

18526.550



DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
P.O. BOX 889
SAVANNAH, GEORGIA 31402-0889

REPLY TO
ATTENTION OF:

APR 06 2005

Regulatory Branch
200500413

Lee Stewart
1149 Cornell Avenue
Savannah, Georgia 31406

Dear Mr. Stewart:

I refer to letter received by this office on February 22, 2005, submitted on your behalf by Southeast Environmental Management, requesting that we verify the delineation of the wetlands on your 89.08-acre property located along the southern right-of-way of Quacco Road, approximately 5,700 feet west of its intersection with US Highway 17 in Savannah, Chatham County, Georgia. This project has been assigned number 200500413; please refer to this number in all communication concerning this matter.

We have reviewed the information under criteria contained in the 1987 "Corps of Engineers Wetland Delineation Manual." The survey entitled "Wetland Survey for an 89.08 Acre Tract, Prepared for: Lower Bay Street Properties," dated February 21, 2005, is an accurate depiction of the Jurisdictional Wetland Boundaries. I recommend that you place a statement on the final surveyed property plat to the effect that "WETLANDS SHOWN ON THIS PLAN ARE UNDER THE JURISDICTION OF THE US ARMY CORPS OF ENGINEERS. OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE JURISDICTIONAL WETLAND AREAS WITHOUT PROPER AUTHORIZATION." This delineation will remain valid for a period of 5 years unless new information warrants revision prior to that date.

The wetlands on the subject property are waters of the United States and are therefore within the jurisdiction of Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). The placement of dredged or fill material into any waterways and/or their adjacent wetlands or mechanized land clearing of those wetlands would require prior Department of the Army authorization pursuant to Section 404.

This determination has been conducted to identify the limits of the US Army Corps of Engineers' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are US Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

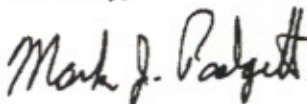
If you intend to sell property that is part of a project that requires Department of the Army Authorization, it may be subject to the Interstate Land Sales Full Disclosure Act. The Property Report required by Housing and Urban Development Regulation must state whether or not a permit for the development has been applied for, issued or denied by the US Army Corps of Engineers (Part 320.3(h) of Title 33 of the Code of Federal Regulations). You may contact the Department of Housing and Urban Development at the address provided to avoid a possible violation of this act.

This communication does not convey any property rights, either in real estate or material, or any exclusive privileges. It does not authorize any injury to property, invasion of rights, or any infringement of federal, state or local laws, or regulations. It does not obviate your requirement to obtain state or local assent required by law for the development of this property. If the information you have submitted, and on which the US Army Corps of Engineers has based its determination is later found to be in error, this decision may be revoked.

We have enclosed a form, which explains your right to appeal this decision in accordance with Title 33, Code of Federal Regulations, Part 331, published in the March 28, 2000, Federal Register, Vol. 65, No. 60, Pages 16486-16503. We have also enclosed a document entitled, "Jurisdictional Determination."

If you have any further questions or concerns pertaining to this matter, please feel free to contact Lori Beckwith, Regulatory Specialist, at (912) 652-5018.

Sincerely,



Mark J. Padgett
Project Manager, Southern Section,

Enclosures

Copies Furnished:

Department of Housing and Urban
Development, Regional Office
Environmental Branch
40 Marietta Street, 4th Floor
Atlanta, Georgia 30303

