



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

April 23, 2008

REPLY TO
ATTENTION OF:

Regulatory Branch
(2007-133)

Mr. Randall A. Root
Burns & McDonnell Engineering
Company, Inc.
9400 Ward Parkway
Kansas City, Missouri 64114-3319

Dear Mr. Root:

Permit No. 2007-00133 has been executed. One copy is enclosed for your records and one copy has been retained for our files. When you are ready to begin work, it is necessary that you contact Mr. Stephen Penluna, Kansas State Regulatory Office, 2710 NE Shady Creek Access Road, El Dorado, Kansas 67042, telephone 316-322-8247.

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,


Roger A. Wilson, Jr.
Colonel, Corps of Engineers
District Commander

Enclosures

Copies Furnished:

Environmental Protection Agency,
Watershed Planning and Implementation Branch
w/enclosures
U.S. Fish and Wildlife Service, Manhattan, Kansas w/enclosures
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

Permittees: City of Wichita
455 North Main Street
Wichita, Kansas 67202

NewMarket V, LLC
727 North Waco, Suite 400
Wichita, Kansas 67203

East Side Investments, LLC
8110 East 32nd Street, Suite 150
Wichita, Kansas 67226

Permit No. NWK-2007-00133

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: The project will discharge clean fill material into 12.24 acres of wetlands to construct the commercial portions of the project. Temporary wetland impacts will occur in approximately 0.14 acres of wetlands in order to construct a temporary haul road. These temporary impacts will be restored once the project is completed. Other project components are discussed below.

The NewMarket portion of the project will impact 7.84 acres of wetlands through general fill activities for construction of 88,000 square feet of commercial properties with associated parking. This parcel also includes excavation of a detention basin that will impact approximately 0.69 acres of wetlands. The detention basin is a part of the comprehensive stormwater management plan to relieve flooding of the Chadsworth residential community. Total project wetland impacts on the NewMarket parcel will result in the loss of 7.84 acres of wetlands.

The East Side portion of the project will result in the filling of 4.4 acres of wetlands for construction of a Lowes retail store, five out-lots, and separate in-line commercial retail spaces along with associated parking.

The commercial development will provide the means to the City of Wichita for construction of stormwater detention within the Cadillac Lake drainage area. A Drainage Improvement District will be created that includes public and private land. The project will include the construction of two dry detention basins to help alleviate flooding in the Chadsworth residential community downstream of the project. The dry detention basins will not impact jurisdictional waters. No more than 0.3 acres of wetlands will be filled in order to construct a public parking lot for future recreational and educational opportunities.

Additionally, discharges associated with the completion of the approved mitigation plan are authorized.

Permit Drawing(s): Sheet of 1 of 4 through Sheet 4 of 4, dated 16 April 2008

Project Location: The project is located in wetlands known as Cadillac Lake, on both the east and west sides of Maize Road in the northeast ¼ of the northeast ¼ of Section 6, and the southern ½ of the northwest ¼ of Section 5, all in Township 27 south, Range 1 west, in the City of Wichita, Sedgwick County, Kansas.

(Latitude: 37.73373, Longitude -97.46268)

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.



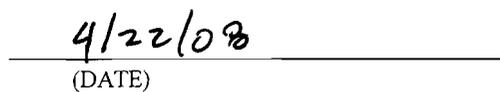
 City of Wichita



 (DATE)



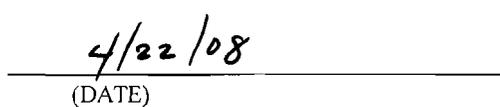
 NewMarket V, LLC



 (DATE)

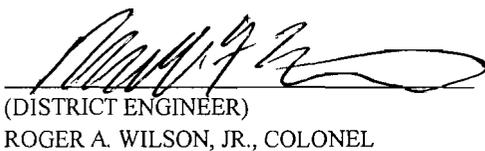


 East Side Investments, LLC

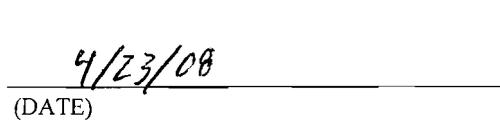


 (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



 (DISTRICT ENGINEER)
 ROGER A. WILSON, JR., COLONEL



 (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:

