

Copy to Broken Arrow - Fed Ex Wetlands Mitigation



Public Notice

Reply To:

U.S. Army Corps
of Engineers
Tulsa District

U.S. Army Corps of Engineers
ATTN: Regulatory Office
1645 South 101st East Avenue
Tulsa, OK 74128-4609

SWT-2015-319
Public Notice No.

November 17, 2015
Public Notice Date

December 17, 2015
Expiration Date

PURPOSE

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

SECTION 10

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

NOTICE TO PUBLISHERS

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DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application No. SWT-2015-319

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The application is for the placement of 3.35 acres of fill into waters of the United States associated with the construction of a shipping facility, including access drives, employee and fleet parking lots, detention basin, sanitary sewer utility, and perimeter drainage swales.

Name of Applicant: Mr. Nichols Jones
JDC Property Company, L.L.C.
4520 Madison, Suite 100
Kansas City, MO 64111

Name of Agent: Mr. David Flick
Terra Technologies, Inc.
1920 W. 143rd Street, Suite 140
Leawood, KS 64111

Location: This proposal will be located in an unnamed tributary of Broken Arrow Creek. The location of the proposed project is west of the East Houston Street and South 15th Street intersection, Section 12, Township 18 North, Range 14 East, in Broken Arrow, Tulsa County, Oklahoma. The project site can be found on the Broken Arrow, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 36.048154 and West Longitude 95.773058.

Purpose: The basic propose of this work is to construct a commercial development.

The proposed project is not a water dependent activity.

The overall purpose of this work is for the construction of a shipping facility within a 40-acre tract of land, which will serve Broken Arrow and the surrounding areas.

Table of Impact:

Original Proposal					
Number or Location	Type of Waters	Impact Activity	Type of Fill Material	Qty of Material cys below OHWM	Footprint (ac and/or lf)
Wetland 1	Emergent Wetland	Placement of fill material	Earthen Material	1,533 cys	0.95 ac
Wetland 2	Forested Wetland	Placement of fill material	Earthen Material	484 cys	0.30 ac
Wetland 3	Forested Wetland	Placement of fill material	Earthen Material	2,500 cys	1.10 ac
Wetland 9	Forested Wetland	Placement of fill material	Earthen Material	1,775 cys	0.99 ac
Stream 2	Intermittent Stream	Placement of fill material	Earthen Material	16 cys	61 lf (Approximately 0.01 ac)
*Note: Earthen Material consists of clay, sand, and gravel.					
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), liner feet (lf)					

Description of Work: The applicant's proposal requires the placement of fill material (6,308 cys) into 3.34 ac of wetlands (1.94 ac of emergent wetlands, 1.40 ac of forested wetland) for commercial development, stormwater management basin, and parking areas; and 61 lf of intermittent stream for parking areas. The applicant has proposed the placement of approximately 1,533 cys of clay into Wetland 1; 484 cys of clay into Wetland 2; 2,500 cys into Wetland 3; 1,775 cys of clay into Wetland 9; and 16 cys of clay into Intermittent Stream 2. This project will require bulldozers, scrapers, front-end loaders, and trucks.

Avoidance and Minimization Information: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

The project includes the avoidance of surface waters, including 1.01 acres of wetlands and 2,278 linear feet of intermittent stream. The applicant proposes to minimize impacts to jurisdictional waters through the construction of an offline wetland detention basin.

Mitigation: Furthermore, the applicant proposes the following as compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

Preservation of existing riparian corridors and abutting wetlands within an approximate 10-acre preserved corridor located east of the project area. For unavoidable impacts to jurisdictional water, the applicant proposes to purchase mitigation credits from an approved provider.

This mitigation plan is the applicant's proposal. The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation in addition to comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Other: The applicant has investigated the presence of historic and archeological resources. Additionally, the applicant has entered into consultation with the U.S. Fish and Wildlife Service (USFWS).

Project Setting: This project is located within the Oklahoma ecoregion of Cross Timber Transition, which is part of the Central Great Plains geomorphic province. The Transition is characterized by a series of grasslands and prairies.

Existing Condition: The 40-acre parcel of land is comprised of mostly native grass fields with forested areas, consisting of riparian zones and wetlands, including jurisdictional stream channels, which are located within the project boundary. Additionally, the proposed project is located within an area of commercial development and agricultural activities, based on 2012 aerial imagery.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 3). If additional information is desired, it may be obtained from Ms. Eva Zaki-Dellitt, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

Cultural Resources: The DE has consulted the National Register of Historic Places regarding the potential effects from the proposed action. The DE will comply with the requirements of the National Historic Preservation Act of 1966 for any known or presently unknown historic or archeological resources that may exist in the project vicinity and which could be directly affected by the proposed work. This public notice is being sent to the State Historic Preservation Officer and to Native American Tribal governments to reveal if other known historic or archeological resources may be eligible for listing in the National Register exist in the project area and which could be directly

affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 (Public Law 89-665) and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which may be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966, as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR 325, Appendix C.