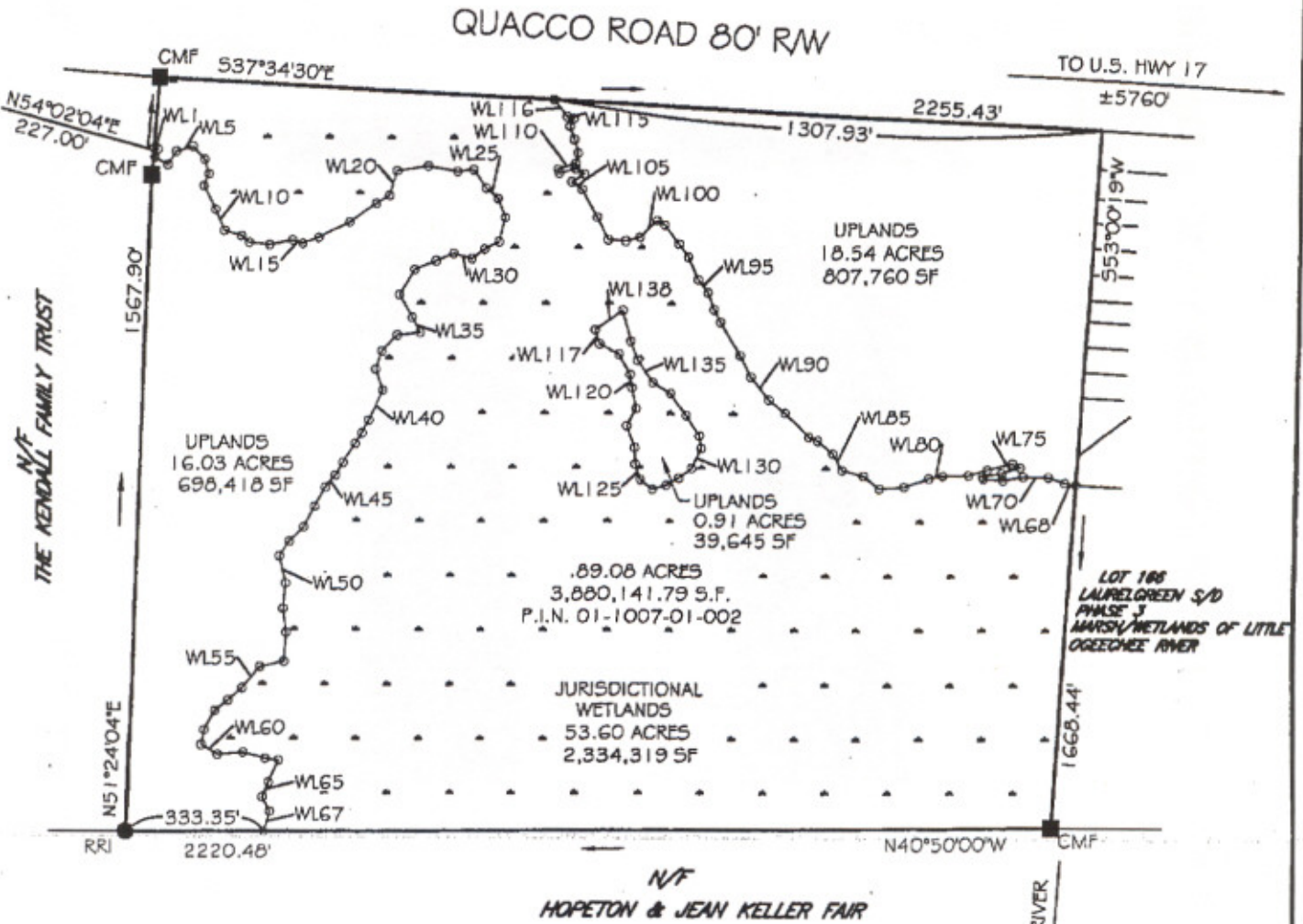
Copies Furnished (continued)

US Environmental Protection Division, Region IV
Water Management Division
Wetlands Regulatory Section
Attention: Mr. Ronald Mikulak, Chief
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-3104

Southeast Environment Management
Attention: Mr. David Crawley
PO Box 1247
Rincon, Georgia 31326

BOUNDARY WAS TAKEN FROM OTHERS AND HAS NOT BEEN PROVEN BY SOUTHEAST ENGINEERING AND ENVIRONMENTAL.

