USACE) indicated to Jackson County in the attached letter that 0.23 wetland credits and 3,076 stream credits must be purchased prior to commencement of construction in the area indicated in the map above. USACE indicated in their letter one approved supplier of wetland credits and two approved suppliers of stream credits. The purchase price for wetland credits is \$75,000 per acre, and the purchase price for stream credits is \$25 per credit. Both stream credit providers offered a price of \$25. Since both providers offer stream credits at the same price, but only one provides both stream and

MITIGATION CREDIT AGREEMENT

This MITIGATION CREDIT AGREEMENT (Agreement) is made and entered into as of December 8, 2017, (the “Effective Date”), by and between Swallow Tail LLC (“Seller”) and Rock Island Rail Corridor Authority (“Purchaser”).

WITNESSETH:

WHEREAS Purchaser has applied for a U. S. Army Corps of Engineers (“USACOE”) permit under Section 404 of the Clean Water Act to allow impacts to Jurisdictional Waters (“Project”). Project Number assigned by the USACOE is NWK 2017-01209. The project manager with the Corps of Engineers is Justin Hughes.

WHEREAS, as a condition to the issuance of a permit from the USACOE, the Purchaser is required to compensate for said impacts, and elects to satisfy part of the requirement through the purchase of mitigation credits in the Sellers’ Clear Fork Wetland and Stream Mitigation Bank (“Mitigation Bank”).

WHEREAS, the USACOE has determined that Purchaser is allowed to purchase credits due to permanent impacts resulting from the activities at the subject site.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, it is agreed as follows:

- 1) RECITALS: The recitals are hereby incorporated by this reference.

2) COMPENSATION: Purchaser shall, subject to the terms and conditions hereinafter provided, pay to the Seller the sum of Ninety-four thousand one hundred and fifty DOLLARS (\$94,150) (“Purchase Price”) for 0.23 wetland credits and 3,076 stream credits at the Mitigation Bank. The Purchase Price is derived from the unit cost of \$75,000 per wetland credit and \$25 per stream credit. Purchase Price is to be paid in the manner following:

a.) PURCHASE PRICE: Upon signing this Agreement, Purchaser will pay the total balance due, or \$94,150.

3) SELLERS WARRANTY: In consideration of the Purchase Price, Seller affirms that it has sufficient credits in the Mitigation Bank to satisfy the credits required by Purchaser and agrees to sell such credits to Purchaser. It is understood and agreed that Purchaser shall have no obligation to perform any responsibility or incur any liability associated with the creation, development, maintenance and/or management of the Mitigation Bank.

4) NOTICES: Any notices required or permitted hereunder shall be sufficiently given if delivered by overnight courier, by United States mail, return receipt requested to the parties hereto as follows:

If to Seller:

Swallow Tail LLC c/o Terra Technologies Inc.
6240 West 135th Street, Suite 100
Overland Park, KS 66223
Attn: Mr. David Flick

If to Purchaser: County Counselor
Office of the County Counselor
Jackson County Courthouse
415 E. 12th Street, Suite 200
Kansas City, Mo 64106

With a copy to: Rock Island Rail Corridor Authority
415 E. 12th Street, Floor F-MN
Kansas City, Mo 64106

Any notice given pursuant hereto by overnight courier shall be effective after recipient signs for notice; any notice given pursuant hereto by United States mail, return receipt requested, shall be effective as of receipt of confirmation by the sending party.

5) PRIOR AGREEMENTS: This Agreement shall supersede any and all prior understandings and agreements between the parties hereto, whether written or oral, with respect to the subject matter hereof and may be amended only by a written instrument executed by or on behalf of both Seller and Purchaser.

6) APPLICABLE LAW: Purchaser and Seller shall be contractually bound to this Agreement, which shall be governed by the laws of the state of Missouri and subject to the requirements of any applicable federal law or regulation. Changes in federal, state or local laws, however, which might have otherwise impacted this Agreement shall not be enforced retroactively after execution of this Agreement.

7) CONTRACT ACCEPTANCE: This Agreement is null and void if not executed by both parties within 180 days after the Effective Date of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be
executed as of the Effective Date.

Purchaser

Rock Island Rail Corridor Authority

By: _____

Seller

Swallow Tail LLC

By: _____
David L. Flick