USACE, Savannah District, Regulatory Division

Clean Water Act News

December 2008 Volume 1, Issue 2

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Pre-Application Meetings:

8 a.m. - 4 p.m. Jan 13, Piedmont Office in Morrow. For more information, see page 3.

9 a.m. - 4 p.m. Feb 10, District Office in Savannah. For more information, see page 3.

Meetings By Invitation Only

IRT Meetings:

8 a.m. - 4 p.m. Jan 14, Piedmont Office in Morrow. For more information, see page 3.

9 a.m. - 4 p.m. Feb 11, District Office in Savannah. For more information, see page 3.

Meetings By Invitation Only

Process Tips:

- Coordinate early.
- Communicate often.

USACE & EPA Revise Rapanos Guidance RE: CWA Jurisdiction

"We are committed to protecting America's aquatic resources under the Clean Water Act and in accordance with the recent Supreme Court decision. To ensure that we continue to make clear, consistent, and predictable jurisdictional determinations, we carefully monitored field application of the June 2006 Guidance. Furthermore, we identify and analyze problem areas and field situations lacking clarity, and we are providing additional guidance for determining: if a water is a traditional navigable water; if a wetland is adjacent to another jurisdictional water; and the relevant reach to be considered in the evaluation," said John Paul Woodley, Jr., Assistant Secretary of the Army (Civil Works).

Following is a summary of the points clarified in the revised guidance:

Traditional Navigable Waters (TNWs): TNWs include:

- Waters subject to Section 9 or 10 of the Rivers and Harbors Act, or
- Waters determined to be navigable-in-fact under federal law by a federal court, or
- Waters that are currently being used for commercial navigation, including commercial water-borne recreation, or
- Waters that have historically been used for commercial navigation, including commercial water-borne recreation; or
- Waters that are susceptible to being used in the future for commercial navigation, including commercial water-borne recreation. Evidence of future commercial navigation use, including commercial water-borne recreation must be clearly documented, such that, it is more than insubstantial or speculative.

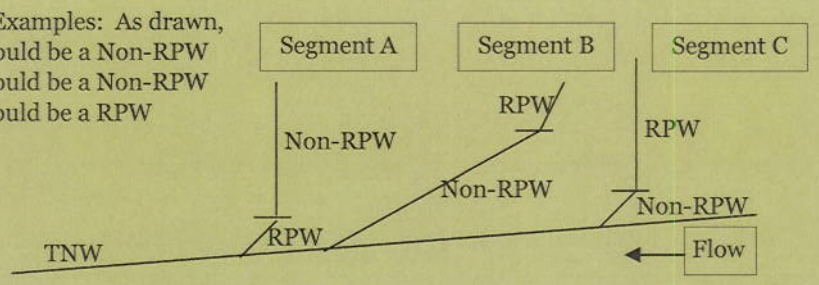
Adjacent Wetlands: Wetlands will be determined adjacent if one of the following three criteria are satisfied:

- There is an unbroken surface or shallow sub-surface connection to jurisdictional waters. Hydrologic connection may be intermittent.
- Wetlands are physically separated from jurisdictional waters by man-made dikes or barriers, natural river berms, beach dunes, and the like.
- The proximity of the wetland such that the wetlands have an implied ecological interconnection with jurisdictional waters, where the wetlands are reasonably close to a jurisdictional water and the ecological interconnectivity is neither speculative nor insubstantial. In assessing whether a wetland is reasonably close to a jurisdictional water, the proximity of the wetland (including all parts of a single wetland that has been divided by road crossings, ditches, berms, etc.) in question will be evaluated and shall not be evaluated together with other wetlands in the area.

Relevant Reach: The flow regime that best characterizes the tributary as a whole should be used to determine if the water is relatively permanent or non-relatively permanent.

Note: 11th Circuit has concluded that the Kennedy Standard is the sole method of determining CWA jurisdiction in that Circuit.

