

D-16758
SWG-2004-02048

NOV 16 2004



NORTHROP ASSOCIATES, INC.
LAND PLANNING • ENVIRONMENTAL • REAL ESTATE CONSULTANTS

November 5, 2004

Mr. Kenny Jaynes
North Compliance Unit Leader
U.S. Army Corps of Engineers
2000 Fort Point Road
Galveston, Texas 77550

Re: Request for Verification of a
Delineation of Jurisdictional Waters in
Vidor, Orange County, Texas

Dear Mr. Jaynes:

On behalf of ACR, L.P., Northrup Associates, Inc. (NAI) is requesting verification of a delineation of jurisdictional waters performed on an existing approximately 2,300 foot levee roadway. The tract is located within the 100-year floodplain and approximately 0.2 mile north of the Bonner overpass in Vidor, Orange County, Texas (Exhibit 1). Portions of the project area that will be used as turn-out lanes lie on natural ridges and extend into a pipeline easement. Enclosed are maps of the proposed project area and soil stations overlain onto a Digital Ortho photo and USGS Topographic Quadrangle with associated data sheets prepared by NAI.

Following internal processing and review of the project, please have the assigned project manager contact me at his/her earliest convenience in order to schedule a site visit. Mr. Jayson Hudson is currently the project manager assigned to a Jurisdictional Determination recently requested by NAI on the same property and for the same client.

Thank you for your assistance.

Sincerely,

NORTHROP ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "J. G. White".

James G. White
Senior Environmental Specialist

Enclosures

JW:jw

Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1228
GALVESTON, TEXAS 77553-1228

REPLY TO
ATTENTION OF:

January 14, 2005

Compliance Section

SUBJECT: D-16758; Determination Verification, Access Road, Vidor, Orange County, Texas

Mr. James G. White
Senior Environmental Specialist
Northrup Associates, Inc.
9328 Westview Drive, Suite 100
Houston, Texas 77055

Dear Mr. White:

This concerns your November 5, 2004 verification request for an approximately 2,300 foot levee roadway project. The project site is located approximately 0.2 mile north of the Bonner overpass, Vidor, Orange County, Texas. Based on the revised information you have submitted, I concur with your findings that the site does not contain areas subject our jurisdiction; therefore, no Department of the Army permit is required prior to the initiation of the work.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are 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.

This approved jurisdictional determination is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. Please see the enclosed

~~JOHNSON/DW/6353~~
CESWG-PE-RC

-2-

sheets regarding the administrative appeal process for jurisdictional determinations. If you have any questions concerning this matter, please reference file number **D-16758** and contact Mr. Dwayne Johnson at the letterhead address or by telephone at 409-766-6353.

Sincerely,

Dwayne Johnson
Project Manager

~~JOHNSON~~
CESWG-PE-RC

Enclosures

Complainant's Ex. 46

D 17212
200500548
APR 13 2005

Date: April 11, 2005

Mr. John Davidson
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
Phone: 1-409-766-3899

Re: 162 Acres situated off FM Hwy. 1132 and Hwy. 105, Vidor, Texas, Orange
County (owners: Henry R. Stevenson, Jr. & Tim Edgar dba Parkwood Land
Co.) The property is mostly in C Zone. (Remaining in B)

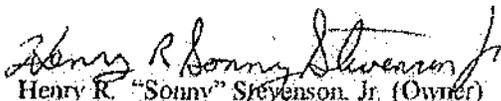
Dear John:

As per our phone conversation this date, I am confirming our discussion about the possible lack of jurisdiction by your office on the above stated property as there are no creeks, rivers, or bayous located there. The property is heavily timbered. It is our plan to dig a lake as outline in the drawing enclosed. (Additional lakes may be developed in time.) The property is isolated and not adjacent to any navigable streams and it has no adverse effect on interstate commerce.

I am attaching Exhibit A which shows the property as outlined in highlighted yellow.

If the Corps will concur with these findings, I would like to have your written response as soon as possible. We would like to proceed with our project at this time. If you have any questions or comments, please give me a call at 1-409-783-0940. My e-mail address is luckystevenson@aol.com. Thanks for your attention to this matter.

Regards,


Henry R. "Sonny" Stevenson, Jr. (Owner)
2085 Galway
Vidor, Texas 77662-2954
Phone: 1-409-783-0940

cc: Tim Edgar

Complainant's Ex. 46

Complainant's Ex. 46

CESWG-PE-RC (1145)

16 May 2005

MEMORANDUM FOR THE FILE

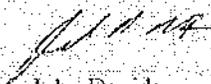
SUBJECT: D-17212; Parkwood Land Company, Jurisdictional Determination, Proposed Borrow Pit, Vidor, Orange County, Texas

1. Parkwood Land Company requested, by letter dated 11 April 2005, a jurisdictional determination for a proposed borrow pit on a 162-acre tract. The tract is located approximately 3,000 feet southeast of the State Highway 105 and FM 1132 (Evangeline Road) intersection, in Vidor, Orange County, Texas.
2. A desk review was conducted on 27 April 2005. I reviewed the Photorevised 1974 Pine Forest, Tex. Quadrangle Map, the 6 January 1983 Orange County Flood Boundary and Floodway Map Panel 25 of 250, and the 1995 Infrared Aerial Photograph. The quadrangle map shows that an unnamed tributary to Anderson Gully runs along the eastern property line about halfway between the north and south property lines, runs off the property and then clips the southeast corner of the property. The aerial photo shows the unnamed tributary and also has wetland signatures that may connect to the unnamed tributary. The Floodway Map shows that the 500-year floodplain runs through the property along the unnamed tributary to Anderson Gully and the remainder of the property is located above the 500-year floodplain. A site visit was conducted on 28 April 2005. Mr. Henry R. (Sonny) Stevenson, Jr. and I attended the site visit. Parkwood Land Company requested a jurisdictional determination for the entire 162-acre tract. Mr. Stevenson stated they wanted to excavate a borrow pit on the tract. We started the site visit on the south property line of the northern section of the property at the north end of Berwick Road. This portion of the property was dominated by pines and hardwoods and appeared to be uplands. I showed Mr. Stevenson the quadrangle map and the aerial photo and stated it appears there is a tributary and adjacent wetlands on the property. We then drove onto the southern most section of the property at the east end of Hyline Road at the electrical transmission right-of-way (ROW). We walked across the ROW to a wetlands signature present on the aerial photo. I found what appeared to be a wetland and Mr. Stevenson and I followed it to the unnamed tributary to Anderson Gully. The unnamed tributary to Anderson Gully is an eventual tributary to the Neches River, a navigable water of the United States. Therefore, the unnamed tributary to Anderson Gully and any adjacent wetlands are waters of the United States subject to Section 404 of the Clean Water Act and the discharge of fill material into these waters requires a permit. I told Mr. Stevenson that the unnamed tributary to Anderson Gully is a water of the United States and a permit is required to fill it. I also stated that any wetlands that have a direct hydrologic surface connection to the unnamed tributary to Anderson Gully are adjacent and a permit is required to mechanically landclear adjacent wetlands. Mr. Stevenson stated he just wanted to construct a borrow pit in the northern section. I stated since he requested a jurisdictional determination for the entire 162-acre site, I will have to write a letter stating that the property contains waters of the United States and a permit is required to fill them. I told Mr. Stevenson that if he marks off the specific area in the northern section where he wants to construct the borrow pit, I can give him a determination for the borrow pit area only. I further recommended that he get the entire property delineated and approved by the Corps so he knows exactly how much jurisdictional areas are on the entire 162-acre tract. I told Mr. Stevenson that I would be back in the area on 5 May 2005 and if he had the area clearly marked, I could conduct a site visit on that day. He agreed.
3. On 4 May 2005, Mr. Stevenson faxed a revised site map that had the proposed borrow pit area marked, which is 28 acres. A second site visit was conducted on 5 May 2005. The proposed borrow pit area was clearly staked and flagged in the field. I walked the western portion of the proposed borrow area and it was an upland dominated by loblolly pine, yaupon, sweet gum and American elm. I then examined the southeast portion of the proposed borrow area, which had wetland signatures on the aerial photo. There is

Complainant's Ex. 46

also an abandoned well pad and road in that section. I took a sample point in a low area just south of the abandoned well pad. The sample point was dominated by Chinese tallow (*Sapium sebiferum*), green flatsedge (*Cyperus virans*), soft rush (*Juncus effusus*), and comb-leaf mermaid-weed (*Proserpinaca pectinata*). The soil was saturated at the surface and sediment deposits were present, which are positive wetland hydrology indicators. The soil also had a low-chroma color with redoximorphic features, which is an indicator of hydric soils. All three wetland parameters were present and the sample point was in a wetland. I saw a few more herbaceous wetlands south of the abandoned well pad. The wetlands are located above the 100-year floodplain and I did not see any hydrologic surface connection between the wetlands and the unnamed tributary to Anderson Gully. Therefore, the wetlands are isolated. Also, the wetlands have no known nexus to interstate commerce and are not waters of the United States. I then walked the northeast section of the proposed borrow pit, which is forested and very similar to the western section. I took a sample point, which was dominated by loblolly pine, yaupon, American holly, American elm, and sweet gum. No wetland hydrology or hydric soil indicators were present at the sample point and the sample point was not in a wetland.

4. Based on the site visit and desk review, I determined that no waters of the United States, including adjacent wetlands, are present within the 28-acre proposed borrow pit area. Therefore, the discharge of fill material onto the 28-acre tract for the construction of the proposed borrow pit is not subject to Section 404 of the Clean Water Act and does not require a Department of the Army (DA) permit. However, the 162-acre tract contains an unnamed tributary to Anderson Gully and adjacent wetlands, which are waters of the United States, that are subject to Section 404 and the discharge of fill material into these waters requires a DA permit. This approved jurisdictional determination is valid for 5 years from the date of the notifying letter unless new information warrants a revision prior to the expiration date.



John Davidson
North Unit Leader
Compliance Section

Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

REPLY TO
ATTENTION OF:

May 17, 2005

Compliance Section

SUBJECT: D-17212; Parkwood Land Company, Jurisdictional Determination, Proposed Borrow Pit/Lake, Vidor, Orange County, Texas

Mr. Henry R. "Sonny" Stevenson, Jr.
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954

Dear Mr. Stevenson:

In response to your April 11, 2005 request for a jurisdictional determination for a proposed borrow pit/lake, we determined that the 28-acre project area does not contain waters of the United States, including adjacent wetlands. Therefore, the discharge of fill material onto the project area for the construction and operation of the borrow pit/lake is not subject to Section 404 of the Clean Water Act and does not require a Department of the Army (DA) permit. The 28-acre tract is located within a 162-acre tract of land located approximately 3,000 feet southeast of the State Highway 105 and FM 1132 (Evangeline Road) intersection, in Vidor, Orange County, Texas. Please be aware that the 134 acres remaining in the 162-acre tract contain an unnamed tributary to Anderson Gully and adjacent wetlands, which are waters of the United States subject to Section 404 of the Clean Water Act. The discharge of fill material into these waters requires a DA permit.

This determination has been conducted to identify the limits of the Corps' 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 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.

Complainant's Ex. 46

DAVIDSON
CESWG-PE-RC

-2-

This approved jurisdictional determination is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. Please see the enclosed sheets regarding the administrative appeal process. If you have any questions concerning this matter, please reference file number D-17212 and contact me at the letterhead address or by telephone at 409-766-3933.

Sincerely,

John Davidson
North Unit Leader

DAVIDSON
CESWG-PE-RC

Enclosures

MAY 27 2005

D 17012/1

200500787

Date: May 26, 2005

Mr. John Davidson
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
Phone: 1-409-766-3899

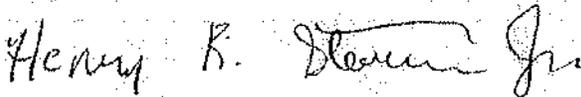
Re: #2 request for delineation to the following:
See attached drawing called "Section #2" on Exhibit A

Dear John:

This is a request for delineation for the attached Section 2 on Exhibit A.
I appreciate your recent approval of Section #1 that you did a few weeks ago as outlined
in my letter of April 11, 2005.

We would like to proceed with our project at this time. If you have any questions or
comments, please give me a call at 1-409-783-0940. My e-mail address is
luckystevenson@aol.com. Thanks for your attention to this matter.

