



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, WILMINGTON DISTRICT
WILMINGTON REGULATORY OFFICE
69 DARLINGTON AVENUE
WILMINGTON NORTH CAROLINA 28403

October 17, 2024

CESAW-RG-W

Alen & Nina Smithson Trustees
584 Juniper Ridge Rd
Shawboro, NC 27923

Dear Smithson Trustees:

This letter is in response to your request to the Wilmington District, Wilmington Regulatory Office for a preliminary jurisdictional determination (PJD). The project/review area is located south of US Highway 158 approximately one mile west of Barco, NC, at Latitude 36.383430 and Longitude -75.988450; in Barco, Currituck County, North Carolina. The review area for this determination is limited to an approximately 90-acre area comprised of one parcel (parcel numbers: 006000001000000), which is illustrated on the enclosed site maps. This project has been assigned the file number SAW-2024-01057 (0 shortcut Road / Barco / Currituck). This file number should be referenced in all correspondence concerning this project.

Based on our review of the information you furnished, a site inspection conducted on September 16, 2021, and other information available to our office, we have preliminarily determined the above-referenced area may contain approximately 4.28 acres of waters of the United States under the U.S. Army Corps of Engineers (Corps) regulatory jurisdiction. These waters are identified in the enclosed site maps, Smithson Survey dated July 10, 2024, and include two wetlands that equate to 4.28 acres, both are potentially connected through ditching. This determination was made in accordance with the Corps regulatory authority pursuant to Section 404 of the Clean Water Act, and based upon criteria contained in the 1987 Corps of Engineers Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain regional supplement.

Section 404 of the Clean Water Act requires a Department of the Army (DA) permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires a DA permit be obtained for any work in, on, over or under navigable waters of the United States.

For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made based on a preliminary jurisdictional determination will treat all waters including wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory

Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved jurisdictional determination, which is an appealable action, by contacting the Corps district for further instructions. Please **sign and return** the attached PJD form within 30 days of receipt. If a signed PJD form is not received within 30 days of the date of this letter, the Corps will presume concurrence.

This determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the review area identified in this request. The determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. 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.

You are cautioned that work performed in areas which may be waters of the United States, as indicated in the preliminary JD, without a Department of the Army permit could subject you to enforcement action.

If you have any questions concerning this correspondence, please contact Joshua Tutt, Regulatory Specialist of the Washington Field Office at 910-251-4629, by mail at the above address, or by email at Joshua.C.Tutt@usace.army.mil. Please take a moment to complete our customer satisfaction survey located at <https://regulatory.ops.usace.army.mil/customer-service-survey/>.

Sincerely,

Joshua C. Tutt

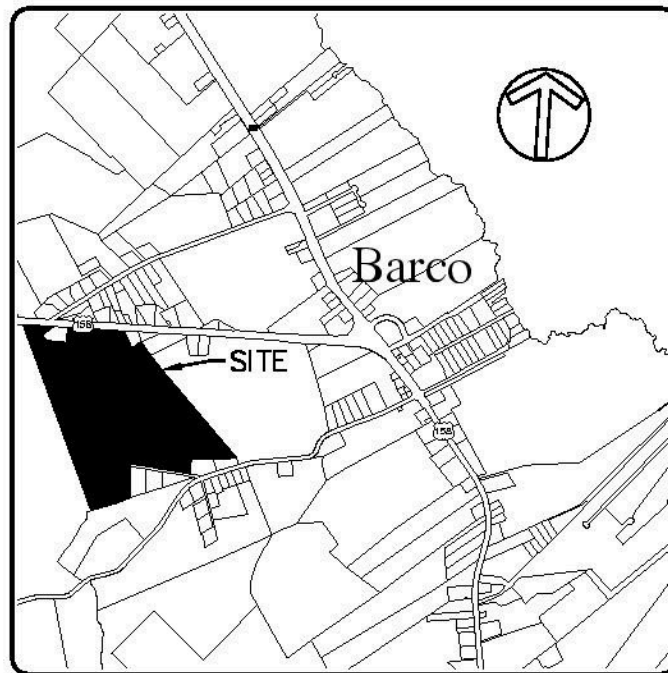
Josh Tutt
Regulatory Specialist

Enclosures

cc: Doug Dorman, Atlantic Environmental Consultants , LLC (via dougdaec@gmail.com)