- 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.** This permit does not authorize you to take the Federally listed interior least tern (*Sterna antillarum*) and/or piping plover (*Charadrius melodus*). If any impacts to the surface water impoundments on the site occur between May 15 through July 31, a survey for the least tern and piping plovers must be completed prior to beginning the work. If water level fluctuations expose open shoreline, a survey for nesting activity must be conducted prior to beginning work. All required surveys must be submitted to this office and you must receive approval to commence work prior to construction in a surface water impoundment onsite. You must immediately cease work and contact this office if either of the avian species are found during a survey. If work associated with this project will not take place in surface water impoundments between May 15 and July 31, no additional surveys will be required.
- c.** You are responsible to mitigate for wetland losses according to the March 2008 "The Cadillac Lake Drainage Improvement District's Proposed Cadillac Lake and Cowskin Creek Wetland Mitigation Plan" including the amendment to page 7-1 of the document submitted in an email on April 16, 2008. In addition to the proposed plan, the following conditions apply:
- The Cadillac Lake and Cowskin Creek mitigation sites must have an approvable deed restriction (with land transfer) or conservation easement placed on the property prior to beginning work in waters of the U.S. Work may not begin in waters of the U.S. until you have received written verification from the U.S. Army Corps of Engineers that the deed restriction (with land transfer) or conservation easement is acceptable.
 - Your responsibility to complete the required compensatory mitigation will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers.
- d.** 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.
- e.** 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.
- f.** You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a nonwetland 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.
- g.** You must excavate and fill in the wetlands 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.

Special Conditions (cont'd):

- h.** 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.
- i.** You must not dispose of any construction debris or waste materials 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.
- j.** You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- k.** 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.



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Division of Environment

April 4, 2008

Mr. Joshua A. Marx
U.S. Army Corps of Engineers
Kansas City Field Office; 700 Federal Building
601 East 12th Street
Kansas City, Missouri 64106-2896

Section 401 Water Quality Certification

RE: PN2007-133. The applicants propose to discharge 179,080 cubic yards of clean fill material into 18.5-acres of wetlands. The proposed work is part of a two-fold plan: first, the applicants propose to create a Drainage Improvement District that includes public and private land. This will provide the City with about 31.5-acres of additional detention capacity necessary to alleviate the flooding in the Chadsworth residential community, and communities further downstream; and second, to provide commercial development on two tracts of land within the Drainage Improvement District: the East Side property and the Newmarket property. The 28-acre Newmarket property will be developed into a 13.3 acre commercial retail center. The East Side property will be developed into a 26-acre commercial retail center. The commercial development will provide land and a significant portion of the funding for the City to create the additional floodwater detention capacity. To mitigate project related wetland impacts, the applicants propose to create 15-acres of wetlands, and to restore/enhance 24.2 acres of existing wetlands. In a tributary of, and including Cadillac Lake, in the northeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of Section 6, and the southern $\frac{1}{2}$ of the northwest $\frac{1}{4}$ of Section 5, all in Township 27 south, Range 1 west, in Sedgwick County, Kansas. Latitude: 37.73373, Longitude: -97.46268. Applicants include: City of Wichita, 455 North Main Street, Wichita, Kansas 67202; Newmarket V, LLC, 727 North Waco, Suite 400, Wichita, Kansas 67203 and, East Side Investments, LLC, 8110 East 32nd Street, Suite 150, Wichita, Kansas 67226.

Dear Mr. Marx:

The Kansas Department of Health and Environment has received your request for Section 401 Water Quality Certification. The KDHE has determined the project has the following water pollutant discharge sources:

1. Construction activities including grading and filling, equipment and materials storage, equipment fueling, operation and maintenance of BMPs and wetland mitigation facilities etc. to accommodate commercial development, mitigation wetlands, stormwater retaining structures, etc.