Regards,

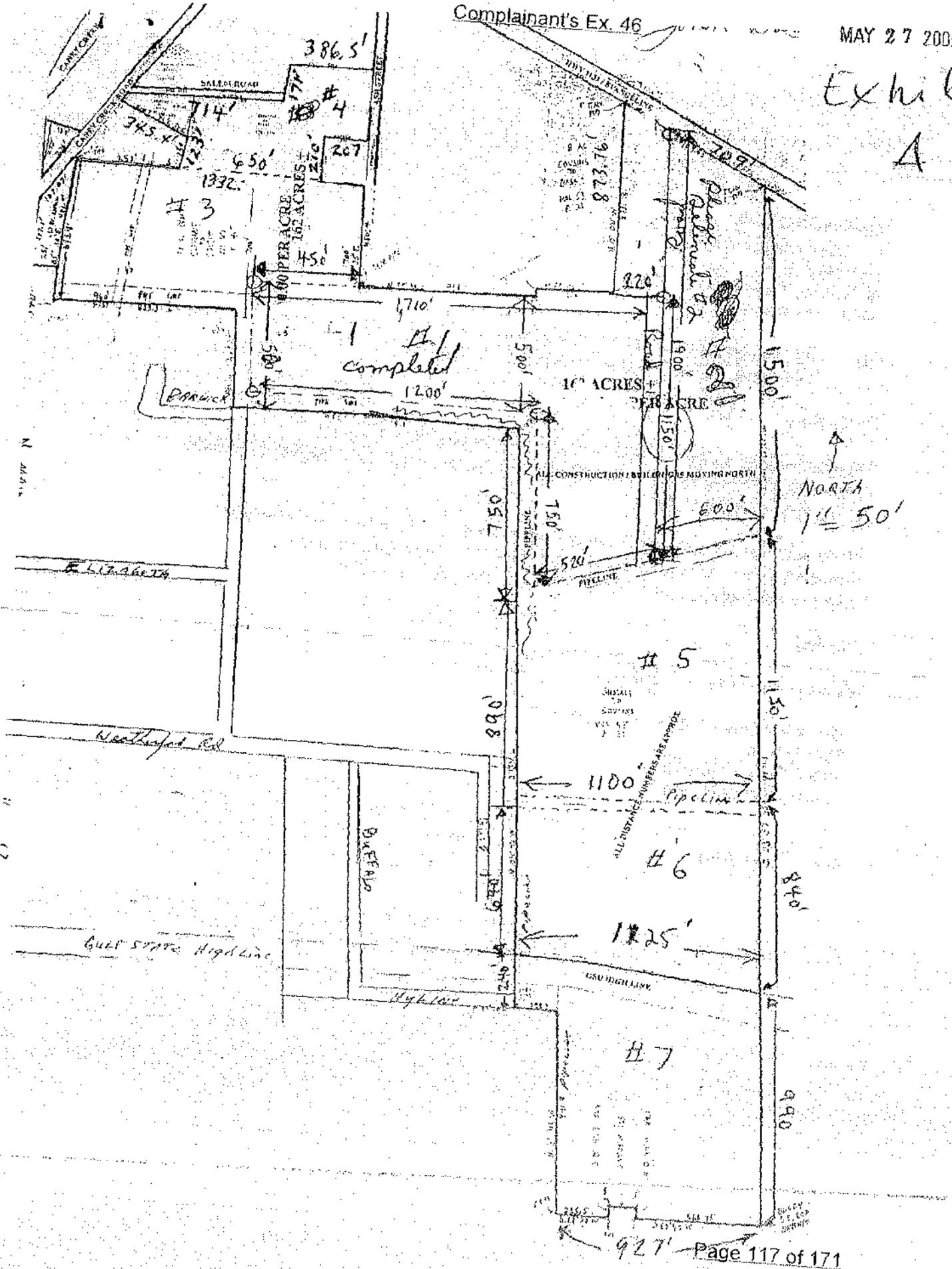


Henry R. "Sonny" Stevenson, Jr. (Owner)
2085 Galway
Vidor, Texas 77662-2954
Phone: 1-409-783-0940

cc: Tim Edgar

MAY 27 2005

Exhibit A



Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

REPLY TO
ATTENTION OF:

December 8, 2005

Compliance Section

SUBJECT: D-17212/(01); Parkwood Land Company, Jurisdictional Determination,
23-Acre Tract, Vidor, Orange County, Texas

Mr. Henry R. "Sonny" Stevenson, Jr.
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954

Dear Mr. Stevenson:

In response to your May 26, 2005 request for a jurisdictional determination, we determined that the 23-acre tract does not contain waters of the United States, including adjacent wetlands. Therefore, the discharge of fill material onto the 23-acre tract, as shown in the enclosure, is not subject to Section 404 of the Clean Water Act and does not require a Department of the Army (DA) permit. The 23-acre tract is located within a 162-acre tract of land located approximately 3,000 feet southeast of the State Highway 105 and FM 1132 (Evangeline Road) intersection, in Vidor, Orange County, Texas. Please be aware that the acres remaining in the 162-acre tract contain an unnamed tributary to Anderson Gully and adjacent wetlands, which are waters of the United States subject to Section 404 of the Clean Water Act. The discharge of fill material into these waters requires a DA permit.

This determination has been conducted to identify the limits of the Corps' 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 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.

This approved jurisdictional determination is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. Please see the enclosed sheets regarding the administrative appeal process. If you have any questions concerning this

Complainant's Ex. 46

J. Davidson
DAVIDSON/jw/3933
CESWG-PE-RC

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matter, please reference file number **D-17212/(01)** and contact me at the letterhead address or by telephone at 409-766-3933.

Sincerely,

John Davidson
North Unit Leader

J. Davidson
DAVIDSON
CESWG-PE-RC

Enclosures

Complainant's Ex. 46

Subj: D-17212
PID 200500548

AUG 30 2005

Date: August 29, 2005

D-17212/Z
200502/84

Mr. John Davidson
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
Phone: 1-409-766-3899

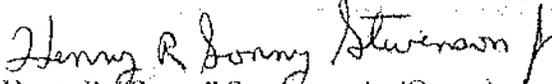
Re: #3 Request for delineation to the following:
See attached drawing called "Sections 3 & 4" on Exhibit A

Dear John:

Thanks for completing the work requested for Section 2. I will await the written documentation on this. I am requesting the same delineation for the attached Sections 3 and 4 on Exhibit A.

We are continuing with our project. If you have any questions or comments, please give me a call at 1-409-783-0940 (or my cell number is 1-409-781-3422). My e-mail address is luckystevenson@aol.com. Thanks very much for your attention to these matters.

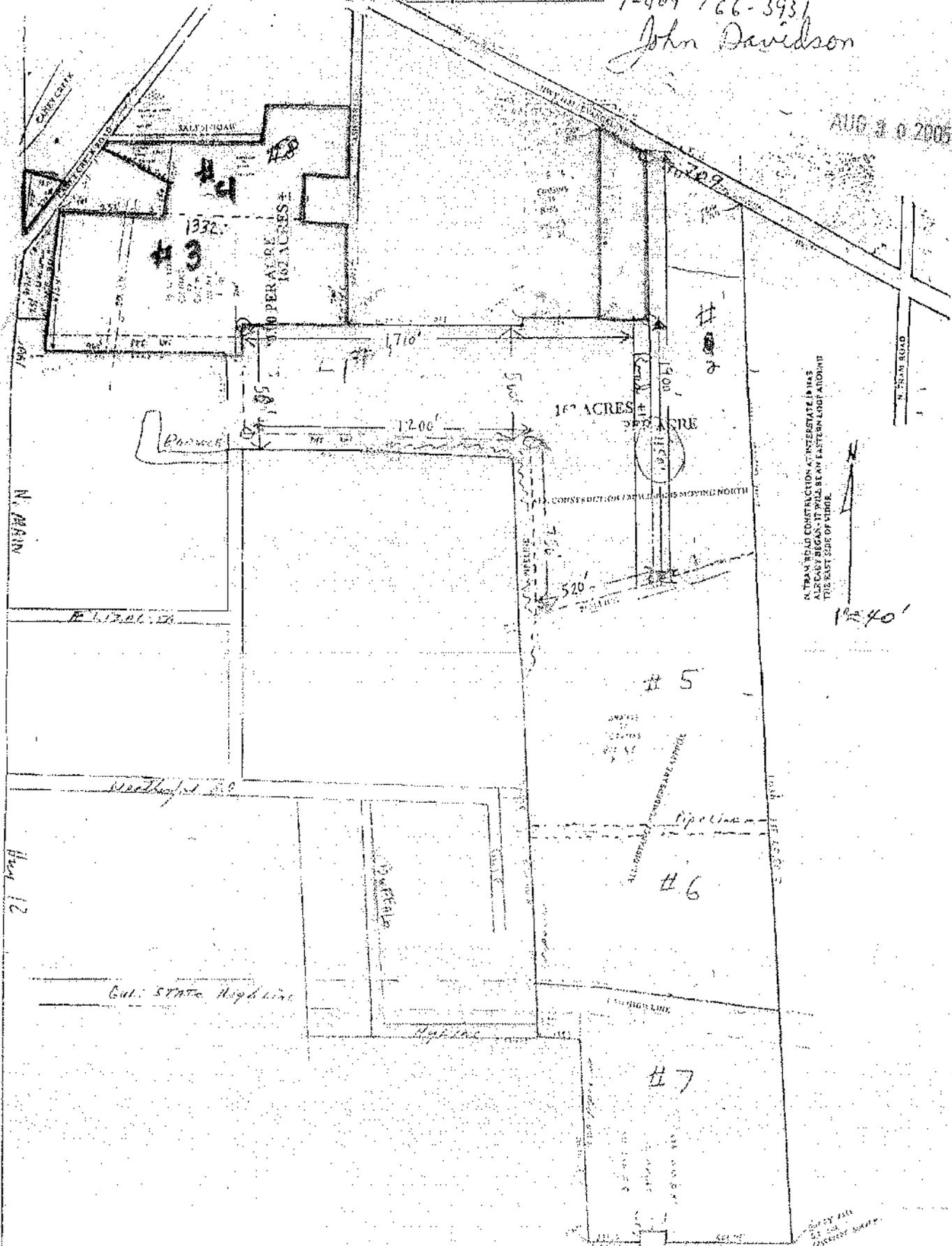
Sincerely,


Henry R. "Sonny" Stevenson, Jr. (Owner)
2085 Galway
Vidor, Texas 77662-2954

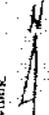
cc: Tim Edgar

John Davidson

AUG 30 2005



N. TRAM ROAD CONSTRUCTION INTERESTS IS HAS
 ALREADY BEGON - IT WILL BE AN EASTERN LOBE ALONG
 THE EAST SIDE OF VIBOR.



100' 40'

Complainant's Ex. 46

REC 2-9 2005

Date: August 29, 2005

Mr. John Davidson
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
Phone: 1-409-766-3899

Re: #3 Request for delineation to the following:
See attached drawing called "Sections 3 & 4" on Exhibit A

Dear John:

Thanks for completing the work requested for Section 2. I will await the written documentation on this. I am requesting the same delineation for the attached Sections 3 and 4 on Exhibit A.

We are continuing with our project. If you have any questions or comments, please give me a call at 1-409-783-0940 (or my cell number is 1-409-781-3422). My e-mail address is ~~hstevenson@aco.usace.army.mil~~. Thanks very much for your attention to these matters.

