



PERMIT APPLICATION

Permit # 1411 (Assigned by Department)

The Louisiana Department of Wildlife and Fisheries' Scenic Rivers program is authorized by LRS title 56, Chapter 8 Part II. This law requires permits authorizing activities in or affecting rivers that have been designated by the Louisiana Legislature as Natural and Scenic. Information provided on this form will be used in evaluating the application for a permit. Information in this application is made a matter of public record through issuance of a public notice. Disclosure of the information requested is voluntary, however, the data requested necessary in order to communicate with the applicant and to evaluate the permit application. If necessary information is not provided, the permit application cannot be processed nor can a permit be issued.

APPLICANT INFORMATION

Name of Applicant Joe Mesa	Name of Agent (if any) Lamulle Construction
Address 59256 W Harbor Ln (Lot 116), Lacombe Harbor St in Tammany Parish.	Address 4978 Pontchartrain Dr, Slidell, LA 70458
City, State, Zip Lacombe , LA, 70445	City, State, Zip Slidell, LA 70458
Phone	Phone 985-646-2028
Email Address Beignet@cox.net	Email Address permitting@lamulle.com

DESCRIPTION OF THE PROPOSED ACTIVITY

Brief summary of the description and purpose of the proposed activity (details to be attached as a separate document)

Build 250' Vinyl Bulkhead across bankline of property with no net fill. 2025

Is any portion of the activity complete? YES or NO (If yes, indicate month and year of completion) **This is an after-the-fact application**

LOCATION OF PROPOSED ACTIVITY

Stream Name	Bayou Lacombe
Address	59256 W HARBOR LN
City, State, Zip	Lacombe , LA, 70445
Parish	St. Tammany
Sec/Township/Range	Greensburg Land District, Lacombe Harbor
Latitude/Longitude	30 17' 31.65' -89 55 57.58

ADJACENT LANDOWNERS

Names, Addresses, Phone Numbers of Adjacent Landowners
Andrew Voelkel, 59246 W HARBOR LN, ASSESS: 77928

ENVIRONMENTAL ASSESSMENT

Must be a separate document. See the attached instruction sheet for completing the assessment.

CONFIRMATION OF INFORMATION ACCURACY

Application is hereby made for a Scenic River Permit to authorize the activities described herein. I certify that I am familiar with the information contained in this application and that, to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities, or I am acting as the duly authorized agent of the applicant.

Jacob Lamulle
Signature

1/26/26
Date

JEFF LANDRY
GOVERNOR



MADISON D. SHEAHAN
SECRETARY

PO BOX 98000 | BATON ROUGE LA | 70898

Dear Scenic River Permit Applicant:

Please review and concur on the following statement regarding the issuance of permits by the Louisiana Department of Wildlife and Fisheries. This agreement must be signed and returned before a Scenic River Permit can be issued.

"I have been advised and do understand that by applying for and accepting a Scenic Rivers permit issued by the Louisiana Department of Wildlife and Fisheries, I am being allowed to engage in an activity which would otherwise be prohibited by law or for which a permit is required. I understand that the permit is not a license and confers no property right upon me. I specifically agree to abide by all State and Federal fish and wildlife laws and regulations, and all State and Federal laws and regulations which relate to this permit or the permitted activity, and by all other terms and conditions of this permit. I understand that the permit for which I am applying may be suspended, annulled, withdrawn or revoked and that I may be assessed civil penalties, all in accordance with the provision of the Louisiana Administrative Procedure Act, and that I may be denied future permits as a consequence of my failure to fully and completely comply with the terms and conditions of the permit, as well as other laws and regulations pertinent thereto. If served with or notified of a cease and desist order signed by the Scenic Rivers Administrator, I agree to immediately and without delay cease all activities and operations which relate to the permitted activity or which are impacting the Scenic River, until such time as the matter can be resolved in an adjudicatory hearing pursuant to the Louisiana Administrative Procedure Act. I understand and agree that any permit issued to me by the Louisiana Department of Wildlife and Fisheries is in the nature of a privilege which is being voluntarily extended to me by the Department and the failure on my part to cooperate with the Department can result in the loss of the privilege conferred and the denial of future requests for permits. By accepting this permit, I evidence my agreement to be bound by all conditions and stipulations set forth herein."