Relevant Reach Examples: As drawn,
Segment A would be a Non-RPW
Segment B would be a Non-RPW
Segment C would be a RPW

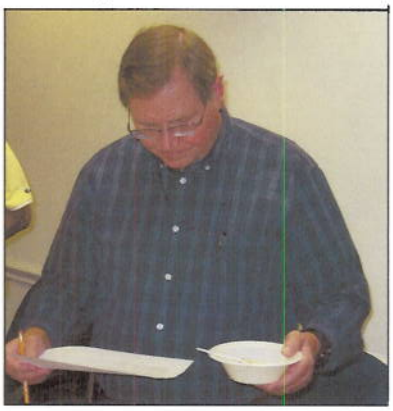


The revised document is available at: http://www.sas.usace.army.mil/news.htm.

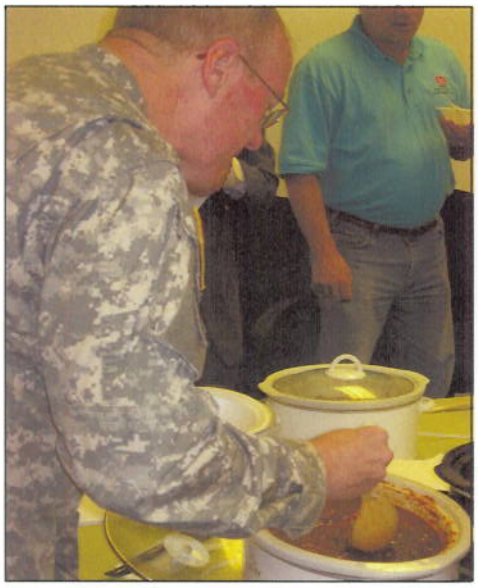
Piedmont Office 1st Annual Chili Cook-off

The Panel of Judges

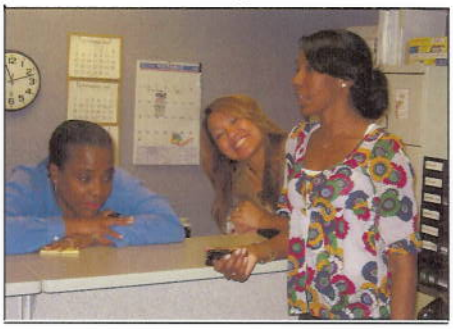
Judge Arch Middleton



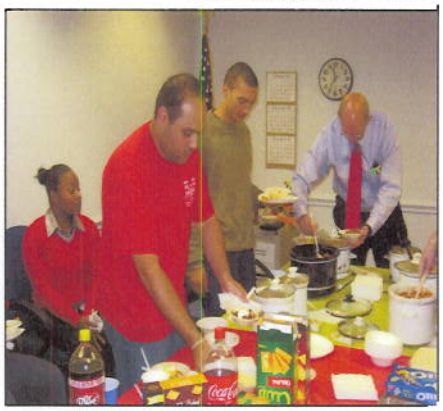
Judge BG Joe Schroedel



Awaiting the decision?



Enjoying the chili!



