



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
CHARLESTON DISTRICT, CORPS OF ENGINEERS  
69A Hagood Avenue  
CHARLESTON, SOUTH CAROLINA 29403-5107

RECEIVED  
ECOSCIENCE

MAR 04 2006

Approved: \_\_\_\_\_  
Project # \_\_\_\_\_

March 1, 2006

Regulatory Division

Gerald R. McCrain  
EcoScience Corporation  
1101 Haynes Street, Suite 101  
Raleigh, North Carolina 27604

Re: 80-2005-1664  
Berkeley/Charleston County

Dear Mr. McCrain:

This is in response to your letter of August 4, 2005, requesting a wetland determination, on behalf of South Carolina Department of Transportation, for a 64.9 acre tract located at the US 41 crossing of the Wando River in Berkeley and Charleston Counties, South Carolina. The project area is depicted on the drawings you submitted which was prepared by EcoScience Corporation, dated July 2005, and entitled "Jurisdictional Areas SC 41 Bridge Replacement over the Wando River (River Mile 10) Berkeley and Charleston Counties, South Carolina".

The drawings depict "Critical Area" boundaries as established by your office and/or the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (OCRM). They also depict the approximate boundaries of freshwater wetlands and/or other waters of the United States as established by your office. You have requested that this office verify the accuracy of this mapping as an approximate representation of areas within the regulatory authority of this office. The location and configuration of these areas are reflected on the drawings referenced above.

Based on an on-site inspection and a review of aerial photography and soil survey information, it has been determined that the boundaries of saltwater "critical areas" and freshwater wetlands or other waters of the United States shown on the referenced drawings are a reasonable approximation of the location and boundaries of such areas found on this site. However, you are cautioned that this delineation is approximate, subject to change, and should be used for planning purposes only. This office should be contacted prior to performing any work in or around any of these jurisdictional areas. In order for a more accurate determination to be provided, the freshwater wetlands or other waters of the United States should be surveyed and platted. Upon receipt of such a plat, this office can then issue a letter verifying the accuracy of the actual jurisdictional boundaries.

You should be aware that the areas identified as jurisdictional may be subject to restrictions or requirements of other state or local government entities. This office should be contacted prior to performing any work in these areas.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. Further, be advised that this **preliminary** jurisdictional

determination is **not** an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331.

In future correspondence concerning this matter, please refer to SAC 80-2005-1664. Prior to performing any work, you should contact the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (OCRM). A copy of this letter is being forwarded to them for their information.

If you have any questions concerning this matter, please contact me at 843-329-8044 or toll-free (outside of the Charleston area) at 1-866-329-8187.

Respectfully,

A handwritten signature in dark ink, appearing to read "Richard Darden", with a stylized, flowing script.

Richard L. Darden, Ph.D.  
Biologist

Enclosures:  
Basis for Jurisdiction  
Customer Service Survey

Copy Furnished:

Mr. H. Stephen Snyder  
S.C. Department of Health  
and Environmental Control  
Office of Ocean and Coastal  
Resource Management  
1362 McMillan Avenue, Suite 400  
Charleston, South Carolina 29405

**JURISDICTIONAL DETERMINATION**  
U.S. Army Corps of Engineers

Revised 8/13/04

**DISTRICT OFFICE: SAC**  
**FILE NUMBER: 80-2005-1664**

**PROJECT LOCATION INFORMATION:**

State: South Carolina  
County: Berkeley and Charleston  
Center coordinates of site (latitude/longitude): 32.92530 N, 79.82373 W  
Approximate size of area (parcel) reviewed, including uplands: 64.9 acres.  
Name of nearest waterway: Wando River  
Name of watershed: Cooper

**JURISDICTIONAL DETERMINATION**

**Completed:** Desktop determination ☒ Date: March 1, 2006  
Site visit(s) ☒ Date(s): February 28, 2006

**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: .
- ☐ *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 wetlands<sup>1</sup>.
- ☒ (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 adjacent<sup>2</sup> 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:* Wetlands and other waters of the United States which occur in the project area include the commercially navigable and tidally influenced Wando River and the numerous adjacent and tributary freshwater waters of the United States. Navigability of the Wando River is based on the federally regulated navigation channel in this portion of the river, including presence of a manned drawbridge on US 41 crossing the river.

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Ordinary High Water Mark indicated by:<br><input type="checkbox"/> clear, natural line impressed on the bank<br><input type="checkbox"/> the presence of litter and debris<br><input checked="" type="checkbox"/> changes in the character of soil<br><input type="checkbox"/> destruction of terrestrial vegetation<br><input type="checkbox"/> shelving<br><input type="checkbox"/> other: | <input checked="" type="checkbox"/> High Tide Line indicated by:<br><input type="checkbox"/> oil or scum line along shore objects<br><input type="checkbox"/> fine shell or debris deposits (foreshore)<br><input checked="" type="checkbox"/> physical markings/characteristics<br><input type="checkbox"/> tidal gages<br><input type="checkbox"/> other: |
|--|---|
- ☐ Mean High Water Mark indicated by:  
☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
- ☒ Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: EcoScience Corporation

**Basis For Not Asserting Jurisdiction:**

- ☐ The reviewed area consists entirely of uplands.
- ☐ Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- ☐ Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- ☒ **The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:**
- ☐ **Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.**
- ☐ **Artificially irrigated areas, which would revert to upland if the irrigation ceased.**
- ☐ **Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.**
- ☐ **Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.**
- ☐ **Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).**
- ☐ **Isolated, intrastate wetland with no nexus to interstate commerce.**
- ☐ **Prior converted cropland, as determined by the Natural Resources Conservation Service.**
- Explain rationale:**
- ☐ **Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:**
- ☐ **Other (explain):**



**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant.
- ☒ This office concurs with the delineation report, dated August 4, 2005, prepared by (company):  
EcoScience Corporation
- ☐ This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- ☐ Data sheets prepared by the Corps.
- ☐ Corps' navigable waters' studies:
- ☐ U.S. Geological Survey Hydrologic Atlas:
- ☒ U.S. Geological Survey 7.5 Minute Topographic maps: Cainhoy, SC
- ☐ U.S. Geological Survey 7.5 Minute Historic quadrangles:
- ☐ U.S. Geological Survey 15 Minute Historic quadrangles:
- ☒ USDA Natural Resources Conservation Service Soil Survey: Berkeley and Charleston Counties
- ☒ National wetlands inventory maps:
- ☐ State/Local wetland inventory maps:
- ☐ FEMA/FIRM maps (Map Name & Date):
- ☐ 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- ☒ Aerial Photographs (Name & Date): 1999 DOQQ, 11227:157
- ☒ Other photographs (Date): Site photos submitted by the applicant
- ☐ Advanced Identification Wetland maps:
- ☒ Site visit/determination conducted on: February 28, 2006
- ☐ Applicable/supporting case law:
- ☐ Other information (please specify):

**Signature: Project Manager**



<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.