

ENVIRONMENTAL SERVICES, INC.  
204 WEST ST. JULIAN STREET  
THIRD FLOOR  
SAVANNAH, GEORGIA 31401  
(912) 236-4711 • FAX (912) 236-3668  

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www.esinc.cc

17 May 2005

Hull Island, LLC  
Attn: Mr. Ryker Carter  
9409 Homesville Road  
Odum, Georgia 31555

**RE: Hull Island / 3,000-Acres**  
**Horse Stamp Church Road, Camden County, Georgia**  
**Reg. Branch Number 200500395**

**ESI #: ES04056.02**

Dear Mr. Carter:

Attached is a copy of the preliminary verification letter from the U.S. Army Corps of Engineers (CE), dated 16 May 2005, regarding the above-referenced property located in Camden County, Georgia.

The verification letter states that the CE agrees with the vast majority of the delineation performed by Environmental Services, Inc., (ESI) and the jurisdictional wetland boundaries are approximately correct as identified on ESI's sketches titled "*Approximate Salt Marsh and Wetland Sketch, Hull Island (Sections 1-3, 5 & 8)*" and "*Approximate Wetland Sketch, Hull Island (Sections 4, 6, & 7)*." The five areas where the CE letter requests delineation revisions have already been completed by ESI. The results of this effort have been coordinated with you and your surveyors via revised Section drawings and a flagging memo. Disturbance to jurisdictional wetland areas would require prior authorization from CE pursuant to Section 404 of the Clean Water Act. This delineation once a final signed and sealed survey of the delineation has been submitted and approved in writing by the CE will remain valid for a period of five (5) years, unless new information warrants revision prior to that date. Once ESI receives and comments on the final survey from Cumberland Land Surveyors, ESI will facilitate the receipt of a final Jurisdictional Determination from the CE.

Should you have any questions or wish to discuss this information further, please do not hesitate to contact us at the number listed above.

Sincerely yours,

ENVIRONMENTAL SERVICES, INC.



Brandon F. Smith  
Senior Scientist III

BS/lb  
ES04056.02/Client\_PrelimVerifLtr  
(May 2005)

xc: Thomas McCook, Coastal Forest Investments  
Andrew Zuckerman, The Zuckerman Group  
Gary Howalt, ESI Corporate



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

REPLY TO  
ATTENTION OF:

MAY 16 2005

Regulatory Branch  
200500395

RECEIVED  
MAY 17 2005

Hull Island, LLC  
Attention: Ryker Carter  
9409 Homesville Road  
Odum, Georgia 31555

Dear Mr. Carter:

I refer to the letter of February 28, 2005, sent on your behalf by Environmental Services, requesting that we verify the delineation of the wetlands on your property. The site is located south of and adjacent to Horse Stamp Church Road, west of and adjacent to Interstate 95, Camden County, Georgia. I also refer to the March 30, 2005, site visit by Mr. Terry Kobs of the Regulatory Branch and Mr. Brandon Smith of Environmental Services. This project has been assigned number 200500395 and it is important that you refer to this number in all communication concerning this matter.

As stipulated in the January 9, 2001, United States Supreme Court decision on *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers*, the US Army Corps of Engineers cannot assert Clean Water Act jurisdiction over isolated, non-navigable, intrastate waters based solely on their use as habitat for migratory birds. In light of this decision, your consultant provided the opinion that several wetlands located on the subject tract are non-jurisdictional.