Bill Fonferek presents 1st place trophy to Sandy Soudchantho

Water Reservoirs: Interim Mitigation Policy In-Draft

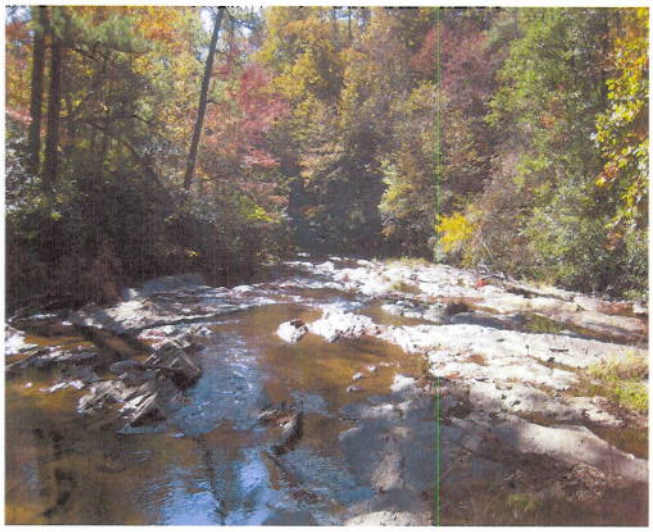
To further clarify local mitigation requirements with respect to the recently published Mitigation Rule, the Savannah District is developing local guidelines to identify factors to determine what type of mitigation strategies could be used to offset impacts associated with water reservoir projects. Additional guidance will be provided also for determining siting criteria and timing requirements.

Compensatory Mitigation includes different measures taken to offset unavoidable impacts created by a discharge of dredged and/or fill material in aquatic resources. Mitigation can include use of mitigation banks, in-lieu fee agreements, and/or on– or off-site creation, restoration, enhancement and/or preservation. For additional information re: the rule, visit http://www.usace.army.mil/cw/cecwo/reg/citizen.htm

Local Aquatic Resource Habitats

The Chattahoochee River, 430 miles long with an 8,770 square mile basin, originates in the Blue Ridge Mountains, 7 miles northwest of the City of Helen, in Union County, Georgia. The river flows in a southerly direction, along the Georgia/Alabama border until it reaches Lake Seminole, near the City of Chattahoochee, in Gadsden County, Florida. Water levels of this river system are determined predominately by precipitation, groundwater and water releases from Corps managed lakes. Common fish found within this system include stocked rainbow trout, brown trout, bass, crappie and perch. In natural areas, riparian vegetation includes a mixture of oaks, pines, gums, sycamore, tulip poplar and red maple.

Whooping Creek, 11.5 miles long with a 35 square mile basin, is located in the southern region of Carroll County. Whooping Creek originates near the City of Clem and flows into the Chattahoochee River, 3.5 miles southeast of the City of Lowell. Water levels are determined predominately by precipitation and groundwater. Common fish include sunfish, bluegill, creek chub and blackbanded darter. The natural riparian vegetation generally consists of different species of oaks, poplar and pine. In 2005, Georgia DNR identified the creek as one of 212 high priority waters based predominantly on wildlife use and landscape position.



Regulatory Workshop with NGOs

On November 17, 2008, the Savannah District held the third meeting in a series of ongoing partnering meetings with Non-Governmental Organizations (NGOs). Representatives from the Altamaha Riverkeeper, Ogeechee-Canoochee Riverkeeper, Satilla Riverkeeper, Savannah Riverkeeper, Southern Environmental Law Center, Sierra Club, Surfrider Foundation, The Georgia Conservancy and the Georgia DNR, Environmental Protection Division participated in the workshop. Morning discussions focused on how the Supreme Court Rapanos/Carabell guidance has been implemented and applied for making jurisdictional determinations in the field and how to identify wetlands in the field according to the Corps' 1987 manual. The manual requires use of a three-parameter test to determine if the site has adequate hydrology to support a dominance of hydrophytic vegetation and hydric soils. The afternoon session was spent in the field visiting two disturbed sites. The first site provided an example of a wetland where the hydrology has been altered from ongoing construction. The second site served as an example of a wetland with a hydric sandy soil where it is extremely difficult to identify the wetland boundary based solely on the presence of black, sandy soil. Future partnering meetings will be held to continue our dialogue on wetland jurisdiction, compliance and enforcement.