Discharges from these sources if not minimized or otherwise controlled may cause violations of the provisions of Kansas Water Quality Standards found at KAR 28-16-28 et seq. Cadillac Lake (Pracht Wetland) is described in the Kansas Surface Water Register [KAR 28-16-28(g)] as having uses of expected aquatic life support, food procurement, industrial, groundwater recharge, irrigation and livestock water supply and primary contact recreation is by law or written permission of the landowner open to and accessible by the public. A proposed mitigation site is north of the City of Wichita WWTP constructed wetlands for demonstrating technology and education of the public (above and beyond permit requirements), near Cowskin Creek.

Additionally, in as much as this project has the potential to negatively impact groundwater, the applicants should be aware that K.S.A. 65-164 and 165 empowers the Secretary of KDHE to regulate the discharge of sewage (as defined in K.S.A. 65-164) into the waters of the state. Furthermore, K.S.A. 65-171d empowers the Secretary of KDHE to prevent water pollution of both surface and subsurface water (groundwater) to protect the beneficial uses of the waters of the state.

Pursuant to Section 401 and KAR 28-16-28(c) the Kansas Department of Health and Environment finds this project (including mitigation activities) will not result in a violation of Kansas Water Quality Standards and herewith issues a Water Quality Certification for execution and subsequent operation of the project subject to the following conditions:

- 1) **This certification shall be posted on site through the duration of the project.**
- 2) The applicants shall avoid or control the discharge of suspended solids from construction activities, removal of riparian vegetation and road surface runoff **so that the project does not cause:**
 - a. Any surface waters of the state within and below the project area to contain discarded solid material, including trash, garbage rubbish, offal, grass clippings, discarded building or construction materials, car bodies, tires, wire and other unwanted or discarded materials [KAR 28-16-28e(b)(3)].
 - b. Any surface waters of the state within and below the project to have floating debris, scum, foam, froth and other floating materials directly or indirectly attributable to the project [KAR 28-16-28e(b)(4)].
 - c. Any surface waters of the state within or below the project to have deposits of sludge or fine solids [KAR 28-16-28e(b)(6)].
 - d. Alteration of the natural appearance of surface waters of the state within or below the project by the addition of color-producing or turbidity-producing substances of artificial origin [KAR 28-16-28e(b)(8)].
 - e. The concentration of dissolved oxygen in the here-in described water resources to be lower than 5.0 mg/L, Kansas Surface Water Quality Standards [KAR 28-16-28e(d)] in table 1g, found in a separate document found at:
http://www.kdhe.state.ks.us/water/download/swqs_numeric_criteria.pdf.

- 3) The applicants shall avoid or control the discharge of toxic substances, oil and grease and other fluids from construction activities, **so that the project does not cause:**
- a. Any surface waters of the state within and below the project area to have a public health hazard, nuisance condition or impairments of designed uses [KAR 28-16-28e(b)(1)].
 - b. Any surface waters of the state within and below the project area to have toxic substances, radioactive isotopes, and infectious microorganisms in concentrations or in combinations that jeopardize the public health or the survival or well-being of livestock, domestic animals, terrestrial wildlife or aquatic or semi-aquatic life [KAR 28-16-28e(b)(2)].
 - c. Any surface waters of the state within and below the project area to have a visible oil and grease film or sheen on the water surface or on submerged substrate or adjoining shore lines, nor have a sludge or emulsion deposit below the water surface of adjoining shorelines [KAR 28-16-28e(b)(5)].
 - d. Any surface waters of the state within and below the project to contain taste and odor producing substances at concentrations which interfere with the production of potable water by conventional water treatment processes, impart an unpalatable flavor to edible aquatic or semi-aquatic life or terrestrial wildlife or that result in noticeable odors in the vicinity [KAR 28-16-28e(b)(7)].
 - e. The concentration of dissolved oxygen in the here-in described water resources to be lower than 5.0 mg/L, Kansas Surface Water Quality Standards [KAR 28-16-28e(d)] in table 1g, found in a separate document found at:
http://www.kdhe.state.ks.us/water/download/swqs_numeric_criteria.pdf
 - f. The pH of the here-in water resources to be below 6.5 or above 8.5 including effects by concentrations of toxic substances. Refer to Surface Water Quality Standards [KAR 28-16-28e(d)] in table 1g, a separate document found at:
http://www.kdhe.state.ks.us/water/download/swqs_numeric_criteria.pdf
- 4) The applicants shall avoid or control the discharge of plant nutrients from construction activities, removal of permanent riparian vegetation, **so that the project does not cause:**
- a. Any surface waters of the state within and below the project area to have a public health hazard, nuisance condition or impairments of designed uses [KAR 28-16-28e(b)(1)].
 - b. The concentration of dissolved oxygen of the here-in described water resources to be lower than 5.0 mg/L, Kansas Surface Water Quality Standards [KAR 28-16-28e(d)] in table 1g, found in a separate document found at:
http://www.kdhe.state.ks.us/water/download/swqs_numeric_criteria.pdf