Threatened and Endangered Species: The following federally listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: interior least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), American burying beetle (*Nicrophorus americanus*), and northern long-eared bat (*Myotis septentrionalis*). A copy of this notice is being furnished to the USFWS and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

We are currently assessing the potential effects of the proposed action on these species and will comply with the Endangered Species Act with regard to any effect of our decision on this permit application.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Subject to the 404(b)(1) Guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this

decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, we are sending a copy of this notice to the local floodplain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. The local floodplain administrator is required to perform this review for all proposed development and maintain records of such review.

Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

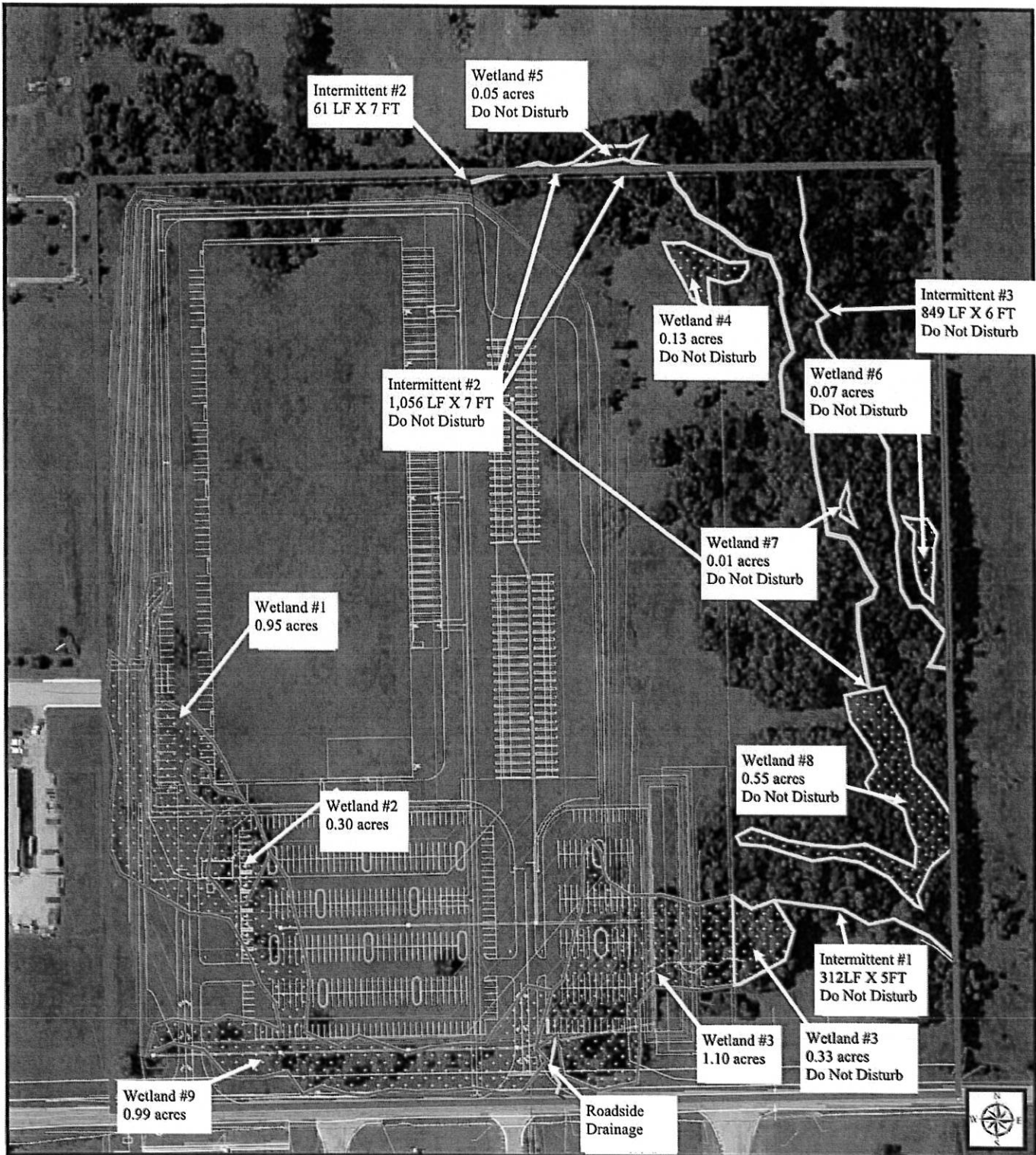
Andrew R. Commer
Chief, Regulatory Office

Enclosures

Aerial imagery map:

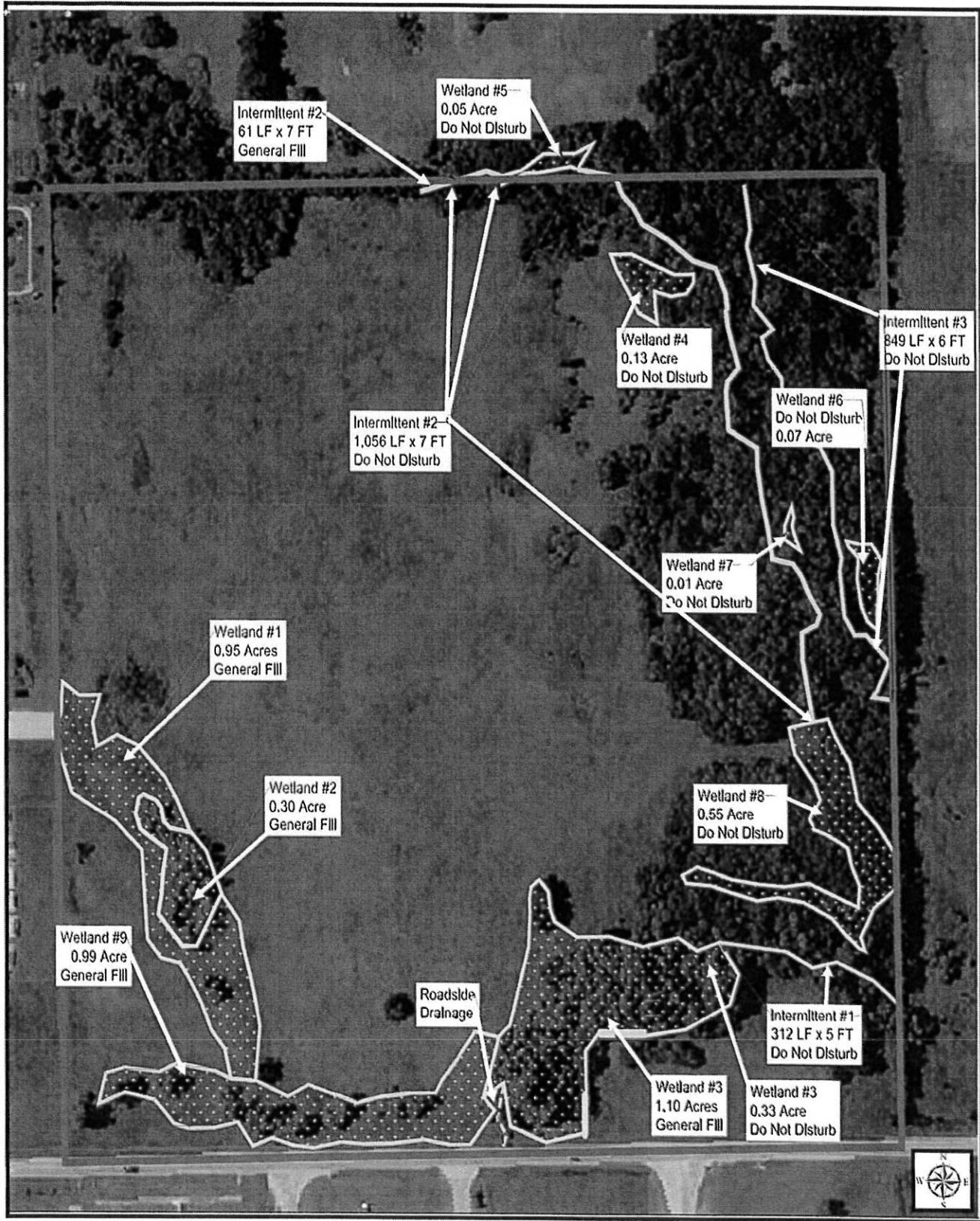


Project Plans:



SWT-2015-319
Broken Arrow Shipping Center
Tributary to Broken Arrow Creek
Tulsa Co. OK.
Enclosure 2 of 3

Delineation map:



SWT-2015-319
Broken Arrow Shipping Center
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Enclosure 3 of 3