

Appendix D

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD):  
8/30/2012

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:  
TPA Realty Services  
Attn: Mr. Paul Michael  
11555 Medlock Bridge Road Suite 150  
Johns Creek, Georgia 30097

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Savannah District; SAS-2006-01909

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION: The subject property is located north of Interstate 16 and west of Highway 280 in Bryan County, Georgia.

(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)

State: GA County/parish/borough: Bryan City: Ellabell  
Center coordinates of site (lat/long in degree decimal format): Lat. 32.193500° N, Long. -81.468753° W.  
Universal Transverse Mercator:  
Name of nearest waterbody: Ogeechee River

Identify (estimate) amount of waters in the review area:  
Non-wetland waters: 7000 linear feet; 8 width (ft) and/or acres.  
Cowardin Class:  
Stream Flow: Perennial  
Wetlands: 75.53 acres.  
Cowardin Class: Forested

Name of any water bodies on the site that have been identified as Section 10 waters:  
Tidal: N/A  
Non-Tidal: N/A

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

- Office (Desk) Determination. Date: November 5, 2012  
 Field Determination. Date(s): October 23, 2012

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

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 approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that 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) that 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) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (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 preliminary JD constitutes agreement that all wetlands and other

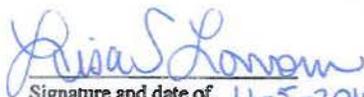
water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, 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, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

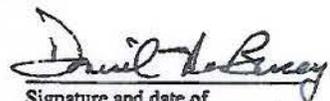
This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA.** Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Wetland exhibit by EMC Engineering entitled "WETLANDS EXHIBIT OF 505.9 ACRES, A PORTION OF THE H.M. GARDNER ESTATE, FOR DEVELOPMENT AUTHORITY OF BRYAN COUNTY" and dated 8/17/2006.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:03060202.
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1"=2000'; Eden Quadrangle, GA.
- USDA Natural Resources Conservation Service Soil Survey. Citation: 1"=1500'; Bryan County, GA.
- National wetlands inventory map(s). Cite name: 1"=1500'; Eden Quadrangle, GA.
- State/Local wetland inventory map(s):
- FEMA/FIRM maps: 13029C0080C.
- 100-year Floodplain Elevation is: X(National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): 1999 CIR Aerial; 1":1500; Eden Quadrangle, GA'.  
or  Other (Name & Date):
- Previous determination(s). File no. and date of response letter: SAS-2006-01909 dated 9/11/2007.
- Other information (please specify): Wetlands D, F, H, and I on the survey titled "WETLANDS EXHIBIT OF 505.9 ACRES, A PORTION OF THE H.M. GARDNER ESTATE, FOR DEVELOPMENT AUTHORITY OF BRYAN COUNTY" are jurisdictional based on our assessment according to the 1987 Corps of Engineers Wetland Delineation Manual and appropriate Regional Supplements. Wetlands A, B, C, F, and G are isolated non-jurisdictional wetlands and are addressed in Appendix B "Addendum to the Expanded Preliminary Jurisdictional Determination Form."

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

  
Signature and date of 11-5-2012  
Regulatory Project Manager  
(REQUIRED)

 8.30.12  
Signature and date of  
person requesting preliminary JD  
(REQUIRED, unless obtaining the signature is  
impracticable)

**Appendix E**  
**Addendum to Expanded Preliminary Jurisdictional Determination Form**  
**(Revised 18 May 2011)**

**SECTION I: SUMMARY OF FINDINGS**

**A. INTRASTATE AND NON-NAVIGABLE WATERS, INCLUDING WETLANDS:**

(If both boxes under Section I.A are not checked then this form does not apply; use Appendix B)

1.  If potential waters were assessed within the review area, these aquatic features exist or occur within the boundaries of a single state and are thus intrastate. Basis for decision (explain intrastate designation): Wetlands A, B, C, E, and G are isolated and are located entirely within the state of Georgia.

2.  If potential waters were assessed within the review area, these areas are non-navigable. Basis for decision (explain non-navigable designation):

Wetlands A, B, C, E, and G are forested wetlands that do not possess the depth or frequency of surface water necessary to support navigation.

**B. ISOLATED, NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:**

(If one of the two boxes under Section I.B is not checked then this form does not apply; use Appendix B)

1.  If potential non-wetland waters were assessed within the review area, these areas have a bed and bank or display indicators of an Ordinary High Water Mark (See 33 CFR 328.3(e) and RGL 05-05).

a. Summarize rationale supporting conclusion that waters, including wetlands, are isolated:

No hydrologic connectivity connecting isolated water(s), including wetland(s), to downstream traditional navigable water. Basis for decision (factors to consider but not limited to landscape position, location within the watershed, proximity to a TNW):

No ecological connectivity connecting isolated water(s), including wetland(s), to downstream navigable traditional water. Basis for decision (factors to consider but not limited to habitat and lifecycle support functions for fish and other aquatic species):

b. Summarize rationale supporting conclusion that waters, including wetlands, have no substantial nexus to interstate (or foreign) commerce:

Water(s), including wetland(s), are not and could not be used by interstate or foreign travelers for recreational or other purposes.

Explain:

Water(s), including wetland(s), are not and could not be used for fish or shellfish production, taken and sold in interstate or foreign commerce.

Explain:

Water(s), including wetland(s), are not and could not be used for industrial purposes by industries in interstate commerce.

Explain:

Other substantial nexus to interstate (or foreign) commerce.

Explain:

- Basis for decision (explain):

2.  If potential wetlands were assessed within the review area, these areas meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.

a. Summarize rationale supporting conclusion that waters, including wetlands, are isolated:

No hydrologic connectivity connecting isolated water(s), including wetland(s), to downstream traditional navigable water. Basis for decision (factors to consider but not limited to landscape position, location within the watershed, proximity to a TNW):

Wetlands A, B, C, E, and G exhibit no connectivity to traditional navigable waters based on location within the watershed.

No ecological connectivity connecting isolated water(s), including wetland(s), to downstream navigable traditional water. Basis for decision (factors to consider but not limited to habitat and lifecycle support functions for fish and other aquatic species):

Wetlands A, B, C, E, and G exhibit are not necessary to support life cycles of native fish or other aquatic species on or near the subject property.

b. Summarize rationale supporting conclusion that waters, including wetlands, have no substantial nexus to interstate (or foreign) commerce:

Water(s), including wetland(s), are not and could not be used by interstate or foreign travelers for recreational or other purposes. Explain:

Wetlands A, B, C, E, and G do not possess the depth or frequency of surface water, nor connectivity to TNW, to be utilized by interstate or foreign travelers.

Water(s), including wetland(s), are not and could not be used for fish or shellfish production, taken and sold in interstate or foreign commerce. Explain:

Wetlands A, B, C, E, and G could not support fish or shellfish populations that would support commerce.

Water(s), including wetland(s), are not and could not be used for industrial purposes by industries in interstate commerce. Explain:

Wetlands A, B, C, E, and G do not possess sufficient water, timber, or mineral resources to be utilized for industrial purposes.

Other substantial nexus to interstate (or foreign) commerce. Explain:

- Basis for decision (explain):

3. Provide acreage estimates for non-jurisdictional waters in the review area using best professional judgment (check all that apply):

Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet, \_\_\_\_ width (ft).

Lakes/ponds: \_\_\_\_ acres

Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource:

Wetlands: 9.71 acres

**C. ISOLATED, NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS POTENTIALLY REGULATED BY THE "MIGRATORY BIRD RULE":**

Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).

- Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet, \_\_\_ width (ft).
- Lakes/ponds: \_\_\_\_\_ acres
- Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource: \_\_\_\_\_
- Wetlands: 9.71 acres

**SECTION II: DATA SOURCES**

**A. SUPPORTING DATA.** Data reviewed for EPJD (check all that apply-checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps.
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas: 03060202
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps
- USGS map(s). Cite name: 1"=2000' Eden Quadrangle, GA
- USDA Natural Resources Conservation Service Soil Survey. Citation: 1"=1500' Bryan County, GA
- National wetlands inventory map(s): 1"=1500' Eden Quadrangle, GA
- State/local wetland inventory map(s):
- FEMA/FIRM map(s): Bryan County Tax Assessors Flood Plain Map
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): 1"=1500' Eden Quadrangle, GA  
Or  Other (Name & Date): \_\_\_\_\_
- Previous Determination(s). File number and date of response letter: SAS-2006-01909; 9/11/2007
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): \_\_\_\_\_

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Wetlands A, B, C, E, and G are isolated and not in the 100 year floodplain. They do not possess surface water connections to jurisdictional waters of the U.S. There are no natural or man-made discrete and/or confined surface water connections between the aforementioned isolated wetlands and any other jurisdictional waters. There is no evidence of surface-water flow to or from the wetlands. The wetlands are not located in the mapped 100 year flood plain. Therefore, during times of heavy precipitation there is a very low probability that floodwater would reach an elevation necessary for water to flow from other jurisdictional waters into the wetlands. Based on a review of the USGS Quadrangle Sheet, the wetlands are not located immediately upslope of other jurisdictional waters and based on their landscape position, are not part of a recognizable hydrologic system. The wetlands would not be considered a traditional navigable water since they do not have the necessary water depth to support navigation of any kind. The wetlands do not cross any state boundary and do not have a use which would associate it with interstate commerce. In consideration of the January 2, 2001, United States Supreme Court decision, Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, it is our opinion that the aforementioned wetlands are isolated and not regulated under the CWA.