I have reviewed your submittal and determined that the wetlands on the property had generally been delineated in accordance with the 1987 "Corps of Engineers Wetland Delineation Manual." During the above mentioned site visit several previously unidentified wetlands were found and Mr. Smith was informed these areas would need to be flagged and surveyed. I request that you have the area in section 5, east of wetland "5FD 1-8/5BC 1-6", the area in section 7 north of "7GF-1 = 7BC-1" and south of wetland "7GE-1 = 7BB-1", and the two areas in section 8 north of the wetland line "8FC-1-164" along with all other jurisdictional wetland boundary lines, as depicted on the drawings titled, "Approximate Salt Marsh and Wetland Sketch, Hull Island/Section 1", "Section 2", "Section 3", "Section 5", and "Section 8" as well as "Approximate Wetland Sketch, Hull Island/Section 4", "Section 6", and "Section 7", surveyed and superimposed on the final plat for the property. We have determined that the wetland areas labeled as "Potentially Isolated Wetlands" are isolated except for wetlands "3GA 1-15", "3GB 1-12", and "8CS 1-13" which are located within the 100 year flood plain. All wetlands labeled as "Potentially Isolated Wetlands" and not located within the 100 year flood plain are non-jurisdictional, and Department of the Army authorization, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), is not required for dredge and/or fill activities in these areas.

All non-isolated wetland and other waters of the United States shown on the above referenced survey are subject to our jurisdiction pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403). The placements 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 and/or Section 10.

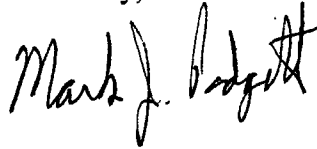
In order to avoid violation of the Interstate Land Sales Full Disclosure Act and/or Section 404 of the Clean Water Act, I recommend that you place a statement on the plat to the effect that **"JURISDICTIONAL WETLANDS SHOWN ON THIS PLAN ARE UNDER THE JURISDICTION OF THE US ARMY CORPS OF ENGINEERS. OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE JURISDICTIONAL WETLAND AREAS WITHOUT PROPER AUTHORIZATION."** **Please be advised that in our evaluation of any future permit application to impact jurisdictional wetlands at this site, we would have to consider any existing or proposed impacts to non-jurisdictional wetlands and mitigation requirements in our cumulative impacts assessment.** If we have not received this requested survey or notification of your intent to provide this survey within 90 days of the date of this letter, your request will be cancelled.

This delineation/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 delineation/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.

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 documents titled, "Jurisdictional Determination."

Should you have any questions concerning this matter, you may call Mr. Terry Kobs, of the Regulatory Branch at (912) 652-5893.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Padgett". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark J Padgett  
Project Manager, Southern Section

Enclosures

Copies Furnished:

Environmental Services  
Attention: Brandon Smith  
204 West St. Julian Street, Third Floor  
Savannah, Georgia 31401

US Department of the Interior  
Fish and Wildlife Service  
North Georgia Field Office  
Attention: Sandra S. Tucker, Field Supervisor  
105 Westpark Drive, Suite D  
Athens, Georgia 30606

US Environmental Protection Agency  
Attention: Mr. Ron Mikulak, Chief  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, Southwest  
Atlanta, Georgia 30303

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

Copies Furnished Continued:

NOAA, National Marine Fisheries  
Attention: Kay Davy  
Post Office Box 12559  
Charleston, South Carolina 29422-2559

**JURISDICTIONAL DETERMINATION**  
U.S. Army Corps of Engineers

Revised 8/13/04

**DISTRICT OFFICE:** Savannah  
**FILE NUMBER:** 200500395 Saltmarsh

**PROJECT LOCATION INFORMATION:**

State: Georgia  
County: Camden  
Center coordinates of site (latitude/longitude): 31° 3' 22.15" N 81° 39' 26.64" W  
Approximate size of area (parcel) reviewed, including uplands: 3000 acres.  
Name of nearest waterway: White Oak Creek  
Name of watershed: Satilla

**JURISDICTIONAL DETERMINATION**

**Completed:** Desktop determination  
Site visit(s)



Date:  
Date(s): March 30, 2005

**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:

☒ *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 wetlands<sup>1</sup>.