ADJOINER PROPERTY OWNERS		
1	CONNIE HENDERSON & MARILYN WHITE	D.B. 1135, PAGE 290 D.B. 78, PAGE 222
2	ELIZABETH A GREENE	D.B. 362, PAGE 276 D.B. 180, PAGE 685
3	STEVEN & MARLANA WEIR	D.B. 1747, PAGE 457
4	RUTH W SIMMONS HEIRS & LYDIS S TURNER	30 E/140 D.B. 146, PAGE 660
5	GARY T. DOZIER & HENRY G. DOZIER III	D.B. 1056, PAGE 950
6	ALAN LEWIS WHITE	D.B. 1537, PAGE 685 PC 1 SL 68
7	RICHARD M. WHITE	D.B. 1407, PAGE 45 PC 1 SL 68
8	ROBERT A. OSMAN	D.B. 1680, PAGE 205
9	RANDI L. WAGE	D.B. 1414, PAGE 440
10	LINDA L. BEEDIE & CLAUDE R. ASHBERRY JR	D.B. 1372, PAGE 742
11	MORRIS R. JONES	D.B. 241, PAGE 160
12	CURTIS S. STAPLES JR.	D.B. 1228, PAGE 931

- NOTES:**
1. AREA DETERMINED BY COORDINATE METHOD.
 2. IRON PINS AT ALL LOT CORNERS UNLESS OTHERWISE NOTED HEREON.
 3. ELEVATIONS ARE NAVD83 DATUM.
 4. UNDERGROUND UTILITIES, IF ANY, WERE NOT LOCATED BY THIS SURVEY. FURTHER EVALUATION MAY BE REQUIRED.
 5. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
 6. SUBJECT PROPERTY IS LOCATED IN F.I.R.M. ZONE AS SHOWN. REFERENCE F.I.R.M. PANEL # 3720898600K, EFFECTIVE DATE: DECEMBER 21, 2018. (SUBJECT TO CHANGE BY F.E.M.A.)
 7. PARCEL ID NO.: 0080-000-0100-0000
 8. RECORDED REFERENCE: D.B. 1250, PAGE 844
 9. PROPERTY OWNER(S): NINA S. SMITHSON, TRUSTEE & ALVIN L. SMITHSON JR TRUSTEE
 10. PROPERTY ADDRESS: SHORTCUT ROAD



VICINITY MAP NOT TO SCALE

SURVEYOR'S CERTIFICATION

I, Michael D. Barr, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed and description recorded in Books referenced); that the boundaries not surveyed are clearly indicated as drawn from information found in Books referenced; that the ratio of precision or positional accuracy is 1:10,000; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 58.1600)."

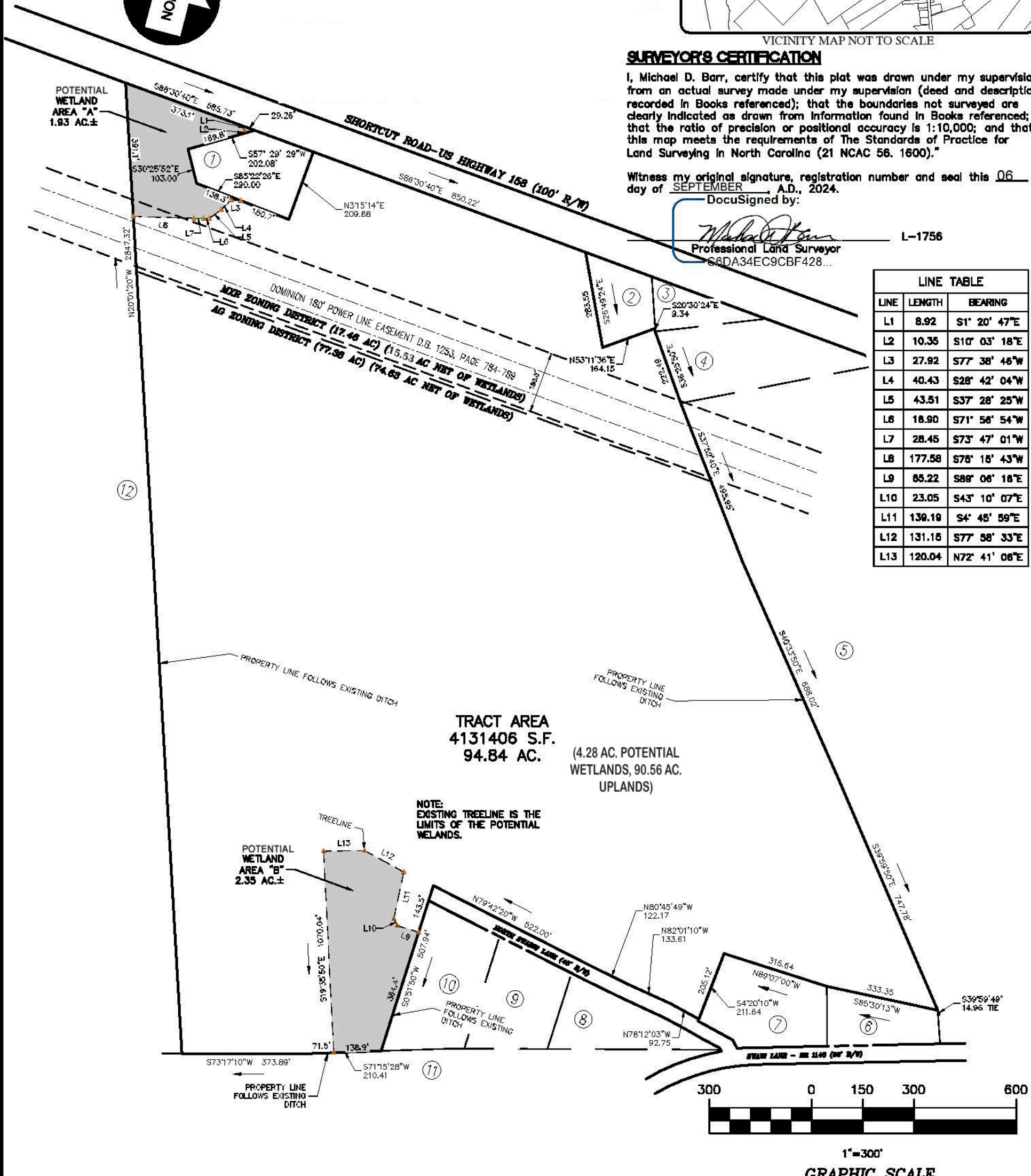
Witness my original signature, registration number and seal this 06 day of SEPTEMBER, A.D., 2024.