- 5) The applicants shall avoid or control the discharge of *Escherichia-coli* bacteria from the project site, especially construction activities, so that the project does not cause the *Escherichia-coli* bacteria concentration of the here-in described water resources to exceed a geometric mean of 427 organisms per 100 milliliters during the period of April through October 31 and geometric mean of 3,843 organisms per 100 milliliters during the period of November 1 through March 31. [KAR 28-16-28e(d) in table 1j].
- a. Any surface waters of the state within and below the project area to have a public health hazard, nuisance condition or impairments of designed uses [KAR 28-16-28e(b)(1)].
 - b. Any surface waters of the state within and below the project area to have toxic substances, radioactive isotopes, and infectious microorganisms in concentrations or in combinations that jeopardize the public health or the survival or well-being of livestock, domestic animals, terrestrial wildlife or aquatic or semi-aquatic life [KAR 28-16-28e(b)(2)].
 - c. Any surface waters of the state within and below the project area to have a visible oil and grease film or sheen on the water surface or on submerged substrate or adjoining shore lines, nor have a sludge or emulsion deposit below the water surface of adjoining shorelines [KAR 28-16-28e(b)(5)].
 - d. Any surface waters of the state within and below the project to contain taste and odor producing substances at concentrations which interfere with the production of potable water by conventional water treatment processes, impart an unpalatable flavor to edible aquatic or semi-aquatic life or terrestrial wildlife or that result in noticeable odors in the vicinity [KAR 28-16-28e(b)(7)].
 - e. The concentration of dissolved oxygen of the here-in described water resources to be lower than 5.0 mg/L, Kansas Surface Water Quality Standards [KAR 28-16-28e(d)] in table 1g, found in a separate document found at:
http://www.kdhe.state.ks.us/water/download/swqs_numeric_criteria.pdf
 - f. The pH of the here-in described water resources to be below 6.5 or above 8.5 including effects by concentrations of toxic substances. Refer to Surface Water Quality Standards [KAR 28-16-28e(d)] in table 1g, a separate document found at:
http://www.kdhe.state.ks.us/water/download/swqs_numeric_criteria.pdf
- 6) The applicants shall avoid or control the discharge of plant nutrients from construction activities, removal of permanent riparian vegetation, **so that the project does not cause:**