- CONC. MONUMENT
- IRON ROD FOUND
- IRON PIPE SET



JURISDICTIONAL WETLANDS = 53.60 AC
 UPLANDS = 35.48 AC
 TOTAL = 89.08 AC



Southeast
Engineering and
Environmental

6032 HIGHWAY 21 SOUTH
 POST OFFICE BOX 1749
 RINCON, GEORGIA 31526

OFFICE (912) 667-2667
 FAX (912) 826-1025

**Wetland Survey For
 An 89.08 Acre Tract
 Prepared For:
 Lower Bay Street Properties**

DRAWN BY: ATA
SCALE 1" = 400'
DATE: 2/21/05
JOB NO.: 04058

LINE TABLE		
LINE	LENGTH	BEARING
WL1	10.08	S35°36'14"E
WL2	20.23	S73°16'30"W
WL3	37.30	S12°09'24"E
WL4	36.93	N83°52'35"E
WL5	40.95	S56°47'50"E
WL6	40.42	S06°47'57"W
WL7	35.70	S32°16'26"W
WL8	30.29	S72°07'20"W
WL9	63.67	S22°26'14"W
WL10	55.95	S26°20'43"W
WL11	40.33	S23°08'39"E
WL12	25.18	S00°32'53"E
WL13	49.21	S34°41'53"E
WL14	56.45	S51°45'06"E
WL15	25.31	S23°34'52"E
WL16	41.16	S59°41'44"E
WL17	83.40	S67°35'07"E
WL18	79.26	S77°01'03"E
WL19	37.32	S70°43'17"E
WL20	61.24	N66°13'08"E
WL21	74.80	S49°24'22"E
WL22	72.24	S30°11'23"E
WL23	38.77	S46°51'22"E
WL24	53.44	S13°15'45"W
WL25	37.38	S00°12'35"W
WL26	50.53	S27°30'52"W
WL27	60.49	S62°44'52"W
WL28	39.04	N66°37'57"W
WL29	39.08	N76°28'58"W
WL30	46.08	N25°23'04"W
WL31	45.25	N61°57'27"W
WL32	55.02	N62°14'44"W
WL33	68.59	S80°02'17"W
WL34	60.87	S20°04'35"W
WL35	40.54	S20°59'38"W
WL36	54.02	N47°33'52"W
WL37	52.55	N86°08'47"W
WL38	44.66	S68°43'42"W
WL39	52.88	S29°48'19"W
WL40	80.27	S74°30'24"W
WL41	34.22	S75°31'14"W
WL42	29.76	S81°12'13"W
WL43	54.27	S82°42'11"W
WL44	35.24	S79°49'51"W
WL45	38.64	S89°21'40"W
WL46	52.33	S78°22'35"W
WL47	56.18	S77°32'22"W
WL48	49.23	N85°01'08"W
WL49	40.70	S82°56'42"W
WL50	67.65	S36°50'28"W
WL51	59.96	S54°26'23"W
WL52	57.95	S42°03'40"W
WL53	68.91	S53°28'30"W
WL54	59.14	N52°56'45"W
WL55	66.39	S89°33'30"W
WL56	44.33	N82°06'04"W

LINE TABLE		
LINE	LENGTH	BEARING
WL57	40.27	N79°53'28"W
WL58	53.58	S78°42'18"W
WL59	35.28	S59°15'31"W
WL60	45.65	S10°43'08"E
WL61	59.23	S45°28'19"E
WL62	55.83	S25°53'30"E
WL63	32.73	S32°32'11"E
WL64	58.30	S73°47'55"W
WL65	39.37	S73°02'42"W
WL66	38.74	S21°40'27"W
WL67	49.17	S64°33'57"W
WL68	26.40	N29°48'20"W
WL69	40.56	N22°02'45"W
WL70	59.09	N39°22'42"W
WL71	47.88	N50°32'02"W
WL72	46.26	N36°25'56"W
WL73	6.20	N29°40'49"E
WL74	45.45	S50°02'40"E
WL75	45.07	S58°22'42"E
WL76	20.35	N12°10'51"W
WL77	60.69	N54°59'16"W
WL78	47.16	N57°09'15"W
WL79	61.41	N41°42'08"W
WL80	34.35	N51°21'18"W
WL81	60.82	N60°11'15"W
WL82	60.05	N45°10'14"W
WL83	48.84	N00°45'32"W
WL84	52.71	N25°21'11"W
WL85	45.53	N19°30'33"E
WL86	48.18	N00°48'28"W
WL87	24.61	N18°42'53"W
WL88	81.40	N04°43'38"E
WL89	49.99	N02°04'20"W
WL90	70.70	N10°25'31"E
WL91	55.71	N22°07'45"E
WL92	91.63	N18°05'40"E
WL93	33.49	N21°38'55"E
WL94	42.49	N28°30'57"E
WL95	37.78	N11°14'20"E
WL96	57.81	N24°26'58"E
WL97	37.65	N13°01'44"E
WL98	57.34	N11°01'38"E
WL99	22.23	N09°24'44"W
WL100	58.68	N85°18'57"W
WL101	34.45	N54°59'26"W
WL102	41.25	N37°05'04"W
WL103	61.69	N23°42'04"E
WL104	76.37	N20°36'40"E
WL105	29.88	N04°36'46"W
WL106	34.72	S73°49'02"E
WL107	23.85	N11°05'10"W
WL108	39.81	N56°16'37"W
WL109	9.53	N35°38'57"E
WL110	43.51	S60°06'31"E
WL111	24.14	N61°49'35"E
WL112	32.55	N33°17'20"E