Jacob Lamulla
Authorized Signature

1/26/26
Date

REV. 2/6/24

Scenic Rivers – Environmental Assessment

Project Description: Proposal to construct a bulkhead along the Bayou Lacombe

1. Existing Land Use: The existing property is neighboring to the home of where he lives and enjoys time with his family. It is also owned by him and serves functionally as an extension to his home property.

2. Wilderness Qualities

The project will have no negative impact on wilderness qualities. The bulkhead doesn't have impact on the woods. The primary function is the prevent flooding. It is 120 ft away from his to Mr. Mesa's house, it's 170 ft away from his swimming pool, and 20 ft away from his existing boathouse and his mowed lawn.

3. Scenic/Aesthetic Values

The scenic values will not be impacted by the proposed project. The project is similar to other piers, docks, and camps along the river.

4. Ecological Regimes

The proposed project should have no impact on the ecology of the river as the structures will likely positively impact water flow and aid in protection of the ecology during natural disasters. This is a low impact bulkhead and will only have negligible impact to the sediment of the river during and after construction as its purpose is to retain the existing bank line and not to divert waterflow or the water bottom in any way and will reinforce the bank as it currently and naturally sits. This bulkhead placement is between and connecting two already existing bulkheads that have been in place for over 20 years, the properties on the east and west of the lot and homes.

5. Recreational Use/Opportunities

Yes, the property allows for recreation that while private extends to both neighbors and other residents of the subdivision indirectly in protection of and directly in beautification of the neighborhood for Mr. Mesa and his surrounding 6 neighbors. It will also connect two existing bulkheads on the neighboring lots, completing and normalizing the lot.

6. Fish and Other Aquatic Life

Fish and other aquatic life should not be impacted by the proposed project. The time being built is on the water's edge. Any impact towards fish and aquatic life would be negligible and temporary. Construction time for our bulkheads is about a week. We are always mindful not to disturb the water bottom and any wildlife.

7. Wildlife

The wildlife on the property should not be permanently affected by construction activities. For the construction on a bulkhead no clearing needs to take place subsequent the impact on wildlife habitat will be negligible. The construction of a bulkhead should improve water flow of the Bayou Lacombe which can help certain wildlife and protect the habitat from storm damage in a zone that get a high amount of wake from continual speedy boat travel.

8. Historical and Archaeological Resources

To the best of our knowledge, no historical or archaeological resources of significance occur on the property.

9. Geological Resources

To the best of our knowledge, no geological resources adjacent to the river will be changed by the proposed project.

10. Botanical Resources

The bankline is clear enough that bulkhead construction in the area doesn't require an impact/clearing to the native tree, shrubs, and grasses.

11. Water Quality and Quantity

No change to water quantity or quality of the river is expected during or after construction. Also there is no sediment/rock/concrete being used so no precautions necessary.

12. Hydrologic Features

The proposed project will not have any significant impact on local hydrology.

13. Cultural Resources

There are no known cultural resources associated with this project.

14. Economic Impact of Project

Clearing up the bankline from storm damage and placing the bulkhead between two existing bulkheads will add to the beautification of the neighborhood and increase the property value, will provide protection from storm damage and minor flooding.

Steps to Minimize and/or Offset Potential Impacts to the River -

The project positively impacts the area by increasing the beatification of the neighborhood and reinforcement of waterflow established by the two neighboring lot's bulkheads which are connected by this bulkhead. It also protects the habitat through protection from storms, floods, and high impact/speedy boat travel which is ever present on that waterway.

Alternatives -

All other construction methods were considered and the chosen course is the most realistically low impact.

Applicant's Compliance History -

We have never been cited and have a long history of working with the agency.