- a. Any surface waters of the state within and below the project area to have a public health hazard, nuisance condition or impairments of designed uses [KAR 28-16-28e(b)(1)].
 - b. The concentration of dissolved oxygen in the here-in described water resources to be lower than 5.0 mg/L, Kansas Surface Water Quality Standards [KAR 28-16-28e(d)] in table 1g, found in a separate document found at:
http://www.kdhe.state.ks.us/water/download/swqs_numeric_criteria.pdf
- 7) Construction activities disturbing 1 acre or more, are subject to the National Pollutant Discharge Elimination System (N.P.D.E.S.) storm water permit requirements of 40 C.F.R. 122.26. This certification does not relieve the applicants of its obligation to secure such permit. Information on construction site NPDES permits is available from Bureau of Water - Industrial Programs website: www.kdhe.ks.us/stormwater or Mr. Larry Hook at 785/296-5547. A stormwater pollution prevention plan is required.
- 8) The applicants are strongly encouraged to include items a-g below in the Stormwater Pollution Prevention Plan (SWPP) required by the Construction Stormwater NPDES Permit described in item 7 above.
- a. **Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). KDHE encourages the use of native vegetation or at least being consistent with adjoining vegetation materials to minimize impacts from improper handling of fertilizers and pesticides.
 - b. **Erosion and Sediment Control:** Expeditiously stabilize any equipment staging areas adjacent to the work area.
 - c. **Solid Waste:** All waste materials produced by the construction project shall be disposed of in accordance with the provisions of the Kansas solid waste management statutes and regulations (K.S.A. 65-3401 and K.A.R. 28-29-1 et. seq.) or applicable local rules. Good house keeping including personal refuse such as food containers, sacks etc. shall be addressed.
 - d. **Fuels, Chemicals and Maintenance Areas:** All fuels and chemicals necessary to complete the project shall be stored in such a manner that accidental spillage is minimized or can be temporarily contained before reaching the water body. Equipment maintenance areas shall also be located in this manner.
 - e. **Spills:** Should a spill of fuel or discharge of pollutants occur, the local emergency staff should be contacted **first** by dialing 911. The Kansas Department of Health and Environment shall then be notified immediately: **(785)- 296-1679 (24 hours a day.)** These incidences should also be reported to the National Spill Response Center (1-800-424-8802). *Hazardous materials spills and air releases that meet federal reportable quantities must also be reported to Kansas Division of Emergency Management (800-275-0297).* **These reporting numbers shall be posted in several locations around the site. A Spill Prevention and Response Plan should be prepared.**

- f. **Floating Debris:** The applicant shall take appropriate measures to capture any floating debris released to surface waters as a result of this project.
- g. Although the project is only in a preliminary design, personal/email communication with/from a Burns & McDonnell consultant documents a general list of Best Management Practices (BMPs) including (clay-lined) detention basins located within the Improvement District which will function to protect water quality by retaining surface water during flood events, collecting sediment, and debris from lot stormwater runoff. In addition, the following list of BMPs will be implemented within the drainage Improvement District.
- Rubber roofs will be installed on all buildings
 - Vortex stormwater system is be used at the EastSide development. There is insufficient space for a Vortex system on the Newmarket property
 - Grass-covered water ways
 - Non-chloride deicers will be use on the parking lots
 - Street sweepers for the parking lots
- 9) Measures shall be implemented to assure impounded waters, or other BMPs created by activities within the framework of this permit, avoid becoming public health threats, nuisances, generate complaints, and potentially discharge degraded water. The applicant shall prepare and implement an Operations and Maintenance Plan for Facilities and Landscapes (O&M), including annual BMP inspection provisions, which at the minimum incorporate the following recommendations.
- a. **Operations and Maintenance Plan for Facilities and Landscapes:** To assure permanent protection of the potentially impacted water body, the applicant shall prepare and facilitate the implementation of an O&M plan which shall identify –
- b. Individual and public property owners and their potential for being the source of nonpoint source pollution. This could include but is not limited to: commercial grounds, streets, right-of-ways, parking areas, conservation easement and **proposed** mitigation areas etc.
- c. For each property as described here-in, water quality protection measures for each category of artificial source of pollution identified. The identified water quality protection measure (BMPs) for each category of artificial source of pollution shall be designed to ***reduce to the maximum extent practicable, the level of pollution resulting from identified pollutant sources***. Identified water quality protection quality protection measures shall be at least as effective as those set out by the Kansas Nonpoint Source Pollution Management Plan (<http://www.kdheks.gov/nps/resources/2000update.pdf>), prepared and maintained by the Kansas Department of Health and Environment.

- d. Strategies to assure implementation of the water quality protection measures identified under item 2-7 which may include but are not limited to prohibition or restriction of activities, utilization of alternative technologies or products, information and education, financial assistance, technical assistance, enforcement and penalties. Additionally, an in-house reporting form used by staff to document degraded property conditions potentially impacting the property and needs to address them should be developed this would include cleaning trash from wetlands and other BMPs.
- e. Organizations and individuals responsible for assuring implementation of the identified water quality protection measures.
- f. This O&M plan shall be submitted for documentation to:
 - Kansas Department of Health and Environment
 - Bureau of Water, Watershed Management Section
 - 1000 S.W. Jackson St., Suite 420
 - Topeka, KS 66612-1367. Attention: Scott Satterthwaite

- 10) The City of Wichita is developing a WRAPS (Watershed Restoration and Protection Strategy for the Lower Arkansas River in collaboration with Sedgwick County Conservation District. The applicants are strongly encouraged to contact sponsor contacts for more information. Opportunities exist for possible funding of water quality protection (i.e. BMPs, rain gardens) demonstrations, educational materials prepared for general public (reminder that trash from parking lots ends up in somebody's water someday, etc. The City of Wichita contact is Ms. Libby Albers- 316- 337-9262 or lalbers@wichita.gov and Sedgwick County contact is Ms. Cherrie Nolden at 316) 660-7286 or cnolden@sedgwick.gov
- 11) This certification does not relieve the applicants of the responsibility for any discharge into waters of the state. The Kansas Department of Health and Environment retains the option of revoking or revising this certification any time an inappropriate discharge may occur. As provided by K.S.A. 65-171(f), failure to comply with the conditions of this certification may subject the responsible party to fines up to \$10,000 per violation with each day the violation occurs constituting a separate violation.
- 12) If the applicant believes the conditions of this certification will result in impairment of important widespread social and economic development, the applicant is advised of the variance provisions of KAR 28-16-28b(11) and KAR 28-16-28f(e).

Mr. Marx (PN2007-133)

April 4, 2008

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Questions concerning this certification may be directed to Mr. Scott Satterthwaite, 785-296-5573.

Sincerely,

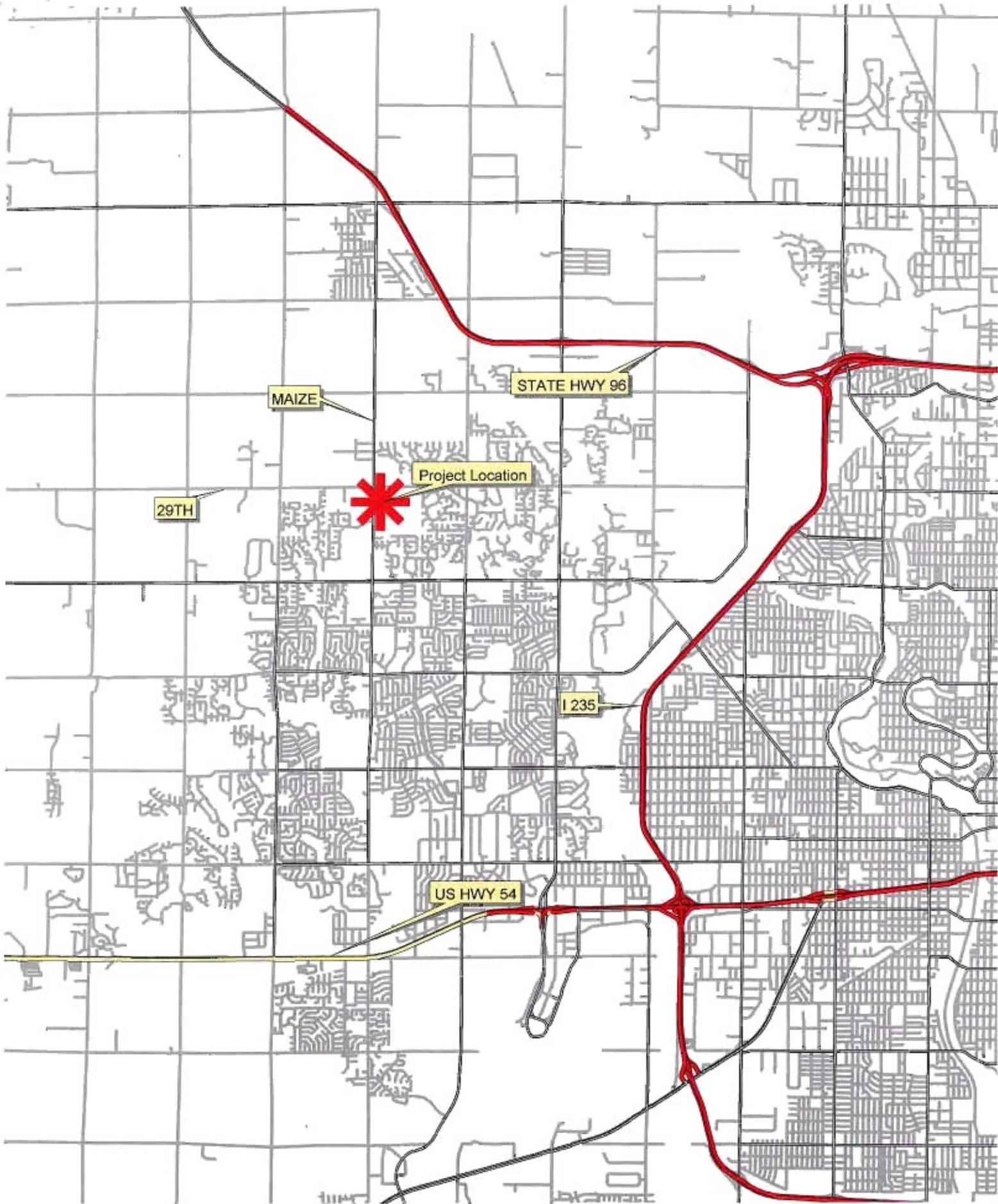


Scott L. Satterthwaite, M.S.

Non-point Source Pollution Control Specialist

Bureau of Water-Watershed Management Section

EC: KDHE- Hook, Basore,
Libby Albers-Wichita Environ Health Dept.
Cherrie Nolden- Sedgwick County Conservation District
Randy Root- Burns & McDonnell
Matt Scherer- KDA DWR