Sincerely,



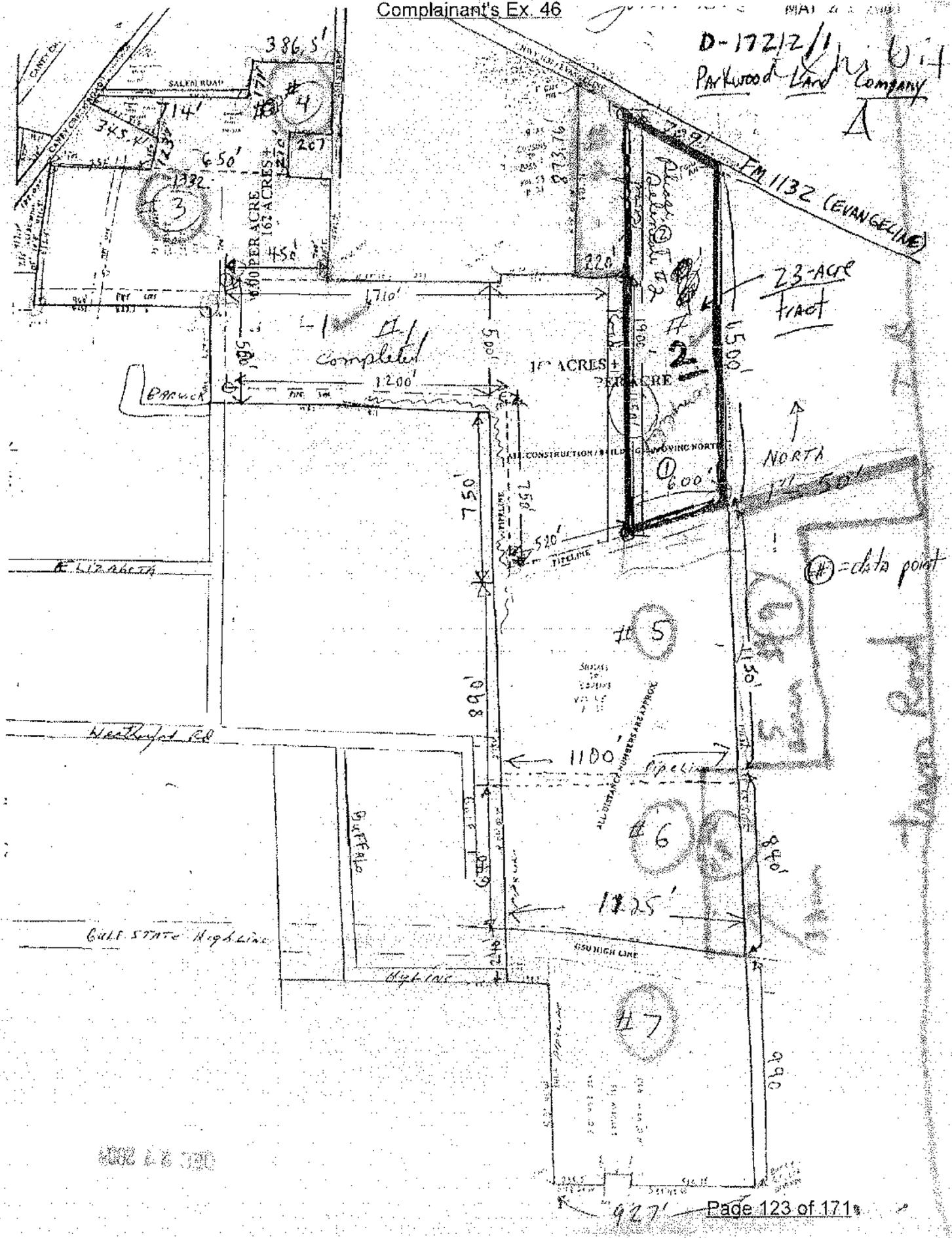
Henry R. "Sonny" Stevenson, Jr. (Owner)
2085 Galway
Vidor, Texas 77662-2954

cc: Tim Edgar

Second Request 12-19-05

P.S. See attached modified drawing. I am also needing these areas delineated. If you have any questions, please give me a call. When you come to Vidor, I will be glad to meet with you. These are needed as soon as possible because of projects that are beginning after January 1.

D-17212/1
Parkwood Land Company
A



NOV 27 1980



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77853-1229

February 24, 2006

Compliance Section

SUBJECT: D-17212/(02); Parkwood Land Company, Jurisdictional Determination, Three Tracts, Vidor, Orange County, Texas

Mr. Henry R. "Sonny" Stevenson, Jr.
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954

Dear Mr. Stevenson:

In response to your August 29, 2005 request for a jurisdictional determination, we determined that the three tracts totaling approximately 31.5 acres do not contain waters of the United States, including adjacent wetlands. Therefore, the discharge of fill material onto the three tracts, as shown in the enclosure, is not subject to Section 404 of the Clean Water Act and does not require a Department of the Army (DA) permit. The three tracts are located within a 162-acre tract of land located approximately 3,000 feet southeast of the State Highway 105 and FM 1132 (Evangeline Road) intersection, in Vidor, Orange County, Texas. Please be aware that the acres remaining in the 162-acre tract contain an unnamed tributary to Anderson Gully and adjacent wetlands, which are waters of the United States subject to Section 404 of the Clean Water Act. The discharge of fill material into these waters requires a DA permit.

This determination has been conducted to identify the limits of the Corps' 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 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.

This letter contains an approved jurisdictional determination for your subject site, which is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeals Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this

-2-

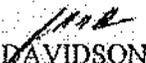
determination, you must submit a completed RFA form to the Southwest Division Office at the following address:

Mr. James Gilmore
Appeal Review Officer, CESWD-ETO-R
U.S. Army Corps of Engineers
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
Telephone: 469-487-7061; FAX: 469-487-7190

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by April 24, 2006. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter. If you have any questions concerning this jurisdictional determination, please reference file number **D-17212/(02)** and contact me at the letterhead address or by telephone at 409-766-3933 or email at john.davidson@swg02.usace.army.mil.

Sincerely,

John Davidson
North Unit Leader


DAVIDSON
CESWG-PE-RC

Enclosures

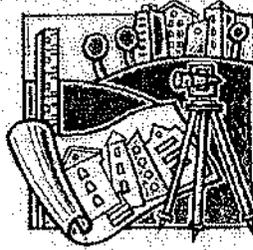
Complainant's Ex. 46

200500548

D 1721213

2005002298

APR 21 2006



Sent Express Mail EK811105220US

Date: April 20, 2006

Mr. John Davidson
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Re: Identification & Delineation of Waters of the United States
On a 53 Acre Tract within A 164 Acre Tract, Orange County, Texas
April 2006
Prepared for Parkwood Land Company
By: GTI Environmental, Inc. (Environmental Consultants)

Dear John:

Attached is the data we discussed by phone. It is being sent for your careful review and consideration. I would appreciate your visit to our site as soon as possible so that documentation from the U.S. Army Corps of Engineers can be prepared so that our project can begin.

If you have any questions, please give me a call at 1-409-781-3422. Thanks for your attention to this matter.

Regards,

Henry R. Stevenson, Jr.

Henry R. Stevenson, Jr., Co-owner
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954
Phone: 1-409-783-0940
e-mail: luckystevenson@aol.com
Fax: 1-409-883-9292

Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

REPLY TO
ATTENTION OF:

June 5, 2006

Compliance Section

SUBJECT: D-17212/(03); Parkwood Land Company, Jurisdictional Delineation Verification,
53-Acre Tract, Vidor, Orange County, Texas

Mr. Henry R. "Sonny" Stevenson, Jr.
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954

Dear Mr. Stevenson:

In response to your April 20, 2006 request for a jurisdictional delineation verification, we determined that the 53-acre tract contains 3 acres of waters of the United States, specifically 0.85-acre of an unnamed tributary to Anderson Gully and a 2.15-acre wetland adjacent to the unnamed tributary. The wetland meets the hydrophytic vegetation, wetland hydrology and hydric soil criteria of the 1987 Corps of Engineers Wetland Delineation Manual. The wetland is contiguous with the unnamed tributary to Anderson Gully, and therefore is adjacent. Anderson Gully is a tributary to the Neches River, a navigable water of the United States. Adjacent wetlands are waters of the United States pursuant to 33 CFR 328.3(a)(7). The unnamed tributary is a water of the United States pursuant to 33 CFR 328.3(a)(5). The discharge of dredged or fill material into waters of the United States is subject to Section 404 of the Rivers and Harbors Act and requires a Department of the Army permit. The 53-acre tract is located within a 162-acre tract of land located approximately 3,000 feet southeast of the State Highway 105 and FM 1132 (Evangeline Road) intersection, in Vidor, Orange County, Texas.

This determination has been conducted to identify the limits of the Corps' 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 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.

This letter contains an approved jurisdictional determination for your subject site, which is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. If you object to this determination, you may request an administrative appeal

-2-

under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeals Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Southwest Division Office at the following address:

Mr. James Gilmore
Appeal Review Officer, CESWD-ETO-R
U.S. Army Corps of Engineers
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
Telephone: 469-487-7061; FAX: 469-487-7190

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by August 3, 2006. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter. If you have any questions concerning this jurisdictional determination, please reference file number D-17212/(03) and contact me at the letterhead address or by telephone at 409-766-3933 or email at john.davidson@swg02.usace.army.mil.

Sincerely,

John Davidson
North Unit Leader


DAVIDSON
CESWG-PE-RC

Enclosures

D-19144
SW6-2006-01949
D 19144
200601249
OCT 13 2006



Parkwood Land Company

October 11, 2006

Mr. John Davidson
North Compliance Unit Leader
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550

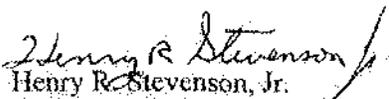
Re: Request for a Jurisdictional Determination &
Verification of a Delineation of Waters of the United
States on a +- 79-Acre Tract Near Rose City,
Orange County, Texas

Dear Mr. Davidson:

Please review this report mentioned above provided to Parkwood Land Company from GTI Environmental, Inc. We believe the property within the levy system fits the guidelines of no-jurisdiction by your entity. Due to on-going erosion, there exists the near-term potential that the Neches River will breach the perimeter levee, rapidly draining the interior of the tract and we hope to repair this portion of levee along the Neches as soon as possible to prevent this action.

If you need additional information, please give me a call at 1-409-781-3422. I will await hearing from you. Thanking you in advance for your cooperation to this matter.

Regards,


Henry R. Stevenson, Jr.
Partner: Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954
e-mail:
Home: 1-409-783-0940



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

REPLY TO
ATTENTION OF:

January 19, 2006 J P

Compliance Section

SUBJECT: D-19144; Jurisdictional Determination Verification, 79-Acre Tract,
Parkwood Land Company, Rose City, Orange County, Texas

Mr. Henry R. Stevenson, Jr.
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954

Dear Mr. Stevenson:

This concerns your October 11, 2006 verification request on a 79-acre tract. The subject tract is located north of Interstate 10 and east of the Neches River, near Rose City, Orange County, Texas. Based on the revised report dated December 6, 2006, I concur that the site has approximately 71.2-acres of forested wetlands immediately adjacent to the Neches River, a navigable water of the United States and subject to Section 404 of the Clean Water Act. Therefore, any discharge of dredged or fill material into this area will require a Department of Army (DOA) permit prior to the initiation of any work. In your request you inquired about the relief cuts and their relationship with the requirements of DOA permit 21497. Based on the site visit and review of permit documents, these relief cuts are non-jurisdictional.

The Supreme Court handed down a decision on June 19, 2006, which addresses the scope of Clean Water Act (CWA) jurisdiction over certain waters of the United States, including wetlands. In the near future, the EPA and Corps intend to issue joint guidance clarifying CWA jurisdiction in light of the decision. Your jurisdictional determination may be affected by this guidance. Therefore, we are issuing you a preliminary jurisdictional determination, which is valid for 5 years from the date of this letter. You may request a re-determination based on that new guidance when it is issued.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are 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.

-2-

This letter contains a preliminary jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a combined Notification of Administrative Appeal Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwestern Division Office at the following address:

James E. Gilmore, Appeal Review Officer
Southwestern Division, CESWD-CMO-E
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
Telephone: 469-487-7061; FAX: 469-487-7190

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by March 21, 2007.

It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This preliminary jurisdictional determination is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. Please see the enclosed sheets regarding the administrative appeal process for jurisdictional determinations. If you have any questions concerning this matter, please reference file number D-19144 and contact Mr. Dwayne Johnson at the letterhead address or by telephone at 409-766-6353.

Sincerely,

John Davidson
North Unit Leader
Compliance Section


DAVIDSON
CESWG-PE-RC

Enclosures

D-19279
5w6-2007-00084



GTI Environmental, Inc.
Environmental Consultants

December 11, 2006

Mr. Bruce Bennett
North Evaluation Unit Leader
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550

Re: Pre-Construction Notification
Nationwide Permit 3

Dear Mr. Bennett:

Parkwood Land Company is submitting this Pre-Construction Notification (PCN) as required by Nationwide Permit 3 for Maintenance associated with a project located in Orange County, Texas.

One copy of the notification is submitted for your review and processing. Please contact me should you require any additional information, or clarification of the information presented.

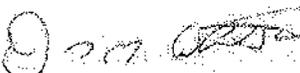
Permittee:

Parkwood Land Company
2085 Galway
Vidor, Texas 77662
Mr. Sonny Stevenson
Phone: 409-783-0940 (907) 761-3422

Thank you for your assistance.

Sincerely,

GTI ENVIRONMENTAL, INC.


James G. White
Director - Ecology and Planning Division
GTI Environmental, Inc.