DocuSigned by:

Michael D. Barr
Professional Land Surveyor
66DA34EC9CBF428...

L-1756

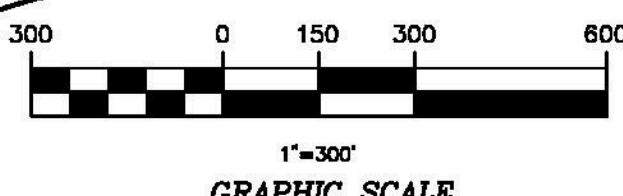
LINE TABLE		
LINE	LENGTH	BEARING
L1	8.92	S1° 20' 47"E
L2	10.35	S10° 03' 18"E
L3	27.92	S77° 38' 46"W
L4	40.43	S28° 42' 04"W
L5	43.51	S37° 28' 25"W
L6	16.90	S71° 56' 54"W
L7	28.45	S73° 47' 01"W
L8	177.58	S75° 18' 43"W
L9	65.22	S88° 06' 16"E
L10	23.05	S43° 10' 07"E
L11	139.19	S4° 45' 59"E
L12	131.15	S77° 58' 33"E
L13	120.04	N72° 41' 06"E



TRACT AREA
4131406 S.F.
94.84 AC.

(4.28 AC. POTENTIAL WETLANDS, 90.56 AC. UPLANDS)

NOTE:
EXISTING TREELINE IS THE LIMITS OF THE POTENTIAL WETLANDS.



REVISIONS			
NO.	DATE	DESCRIPTION	BY

PROJECT:

SMITHSON TRACT
WETLANDS DELINEATIONS

CRAWFORD TWP. CURRITUCK CO. NORTH CAROLINA

OVERALL SITE PLAN

BISSELL
PROFESSIONAL GROUP

Engineers, Planners, Surveyors and Environmental Specialists

Bissell Professional Group
Firm License # C-958
2512 North Croatan Highway
P.O. Box 1080
Kitty Hawk, North Carolina 27949
(252) 281-3266
FAX (252) 281-1760

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4853

DATE: 09/05/24
DESIGNER: BPG
CHECKER: MSB
APPROVER: KFW
CAD FILE: 48530COE1
SHEET: 1 of 1

U.S. Army Corps of Engineers (USACE)
PRELIMINARY JURISDICTIONAL DETERMINATION (PJD)

For use of this form, see Sec 404 CWA, Sec 10 RHA, Sec 103 MPRSA; the proponent agency is CECW-COR.

Form Approved -
OMB No. 0710-0024
Expires 2024-04-30

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Program of the U.S. Army Corps of Engineers; Final Rule for 33 CFR Parts 320-332.

Principal Purpose The information that you provide will be used in evaluating your request to determine whether there are any aquatic resources within the review area that may be subject to federal jurisdiction under the regulatory authorities referenced above.

