



DEPARTMENT OF THE ARMY

VICKSBURG DISTRICT, CORPS OF ENGINEERS
4155 CLAY STREET
VICKSBURG, MISSISSIPPI 39183-3435

REPLY TO
ATTENTION OF:

May 9, 2005

Operations Division
Regulatory

SUBJECT: Department of the Army Regulatory Requirements-Infinity
Tract

Mr. Dave Golden
Wetland Mitigation, Invasive Species
and Wildlife Manager
Building 9801
Stennis Space Center, Mississippi 39529

Dear Mr. Golden:

This is in response to your e-mail concerning possible regulatory requirements for potential development of a new visitor's center on a site located in section 33, T8S-R16W, Hancock County, Mississippi.

Based upon the information provided and the results of a field investigation, we have determined there are jurisdictional areas on the property subject to regulation pursuant to Section 404 of the Clean Water Act. The approximate extent of wetlands and/or other waters of the United States within the boundary of the property described in your letter is depicted on the enclosed map (enclosure 1). Any work involving the discharge of dredged or fill material (land clearing, ditching, filling, leveeing, etc.) within the limits of the jurisdictional areas identified will require a Department of the Army Section 404 permit prior to beginning work. For your information, I have enclosed a copy of the basis of our determination (enclosure 2) and appeals form (enclosure 3).

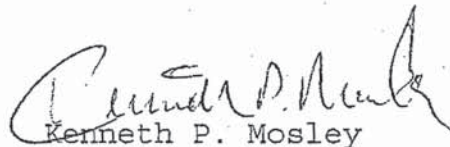
For your convenience, I am enclosing a Department of the Army permit application package with instructions (enclosure 4). Your application for any proposed work in wetlands or other waters of the United States should be submitted at least 120 days in advance of the proposed starting date. To expedite the evaluation process, please reference the No. MVK-2005-611 when submitting the application.

This approved jurisdictional determination is valid for a period not to exceed 5 years from the date of this letter unless superseded by law, regulation, or policy change.

The decision regarding this action is based on information found in the administrative record, which documents the District's decision-making process, the basis for the decision, and the final action.

If you have any questions, please contact Dr. Jim Wiseman of this office, telephone (601) 631-5292, fax (601) 631-5459 or e-mail address: regulatory@mvk02.usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth P. Mosley". The signature is written in a cursive style with a large initial "K".

Kenneth P. Mosley
Chief, Enforcement Section

Enclosures

CIRCA SECTION

IN RECTANGLE NO.

EXISTING VISITORS CENTER

WETLANDS

OTHER WATERS OF THE U.S.

Approved JD

MUR-2005-611

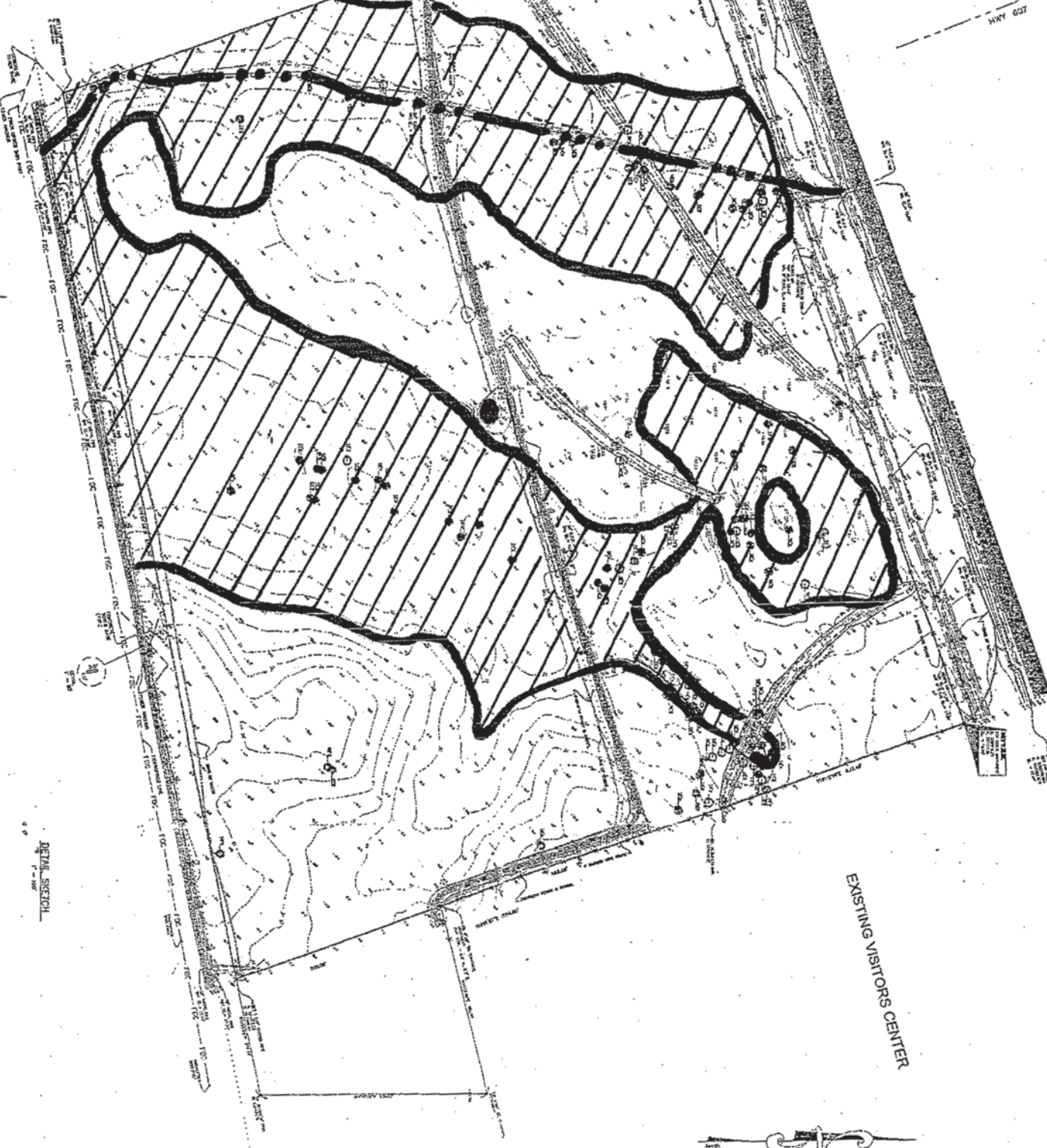
5/9/05

LEGEND

Symbol	Description
Circle with dot	Spot Elevation
Circle with cross	Water
Circle with horizontal lines	Wetland
Circle with vertical lines	Wetland
Circle with diagonal lines	Wetland
Circle with wavy lines	Wetland
Circle with dots	Wetland
Circle with stars	Wetland
Circle with triangles	Wetland
Circle with squares	Wetland
Circle with diamonds	Wetland
Circle with hexagons	Wetland
Circle with octagons	Wetland
Circle with circles	Wetland
Circle with squares	Wetland
Circle with triangles	Wetland
Circle with diamonds	Wetland
Circle with hexagons	Wetland
Circle with octagons	Wetland
Circle with circles	Wetland



Handwritten signature



TOPOGRAPHIC SURVEY

ACTUAL SECTION



U.S. Army Corps of Engineers

DISTRICT OFFICE: Vicksburg District
FILE NUMBER: MVK-2005-611

PROJECT LOCATION INFORMATION:

State: Mississippi
County: Hancock County
Center coordinates of site (latitude/longitude): 30.31 -89.60
Approximate size of area (parcel) reviewed, including uplands: 20 Wetlands approx. 10 acres.
Name of nearest waterway: Bogue Homa
Name of watershed: Pearl River

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: 5/9/05
Site visit(s) Date(s): 4/14/05

Jurisdictional Determination (JD):

- Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD -- An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:
- There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
- There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 10 acre.
- There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
 The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
 (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
 (2) The presence of interstate waters including interstate wetlands¹.
 (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
 (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
 (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
 (iii) which are or could be used for industrial purposes by industries in interstate commerce.
 (4) Impoundments of waters otherwise defined as waters of the US.
 (5) The presence of a tributary to a water identified in (1) - (4) above.
 (6) The presence of territorial seas.
 (7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Wetland adjacent to a trib of Bogue Homa which flows into the Pearl River, a navigable water of the United States.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Stennis Space Center	File Number: MVK-2005-511	Date: 5/9/05
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	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

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

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations (JD) associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.