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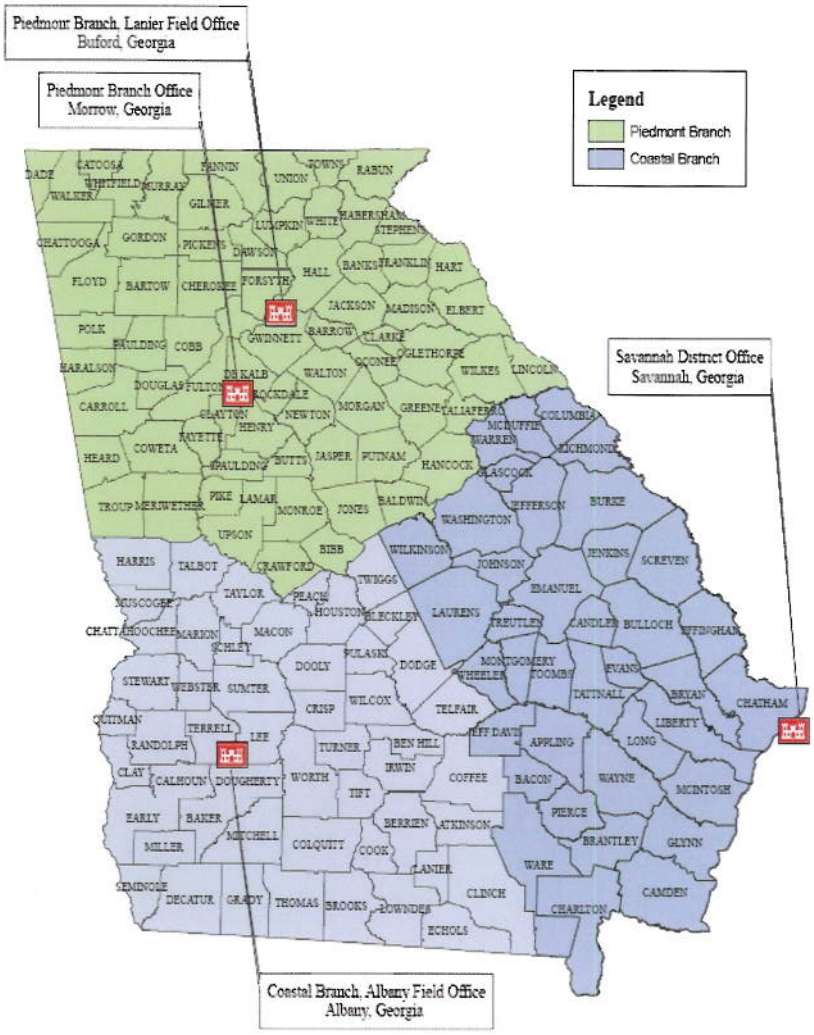
100 W. OGLETHORPE AVE
P.O. BOX 889
SAVANNAH, GA 31402
1-800-448-2402

LANIER FIELD OFFICE
ATTN: CESAS-RD-P
P.O. BOX 528
BUFORD, GA 30515
1-770-904-2365

PIEDMONT OFFICE
ATTN: CESAS-RD-P
1590 ADAMSON PARKWAY, SUITE 200
MORROW, GA 30260
1-678-422-2731



Do you know your Regulatory Staff?

Edward (Ed) Johnson has been with the Savannah District since 1984, when he began his career as an Engineer Intern in the Design Branch. Ed has worked as a Military Project Manager in Europe and as a Project Engineer in Savannah District, Construction Division. Ed came to Regulatory in 1991, where he was responsible for reviewing alternative analysis and making recommendations to minimize impacts to waters on proposed projects. In 1993, Ed moved to metro Atlanta as a Senior Project Manager evaluating proposed complex projects such as reservoirs, highways, retail developments and venues for the 1996 Olympics. In 2000, Ed became the Chief of what is now known as the Piedmont Branch of the Regulatory Division. Ed supervises a staff of 13, including 2 staff members at the Lake Lanier Field Office.

Ed Johnson has a B.S. in Civil Engineering with an emphasis on structural design from Tennessee State University. Ed is married and has one son attending college.

Ed believes the most enjoyable part of working in the Regulatory Division is interacting with customers, staff and the public while protecting and sustaining our aquatic environment.