LINE TABLE		
LINE	LENGTH	BEARING
WL113	32.16	N30°25'48"E
WL114	20.09	N74°32'32"E
WL115	16.77	N22°38'39"W
WL116	49.75	N11°15'24"E
WL117	34.41	S32°26'17"W
WL118	51.78	S12°06'53"E
WL119	53.99	S20°03'45"W
WL120	32.05	S40°41'46"W
WL121	50.48	S38°18'19"W
WL122	47.30	S76°28'12"W
WL123	55.58	S29°08'11"W
WL124	39.37	S47°01'48"W
WL125	39.41	S30°56'35"W
WL126	37.36	S03°47'19"E
WL127	34.83	S56°24'23"E
WL128	35.40	S69°46'51"E
WL129	38.72	S78°12'49"E
WL130	52.93	N74°11'24"E
WL131	29.57	N40°35'21"E
WL132	59.61	N16°19'04"E
WL133	63.78	N13°55'40"E
WL134	52.11	N09°33'40"W
WL135	63.27	N13°31'03"E
WL136	47.92	N28°44'46"E
WL137	75.20	N34°28'36"E
WL138	78.38	N76°28'44"W



Southeast
Engineering and
Environmental

6032 HIGHWAY 21 SOUTH
POST OFFICE BOX 1749
RINCON, GEORGIA 31326

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FAX (912) 826-1025

**Wetland Survey For
An 89.08 Acre Tract
Prepared For:
Lower Bay Street Properties**

DRAWN BY: ATA

SCALE 1" = 400'

DATE: 2/21/05

JOB NO.: 04058

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: Savannah
FILE NUMBER: 200500413 (Sheet 1 of 1 for this property)

PROJECT LOCATION INFORMATION:

State: Georgia
County: Chatham
Center coordinates of site (latitude/longitude): 81 15 4 W / 32 1 35 N
Approximate size of area (parcel) reviewed, including uplands: 89.08 acres.
Name of nearest waterway: Little Ogeechee River
Name of watershed: Ogeechee

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: April 6, 2005
Site visit(s) Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 53.60 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* We reviewed the information provided by the applicant's consultant and all other information available regarding the site and determined that these wetlands were delineated in accordance with 1987 "Corps of Engineers Delineation Manual." These wetlands would be subject to our jurisdiction pursuant to Section 404 of the Clean Water Act since they have a surface connection to, and are located within the designated FEMA 100-year flood plain (which serves as a surface water connection) of, the Little Ogeechee River. Impacts to these wetlands on the site would have the potential to affect interstate or foreign commerce since these waters flow into a navigable water of the US.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
 - the presence of litter and debris
 - changes in the character of soil
 - destruction of terrestrial vegetation
 - shelving
 - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gages
 - other:
- Mean High Water Mark indicated by:
- survey to available datum; physical markings; vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Wetland Survey prepared by Warren E. Poythress.

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 - Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated February 5, 2005, prepared by (company): Southeast Environmental Management.
- This office does not concur with the delineation report, dated _____, prepared by (company): _____
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
 - U.S. Geological Survey 7.5 Minute Topographic maps: Medrim SE and Garden City Quadrangles
 - U.S. Geological Survey 7.5 Minute Historic quadrangles:
 - U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey: 1 ArcView map for Chatham County Soil Survey and 1999 USGS CIR.
- National wetlands inventory maps: 1 ArcGIS map prepared by the USACE.
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date): 1 ArcGIS map prepared by the USACE.
 - 100-year Floodplain Elevation is: varies across site (NGVD)
 - Aerial Photographs (Name & Date): 1 ArcGIS map prepared by the USACE.
 - Other photographs (Date): Wetland Sketch/photograph prepared by the consultant.
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
 - Applicable/supporting case law:
 - Other information (please specify): Final survey.

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

Applicant: Mr. Lee Stewart		File Number: 200500413	Date: APR 06 2005
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

If you have questions regarding this decision and/or the appeal process you may contact: Lori Beckwith at (912) 652-5018, Attention: OP-FS, P.O. Box 889, Savannah Georgia 31402

If you only have questions regarding the appeal process you may also contact:

Mr. Arthur Middleton, Administrative Appeal Review Officer
CESAD-ET-CO-R
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 9M15
Atlanta, Georgia 30303-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

DIVISION ENGINEER:

Commander

US Army Engineer Division, South Atlantic

60 Forsyth Street, Room 9M15

Atlanta, Georgia 30303-3490