Enc.

JGW:jgw

Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

April 17, 2007

REPLY TO
ATTENTION OF:

Evaluation Section

SUBJECT: Permit Number SWG-2007-84-RN (D-19279), Nationwide Permit
Verification

James G. White
GTI Environmental Incorporated
11999 Katy Freeway, Suite 130
Houston, Texas 77079-1606

Dear Mr. White:

This office received a request to repair an existing levee on a property located northeast of the intersection of the Neches River and Interstate 10. Based on our review of the project, we have determined that you may proceed with the repair of the existing levee as proposed in your December 11, 2006, letter sent on behalf of Parkwood Land Company provided the activity complies with the enclosed three-sheet project plans and Nationwide Permit (NWP) General/Regional Conditions. Our review of a 1947 survey showed the property was originally used for dredge-material disposal and is surrounded by a containment levee. According to your project description, this levee is eroding and requires repairs. Since the levee was built prior to the inception of Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act of 1899 plus the fact jurisdictional activities that have occurred prior to July 19, 1977, are authorized (grandfathered) by the NWP, the levee is considered to be previously-authorized and can be repaired pursuant to NWP 3.

NWP 3 authorizes the repair of a previously-authorized currently-serviceable structure or fill provided the structure or fill is not put to a different use than that for which it was originally constructed. Minor deviations due to changes in construction techniques, materials or the like are authorized.

Please be aware the NWPs were reissued March 19, 2007; however, they are not valid without water quality certification from the Texas Commission on Environmental Quality or Coastal Consistency pursuant to the Texas Coastal Management Plan. As such, the permittee must obtain an individual Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination from the Texas Commission on Environmental Quality (address: Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087).

Complainant's Ex. 46

- 2 -

The following special condition has been added to your authorization:

The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under United States Army Corps of Engineers (USACE) regulations at 33 CFR Part 331. Enclosed you will find a combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwestern Division Office at the following address:

James E. Gilmore, Appeal Review Officer
Southwestern Division, CESWD-CMO-E
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
(Telephone: 469-487-7061; FAX: 469-487-7190)

In order for an RFA to be accepted by USACE, USACE must determine that it is complete, meets the criteria for appeal under 33 CFR Part 331.5, and has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by June 18, 2007. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

The Supreme Court handed down a decision on June 19, 2006, which addressed the scope of CWA jurisdiction over certain waters of the United States including wetlands. In the near future, the EPA and USACE intend to issue joint guidance clarifying CWA jurisdiction in light of the decision. Your permit may be affected by this guidance. However, we are issuing you this permit with its existing terms and conditions and the amount of required compensatory mitigation can be reevaluated based on that new guidance when it is issued.

Complainant's Ex. 46

DA
HOth/jr/3022
CESWG-PE-RE

- 3 -

Please let us know when you complete your project by returning the enclosed preaddressed postcard. If you have any questions concerning this matter, please contact Mr. David Hoth at the letterhead address or by telephone at 409-766-3022.

Sincerely,

Bruce H. Bennett
Leader, North Evaluation Unit

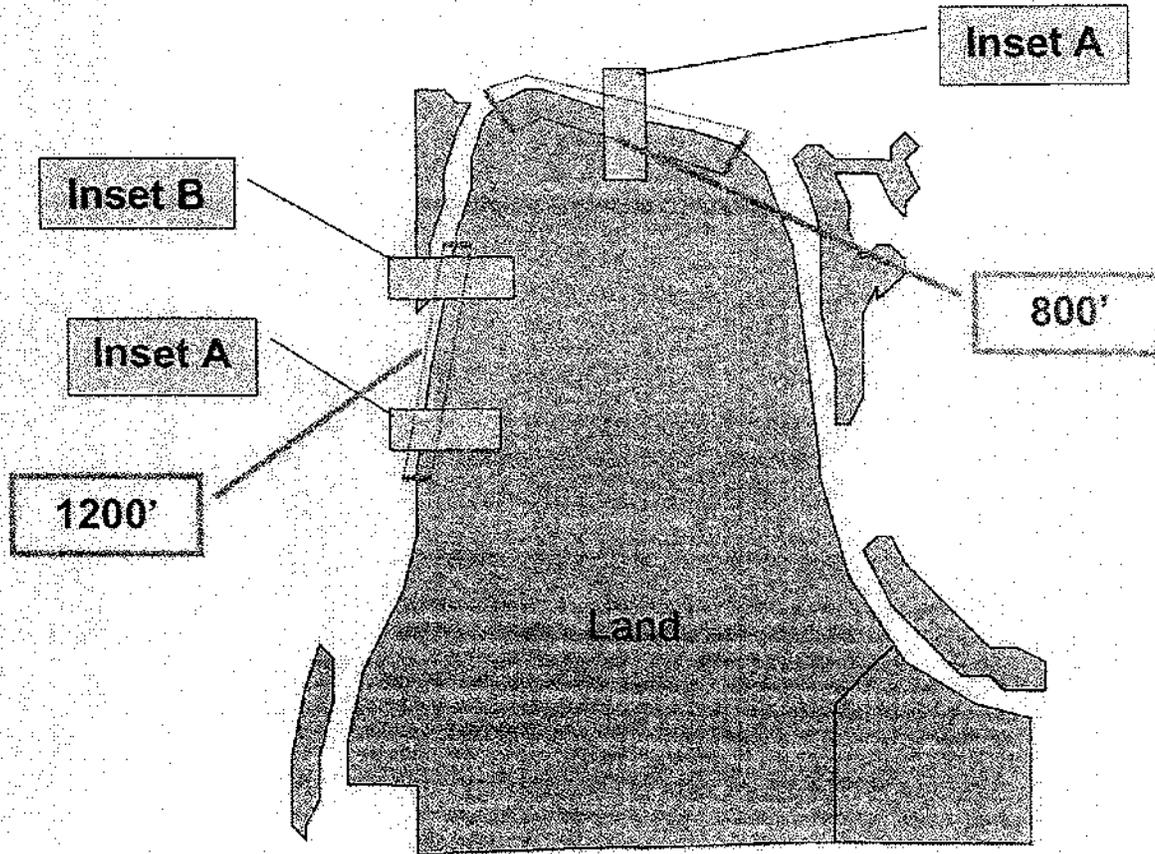
BHB
BENNETT/jr/3934
CESWG-PE-RE

Enclosures

Copy Furnished:

Sonny Stevenson
Parkwood Land Company
2085 Galway Drive
Vidor, Texas 77662-2954

Sketch of Planned Maintenance on Existing Levee

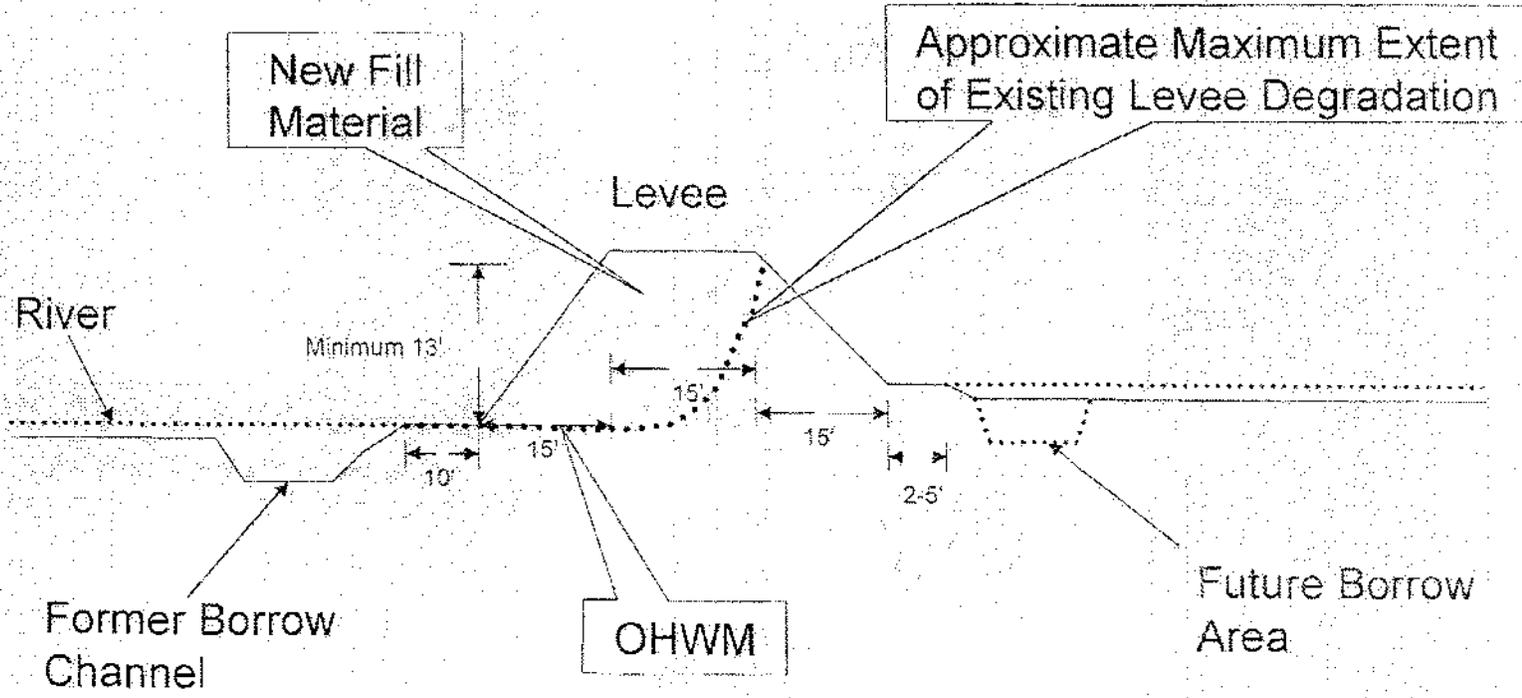


Date: 02/23

SWG-2007-84-RN
Mr. Sonny Stevenson
Orange County, Texas
Sheet 1 of 3

PERMITTED PLACEMENT

Cross Sectional View of Inset A

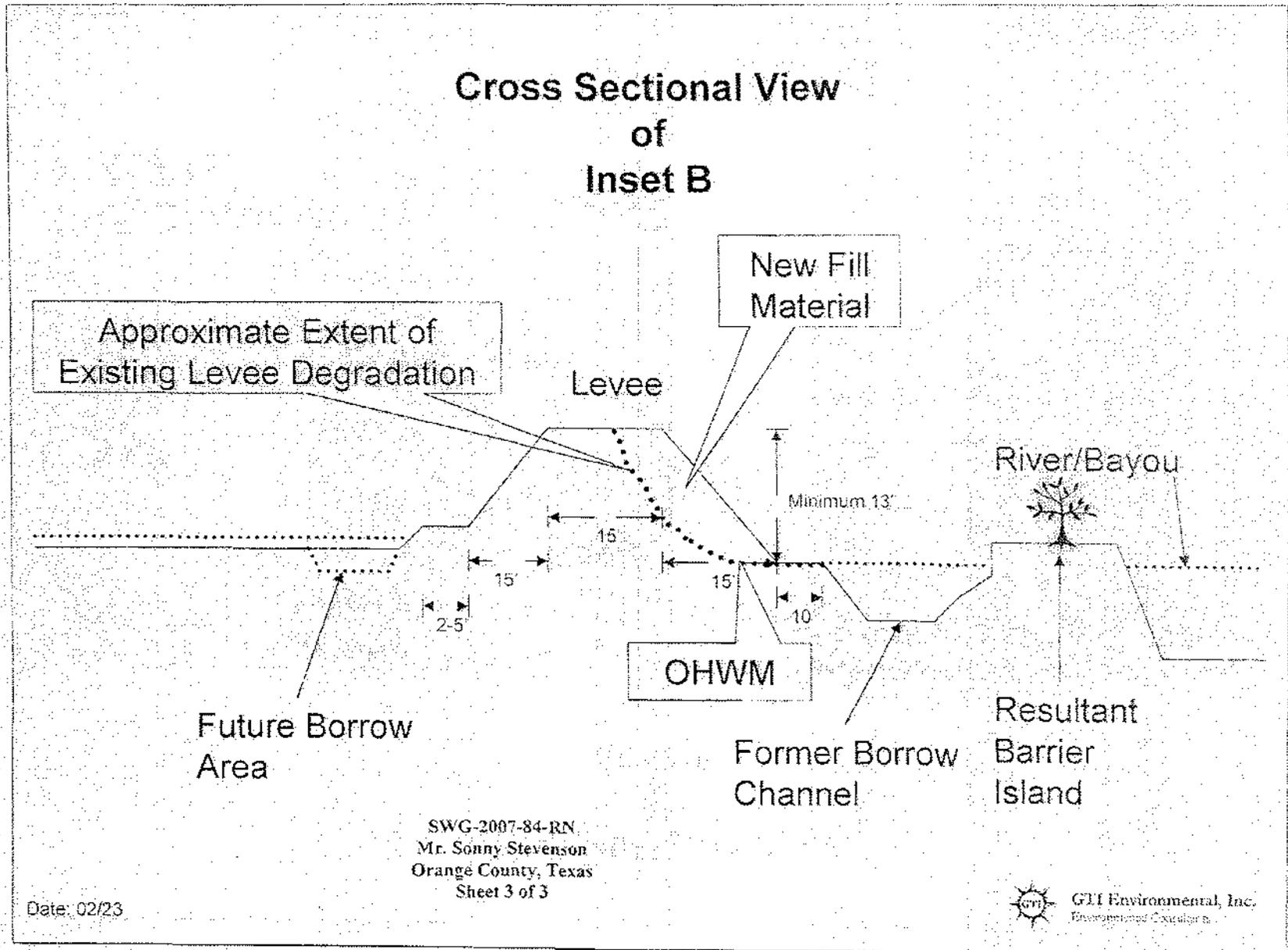


SWG-2007-84-RN
Mr. Sonny Stevenson
Orange County, Texas
Sheet 2 of 3

Date: 02/23

 GTE Environmental, Inc.
Environmental Consultants

PERMITTED PLANS



REPRINTED PLAN

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
 (33 CFR 325)

OMB APPROVAL NO. 0710-0003
 Expires December 31, 2004

The Public burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of these addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research and Sanctuaries Act, 33 USC 1413, Section 103. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
--------------------	----------------------	------------------	-------------------------------

ITEMS BELOW TO BE FILLED BY APPLICANT

5. APPLICANT'S NAME Henry R. Stevenson, Jr. dba Parkwood Land Company	8. AUTHORIZED AGENT'S NAME AND TITLE (see agent & not required) Henry R. Stevenson, Jr. (owner)
6. APPLICANT'S ADDRESS 2085 Galway Vidor, Texas 77662-2954	9. AGENT'S ADDRESS Same
7. APPLICANT'S PHONE NOS. W/AREA CODE a. Residence 1-409-783-0940 b. Business 1-409-781-3422	10. AGENT'S PHONE NOS. W/AREA CODE a. Residence Same. b. Business

STATEMENT OF AUTHORIZATION

I hereby authorize _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

4-20-09

APPLICANT'S SIGNATURE

DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see Instructions) **Neches River & IH 10 [71.22 acres]**
SWG-2007-1014

13. NAME OF WATERBODY, IF KNOWN (see Instructions) **Neches River**
 14. PROJECT STREET ADDRESS (if applicable) **Neches River & N. IH-10**
Orange County Side

15. LOCATION OF PROJECT
Orange COUNTY **Texas** STATE

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see Instructions) **Veterans Bridge (Neches River) Orange Co. side (North).**

17. DIRECTIONS TO THE SITE
 Leave Beaumont going towards Vidor... take first exit after going over Veterans Bridge... go under freeway and head back towards Beaumont... stay on feeder road... gravel drive way into property.

Complainant's Ex. 46

18. Nature of Activity (Description of project, include all features)

71.22 acres to be filled in for commercial use. TXDOT project contractor needs acreage for storing bridge discards when bridge is redone. Other commercial developments.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

Developing property for commercial use.

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

Filling in acreage.

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

Clay and sand to fill in 7.122 acres.

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

71.22 acres of wetlands to be filled.

23. Is Any Portion of the Work Already Complete? Yes No (If YES, DESCRIBE THE COMPLETED WORK)

No.

24. Address(es) of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (If more than can be entered here, please attach a supplemental list)

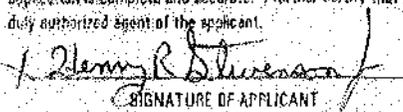
Ken Jai, 105 W. Freeway, Vidior, Texas 77662
 APAC-Texas, 13 E. Freeway, Vidor, Texas 77662

25. List of Other Certifications or Approvals/Denials Received from other Federal, State or Local Agencies for Work Described in This Application. N/A

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
N/A					

*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.


4-20-09

SIGNATURE OF APPLICANT DATE SIGNATURE OF AGENT DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any fact, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entries, shall be fined not more than \$10,000 or imprisoned not more than five years or both

REQUEST FOR COMPLIANCE SECTION REVIEW

TYPE OF PERMIT

- OFD
 - NWP # PCN (Y/N)
 - General Permit
 - Letter of Permission
 - Individual Permit
 - Other:
-

Please review the attached documentation and conduct a:

- Wetland Delineation Verification
- Jurisdictional Determination for all waters of the U.S.
(including all adjacent wetlands and waters).
- Determination of the Limits of Navigability
- Verify HGM accuracy

Date Submitted to Compliance Section: 30 April 2009

Project Manager: Jeffrey Pinsky Phone:

Permit Application Number: SWG-2007-00084

Applicant Name: Henry Stevenson Jr.

Remarks: Mr. Stevenson is requesting a Wetland Delineation and a Jurisdictional Determination to be done to on the area between an existing oxbow, and and a previously delineated area containing 71.22 acres of Jurisdictional Wetlands. The file number for that delineation is the same as this file.

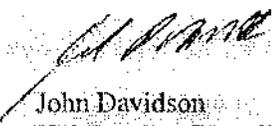
CESWG-PE-RC (1145)

24-Jun-10

MEMORANDUM FOR CESWG-PE-RC – ATTN: Mr. Jeff Pinsky

SUBJECT: SWG-2007-00084; Mr. Henry Stevenson Jr., Approved Jurisdictional Delineation Verification, 1.29-Acre Project Site, Neches River at Baird's Bayou, Rose City, Orange County, Texas

1. On 30-Apr-09 we received a request to conduct a wetland delineation verification and jurisdictional determination from Mr. Jeff Pinsky of the North Evaluation Section for a 1.29-acre project site. The project site is located at the convergence of the Neches River and Baird's Bayou, approximately 0.5-mile north of Interstate Highway 10 and 0.15-mile west of Old U.S. Highway 90, near the town of Rose City, in Orange County, Texas.
2. We have determined that the 1.29-acre project site contains 1.01-acres of waters of the United States, specifically 0.71-acre of tidal waters, subject to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act and 0.30-acre of adjacent wetlands including 0.08-acre of tidal wetlands subject to Section 10 and 404 and 0.22-acre of non-tidal wetlands subject to Section 404 only (please see attached map(s)). Wetlands, under normal circumstances are predominated with hydrophytic vegetation, wetland hydrology, and hydric soils as defined by the Atlantic and Gulf Coastal Plains Regional Supplement to the 1987 Corps of Engineers Wetland Delineation Manual. These open water areas are subject to Section 10 because they are located at or below the mean high tide line/ high water line of a Section 10 Water (Neches River). These wetlands are adjacent and jurisdictional under Section 404 because they are abutting the Neches River (a Traditional Navigable Water). This Approved determination will remain valid five (5) years from the date of the final memo, unless new information warrants revisiting or re-issuance prior to the expiration date.


John Davidson
Unit Leader, Compliance Section



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

August 24, 2010

PINSKY/meh/3087
CESWG-PE-RE *HP*

Evaluation Section

SUBJECT: Permit Application No. SWG-2007-00084

Henry R. Stevenson, Jr.
2085 Galway Drive
Vidor, Texas 77662-2951

Dear Mr. Stevenson:

This letter is in reference to your request for authorization to build a permanent berm to gain access to a 42-acre island that is directly adjacent to the Neches River and Baird's Bayou in Orange County, Texas. The Corps published a notice on June 1, 2010, to advise the public of your proposed activity. In response, we received comment letters from U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Texas Commission on Environmental Quality, and Texas Parks and Wildlife Department.

In a letter, dated July 15, 2010, we requested that you respond to those comments and submit additional information to address the concerns/issues raised over the proposed project within 30 days, or your application would be withdrawn. Copies of the aforementioned comment letters were sent with the letter on July 15, 2010. As of the date of this letter, we have not received the information we requested. Therefore, your application for Permit No. SWG-2007-00084 is withdrawn. This withdrawal is without prejudice to your right to reapply at a later date.

If you have questions or require additional information, please contact Jeffrey F. Pinsky at the letterhead address or by telephone at 409-766-3087. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

Kevin D. Morgan
Chief, Evaluation Section

KOM 8/24/10
MORGAN
CESWG-PE-RE

Complainant's Ex. 46



GTI Environmental, Inc.
Environmental Consultants

MAR 12 2007

January 9, 2007

Mr. John Davidson
North Compliance Unit Leader
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550

Re: Request for a Jurisdictional Determination and Verification of a
Delineation of Waters of the United States on a 42-Acre Tract near
Rose City, Orange County, Texas

Dear Mr. Davidson:

Parkwood Land Company is submitting the enclosed Identification and Delineation of Waters of the United States on the subject tract to obtain a Jurisdictional Determination and Verification.

Please contact me should you require any additional information, or clarification of the information presented.

Thank you for your assistance.

Sincerely,

GTI ENVIRONMENTAL, INC.

James G. White
Director - Ecology and Planning Division
GTI Environmental, Inc.

Enc.

JGW:jgw

Complainant's Ex. 46



REPLY TO ATTENTION OF:
COMPLIANCE SECTION

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON, TX 77553-1229

September 14, 2007

SUBJECT: SWG-2007-664; Jurisdictional Verification, 42-Acre Tract, Parkwood Land Company, Rose City, Orange County, Texas

Mr. James G. White
GTI Environmental, Inc.
11999 Katy Freeway, Suite 130
Houston, Texas 77079

Dear Mr. White:

This correspondence concerns your January 9, 2007, verification request on a 42-acre tract for Parkwood Land Company. The subject 42-acre tract is located approximately 0.5 mile east of Beaumont, between Interstate 10 and Baird's Bayou, Rose City, Orange County, Texas. Based on the wetland delineation report and our June 27, 2007 site visit, I concur with the findings that the 42-acre tract contains approximately 11.0-acres as Baird's Bayou with 25.79-acres of adjacent wetlands (see enclosed map, March 12, 2007). Thus, any discharge of dredged or fill material, including any work in these areas, will require a Department of the Army permit prior to the initiation of any work.

This determination has been conducted to identify the limits of the United States Army Corps of Engineers (USACE) Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are 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.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under USACE regulations at 33 CFR Part 331. Enclosed you will find a combined Notification of Administrative Appeal Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwestern Division Office at the following address:

James E. Gilmore, Appeal Review Officer
Southwestern Division, CESWD-CMO-E
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
Telephone: 469-487-7061; FAX: 469-487-7190

In order for an RFA to be accepted by USACE, USACE must determine that it is complete, meets the criteria for appeal under 33 CFR Part 331.5, and has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by November 13, 2007. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

This approved jurisdictional determination is valid for five years from the date of this letter, unless new information warrants a revision prior to the expiration date. Please see the enclosed sheets regarding the administrative appeal process for jurisdictional determinations. If you have questions concerning this matter, please refer to file number SWG-2007-664 and contact Mr. Dwayne Johnson at the letterhead address or by telephone at 409-766-6353.