Google Maps 59256 W Harbor Ln



Job site at
 $30^{\circ}17'31.65''N$
 $89^{\circ}55'57.86''W$

Map data ©2024 Google, INEGI 2 mi

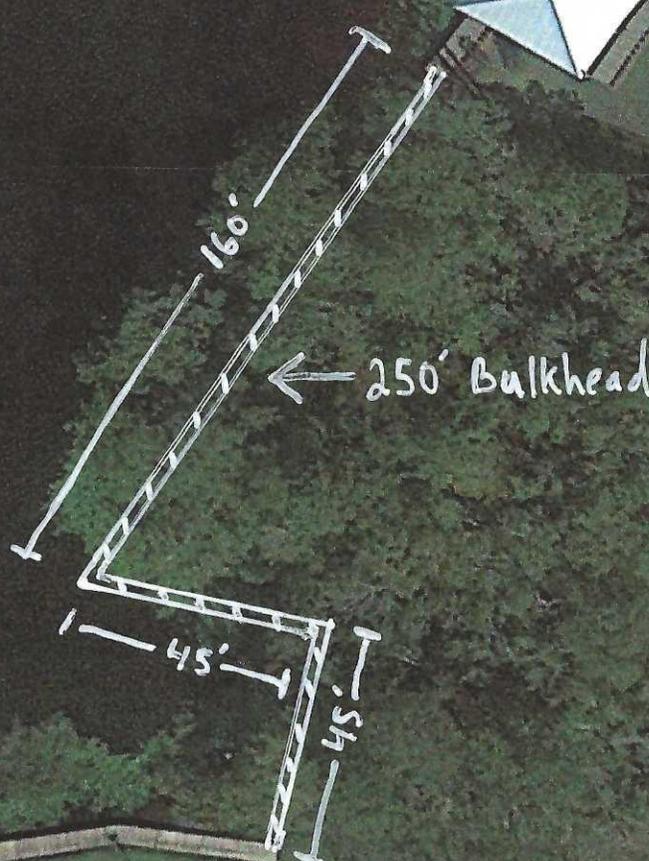
Joe Mesa

-Build 250' Vinyl Bulkhead with zero net fill.

Legend

 Mesa, Joe

Google Earth



200 ft



Mesa, Joe



Cross-Section Bulkhead

10'

Water Level
high 0.5 ft
low 0.4 ft

Proposed Bulkhead
to be
replace in
same footprint

Edge of Water/sand/land
dy'

2.7'



Bulkhead

Tieback Rod

250 ± x 10' x 2.7'
Soil to be Disturbed
and Returned in place
= cu yards
NO NET FILL

Class 6 40' 2.5 Tr Piling All Piling driven 25% below mudline Bankline

Untitled Map

Write a description for your map.

Legend

 Mesa, Joe

59272

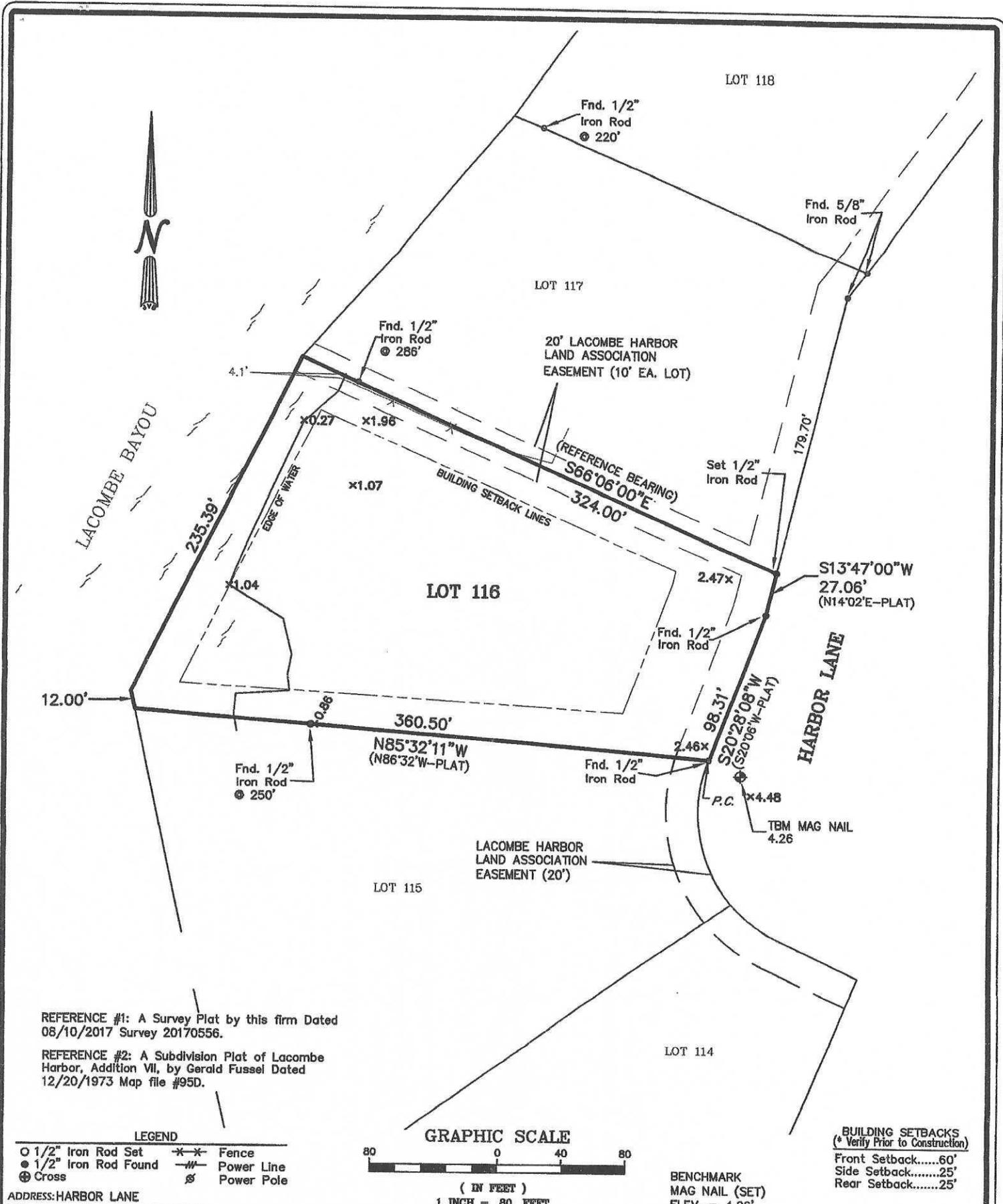
 Mesa, Joe

Google Earth

Image © 2025 Airbus

100 ft

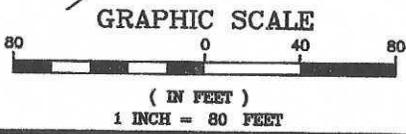




REFERENCE #1: A Survey Plat by this firm Dated 08/10/2017 Survey 20170556.
 REFERENCE #2: A Subdivision Plat of Lacombe Harbor, Addition VII, by Gerald Fussel Dated 12/20/1973 Map file #95D.

LEGEND

○ 1/2" Iron Rod Set	-x-x- Fence
● 1/2" Iron Rod Found	-W- Power Line
⊕ Cross	⚡ Power Pole



BUILDING SETBACKS
 (* Verify Prior to Construction)

Front Setback.....60'
 Side Setback.....25'
 Rear Setback.....25'

ADDRESS: HARBOR LANE

I CERTIFY THAT THIS PLAT DOES REPRESENT AN ACTUAL GROUND SURVEY AND THAT TO THE BEST OF MY KNOWLEDGE NO ENCROACHMENTS EXIST EITHER WAY ACROSS ANY OF THE PROPERTY LINES, EXCEPT AS SHOWN.

PROPERTY IS SURVEYED IN ACCORDANCE WITH THE LOUISIANA "STANDARDS OF PRACTICE FOR PROPERTY BOUNDARY SURVEYS" FOR A CLASS C SURVEY. BEARINGS ARE BASED ON RECORD BEARINGS UNLESS NOTED OTHERWISE.