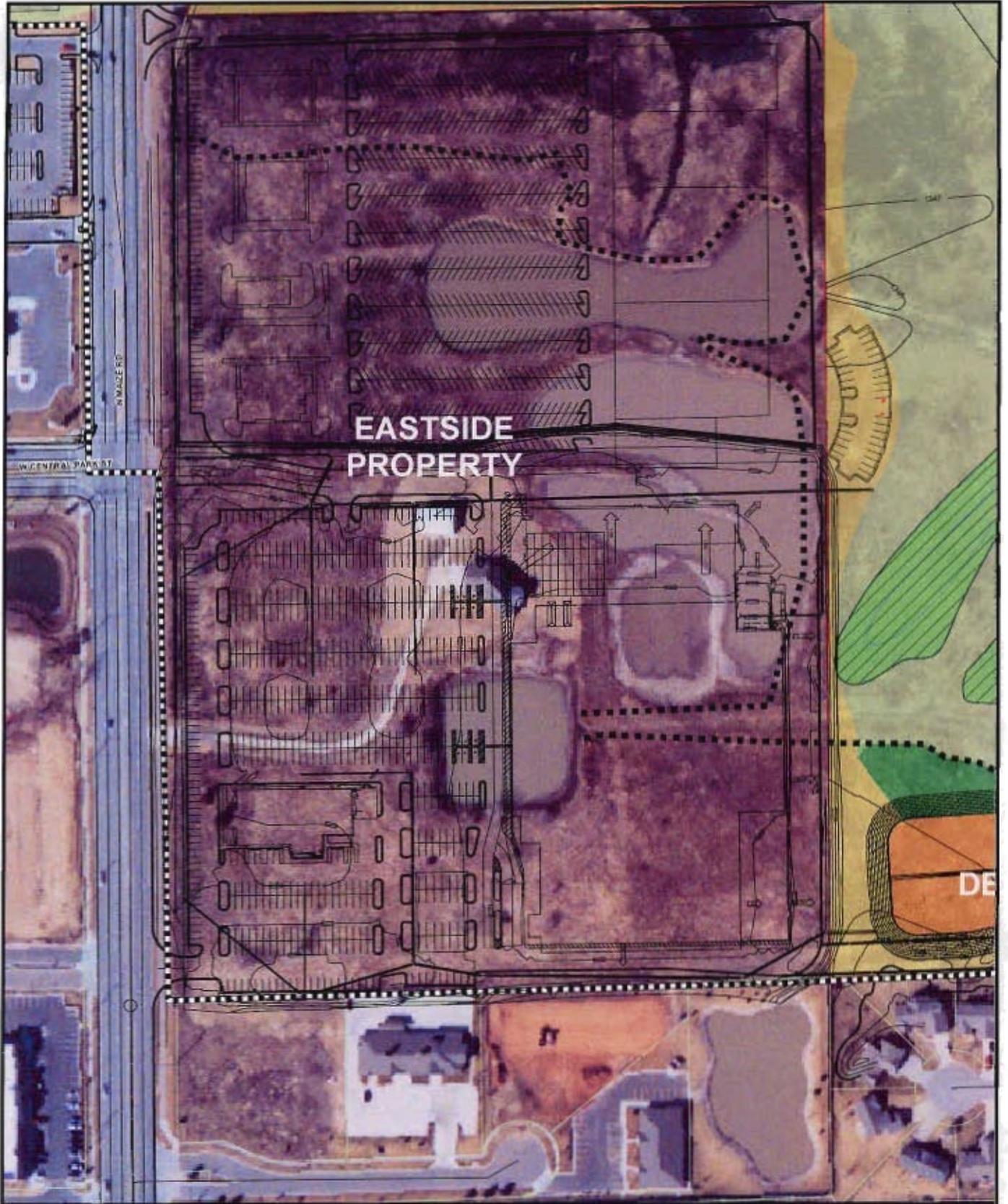




APPLICATION NO. 2007-133
CITY OF WICHITA, NEWMARKET V, LLC
AND EAST SIDE INVESTMENTS, LLC
SEDGWICK COUNTY, KANSAS
SHEET 2 OF 4 - DATED 16 APRIL 2008



City of Wichita
Detention Basin Site Plan



APPLICATION NO. 2007-133
 CITY OF WICHITA, NEWMARKET V, LLC
 AND EAST SIDE INVESTMENTS, LLC
 SEDGWICK COUNTY, KANSAS
 SHEET 3 OF 4 - DATED 16 APRIL 2008



Eastside Property
 Site Plan

3-3



APPLICATION NO. 2007-133
CITY OF WICHITA, NEWMARKET V, LLC
AND EAST SIDE INVESTMENTS, LLC
SEDGWICK COUNTY, KANSAS
SHEET 4 OF 4 - DATED 16 APRIL 2008



New Market Property
Site Map

COMPLIANCE CERTIFICATION

Special condition "a" of this permit document 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: 2007-00133

APPLICANT: City of Wichita
455 North Main Street
Wichita, KS 67202

NewMarket V, LLC
727 North Waco, Suite 400
Wichita, KS 67203

East Side Investments, LLC
8110 East 32nd Street, Suite 150
Wichita, KS 67226

PROJECT LOCATION: The project is located in wetlands known as Cadillac Lake, on both the east and west sides of Maize Road in the northeast quarter of the northeast quarter of Section 6 and the southern half of the northwest quarter of Section 5, all in Township 27 south, Range 1 west, in the city of Wichita, Sedgwick 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, Kansas City District
Kansas State Regulatory Office
2710 NE Shady Creek Access Road
El Dorado, KS 67042