Routine Uses This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public, and may be made available as part of a public notice or FOIA request as required by federal law. Your name and property location where federal jurisdiction is to be determined will be included in any resulting jurisdictional determination (JD), which may be made available to the public on the District's website and/or on the Headquarters USACE website.

Disclosure Submission of requested information is voluntary; however, if information is not provided, the request for a JD cannot be evaluated nor can a PJD be issued.

The Agency Disclosure Notice (ADN)

The public reporting burden for this collection of information, 0710-0024, is estimated to average 25 minutes per response, including 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 the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. 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.

SECTION I - BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 10/17/2024

B. NAME AND ADDRESS OF PERSON REQUESTING PJD: Alen & Nina Smithson Trustees
 584 Juniper Ridge Rd, Shawboro, NC 27923

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:
 Wilmington, 0 shortcut Road / Barco / Currituck, SAW-2024-01057

D. PROJECT LOCATION AND BACKGROUND INFORMATION:
 (USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: North Carolina County/Parish/Borough: Currituck City: Barco

Center coordinates of site (lat/long in degree decimal format): Latitude: 36.383430° Longitude: -75.988450°

Universal Transverse Mercator: _____

Name of nearest waterbody: Coinjock Bay

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

- Office (Desk) Determination. Date: 10/17/2024
 - Field Determination
- Date(s): 9/16/2021

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resources in review area (acreage and linear feet, if applicable)	Type of aquatic resources (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Wetland A	36.3864	-75.99219	1.93 acre(s)	PFO-PALUSTRINE, FORESTED	Section 404
Wetland B	36.38049	-75.98827	2.35 acre(s)	PFO-PALUSTRINE, FORESTED	Section 404

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.

2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has selected to seek a permit authorization based on a PJD or no JD whatsoever, which do not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the USACE has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD or reliance on no JD whatsoever; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of USACE permit authorization based on a PJD or no JD whatsoever constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the USACE will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

F. SUPPORTING DATA. Data reviewed for PJD (*check all that apply*)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:

Map: Smithson Survey dated 7/10/2024

Data sheets prepared/submitted by or on behalf of the PJD requestor.

Office concurs with data sheets/delineation report.

Office does not concur with data sheets/delineation report.

Rationale: _____

Data sheets prepared by the USACE:

Corps navigable waters' study:

CORPS STUDY LABEL dated **CORPS STUDY DATE**

U.S. Geological Survey Hydrologic Atlas:

USGS NHD data.

USGS 8 and 12 digit HUC maps.

U.S. Geological Survey map(s). Cite scale & quad name:

USGS TOPO LABEL dated **USGS TOPO DATE**

USDA Natural Resources Conservation Service Soil Survey.

Citation: **NRCS SOILS LABEL** dated **NRCS SOILS DATE**

National Wetlands Inventory map(s).

Cite Name: **USFWS NWI LABEL** dated **8/13/2024**

State/Local Wetland Inventory map(s):

LOCAL NWI LABEL dated **8/13/2024**

FEMA/FIRM maps:

FEMA NFHL LABEL dated **8/13/2024**

100-year Floodplain Elevation is: **ELEVATION**. (National Geodectic Vertical Datum of 1929)

Photographs: Aerial (*Name & Date*): _____

or Other (*Name & Date*): _____

Previous determination(s). File no. and date of response letter:
PREVIOUS DETERMINATION LABEL dated **PREVIOUS DETERMINATION DATE**

Other information (*please specify*):
OTHER INFORMATION LABEL dated **OTHER INFORMATION DATE**

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

Name of Regulatory Staff Member Completing PJD Joshua Tutt	Date 10/17/2024	Signature of Regulatory Staff Member Completing PJD <i>Joshua C. Tutt</i>
Name of Person Requesting PJD	Date	Signature of Person Requesting PJD (<i>REQUIRED, unless obtaining the Signature is Impracticable</i>)

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Alen & Nina Smithson Trustees,	File Number: SAW-2024-01057	Date: 10/17/2024
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL WITHOUT PREJUDICE	C
<input type="checkbox"/>	PERMIT DENIAL WITH PREJUDICE	D
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	E
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	F

SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> 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. 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 WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the 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.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **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.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

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.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

District Engineer, Wilmington Regulatory Division
Attn: Joshua Tutt
Wilmington District U.S. Army Corps of Engineers
2407 W. 5th Street
Washington, NC 27889

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

Krista Saban
Regulatory Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Atlantic Division
60 Forsyth Street Room M9
Atlanta, Georgia 30303-8801

Phone: 904-314-9631

Email: Krista.D.Sabin@usace.army.mil

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. Use additional pages as necessary. 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.

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.

<hr/> <p>Signature of appellant or agent.</p>	Date:
Email address of appellant and/or agent:	Telephone number: