



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NORFOLK DISTRICT CORPS OF ENGINEERS
FORT NORFOLK 803 FRONT STREET
NORFOLK VIRGINIA 23510-1096

January 10, 2013

PRELIMINARY JURISDICTIONAL DETERMINATION

Southern Virginia Regulatory Section
NAO-2012-2328 (White Oak Swamp)

Townes Site Engineering
C/o Thomas Houston, PWD -
9850 Lori Road, Suite 201
Chesterfield, Virginia 23832

Dear Mr. Houston:

This letter is in regard to your request for a preliminary jurisdictional determination for waters of the U.S. (including wetlands) on property known as Portugee Road/E.J. Wade Construction, located on a 24.4 acre parcel on the south side of Portugee Road, approximately 0.5 mile east of the intersection of Portugee Road and Memorial Drive, in Henrico County, Virginia (tax map parcel # 843-701-2778).

The map entitled "24.4 Acres, Portugee Road, Henrico County, Virginia, Wetland Delineation Map", by Townes Site Engineering dated October 18, 2012 and Corps date stamped as received December 7, 2012 (on file at the Corps) provides the location(s) of waters and/or wetlands on the property listed above. The basis for this delineation includes application of the Corps' 1987 Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Eastern Mountains and Piedmont Region, and the positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation and the presence of an ordinary high water mark.

Discharges of dredged or fill material, including those associated with mechanized landclearing, into waters and/or wetlands on this site may require a Department of the Army permit and authorization by state and local authorities including a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ), a permit from the Virginia Marine Resources Commission (VMRC) and/or a permit from your local wetlands board. This letter is a confirmation of the Corps preliminary jurisdiction for the waters and/or wetlands on the subject property and does not authorize any work in these areas. Please obtain all required permits before starting work in the delineated waters/wetland areas.

This is a preliminary jurisdictional determination and is therefore not a legally binding determination regarding whether Corps jurisdiction applies to the waters or wetlands in question. Accordingly, you may either consent to jurisdiction as set out in this preliminary jurisdictional determination and the attachments hereto if you agree with the determination, or you may

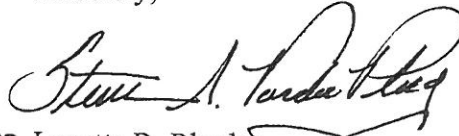
request and obtain an approved jurisdictional determination. This preliminary jurisdictional determination and associated wetland delineation map may be submitted with a permit application.

Enclosed are two copies of the "Preliminary Jurisdictional Determination Form. Please review the document, sign both copies, return one copy to the Corps at 9100 Arboretum Parkway, Suite 235, Richmond, Virginia 23236, within 30 days of receipt and keep one for your records. This delineation of waters and/or wetlands is valid for a period of five years from the date of this letter unless new information warrants revision prior to the expiration date.

If you have any questions, please contact Steven VanderPloeg at 804-323-3780 or steven.a.vanderploeg@usace.army.mil.

Copies of this verification have been provided to Mr. Tony Cario, Virginia Department of Environmental Quality, Piedmont Regional Office; and Ms. Robin Wilder, Henrico County, Department of Environmental Engineering.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. VanderPloeg". The signature is fluid and cursive, with a large, stylized "P" at the end.

FOR Lynette R. Rhodes
Chief, Southern Virginia Regulatory Section

Enclosures: Preliminary Jurisdictional Determination Form; Supplemental Preapplication Information

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION:

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): January 10, 2012

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
Townes Site Engineering
C/o Thomas Houston, PWD
9850 Lori Road, Suite 201
Chesterfield, Virginia 23832

C. DISTRICT OFFICE: Norfolk District (CENAO-REG)
FILE NAME: E.J. Wade Construction / Portugee Road
FILE NUMBER: NAO-2012-2328

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)

State: **VIRGINIA** County/parish/borough: Henrico City:
Center coordinates of site (lat/long in degree decimal format):
Latitude: 37.4826 ° N Longitude: -77.2578 ° W
Universal Transverse Mercator:
Name of nearest waterbody:

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 1524 linear feet; 2-4 width (ft); and/or acres.

Cowardin Class:

Stream Flow: R4SB4, R3UB4

Wetlands: 2.5 acres

Cowardin Class: PFO

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal:

Non-Tidal:

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

☐ Office (Desk) Determination. Date:

☒ Field Determination. Date(s): November 28, 2012

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.
2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.
3. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA:

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


- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
Townes Site Engineering

- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☒ Office concurs with data sheets/delineation report. Townes Site Engineering
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☐ U.S. Geological Survey Hydrologic Atlas:
- ☐ USGS NHD data.
- ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1"=2,000" Dutch Gap
- ☒ USDA Natural Resources Conservation Service Soil Survey.
- Citation: COE GIS Database
- ☒ National wetlands inventory map(s). Cite name: COE GIS Database
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth, July 4, 2012
or ☐ Other (Name & Date):
- ☐ Previous determination(s):
- File no. and date of response letter:
- ☐ Other information (please specify):

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


Signature
Regulatory Project Manager
(REQUIRED)

01/10/2013
Date


Signature of person requesting
Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

1/11/13
Date



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NORFOLK DISTRICT CORPS OF ENGINEERS
FORT NORFOLK 803 FRONT STREET
NORFOLK VIRGINIA 23510-109

JANUARY 10, 2013

Supplemental Preapplication Information

Project Number: NAO-2012-2328
Applicant: Townes Site Engineering
Project Location: Henrico County

1. A search of the Virginia Department of Historic Resources data revealed the following:

- ☐ No known historic properties are located on the property.
- ☒ The following known architectural resources are located on the property:
 - 043-0308 Savage Station Battlefield (ABPP Determined Likely Eligible)
- ☒ The following known archaeological resources are located on the property:
 - 44HE0884
- ☐ The following known historic resources are located in the vicinity of the property (potential for effects to these resources from future development):

NOTE:

- 1) *The information above is for planning purposes only. In most cases, the property has not been surveyed for historic resources. Undiscovered historic resources may be located on the subject property or adjacent properties and this supplemental information is not intended to satisfy the Corps' requirements under Section 106 of the National Historic Preservation Act (NHPA).*
 - 2) *Prospective permittees should be aware that Section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.*
2. A search of the data supplied by the Virginia Department of Conservation and Recreation and the Virginia Department of Game and Inland Fisheries revealed the following:

- ☐ No known populations of threatened or endangered species are located on the property or within a one to two mile radius.
- ☒ The following federally-listed species are known to be within a one to two mile radius of the property:
 - Swamp pink (*Helonias bullata*)
- ☐ The following state-listed (or other) species are known to be within a one to two mile radius of the property:

Please note this information is being provided to you based on the preliminary data you submitted to the Corps relative to project boundaries and project plans. Consequently, these findings and recommendations are subject to change if the project scope changes or new information becomes available and the accuracy of the data.