Sincerely,

John Davidson
North Unit Leader
Compliance Section


DAVIDSON
CESWG-PE-RC

Enclosures

Copy Furnished:

Mr. Sonny Stevenson
2085 Galway
Vidor, Texas 77662

Parkwood Land Company

+/- 42 Acre Tract

Exhibit 16 Wetlands and National Flood Insurance Program Map

Legend

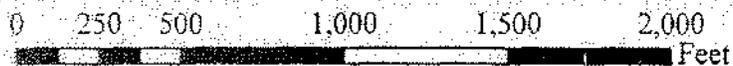
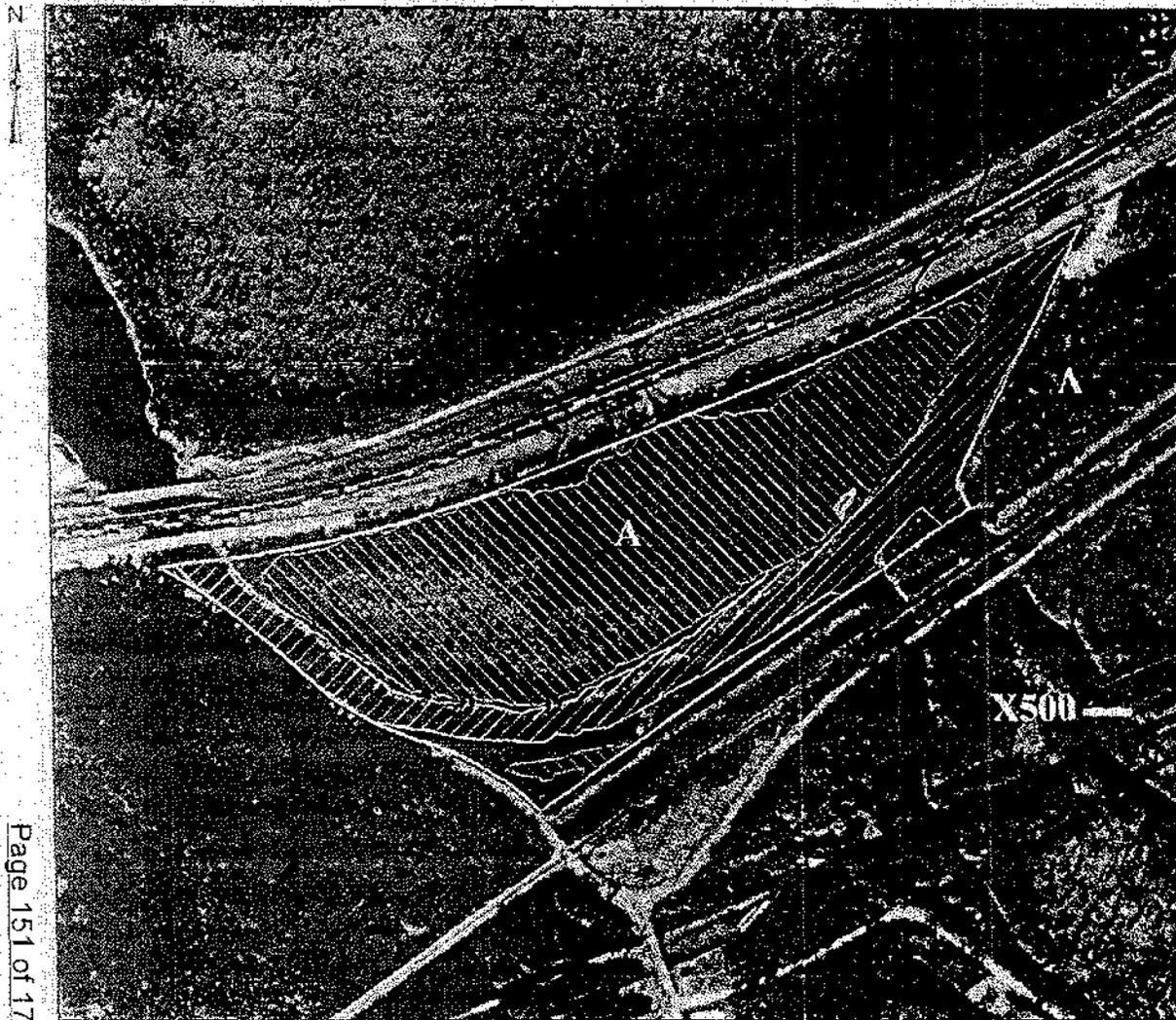
-  Eroded Levee Breaks
-  Flood Zones
-  Isolated Upland - 0.034
-  Open Water - 11.00 ac.
-  Wetlands - 25.79ac.
-  Project Boundary

- A - An area inundated by 1% annual chance flooding, for which no Base Flood Elevations have been determined.
- X500 - An area inundated by 0.2% annual chance flooding.

DATE: 03/12/07
 DRAWN BY: J. H. HARRIS
 CHECKED BY: J. H. HARRIS
 SCALE: AS SHOWN
 PROJECT: PARKWOOD LAND COMPANY
 TRACT: +/- 42 ACRES
 LOCATION: [illegible]
 COUNTY: [illegible]
 STATE: [illegible]



GTI Environmental, Inc.
 Environmental Consultants



2007-1014-R2

Davidson, John SWG

D-1914-R2

From: Luckystevenson@aol.com
 Sent: Thursday, May 17, 2007 1:36 PM
 To: Davidson, John SWG
 Subject: Permit Number SWG-2007-84-RN (D-19279), Nationwide Permit Verification

Re: Permit Number SWG-2007-84-RN (D-19279), Nationwide Permit Verification
 John:

I appreciate the meeting held this past Tuesday (May 15) with you and David Hoth. As per our conversation about the authorized jurisdiction on this project (79 acres) on the Neches River, along with a verbal request, I am also making a written request for the jurisdiction. I feel the meeting was productive for Parkwood Land Company. We plan to pursue this appeal as soon as we receive the authorized jurisdiction. I hope your concern for your job security was in jest if the Corps loses jurisdiction on this project. If possible, we would like to meet with the District Engineer. Can you arrange the meeting? If so, let me know when this can occur. It is our wish to resolve these issues with no one being jeopardized. I will await hearing from you soon.

Thanks for your attention to this matter.
 Regards,

Henry R. "Sonny" Stevenson, Jr.
 2085 Galway, Vidor, Texas 77662-2954
 Home phone: 1-409-783-0940
 Cell: 1-409-781-3422

See what's free at <http://www.aol.com>.

Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77563-1229

REPLY TO
ATTENTION OF:

July 5, 2007

Compliance Section

SUBJECT: SWG-2007-1014; Approved Jurisdictional Determination Verification, 79-Acre Tract, Parkwood Land Company, Rose City, Orange County, Texas

Mr. Henry R. Stevenson, Jr.
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954

Dear Mr. Stevenson:

This concerns your request for an approved jurisdictional determination made via email on May 17, 2007. The subject tract is located north of Interstate 10 and east of the Neches River, near Rose City, Orange County, Texas. Based on the revised report dated December 6, 2006, we concur that the site has approximately 71.2-acres of forested wetlands immediately adjacent to the Neches River, a navigable water of the United States and subject to Section 404 of the Clean Water Act. Therefore, any discharge of dredged or fill material into this area will require a Department of Army (DOA) permit prior to the initiation of any work.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are 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.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a combined Notification of Administrative Appeal Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwestern Division Office at the following address:

Complainant's Ex. 46

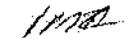
-2-

James E. Gilmore, Appeal Review Officer
Southwestern Division, CESWD-CMO-E
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
Telephone: 469-487-7061; FAX: 469-487-7190

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **September 5, 2007**. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This approved jurisdictional determination is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. Please see the enclosed sheets regarding the administrative appeal process for jurisdictional determinations. If you have any questions concerning this matter, please reference file number **SWG-2007-1014** and contact Mr. Dwayne Johnson at the letterhead address or by telephone at 409-766-6353.

Sincerely,

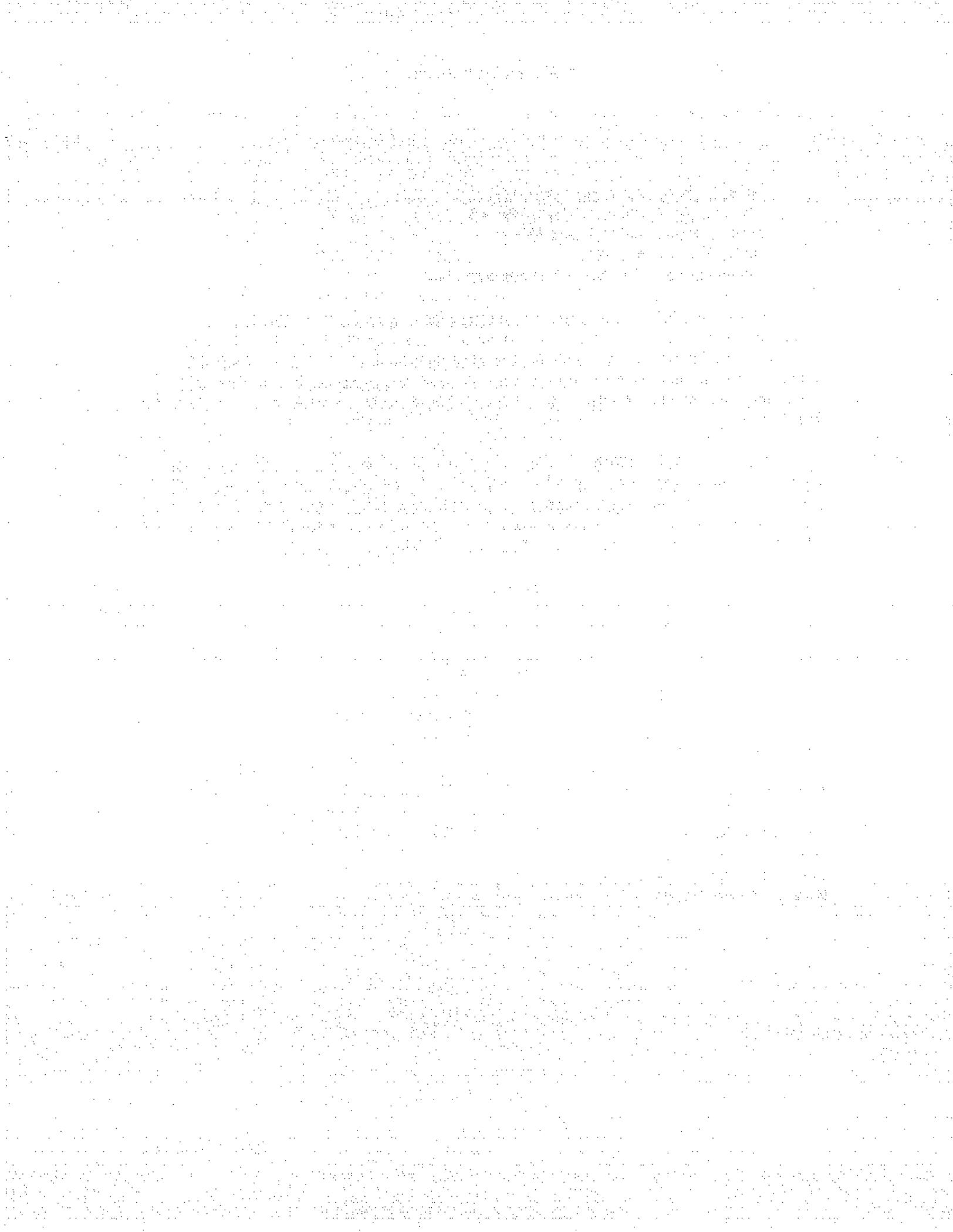

DAVIDSON
CESWG-PE-RC

John Davidson
North Unit Leader
Compliance Section

Enclosures:

Copy Furnished:

Mr. James G. White
GHI Environmental, Inc.
11999 Katy Freeway, Suite 130
Houston, Texas 77079



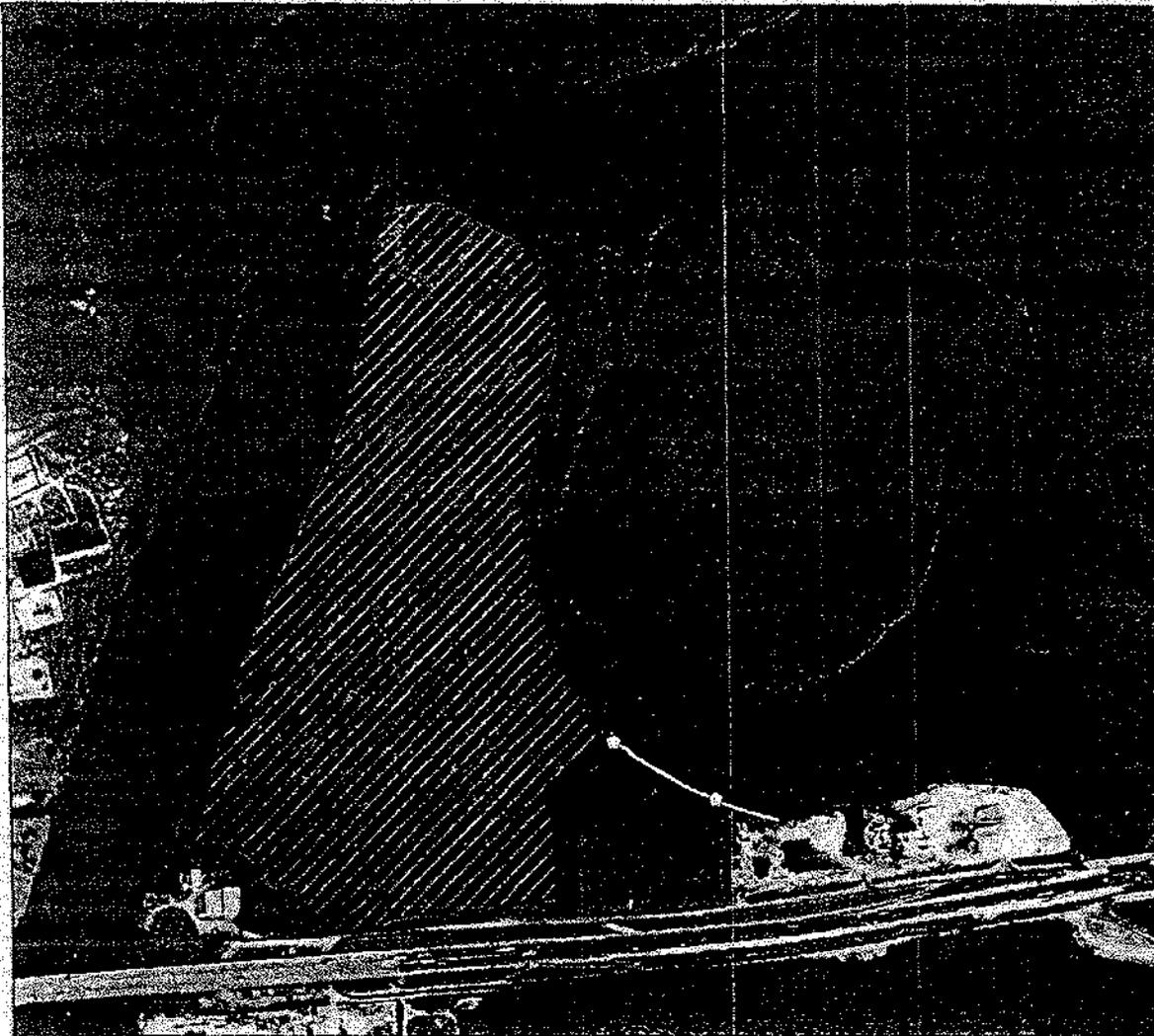
Parkwood Land Company

+/- 79 Acre Tract

Exhibit 8 2004 Site Map

Legend

- Man-made Relief Cuts
- Approximate Center Line of Levee Beyond Project Boundary
- ▭ Levee (Upland) - 8.50 ac.
- ▭ Project Boundary - 79.73 ac.
- ▨ Wetland - 71.22 ac.



Source: Stone and Johnson, Inc.
 (S-2006) LHMND Survey Data and
 Analysis, Data, Records Information
 Management System, Levee Protection
 Site Plans NAD 83 Control Zone

COLOR (S-2006)
 AERIAL (1994)
 Source: TNBIS
 1:62,500 @ Beamwell East
 NW Quad
 UTM Zone 16
 NAD 83 GRS 80
 Date: 05-27-06

 **GTI Environmental, Inc.**
 Environmental Consultants

Complainant's Ex. 46 ~~9/10/14~~
SWG-2007-1014 6/10/14

JAN 16 2008

PARKWOOD LAND CO.
P.O. BOX 5134
BEAUMONT, TEXAS 77726-5134
(409) 892-0233

January 9, 2008

Mr. John Davidson
North Unit Leader, Compliance Section
Department of the Army
Galveston District, Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

CERTIFIED MAIL #7003 0500 0003 9106 4460

Dear Mr. Davidson:

On December 17, 2007, Kendall P. Cox, Colonel, US Army, issued his findings regarding our Request for Appeal of Department of the Army approved jurisdictional determination SWG-2007-1014 (See enclosed copy of report dated December 18, 2007). We acknowledge receipt of his report and its finds. However, we believe that when this report was prepared, he was unaware of important information regarding the condition of the levee. On page 4 of his report, Colonel Cox states, "It should also be noted that in the wetland delineation report completed by the appellant's environmental consultant, which was provided to the District, it stated that "[T]wo man-made relief areas have been cut into the levee system to allow storm water to sheet flow into the moat channel." This indicates that there is a hydrological connection between the wetlands located on the site and the Neches River."

Apparently we failed to communicate to the Corp that these two cuts have been repaired and no longer exist. Therefore, based on this new information we respectfully request a new determination on the subject site. A tour of the site will confirm that the levee have been repaired. The subject site should now be out of the 100 year flood plain and there should be no known hydrological connection between the site and the Neches River.

We respectfully wait for a speedy response to this request for a new determination.

Sincerely,

W. Tim Edgar
W. Tim Edgar, President
Parkwood Land Company

Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

March 21, 2008

Compliance Section

SUBJECT: SWG-2007-1014; Request for a Re-Determination, 79-Acre Tract, Parkwood Land Company, Rose City, Orange County, Texas.

W. Tim Edgar, President
Parkwood Land Company
P.O. Box 5134
Beaumont, Texas 77726-5134

Dear Mr. Edgar;

This in reference to your January 9, 2008 letter requesting a re-determination based on the concept of new information involving repair work to the levee around the site. The site is a 79-acre tract of land located north of Interstate 10 and along the Neches River near Rose City, Orange County, Texas.

Our July 5, 2007 jurisdictional determination and delineation verification concurred with your consultant's report and concluded that that this tract contains approximately 71.2-acres of forested wetlands located adjacent to the Neches River, a navigable water of the U.S., and as such, subject to jurisdiction under Section 404 of the Clean Water Act. Federal regulations, specifically 33 CFR 328(a)(7)(c) defines "adjacent" as bordering, neighboring, or contiguous. It further elaborates and states "*Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are "adjacent wetlands"*". The levee was present at the time the July determination was performed and was included in the decision process associated with performing the jurisdictional determination. As such, the fact that repair work has occurred to the levee does not provide any new information that warrants a re-determination of our jurisdiction and our original determination remains valid.

If you have any questions concerning this matter please contact me at the letterhead address or by telephone at 409-766-3985.

Sincerely,

Kenny Jaynes
Chief, Compliance Section

3/21/08
KJAYNES
RC

Complainant's Ex. 46



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

MAY 08 2008

REPLY TO
ATTENTION OF:

Policy Analysis Section

SUBJECT: SWG-2007-84 and SWG-2007-1014; Jurisdictional Determination Associated with Grandfathering Provisions, Orange County, Texas

Mr. Robert T. Edgar
Parkwood Land Company
P.O. Box 5134
Beaumont, Texas 77726-0233

Dear Mr. Edgar:

This letter is in reference to your May 25, 2007, letter requesting that the land enclosed by an existing levee be allowed to continue (be grandfathered) with its original previously-authorized (pre-Clean Water Act) use for dredged material disposal. The project site is located northeast of the intersection of the Neches River and Interstate 10, near Rose City, Orange County, Texas.

On April 17, 2007, we verified that the eroding levee surrounding the 70+ acre site was constructed prior to the inception of Section 404 of the Federal Water Pollution Control Act (now the Clean Water Act) and as such is considered authorized (grandfathered) since it is no longer a water of the United States. This April 17 letter authorized the fill into the waters associated with the repair of this levee pursuant to Nationwide Permit No. 3 (Maintenance), with conditions. Our July 5, 2007, letter to Mr. Henry R. Stevenson, Jr., of your company, verified that the site has approximately 71.2-acres of jurisdictional forested wetlands immediately adjacent to the Neches River, a navigable water of the United States and subject to Section 404 of the Clean Water Act. The letter also states that any discharge of dredged or fill material into this area will require a Department of the Army (DA) permit prior to the initiation of any work.

The placement of additional dredged material within the leveed area is not a maintenance activity, and as such is not authorized by Nationwide Permit No. 3. An individual DA permit is required prior to the discharge of any dredged or fill material into the area. To facilitate obtaining the necessary permit, an application form and instruction sheets, with sample project plans, are enclosed. These materials outline the required submittals to our office and are provided for your use.

If you have any questions regarding this matter, please contact Regulatory Project Manager Denise Sloan at the letterhead address or at 409-766-3962.

Sincerely,

Casey Cutler
Chief, Policy Analysis Section

Enclosures

Copy Furnished:

✓ CESWG-PE-RC

SWG-2008-01341

UNAUTHORIZED ACTIVITY REPORT FORM

Reported by: Anonymous Date: 12/9/08 Time: 1250
Telephone Number: _____

Responsible Party: Sony Stevenson

Telephone Number: _____ Section: 404 10 404/10 103 (circle one)

Waterbody: Nokes River wetlands City: Rose City County: Orange
Location: _____

Description: Built road to Ross Ridge to obtain fill material (sand)
from a borrow pit

Report taken by: J. D. Andra

See e-mails for photos

Activity assigned to: Dwayne
SWG Form 467a
12 February 1996(Rev)

MEMO TO CLOSE FILE

1. CASE SWG-2008-01341
2. **RESPONSIBLE PARTY(S):** ACR, LP
Address (mailing): 516 Orchard, Port Neches, Texas 77651
Telephone: Unknown
E-Mail: Unknown
3. **PROJECT LOCATION:**

Waterway: Neches River tributary
County: Orange County
City (closest): Rose City
Quadrangle: Beaumont East, Texas
Coordinates: UTM 15 398824E 3333024N
4. **REPORT ORIGIN:**

Reported by: Anonymous
Telephone: N/A
Date Reported: 9 December 2008
Investigation Date: 3 September 2009 (Field Office)
Investigated by: Kristin Shivers
5. **AUTHORITY:**

__A.10 B.404 __ C.10&404 __ D.N/A
6. **SUMMARY OF INVESTIGATION:** On 9 December 2008 at 1250 hours, an anonymous call was received concerning alleged fill into wetlands along a road near a tributary of the Neches River. The site is located near Mockingbird Lane, Rose City, Orange County, Texas. A site visit was conducted on 3 September 2009. Kristin Shivers, John Davidson, and Jeff Pinsky of the U.S. Army Corps of Engineers, Galveston District (CESWG), and Carlos Hinojosa and Dyer Schlitzkus of Knudson, LP (consultants) were present for the site visit. An area along the first, northwest turn was observed to have road material pushed beyond the obvious boundaries of the road and into an area that appeared to be a jurisdictional wetland. A data point was taken in an area just beyond where the fill material stopped. The sample point met the hydrophytic vegetation, wetland hydrology, and hydric soils criteria of the Corps of Engineers 1987 Wetland Delineation Manual Atlantic and Gulf Coast Regional Supplement, and therefore, was determined to be located within a wetland.

In order to resolve the allegations, it was recommended to the consultants, Mr. Hinojosa and Mr. Schlitzkus, that the sediment be removed from the wetland area and be placed in an upland disposal location. It was also requested that photographs of the area before and after the removal of the sediment be submitted, as well as the a photograph of the upland disposal area. Further recommendations for resolution included the use of best management practices.

On 21 October 2009, before and after photographs were received portraying that the sediment had been removed from the wetland and placed in an upland disposal area. On 18 November 2009, additional photographs were received showing that best management practices had been incorporated; these appeared to include hay bales and silt fencing.

7. **FINAL DISPOSITION (if applicable):** Because the unauthorized discharge of fill material into the wetlands located on-site has been adequately removed and restored to satisfaction, **this violation has been resolved and the case is closed.**
8. **DATE CASE CLOSED: 28 January 2010**

Signed:

Kristin Shivers
Regulatory Specialist

SWG Form 444c
12 February 1996(Rev)

KAS
SHIVERS/ep/3991
CESWG-PE-RC



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229
March 1, 2010

REPLY TO
ATTENTION OF:

Compliance Section

SUBJECT: SWG-2008-01341; ACR, LP, Restoration of Unauthorized Fill into Adjacent Wetlands, Ross Ridge Road, Rose City, Orange County, Texas

ACR, LP
ATTN: James Linscomb
516 Orchard
Port Neches, Texas 77651

Dear Mr. Linscomb:

This letter is intended to acknowledge a successful restoration of the unauthorized discharges of dredge and/or fill material into waters of the United States, specifically adjacent wetlands. The project site is located along Ross Ridge Road, near Rose City, Orange County, Texas.

During a site visit on September 3, 2009, we determined that fill had been placed into adjacent wetlands to widen or repair an existing roadway to Ross Ridge. This discharge was in violation of Section 404 of the Clean Water Act. Based on the site photographs received via mail on October 21, 2009 and email on November 18, 2009 from Mr. Dyer Schlitzkus of Knudson, LP, we determined that the discharge into these wetlands has been adequately removed, resolving the violation. The unauthorized discharge of dredged and/or fill material into the adjacent wetlands located on-site has been restored to the satisfaction of the Corps of Engineers. Therefore, we are closing the enforcement file without prejudice.

If you have any questions concerning this determination and/or the resolution of the enforcement action, please reference file number SWG-2008-01341 and contact Ms. Kristin Shivers at the letterhead address or by telephone at 409-766-3991. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html> and/or if you would prefer a hard copy of the survey form, please let us know, and one will be mailed to you.

Sincerely,

Kenny Jaynes
Chief, Compliance Section

DAVIDSON
PE-RC

3/5/10
JAYNES
PE-RC

Copy furnish:

Carlos Hinojosa
Knudson, LP
8588 Katy Freeway, Suite 441
Houston, Texas 77024

Complainant's Ex. 46

APR 12 2010

5:46:28 PM - 5/23/10

Date: April 8, 2010

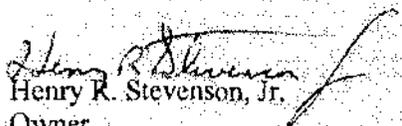
To: Jeff F. Pinsky
CESWG-PE-RN
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Jeff:

Parkwood Land Company requests an authorized jurisdictional determination on 45.9 acres in Jefferson County on the Neches River, just below the Salt Water Barrier. See exhibit A. Some of this property will most probably be used for mitigation for the road to the 42 acre island on the Neches River near Beaumont, Texas. I am asking for a Nexus determination.

If you have any questions, please give me a call. I hope all went well with your two deliveries! I need my cigars. I will be out of town until April 19, 2010. You can reach me on my cell phone: (409) 781-3422. Thanks for your help.

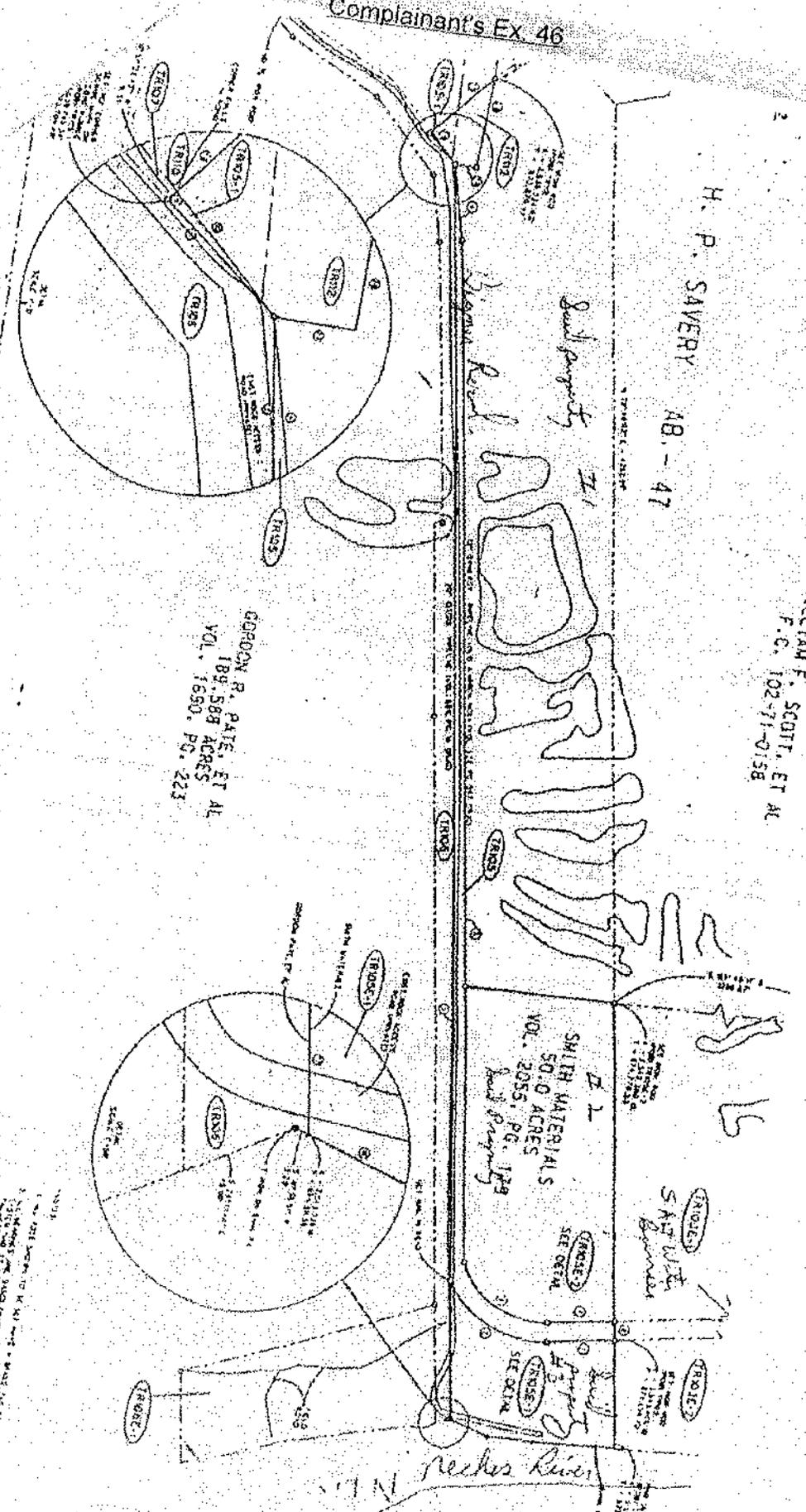
Regards,


Henry R. Stevenson, Jr.
Owner
Parkwood Land Company
2085 Galway
Vidor, Texas 77662-2954
Phone: (409) 783-0940
Fax: (409) 783-3340
E-mail: luckystevenson@aol.com

Complainant's Ex 46

H. P. SAVERY AB. - 47

WILLIAM F. SCOTT, ET AL
F.C. 102-71-0158



H. P. SAVERY AB. - 47
H. R. WILLIAMS AB. - 58

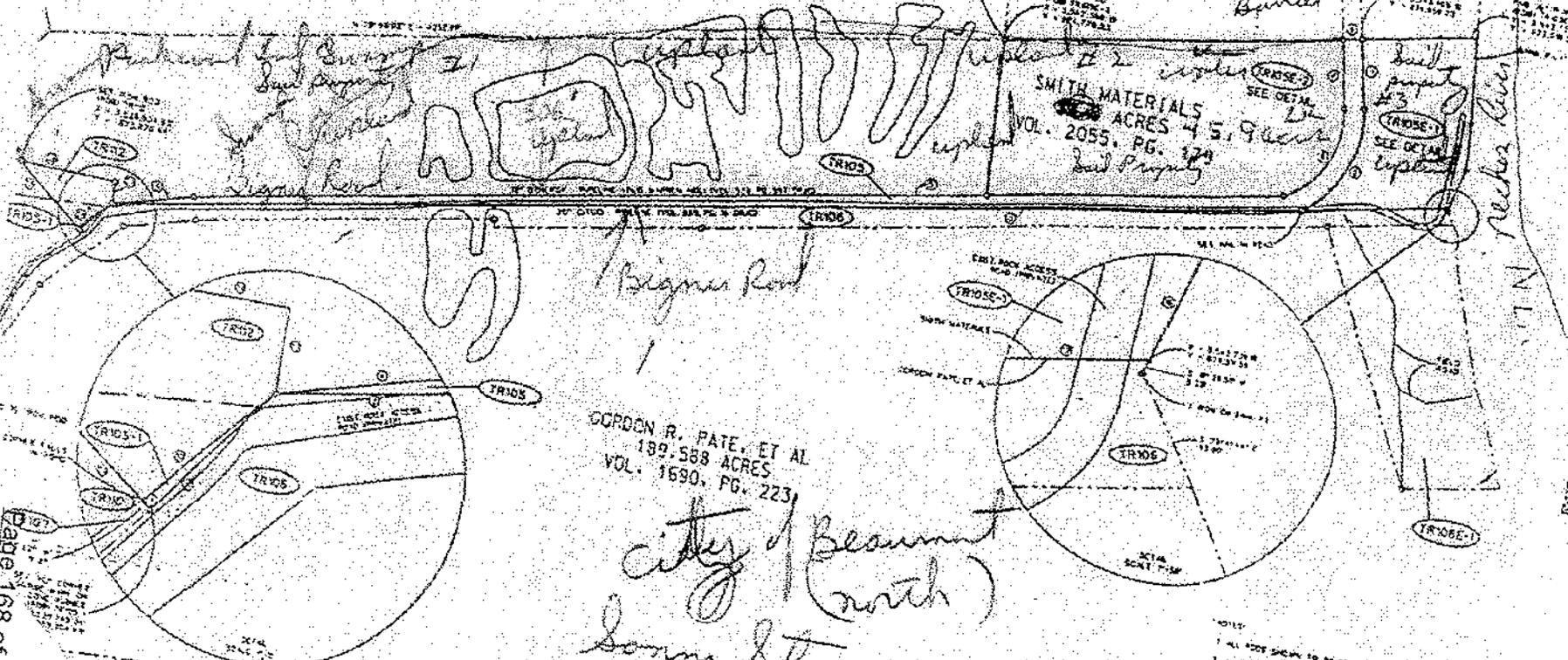
GORDON R. PATE, ET AL
VOL. 189, 588 ACRES
VOL. 1650, PG. 223

SWISH MATERIALS
50.0 ACRES
VOL. 2055, PG. 129

WILLIAM F. SCOTT, ET AL
F.C. 102-71-0158

H. P. SAVERY AB. - 47

Solihull 7 2010



GORDON R. PATE, ET AL
189.588 ACRES
VOL. 1690, PG. 223

City of Beaumont
(north)
Sunny Stevenson 781-3422

H. P. SAVERY AB. - 47

H. R. WILLIAMS AB. - 58

Complainant's Ex 46

Page 168 of 171



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

April 5, 2011

Compliance Section

SUBJECT: SWG-2010-00349; Parkwood Land Company, Jurisdictional Determination, 45.9-Acre Tract, Bigner Road and the Neches River, Jefferson County, Texas

Mr. Henry R. Stevenson, Jr.
Parkwood Land Company
2085 Galway Drive
Vidor, Texas 77662

Dear Mr. Stevenson:

This letter is in response to your April 8, 2010 letter requesting a jurisdictional determination on a 45.9-acre project site. The project site is located north of Bigner Road and west of the Neches River, southwest of the Neches River Salt Water Barrier, in Jefferson County, Texas.

We have determined that the project area does contain an undetermined acreage of waters of the United States, specifically wetlands adjacent to the Neches River. These adjacent wetlands are separated from the Neches River, a Traditional Navigable Water, by one barrier and therefore are adjacent and are subject to jurisdiction under Section 404 of the Clean Water Act. Wetlands, under normal circumstances are predominated with hydrophytic vegetation, wetland hydrology, and wetland soils and were identified by the Atlantic and Gulf Coastal Plains Region Supplement to the 1987 Corps of Engineers Wetland Delineation Manual. A Department of the Army (DA) permit will be required prior to discharging dredged and/or fill material into waters of the United States, specifically the adjacent wetlands which are subject to Section 404 of the Clean Water Act.

This jurisdictional determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This jurisdictional 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 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.

This letter contains an approved jurisdictional determination for the subject site. This determination remains valid for 5 years from the date of this letter, unless new information warrants revision or reissuance prior to its expiration. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR part 331. Enclosed you will find a Notification of Administrative Appeals Options and Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Southwest Division Office at the following address:

LASKOWSKI/ep/6381
CESWG-PE-RC
NAL 41-Adc-11

-2-

Mr. Elliott Carran
Appeal Review Officer, CESWD-ETO-R
U.S. Army Corps of Engineers
1100 Commerce Street, Suite 831
Dallas, Texas 75242-1317
Telephone: 469-487-7061, FAX: 469-487-7190

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within **60 days** of the date of this NAP. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

If you have any questions concerning this determination, please reference file number **SWG-2010-00349** and contact Mr. Nicholas Laskowski at the letterhead address or by telephone at 409-766-6381. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html> and/or if you would prefer a hard copy of the survey form, please let us know, and one will be mailed to you.

Sincerely,

John Davidson
Unit Leader



DAVIDSON
PE-RC

Enclosures