☒ (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 adjacent<sup>2</sup> 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 the wetlands on the property had generally been delineated in accordance with the 1987 "Corps of Engineers Wetland Delineation Manual." Wetland areas labeled as Saltmarsh on the drawings titled, "Approximate Salt Marsh and Wetland Sketch, Hull Island/Section 1", "Section 2", "Section 3", "Section 5", and "Section 8" would be subject to our jurisdiction pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) since they are subject to the ebb and flow of the tides. Impacts to the wetlands on the site would have the potential to affect interstate or foreign commerce since these waters eventually 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: Environmental Services

**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 28, 2005, prepared by (company): Environmental Services

- ☐ 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:
  - ☒ U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - ☒ U.S. Geological Survey 15 Minute Historic quadrangles:
  - ☒ USDA Natural Resources Conservation Service Soil Survey:
  - ☒ National wetlands inventory maps:
  - ☒ State/Local wetland inventory maps:
  - ☒ FEMA/FIRM maps (Map Name & Date): \_\_\_\_\_
  - ☒ 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
  - ☒ Aerial Photographs (Name & Date): \_\_\_\_\_
  - ☒ Other photographs (Date): \_\_\_\_\_
  - ☒ Advanced Identification Wetland maps:
  - ☒ Site visit/determination conducted on: March 30, 2005
  - ☒ Applicable/supporting case law:
  - ☒ Other information (please specify): \_\_\_\_\_

<sup>1</sup>Wetlands 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).

<sup>2</sup>The 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.



**JURISDICTIONAL DETERMINATION**  
U.S. Army Corps of Engineers

Revised 8/13/04

**DISTRICT OFFICE:** Savannah  
**FILE NUMBER:** 200500395 Jurisdictional Wetlands

**PROJECT LOCATION INFORMATION:**

State: Georgia  
County: Camden  
Center coordinates of site (latitude/longitude): 31° 3' 22.15" N 81° 39' 26.64" W  
Approximate size of area (parcel) reviewed, including uplands: 3000 acres.  
Name of nearest waterway: White Oak Creek  
Name of watershed: Satilla

**JURISDICTIONAL DETERMINATION**

**Completed:** Desktop determination ☒ Date:  
Site visit(s) ☒ Date(s): March 30, 2005

**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:
- ☒ *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 wetlands<sup>1</sup>.
- ☒ (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 adjacent<sup>2</sup> 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 the wetlands on the property had generally been delineated in accordance with the 1987 "Corps of Engineers Wetland Delineation Manual." Wetland areas labeled as jurisdictional wetlands on the drawings titled, "Approximate Salt Marsh and Wetland Sketch, Hull Island/Section 1", "Section 2", "Section 3", "Section 5", and "Section 8" as well as "Approximate Wetland Sketch, Hull Island/Section 4", "Section 6", and "Section 7", would be subject to our jurisdiction pursuant to Section 404 of the Clean Water Act since they are adjacent to and/or have a surface connection to a tributary to White Oak Creek. The wetland areas identified as "3GA 1-15", "3GB 1-12", and "8CS 1-13" would also be jurisdictional because they are located within the 100 year flood plain and considered continues with White Oak Creek. Impacts to the jurisdictional wetlands on the site would have the potential to affect interstate or foreign commerce since these waters eventually 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: Environmental Services

**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 \_\_\_\_\_, prepared by (company):
- ☒ This office does not concur with the delineation report, dated February 28, 2005, prepared by (company):

**Environmental Services**

- ☒ 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:
- ☒ U.S. Geological Survey 7.5 Minute Historic quadrangles:
- ☒ U.S. Geological Survey 15 Minute Historic quadrangles:
- ☒ USDA Natural Resources Conservation Service Soil Survey:
- ☒ National wetlands inventory maps:
- ☒ State/Local wetland inventory maps:
- ☒ FEMA/FIRM maps (Map Name & Date):
- ☒ 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- ☒ Aerial Photographs (Name & Date):
- ☒ Other photographs (Date):
- ☒ Advanced Identification Wetland maps:
- ☒ Site visit/determination conducted on: March 30, 2005
- ☒ Applicable/supplemental maps:

 Other information (please specify):

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<sup>1</sup>Wetlands 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).

<sup>2</sup>The 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.

**JURISDICTIONAL DETERMINATION**  
U.S. Army Corps of Engineers

Revised 8/13/04

**DISTRICT OFFICE:** Savannah  
**FILE NUMBER:** 200500395 Isolated Wetlands

**PROJECT LOCATION INFORMATION:**

State: Georgia  
County: Camden  
Center coordinates of site (latitude/longitude): 31° 3' 22.15" N 81° 39' 26.64" W  
Approximate size of area (parcel) reviewed, including uplands: 3000 acres.  
Name of nearest waterway: White Oak Creek  
Name of watershed: Satilla

**JURISDICTIONAL DETERMINATION**

**Completed:** Desktop determination ☐ Date:  
Site visit(s) ☒ Date(s): March 30, 2005

**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:
- ☒ 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 wetlands<sup>1</sup>.
- ☒ (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 adjacent<sup>2</sup> 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 the wetlands on the property had generally been delineated in accordance with the 1987 "Corps of Engineers Wetland Delineation Manual." Based on this review, as well as the March 30, 2005, site visit by Mr. Terry Kobs, Regulatory Branch, a review of aerial photographs, soils maps, etc, we determined that the wetland areas labeled as "Potentially Isolated Wetlands", as shown on the drawings titled, "Approximate Salt Marsh and Wetland Sketch, Hull Island/Section 1", "Section 2", "Section 3", "Section 5", and "Section 8" as well as "Approximate Wetland Sketch, Hull Island/Section 4", "Section 6", and "Section 7", are isolated and have no surface connection to any other water of the United States except for wetlands "3GA 1-15", "3GB 1-12", and "8CS 1-13" which are located within the 100 year flood plain and considered continues with White Oak Creek. We then reviewed the isolated areas in accordance with 33 CFR 328.3 to determine if the site is subject to our jurisdiction under Section 404 of the Clean Water Act. Based on this

review, we determined that the isolated wetlands are non-jurisdictional since impacts to the site would not affect interstate or foreign commerce.

**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:

**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 \_\_\_\_\_, prepared by (company):
- ☒ This office does not concur with the delineation report, dated February 28, 2005, prepared by (company):

**Environmental Services**

- ☒ 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:
- ☒ U.S. Geological Survey 7.5 Minute Historic quadrangles:
- ☒ U.S. Geological Survey 15 Minute Historic quadrangles:
- ☒ USDA Natural Resources Conservation Service Soil Survey:
- ☒ National wetlands inventory maps:
- ☒ State/Local wetland inventory maps:
- ☒ FEMA/FIRM maps (Map Name & Date):
- ☒ 100-year Floodplain Elevation is: (NGVD)
- ☒ Aerial Photographs (Name & Date):
- ☒ Other photographs (Date):

- ☐ Advanced Identification Wetland maps:
- ☒ Site visit/determination conducted on: March 30, 2005
- ☐ Applicable/supporting case law:
- ☐ Other information (please specify):

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<sup>1</sup>Wetlands 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).

<sup>2</sup>The 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.

# NOTIFICATION OF ADMINISTRATIVE APPEAL DECISIONS AND PROFFERED PERMIT

Applicant: Hull Island, LLC		File Number: 200500395	Date: 05/11/05
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	
	APPROVED JURISDICTIONAL DETERMINATION	D	
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/mce/functions/cw/cecw/reg> or Corps regulations at 33 CFR Part 331.

**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.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**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.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION**

If you have questions regarding this decision and/or the appeal process you may contact: Terry Kobs at (912) 652-5893  
Department of the Army  
U.S. Army Corps of Engineers, Savannah District  
Attention: Terry Kobs  
P.O. Box 889  
Savannah Georgia 31402

If you only have questions regarding the appeal process you may also contact:  
Mr. Michael F. Bell, 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