ENCUMBRANCES SHOWN HEREON ARE NOT NECESSARILY EXCLUSIVE. ENCUMBRANCES OF RECORD AS SHOWN ON TITLE OPINION OR TITLE POLICY WILL BE ADDED HERETO UPON REQUEST, AS SURVEYOR HAS NOT PERFORMED ANY TITLE SEARCH OR ABSTRACT.

F.I.R.M. No. 225205 0395 D
 F.I.R.M. Date 04/02/1991
 ZIN: A10 B.F.E. 10
 * Verify prior to construction with Local Governing Body.

DRAWING NO. 20230538
 DATE: 12/14/2023

J.V. Burkes & Associates, Inc.

SURVEYING ENGINEERING ENVIRONMENTAL

1805 Shortcut Highway
 Slidell, Louisiana 70458
 E-mail: jvbassoc@jvburkes.com

Phone: 985-649-0075 Fax: 985-649-0154

DRAWN BY: VLL
 CHECKED BY: JDL
 SCALE: 1" = 80'

A SURVEY PLAT OF LOT 116, LACOMBE HARBOR S/D, ADD. VII IN SECTION 45, T-9-S, R-13-E, GREENSBURG LAND DISTRICT, ST. TAMMANY PARISH, LOUISIANA

CERTIFIED TO: JOSEPH MESA

STATE OF LOUISIANA
 SEAN M. BURKES
 SURVEYED BY:
 REGISTERED
 SEAN M. BURKES
 LA REG. No. 4785



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVE
NEW ORLEANS, LA 70118-3651

February 1, 2024

Regulatory Division
Jurisdiction and Enforcement Branch

Cheryl Furchak
Engel & Völkers USA
820 Oak Harbor Boulevard
Slidell, Louisiana 70458

Dear Ms. Furchak:

Reference is made to your request, on behalf of Mr. Lloyd Gueringer, for a U.S. Army Corps of Engineers' (Corps) jurisdictional determination on property located in Section 45, Township 9 South, Range 13 East, St. Tammany Parish, Louisiana (enclosed map). Specifically, this property is identified as a 1.65-acre site west and east of West Harbor Lane located in Lacombe.

Based on review of recent maps, aerial photography, soils data, and a site inspection conducted on January 8, 2024, we have determined that part of the property contains wetlands and non-wetland waters that are subject to Corps' jurisdiction. The approximate limits of the wetlands and non-wetland waters are designated in red and blue, respectively, on the map. A Department of the Army (DA) permit under Section 404 of the Clean Water Act will be required prior to the deposition or redistribution of dredged or fill material into these waters of the U.S. Additionally, the non-wetland waters are navigable waterways and subject to Corps' jurisdiction under Section 10 of the Rivers and Harbors Act. A DA Section 10 permit will be required prior to any work in these non-wetland waters. Furthermore, part of the property contains uplands that are not subject to Corps' jurisdiction. The approximate limits of the uplands are designated in green on the map. A DA permit will not be required for activities in the upland areas.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or 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 discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

You and your client are advised that this approved jurisdictional determination is valid for a period of 5 years from the date of this letter unless new information warrants revision prior to the expiration date or the District Commander has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.

If you object to this approved jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 C.F.R. 331. Enclosed you will find a Notification of Appeal 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 Mississippi Valley Division Office at the following address:

Administrative Appeals Review Officer
Mississippi Valley Division
ATTN: CEMVD-PDO
Post Office Box 80 (1400 Walnut Street)
Vicksburg, MS 39181-0080
Phone: 601-634-5820, Fax: 601-634-5816

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 31, 2024

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

Please be advised that this property is in the Louisiana Coastal Zone and a Coastal Use Permit may be required prior to initiation of any activities on this site. For additional information, contact Ms. Christine Charrier, Office of Coastal Management, Louisiana Department of Natural Resources at (225) 342-7953.

Should there be any questions concerning these matters, please contact Mr. Glenn Dobson at (504) 862-1588 and reference our Account No. MVN-2023-01082-SD. If you have specific questions regarding the permit process or permit applications, please contact our Eastern Evaluation Branch at (504) 862-2225.

Sincerely,

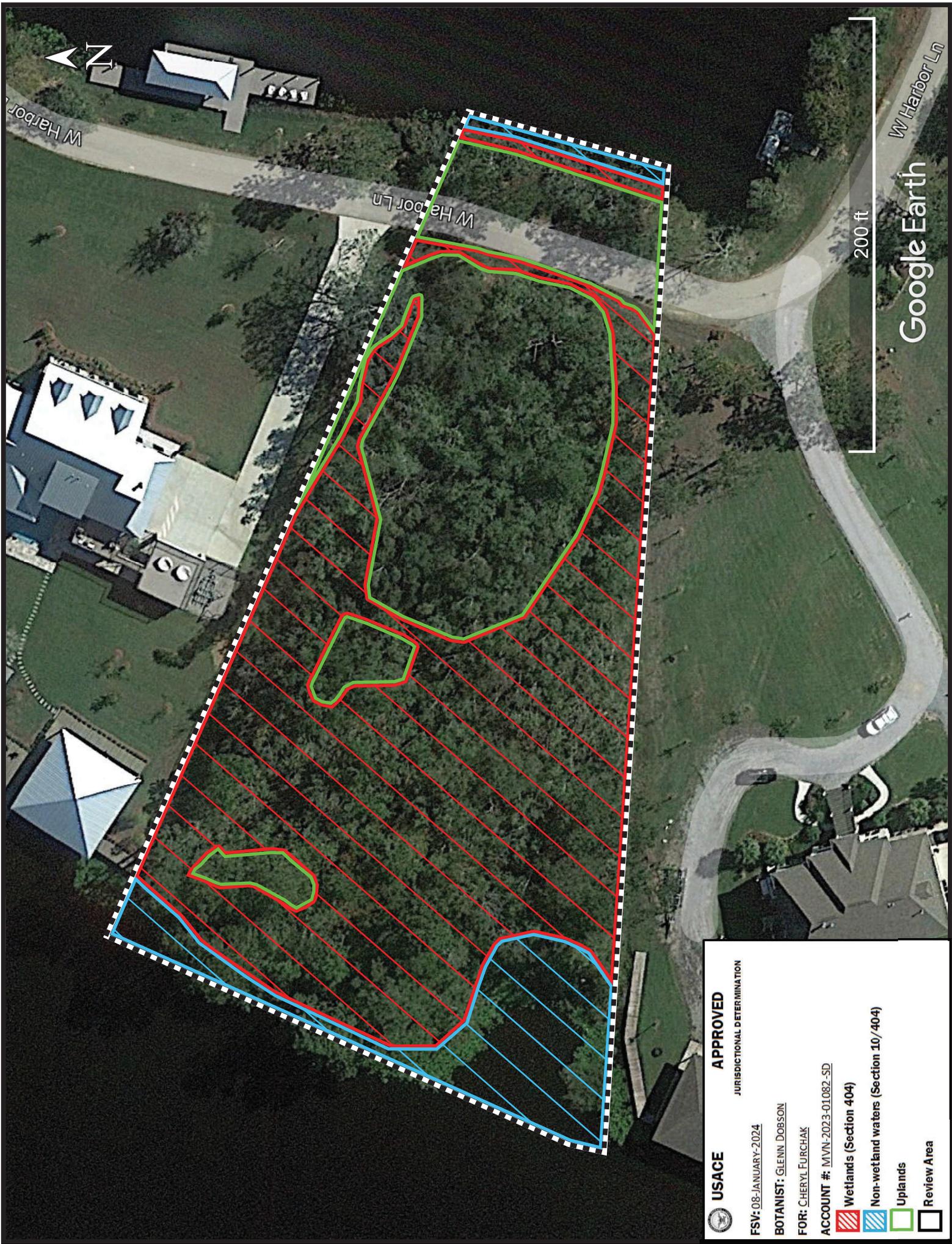
Brad

Guarisco

for Martin S. Mayer
Chief, Regulatory Division

Digitally signed by
Brad Guarisco
Date: 2024.02.01
21:26:12 -06'00'

Enclosures



USACE **APPROVED**
 JURISDICTIONAL DETERMINATION

FSV: 08-JANUARY-2024
 BOTANIST: GLENN DOBSON
 FOR: CHERYL FURCHAK
 ACCOUNT #: MVN-2023-01082-SD

Wetlands (Section 404)
 Non-wetland waters (Section 10/404)
 Uplands
 Review Area

Google Earth

200 ft

W Harbor Ln

W Harbor Ln





DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVE
NEW ORLEANS, LA 70118-3651

CEMVN-RGJ

1-February-2024

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023),¹ MVN-2023-01082-SD

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable Louisiana due to litigation.

¹ While the Supreme Court's decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

CEMVN-RGJ

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVN-2023-01082-SD

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
 - i. Wetland-1, jurisdictional, Section 404
 - ii. Wetland-2, jurisdictional, Section 404
 - iii. Non-wetland water-1, jurisdictional, Section 10 and Section 404
 - iv. Non-wetland water-2, jurisdictional, Section 10 and Section 404

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. __, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. An approximately 1.65-acre site (centered at 30.292053, -89.932293), Lacombe, St. Tammany Parish, Louisiana.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest TNW is Bayou Lacombe (Non-wetland water 1) and a tidal canal off of Bayou Lacombe (non-wetland water 2)

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. Wetland-1 directly abuts Non-wetland water-1 (TNW). Wetland-2 directly abuts Non-wetland water-2 (TNW).

CEMVN-RGJ

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVN-2023-01082-SD

6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ Non-wetland water-1 (0.17-acres) and Non-wetland water-2 (0.01-acres) are both tidally influenced waterways.

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. TNWs (a)(1): Non-wetland water-1 (0.17-acres) and Non-wetland water-2 (0.01-acres) are both tidally influenced waterways.
 - b. Interstate Waters (a)(2): N/A
 - c. Other Waters (a)(3): N/A
 - d. Impoundments (a)(4): N/A
 - e. Tributaries (a)(5): N/A
 - f. The territorial seas (a)(6): N/A

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

CEMVN-RGJ

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVN-2023-01082-SD

- g. Adjacent wetlands (a)(7): Wetland-1, 0.9-acres, continuous surface connection to Non-wetland water-1 (TNW). Wetland-2, 0.01-acres, continuous surface connection to Non-wetland water-2 (TNW).

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as “generally non-jurisdictional” in the preamble to the 1986 regulations (referred to as “preamble waters”).⁷ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. N/A
- b. Describe aquatic resources and features within the review area identified as “generally not jurisdictional” in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance. N/A
- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. N/A
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. N/A
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*. N/A

⁷ 51 FR 41217, November 13, 1986.

CEMVN-RGJ

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVN-2023-01082-SD

- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court's decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water). N/A
9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Field Site Visit: 08-January-2024
In-House: 12-January-2024
 - b. Google Earth Pro:
'85,'89,'98,'04,'05,'06,'07,'09,'10,'11,'12,'13,'14,'15,'16,'17,'19,'20,'21,'22,'23
(12-Jan-24)
 - c. USGS Topographic Maps: 1:24,000 – Lacombe (12-Jan-24)
 - d. NRCS Soil Survey Maps: (12-Jan-24)
 - e. National Regulatory Viewer: CIR, LiDAR (12-Jan-24)
10. OTHER SUPPORTING INFORMATION. N/A

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Cheryl Furchak	File Number: MVN-2023-01082-SD	Date: 2/1/2024
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 checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	E
<input 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:

S. Gail Gainey
Chief, Jurisdiction and Enforcement Branch
Regulatory Division
U.S. Army Corps of Engineers
7400 Leake Avenue New Orleans, LA 70118
(504) 862-1545

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

Brian Oberlies
Administrative Appeals Review Officer
Mississippi Valley Division
P.O. Box 80 (1400 Walnut Street)
Vicksburg, MS 39181-0080
(601) 634-5820 FAX: (601) 634-5816

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: