

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

THE GLYNN ENVIRONMENTAL)
COALITION, INC. AND CENTER FOR A)
SUSTAINABLE COAST, INC.,)

Plaintiffs,)

v.)

SEA ISLAND ACQUISITION, LLC,)

Defendant.)

Civil Action No. 2:19-cv-50

COMPLAINT

Plaintiffs, The Glynn Environmental Coalition, Inc. and Center for a Sustainable Coast, Inc. make the following allegations for their complaint:

NATURE OF THE ACTION

1. This is a citizen civil action to enforce the statutory requirements of the Clean Water Act.
2. On January 10, 2013, the Defendant, Sea Island Acquisition, LLC (“*Sea Island*”), applied for authorization from the U.S. Army Corps of Engineers (the “*Corps*”) under Nationwide Permit Number 39 (“*NWP 39*”) to fill 0.49 acres of wetland in the proximity of its hotel, the Inn at Sea Island, at or near 100 Salt Marsh Lane on St. Simons Island, Georgia (the “*Subject Wetland*”) for the stated purpose of constructing an office building and attendant parking lot.
3. On February 20, 2013, the Corps authorized Sea Island to fill the Subject Wetland under NWP 39 and issued identification number SAS-2013-00045 for the proposed project. The

term of this NWP 39 authorization was for two years; thus initially expiring on February 20, 2015. *See* Exhibit “A.”

4. In its May 12, 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corps indicated that Sea Island’s authorization under NWP 39 extended to March 18, 2017, with an additional year to complete work, because the Savannah District had verified 2012 NWPs with this deadline; thus, Sea Island’s ability to comply with NWP 39 has expired. *See* Exhibit “B.”

5. NWP 39 is a general Section 404 permit under the Clean Water Act.

6. NWP 39 allows fill material to be discharged into non-tidal waters of the United States for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures.

7. Upon information and belief, Sea Island has failed to build a commercial structure, as required under NWP 39, and has no plans to construct a commercial structure on the Subject Wetland. Instead, Sea Island has merely grassed over, or in other words, landscaped over the Subject Wetland.

8. Failure to construct a commercial structure on the Subject Wetland is a violation of Sea Island’s NWP 39.

9. Since Sea Island’s authorization to fill the Subject Wetland under NWP 39 expired, the continued fill of the Subject Wetland constitutes an ongoing violation of Section 301 of the Clean Water Act (or “*the Act*”), as the fill is not permitted under either Section 401 or Section 404 of the Act.

10. Because Sea Island failed to comply with the terms of its NWP 39, it also failed to comply with its Section 401 permit under the Clean Water Act.

11. Section 401(a)(1) of the Act requires that any application to the Corps for a Section 404 permit must include a “certification from the State” where the fill will occur.

12. Georgia Environmental Protection Division (“*Georgia EPD*”) issues Section 401 permits.

13. The Section 401 permit issued by the Georgia EPD for NWP 39 is contingent upon Sea Island’s compliance with NWP 39 – its Section 404 permit. *See* Exhibit “C.”

14. Because Sea Island did not comply and can no longer comply with NWP 39, as the term of the Corps’ authorization has expired, Sea Island has also violated its Section 401 certification.

15. Upon information and belief, Sea Island intentionally misled the Corps in seeking NWP 39, as Sea Island never intended to construct a commercial structure, but rather only intended to landscape over the Subject Wetland.

16. Upon information and belief, Sea Island did not qualify for coverage under any nationwide permit for the purposes of filling and landscaping the Subject Wetland; accordingly, Sea Island would have been required to apply for an individual Section 401 and 404 permit in order to legally fill the Subject Wetland.

17. Sea Island was required to apply for and receive an individual permit before filling the Subject Wetland because landscaping is not a permissible purpose for filling wetlands under any available nationwide permits.

18. Obtaining an individual permit is a lengthier and more costly endeavor than obtaining coverage to fill wetlands under a nationwide permit.

19. Individual Section 401 and Section 404 permits also require a more stringent public review procedure.

20. Upon information and belief, in order to circumvent the Section 401 and Section 404 permitting requirements of the Clean Water Act, Sea Island applied for coverage under NWP 39 to fill the Subject Wetland under the ruse of constructing a commercial structure with no intent of actually doing so.

21. Accordingly, upon information and belief, Sea Island intentionally misrepresented its intent to develop a commercial structure when seeking authorization to fill the Subject Wetland under NWP 39, as evidenced by the allegations stated below, demonstrating that Sea Island intended to fill the Subject Wetland for the purpose of permanent landscaping and sodding – not a commercial structure.

22. Because Sea Island's authorization to act under NWP 39 was obtained by false pretenses, the authorization was invalid and void *ab initio*, and, therefore, Sea Island's past and ongoing fill activities in the Subject Wetland are violations of Section 301(a) of the Clean Water Act because the activities were never properly permitted under Sections 401 and 404 of the Clean Water Act.

23. Sea Island's use of NWP 39 to fill the Subject Wetlands under the ploy of constructing a commercial structure obviated the Corps' and Georgia EPD's authority to review and assess the more stringent requirements of an individual permit application; furthermore, by intentionally sidestepping the Section 401 and Section 404 permitting process, Sea Island eliminated opportunities for meaningful public participation.

24. In its May 12, 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corps verified that a commercial structure had not yet been constructed on the Subject Wetland. *See* Exhibit “B.”

25. In a letter dated as of October 14, 2014 re Department of the Army permit SAS-2013-00045 from Kimberly L. Garvey, Section Chief, Coastal Branch, to Daniel Parshley, Glynn Environmental Coalition, the Corp acknowledged “that the applicant [Sea Island] provided some erroneous information” to the Corps when applying for NWP 39. *See* Exhibit “D.”

26. Nonetheless, the Corps has continually stated that there are “numerous factors which support a decision to pursue no further action” against Sea Island. *See* Exhibit “B” and Exhibit “D.” *See also* September 6, 2016 Memorandum for Record re Department of the Army file SAS-2013-00045 (concluding that the Corps will not initiate an enforcement action against Sea Island) (Exhibit “E”).

PARTIES

Plaintiffs

27. Plaintiff, The Glynn Environmental Coalition, Inc. (the “*GEC*”), is a non-profit corporation organized under the laws of the State of Georgia. *GEC*’s principal office address is P.O. Box 2443, Brunswick, Georgia, 31521. *GEC* is an environmental group committed to assuring a clean environment and healthy economy for citizens of coastal Georgia, particularly Glynn County, Georgia. The group is dedicated to protecting the environment of the community in which its members live and work. *GEC*’s members rely on the organization to represent their interests through participation at public hearings on coastal Georgia environmental matters.

28. Plaintiff, Center for a Sustainable Coast, Inc. (the “*Center*”), is a non-profit corporation organized under the laws of the state of Georgia. The Center’s principal office address is 221 Mallery Street, Suite B, St. Simons Island, GA, 31522. The Center’s purpose is to improve the responsible use, protection, and conservation of coastal Georgia’s resources—natural, historic, and economic. The Center’s agenda includes protecting coastal wildlife, water quality, tidal marshes, and freshwater, as well as improving the transparency, impartiality, and accountability of governing agencies.

29. Plaintiffs are corporations and therefore “persons” within the meaning of 33 U.S.C. § 1362(5).

30. Plaintiffs have interests in protecting and maintaining the health of coastal Georgia and its adjoining wetlands. These interests are adversely affected by Defendant’s violations. GEC and the Center are therefore “citizens” within the meaning of 33 U.S.C. § 1365(g).

31. By fraudulently circumventing the permitting framework of the Clean Water Act in applying for a general nationwide permit, Plaintiffs’ and their members were denied the opportunity to participate in public review procedures, which would have been required had Sea Island applied for the appropriate Section 404 individual permit and corresponding Section 401 certification in order to grass over the Subject Wetland. *See* 33 CFR 325.5(b)(1). (An individual permit under the Clean Water Act “is one which has been processed through the public interest review procedures, including public notice and receipt of comments.”).

32. GEC has members who reside in Glynn County, Georgia, on St. Simons Island, Georgia, and on Sea Island, Georgia (hereinafter “*GEC’s resident members*”).

33. GEC also has members who live in Glynn Haven Estates and Epworth Acres, both of which are nearby neighborhoods in close proximity to the Subject Wetland.

34. GEC sends “call to action” emails and/or mailings to its members and other organization participants regarding public hearings related to environmental matters impacting its organization and its mission.

35. If Sea Island had not circumvented the permitting framework of the Clean Water Act by submitting “erroneous information” in its application for NWP 39 in order to avoid stringent public review procedures, then GEC would have sent an email regarding public hearings related to what should have been Sea Island’s individual permit application review. See Exhibit “D.”

36. GEC also owns interests in real property that adjoins and includes Sea Island Road and is located within one half-mile of the Subject Wetland, which also adjoins Sea Island Road. See Deed Book 3-R, Page 15 of the Glynn County, Georgia Property Records.

37. The Center has members who are residents of St. Simons Island, Georgia (hereinafter “*the Center’s resident members*”), who have recently donated to the Center in support of its mission to improve the responsible use, protection, and conservation of coastal Georgia’s resources.

38. If Sea Island had not circumvented the permitting framework of the Clean Water Act by submitting “erroneous information” in its application for NWP 39 in order to avoid stringent public review procedures, then the Center would have notified its members via email regarding public hearings related to what should have been Sea Island’s individual permit application review. Exhibit “D.”

39. Dunbar Creek (or “*the Creek*”) is downstream of the Subject Wetland.

40. According to the Environmental Protection Agency (“*EPA*”), “[w]etlands affect downstream waters by altering material fluxes through the river network, thereby affecting river structure and function; i.e. connectivity.” *Connectivity of Wetlands to Downstream Waters: Conceptual Framework and Review*, EPA, available at <https://bit.ly/2IyDyMf> (last visited April 10, 2019). As such, wetlands act as natural filters and protective barriers to downstream bodies of water, including creeks.

41. By illegally filling and continuing to fill the Subject Wetland, Sea Island has destroyed a natural barrier that protects Dunbar Creek.

42. Plaintiffs’ members regularly utilize Dunbar Creek for recreational activities, such as boating, kayaking and fishing.

43. Additionally, GEC, through its Glynn Water Watch Program, monitors the water quality of Dunbar Creek in order to promote restoration and remediation of the water quality when necessary.

44. By illegally filling the Subject Wetland, Sea Island has harmfully impacted Dunbar Creek and potentially Plaintiffs’ members’ future enjoyment of such recreational activities at the Creek.

45. By engaging in fraudulent practices in applying for NWP 39, as opposed to an individual permit under the Clean Water Act, Sea Island prevented Plaintiffs and Plaintiffs’ members from engaging in the public review process required as part of an individual permit application. *See* 33 CFR 325.5(b)(1).

46. The permitting framework under the Clean Water Act seeks to protect the “integrity of the Nation’s waters.” 33 U.S.C. § 1251.

47. Consistent with both GEC's and the Center's missions, the Plaintiffs' members' interests rest on the benefits of sustainability of its community's coastal resources. Accordingly, Plaintiffs' members, including GEC's and the Center's resident members, depend upon orderly and responsible development, achieved in part by systemic consideration of a wide range of regulatory factors at the local, state, and federal level, on St. Simons Island.

48. Plaintiffs' members, including GEC's and the Center's resident members, have an interest in the enjoyment and perpetuation of both natural and built amenities of St. Simons Island, which depend on good-faith efforts by both permit applicants and regulatory agencies.

49. Plaintiffs and their members were deprived of the opportunity to meaningfully participate in the public interest review process under the Clean Water Act, and are continually harmed by Sea Island's blatant disregard of its NWP 39's requirements, as circumventing the Clean Water Act's permitting process sets a precedent for other developers to also exploit Georgia's coastal resources.

50. The Corps acknowledged that Sea Island submitted "erroneous information" when applying for authority to fill the Subject Wetland under NWP 39. Even so, the Corps determined that it would not pursue action against Sea Island. Exhibit "D."

51. Sea Island knowingly misled the Corps in applying for NWP 39, and in doing so eliminated the public's right, specifically Plaintiffs' right, to comment on the proposed fill of a protected wetland. Public policy dictates that such fraud harms the public and obviates the purpose of the Clean Water Act.

52. Further, the Corps' lack of action sets a dangerous precedent that other developers can knowingly submit "erroneous information" to federal agencies in order to circumvent stringent agency and public review of the permitting process without repercussion. Exhibit "D."

53. This precedent is particularly harmful to Plaintiffs, and generally the public at large, as it eliminates Plaintiffs' right to protect its community's natural resources, and incentivizes the submission of misinformation by Clean Water Act permit applicants in order to obtain a quicker and cheaper permit under the Act.

54. Plaintiffs and their members have suffered, are suffering, and will continue to suffer injury from Sea Island's violations. Depriving Plaintiffs and their members of meaningful participation in the public review process required under the individual permitting framework of the Clean Water Act substantially injures Plaintiffs' ability to engage with its community, preserve wetlands on St Simons Island, and sustain the water quality in the waters of the United States for their use and enjoyment.

55. Further, by illegally filling the Subject Wetlands, Plaintiffs suffer, and will continue to suffer, from harmful environmental repercussions. These injuries are actual and concrete and the relief sought in this action would redress them. Fraudulent practices by permit applicants, as evidenced below, directly threatens the interests of GEC, the Center, the members of both organizations, and their representative interests of the general public

Defendants

56. Defendant, Sea Island, is a Delaware Limited Liability Company with its principal office located at 351 Sea Island Road, St. Simons Island, GA, 31522. Sea Island is wholly owned by Sea Island Resort Holdings, LLC, which is a Delaware limited liability company, controlled by family trusts and entities established by or for Phillip Anschutz, a Colorado resident.

57. Defendant bought the assets of the legacy Sea Island Company pursuant to a Bankruptcy Code Section 363(b) sale in or around 2010.

58. Defendant is the named permittee on the Section 401 and 404 permits at issue in this case.

JURISDICTION

59. This is a citizen civil action brought under the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, more commonly called the Clean Water Act. *See* 33 U.S.C. §§ 1365. This Court has subject matter jurisdiction over the parties and this action pursuant to Section 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1), and 28 U.S.C. §§ 1331 and 2201 (an action for declaratory and injunctive relief under the Constitution and laws of the United States).

VENUE

60. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this judicial district, and under 33 U.S.C. 33 U.S.C. § 1365(c) because the sources of the violations described in this Complaint are located within this judicial district.

NOTICE

61. Plaintiffs sent a letter by certified mail to Defendant on January 15, 2019 ("Notice Letter"). In the Notice Letter, Plaintiffs notified Defendant of its violations under the Clean Water Act and of Plaintiffs' intent to file suit for such violations after sixty (60) days, as required by 40 C.F.R. § 135.2(a)(1) (Mar. 19, 1991). A copy of the Notice Letter is attached hereto as Exhibit "F" and is incorporated herein by reference.

62. The Notice Letter was also sent to the state and federal regulatory agencies, as identified in Exhibits "F" and "G," and as required by Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b)(1)(A).

63. More than sixty (60) days have passed since the Notice Letter was sent to Defendant and the regulatory agencies.

64. On March 13, 2019, Defendant, by and through counsel, responded to Plaintiffs' Notice Letter, denying any claim relating to violations of its nationwide permit.

65. Plaintiffs are informed and believe that the federal or state agencies have neither commenced nor are diligently prosecuting any action to redress the violations alleged in the Notice Letter and in this Complaint. *See* 33 U.S.C. § 1365(b)(1)(B). *See* Exhibit "B" (Electing not "to initiate an enforcement action" against Sea Island); Exhibit "E" ("[T]he Corps [has] concluded that SAS-2013-00045 is presently in compliance with previously authorized NWP 39 verification."); Exhibit "D" (Electing not "to initiate an enforcement action or to request restoration of permitted wetland fills...").

66. This action is not barred by any prior administrative penalty under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g).

67. Plaintiffs seek relief from Defendant's violations of the procedural and substantive requirements of Section 301(a) of the Clean Water Act, 33 U.S.C. 33 U.S.C. § 1311(a).

LEGAL BACKGROUND

Clean Water Act Permitting Structure: Section 404 of the Clean Water Act

68. Section 301(a) of the Clean Water Act provides, in pertinent part, that "except as in compliance with ... § 1344 of this title, the discharge of any pollutant by any person shall be unlawful." 33 U.S.C. § 1311(a).

69. The Clean Water Act defines the term "discharge of a pollutant" to include "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12).

70. The term “pollutant” is broadly defined to include dredged spoil, rock, sand, and agricultural waste discharged into water. 33 U.S.C. §1362(6).

71. “The term ‘point source’ means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).

72. Section 404 of the Clean Water Act authorizes the Corps to issue permits for the discharge of dredge or fill material into “navigable waterways.” 33 U.S.C. § 1344. Likewise, 33 C.F.R. § 323.3(a) charges the Corps to issue Clean Water Act Section 404 permits “for the discharge of dredged or fill material into waters of the United States.”

73. “Navigable waters” includes wetlands that directly abut traditional navigable waters or have a significant nexus with traditional navigable waters.¹

74. Under Section 401 of the Clean Water Act, a federal agency cannot issue a Section 404 permit for an activity that may result in a discharge to United States waters until the state where the discharge would originate has granted or waived Section 401 certification. *See* 33 U.S.C. § 1341.

Clean Water Act Permitting Structure: Section 401 of the Clean Water Act

75. Section 401(a)(1) of the Clean Water Act requires that any application to the Corps for a Section 404 permit must include a “certification from the State in which the discharge originated or will originate...[and] that any...discharge will comply with [other sections of the Clean Water Act].” 33 U.S.C. § 1341(a)(1).

¹ *See* Memorandum from U.S. Army Corps of Engineers and U.S. EPA, “Clean Water Act Jurisdiction Following U.S. Supreme Court Decision in *Rapanos v. United States & Carabell v. United States*,” available at https://www.epa.gov/sites/production/files/201602/documents/cwa_jurisdiction_following_rapanos120208.pdf; *Rapanos v. United States*, 547 U.S. 715, 742 (2006).

76. This certification from the state is known as Section 401 Water Quality Certification (“401 WQC”).

77. Denying certification prohibits the federal permit or license from being issued. 33 U.S.C. § 1341(a)(1).

78. The State of Georgia is authorized under Section 401 to issue a 401 WQC for all Section 404 permits.

79. Individual Section 404 permits require corresponding Section 401 WQC by the State of Georgia.

80. By letter dated March 12, 2012 to the Savannah District, U.S. Army Corps of Engineers, the Georgia EPD issued a Section 401 WQC for all of the nationwide permits including NWP 39, pursuant to Section 401 of the Clean Water Act. *See* 33 U.S.C. § 1341. *See also* Exhibit “C.”

81. The Section 401 permit issued by the Georgia EPD for NWP 39 is contingent upon the following applicable conditions (Exhibit “C”):

(1) “The discharge may not cause the loss of greater than ½ acre.”

(2) “The discharge of dredged or fill material is for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures.”

(3) “All work performed during construction will be done in a manner so as not to violate applicable water quality standards.”

(4) “No oils, grease, materials or other pollutants will be discharged from the construction activities that reach public waters.”

(5) “Georgia EPD may require submission of a formal application for individual 401 water quality certification for any project if it is determined, based upon consideration of Georgia's water quality rules, that the project is likely to have a significant adverse effect upon water quality.”

(6) “This certification is contingent upon satisfaction of the Savannah District's Regional Conditions, including the Appendix A provisions requiring prior notification to Georgia EPD before the commencement of NWP authorized projects.”

82. The Savannah District, U.S. Army Corps of Engineers’ Regional Conditions requires the following: “For uses of NWPs requiring submission of a Pre-Construction Notification (PCN) to the Savannah District prior to commencing work in waters of the United States (US), a copy of the PCN with project plans must also be submitted to the Georgia Department of Natural Resources (DNR), Environmental Protection Division (EPD), prior to commencing work.”

83. Upon submission of the requirements set forth in paragraphs 75 through 82, a project is deemed to be in compliance with the State issued conditional 401 WQC for NWP39.

Section 404 General NWP 39

84. The Corps may issue general permits, as opposed to individual permits, to approve activities that have minimal individual and cumulative adverse environmental effects. These general permits can be issued for no more than five years. 33 U.S.C. § 1344.

85. A nationwide permit is a type of general permit that authorizes specific activities across the United States.

86. Currently, the Corps has 52 existing nationwide permits. *See* Nationwide Permits Chronology and Related Materials, UNITED STATES ENVIRONMENTAL PROTECTION

AGENCY, available at <https://www.epa.gov/cwa-404/nationwide-permits-chronology-and-related-materials>.

87. The basic premise of the Section 404 permit program is to prohibit discharge of dredged or fill materials into U.S. waters if a practicable alternative exists that is less damaging to the aquatic environment and surrounding ecosystem. *See* Section 404 Permit Program, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/section-404-permit-program>.

88. NWP 39 is a specific nationwide permit under the Corps' general permitting authority, which allows for the discharge of dredged or fill material into non-tidal U.S. waters "for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures." 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

89. In order to fill wetlands under NWP 39, the Corps must verify that the applicant intends to build a commercial structure or institutional building foundation or building pad, as this is a common activity with recognized minimal environmental impact in light of the benefits gained through economic development.

90. If a project does not "qualify for a nationwide permit, an individual permit is required. *See* Section 404 Permit Program, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/section-404-permit-program>.

91. The Corps' evaluation of each individual permit application involves a thorough review of the potential environmental and socioeconomic effects of the proposed activity. There

is also a public interest review process, including a required public notice and public comment period. *Id.*

92. For these reasons, obtaining an individual permit is a lengthier and more costly endeavor than obtaining coverage under a nationwide permit.

93. In fact, per the Environmental Protection Agency's ("EPA") website, "[t]he general permit process eliminates individual review and allows certain activities to proceed with little or no delay, provided that the general or specific conditions for the general permit are met."²

94. Sea Island's use of NWP 39 to fill the Subject Wetlands under the ruse of building a commercial structure usurped the Corps and Georgia EPD's authority to review and assess the more stringent requirements of an individual permit application; moreover, by circumventing the Section 401 and Section 404 permitting process, Sea Island eliminated meaningful public participation, and thereby GEC and the Center's public participation and ability to comment on Sea Island's intended actions.

Section 404 Individual Permits

95. If a project within the jurisdiction of the Clean Water Act does not meet the requirements of a general permit, an individual Section 401 and Section 404 permit are required.

96. An individual permit "is one which has been processed through the public interest review procedures, including public notice and receipt of comments." 33 CFR 325.5(b)(1).

² *United States Environmental Protection Agency*, SECTION 404 PERMIT PROGRAM, <https://www.epa.gov/cwa-404/section-404-permit-program>.

97. The public interest is an important component of an individual permit evaluation process for individual Section 401 and Section 404 permits.

98. The individual Section 401 and Section 404 permit evaluation process includes issuance of a public notice, solicitation of comments from government agencies and the public, and a decision document describing the environmental impacts and the findings of the public review process. The Corps of Engineers will add any special conditions deemed appropriate for minimizing adverse impacts to the environment. *See generally* 40 CFR Part 230 – Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material.

99. When an individual permit is required, an applicant should submit a complete application to the appropriate Corps district office. 33 CFR 325.5(b)(1).

100. Pursuant to 33 CFR 325.1, “The application must include a complete description of the proposed activity including necessary drawings, sketches, or plans sufficient for public notice (detailed engineering plans and specifications are not required); the location, purpose and need for the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures; and a list of authorizations required by other federal, interstate, state, or local agencies for the work, including all approvals received or denials already made.”

101. Due to the more rigorous review process on the part of the Corps, the state, and the public, obtaining an individual permit is more time consuming and more costly than obtaining authority to act under a general permit, specifically a nationwide permit.

Citizen Suits

102. Clean Water Act Section 505(a)(1) provides that “any citizen may commence a civil action on his own behalf—against any person,” including any government agency, “who is

alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator [of the Environmental Protection Agency] or a State with respect to such standard or limitation.” 33 U.S.C. § 1365(a).

103. Clean Water Act Section 505 defines “effluent standard or limitation” to include “an unlawful act under subsection (a) of section 1311.” 33 U.S.C. § 1365(f); *see also* 33 U.S.C. § 1311(a) (prohibiting unpermitted discharges). The Clean Water Act defines “citizen” as “a person or persons having an interest which is or may be adversely affected.” 33 U.S.C. § 1365(g).

104. In addition, Section 505(f)(5) defines “effluent standard or limitation” to include “certification under section 1341 of this title.” *See* 33 U.S.C. §1365(f)(5) also known as Section 401 of the Clean Water Act.

105. The Clean Water Act defines “person” to include individuals, corporations, and political subdivisions of the state. 33 U.S.C. § 1362(5).

106. Under Clean Water Act Section 309(d), “Any person who violates [the Clean Water Act § 301]...shall be subject to a civil penalty,” which 40 C.F.R. § 19.4 caps at \$37,500 per day for each violation. 33 U.S.C. § 1319(d).

GENERAL FACTUAL ALLEGATIONS

Site History

107. The Subject Wetland in question is 0.49 acres and is located northeast and adjacent to a parking lot and entrance to the Inn at Sea Island. *See* January 10, 2013, Nationwide Permit Application package from Resource and Land Consultants (on behalf of Sea Island Company; to U.S. Army Corps of Engineers, Savannah District. Reference #SAS-2013-000045. (Exhibit “H”).

108. This parcel sits at 100 Salt Marsh Lane, St. Simons Island, Georgia.

Sea Island Intentionally Misled the Corps in its Nationwide Permit Application

109. Sea Island applied to the Corps to fill the Subject Wetland under NWP 39 on January 10, 2013.

110. Sea Island's project description was to construct a new office building. *See* Exhibit "H."

111. Pursuant to the terms of the Pre-Construction Notification, Sea Island submitted a sketch plan showing portions of a 12,000 square-foot administrative office building and accompanying parking lot within the Subject Wetland. *See* Exhibit "H."

112. On February 20, 2013, the Corps verified authorization of Sea Island's proposed activity to build a commercial structure and attendant parking lot under NWP 39. *See* Exhibit "A."

113. The Corps issued identification number SAS-2013-00045 for the above mentioned proposed project.

114. Upon information and belief, Sea Island filled the Subject Wetland with pollutants (fill material) between February 20, 2013, and March 27, 2013.

115. Sea Island failed to construct any building or attendant structures on the Subject Wetland in accordance with NWP 39 and its 401 WQC.

116. Instead, Sea Island landscaped the Subject Wetland with permanent sodding.

117. Landscaping (or sodding) is not an authorized use under NWP 39 or the 401 WQC, which allows discharges of fill material only "for construction or expansion of commercial and industrial building foundations..."

118. Upon information and belief, Sea Island never intended to comply with NWP 39 and the 401 WQC, and only applied for a general nationwide permit to save time and money.

119. The intent to mislead the Corps is evidenced by Sea Island's inconsistent applications relating to this site.

120. As part of its January 2013 application to act under NWP 39, Sea Island submitted a sketch plan showing 12,000 square-feet of a commercial structure, as required under General Condition 31(b) of NWP 39. *See* Exhibit "H."

121. In contrast, a Preliminary Plat submitted to Glynn County, Georgia, November 20, 2012, *before* Sea Island applied to the Corps for authorization to proceed under NWP 39, showed no proposed building within the Subject Wetland. *See* Exhibit "J."

122. Sea Island's Final Construction Plans for the Inn at Sea Island identifies the Subject Wetland as "Ds4 – PERMANENT SODDING." Exhibit "I."

123. A Final Plat submitted to Glynn County by Sea Island on March 14, 2014, *after* the Corp's verification, also did not show any commercial building or structure within the filled area, indicating Sea Island's intent to deceive, or at least mislead, the Corps. *See* Exhibit "K."

124. The lack of curb cuts on the subject parcel further substantiates Sea Island's deception, illustrating that Sea Island never intended to comply with NWP 39 and the 401 WQC.

125. A sketch plan submitted to the Corps with the Pre-Construction Notification included curb cuts along Salt Marsh Lane into a parking lot next to the proposed office building. *See* Exhibit "H."

126. The construction plans and Final Plat filed with Glynn County, Georgia did not include any such curb cuts. *See* Exhibits "J" and "K."

127. If Sea Island intended to construct an office complex and adjoining parking lot within the terms of NWP 39 and the 401 WQC, the curb cuts would have been designed into the paving project instead of only being shown on the sketch plan submitted to the Corps. *See* Exhibit “H.”

128. Based on information and belief, utilities were installed adjacent to the Subject Wetland where the curb cuts would have been located; potentially limiting Sea Island ability to ever construct curb cuts.

129. Sea Island’s inconsistent submittals to federal and local agencies, coupled with its illogical curb design if an office building and parking lot were intended to be constructed, demonstrates Sea Island’s intent to never comply with NWP 39 and the corresponding 401 WQC.

130. The information presented in paragraphs 107 through 129 illustrates Sea Island’s intent to mislead the Corps so that it would be granted authorization to act under the NWP 39 and the 401 WQC.

131. Landscaping the Subject Wetland requires an individual permit under Section 404 of the Clean Water Act, as well as Section 401 WQC by the Georgia EPD.

132. In its May 12, 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corps confirmed Sea Island’s failure to construct a commercial structure. (“[T]he permittee has not constructed the physical project according to plans.”); Exhibit “B.”

133. Applying for an individual permit is more costly and time intensive than applying for authorization to act under a nationwide permit under Section 404 of the Clean Water because of the Corps’ and Georgia EPD’s stringent application requirements.

134. Additionally, applying for an individual permit provides the public an opportunity to participate, comment, and oppose the issuance of the individual permit; whereas, certification under a nationwide permit does not provide the public this same opportunity.

135. Upon information and belief, it would have been much more difficult, time consuming and costly for Sea Island to apply for an individual permit authorizing Sea Island to fill the Subject Wetland for the purpose of landscaping.

Sea Island Continues to Violate its Authority to Act under NWP 39 and the 401 WQC

136. Even if Sea Island did not intentionally mislead the Corps, upon information and belief, Sea Island has no definitive plan to construct a commercial structure.

137. The Corps' verification to act under NWP 39 explicitly stated that the "use of this NWP is valid only if (a) [t]he activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP." Exhibit "A."

138. Further, in the Corps' Letter dated as of October 14, 2014 re Department of the Army permit SAS-2013-00045 from Kimberly L. Garvey, Section Chief, Coastal Branch, to Daniel Parshley, Glynn Environmental Coalition, it stated that "[a]ll future work associated with the [Subject Wetland] must be constructed in accordance with the information submitted [in Sea Island's January 2013 application] as any revisions may invalidate this permit." Exhibit "D."

139. Sea Island's present use of the Subject Wetland is neither in accordance with the information submitted in its January 2013 application, nor meets the conditions of NWP 39 or the conditions of the 401 WQC. *See* 33 C.F.R. § 330.4(a): "A prospective permittee must satisfy all terms and conditions of a[] [nationwide permit] for a valid authorization to occur," and 33 C.F.R. § 330.2(c): "Authorization means that specific activities that qualify for an NWP may proceed, provided that the terms and conditions of the [nationwide permit] are met."

140. The Corps' authorization letter stated that, "[t]his verification is valid for a period of two years." Exhibit "A."

141. The two-year period for Sea Island to act under the terms and conditions of the NWP 39 expired in 2015 without any construction that would justify the use of NWP 39.

142. Because Sea Island failed to comply with the two year authorization set by the Corps, it was required to reapply for authorization under NWP 39 or apply for an individual permit.

143. In its May 12, 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corp indicated that Sea Island's authorization under NWP 39 extended to March 18, 2017, with an additional year to complete work, because the Savannah District had verified 2012 NWPs with this deadline. *See* Exhibit "B."

144. In the five years that Sea Island should have constructed the commercial complex, there has been no indication that the violation will ever be remedied. In fact, there is evidence to the contrary, demonstrating Sea Island's actual intent to maintain the property as is.

145. On May 4, 2016 and May 9, 2016, the authorized agent for Sea Island, responded to the Corps request for information and stated that the Subject Wetland had been filled and that "temporary grassing" had been planted. *See* Exhibit "E."

146. This representation to the Corps was made subsequent to Sea Island submitting Final Construction Plans for the Inn at Sea Island identifying the Subject Wetland as "Ds4 – PERMANENT SODDING." Exhibit "I."

147. As set forth above, the activity conducted at the Subject Wetland is not in accordance with the information submitted to the Corps and does not meet the terms and conditions of the NWP 39 and the 401 WQC; thus, an ongoing and continuous violation exists.

148. Sea Island's violations of the Clean Water Act eliminated meaningful public participation, as well as federal and state agency review of Sea Island's application to fill wetlands protected under federal environmental laws.

WHEREFORE, Plaintiffs pray for judgment against Sea Island as set forth below.

FIRST CAUSE OF ACTION

**Noncompliance with Section 404 of the Clean Water Act
33 U.S.C. § 1311(a), 1344, 1365(a) and 1365(f)**

149. Plaintiffs incorporate the allegations contained in the above paragraphs as though fully set forth herein.

150. Because Sea Island was only authorized to fill the Subject Wetland for purposes of constructing a commercial structure in accordance with NWP 39, Sea Island's filling of the Subject Wetland for the unauthorized purpose of landscaping was not in compliance with NWP 39 issued under Section 404 of the Clean Water Act. *See* 33 U.S.C. 1344(p) ("Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 1319 and 1365 of this title, with section 1311, 1317, and 1343 of this title.").

151. Because Sea Island's fill of the Subject Wetland was not in compliance with NWP 39 issued under Section 404 of the Clean Water Act, the fill in the Subject Wetland is an illegal discharge into the waters of the United States in accordance with Section 301(a) of the Clean Water Act. 33 U.S.C. § 1311(a). Sea Island continues to violate the Clean Water Act each day the Subject Wetland remains filled without complying with Section 404 of the Clean Water Act.

152. By committing the acts and omissions alleged above, Sea Island is subject to an assessment of civil penalties for each violation of 33 U.S.C. § 1311(a), pursuant to Sections

309(d) and 505 of the Clean Water Act, 33 U.S.C. § 1319(d), 33 U.S.C. § 1365, and 40 C.F.R. § 19.4 (effective February 6, 2019).

153. Plaintiffs are entitled to injunctive relief to remedy Sea Island's violations of the Clean Water Act, 33 U.S.C. § 1365(a), because Sea Island's continuing commission of the acts and omissions alleged above will irreparably harm GEC and the Center and its members, for which they have no plain, speedy, or adequate remedy at law.

SECOND CAUSE OF ACTION

Noncompliance with Section 401 of the Clean Water Act 33 U.S.C. § 1311(a), 1341, 1365(a) and 1365(f)

154. Plaintiffs incorporate the allegations contained in the above paragraphs as though fully set forth herein.

155. Because Sea Island was only authorized to fill the Subject Wetland for purposes of constructing a commercial structure in accordance with NWP 39 and the subsequently issued 401 WQC by the George EPD, Sea Island's filling of the Subject Wetland for the unauthorized purpose of landscaping was not in compliance with the 401 WQC issued in accordance with Section 401 of the Clean Water Act.

156. Because Sea Island's fill of the Subject Wetland was not in compliance with the 401 WQC and NWP 39 issued in accordance with Sections 401 and 404 of the Clean Water Act, respectively, the fill in the Subject Wetland is an illegal discharge into the waters of the United States in accordance with Section 301(a) of the Clean Water Act. 33 U.S.C. § 1311(a).

157. Sea Island continues to violate the Clean Water Act each day the Subject Wetland remains filled without complying with Section 401 of the Clean Water Act.

158. By committing the acts and omissions alleged above, Sea Island is subject to an assessment of civil penalties for each violation of 33 U.S.C. § 1311(a), pursuant to Sections

309(d) and 505 of the Clean Water Act, 33 U.S.C. § 1319(d), 33 U.S.C. § 1365, and 40 C.F.R. § 19.4 (effective February 6, 2019).

159. Plaintiffs are entitled to injunctive relief to remedy Sea Island's violations of the Clean Water Act, 33 U.S.C. § 1365(a), because Sea Island's continuing commission of the acts and omissions alleged above will irreparably harm GEC and the Center and its members, for which they have no plain, speedy, or adequate remedy at law.

THIRD CAUSE OF ACTION

Declaration that Sea Island's Authorization to Act under NWP 39 Is Expired without Compliance

160. Plaintiffs incorporate the allegations contained in the above paragraphs as though fully set forth herein.

161. The Corps' authorization to act under NWP 39 was valid for a period of two years, which expired in 2015 without any commercial structure being built.

162. In its 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corps indicated that Sea Island's NWP 39 authorization extended to March 18, 2017, but this time also expired without construction of a commercial structure. *See* Exhibit "B."

163. Because Sea Island failed to construct a commercial structure in accordance with the applicable time-limits under NWP 39, its authorization to act under NWP 39 has expired without compliance with NWP 39.

FOURTH CAUSE OF ACTION

Unpermitted Fill Activities in Violation of Sections 301(a) of the Clean Water Act 33 U.S.C. § 1311(a), 1365(a) and 1365(f)

164. Plaintiffs incorporate the allegations contained in the above paragraphs as though fully set forth herein.

165. Because Sea Island's authorization to act under NWP 39 has expired without compliance with NWP 39 and the 401 WQC, the ongoing fill in the Subject Wetland is an illegal discharge into the waters of the United States in accordance with Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

166. By committing the acts and omissions alleged above, Sea Island is subject to an assessment of civil penalties for each violation of 33 U.S.C. § 1311(a), pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. § 1319(d), 33 U.S.C. § 1365, and 40 C.F.R. § 19.4 (effective February 6, 2019).

167. Plaintiffs are entitled to injunctive relief to remedy Sea Island's violations of the Clean Water Act, 33 U.S.C. § 1365(a), because the continuing commission of the acts and omissions alleged above will irreparably harm GEC and the Center and its members, for which they have no plain, speedy, or adequate remedy at law.

FIFTH CAUSE OF ACTION

Declaration that Sea Island's Authorization to Act under NWP 39 Is Invalid and Void ab initio

168. Plaintiffs incorporate the allegations contained in the above paragraphs as though fully set forth herein.

169. Upon information, belief, and the above-stated allegations, Sea Island intentionally and maliciously misled the Corps in its application to act under NWP 39 and the 401 WQC and Sections 401 and 404 of the Clean Water Act.

170. The Corps' verification to act under NWP 39 explicitly stated that the "use of this NWP is valid only if (a) [t]he activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP."³

171. The Georgia EPD's approval of the 401 WQC for NWP 39 is based solely upon the Corps' application to Georgia EPD that coverage under NWP 39 would be limited to one-half acre and for the sole purpose of constructing a commercial structure.

172. The "activity" the Corps referenced in its authorization letter was Sea Island's intent to fill the Subject Wetland in order to construct a commercial structure. *See* Exhibit "A."

173. The above-stated allegations strongly evidence that Sea Island intentionally and maliciously misled the Corps by filing its application to act under NWP 39 and the 401 WQC and representing that it intended to construct a commercial structure in the Subject Wetland while making contradictory representations to the local governing authority that it intended to permanently landscape the Subject Wetland.

174. NWP 39 and the 401 WQC does not allow filling a wetland for the purpose of landscaping.

175. If Sea Island had truthfully represented its intent to landscape the Subject Wetland, the Corps would have been mandated by the Clean Water Act to reject Sea Island's application to act under NWP 39 and the 401 WQC.

176. Because Sea Island intentionally and maliciously misrepresented its intentions in its application to the Corps, the Corps' authorization to Sea Island under NWP 39 and the 401 WQC was invalid and void *ab initio*.

³ February 2013 Authorization Letter.

SIXTH CAUSE OF ACTION

**Unpermitted Fill Activities in Violation of Sections 301(a) of the Clean Water Act
33 U.S.C. § 1311(a), 1365(a) and 1365(f)**

177. Plaintiffs incorporate the allegations contained in the above paragraphs as though fully set forth herein.

178. Because Sea Island's authorization to act under NWP 39 and the 401 WQC was invalid and void *ab initio*, its fill in the Subject Wetland was never permitted in accordance with Section 401 and 404 of the Clean Water Act and, therefore, is an illegal discharge into the waters of the United States in accordance with Section 301(a) of the Clean Water Act. 33 U.S.C. § 1311(a).

179. By committing the acts and omissions alleged above, Sea Island is subject to an assessment of civil penalties for each violation of 33 U.S.C. § 1311(a), pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. § 1319(d), 33 U.S.C. § 1365, and 40 C.F.R. § 19.4 (effective February 6, 2019).

180. Plaintiffs are entitled to injunctive relief to remedy Sea Island's violations of the Clean Water Act, 33 U.S.C. § 1365(a), because Sea Island's continuing commission of the acts and omissions alleged above will irreparably harm GEC and the Center and its members, for which they have no plain, speedy, or adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for judgment as follows:

- A. An order declaring Sea Island's authorization to act under NWP 39 and the 401 WQC is expired, invalid, and void *ab initio*.

- B. An order declaring Sea Island illegally discharged and continues to illegally discharge fill material into the Subject Wetland in violation of Sections 301(a), 401, and 404 of the Clean Water Act.
- C. An order compelling Sea Island to restore the Subject Wetland.
- D. An order requiring Sea Island to apply for an individual permit before filling or continuing the fill of the Subject Wetland.
- E. A civil penalty in the amount of \$37,500 for each day of each violation of the Clean Water Act pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.
- F. An award for expenses and attorneys' fees, pursuant to 33 U.S.C. § 1365(d) and any other applicable laws; and
- G. An award of such other relief as the Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiffs hereby request a jury trial on all issues raised in this Complaint.

Respectfully submitted on April 17, 2019.

/s/ E. Righton J. Lewis

E. Righton J. Lewis

Georgia Bar No. 215211

BUTLER SNOW LLP

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(678) 515-5064 Telephone

(678) 515-5001 Facsimile

righton.lewis@butlersnow.com

*Attorney for Plaintiffs The Glynn Environmental
Coalition, Inc. and Center for a Sustainable Coast,
Inc.*



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
100 W. OGLETHORPE AVENUE
SAVANNAH, GEORGIA 31401-3640

FEBRUARY 20 2013
FEBRUARY 20 2013

Regulatory Division
SAS-2013-00045

Mr. Vassa Cate
Sea Island Acquisitions, LLC
100 Salt Marsh Lane
Sea Island, Georgia 31522

Dear Mr. Cate:

I refer to the Pre-Construction Notification submitted on January 10, 2013, requesting verification for use of Nationwide Permit (NWP) No. 39 for impacts to 0.49 acre of wetland for construction of a commercial development. The project site is located south of Sea Island Road and west of Frederica Road on St. Simons Island, Glynn County, Georgia (Latitude 31.1837, Longitude -81.3838). The request was submitted on your behalf by Resource & Land Consultants, Inc. This project has been assigned number SAS-2013-00045 and it is important that you refer to this number in all communication concerning this matter.

We have completed a preliminary Jurisdictional Determination (JD) for the site pursuant to our March 4, 2009, Public Notice entitled, "Characterization of Jurisdictional Determinations: Purpose, Application and Documentation Requirements as Defined by the Savannah District, US Army Corps of Engineers." I have enclosed a "JD Check Sheet," which summarizes the JD, delineation verification and appeals process.

The wetlands/other waters on the subject property may be waters of the United States within the jurisdiction of Section 404 of the Clean Water Act (33 United States Code (U.S.C.) 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). The placement of dredged or fill material into any waterways and/or their adjacent wetlands or mechanized land clearing of those wetlands could require prior Department of the Army authorization pursuant to Section 404.

We have completed coordination with other federal and state agencies as described in Part C (31)(d) of our NWP Program, published in the February 12, 2012, Federal Register, Vol. 77, No. 34, Pages 10184-10290 (77 FR). The NWPs and Savannah District's Regional Conditions for NWPs can be found on our website at http://www.sas.usace.army.mil/regulatory/Nationwide_Permits.html. During our coordination procedure, no adverse comments regarding the proposed work were received.

EXHIBIT A

- 2 -

As a result of our evaluation of your project, we have determined that the proposed activity is authorized under , as described in Part B of the NWP Program. Your use of this NWP is valid only if:

a. The activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP, as described at Part C of the NWP Program and the Savannah District's Regional Conditions for NWPs.

b. Prior to the commencement of any work in jurisdictional waters of the United States for this activity, you will purchase 3.48 wetland mitigation credits from the Wilkinson-Oconee Wetland Mitigation Bank. You must provide this office with documentation of this purchase before any work may commence. The notice should reference the U.S. Army Corps of Engineers file number assigned to this project.

c. You shall obtain and comply with all appropriate federal, state, and local authorizations required for this type of activity. A stream buffer variance may be required. Variances are issued by the Director of the Georgia Environmental Protection Division (EPD), as defined in the Georgia Erosion and Sedimentation Control Act of 1975, as amended. It is our understanding that you may obtain information concerning variances at the Georgia EPD's website at www.gaepd.org or by contacting the Watershed Protection Branch at (404) 675-6240.

d. All work conducted under this permit shall be located, outlined, designed, constructed and operated in accordance with the minimal requirements as contained in the Georgia Erosion and Sedimentation Control Act of 1975, as amended. Utilization of plans and specifications as contained in the "Manual for Erosion and Sediment Control, First Edition, 2002," published by the Georgia Soil and Water Conservation Commission or their equivalent, will aid in achieving compliance with the aforementioned minimal requirements.

e. You fill out and sign the enclosed certification and return it to our office within 30 days of completion of the activity authorized by this permit.

This proposal was reviewed in accordance with Section 7 of the Endangered Species Act. Based on the information we have available, we have determined that the project would have no effect on any threatened or endangered species nor any critical habitat for such species. Authorization of an activity by a NWP does not authorize the "take" of threatened or endangered species. In the absence of separate authorization, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. See Part (C) of 77 FR for more information.

This verification is valid for a period of two years from the date of this letter, or until the NWP is modified, reissued or revoked. All of the existing NWPs are scheduled to expire on March 18, 2017. It is incumbent upon you to remain informed of changes to the NWPs. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant

- 3 -

nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

This authorization should not be construed to mean that any future projects requiring Department of the Army authorization would necessarily be authorized. Any new proposal, whether associated with this project or not, would be evaluated on a case-by-case basis. Any prior approvals would not be a determining factor in making a decision on any future request.

Revisions to your proposal may invalidate this authorization. In the event changes to this project are contemplated, I recommend that you coordinate with us prior to proceeding with the work.

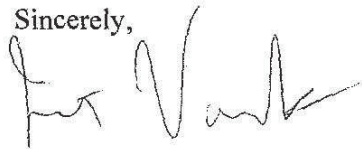
This communication does not relieve you of any obligation or responsibility for complying with the provisions of any other laws or regulations of other federal, state or local authorities. It does not affect your liability for any damages or claims that may arise as a result of the work. It does not convey any property rights, either in real estate or material, or any exclusive privileges. It also does not affect your liability for any interference with existing or proposed federal projects. If the information you have submitted and on which the Corps bases its determination/ decision of authorization under the NWP is later found to be in error, this determination may be subject to modification, suspension, or revocation.

A copy of this letter is being provided to the following party: Mr. Daniel Bucey, Resource & Land Consultants, Inc., 41 Park of Commerce Way, Suite 303, Savannah, Georgia 31405.

Thank you in advance for completing our Customer Survey Form. This can be accomplished by visiting our website at <http://per2.nwp.usace.army.mil/survey.html> and completing the survey on-line. We value your comments and appreciate your taking the time to complete a survey each time you have interaction with our office.

If you have any questions, please call me at 912-652-5051.

Sincerely,



Forrest B. Vanderbilt
Regulatory Specialist, Coastal Branch

Enclosures

Regulatory Division.

CERTIFICATION OF COMPLIANCE
WITH
DEPARTMENT OF THE ARMY

PERMIT FILE NUMBER: SAS-2013-00045

PERMITTEE ADDRESS: Mr. Vassa Cate, Sea Island Acquisitions, LLC, 100 Salt Marsh Lane
Sea Island, Georgia 31522

LOCATION OF WORK: of Sea Island Road and west of Frederica Road on St. Simons Island,
Glynn County, Georgia (Latitude 31.1837, Longitude -81.3838).

PROJECT DESCRIPTION: The construction of commercial development

ACRES AND/OR LINEAR FEET OF WATERS OF THE US IMPACTED: 0.49 acre of
wetland

DATE WORK IN WATERS OF US COMPLETED: _____

COMPENSATORY MITIGATION REQUIRED Yes

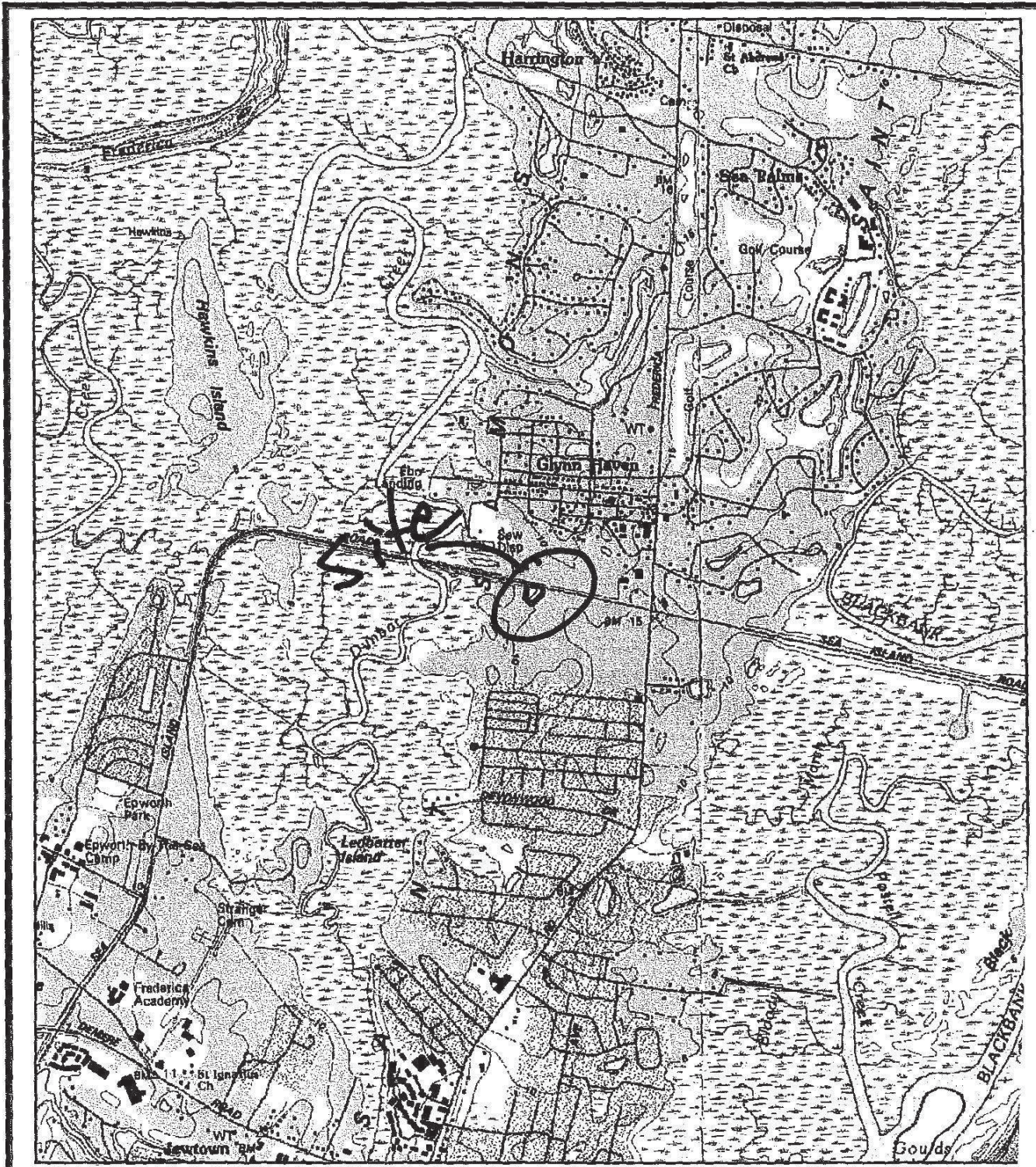
DATE MITIGATION COMPLETED OR PURCHASED (Wilkinson-Oconee): _____




I understand that the permitted activity is subject to a US Army Corps of Engineers' Compliance Inspection. If I fail to comply with the permit conditions at Part C of the Nationwide Permit Program, published in the February 12, 2012, Federal Register, Vol. 77, No.34, Pages 10184-10290, it may be subject to suspension, modification or revocation.

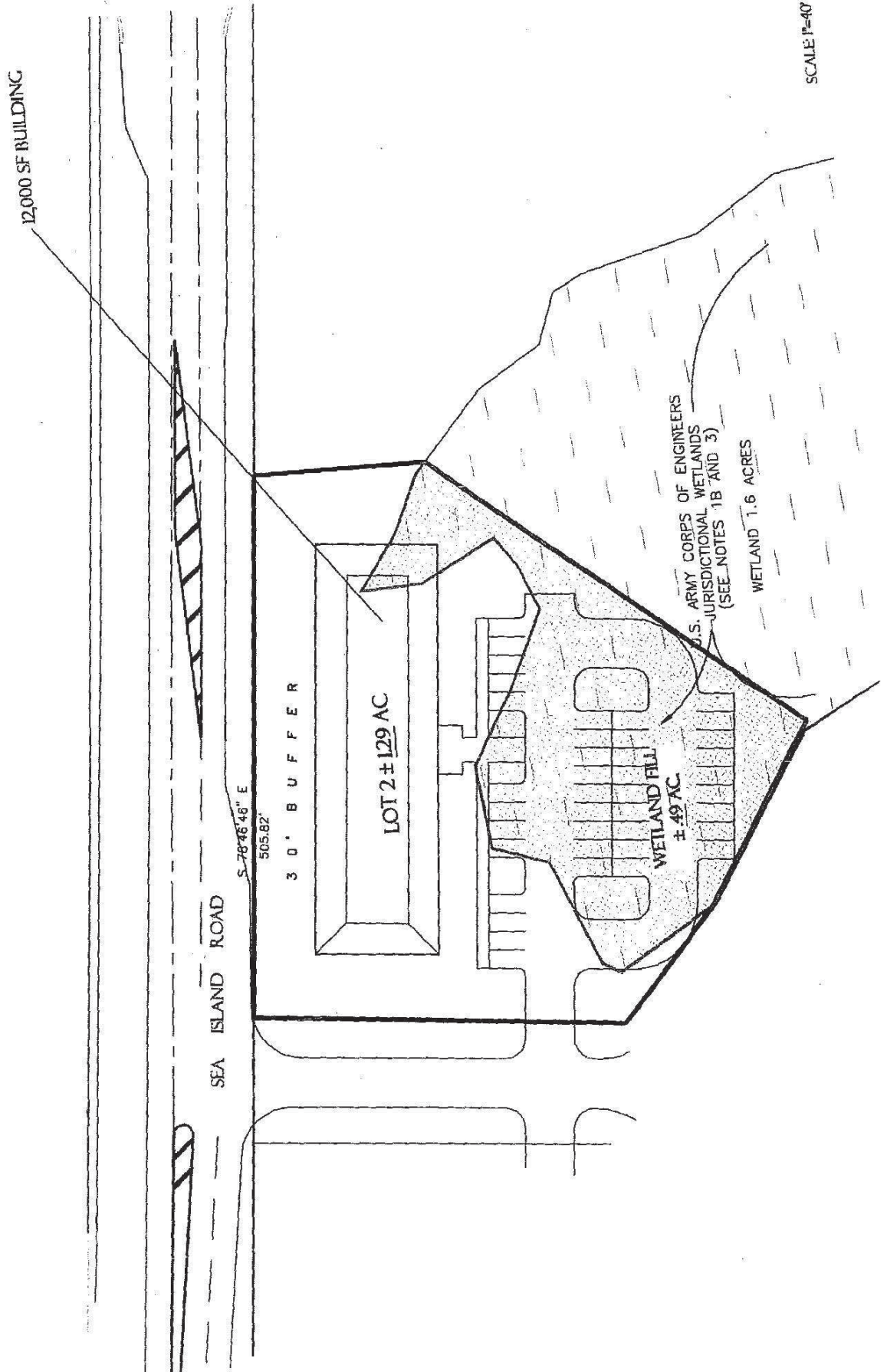
I hereby certify that the work authorized by the above referenced permit as well as any required mitigation (if applicable) has been completed in accordance with the terms and conditions of the said permit.

Signature of Permittee

Date



USGS TOPOGRAPHIC SURVEY BRUNSWICK AND SEA ISLAND QUADS <hr/> DATE: 18 DECEMBER 2012 <hr/> MAP SCALE: 1 INCH = 2000 FEET <hr/> PREPARED BY: RP <hr/> RLC PROJECT NO. 12-111	SEA ISLAND ADMINISTRATION SITE GLYNN COUNTY, GEORGIA <hr/> PREPARED FOR: SEA ISLAND ACQUISITION, LLC		<div style="border: 1px solid black; padding: 2px; text-align: center; font-weight: bold;">RLC</div> RESOURCE+LAND CONSULTANTS <hr/> 41 Park of Commerce Way, Ste. 303 Savannah, Georgia 31405 912.443.5896 www.rlandc.com
			





DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, US ARMY CORPS OF ENGINEERS
100 W. OGLETHORPE AVENUE
SAVANNAH, GEORGIA 31401-3640

REPLY TO
ATTENTION OF:

JURISDICTION DELINEATION CHECK SHEET
USACE FILE NUMBER: SAS-2013-00045
DATE: February 1, 2013

A. SECTION 1 - PRELIMINARY JURISDICTIONAL DETERMINATIONS

1. JURISDICTIONAL DETERMINATION (JD). A "preliminary JD" form was completed for the site in accordance with the March 4, 2009, Public Notice entitled, "Characterization of Jurisdictional Determinations: Purpose, Application and Documentation Requirements as Defined by the Savannah District, US Army Corps of Engineers." The form details whether streams, wetlands and/or other waters present on the site may be subject to the jurisdiction of the US Army Corps of Engineers (USACE). In summary, the USACE has determined the following with regard to waters present on the site:

_____ There may be navigable waters of the United States (US) within Rivers and Harbors Act (RHA) jurisdiction present.

_____ There may be waters of the US within Clean Water Act (CWA) jurisdiction present.

2. DELINEATION VERIFICATION. With regard to the location and extent of potentially jurisdictional areas present on the site, the USACE has made the following determinations:

_____ Wetlands were delineated in accordance with criteria contained in the 1987 "Corps of Engineers Wetland Delineation Manual," as amended by the most recent regional supplements to the manual.

_____ Drawings submitted with a Pre-Construction Notification (or other application) depict the approximate location/boundaries of all potentially jurisdictional waters on the project site. The USACE has verified the accuracy of the depicted boundaries of potentially jurisdictional waters in only the immediate vicinity of waters to be impacted. A complete jurisdictional delineation request, including a jurisdictional waters survey, would be required in order for the USACE to consider final verification of all other jurisdictional boundaries on the project site.

_____ The drawing entitled "_____" dated _____ is an acceptable sketch of the approximate location/boundaries of all the potentially jurisdictional waters in the project area. This sketch can be used for initial real estate planning; projects with temporary impacts to waters; projects involving minor amounts of fill in waters; or work only subject to our jurisdiction pursuant to Section 10 of the Rivers and Harbors Act of 1899. A complete jurisdictional delineation request, including a jurisdictional waters survey, would be required in order for the USACE to consider final verification of all other jurisdictional boundaries on the project site.

3. APPEALS OF PRELIMINARY JURISDICTIONAL DETERMINATIONS: The preliminary JD is a “non-binding” written indication that there may be waters of the US on a parcel. Preliminary JDs are advisory in nature and may not be appealed (See 33 CFR 331.2).” If you are not in agreement with this preliminary JD, then you may request an approved jurisdictional determination for your project site or review area.

B. SECTION - EXPANDED PRELIMINARY JURISDICTIONAL DETERMINATIONS:

1. JURISDICTIONAL DETERMINATION (JD). An “expanded preliminary JD” form was completed for the site in accordance with the March 4, 2009, Public Notice entitled, “Characterization of Jurisdictional Determinations: Purpose, Application and Documentation Requirements as Defined by the Savannah District, US Army Corps of Engineers.” The form details whether streams, wetlands and/or other waters present on the site may be subject to the jurisdiction of the USACE. In summary, the USACE has determined the following with regard to waters present on the site:

There may be navigable waters of the United States (US) within Rivers and Harbors Act (RHA) jurisdiction present.

There may be waters of the US within Clean Water Act (CWA) jurisdiction present.

2. DELINEATION VERIFICATION. With regard to the location and extent of potentially jurisdictional areas present on the site, the USACE has made the following determinations:

Wetlands were delineated in accordance with criteria contained in the 1987 "Corps of Engineers Wetland Delineation Manual," as amended by the most recent regional supplements to the manual.

The Global Positioning System (GPS) delineation entitled “_____”, dated _____, is an accurate delineation of the location/boundaries of all the potentially jurisdictional waters on the site. If you have not already done so, I recommend that you place a statement on this delineation to the effect that, **“WETLANDS AND OTHER WATERS SHOWN ON THIS DRAWING ARE POTENTIALLY UNDER THE JURISDICTION OF THE US ARMY CORPS OF ENGINEERS AS SHOWN IN USACE FILE NUMBER SAS-2013-00045. OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE WATERS WITHOUT PROPER AUTHORIZATION.”** This delineation will remain valid for a period of 5 years unless new information warrants revision prior to that date.

The survey entitled “Sea Island Administration Site”, dated October 3, 2012, and signed by Registered Land Surveyor Robert N. Shupe, is an accurate delineation of the location/boundaries of all the potentially jurisdictional waters on the site. If you have not already done so, I recommend that you place a statement on the final surveyed property plat to the effect

that, **"WETLANDS AND OTHER WATERS SHOWN ON THIS DRAWING ARE POTENTIALLY UNDER THE JURISDICTION OF THE US ARMY CORPS OF ENGINEERS AS SHOWN IN USACE FILE NUMBER SAS-2013-00045. OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE WATERS WITHOUT PROPER AUTHORIZATION."** This delineation will remain valid for a period of 5-years unless new information warrants revision prior to that date.

3. APPEALS OF PRELIMINARY JURISDICTIONAL DETERMINATIONS: The expanded preliminary JD is a "non-binding" written indication that there may be waters of the US on a parcel. Expanded Preliminary JDs are advisory in nature and may not be appealed (See 33 CFR. 331.2)." If you are not in agreement with this expanded Preliminary JD, then you may request an approved jurisdictional determination for your project site or review area.

C. SECTION 3 - APPROVED DETERMINATIONS: As defined in Regulatory Guidance Letter 08-02, an approved JD is an official Savannah District determination that jurisdictional "waters of the United States" or "navigable waters of the United States," or both, are either present or absent on a particular site. An approved JD precisely identifies the limits of those waters on the project site determined to be jurisdictional under the Clean Water Act (CWA) and/or the Rivers and Harbors Act (RHA).

1. JURISDICTIONAL DETERMINATION (JD). An "approved JD" form was completed for the site pursuant to the June 5, 2007, "US Army Corps of Engineers (USACE) JD Form Instructional Guidebook." The form details whether streams, wetlands and/or other waters present on the site are subject to the jurisdiction of the USACE. In summary, the USACE has determined the following with regard to waters present on the site:

_____ There are navigable waters of the (US) within (RHA) jurisdiction present.

_____ There are waters of the US within (CWA) jurisdiction present.

_____ There are non-jurisdictional waters of the US located in the project area.

_____ There are no jurisdictional waters of the US located in the project area.

2. APPROVED DETERMINATION - ISOLATED, NON-JURISDICTIONAL WATERS. If Appendix E of the March 4, 2009, Public Notice entitled, "Characterization of Jurisdictional Determinations: Purpose, Application and Documentation Requirements as Defined by the Savannah District, US Army Corps of Engineers" was submitted, you have requested that the USACE verify the presence of isolated, non-jurisdictional waters located at the project site or within the review area. The completed Appendix E form is available at <https://sasweb.sas.usace.army.mil/JD/>, under the above listed file number. You may also request

that a printed copy of the form be mailed to you. This isolated, non-jurisdictional determination will remain valid for a period of 5-years unless new information warrants revision prior to that date. In summary, the USACE has determined the following with regard to isolated, non-jurisdictional waters that are present on the site:

_____ Wetlands were delineated in accordance with criteria contained in the 1987 "Corps of Engineers Wetland Delineation Manual," as amended by the most recent regional supplements to the manual.

_____ There are isolated non-jurisdictional waters present that are not subject to CWA jurisdiction. Specifically, wetland(s) [letter of wetlands here], as identified on the exhibit entitled "_____" is/are isolated, non-jurisdictional wetlands. Department of the Army authorization, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), is not required for dredge and/or fill activities in these areas.

3. APPROVED DETERMINATION. (other than isolated, non-jurisdictional waters): If Appendix B of the March 4, 2009, Public Notice entitled, "Characterization of Jurisdictional Determinations: Purpose, Application and Documentation Requirements as Defined by the Savannah District, US Army Corps of Engineers" was submitted, you have requested that the USACE verify the presence of jurisdictional waters located at the project site or within the review area. The completed Appendix B form is available at <https://sasweb.sas.usace.army.mil/JD/>, under the above listed file number. You may also request that a printed copy of the form be mailed to you. This jurisdictional determination will remain valid for a period of 5-years unless new information warrants revision prior to that date. In summary, the USACE has determined the following with regard to isolated, non-jurisdictional waters that are present on the site:

_____ Wetlands were delineated in accordance with criteria contained in the 1987 "Corps of Engineers Wetland Delineation Manual," as amended by the most recent regional supplements to the manual.

_____ The Global Positioning System (GPS) delineation entitled "_____", dated _____, is an accurate delineation of all the jurisdictional boundaries on the site. If you have not already done so, I recommend that you place a statement on this delineation to the effect that, "**JURISDICTIONAL WETLANDS AND OTHER WATERS SHOWN ON THIS DRAWING ARE UNDER THE JURISDICTION OF THE US ARMY CORPS OF ENGINEERS AS SHOWN IN USACE FILE NUMBER SAS-2013-00045. OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE JURISDICTIONAL AREAS WITHOUT PROPER AUTHORIZATION.**" This approved jurisdictional determination will remain valid for a period of 5-years unless new information warrants revision prior to that date.

The survey entitled " _____", dated _____, and signed by Registered Land Surveyor _____, is an accurate delineation of all the jurisdictional boundaries on the site. If you have not already done so, I recommend that you place a statement on the final surveyed property plat to the effect that, "**JURISDICTIONAL WETLANDS AND OTHER WATERS SHOWN ON THIS DRAWING ARE UNDER THE JURISDICTION OF THE US ARMY CORPS OF ENGINEERS AS SHOWN IN USACE FILE NUMBER SAS-2013-00045. OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE JURISDICTIONAL AREAS WITHOUT PROPER AUTHORIZATION.**" This approved jurisdictional determination will remain valid for a period of 5-years unless new information warrants revision prior to that date.

4. APPEALS FOR APPROVED JURISDICTIONAL DETERMINATIONS: You may request an administrative appeal for any approved geographic jurisdictional determination under USACE regulations at 33 Code of Federal Regulation (CFR) Part 331. Enclosed you will find a Notification of Administrative Appeal Options and Process and Request for Appeal (RFA) Form.

If you request to appeal this/these determination(s) you must submit a completed RFA form to the South Atlantic Division Office at the following address:

US Army Corps of Engineers, South Atlantic Division
Attention: CESAD-PDS-O, Administrative Appeal Review Officer
60 Forsyth Street, Room 10M15
Atlanta, Georgia 30303-8801

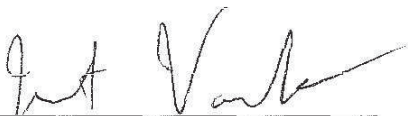
In order for a RFA to be accepted by the USACE, the USACE must determine that it is complete, that it meets the criteria for appeal under 33 CFR, part 331.5, and that it has been received by the Division Office within 60 days of the date of this form. It is not necessary to submit an RFA form to the Division Office if you do not object to this jurisdictional determination.

D. SECTION 4 - APPLIES TO ALL OF THE ABOVE.

- US DEPARTMENT OF AGRICULTURE (USDA) PROGRAM PARTICIPANTS. This delineation/determination has been conducted to identify the limits of USACE CWA jurisdiction for this site. This delineation/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 request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

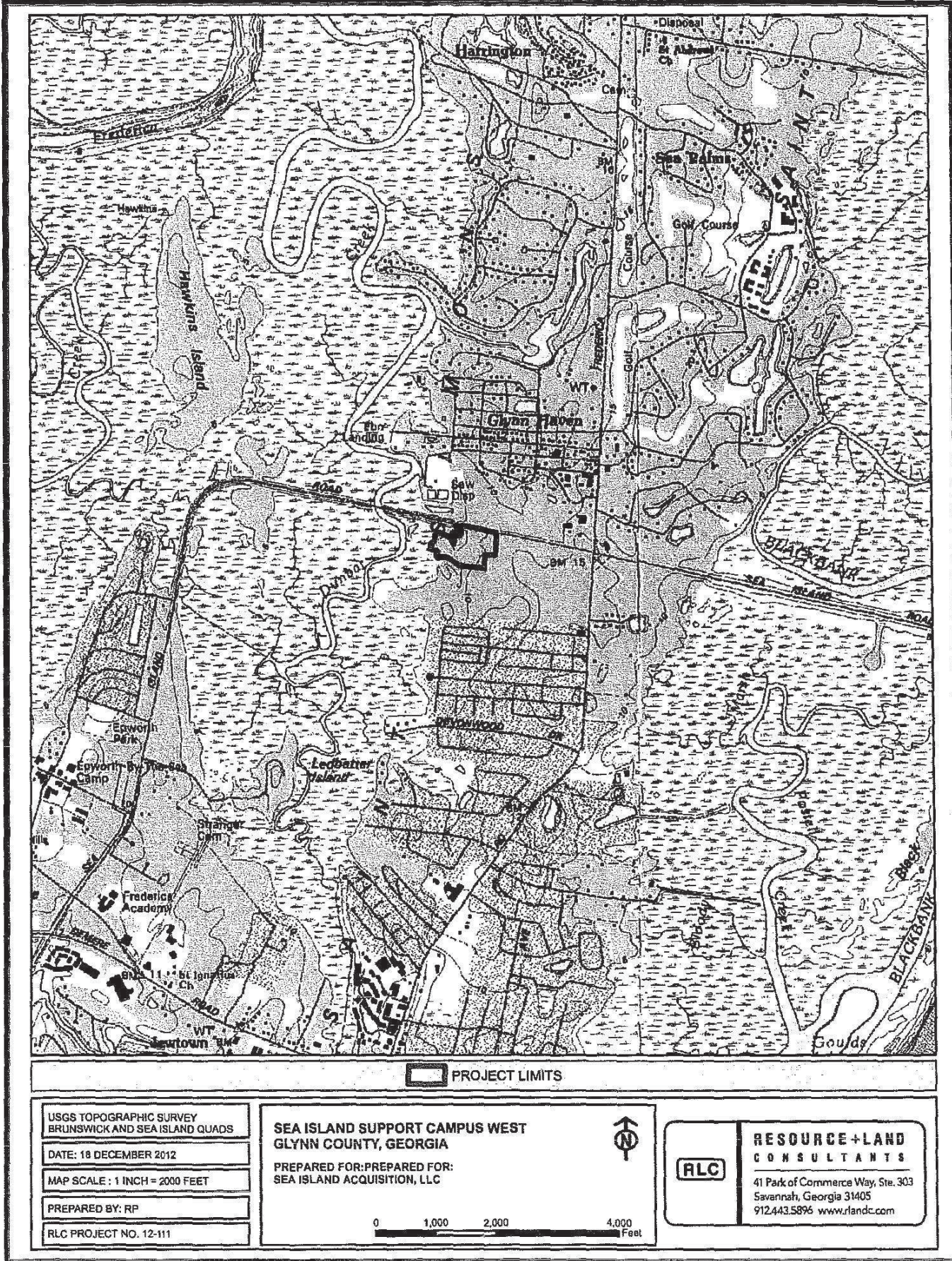
Attachments:

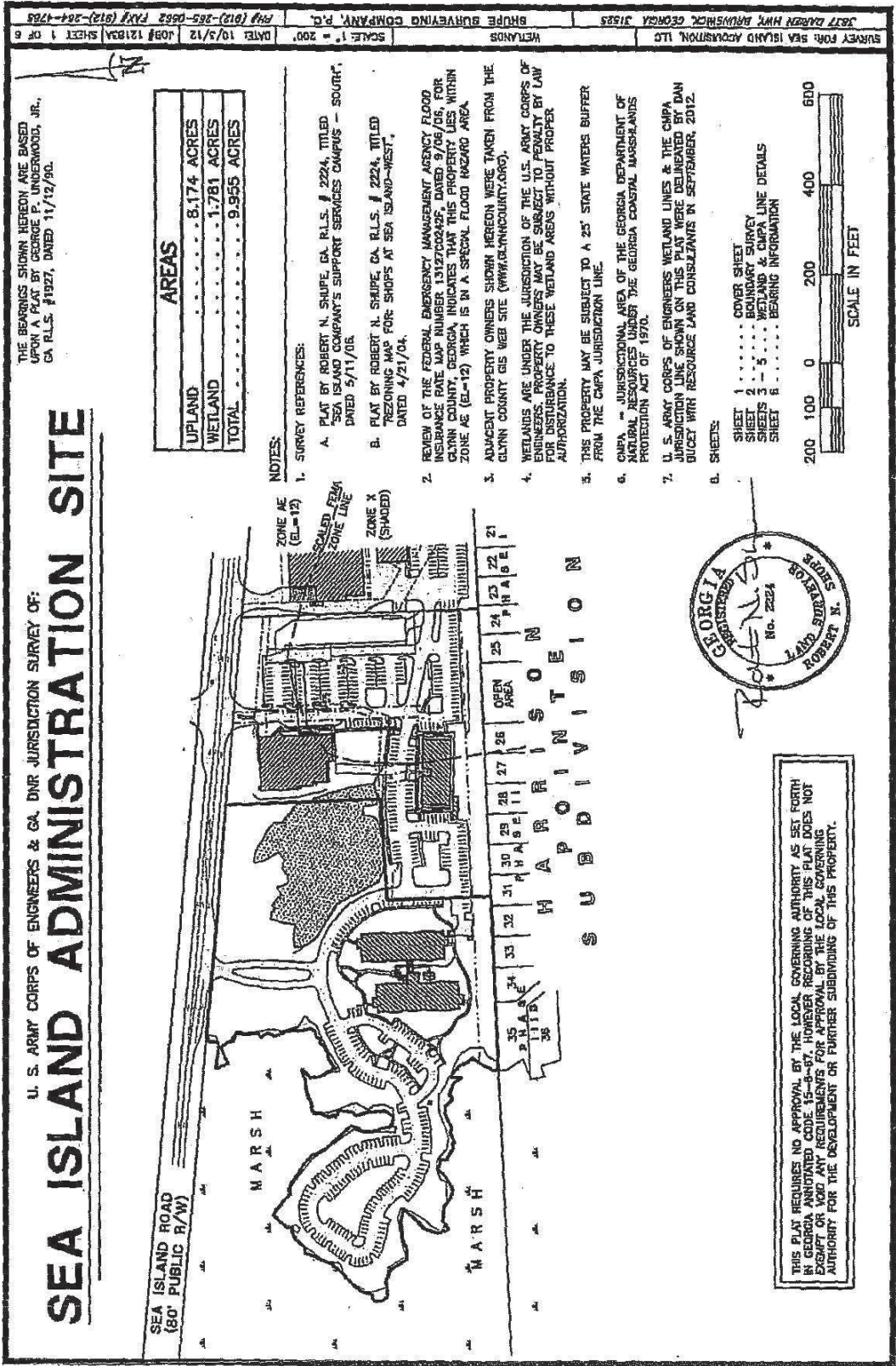
- Verified Survey of Jurisdictional Streams, Wetlands and/or Other Waters
- Verified GPS Delineation of Jurisdictional Streams, Wetlands and/or Other Waters
- Drawing of Approximate Location of Streams, Wetlands and/or Other Waters
- Approved Jurisdictional Determination Form(s)
- Notification of Administrative Appeal Options and Process and Request for Appeal Form



Forrest B. Vanderbilt
Regulatory Specialist, Coastal Branch

2-11-13
DATE





THE BEARINGS SHOWN HEREON ARE BASED UPON A PLAT BY GEORGE P. UNDERWOOD, JR., GA. R.L.S. #1927, DATED 11/12/90.

AREAS	
UPLAND	8.174 ACRES
WETLAND	1.781 ACRES
TOTAL	9.955 ACRES

- NOTES:
- SURVEY REFERENCES:
 - PLAT BY ROBERT N. SHUPE, GA. R.L.S. # 2224, TITLED "SEA ISLAND COMPANY'S SUPPORT SERVICES CAMPUS - SOUTH", DATED 5/11/08.
 - PLAT BY ROBERT N. SHUPE, GA. R.L.S. # 2224, TITLED "REZONING MAP FOR SHOPS AT SEA ISLAND-WEST", DATED 4/21/04.
 - REVIEW OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP NUMBER 13127C0242E, DATED 9/06/06, FOR GLYNN COUNTY, GEORGIA, INDICATES THAT THIS PROPERTY LIES WITHIN ZONE AE (EL=12) WHICH IS IN A SPECIAL FLOOD HAZARD AREA.
 - ADJACENT PROPERTY OWNERS SHOWN HEREON WERE TAKEN FROM THE GLYNN COUNTY GIS WEB SITE (WWW.GLYNNCOUNTY.GOV).
 - WETLANDS ARE UNDER THE JURISDICTION OF THE U.S. ARMY CORPS OF ENGINEERS. PROPERTY OWNERS MUST BE SUBJECT TO PERMITS BY LAW FOR DISTURBANCE TO THESE WETLAND AREAS WITHOUT PROPER AUTHORIZATION.
 - THIS PROPERTY MAY BE SUBJECT TO A 25' STATE WATERS BUFFER FROM THE CMAA JURISDICTION LINE.
 - CMAA - JURISDICTIONAL AREA OF THE GEORGIA DEPARTMENT OF NATURAL RESOURCES UNDER THE GEORGIA COASTAL MARSHLANDS PROTECTION ACT OF 1970.
 - U.S. ARMY CORPS OF ENGINEERS WETLAND LINES & THE CMAA JURISDICTION LINE SHOWN ON THIS PLAT WERE DELINEATED BY DAN BUCLET WITH RESOURCE LAND CONSULTANTS IN SEPTEMBER, 2012.

B. SHEETS:

1	COVER SHEET
2	BOUNDARY SURVEY
3 - 5	WETLAND & CMAA LINE DETAILS
6	BEARING INFORMATION

SCALE IN FEET

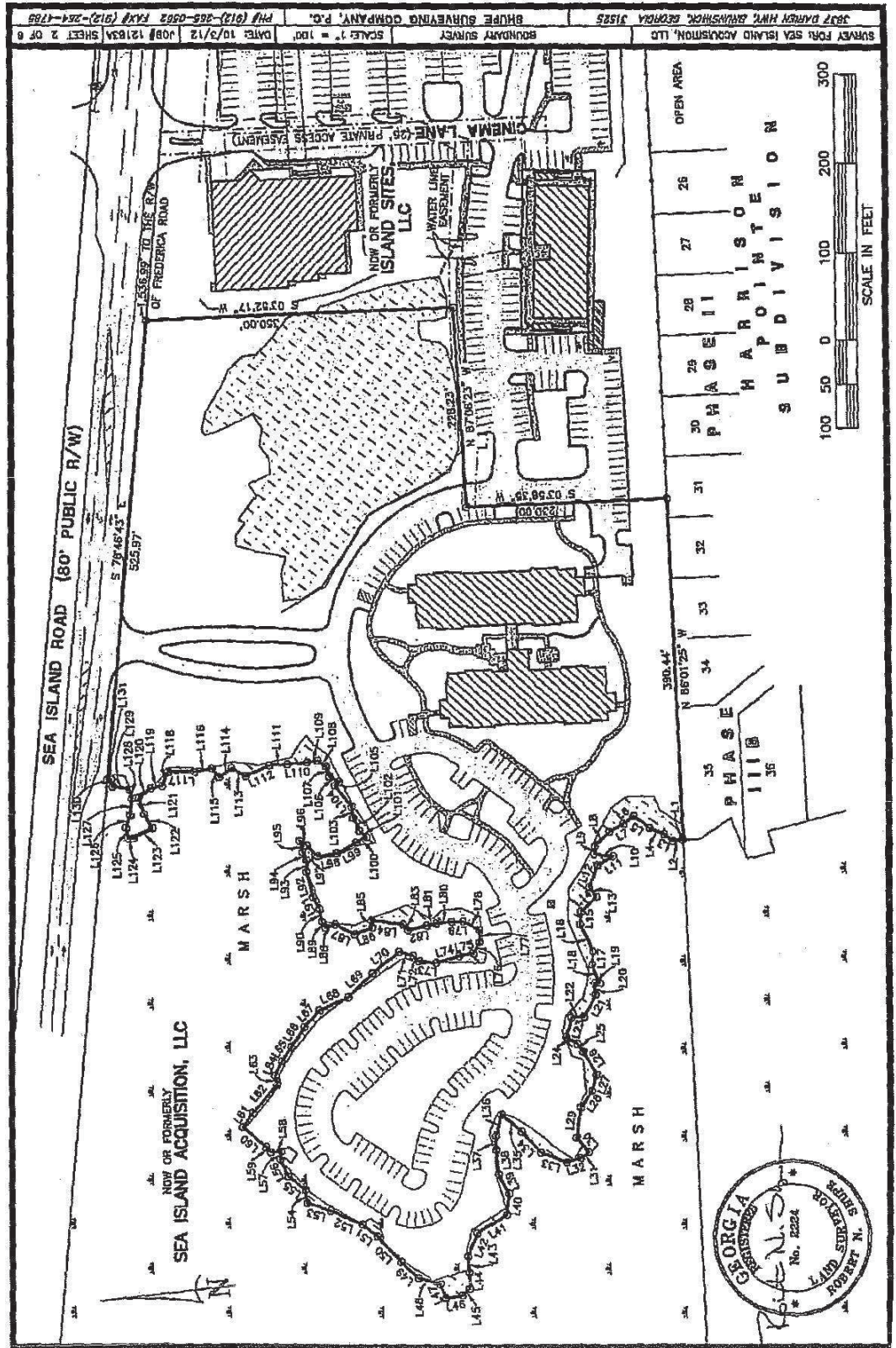
SEA ISLAND ADMINISTRATION SITE

U. S. ARMY CORPS OF ENGINEERS & GA. DNR JURISDICTION SURVEY OF:



THIS PLAT REQUIRES NO APPROVAL BY THE LOCAL GOVERNING AUTHORITY AS SET FORTH IN GEORGIA ANTIQUATED CODE 16-1-40, HOWEVER RECORDING OF THIS PLAT DOES NOT EXEMPT OR VOID ANY REQUIREMENTS FOR APPROVAL BY THE LOCAL GOVERNING AUTHORITY FOR THE DEVELOPMENT OR FURTHER SUBDIVISION OF THIS PROPERTY.

WETLANDS SURVEY FOR SEA ISLAND ACQUISITION, LLC
 SHUPE SURVEYING COMPANY, P.C.
 DATE: 10/3/12
 SHEET 1 OF 6
 SCALE: 1" = 200'



**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS
AND REQUEST FOR APPEAL**

Applicant: Mr. Vassa Cate File Number: SAS-2013-00045 Date: February 1, 2013

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 type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" 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://www.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 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. The division engineer must receive this form 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.

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. 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.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION

If you have questions regarding this decision and/or the appeal process you may contact:
 Forrest Vanderbilt
 US Army Corps of Engineers, Savannah District
 100 W. Oglethorpe Avenue
 Savannah, Georgia 31401-3640
 912-652-5051

If you only have questions regarding the appeal process you may also contact:
 Administrative Appeal Review Officer
 CESAD-PDS-O
 US Army Corps of Engineers, South Atlantic Division
 60 Forsyth Street, Room 10M15
 Atlanta, Georgia 30303-8801

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.

Signature of appellant or agent.	Date:	Telephone number:
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DECISION DOCUMENT
FOR
NATIONWIDE PERMIT (NWP)/REGIONAL GENERAL PERMIT (RGP) VERIFICATION

- A. Permit Number: SAS-2013-00045
- B. Applicant: Mr. Vassa Cate, Sea Island Acquisitions, LLC, 100 Salt Marsh Lane, Sea Island, Georgia 31522
- C. Project Location: The project site is located south of Sea Island Road and west of Frederica Road on St. Simons Island, Glynn County, Georgia (Latitude 31.1837, Longitude -81.3838).
- D. Date Received: January 11, 2013
- E. Date Additional Information Requested:
- F. Date Federally Complete: January 11, 2013
- G. Waters of US: (See enclosed Jurisdictional Determination Form(s), and two previous determinations: SAS-1992-16320 (January 27, 1993) and SAS-2002-5870 (November 27, 2002).
- H. Authority: Section 10 Section 404 Section 103
- I. Project Description: to construct an office building
- J. Project Purpose: commercial development
- K. Type of Permit Verified: NWP 39
- L. Pre-Construction Notification Required: YES No
- M. Coordination with Agencies/Tribes: YES NO IF YES, DATE: February 1, 2013
- N. Commenting Agencies: No Comments Received
1. US Fish and Wildlife Service:
 2. US Environmental Protection Agency:
 3. National Marine Fisheries Service:
 4. Georgia Department of Natural Resources:
 - a. Environmental Protection Division:

b. Coastal Resources Division:

c. Historic Preservation Division:

5. Other:

O. Substantive Issues and USACE Position: No other substantive issues

P. Compliance with Other Federal Laws (If not applicable – N/A):

1. Endangered Species Act:

a. Name of species present: No species present within project area

b. Effects Determination: No effect

c. Date of Service(s) concurrence:

d. Basis for “no effect” determination: No species present, no critical habitat within the project scope, and no suitable habitat for listed species within the action area as provided by the agents field investigation and IPAC review of species profiles.

e. Additional Information (optional):

2. Magnuson-Stevens Act (Essential Fish Habitat): N/A

a. Name of species present:

b. Effects Determination:

c. Date of Service(s) concurrence:

d. Basis for “no effect” determination:

e. Additional Information (optional):

3. Section 106 of National Historic Preservation Act:

a. Known site present: _____ YES ___X___ NO

b. Survey Required/conducted: _____ YES

c. Effects Determination: No effect

d. Rationale: Work occurs within an a portion of a parcel previously permitted (SAS-1992-16320) for development that revealed no historic resources. In addition, no resources were identified during the field reconnaissance survey by the agent or National Register of Historic Places database review.

e. Date consultation complete:

f. Additional Information (optional):

4. Section 401 of Clean Water Act:

a. Individual certification required: _____ YES ___X___ NO. If yes:

b. _____ Issued, _____ Waived, _____ Denied

c. Additional Information (optional):

5. Coastal Zone Management Act:

a. Individual certification required: _____ YES NO. If yes:

b. _____ Issued, _____ Waived, _____ Denied

c. Additional Information (optional):

Q. Special Conditions Required: YES, _____ NO. If yes, provide rationale for each condition. Standard Savannah District Special Conditions for NWP applied

a. The activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP, as described at Part C of the NWP Program and the Savannah District's Regional Conditions for NWPs.

b. Prior to the commencement of any work in jurisdictional waters of the United States for this activity, you will purchase 3.48 wetland mitigation credits from the Wilkinson-Oconee Wetland Mitigation Bank. You must provide this office with documentation of this purchase before any work may commence. The notice should reference the USACE file number assigned to this project.

c. You shall obtain and comply with all appropriate federal, state, and local authorizations required for this type of activity. A stream buffer variance may be required. Variances are issued by the Director of the Georgia Environmental Protection Division (EPD), as defined in the Georgia Erosion and Sedimentation Control Act of 1975, as amended. It is our understanding that you may obtain information concerning variances at the Georgia EPD's web site at www.gaepd.org or by contacting the Watershed Protection Branch at (404) 675-6240.

d. All work conducted under this permit shall be located, outlined, designed, constructed and operated in accordance with the minimal requirements as contained in the Georgia Erosion and Sedimentation Control Act of 1975, as amended. Utilization of plans and specifications as contained in the "Manual for Erosion and Sediment Control, First Edition, 2002," published by the Georgia Soil and Water Conservation Commission or their equivalent, will aid in achieving compliance with the aforementioned minimal requirements.

e. You fill out and sign the enclosed certification and return it to our office within 30 days of completion of the activity authorized by this permit.

R. Compensatory Mitigation Required: The applicant would avoid impacting the remaining 1.6 acre of wetlands within the project area, utilize all of the 1.3 acre upland area available within the parcel, and install a retaining wall to further minimize impacts. To mitigate of unavoidable impacts to wetlands, the applicant is proposing to purchase 3.48 wetland mitigation credits from the Wilkinson-Oconee Mitigation bank to offset the permanent impacts on the project site.

S. DETERMINATION: I have reviewed the proposed project and determined that the work will result in minimal individual and cumulative adverse effects on the aquatic environment. This project, with the special conditions listed in paragraph Q above, complies with all terms and conditions of the NWP including any applicable Regional Conditions.


Prepared By:



Forrest B. Vanderbilt
Regulatory Specialist, Coastal Branch

2/19/13

Approved By:



Kelly C. Finch
Chief, Coastal Branch

2/20/13



MARK WILLIAMS
COMMISSIONER

A.G. 'SPUD' WOODWARD
DIRECTOR

January 14, 2013

Daniel Bucey
Resource and Land Consultants
41 Park of Commerce Way, Suite 303
Savannah, GA 31405

Re: Marsh Jurisdiction Line for Sea Island Administration Building Site, Sea Island Road, St. Simons Island, Glynn County, Georgia

Dear Dan,

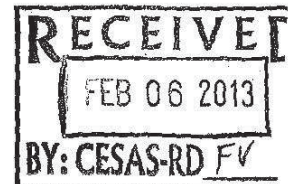
Our office has received the survey plat dated October 3, 2012 entitled "Sea Island Administration Site." Based on my site inspection, this plat and survey generally depict the delineation of the marsh/upland boundary as required by the State of Georgia for jurisdiction under the authority of the Coastal Marshlands Protection Act of 1970. The delineation of the parcel is subject to change due to environmental conditions and legislative enactments. This jurisdiction line is valid for one year from date of the delineation. It will normally expire one year from the date of my inspection which occurred on January 11, 2013, but may be voided should legal and/or environmental conditions change.

This letter does not relieve you of the responsibility of obtaining other state, local or federal permission or authorization relative to the site. It is also incumbent upon you to contact your local government authority or the Environmental Protection Division of the Department of Natural Resources regarding any impacts of land within 25 feet of the established marshlands jurisdiction boundary. Authorization by the Coastal Marshlands Protection Committee or this Department is required prior to any construction or alteration in the shore jurisdictional area.

I appreciate you providing us with this information for our records. Please contact me @ (912) 262-3109 if I may be of further assistance.

Sincerely,

Lisia Kowalczyk
Permitting Unit Manager
Marsh and Shore Management Program
GA DNR-Coastal Resources Division



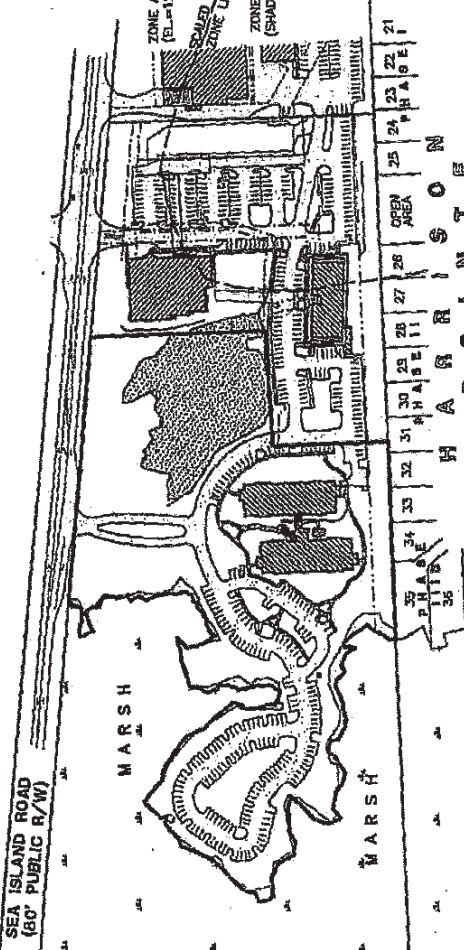
SEA ISLAND PUBLIC R/W
 U.S. ARMY CORPS OF ENGINEERS & GA. DNR JURISDICTION SURVEY OF:
SEA ISLAND ADMINISTRATION SITE

THE BEARINGS SHOWN HEREON ARE BASED UPON A PLAT BY GEORGE P. UNDERWOOD, JR., GA R.L.S. #1927, DATED 11/12/90.

AREAS	
UPLAND	8.174 ACRES
WETLAND	1.781 ACRES
TOTAL	9.955 ACRES

NOTES:

- SURVEY REFERENCES:
 - PLAT BY ROBERT N. SHUPE, GA. R.L.S. # 2224, TITLED "SEA ISLAND COMPANY'S SUPPORT SERVICES CAMPUS - SOUTH", DATED 5/11/06.
 - PLAT BY ROBERT N. SHUPE, GA. R.L.S. # 2224, TITLED "REZONING MAP FOR SHOPS AT SEA ISLAND - WEST", DATED 4/21/04.
- REVIEW OF THE FEDERAL ENERGY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP NUMBER 13127C024E DATED 8/06/06 FOR GLYNN COUNTY, GEORGIA, INDICATES THAT THIS PROPERTY LIES WITHIN ZONE AE (EL=12) WHICH IS IN A SPECIAL FLOOD HAZARD AREA.
- ADJACENT PROPERTY OWNERS SHOWN HEREON WERE TAKEN FROM THE GLYNN COUNTY GIS WEB SITE (WWW.GLYNNCOUNTY.GOV).
- WETLANDS ARE UNDER THE JURISDICTION OF THE U.S. ARMY CORPS OF ENGINEERS. PROPERTY OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE WETLAND AREAS WITHOUT PROPER AUTHORIZATION.
- THIS PROPERTY MAY BE SUBJECT TO A 25' STATE WATERS BUFFER FROM THE CAPA JURISDICTION LINE.
- CPMA - JURISDICTIONAL AREA OF THE GEORGIA DEPARTMENT OF NATURAL RESOURCES UNDER THE GEORGIA COASTAL MARSHLANDS PROTECTION ACT OF 1970.
- U.S. ARMY CORPS OF ENGINEERS WETLAND LINES & THE CAPA JURISDICTION LINE SHOWN ON THIS PLAN WERE OBTAINED FROM A PLAN BUOY WITH RESOURCE LAND CONSULTANTS IN SEPTEMBER, 2012.



THIS PLAN REQUIRES NO APPROVAL BY THE LOCAL GOVERNING AUTHORITY AS SET FORTH IN GEORGIA ANNOTATED CODE 15-2-67. HOWEVER RECORDING OF THIS PLAN DOES NOT EXEMPT OR VOID ANY REQUIREMENTS FOR APPROVAL BY THE LOCAL GOVERNING AUTHORITY FOR THE DEVELOPMENT OR FURTHER SUBDIVISION OF THIS PROPERTY.

SHEETS:

- SHEET 1 COVER SHEET
- SHEET 2 SURVEY
- SHEET 3 ZONING
- SHEET 4 WETLAND LINES
- SHEET 5 BEARING INFORMATION
- SHEET 6 BEARING INFORMATION

SCALE IN FEET

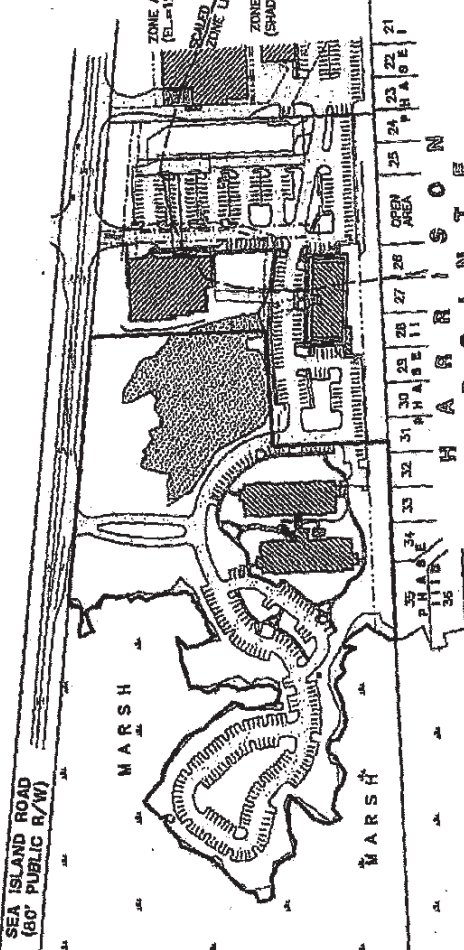
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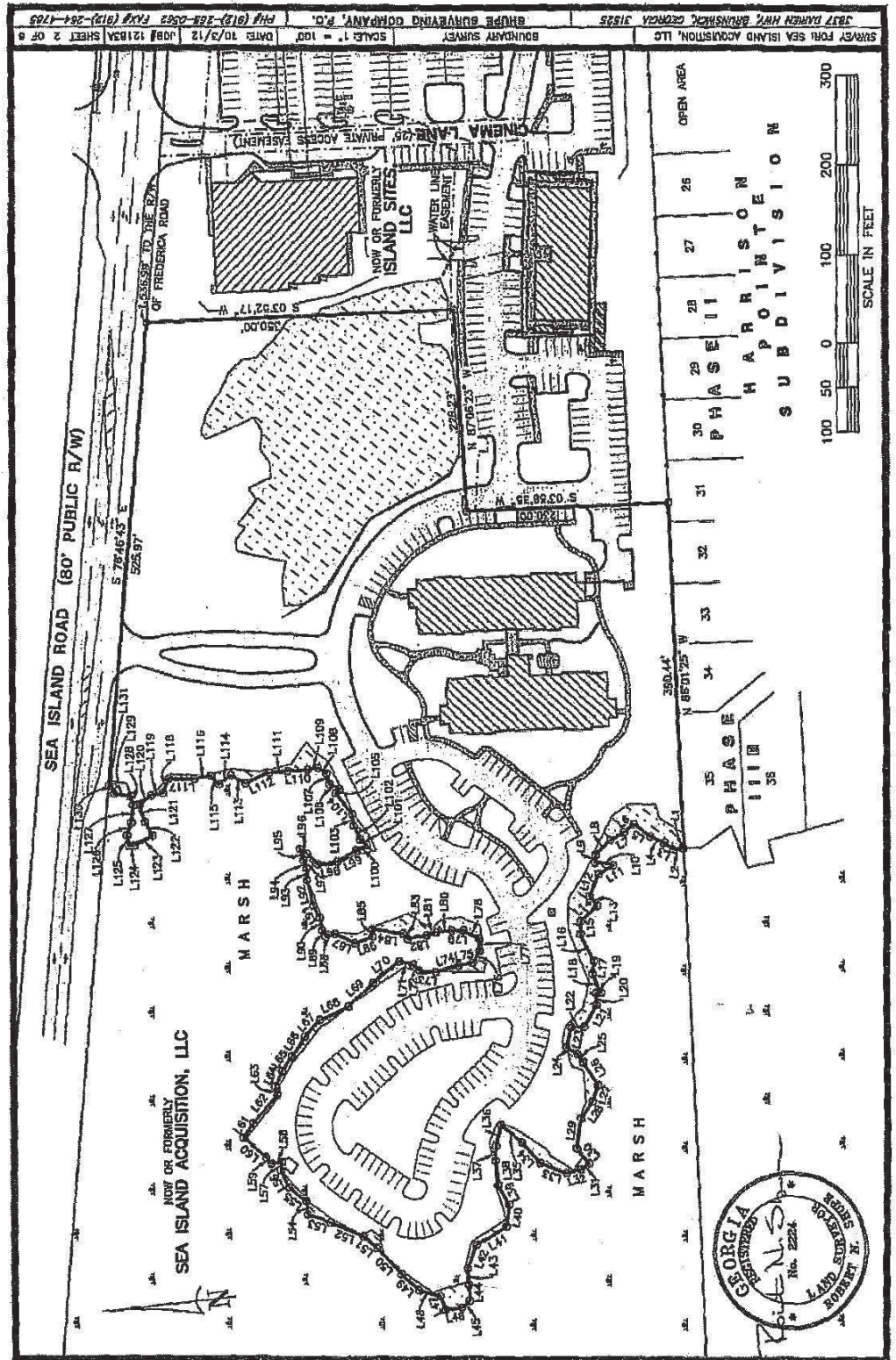


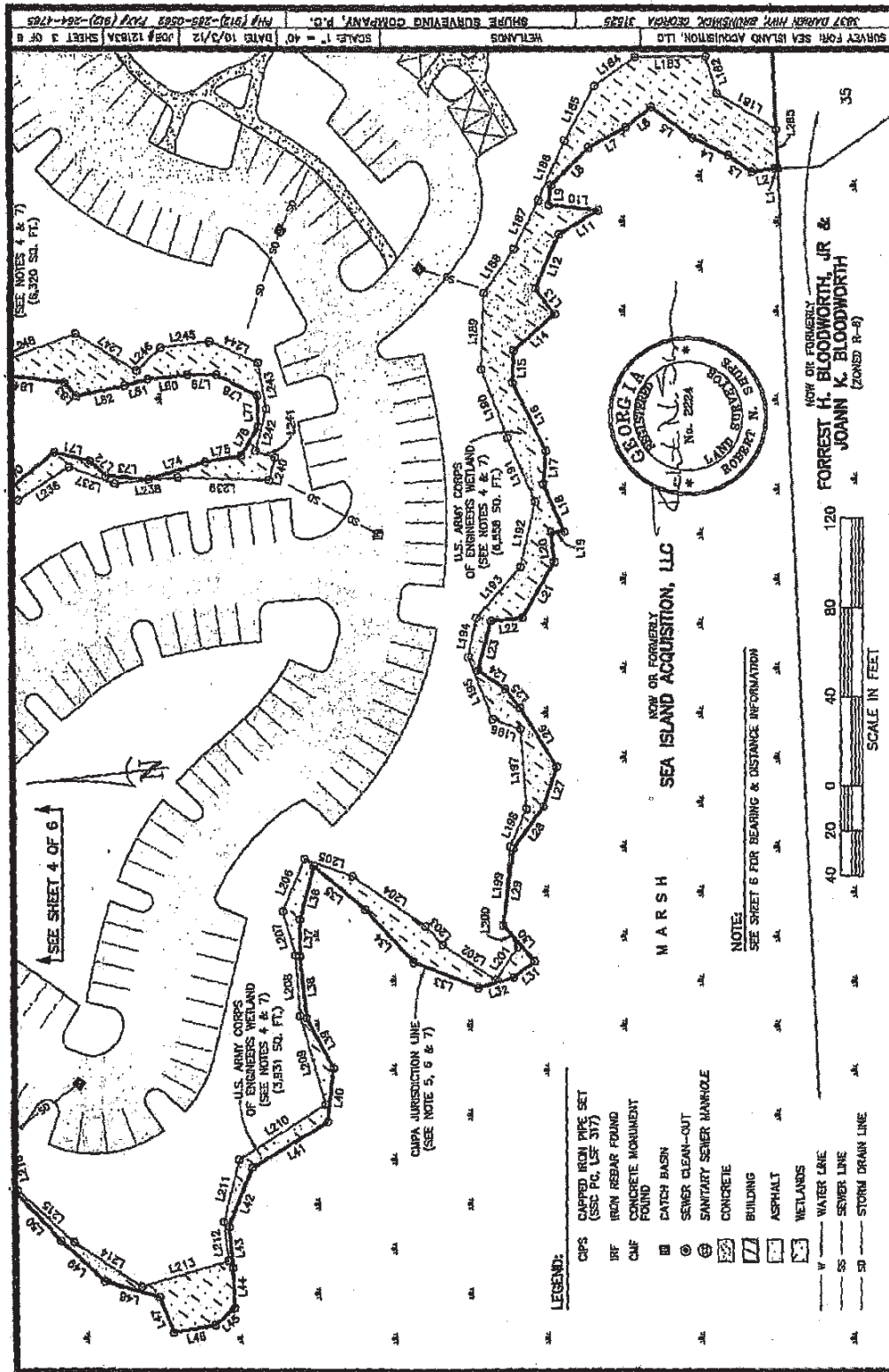
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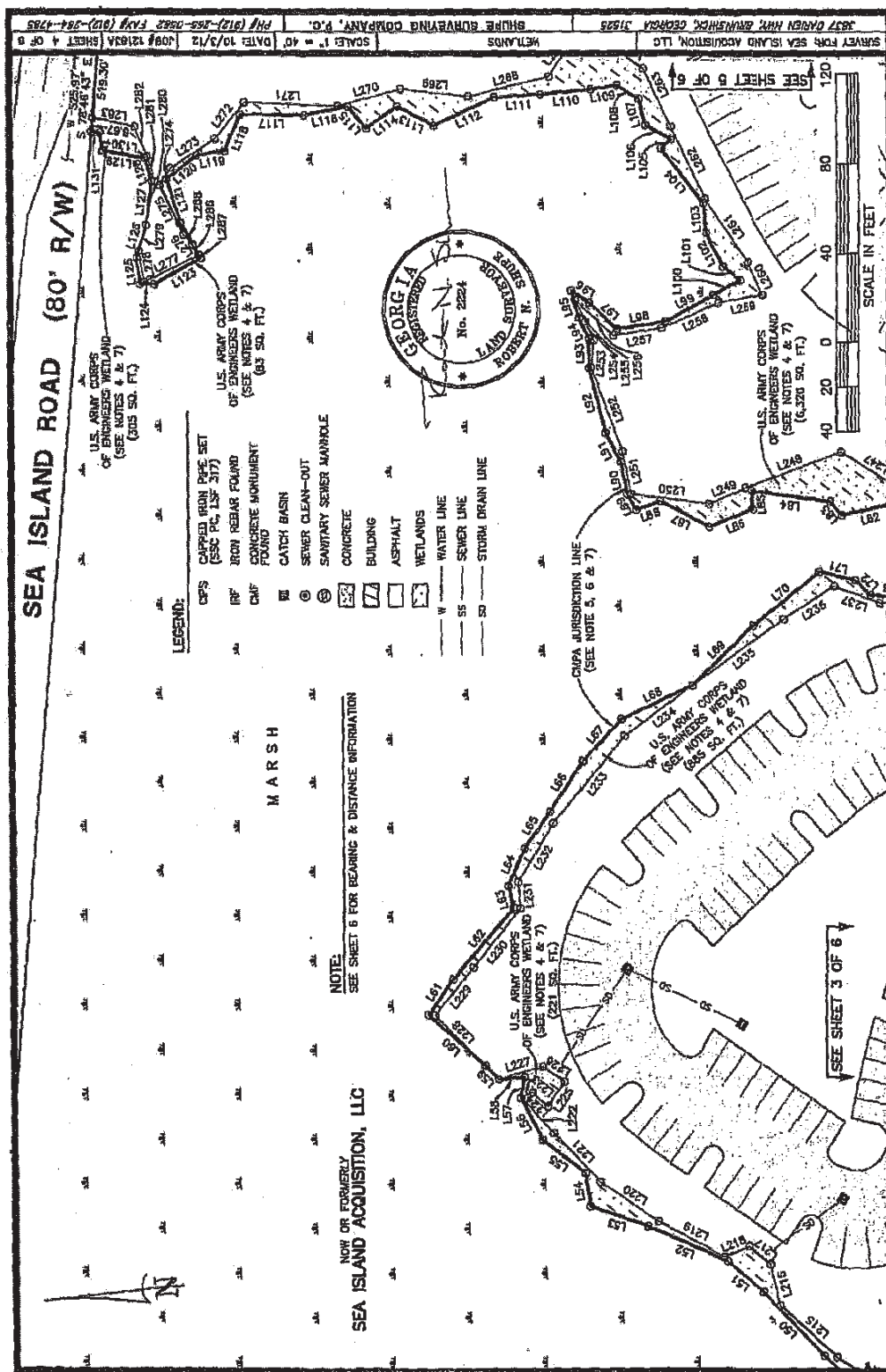
SHEETS:

- SHEET 1 COVER SHEET
- SHEET 2 SURVEY
- SHEET 3 ZONING
- SHEET 4 WETLAND LINES
- SHEET 5 BEARING INFORMATION
- SHEET 6 BEARING INFORMATION

SCALE IN FEET







SEA ISLAND ROAD (80' R/W)

NOW OR FORMERLY
SEA ISLAND ACQUISITION, LLC

NOTE:
SEE SHEET 6 FOR BEARING & DISTANCE INFORMATION

- LEGEND:
- CP'S CAPPED IRON PIPE SET (SSC PC, 13" 317)
 - IRF IRON REBAR FOUND
 - CMF CONCRETE MONUMENT FOUND
 - III CATCH BASIN
 - © SEWER CLEAN-OUT
 - ⊙ SANITARY SEWER MANHOLE
 - CONCRETE
 - BUILDING
 - ASPHALT
 - WETLANDS
 - W WATER LINE
 - SS SEWER LINE
 - SD STORM DRAIN LINE

MARSH



SCALE IN FEET

3877 DAVEN HUR BURNINGHAM, GEORGIA 31225
SHURE SUBVING COMPANY, P.O. DATE 10/9/12 1084 12183A SHEET 4 OF 8
SCALE: 1" = 40' DATE 10/9/12 1084 12183A SHEET 4 OF 8
WETLANDS

U.S. ARMY CORPS OF ENGINEERS WETLAND (SEE NOTES 4 & 7) (305 SQ. FT.)

U.S. ARMY CORPS OF ENGINEERS WETLAND (SEE NOTES 4 & 7) (83 SQ. FT.)

U.S. ARMY CORPS OF ENGINEERS WETLAND (SEE NOTES 4 & 7) (6,524 SQ. FT.)

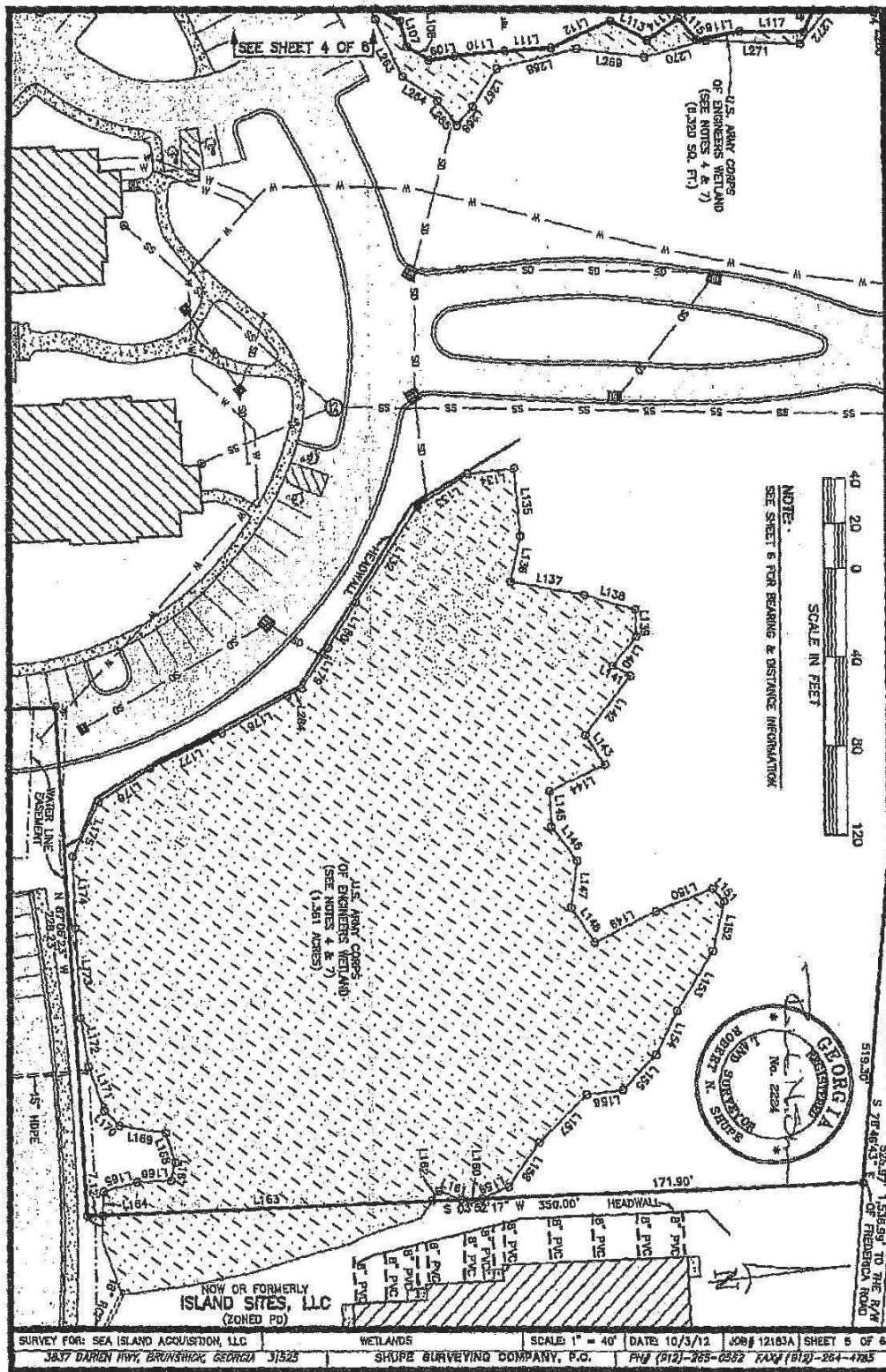
U.S. ARMY CORPS OF ENGINEERS WETLAND (SEE NOTES 4 & 7) (840 SQ. FT.)

U.S. ARMY CORPS OF ENGINEERS WETLAND (SEE NOTES 4 & 7) (221 SQ. FT.)

CAMA JURISDICTION LINE (SEE NOTE 5, 6 & 7)

SEE SHEET 3 OF 6

SEE SHEET 5 OF 6



(b) (6)

From: (b) (6)
Sent: Friday, February 01, 2013 2:40 PM
To: Abbott, Sandy; Allen, Katy; Anderson-Cordova, Karen; Barreiro, Deb; (b) (6); Chambers, Peggy; Brooks, Robert; Burgess, Karl; Caldwell, Dale; (b) (6); Colwell, Strant; Coppola, Chris; Chamblin, Doug; Chattahoochee River Nat'l Recreation Area; Crass, David; (b) (6); Daly, Jaclyn; (b) (6); Emmert, Jeffrey G SAM; Giersch, Jennifer; Goodloe, Robin; Harris, Deborah C.; Kennedy, Ryan; LaRue, Mark; Lisa Westberry; (b) (6); Mackinnon, Jan; Martin, Chris; Martinez, Gail; Moore, Kelie; Pattavina, Pete; Read, Allyson; Samay, Catherine; Schraner, Amanda; Shirk, Elizabeth; Slade, Rick; Somerville, Eric; (b) (6); Tucker, Sandy; Welte, Jennifer; Wiebler, Robin; Wikoff, Bill; Wilber, Pace; Wilcox, Janice; Williams, Rich; Wittrock, Allison; Wynne, John; Zornig, Katie
Cc: (b) (6)
Subject: HAPPY WORLD WETLANDS DAY!!! HAPPY PCNS 25 JAN - 01 FEB 2013!!!
 (UNCLASSIFIED)
Attachments: PCNs25JANthru01FEB2013.xls

Classification: UNCLASSIFIED
Caveats: NONE

Tomorrow is one of my personal favorite days of the year. I highly recommend getting out and hugging your local wetland. I'm going to try to get out to the Mercer University wetlands to look for some cool wading birds and generally get mucky, but that's nothing new.

Anyway, I've also attached the week's PCNs if that's more your thing. Have a great weekend, everyone!

All the best,

(b) (6)

(b) (6)

Regulatory Specialist
 U.S. Army Corps of Engineers
 Savannah District
 Regulatory Division, Piedmont Branch
 1590 Adamson Parkway, Suite 200
 Morrow, Georgia 30260-1777

(b) (6)

Classification: UNCLASSIFIED
Caveats: NONE

Project Number SAS-2013-00045	PMRS Vanderbilt	NWP# 39	County Glynn	Latitude 31.1837	Longitude -81.3835	Waterway Dunbar Creek
Applicant Vassa Cate	Name Vassa Cate	Phone Number 912-638-3611	E-mail n/a	DATES Site Visit	DATES No	
Consultant Dan Bucey	Name Dan Bucey	Phone Number 912-443-5896	E-mail dbucey@riandc.com	DATES Coordination	DATES 1-Feb-13	
Project Description						
<p>The applicant is proposing to construct an office building and parking lot. The proposed project would provide the applicant, Sea Island Administration, a smaller administrative building and parking lot. The permanent impacts associated with the project would be to 0.49 acre of freshwater wetlands. The applicant has avoided impacting the remaining 1.6 acre of wetlands present, utilizing all of the 1.3 acre upland area available within the parcel, and installing a retaining wall to further minimize impacts. To mitigate of unavoidable impacts to wetlands, the applicant is proposing to purchase 3.48 wetland mitigation credits from the Wilkinson-Oconee Mitigation bank.</p>						
Proposed Impacts			Mitigation Plan (Credits)			
Permanent		Temporary		Bank		Wetland
Acres	Linear Ft	Acres	Linear Ft	Stream	Stream	Wetland
0.49				Wilkinson-Oconee		3.48
		Wetland				
		Tidal Wetland				
		Perennial Stream				
		Intermittent Stream			Stream	Wetland
		Ephemeral Stream				
		Open Water				
		Other Waters				
		Non-JD (isolated)				
Section 7 of the Endangered Species Act						
Website Check	Yes	http://ecos.fws.gov/ipac/				
Survey Type	Yes					
Habitat Present	No					
Corps Determination	No Effect					
Section 106 of the National Historic Preservation Act						
Website Check	Yes	http://www.cr.nps.gov/nr/index.htm				
Survey Type	Yes	http://www.nationalregisterofhistoricplaces.com/state.html				
Corps Determination	No Effect					
Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act - Essential Fish Habitat (EFH)						
Website Check	Yes	http://www.habitat.noaa.gov/protection/efh/				
Habitat Areas of Particular Concern (HAPCs)	Present					
Corps Determination	No Effect					

CESAS-OP-RB

12 May 2017

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army File SAS-2013-00045, Commercial Development by Sea Island Acquisition located off Sea Island Road and Frederica Road on St. Simons Island

1. On February 13, 2013, the Corps verified authorization under NWP 39 for the fill of 0.49 acre of wetland associated with a commercial development. The project site is located south of Sea Island Road and west of Frederica Road on St. Simons Island, Glynn County, Georgia (Latitude 31.1837, Longitude -81.3838). Project drawings and work descriptions associated with SAS-2013-00045 show the proposed construction of an office building and attendant features which include a parking lot. To mitigate the impacts to wetlands, the applicant purchased 3.5 wetland mitigation credits from the Wilkinson-Oconee Mitigation Bank on March 18, 2013.

2. By letter dated January 11, 2016, the Glynn Environmental Coalition requested enforcement action against Sea Island Acquisition, LLC for filling wetlands in the project area without complying with the terms and conditions of Nationwide Permit (NWP) 39. This request was investigated and closed out with no further action (see attached Memorandum for Record dated September 6, 2016).

3. By letter dated May 8, 2017 (attached), Glynn Environmental Coalition again requested enforcement action against Sea Island Acquisition, LLC. I contacted Dan Bucey, agent for Sea Island Acquisition and he stated that the permittee still intends to complete the project as planned. I also spoke with John Ballard in CESAS-OC regarding this complaint and discussed our enforcement options. While the original permit was verified with a 2-year expiration, Savannah District has since verified 2012 NWPs with an expiration of March 18, 2017, with an additional year to complete work under the existing authorization if a permittee is under contract to complete the work. The authorized fill of waters of the United States is complete, however the permittee has not constructed the physical project according to plans. This NWP verification is still within timeframes consistent with other NWP verifications issued by this office. Regardless, as enforcement is discretionary, there are numerous factors which support a decision to pursue no further action:

- a. The wetland fill completed was authorized by the Corps, and compensatory mitigation for the fill has been purchased by the permittee.

EXHIBIT B

-2-

- b. If the fill remains in place without the project being completed in accordance with plans submitted, there would be no impact to navigation, cultural resources, Essential Fish Habitat, or endangered species (reference draft NWP decision document in ORM dated February 27, 2013).
- c. There is no risk to any other public interest factors if the fill remains in place.
- d. Restoration of 0.49 acre of wetlands would require completion of a restoration plan by the permittee, review of this plan by the Corps, and potentially seven or more years of monitoring to confirm that the restoration is completed according to plan, which would involve additional staff resources to review monitoring reports, conduct site visits, and address any issues of deviation from the restoration plan. Given the above factors, this investment of limited resources cannot be supported.

4. Course of Action: No further action is warranted on Glynn Environmental Coalition's request. If we receive additional requests from Glynn Environmental Coalition to pursue action, per the Seattle District Enforcement Decision Matrix, my recommendation for action at that time would be to confirm the project is still not built and send the permittee a letter stating that they received authorization under NWP 39 to construct a commercial office building and that they should complete all work within the terms and conditions of NWP 39.



William M. Rutlin
Chief, Coastal Plain Field Office

Georgia Department of Natural Resources

2 Martin Luther King Jr. Dr., S.E., Suite 1152 East, Atlanta, Georgia 30334-9000

Mark Williams, Commissioner

Judson H. Turner, Director

Environmental Protection Division

404/656-4713

FAX : 404/651-5778

March 12, 2012

Mr. Russell Kaiser, Chief
Regulatory Division
U.S. Army Corps of Engineers
Savannah District
100 W. Oglethorpe Avenue
Savannah, GA 31402-0889

Re: Water Quality Certification
2012 Reauthorization of Nationwide Permits
Statewide

Dear Mr. Kaiser:

Pursuant to Section 401 of the Federal Clean Water Act, the State of Georgia issues this certification to the U.S. Army Corps of Engineers, Savannah District for reauthorization of the Nationwide Permits. This reauthorization extends for a period of five years from March 19, 2012.

The State of Georgia certifies that there is no applicable provision of Section 301; no limitation under Section 302; no standard under Section 306; and no standard under Section 307, for the applicant's activity. The State of Georgia certifies that the applicant's activity will comply with all applicable provisions of Section 303.

This certification is contingent upon the following conditions:

1. All work performed during construction will be done in a manner so as not to violate applicable water quality standards.
2. No oils, grease, materials or other pollutants will be discharged from the construction activities that reach public waters.
3. This certification is contingent upon satisfaction of the Savannah District's Regional Conditions, including the Appendix A provisions requiring prior notification to Georgia EPD before the commencement of NWP authorized projects.
4. For bank stabilization projects conducted under NWP 13, particularly those that involve work in state buffers, applicants should consult Georgia EPD's Streambank and Shoreline Stabilization Guidance, available at <http://georgiaepd.org/Documents/techguide.html>.
5. Where the Savannah District grants a waiver to exceed the project impact limits authorized under Nationwide Permits 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, Georgia EPD reserves the right to review such projects for consistency with Georgia's water quality rules, and where necessary, to issue individual 401 water quality certification for qualified projects.



EXHIBIT C

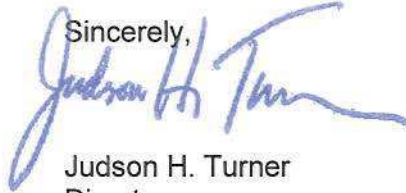
Page 2

2012 Reauthorization of Nationwide Permits

6. Georgia EPD may require submission of a formal application for individual 401 water quality certification for any project if it is determined, based upon consideration of Georgia's water quality rules, that the project is likely to have a significant adverse effect upon water quality.

This certification does not relieve the applicant of any obligation or responsibility for complying with the provisions of any other laws or regulations of other federal, state or local authorities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Judson H. Turner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Judson H. Turner
Director

cc: Mr. Richard Morgan, USACE
Ms. Sarah Wise, USACE
Mr. Bob Lord, USEPA
Ms. Sandy Tucker, USFWS
Ms. Kelie Moore, CRD



DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
100 W. OGLETHORPE AVENUE
SAVANNAH, GEORGIA 31401-3640

REPLY TO
ATTENTION OF:

OCTOBER 14 2014

Regulatory Division
SAS-1992-16320
SAS-2002-05870
SAS-2013-00045

Mr. Daniel Parshley
Glynn Environmental Coalition
Post Office Box 2443
Brunswick, Georgia 31521

Dear Mr. Parshley:

I refer to your June 20, 2014, letter requesting an enforcement action and wetland restoration at 100 Salt Marsh Lane in St. Simons, Glynn County, Georgia (Latitude 31.1837, Longitude -81.3838). Your letter alleges that the permittee, Mr. Vassa Cate of Sea Island Acquisitions, LLC, provided false information in their request to us for verification under Nationwide Permit (NWP) 39 for Department of the Army permit SAS-2013-00045.

Thank you for the information concerning the subject property. In response to this concern, I reviewed the subject files and the information you provided that is under the U.S. Army Corps of Engineers' purview and found no error or inconsistency in our application of the U.S. Army Corps of Engineers NWP Program Regulations (33 Code of Federal Regulations Part 330). Therefore, we do not believe there to be grounds to initiate an enforcement action or to request restoration of permitted wetland fills that are compliant with the terms and conditions of the subject permit. Specifically, you asserted the following:

- a. The application was factually incorrect;
- b. The permit was issued incorrectly resulting in multiple NWPs for a single property;
- c. That the proposal was not a single and complete project; and
- d. That the applicant provided different site plans to different regulatory agencies.

In reviewing the files, it does appear that the applicant provided some erroneous information. However, this information did not have a bearing on our permit decision. For instance, in Part G of our "Decision Document for Nationwide Permit (NWP)/Regional General Permit (RGP) Verification" (enclosed), please note that the project manager at the time was aware of the previous verifications on the property.

EXHIBIT D

- 2 -

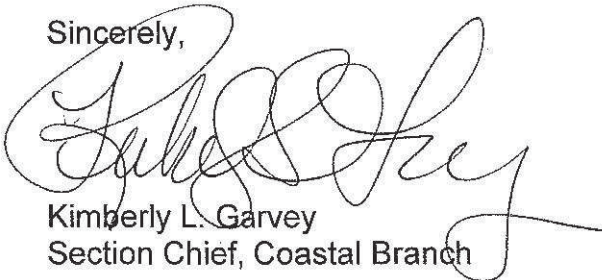
Further, we determined that the proposed project had independent utility and was, therefore, a single and complete non-linear project. As to your comments regarding the permittee submitting different site plans to different regulatory agencies, we cannot verify this assertion, as we can only comment on the plans we received to authorize this project, and permittee's compliance with the terms and conditions of the permit we issued.

A copy of this letter is being provided to the following parties: Glynn County Attorney, Glynn County, 701 G Street, Second Floor, Historic Courthouse, Brunswick, Georgia 31520; Ms. Lyndell Mickelson, Georgia Department of Natural Resources, Environmental Protection Division, Watershed Protection Branch, 2 Martin Luther King Jr. Drive, Suite 1152, Atlanta, Georgia 30334; and Mr. Jim Gilbert, General Counsel, Sea Island Acquisition, LLC, Post Office Box 30351, Sea Island, Georgia 31561.

Thank you in advance for completing our on-line Customer Survey Form located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. We value your comments and appreciate your taking the time to complete a survey each time you have interaction with our office.

If you have any questions, please call me at 912-652-5133.

Sincerely,



Kimberly L. Garvey
Section Chief, Coastal Branch

Enclosure

EXHIBIT D

CESAS-RD-C

Date: 9/6/16

MEMORANDUM FOR THE RECORD

SUBJECT: Department of Army File SAS-2013-00045, Commercial development by Sea Island Acquisition located off Sea Island Road and Frederica Road on St. Simons Island

1. On February 20, 2013, the Corps verified authorization under NWP 39 for the fill of 0.49 acres of wetland associated with a commercial development. The project site is located south of Sea Island Road and west of Frederica Road on St. Simons Island, Glynn County, Georgia (Latitude 31.1837, Longitude -81.3838). Project drawings and work descriptions associated with SAS-2013-00045 show the proposed construction of an office building and attendant features which include a parking lot. To mitigate the impacts to wetlands, the applicant purchased 3.5 wetland mitigation credits from the Wilkinson-Oconee Mitigation bank on 3/18/2013.
2. On May 04, 2016 and May 09, 2016, Mr. Daniel Bucey, RLC responded to the Corps request for information. Mr. Bucey (authorized agent) stated that the project construction has been delayed due to funding as several other projects have taken precedence over this project. The permittee still intends to build on the site, and continues to work on the site development plans. To date, the area has been filled and temporary grassing has been planted as required by erosion and sedimentation regulations, but is not landscaped.
3. The project was discussed with regulatory Office of Counsel attorney Ms. Paula Feldmeier, to determine if the project was in/out of compliance based on the information provided by the originally verified NWP, the complainant, and the permittee's authorized agent. The applicant has not built any structures to date, has filled within the allowable footprint and has stated that they plan to build the authorized structures in the future. Based on all information provided and with the advice of OC, the Corps have concluded that SAS-2013-00045 is presently in compliance with the previously authorized NWP 39 verification. All future work associated with the project site must be constructed in accordance with the information submitted as any revisions may invalidate this permit.


Jared M. Lopes
Regulatory Specialist, Coastal Branch

Enclosed

EXHIBIT E





January 15, 2019

Scott Steilen
Chairman and CEO
Sea Island Acquisition, LLC
100 Cloister Drive
Sea Island, GA 31561

RE: Notice of Intent to Sue for Violation of Clean Water Act

Dear Mr. Steilen,

This letter is submitted on behalf of Glynn Environmental Coalition (hereinafter “GEC”) and the Center for a Sustainable Coast (hereinafter the “Center”), both of which are environmental advocacy groups committed to promoting responsible use of Georgia natural resources and sustainable economic growth. This letter serves as a sixty-day notice under the citizen suit provision of the Federal Water Pollution Control Act (Clean Water Act; 33 U.S.C. § 1344) (hereinafter “CWA”). This letter communicates the intent of GEC and the Center to sue Sea Island Acquisition, LLC (hereinafter “Sea Island”) for violating Section 404 of the CWA, and specifically Nationwide Permit #39 (NWP 39), at the Inn at Sea Island complex at Saint Simons Island, Georgia. Specifically, Sea Island violated its NWP 39, SAS-2013-00045, issued for Sea Island’s activities that impacted wetlands located at 100 Salt Marsh Lane, Saint Simons Island, Georgia.

Sea Island has violated the nationwide permit program under the CWA, specifically NWP 39, in the following respects:

1. Sea Island intentionally misled the Corps in its application for NWP 39 verification in order to circumvent CWA permitting guidelines; and
2. Sea Island has failed, and continues to fail, to act within the scope of NWP 39, which requires construction of a commercial development.

Neither the U.S. Environmental Protection Agency nor the U.S. Army Corps of Engineers (the “Corps”) have prosecuted the violations detailed in this notice in a civil action. Further, Sea Island has failed to remedy these violations and remains out of compliance with NWP 39. Because Sea Island continues to violate the law and because Sea Island will continue its unlawful conduct until sufficiently deterred, GEC and the Center provide this letter pursuant to the notice requirements of the citizen suit provision of the CWA, 33 U.S.C. § 1365(b)(1)(A) and its implementing regulations, 40 C.F.R. §§ 135.2-135.3.

*Post Office Box 6010
Ridgeland, MS 39158-6010*

JOHN A. BRUNINI
601-985-4447
John.Brunini@butlersnow.com

*Suite 1400
1020 Highland Colony Park
Ridgeland, Mississippi 39157*

T 601.948.5711 • F 601.985.4500 • www.butlersnow.com

BUTLER SNOW LLP

EXHIBIT F

January 15, 2019
Page 2

I. INTRODUCTION

Sea Island misused NWP 39 to accomplish the fill of 0.49 acres of wetlands under the ruse of constructing commercial development. NWP 39 is part of the nationwide permit program, which was created to streamline the permitting process for projects with similar activities and minimal impacts.¹ If the conditions of NWP 39 are not satisfied, an individual permit is required.²

a. *Nationwide Permits under Section 404 of the CWA*

Section 404 of the CWA prohibits the discharge of pollutants into waters of the United States, including wetlands, without a permit.³ The permit programs under Section 404 regulate the discharge of fill materials into U.S. waters. In order to fill wetlands, an applicant must either obtain an individual permit or act under a general or nationwide permit verified by the Corps. There are no exceptions to this requirement.⁴

The Corps may issue general permits, as opposed to individual permits, to approve activities that have minimal individual and cumulative adverse environmental effects. These general permits can be issued for no more than five years.⁵ A nationwide permit is a type of general permit that authorizes specific activities across the United States. Currently, the Corps has 52 existing nationwide permits.⁶

The basic premise of the Section 404 permit program is to prohibit discharge of dredged or fill materials into U.S. waters if a practicable alternative exists that is less damaging to the aquatic environment and surrounding ecosystem.⁷ In order to obtain either an individual or general permit, the applicant must show that steps have been taken to avoid impacts to wetlands.

NWP 39, which is the nationwide permit the Corps issued to Sea Island, is a specific nationwide permit under the Corps' general permitting authority, which allows for the discharge of dredged or fill material into non-tidal U.S. waters "for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures."⁸ Therefore, in order to fill wetlands under NWP 39, the Corps must verify that the applicant intends to build a commercial structure, as this is a common activity with recognized minimal environmental impact in light of the benefits gained through economic development.

If a project does not meet the requirements of a general permit, an individual permit is required.⁹ The Corps' evaluation of each individual permit application involves a thorough review of the potential environmental and socioeconomic effects of the proposed activity. There

¹ See 33 U.S.C. § 1344(e).

² See generally *id.*

³ See 33 U.S.C. § 1344.

⁴ See generally *id.*

⁵ See *id.*

⁶ See *Nationwide Permits Chronology and Related Materials*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/nationwide-permits-chronology-and-related-materials>.

⁷ See Section 404 Permit Program, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/section-404-permit-program>.

⁸ 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

⁹ See *supra* at n.7.

January 15, 2019

Page 3

is also a public interest review process.¹⁰ For these reasons, obtaining an individual permit is a lengthier and more costly endeavor; thus, it is more efficient to obtain a general permit if one is available.

b. *Overview: Sea Island's Attempt to Circumvent Section 404 Permitting Requirements*

In an attempt to circumvent the individual permitting requirements, Sea Island submitted plans under NWP 39. If Sea Island submitted its plan to merely landscape the property, NWP 39 would have been denied, as this permit does not allow the fill of wetlands for the sole purpose of landscaping or sodding. In other words, if Sea Island submitted the plan it is currently acting under, sodding over the wetlands and landscaping, the Corps would not have discretion to verify the permit request. Had Sea Island submitted its true intention to the Corps, the Corps would have no alternative but to prohibit Sea Island's actions under NWP 39 and require an individual permit. Because the individual permit process is timely and more costly, Sea Island misled the Corps regarding its intentions and circumvented the Section 404 permitting process. Even if Sea Island's NWP 39 application was not intentionally misleading, the fact remains that it has failed to comply with the conditions of NWP 39. In either event, Sea Island should immediately remedy these ongoing violations in one of the following ways:

1. Apply for an individual permit to cover the acts actually undertaken on this site;
2. Restore the filled wetland to its original condition;
3. Or as a last resort, construct a commercial development in compliance with NWP 39 within thirty days.

II. SITE HISTORY

The wetland parcel in question is 0.49 acres and is located northeast and adjacent to a parking lot and entrance to the Inn at Sea Island.¹¹ On February 13, 2013 the Corps verified Sea Island's application under NWP 39 to fill wetlands in order to build a commercial development, which included the construction of an office building and parking lot.¹² Subsequently and during the construction of the Inn at Sea Island, this 0.49 acre wetland parcel was filled and landscaped to match the surrounding hotel grounds, but the construction of a commercial development on the site has not occurred to date, despite the Corps' authorization for Sea Island to act under NWP 39 for only two-years.¹³ Failure to construct on this property in accordance with the conditions of NWP 39, despite the already filled wetlands, constitutes an ongoing and continuous violation.¹⁴

¹⁰ *See id.*

¹¹ January 10, 2013, Nationwide Permit Application package from Resource and Land Consultants (on behalf of Sea Island Company; to U.S. Army Corps of Engineers, Savannah District. Reference #SAS-2013-000045. (hereinafter "January 2013 Application").

¹² February 20, 2013, Letter from the Savannah District, Corps of Engineers; to Sea Island Acquisitions, LLC. Regulatory Division Reference #SAS-2013-00045. (hereinafter "February 2013 Authorization Letter").

¹³ *See id.* *See also* Google Earth, imagery date: March 27, 2013.

¹⁴ *See* permit conditions required under NWP 39, at 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

January 15, 2019
Page 4

III. VIOLATION OF NWP 39

a. *Sea Island Intentionally Misled the Corps in its Application to Act Under NWP 39*

Sea Island's continued and well-documented failure (beyond the expiration date of the NWP 39 authorization) to construct a commercial development violates the conditions of NWP 39.¹⁵ Sea Island's NWP 39 application process began on January 10, 2013, when Sea Island submitted a request for authorization to fill 0.49 acres of wetlands. The project description was to construct a new office building.¹⁶ Further, pursuant to the terms of the Pre-Construction Notification, Sea Island submitted a sketch plan showing portions of a 12,000 square-foot administrative office building and accompanying parking lot within the 0.49 acres of wetlands.¹⁷

On February 20, 2013, the Corps verified authorization of the proposed activity under NWP 39.¹⁸ Wetlands were filled by the end of the following month.¹⁹ However, Sea Island has failed to construct any building or attendant structures on the filled area. Instead, the filled area has been used for landscaping between Sea Island Road and the Inn at Sea Island. This is not a use authorized by Nationwide Permit 39, which allows discharges of fill material only "for construction or expansion of commercial and industrial building foundations..."²⁰

Strong evidence exists that Sea Island never intended to comply with NWP 39, and only applied for a general nationwide permit to save time and money. The intent to mislead the Corps is evidenced by Sea Island's inconsistent applications relating to this site. When applying to the Corps, Sea Island submitted a sketch plan showing 12,000 square-feet of commercial development, as required under NWP General Condition 31(b).²¹ In contrast, a Preliminary Plat submitted to Glynn County before Sea Island made its NWP application showed no proposed building within the wetlands area. Indeed, a Final Plat filed by Sea Island *after* the NWP verification also did not show any commercial building or structure within the filled area, indicating Sea Island's intent to deceive, or at least mislead, the Corps.²²

The lack of curb cuts on the subject parcel further substantiates Sea Island's NWP 39 deception, illustrating that the entity never intended to comply with the nationwide permit. A sketch plan submitted to the Corps with the Pre-Construction Notification included curb cuts along Salt Marsh Lane into a parking lot next to the proposed office building. The construction plans and Final Plat filed with Glynn County, however, did not include any such curb cuts.²³

Salt Marsh Lane was cleared, graded, and paved after the wetlands were filled under NWP 39.²⁴ If Sea Island intended to construct an office complex and adjoining parking lot within the term of the nationwide permit, the curb cuts would have been designed into the paving project instead of just being shown on the sketch plan submitted to the Corps. It appears that

¹⁵ *Id.*

¹⁶ *See* January 2013 Application.

¹⁷ *Id.*

¹⁸ *See* February 2013 Authorization Letter.

¹⁹ *See* Google Earth, imagery date: March 27, 2013.

²⁰ 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

²¹ *See* January 2013 Application.

²² *See* Preliminary Plat, approved by Glynn County Island Planning Commission Nov. 20, 2012; and Plat, filed March 14, 2014, Glynn County Plat Book 32, Page 333.

²³ *See supra* n.11 and n.22.

²⁴ *See* Google Earth, imagery date: March 27, 2013.

January 15, 2019
Page 5

utilities were installed where the curb cuts would have been located. Sea Island's inconsistent submittals to federal and local agencies, coupled with its illogical curb designation if an office building were intended to be constructed, demonstrates Sea Island's intent to never meet the terms of NWP 39.

b. *Sea Island Continues to Violate its Authority to Act Under NWP 39*

Even if Sea Island did not intentionally mislead the Corps in order to obtain a NWP 39, the fact remains that Sea Island has not constructed, and has no definitive plan to construct, an office building, despite the Corps verifying authorization. The Corps verification to act under NWP 39 explicitly stated that the "use of this NWP is valid only if (a) [t]he activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP."²⁵ Sea Island's use of the filled wetlands is neither in accordance with the information submitted, nor meets the conditions for issuance of a NWP 39.²⁶

The Corps' authorization letter also stated that, "[t]his verification is valid for a period of two years."²⁷ The two-year period for Sea Island to act under the terms and conditions of NWP 39 expired in 2015 without any construction that would justify the use of a general nationwide permit. Because Sea Island failed to comply with the two year authorization set by the Corps, it should have reapplied for authorization under NWP 39 or applied for an individual permit.

In its 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corp indicated that Sea Island's NWP 39 authorization extended to March 18, 2017, with an additional year to complete work, because the Savannah District had verified 2012 NWPs with this deadline. Even if this is an accurate interpretation of the expiration date,²⁸ Sea Island should have completed construction in March 2018. Again, this deadline has passed.

In the five years that Sea Island should have constructed the commercial complex, there has been no indication that the violation will ever be remedied. In fact, there is evidence to the contrary, demonstrating Sea Island's actual intent to maintain the property as is. We understand that the Corps viewed the site in question and was told the landscaping was "temporary grassing." However, Sea Island's Final Construction Plans for the Inn at Sea Island identifies the 0.49 acre of filled wetlands as "Ds4 – PERMANENT SODDING."²⁹ If Sea Island categorizes the work done on the wetlands as "permanent" then clearly it does not intend to ever comply with SAS-2013-00045, authorized under NWP 39.

As set forth above, the activity conducted at 100 Salt Marsh Lane is not in accordance with the information submitted to the Corps and does not meet the terms and conditions of NWP 39; thus, an ongoing and continuous violation exists and should be remedied upon receipt of this notice.

²⁵ February 2013 Authorization Letter.

²⁶ See also, 33 C.F.R. § 330.4(a): "A prospective permittee must satisfy all terms and conditions of an NWP for a valid authorization to occur," and 33 C.F.R. § 330.2(c): "Authorization means that specific activities that qualify for an NWP may proceed, provided that the terms and conditions of the NWP are met."

²⁷ February 2013 Authorization Letter.

²⁸ May 12, 2017, CESAS-OP-RB, MEMORANDUM FOR RECORD, SUBJECT: Department of the Army File SAS-2013-00045, Commercial Development by Sea Island Acquisition located off Sea Island Road and Frederica Road on St. Simons Island. We reserve the right to assert that this reading of the extended expiration date is incorrect.

²⁹ Final Construction Plans, Sheet C703, January 2013.

January 15, 2019
Page 6

c. *Summary of Sea Island's NWP 39 Violation and Remedy Sought*

In sum, Sea Island filled protected wetlands without constructing a commercial building to justify using NWP 39; the Preliminary Plat submitted to Glynn County before the NWP Pre-Construction Notification did not include the commercial building; the Final Plat submitted to and approved by Glynn County after the NWP verification did not include the commercial building; commercial building infrastructure was not installed before the filled area was graded and landscaped; utilities appear to be installed where there should be curb cuts; and the construction plans identify "PERMANENT SODDING" where wetlands were filled.

To remedy its ongoing and intentional NWP 39 violation, Sea Island must immediately either: (1) apply for an individual permit to fill the wetlands in question; (2) restore the filled wetland to its original condition; or (3) as a last resort, begin construction of the commercial building as presented to the Corps in compliance with the conditions of NWP 39 within thirty days.

IV. POTENTIAL LITIGATION: INTENT TO SUE

This letter is based on publicly available information. Additional information, including information in Sea Island's possession, may reveal other violations. This letter only addresses publicly identifiable violations related to Sea Island's continued failure to comply with NWP 39 at the Inn at Sea Island complex at Saint Simons Island, Georgia. This letter does not preclude GEC or the Center from making any additional claims.

Because GEC and the Center intend to sue, Sea Island is advised not to destroy any information or documents that are relevant to the allegations set forth above, including, but not limited to, environmental data, enforcement documents, regulatory filings, business plans, emails and other digital files, communications, photographs, videos, invoices, bills, and documents sent to or obtained from third parties hired by Sea Island. Sea Island's documents should be secured immediately to avoid spoliation.

V. IDENTITY AND ADDRESS OF PARTY GIVING NOTICE

a. *Glynn Environmental Coalition*

GEC is an environmental group committed to assuring a clean environment and healthy economy for citizens of coastal Georgia. GEC formed in 1990 by concerned citizens hoping to address the health-threatening pollution in Glynn County. The group is committed to protecting the environment of the community in which its members live and work. GEC's members rely on the organization to represent their interests through participation at public hearings on coastal Georgia environmental matters. GEC and its members were denied the opportunity for public participation relating to Sea Island's project because Sea Island circumvented the federal and local permitting requirements in order to obtain a general nationwide permit.

b. *The Center for a Sustainable Coast*

The Center was formed in 1997 by a group of environmental professionals and concerned citizens. The purpose of this non-profit organization is to improve the responsible use, protection, and conservation of coastal Georgia's resources – natural, historic, and economic. The Center's agenda includes protecting coastal wildlife, water quality, tidal marshes, and

January 15, 2019
Page 7

freshwater, as well as improving the transparency, impartiality, and accountability of governing agencies. Like GEC, the Center was denied the opportunity to participate in Sea Island's permitting process, as Sea Island intentionally skirted the individual permitting requirements.

c. Contact Information

GEC and the Center's contact information, as well as their counsel's contact information, is included below:

Rachael Thompson
Glynn Environmental Coalition
P.O. Box 2443
Brunswick, Georgia 31521

David C. Kyler
Center for a Sustainable Coast
221 Mallory Street, Suite B
Saint Simons Island, Georgia 31522

John Brunini
Butler Snow, LLP
P.O. Box 6010
Ridgeland, Mississippi 39158

VI. CONCLUSION

GEC and the Center hope Sea Island will take prompt action to remedy the violations identified in this notice letter. Please direct all correspondence to the undersigned counsel via the addresses and telephone numbers above.

Sincerely,

BUTLER SNOW LLP



John A. Brunini

cc: Andrew Wheeler
EPA – Office of Administrator
USEPA Headquarters

Mary Walker
Acting Administrator
U.S. EPA Region 4

Richard E. Dunn
Georgia Department of Natural Resources
Environmental Protection Division

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or PO Box No. *100 Cloister Drive*
City, State, ZIP+4
Sea Island, GA 31561
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<p>1. Article Addressed to: <i>Scott Steilen Chairman & CEO Sea Island Acquisition LLC 100 Cloister Drive Sea Island, GA 31561</i></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p> <p style="text-align: center;">7011 3500 0001 1131 2796</p>	<p>4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes</p>

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 or PO Box No. 2 Martin Luther King, Ste 1456
 City, State, ZIP+4
 Atlanta, GA 30334

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<p>1. Article Addressed to: Richard Dunn GA Dept of Natural Resources Env. Protection Div. 2 Martin Luther King Jr. Suite 1456, E. Tower Atlanta, GA 30334</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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 Richard E. Dunn
 Georgia Department of Natural Resources
 Environmental Protection Division
 2 Martin Luther King, Jr. Dr.
 Suite 1456, East Tower
 Atlanta, GA 30334

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US EPA Region 4
 Street, Apt. No.: Sam Nunn Atlanta Fed. Center
 or PO Box No. 61 Forsyth St. SW
 City, State, ZIP+4: Atlanta, GA 30303-8960

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Sam Nunn Atlanta Fed. Center
61 Forsyth St. SW
Atlanta, GA 30303-8960

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Total Postage & Fees	\$	

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 Street, Apt. No., William Jefferson Clinton Bldg.
 or PO Box No. 1200 Pennsylvania Ave NW
 City, State, ZIP+4 Washington, DC 20460
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mail code 1101A
Washington, DC 20460

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 Andrew Wheeler
 EPA - Office of Administrator
 USEPA Headquarters
 William Jefferson Clinton Building
 1200 Pennsylvania Ave., NW
 Mail Code 1101A
 Washington, DC 20460



January 25, 2019

Colonel Daniel Hibner
Savannah District Commander
U.S. Army Corps of Engineers
100 W. Oglethorpe Avenue
Savannah, GA 31401

Re: Notice of Intent to Sue for Violation of Clean Water Act

Colonel Hibner,

Please find enclosed Glynn Environmental Coalition and the Center for a Sustainable Coast's Notice of Intent to Sue Sea Island Acquisition, LLC for violations under the Clean Water Act. This Notice was previously sent to Scott Steilen, Chairman and CEO of Sea Island Acquisitions, LLC, as well as other parties pursuant to 40 C.F.R. § 135.2. This letter is provided to the U.S. Army Corps of Engineers, Savannah District for information purposes only. If you have any questions, please feel free to contact me at the number provided below.

Sincerely,

BUTLER SNOW LLP

John A. Brunini

JABR:mcb

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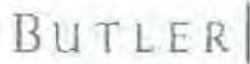
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4447
John.Brunini@butlersnow.com

Suite 1400
1020 Highland Colony Park
Ridgeland, Mississippi 39157

T 601.948.5711 • F 601.985.4500 • www.butlersnow.com

EXHIBIT G



January 15, 2019

Scott Steilen
Chairman and CEO
Sea Island Acquisition, LLC
100 Cloister Drive
Sea Island, GA 31561

RE: Notice of Intent to Sue for Violation of Clean Water Act

Dear Mr. Steilen,

This letter is submitted on behalf of Glynn Environmental Coalition (hereinafter "GEC") and the Center for a Sustainable Coast (hereinafter the "Center"), both of which are environmental advocacy groups committed to promoting responsible use of Georgia natural resources and sustainable economic growth. This letter serves as a sixty-day notice under the citizen suit provision of the Federal Water Pollution Control Act (Clean Water Act; 33 U.S.C. § 1344) (hereinafter "CWA"). This letter communicates the intent of GEC and the Center to sue Sea Island Acquisition, LLC (hereinafter "Sea Island") for violating Section 404 of the CWA, and specifically Nationwide Permit #39 (NWP 39), at the Inn at Sea Island complex at Saint Simons Island, Georgia. Specifically, Sea Island violated its NWP 39, SAS-2013-00045, issued for Sea Island's activities that impacted wetlands located at 100 Salt Marsh Lane, Saint Simons Island, Georgia.

Sea Island has violated the nationwide permit program under the CWA, specifically NWP 39, in the following respects:

1. Sea Island intentionally misled the Corps in its application for NWP 39 verification in order to circumvent CWA permitting guidelines; and
2. Sea Island has failed, and continues to fail, to act within the scope of NWP 39, which requires construction of a commercial development.

Neither the U.S. Environmental Protection Agency nor the U.S. Army Corps of Engineers (the "Corps") have prosecuted the violations detailed in this notice in a civil action. Further, Sea Island has failed to remedy these violations and remains out of compliance with NWP 39. Because Sea Island continues to violate the law and because Sea Island will continue its unlawful conduct until sufficiently deterred, GEC and the Center provide this letter pursuant to the notice requirements of the citizen suit provision of the CWA, 33 U.S.C. § 1365(b)(1)(A) and its implementing regulations, 40 C.F.R. §§ 135.2-135.3.

John A. Brunini
Executive Director

JOHN A. BRUNINI
404.395.4447
john.brunini@halebrunini.com

John A. Brunini
Executive Director
Hale Brunini & Associates, P.C.

January 15, 2019
Page 2

I. INTRODUCTION

Sea Island misused NWP 39 to accomplish the fill of 0.49 acres of wetlands under the ruse of constructing commercial development. NWP 39 is part of the nationwide permit program, which was created to streamline the permitting process for projects with similar activities and minimal impacts.¹ If the conditions of NWP 39 are not satisfied, an individual permit is required.²

a. *Nationwide Permits under Section 404 of the CWA*

Section 404 of the CWA prohibits the discharge of pollutants into waters of the United States, including wetlands, without a permit.³ The permit programs under Section 404 regulate the discharge of fill materials into U.S. waters. In order to fill wetlands, an applicant must either obtain an individual permit or act under a general or nationwide permit verified by the Corps. There are no exceptions to this requirement.⁴

The Corps may issue general permits, as opposed to individual permits, to approve activities that have minimal individual and cumulative adverse environmental effects. These general permits can be issued for no more than five years.⁵ A nationwide permit is a type of general permit that authorizes specific activities across the United States. Currently, the Corps has 52 existing nationwide permits.⁶

The basic premise of the Section 404 permit program is to prohibit discharge of dredged or fill materials into U.S. waters if a practicable alternative exists that is less damaging to the aquatic environment and surrounding ecosystem.⁷ In order to obtain either an individual or general permit, the applicant must show that steps have been taken to avoid impacts to wetlands.

NWP 39, which is the nationwide permit the Corps issued to Sea Island, is a specific nationwide permit under the Corps' general permitting authority, which allows for the discharge of dredged or fill material into non-tidal U.S. waters "for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures."⁸ Therefore, in order to fill wetlands under NWP 39, the Corps must verify that the applicant intends to build a commercial structure, as this is a common activity with recognized minimal environmental impact in light of the benefits gained through economic development.

If a project does not meet the requirements of a general permit, an individual permit is required.⁹ The Corps' evaluation of each individual permit application involves a thorough review of the potential environmental and socioeconomic effects of the proposed activity. There

¹ See 33 U.S.C. § 1344(e).

² See generally *id.*

³ See 33 U.S.C. § 1344.

⁴ See generally *id.*

⁵ See *id.*

⁶ See *Nationwide Permits Chronology and Related Materials*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/nationwide-permits-chronology-and-related-materials>.

⁷ See Section 404 Permit Program, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/section-404-permit-program>.

⁸ 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

⁹ See *supra* at n.7.

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Page 3

is also a public interest review process.¹⁰ For these reasons, obtaining an individual permit is a lengthier and more costly endeavor; thus, it is more efficient to obtain a general permit if one is available.

b. *Overview: Sea Island's Attempt to Circumvent Section 404 Permitting Requirements*

In an attempt to circumvent the individual permitting requirements, Sea Island submitted plans under NWP 39. If Sea Island submitted its plan to merely landscape the property, NWP 39 would have been denied, as this permit does not allow the fill of wetlands for the sole purpose of landscaping or sodding. In other words, if Sea Island submitted the plan it is currently acting under, sodding over the wetlands and landscaping, the Corps would not have discretion to verify the permit request. Had Sea Island submitted its true intention to the Corps, the Corps would have no alternative but to prohibit Sea Island's actions under NWP 39 and require an individual permit. Because the individual permit process is timely and more costly, Sea Island misled the Corps regarding its intentions and circumvented the Section 404 permitting process. Even if Sea Island's NWP 39 application was not intentionally misleading, the fact remains that it has failed to comply with the conditions of NWP 39. In either event, Sea Island should immediately remedy these ongoing violations in one of the following ways:

1. Apply for an individual permit to cover the acts actually undertaken on this site;
2. Restore the filled wetland to its original condition;
3. Or as a last resort, construct a commercial development in compliance with NWP 39 within thirty days.

II. SITE HISTORY

The wetland parcel in question is 0.49 acres and is located northeast and adjacent to a parking lot and entrance to the Inn at Sea Island.¹¹ On February 13, 2013 the Corps verified Sea Island's application under NWP 39 to fill wetlands in order to build a commercial development, which included the construction of an office building and parking lot.¹² Subsequently and during the construction of the Inn at Sea Island, this 0.49 acre wetland parcel was filled and landscaped to match the surrounding hotel grounds, but the construction of a commercial development on the site has not occurred to date, despite the Corps' authorization for Sea Island to act under NWP 39 for only two-years.¹³ Failure to construct on this property in accordance with the conditions of NWP 39, despite the already filled wetlands, constitutes an ongoing and continuous violation.¹⁴

¹⁰ *See id.*

¹¹ January 10, 2013, Nationwide Permit Application package from Resource and Land Consultants (on behalf of Sea Island Company; to U.S. Army Corps of Engineers, Savannah District. Reference #SAS-2013-000045. (hereinafter "January 2013 Application").

¹² February 20, 2013, Letter from the Savannah District, Corps of Engineers; to Sea Island Acquisitions, LLC. Regulatory Division Reference #SAS-2013-00045. (hereinafter "February 2013 Authorization Letter").

¹³ *See id.* *See also* Google Earth, imagery date: March 27, 2013.

¹⁴ *See* permit conditions required under NWP 39, at 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

January 15, 2019

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III. VIOLATION OF NWP 39

a. *Sea Island Intentionally Misled the Corps in its Application to Act Under NWP 39*

Sea Island's continued and well-documented failure (beyond the expiration date of the NWP 39 authorization) to construct a commercial development violates the conditions of NWP 39.¹⁵ Sea Island's NWP 39 application process began on January 10, 2013, when Sea Island submitted a request for authorization to fill 0.49 acres of wetlands. The project description was to construct a new office building.¹⁶ Further, pursuant to the terms of the Pre-Construction Notification, Sea Island submitted a sketch plan showing portions of a 12,000 square-foot administrative office building and accompanying parking lot within the 0.49 acres of wetlands.¹⁷

On February 20, 2013, the Corps verified authorization of the proposed activity under NWP 39.¹⁸ Wetlands were filled by the end of the following month.¹⁹ However, Sea Island has failed to construct any building or attendant structures on the filled area. Instead, the filled area has been used for landscaping between Sea Island Road and the Inn at Sea Island. This is not a use authorized by Nationwide Permit 39, which allows discharges of fill material only "for construction or expansion of commercial and industrial building foundations..."²⁰

Strong evidence exists that Sea Island never intended to comply with NWP 39, and only applied for a general nationwide permit to save time and money. The intent to mislead the Corps is evidenced by Sea Island's inconsistent applications relating to this site. When applying to the Corps, Sea Island submitted a sketch plan showing 12,000 square-feet of commercial development, as required under NWP General Condition 31(b).²¹ In contrast, a Preliminary Plat submitted to Glynn County before Sea Island made its NWP application showed no proposed building within the wetlands area. Indeed, a Final Plat filed by Sea Island *after* the NWP verification also did not show any commercial building or structure within the filled area, indicating Sea Island's intent to deceive, or at least mislead, the Corps.²²

The lack of curb cuts on the subject parcel further substantiates Sea Island's NWP 39 deception, illustrating that the entity never intended to comply with the nationwide permit. A sketch plan submitted to the Corps with the Pre-Construction Notification included curb cuts along Salt Marsh Lane into a parking lot next to the proposed office building. The construction plans and Final Plat filed with Glynn County, however, did not include any such curb cuts.²³

Salt Marsh Lane was cleared, graded, and paved after the wetlands were filled under NWP 39.²⁴ If Sea Island intended to construct an office complex and adjoining parking lot within the term of the nationwide permit, the curb cuts would have been designed into the paving project instead of just being shown on the sketch plan submitted to the Corps. It appears that

¹⁵ *Id.*

¹⁶ See January 2013 Application.

¹⁷ *Id.*

¹⁸ See February 2013 Authorization Letter.

¹⁹ See Google Earth, imagery date: March 27, 2013.

²⁰ 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

²¹ See January 2013 Application.

²² See Preliminary Plat, approved by Glynn County Island Planning Commission Nov. 20, 2012; and Plat, filed March 14, 2014, Glynn County Plat Book 32, Page 333.

²³ See *supra* n.11 and n.22.

²⁴ See Google Earth, imagery date: March 27, 2013.

January 15, 2019
Page 5

utilities were installed where the curb cuts would have been located. Sea Island's inconsistent submittals to federal and local agencies, coupled with its illogical curb designation if an office building were intended to be constructed, demonstrates Sea Island's intent to never meet the terms of NWP 39.

b. *Sea Island Continues to Violate its Authority to Act Under NWP 39*

Even if Sea Island did not intentionally mislead the Corps in order to obtain a NWP 39, the fact remains that Sea Island has not constructed, and has no definitive plan to construct, an office building, despite the Corps verifying authorization. The Corps verification to act under NWP 39 explicitly stated that the "use of this NWP is valid only if (a) [t]he activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP."²⁵ Sea Island's use of the filled wetlands is neither in accordance with the information submitted, nor meets the conditions for issuance of a NWP 39.²⁶

The Corps' authorization letter also stated that, "[t]his verification is valid for a period of two years."²⁷ The two-year period for Sea Island to act under the terms and conditions of NWP 39 expired in 2015 without any construction that would justify the use of a general nationwide permit. Because Sea Island failed to comply with the two year authorization set by the Corps, it should have reapplied for authorization under NWP 39 or applied for an individual permit.

In its 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corp indicated that Sea Island's NWP 39 authorization extended to March 18, 2017, with an additional year to complete work, because the Savannah District had verified 2012 NWPs with this deadline. Even if this is an accurate interpretation of the expiration date,²⁸ Sea Island should have completed construction in March 2018. Again, this deadline has passed.

In the five years that Sea Island should have constructed the commercial complex, there has been no indication that the violation will ever be remedied. In fact, there is evidence to the contrary, demonstrating Sea Island's actual intent to maintain the property as is. We understand that the Corps viewed the site in question and was told the landscaping was "temporary grassing." However, Sea Island's Final Construction Plans for the Inn at Sea Island identifies the 0.49 acre of filled wetlands as "Ds4 - PERMANENT SODDING."²⁹ If Sea Island categorizes the work done on the wetlands as "permanent" then clearly it does not intend to ever comply with SAS-2013-00045, authorized under NWP 39.

As set forth above, the activity conducted at 100 Salt Marsh Lane is not in accordance with the information submitted to the Corps and does not meet the terms and conditions of NWP 39; thus, an ongoing and continuous violation exists and should be remedied upon receipt of this notice.

²⁵ February 2013 Authorization Letter.

²⁶ See also, 33 C.F.R. § 330.4(a): "A prospective permittee must satisfy all terms and conditions of an NWP for a valid authorization to occur," and 33 C.F.R. § 330.2(c): "Authorization means that specific activities that qualify for an NWP may proceed, provided that the terms and conditions of the NWP are met."

²⁷ February 2013 Authorization Letter.

²⁸ May 12, 2017, CESAS-OP-RB, MEMORANDUM FOR RECORD, SUBJECT: Department of the Army File SAS-2013-00045, Commercial Development by Sea Island Acquisition located off Sea Island Road and Frederica Road on St. Simons Island. We reserve the right to assert that this reading of the extended expiration date is incorrect.

²⁹ Final Construction Plans, Sheet C703, January 2013.

January 15, 2019
Page 6

c. *Summary of Sea Island's NWP 39 Violation and Remedy Sought*

In sum, Sea Island filled protected wetlands without constructing a commercial building to justify using NWP 39; the Preliminary Plat submitted to Glynn County before the NWP Pre-Construction Notification did not include the commercial building; the Final Plat submitted to and approved by Glynn County after the NWP verification did not include the commercial building; commercial building infrastructure was not installed before the filled area was graded and landscaped; utilities appear to be installed where there should be curb cuts; and the construction plans identify "PERMANENT SODDING" where wetlands were filled.

To remedy its ongoing and intentional NWP 39 violation, Sea Island must immediately either: (1) apply for an individual permit to fill the wetlands in question; (2) restore the filled wetland to its original condition; or (3) as a last resort, begin construction of the commercial building as presented to the Corps in compliance with the conditions of NWP 39 within thirty days.

IV. POTENTIAL LITIGATION: INTENT TO SUE

This letter is based on publicly available information. Additional information, including information in Sea Island's possession, may reveal other violations. This letter only addresses publicly identifiable violations related to Sea Island's continued failure to comply with NWP 39 at the Inn at Sea Island complex at Saint Simons Island, Georgia. This letter does not preclude GEC or the Center from making any additional claims.

Because GEC and the Center intend to sue, Sea Island is advised not to destroy any information or documents that are relevant to the allegations set forth above, including, but not limited to, environmental data, enforcement documents, regulatory filings, business plans, emails and other digital files, communications, photographs, videos, invoices, bills, and documents sent to or obtained from third parties hired by Sea Island. Sea Island's documents should be secured immediately to avoid spoliation.

V. IDENTITY AND ADDRESS OF PARTY GIVING NOTICE

a. *Glynn Environmental Coalition*

GEC is an environmental group committed to assuring a clean environment and healthy economy for citizens of coastal Georgia. GEC formed in 1990 by concerned citizens hoping to address the health-threatening pollution in Glynn County. The group is committed to protecting the environment of the community in which its members live and work. GEC's members rely on the organization to represent their interests through participation at public hearings on coastal Georgia environmental matters. GEC and its members were denied the opportunity for public participation relating to Sea Island's project because Sea Island circumvented the federal and local permitting requirements in order to obtain a general nationwide permit.

b. *The Center for a Sustainable Coast*

The Center was formed in 1997 by a group of environmental professionals and concerned citizens. The purpose of this non-profit organization is to improve the responsible use, protection, and conservation of coastal Georgia's resources – natural, historic, and economic. The Center's agenda includes protecting coastal wildlife, water quality, tidal marshes, and

January 15, 2019
Page 7

freshwater, as well as improving the transparency, impartiality, and accountability of governing agencies. Like GEC, the Center was denied the opportunity to participate in Sea Island's permitting process, as Sea Island intentionally skirted the individual permitting requirements.

c. Contact Information

GEC and the Center's contact information, as well as their counsel's contact information, is included below:

Rachael Thompson
Glynn Environmental Coalition
P.O. Box 2443
Brunswick, Georgia 31521

David C. Kyler
Center for a Sustainable Coast
221 Mallory Street, Suite B
Saint Simons Island, Georgia 31522

John Brunini
Butler Snow, LLP
P.O. Box 6010
Ridgeland, Mississippi 39158

VI. CONCLUSION

GEC and the Center hope Sea Island will take prompt action to remedy the violations identified in this notice letter. Please direct all correspondence to the undersigned counsel via the addresses and telephone numbers above.

Sincerely,

BUTLER SNOW LLP


John A. Brunini

cc: Andrew Wheeler
EPA – Office of Administrator
USEPA Headquarters

Mary Walker
Acting Administrator
U.S. EPA Region 4

Richard E. Dunn
Georgia Department of Natural Resources
Environmental Protection Division



January 25, 2019

Kathy Hutcheson
Registered Agent
Sea Island Acquisition, LLC
351 Sea Island Road
St. Simon Island, GA 31522

Re: Notice of Intent to Sue for Violation of Clean Water Act

Ms. Hutcheson

Per 40 C.F.R. § 135.2, please find enclosed Glynn Environmental Coalition and the Center for a Sustainable Coast's Notice of Intent to Sue Sea Island Acquisition, LLC for violations under the Clean Water Act. This Notice was previously sent to Scott Steilen, Chairman and CEO of Sea Island Acquisitions, LLC. If you have any questions, please feel free to contact me at the number provided below.

Sincerely,

BUTLER SNOW LLP

A handwritten signature in blue ink, appearing to read "John A. Brunini".

John A. Brunini

JABR:mcb

45828103.v1

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January 15, 2019

Scott Steilen
Chairman and CEO
Sea Island Acquisition, LLC
100 Cloister Drive
Sea Island, GA 31561

RE: Notice of Intent to Sue for Violation of Clean Water Act

Dear Mr. Steilen,

This letter is submitted on behalf of Glynn Environmental Coalition (hereinafter "GEC") and the Center for a Sustainable Coast (hereinafter the "Center"), both of which are environmental advocacy groups committed to promoting responsible use of Georgia natural resources and sustainable economic growth. This letter serves as a sixty-day notice under the citizen suit provision of the Federal Water Pollution Control Act (Clean Water Act; 33 U.S.C. § 1344) (hereinafter "CWA"). This letter communicates the intent of GEC and the Center to sue Sea Island Acquisition, LLC (hereinafter "Sea Island") for violating Section 404 of the CWA, and specifically Nationwide Permit #39 (NWP 39), at the Inn at Sea Island complex at Saint Simons Island, Georgia. Specifically, Sea Island violated its NWP 39, SAS-2013-00045, issued for Sea Island's activities that impacted wetlands located at 100 Salt Marsh Lane, Saint Simons Island, Georgia.

Sea Island has violated the nationwide permit program under the CWA, specifically NWP 39, in the following respects:

1. Sea Island intentionally misled the Corps in its application for NWP 39 verification in order to circumvent CWA permitting guidelines; and
2. Sea Island has failed, and continues to fail, to act within the scope of NWP 39, which requires construction of a commercial development.

Neither the U.S. Environmental Protection Agency nor the U.S. Army Corps of Engineers (the "Corps") have prosecuted the violations detailed in this notice in a civil action. Further, Sea Island has failed to remedy these violations and remains out of compliance with NWP 39. Because Sea Island continues to violate the law and because Sea Island will continue its unlawful conduct until sufficiently deterred, GEC and the Center provide this letter pursuant to the notice requirements of the citizen suit provision of the CWA, 33 U.S.C. § 1365(b)(1)(A) and its implementing regulations, 40 C.F.R. §§ 135.2-135.3.

The Glynn Environmental
Coalition (GEC) (504) 945-4447

JOHN A. BRANNING
(411) 945-4447
john.branning@butlerstewart.com

Center for a Sustainable Coast
100 Cloister Drive
Sea Island, Georgia 31561

BY MAILING TO: BUTLERSTEWART.COM - 404.945.4447

BY MAILING TO: JAP

January 15, 2019

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I. INTRODUCTION

Sea Island misused NWP 39 to accomplish the fill of 0.49 acres of wetlands under the ruse of constructing commercial development. NWP 39 is part of the nationwide permit program, which was created to streamline the permitting process for projects with similar activities and minimal impacts.¹ If the conditions of NWP 39 are not satisfied, an individual permit is required.²

a. *Nationwide Permits under Section 404 of the CWA*

Section 404 of the CWA prohibits the discharge of pollutants into waters of the United States, including wetlands, without a permit.³ The permit programs under Section 404 regulate the discharge of fill materials into U.S. waters. In order to fill wetlands, an applicant must either obtain an individual permit or act under a general or nationwide permit verified by the Corps. There are no exceptions to this requirement.⁴

The Corps may issue general permits, as opposed to individual permits, to approve activities that have minimal individual and cumulative adverse environmental effects. These general permits can be issued for no more than five years.⁵ A nationwide permit is a type of general permit that authorizes specific activities across the United States. Currently, the Corps has 52 existing nationwide permits.⁶

The basic premise of the Section 404 permit program is to prohibit discharge of dredged or fill materials into U.S. waters if a practicable alternative exists that is less damaging to the aquatic environment and surrounding ecosystem.⁷ In order to obtain either an individual or general permit, the applicant must show that steps have been taken to avoid impacts to wetlands.

NWP 39, which is the nationwide permit the Corps issued to Sea Island, is a specific nationwide permit under the Corps' general permitting authority, which allows for the discharge of dredged or fill material into non-tidal U.S. waters "for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures."⁸ Therefore, in order to fill wetlands under NWP 39, the Corps must verify that the applicant intends to build a commercial structure, as this is a common activity with recognized minimal environmental impact in light of the benefits gained through economic development.

If a project does not meet the requirements of a general permit, an individual permit is required.⁹ The Corps' evaluation of each individual permit application involves a thorough review of the potential environmental and socioeconomic effects of the proposed activity. There

¹ See 33 U.S.C. § 1344(e).

² See generally *id.*

³ See 33 U.S.C. § 1344.

⁴ See generally *id.*

⁵ See *id.*

⁶ See *Nationwide Permits Chronology and Related Materials*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/nationwide-permits-chronology-and-related-materials>.

⁷ See Section 404 Permit Program, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, available at <https://www.epa.gov/cwa-404/section-404-permit-program>.

⁸ 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

⁹ See *supra* at n.7.

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is also a public interest review process.¹⁰ For these reasons, obtaining an individual permit is a lengthier and more costly endeavor; thus, it is more efficient to obtain a general permit if one is available.

b. *Overview: Sea Island's Attempt to Circumvent Section 404 Permitting Requirements*

In an attempt to circumvent the individual permitting requirements, Sea Island submitted plans under NWP 39. If Sea Island submitted its plan to merely landscape the property, NWP 39 would have been denied, as this permit does not allow the fill of wetlands for the sole purpose of landscaping or sodding. In other words, if Sea Island submitted the plan it is currently acting under, sodding over the wetlands and landscaping, the Corps would not have discretion to verify the permit request. Had Sea Island submitted its true intention to the Corps, the Corps would have no alternative but to prohibit Sea Island's actions under NWP 39 and require an individual permit. Because the individual permit process is timely and more costly, Sea Island misled the Corps regarding its intentions and circumvented the Section 404 permitting process. Even if Sea Island's NWP 39 application was not intentionally misleading, the fact remains that it has failed to comply with the conditions of NWP 39. In either event, Sea Island should immediately remedy these ongoing violations in one of the following ways:

1. Apply for an individual permit to cover the acts actually undertaken on this site;
2. Restore the filled wetland to its original condition;
3. Or as a last resort, construct a commercial development in compliance with NWP 39 within thirty days.

II. SITE HISTORY

The wetland parcel in question is 0.49 acres and is located northeast and adjacent to a parking lot and entrance to the Inn at Sea Island.¹¹ On February 13, 2013 the Corps verified Sea Island's application under NWP 39 to fill wetlands in order to build a commercial development, which included the construction of an office building and parking lot.¹² Subsequently and during the construction of the Inn at Sea Island, this 0.49 acre wetland parcel was filled and landscaped to match the surrounding hotel grounds, but the construction of a commercial development on the site has not occurred to date, despite the Corps' authorization for Sea Island to act under NWP 39 for only two-years.¹³ Failure to construct on this property in accordance with the conditions of NWP 39, despite the already filled wetlands, constitutes an ongoing and continuous violation.¹⁴

¹⁰ *See id.*

¹¹ January 10, 2013, Nationwide Permit Application package from Resource and Land Consultants (on behalf of Sea Island Company; to U.S. Army Corps of Engineers, Savannah District. Reference #SAS-2013-000045. (hereinafter "January 2013 Application").

¹² February 20, 2013, Letter from the Savannah District, Corps of Engineers; to Sea Island Acquisitions, LLC. Regulatory Division Reference #SAS-2013-00045. (hereinafter "February 2013 Authorization Letter").

¹³ *See id.* *See also* Google Earth, imagery date: March 27, 2013.

¹⁴ *See* permit conditions required under NWP 39, at 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

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III. VIOLATION OF NWP 39

a. *Sea Island Intentionally Misled the Corps in its Application to Act Under NWP 39*

Sea Island's continued and well-documented failure (beyond the expiration date of the NWP 39 authorization) to construct a commercial development violates the conditions of NWP 39.¹⁵ Sea Island's NWP 39 application process began on January 10, 2013, when Sea Island submitted a request for authorization to fill 0.49 acres of wetlands. The project description was to construct a new office building.¹⁶ Further, pursuant to the terms of the Pre-Construction Notification, Sea Island submitted a sketch plan showing portions of a 12,000 square-foot administrative office building and accompanying parking lot within the 0.49 acres of wetlands.¹⁷

On February 20, 2013, the Corps verified authorization of the proposed activity under NWP 39.¹⁸ Wetlands were filled by the end of the following month.¹⁹ However, Sea Island has failed to construct any building or attendant structures on the filled area. Instead, the filled area has been used for landscaping between Sea Island Road and the Inn at Sea Island. This is not a use authorized by Nationwide Permit 39, which allows discharges of fill material only "for construction or expansion of commercial and industrial building foundations..."²⁰

Strong evidence exists that Sea Island never intended to comply with NWP 39, and only applied for a general nationwide permit to save time and money. The intent to mislead the Corps is evidenced by Sea Island's inconsistent applications relating to this site. When applying to the Corps, Sea Island submitted a sketch plan showing 12,000 square-feet of commercial development, as required under NWP General Condition 31(b).²¹ In contrast, a Preliminary Plat submitted to Glynn County before Sea Island made its NWP application showed no proposed building within the wetlands area. Indeed, a Final Plat filed by Sea Island *after* the NWP verification also did not show any commercial building or structure within the filled area, indicating Sea Island's intent to deceive, or at least mislead, the Corps.²²

The lack of curb cuts on the subject parcel further substantiates Sea Island's NWP 39 deception, illustrating that the entity never intended to comply with the nationwide permit. A sketch plan submitted to the Corps with the Pre-Construction Notification included curb cuts along Salt Marsh Lane into a parking lot next to the proposed office building. The construction plans and Final Plat filed with Glynn County, however, did not include any such curb cuts.²³

Salt Marsh Lane was cleared, graded, and paved after the wetlands were filled under NWP 39.²⁴ If Sea Island intended to construct an office complex and adjoining parking lot within the term of the nationwide permit, the curb cuts would have been designed into the paving project instead of just being shown on the sketch plan submitted to the Corps. It appears that

¹⁵ *Id.*

¹⁶ See January 2013 Application.

¹⁷ *Id.*

¹⁸ See February 2013 Authorization Letter.

¹⁹ See Google Earth, imagery date: March 27, 2013.

²⁰ 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

²¹ See January 2013 Application.

²² See Preliminary Plat, approved by Glynn County Island Planning Commission Nov. 20, 2012; and Plat, filed March 14, 2014, Glynn County Plat Book 32, Page 333.

²³ See *supra* n.11 and n.22.

²⁴ See Google Earth, imagery date: March 27, 2013.

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utilities were installed where the curb cuts would have been located. Sea Island's inconsistent submittals to federal and local agencies, coupled with its illogical curb designation if an office building were intended to be constructed, demonstrates Sea Island's intent to never meet the terms of NWP 39.

b. *Sea Island Continues to Violate its Authority to Act Under NWP 39*

Even if Sea Island did not intentionally mislead the Corps in order to obtain a NWP 39, the fact remains that Sea Island has not constructed, and has no definitive plan to construct, an office building, despite the Corps verifying authorization. The Corps verification to act under NWP 39 explicitly stated that the "use of this NWP is valid only if (a) [t]he activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP."²⁵ Sea Island's use of the filled wetlands is neither in accordance with the information submitted, nor meets the conditions for issuance of a NWP 39.²⁶

The Corps' authorization letter also stated that, "[t]his verification is valid for a period of two years."²⁷ The two-year period for Sea Island to act under the terms and conditions of NWP 39 expired in 2015 without any construction that would justify the use of a general nationwide permit. Because Sea Island failed to comply with the two year authorization set by the Corps, it should have reapplied for authorization under NWP 39 or applied for an individual permit.

In its 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corp indicated that Sea Island's NWP 39 authorization extended to March 18, 2017, with an additional year to complete work, because the Savannah District had verified 2012 NWPs with this deadline. Even if this is an accurate interpretation of the expiration date,²⁸ Sea Island should have completed construction in March 2018. Again, this deadline has passed.

In the five years that Sea Island should have constructed the commercial complex, there has been no indication that the violation will ever be remedied. In fact, there is evidence to the contrary, demonstrating Sea Island's actual intent to maintain the property as is. We understand that the Corps viewed the site in question and was told the landscaping was "temporary grassing." However, Sea Island's Final Construction Plans for the Inn at Sea Island identifies the 0.49 acre of filled wetlands as "Ds4 – PERMANENT SODDING."²⁹ If Sea Island categorizes the work done on the wetlands as "permanent" then clearly it does not intend to ever comply with SAS-2013-00045, authorized under NWP 39.

As set forth above, the activity conducted at 100 Salt Marsh Lane is not in accordance with the information submitted to the Corps and does not meet the terms and conditions of NWP 39; thus, an ongoing and continuous violation exists and should be remedied upon receipt of this notice.

²⁵ February 2013 Authorization Letter.

²⁶ See also, 33 C.F.R. § 330.4(a): "A prospective permittee must satisfy all terms and conditions of an NWP for a valid authorization to occur," and 33 C.F.R. § 330.2(c): "Authorization means that specific activities that qualify for an NWP may proceed, provided that the terms and conditions of the NWP are met."

²⁷ February 2013 Authorization Letter.

²⁸ May 12, 2017, CESAS-OP-RB, MEMORANDUM FOR RECORD, SUBJECT: Department of the Army File SAS-2013-00045, Commercial Development by Sea Island Acquisition located off Sea Island Road and Frederica Road on St. Simons Island. We reserve the right to assert that this reading of the extended expiration date is incorrect.

²⁹ Final Construction Plans, Sheet C703, January 2013.

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c. Summary of Sea Island's NWP 39 Violation and Remedy Sought

In sum, Sea Island filled protected wetlands without constructing a commercial building to justify using NWP 39; the Preliminary Plat submitted to Glynn County before the NWP Pre-Construction Notification did not include the commercial building; the Final Plat submitted to and approved by Glynn County after the NWP verification did not include the commercial building; commercial building infrastructure was not installed before the filled area was graded and landscaped; utilities appear to be installed where there should be curb cuts; and the construction plans identify "PERMANENT SODDING" where wetlands were filled.

To remedy its ongoing and intentional NWP 39 violation, Sea Island must immediately either: (1) apply for an individual permit to fill the wetlands in question; (2) restore the filled wetland to its original condition; or (3) as a last resort, begin construction of the commercial building as presented to the Corps in compliance with the conditions of NWP 39 within thirty days.

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The Center was formed in 1997 by a group of environmental professionals and concerned citizens. The purpose of this non-profit organization is to improve the responsible use, protection, and conservation of coastal Georgia's resources – natural, historic, and economic. The Center's agenda includes protecting coastal wildlife, water quality, tidal marshes, and

January 15, 2019

Page 7

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Rachael Thompson
Glynn Environmental Coalition
P.O. Box 2443
Brunswick, Georgia 31521

David C. Kyler
Center for a Sustainable Coast
221 Mallory Street, Suite B
Saint Simons Island, Georgia 31522

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Ridgeland, Mississippi 39158

VI. CONCLUSION

GEC and the Center hope Sea Island will take prompt action to remedy the violations identified in this notice letter. Please direct all correspondence to the undersigned counsel via the addresses and telephone numbers above.

Sincerely,

BUTLER SNOW LLP


John A. Brunini

cc: Andrew Wheeler
EPA – Office of Administrator
USEPA Headquarters

Mary Walker
Acting Administrator
U.S. EPA Region 4

Richard E. Dunn
Georgia Department of Natural Resources
Environmental Protection Division



January 25, 2019

Lieutenant General Todd T. Semonite
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Re: Notice of Intent to Sue for Violation of Clean Water Act

Lt. General Semonite,

Please find enclosed Glynn Environmental Coalition and the Center for a Sustainable Coast's Notice of Intent to Sue Sea Island Acquisition, LLC for violations under the Clean Water Act. This Notice was previously sent to Scott Steilen, Chairman and CEO of Sea Island Acquisitions, LLC, as well as other parties pursuant to 40 C.F.R. § 135.2. This letter is provided to the U.S. Army Corps of Engineers for information purposes only. If you have any questions, please feel free to contact me at the number provided below.

Sincerely,

BUTLER SNOW LLP

A handwritten signature in blue ink, appearing to read "John A. Brunini".

John A. Brunini

JABR:mcb

45828319.v1

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January 15, 2019

Scott Steilen
Chairman and CEO
Sea Island Acquisition, LLC
100 Cloister Drive
Sea Island, GA 31561

RE: Notice of Intent to Sue for Violation of Clean Water Act

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January 15, 2019

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I. INTRODUCTION

Sea Island misused NWP 39 to accomplish the fill of 0.49 acres of wetlands under the ruse of constructing commercial development. NWP 39 is part of the nationwide permit program, which was created to streamline the permitting process for projects with similar activities and minimal impacts.¹ If the conditions of NWP 39 are not satisfied, an individual permit is required.²

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is also a public interest review process.¹⁰ For these reasons, obtaining an individual permit is a lengthier and more costly endeavor; thus, it is more efficient to obtain a general permit if one is available.

b. *Overview: Sea Island's Attempt to Circumvent Section 404 Permitting Requirements*

In an attempt to circumvent the individual permitting requirements, Sea Island submitted plans under NWP 39. If Sea Island submitted its plan to merely landscape the property, NWP 39 would have been denied, as this permit does not allow the fill of wetlands for the sole purpose of landscaping or sodding. In other words, if Sea Island submitted the plan it is currently acting under, sodding over the wetlands and landscaping, the Corps would not have discretion to verify the permit request. Had Sea Island submitted its true intention to the Corps, the Corps would have no alternative but to prohibit Sea Island's actions under NWP 39 and require an individual permit. Because the individual permit process is timely and more costly, Sea Island misled the Corps regarding its intentions and circumvented the Section 404 permitting process. Even if Sea Island's NWP 39 application was not intentionally misleading, the fact remains that it has failed to comply with the conditions of NWP 39. In either event, Sea Island should immediately remedy these ongoing violations in one of the following ways:

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The wetland parcel in question is 0.49 acres and is located northeast and adjacent to a parking lot and entrance to the Inn at Sea Island.¹¹ On February 13, 2013 the Corps verified Sea Island's application under NWP 39 to fill wetlands in order to build a commercial development, which included the construction of an office building and parking lot.¹² Subsequently and during the construction of the Inn at Sea Island, this 0.49 acre wetland parcel was filled and landscaped to match the surrounding hotel grounds, but the construction of a commercial development on the site has not occurred to date, despite the Corps' authorization for Sea Island to act under NWP 39 for only two-years.¹³ Failure to construct on this property in accordance with the conditions of NWP 39, despite the already filled wetlands, constitutes an ongoing and continuous violation.¹⁴

¹⁰ *See id.*

¹¹ January 10, 2013, Nationwide Permit Application package from Resource and Land Consultants (on behalf of Sea Island Company; to U.S. Army Corps of Engineers, Savannah District. Reference #SAS-2013-000045. (hereinafter "January 2013 Application").

¹² February 20, 2013, Letter from the Savannah District, Corps of Engineers; to Sea Island Acquisitions, LLC. Regulatory Division Reference #SAS-2013-00045. (hereinafter "February 2013 Authorization Letter").

¹³ *See id.* *See also* Google Earth, imagery date: March 27, 2013.

¹⁴ *See* permit conditions required under NWP 39, at 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

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III. VIOLATION OF NWP 39

a. *Sea Island Intentionally Misled the Corps in its Application to Act Under NWP 39*

Sea Island's continued and well-documented failure (beyond the expiration date of the NWP 39 authorization) to construct a commercial development violates the conditions of NWP 39.¹⁵ Sea Island's NWP 39 application process began on January 10, 2013, when Sea Island submitted a request for authorization to fill 0.49 acres of wetlands. The project description was to construct a new office building.¹⁶ Further, pursuant to the terms of the Pre-Construction Notification, Sea Island submitted a sketch plan showing portions of a 12,000 square-foot administrative office building and accompanying parking lot within the 0.49 acres of wetlands.¹⁷

On February 20, 2013, the Corps verified authorization of the proposed activity under NWP 39.¹⁸ Wetlands were filled by the end of the following month.¹⁹ However, Sea Island has failed to construct any building or attendant structures on the filled area. Instead, the filled area has been used for landscaping between Sea Island Road and the Inn at Sea Island. This is not a use authorized by Nationwide Permit 39, which allows discharges of fill material only "for construction or expansion of commercial and industrial building foundations..."²⁰

Strong evidence exists that Sea Island never intended to comply with NWP 39, and only applied for a general nationwide permit to save time and money. The intent to mislead the Corps is evidenced by Sea Island's inconsistent applications relating to this site. When applying to the Corps, Sea Island submitted a sketch plan showing 12,000 square-feet of commercial development, as required under NWP General Condition 31(b).²¹ In contrast, a Preliminary Plat submitted to Glynn County before Sea Island made its NWP application showed no proposed building within the wetlands area. Indeed, a Final Plat filed by Sea Island *after* the NWP verification also did not show any commercial building or structure within the filled area, indicating Sea Island's intent to deceive, or at least mislead, the Corps.²²

The lack of curb cuts on the subject parcel further substantiates Sea Island's NWP 39 deception, illustrating that the entity never intended to comply with the nationwide permit. A sketch plan submitted to the Corps with the Pre-Construction Notification included curb cuts along Salt Marsh Lane into a parking lot next to the proposed office building. The construction plans and Final Plat filed with Glynn County, however, did not include any such curb cuts.²³

Salt Marsh Lane was cleared, graded, and paved after the wetlands were filled under NWP 39.²⁴ If Sea Island intended to construct an office complex and adjoining parking lot within the term of the nationwide permit, the curb cuts would have been designed into the paving project instead of just being shown on the sketch plan submitted to the Corps. It appears that

¹⁵ *Id.*

¹⁶ See January 2013 Application.

¹⁷ *Id.*

¹⁸ See February 2013 Authorization Letter.

¹⁹ See Google Earth, imagery date: March 27, 2013.

²⁰ 77 Federal Register 10184-01, 10279 (Feb. 21, 2012).

²¹ See January 2013 Application.

²² See Preliminary Plat, approved by Glynn County Island Planning Commission Nov. 20, 2012; and Plat, filed March 14, 2014, Glynn County Plat Book 32, Page 333.

²³ See *supra* n.11 and n.22.

²⁴ See Google Earth, imagery date: March 27, 2013.

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utilities were installed where the curb cuts would have been located. Sea Island's inconsistent submittals to federal and local agencies, coupled with its illogical curb designation if an office building were intended to be constructed, demonstrates Sea Island's intent to never meet the terms of NWP 39.

b. *Sea Island Continues to Violate its Authority to Act Under NWP 39*

Even if Sea Island did not intentionally mislead the Corps in order to obtain a NWP 39, the fact remains that Sea Island has not constructed, and has no definitive plan to construct, an office building, despite the Corps verifying authorization. The Corps verification to act under NWP 39 explicitly stated that the "use of this NWP is valid only if (a) [t]he activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP."²⁵ Sea Island's use of the filled wetlands is neither in accordance with the information submitted, nor meets the conditions for issuance of a NWP 39.²⁶

The Corps' authorization letter also stated that, "[t]his verification is valid for a period of two years."²⁷ The two-year period for Sea Island to act under the terms and conditions of NWP 39 expired in 2015 without any construction that would justify the use of a general nationwide permit. Because Sea Island failed to comply with the two year authorization set by the Corps, it should have reapplied for authorization under NWP 39 or applied for an individual permit.

In its 2017 Memorandum for Record re Department of the Army File SAS-2013-00045, the Corp indicated that Sea Island's NWP 39 authorization extended to March 18, 2017, with an additional year to complete work, because the Savannah District had verified 2012 NWPs with this deadline. Even if this is an accurate interpretation of the expiration date,²⁸ Sea Island should have completed construction in March 2018. Again, this deadline has passed.

In the five years that Sea Island should have constructed the commercial complex, there has been no indication that the violation will ever be remedied. In fact, there is evidence to the contrary, demonstrating Sea Island's actual intent to maintain the property as is. We understand that the Corps viewed the site in question and was told the landscaping was "temporary grassing." However, Sea Island's Final Construction Plans for the Inn at Sea Island identifies the 0.49 acre of filled wetlands as "Ds4 – PERMANENT SODDING."²⁹ If Sea Island categorizes the work done on the wetlands as "permanent" then clearly it does not intend to ever comply with SAS-2013-00045, authorized under NWP 39.

As set forth above, the activity conducted at 100 Salt Marsh Lane is not in accordance with the information submitted to the Corps and does not meet the terms and conditions of NWP 39; thus, an ongoing and continuous violation exists and should be remedied upon receipt of this notice.

²⁵ February 2013 Authorization Letter.

²⁶ See also, 33 C.F.R. § 330.4(a): "A prospective permittee must satisfy all terms and conditions of an NWP for a valid authorization to occur," and 33 C.F.R. § 330.2(c): "Authorization means that specific activities that qualify for an NWP may proceed, provided that the terms and conditions of the NWP are met."

²⁷ February 2013 Authorization Letter.

²⁸ May 12, 2017, CESAS-OP-RB, MEMORANDUM FOR RECORD, SUBJECT: Department of the Army File SAS-2013-00045, Commercial Development by Sea Island Acquisition located off Sea Island Road and Frederica Road on St. Simons Island. We reserve the right to assert that this reading of the extended expiration date is incorrect.

²⁹ Final Construction Plans, Sheet C703, January 2013.

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c. Summary of Sea Island's NWP 39 Violation and Remedy Sought

In sum, Sea Island filled protected wetlands without constructing a commercial building to justify using NWP 39; the Preliminary Plat submitted to Glynn County before the NWP Pre-Construction Notification did not include the commercial building; the Final Plat submitted to and approved by Glynn County after the NWP verification did not include the commercial building; commercial building infrastructure was not installed before the filled area was graded and landscaped; utilities appear to be installed where there should be curb cuts; and the construction plans identify "PERMANENT SODDING" where wetlands were filled.

To remedy its ongoing and intentional NWP 39 violation, Sea Island must immediately either: (1) apply for an individual permit to fill the wetlands in question; (2) restore the filled wetland to its original condition; or (3) as a last resort, begin construction of the commercial building as presented to the Corps in compliance with the conditions of NWP 39 within thirty days.

IV. POTENTIAL LITIGATION: INTENT TO SUE

This letter is based on publicly available information. Additional information, including information in Sea Island's possession, may reveal other violations. This letter only addresses publicly identifiable violations related to Sea Island's continued failure to comply with NWP 39 at the Inn at Sea Island complex at Saint Simons Island, Georgia. This letter does not preclude GEC or the Center from making any additional claims.

Because GEC and the Center intend to sue, Sea Island is advised not to destroy any information or documents that are relevant to the allegations set forth above, including, but not limited to, environmental data, enforcement documents, regulatory filings, business plans, emails and other digital files, communications, photographs, videos, invoices, bills, and documents sent to or obtained from third parties hired by Sea Island. Sea Island's documents should be secured immediately to avoid spoliation.

V. IDENTITY AND ADDRESS OF PARTY GIVING NOTICE

a. Glynn Environmental Coalition

GEC is an environmental group committed to assuring a clean environment and healthy economy for citizens of coastal Georgia. GEC formed in 1990 by concerned citizens hoping to address the health-threatening pollution in Glynn County. The group is committed to protecting the environment of the community in which its members live and work. GEC's members rely on the organization to represent their interests through participation at public hearings on coastal Georgia environmental matters. GEC and its members were denied the opportunity for public participation relating to Sea Island's project because Sea Island circumvented the federal and local permitting requirements in order to obtain a general nationwide permit.

b. The Center for a Sustainable Coast

The Center was formed in 1997 by a group of environmental professionals and concerned citizens. The purpose of this non-profit organization is to improve the responsible use, protection, and conservation of coastal Georgia's resources – natural, historic, and economic. The Center's agenda includes protecting coastal wildlife, water quality, tidal marshes, and

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Page 7

freshwater, as well as improving the transparency, impartiality, and accountability of governing agencies. Like GEC, the Center was denied the opportunity to participate in Sea Island's permitting process, as Sea Island intentionally skirted the individual permitting requirements.

c. Contact Information

GEC and the Center's contact information, as well as their counsel's contact information, is included below:

Rachael Thompson
Glynn Environmental Coalition
P.O. Box 2443
Brunswick, Georgia 31521

David C. Kyler
Center for a Sustainable Coast
221 Mallory Street, Suite B
Saint Simons Island, Georgia 31522


John Brunini
Butler Snow, LLP
P.O. Box 6010
Ridgeland, Mississippi 39158

VI. CONCLUSION

GEC and the Center hope Sea Island will take prompt action to remedy the violations identified in this notice letter. Please direct all correspondence to the undersigned counsel via the addresses and telephone numbers above.

Sincerely,


BUTLER SNOW LLP


John/A. Brunini

cc: Andrew Wheeler
EPA – Office of Administrator
USEPA Headquarters

Mary Walker
Acting Administrator
U.S. EPA Region 4

Richard E. Dunn
Georgia Department of Natural Resources
Environmental Protection Division

Vanderbilt
SAS-2013-00045
1/14/13 

10 January 2013

U.S. Army Corps of Engineers
Savannah District
Attn: Ms. Kim Garvey
100 West Oglethorpe Avenue
Savannah, Georgia 31402-0889

**Subject: Expanded Preliminary JD and PCN (NWP #39)
Sea Island Administrative Site
Glynn County, Georgia**

RLC# 12-111

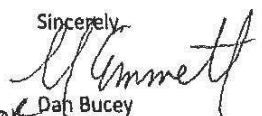
Dear Ms. Garvey:

Resource & Land Consultants (RLC), on behalf of the Sea Island Acquisition c/o Oaktree Capital Management, is submitting the attached information requesting a jurisdictional determination for the subject site located south of Sea Island Road and west of Frederica Road on St. Simons Island, Glynn County, Georgia (31.183693°, -81.383453°). The delineation was completed in accordance with the Coastal Marshlands Protection Act (CMPA) of 1970 and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region Version 2.

The attached information includes a copy of the U.S. Geological Survey for the Brunswick and Sea Island Quadrangles with the project limits depicted, the National Wetlands Inventory Map for the Brunswick and Sea Island Quadrangles with the project limits depicted, a 1999 CIR aerial photograph with the project limits depicted, the NRCS Soils Survey for Glynn County with project limits, 2010 Ortho Photograph for Glynn County, and associated data sheets. Based on our site assessment and delineation, it is our opinion that the 9.955 acre tract contains 8.174 acres of upland, 1.361 acres of freshwater wetland, and 0.420 acres of tidal wetlands. RLC is requesting written verification of the delineated boundary.

In addition to the jurisdictional determination, the applicant is seeking authorization under Nationwide Permit #39 for 0.49 acre of fill on parcel contained within subject site. The proposed project will involve the construction of a new office building and attendant features. As a result of the required 0.49 acre fill, the applicant will purchase 3.48 mitigation credits from either the Wilkinson-Oconee Mitigation Bank. The attached supplemental information for the NWP #39 includes a copy of the U.S. Geological Survey for the Brunswick and Sea Island Quadrangles with the project limits depicted, the National Wetlands Inventory Map for the Brunswick and Sea Island Quadrangles with the project limits depicted, a 1999 CIR aerial photograph with the project limits depicted, the NRCS Soils Survey for Glynn County with project limits, 2010 Ortho Photograph for Glynn County, a Pre-construction Notification Form, a Pre-construction Notification Checklist, General and Regional Conditions summary, permit exhibits, Cultural Resource listings for Glynn County, and the Threatened and Endangered species listings for Glynn County.

We greatly appreciate your assistance with this project. If you have any questions or require any additional information prior to scheduling a site visit, please do not hesitate to contact us at (912) 443-5896.

Sincerely,

Dan Bucey
Principal
Resource & Land Consultants

cc: Mr. Vassa Cate – Sea Island Acquisition, LLC

RECEIVED
JAN 11 2013
BY: CESAS-RD *MS*

RESOURCE + LAND
CONSULTANTS
41 Park of Commerce Way, Ste. 303 / Savannah, Georgia 31405
(912) 443-5896 • (912) 443-5898 www.rlandc.com

EXHIBIT H

**PRE-CONSTRUCTION NOTIFICATION (PCN) CHECKLIST
FOR NATIONWIDE PERMITS**

1. Attached A completed Pre-Construction Notification Form, which should include the following information:

a. Attached Use of NWP #'s (out of NWPs 1-50, which permits are being requested at this time?) **NWP #39**

b. Attached Applicant's complete contact information.

Sea Island Acquisition LLC
C/O Oaktree Capital Management LLC
Attn: Mr. Vassa Cate
100 Salt Marsh Lane
St. Simons Island, Georgia 31522

c. Attached Agent/Consultant's complete contact information.

Resource and Land Consultants
Attn: Dan Bucey
41 Park of Commerce Way, Suite 303
Savannah, GA 31405

d. Attached Project location information (coordinate information should be provided in degrees-minutes-seconds or decimal degrees format).

The subject property is located south of Sea Island Road, +/- 1900 feet west of Frederica Road, and east of Salt Marsh Drive in St. Simons Island, Glynn County, south Georgia (31.183693°, -81.383453°).

e. Attached Project description (Describe current site conditions; types of waters of the US; proposed plans; type(s) of equipment utilized; type(s) of fill material being used; methods/techniques to perform proposed work; compensatory mitigation plan; restoration plan (for temporary impacts); alternative site plans; avoidance/minimization measures; use and types of culverts; etc. Use additional pages, if necessary.)

See the attached project description.

f. Information on project area and impacts to waters of the US:

	PROJECT AREA		IMPACTS TO US WATERS	
	ACRES	LINEAR FEET	ACRES	LINEAR FEET
TOTAL PROJECT AREA	1.29	N/A	N/A	N/A
UPLAND	0.8	N/A	N/A	N/A
WETLAND	0.49	N/A	0.49	N/A
OPEN WATER	N/A	N/A	N/A	N/A
PERENNIAL STREAM	N/A	N/A	N/A	N/A
INTERMITTENT STREAM	N/A	N/A	N/A	N/A
EPIHEMERAL STREAM	N/A	N/A	N/A	N/A
MAN-MADE DITCHES	N/A	N/A	N/A	N/A

g. Attached Wetland/Stream Impact Avoidance/Minimization (A discussion of why further measures to avoid/minimize impacts to the aquatic ecosystem are not practicable.)

h. Attached Water Quality Management Plan Statement (A statement regarding whether the city, county or state requires a water quality management plan for the project site prior to construction.) **Compensatory mitigation will be required for the 0.49 acre of fill associated with the proposed project. A total of 3.48 mitigation credits will be purchased from Wilkinson-Oconee Mitigation Bank prior to construction of the proposed project.**

**PRE-CONSTRUCTION NOTIFICATION (PCN) CHECKLIST
FOR NATIONWIDE PERMITS**

i. Attached Floodplain Management Statement (A statement that the project would comply with any applicable Federal Emergency Management Administration-approved state or local floodplain management requirements. Information regarding this floodplain management can be found at: www.fema.gov/.) **The project will comply with all state and federal regulations.**

j. Attached Maps, Drawings and Other Supplemental Information Regarding the Proposed Project (Maps/Drawings of the project site, which should clearly identify the limits of the property and/or project boundaries. At a minimum, the application should include the following supplemental information.)

Attached Location map, depicting nearby major landmarks (i.e., intersection or roadway)

Attached Map of wetlands or other waters on the subject property

Attached Impacts to waters of the US map. Impact areas should be annotated in sequential order to simplify the identification of specific waters (for example: Wetlands 1, 2, 3, etc.; or Stream A, Wetland B, Stream C, etc.).

Impact amounts should also be provided on this map, with wetlands in acreages & streams in linear feet.

Temporary vs. permanent impacts should be specified on the drawings.

Attached USDA/NRCS County soils map (Glynn County, Georgia; 1:12,000)

Attached USGS 7.5-minute topographic map (Brunswick and Sea Island Quadrangles; 1:24,000)

Attached National wetlands inventory map (Savannah Quadrangle; 1:12,000)

Attached Aerial photography (Brunswick and Sea Island Quadrangles; 1:12,000)

Attached Plan-view drawings & cross-section drawings of the proposed work

Attached Conceptual site plans, showing proposed placement of fill material and associated infrastructure

N/A Information regarding proposed temporary impacts & a restoration plan, discussing timeframes for replacement of fill material.

Attached Request for Jurisdictional Determination Form, if applicable, and a jurisdictional delineation of on-site waters for NWP's 7, 12, 14, 18, 21, 27, 29, 31, 34, 38, 39, 41, 42, and 43

1. N/A A completed copy of the State of Georgia Revocable License Request. A revocable license is required if the project would be located within State-regulated tidal waters. Otherwise, our office should be provided with confirmation from the Georgia Department of Natural Resources, Coastal Resources Division (Georgia CRD) that a revocable license is not required.

2. No Is a Georgia Stream Buffer Variance required for this project? Attach a copy of your Stream Buffer Variance application or a copy of your cover letter being sent to the Georgia Department of Natural Resources, Environmental Protection Division (Georgia EPD).

3. No Are federally protected species present on the project area? A statement regarding the presence of endangered species should be included with your PCN Form (your narrative should include the name of the website checked, a website printout, and/or a survey report). Information regarding federally protected species can be reviewed at the following website: http://athens.fws.gov/endangered/counties_endangered.html. See **Attached information**.

4. No Are cultural resources located on or near the project area? A statement regarding the presence of cultural resources should be included with your PCN Form (your narrative should include the name of the website checked, a website printout, and/or a survey report). Information regarding cultural resources can be reviewed at the following websites: <http://www.nr.nps.gov/>, <http://www.nationalregisterofhistoricplaces.com/state.html>, or <https://www.itos.uga.edu/nahrgis/>. (NRHP listing attached)

5. Yes Is compensatory mitigation required? If the proposed impacts would result in the loss of greater than 0.10-acre of wetlands and/or 100 linear feet of stream channel, compensatory mitigation would be required. A mitigation plan and/or statement must be included with your application. Information and worksheets regarding

**PRE-CONSTRUCTION NOTIFICATION (PCN) CHECKLIST
FOR NATIONWIDE PERMITS**

compensatory mitigation can be reviewed at the following website:
<http://www.sas.usace.army.mil/regulatory/compensatory.html>.

6. No Is the project area located in a 303(D) listed stream? The name of the 303(D) listed stream should be provided. Information regarding 303(D) listed stream channels can be reviewed at the following website: www.epa.gov/surf/.

7. No Is the project area located in a trout stream? The name of the trout stream should be provided. Information regarding trout streams can be reviewed at the following website: www.dnr.state.ga.us.

8. No Are culverts proposed in streams and/or wetlands? The following information on culverts should be provided in your project description, as well as on all drawings provided. NOTE: For any crossing of a perennial stream where the use of a culvert is proposed, an alternatives analysis must be prepared and submitted with the pre-construction notification form. The analysis must document why the use of an arch-span, bottomless culvert or bridging would not be a practicable alternative. If use of a multi-barrel pipe culvert is proposed, the analysis must also provide an explanation as to why a box culvert cannot be used. At a minimum, please provide the following information with your submittal:

- a. N/A Culvert type; (no perennial stream crossing proposed)
- b. N/A Culvert size; (no perennial stream crossing proposed)
- c. N/A Depth to which culvert will be embedded;
- d. N/A Culvert design, if multi-barreled; and
- e. N/A Floodplain culverting, if required.

9. No Any in-stream/wetland storm water management? The following information should be provided:

- a. N/A A clear statement of the basic (primary) purpose of the detention/retention facility.
- b. N/A A description of the upland-based facility/system that will be utilized to pre-treat storm water prior to discharge into the in-stream/wetland detention/retention facility.
- c. N/A A detailed alternatives analysis pursuant to the Section 404(b)(1) Guidelines of the Clean Water Act. This analysis must demonstrate that all other available stormwater and sediment/erosion treatment controls will be implemented and that in-stream detention/retention is the available practicable alternative available that would meet the basic project purpose. This analysis should also include all project site specific factors that may render other stormwater detention/retention measures impractical, such as: steep slopes; rock substrate; narrow floodplain; and pre-existing development.

10. No Will the project be phased (additional wetland/stream impacts in the future)?

11. No Have authorized wetland/stream impacts occurred in the project area?

12. No Have unauthorized wetland/stream impacts occurred in the project area?

13. No Is a request for waiver of the 300-foot stream impact limit included?

14. Yes Is the project area located within 5 miles of the airport?

15. No Is the project area in a USEPA Priority Watershed? Information regarding Priority Watersheds can be found at the following website: www.epa.gov/region4/water/watersheds/priority.htm#FL.

**US ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
2012 PRE-CONSTRUCTION NOTIFICATION (PCN) FORM
FOR USE OF CERTAIN NATIONWIDE PERMITS (NWP)**

USE OF NWP NUMBER(s) 39 Date 1/8/2013

APPLICANT/PROPERTY OWNER Sea Island Acquisition LLC C/O Oaktree Capital Management

Phone(hm/bus) _____ FAX _____ E-Mail _____

Address 100 Salt Marsh lane City St. Simons Island State GA Zip Code 31522

AGENT/CONSULTANT Resource and Land Consultants Attn: Dan Bucey

Phone(hm/bus) 912-443-5896 FAX 912-443-5898 E-Mail dbucey@rlandc.com

Address 41 Park of Commerce Way 303 City Savannah State GA Zip Code 31405

PROJECT LOCATION/ADDRESS South east quadrant of Sea Island Road and E Salt Marsh Drive

City St. Simons Island County Glynn Subdivision _____ Lot _____

Latitude 31.183693 Longitude -81.383453 Hydrologic Map Cataloging Unit 03070203

Nearest Named Stream, River or Other Waterbody Dunbar Creek Marshes

PROJECT DESCRIPTION Construct a new office building on subject lot.

PROJECT AREA AND IMPACT INFORMATION

	PROJECT AREA		IMPACTS TO US WATERS	
	ACRES	LINEAR FEET	ACRES	LINEAR FEET
TOTAL PROJECT AREA	1.29	N/A	N/A	N/A
UPLAND	0.8	N/A	N/A	N/A
WETLAND	0.49	N/A	0.49	N/A
OPEN WATER		N/A		N/A
PERENNIAL STREAM				
INTERMITTENT STREAM				
EPHEMERAL STREAM				
MAN-MADE DITCHES				

WETLAND/STREAM IMPACT AVOIDANCE/MINIMIZATION (RC C.3)

The proposed project has been designed to avoid and minimize impacts to the maximum extent practicable while still achieving the overall projects goals. Retaining walls will be constructed to reduce overall footprint of the project in the wetlands.

WATER QUALITY MANAGEMENT PLAN STATEMENT (RC C.7) The project will comply with all State and local water quality management regulations.

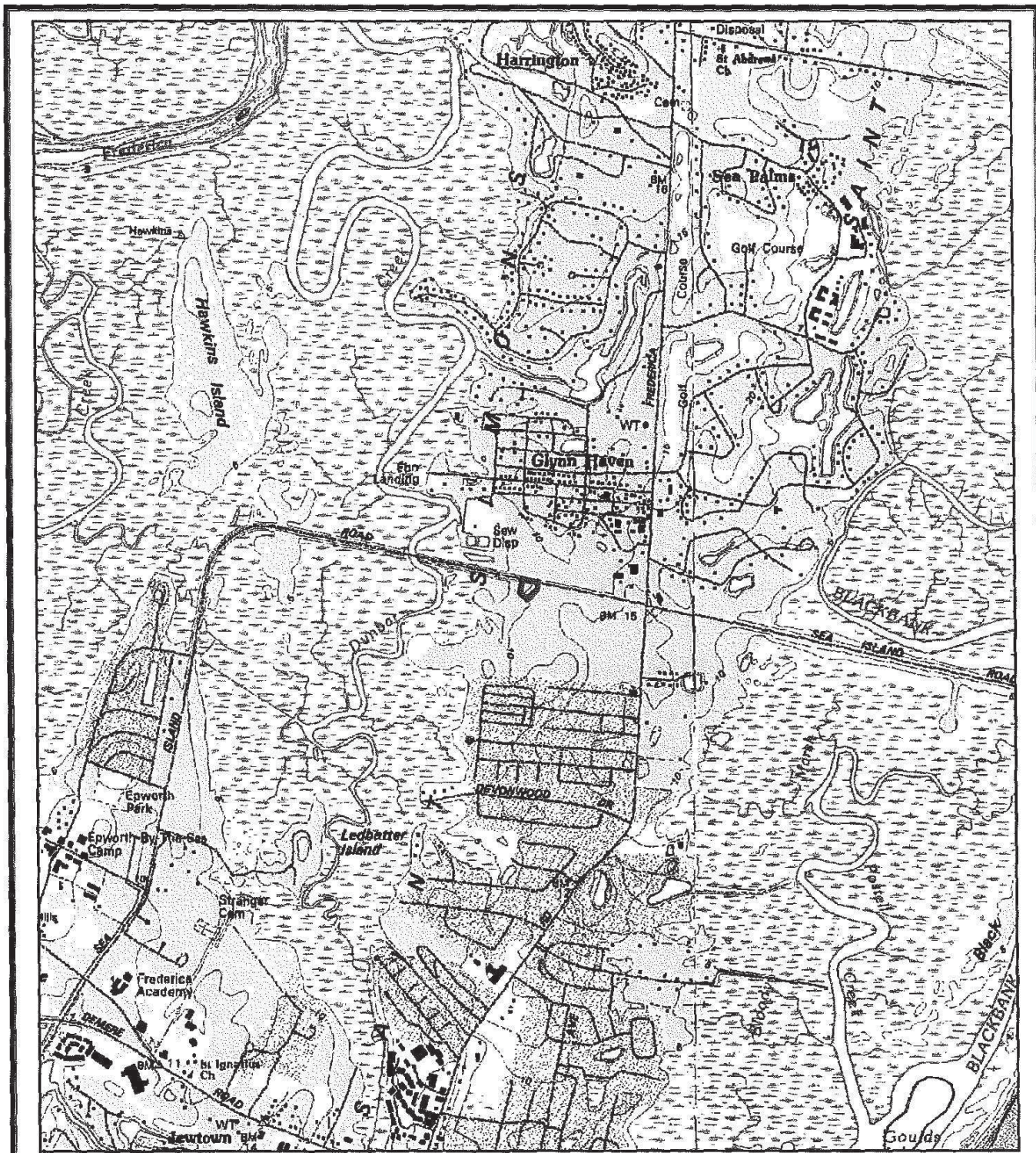
FLOODPLAIN MANAGEMENT STATEMENT (RC C.8) The proposed project is located within the 100-year floodplain.

MAPS, DRAWINGS AND OTHER SUPPLEMENTAL INFORMATION. For the following questions include information with the PCN necessary to adequately comply with the referenced RC or explain/address the answer provided.

- | | | | | |
|---|-----|-------------------------------------|----|-------------------------------------|
| 1. PCN submitted to the Georgia EPD? (RC A and Appendix A) | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> |
| 2. PCN submitted to the Georgia CRD? (RC A and Appendix A) | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> |
| | N/A | | | <input type="checkbox"/> |
| 3. Has Georgia EPD or the appropriate Local Issuing Authority (LIA) determined whether or not a buffer variance is required for the project? (RC A and Appendix A) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 4. Are federally protected species present on the project area? (RC C.4) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 5. Will EFH be impacted by the project? (RC C.5) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 6. Are cultural resources located on or near the project area? (RC C.6) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 7. Is the project area located in, adjacent to, or upstream and within 10 linear miles of a 303(d) listed water? (RC C.9) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 8. Is the project area located in or adjacent to a trout stream? (RC C.10) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 9. Is compensatory mitigation required? (RCs C.11 and F.1-9) | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> |
| 10. Are culverts proposed in streams and/or wetlands? (RC C.12 and E.1-8) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 11. In-stream/wetland storm water management proposed? (RC C.13) | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 12. Will the project be phased (additional wetland/stream impacts in the future)? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 13. Have authorized wetland/stream impacts occurred in the project area? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 14. Have unauthorized wetland/stream impacts occurred in the project area? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |
| 15. Is the project area located within 5 miles of an airport? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> |
| 16. Is the project area in a USEPA Priority Watershed?
http://www.epa.gov/region4/water/watersheds/priority.html | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> |

IMPORTANT NOTES:

1. Refer to Section "C" of the Savannah District 2012 Nationwide Permit Regional Conditions for a complete list of all information that must be submitted as an attachment to this PCN.
2. All maps and drawings that are attached to this PCN must be submitted on 8 1/2 X 11-inch paper. Supplemental maps and drawings larger than 8 1/2 X 11 may also be submitted for clarity.



 PROJECT LIMITS

USGS TOPOGRAPHIC SURVEY
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

MAP SCALE : 1 INCH = 2000 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

SEA ISLAND ADMINISTRATION SITE
GLYNN COUNTY, GEORGIA

PREPARED FOR:
SEA ISLAND ACQUISITION, LLC

0 1,000 2,000 4,000 Feet



RESOURCE+LAND
CONSULTANTS

 41 Park of Commerce Way, Ste. 303
Savannah, Georgia 31405
912.443.5896 www.rlandc.com



PROJECT LIMITS

ORTHO PHOTOGRAPH; 2010
GLYNN COUNTY, GEORGIA

DATE: 13 DECEMBER 2012

MAP SCALE : 1 INCH = 250 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

SEA ISLAND ADMINISTRATION SITE
GLYNN COUNTY, GEORGIA

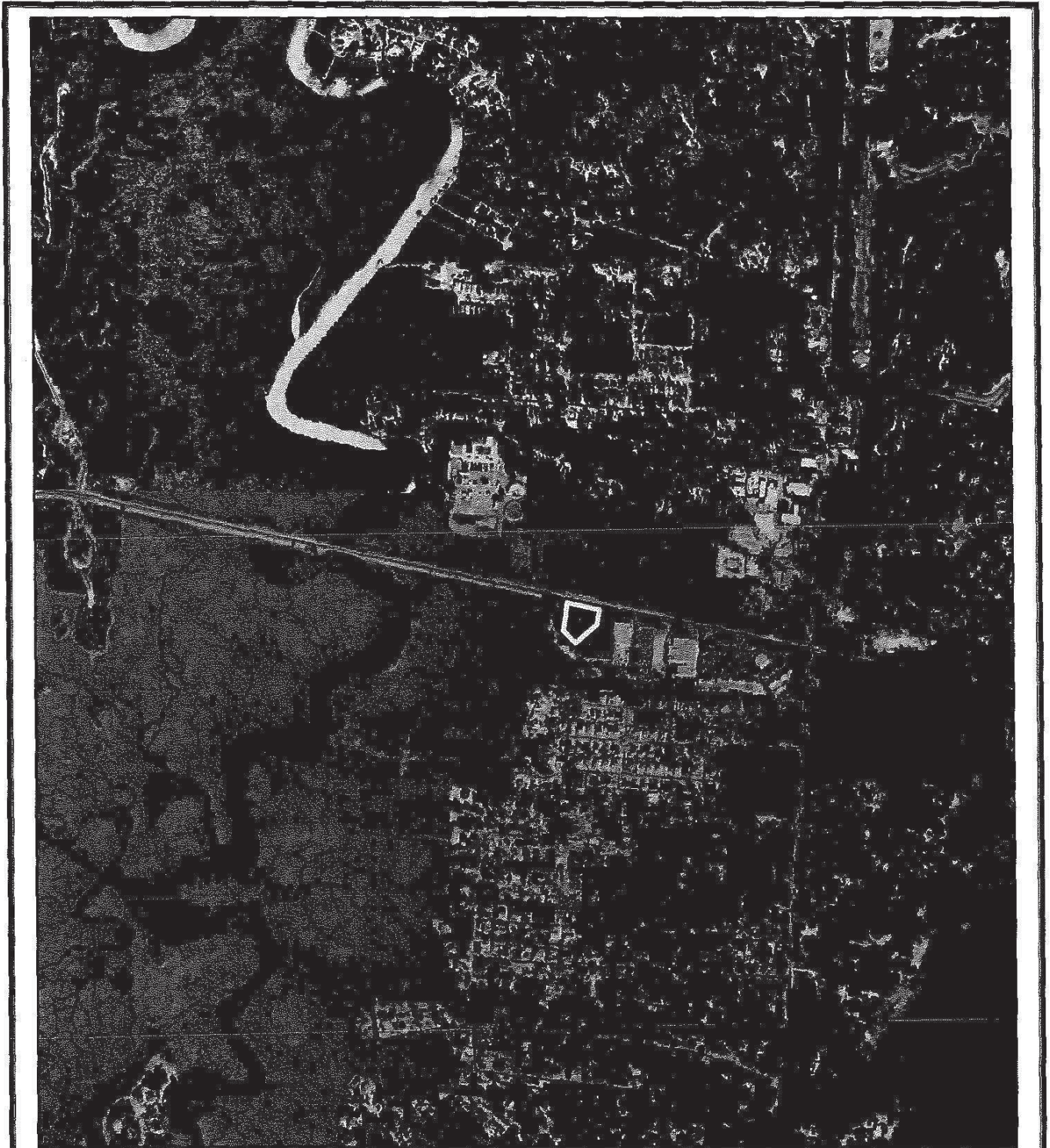
PREPARED FOR:
SEA ISLAND ACQUISITION, LLC




RLC

RESOURCE+LAND
CONSULTANTS

41 Park of Commerce Way, Ste. 303
Savannah, Georgia 31405
912.443.5896 www.rlandc.com



 PROJECT LIMITS

CIR PHOTOGRAPH: 1999
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

MAP SCALE: 1 INCH = 1000 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

SEA ISLAND ADMINISTRATION SITE
GLYNN COUNTY, GEORGIA

PREPARED FOR:
SEA ISLAND ACQUISITION, LLC

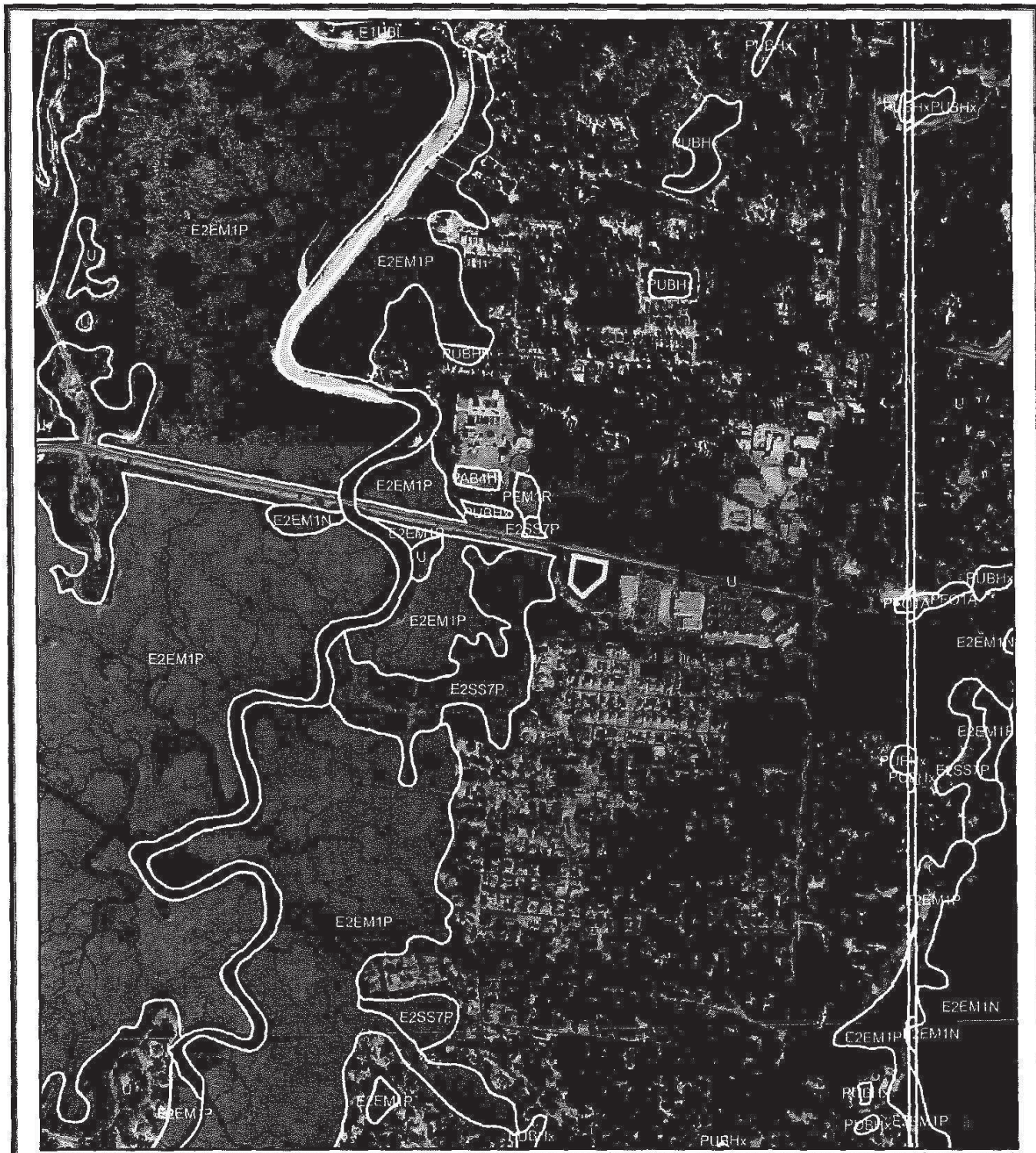


0 500 1,000 2,000
Feet

RLC

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Savannah, Georgia 31405
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PROJECT LIMITS

NATIONAL WETLANDS INVENTORY
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

MAP SCALE : 1 INCH = 1000 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

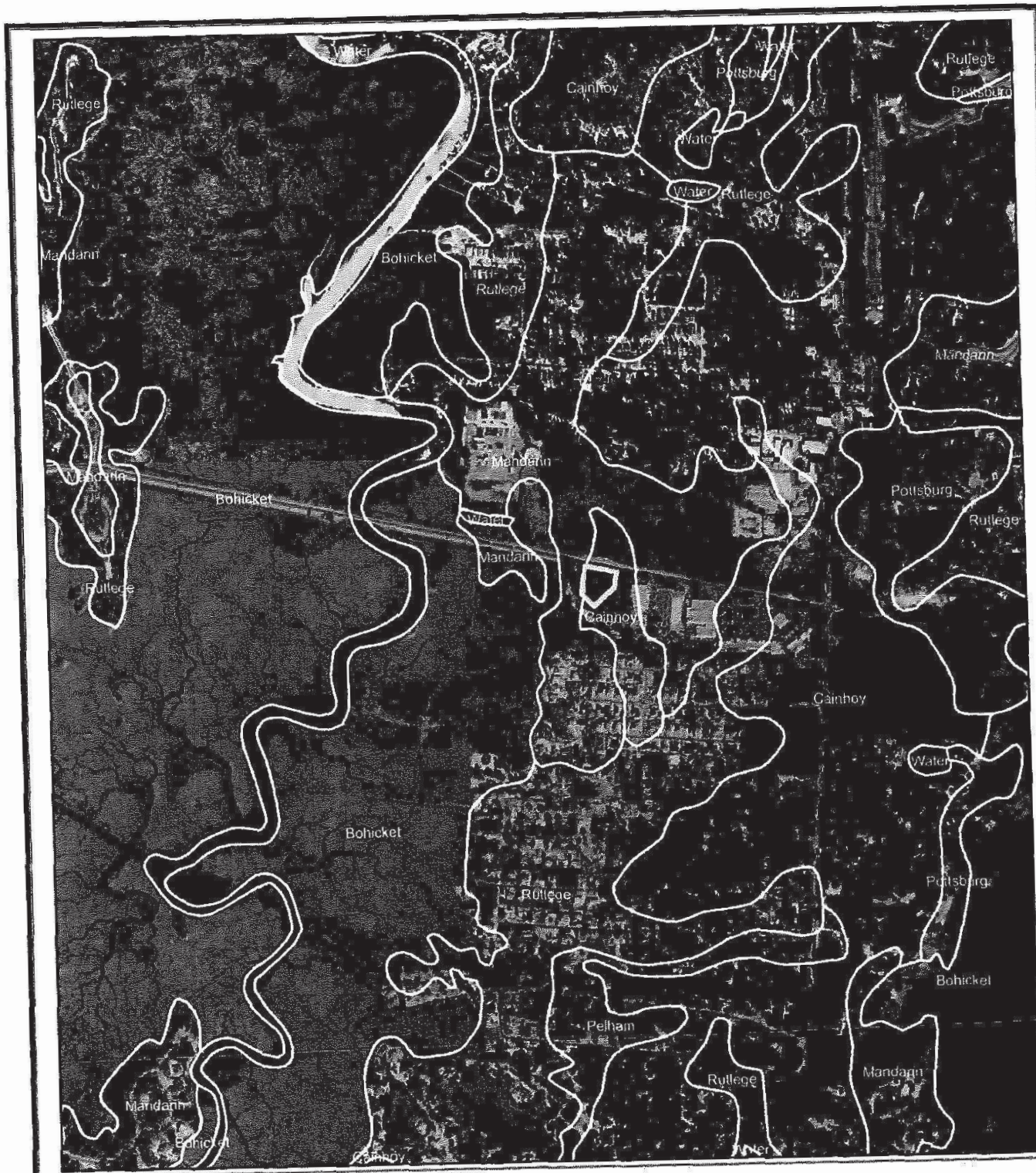
**SEA ISLAND ADMINISTRATION SITE
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PROJECT LIMITS

USDA NRCS SOILS SURVEY
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

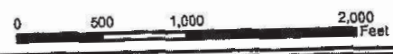
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Figure 1. Photograph of typical wetland area within the project limits.



Figure 2. Photograph of the typical upland area within the project limits.

**Sea Island Administration Site
St. Simons Island, Glynn County, Georgia
8 January 2013**

Background

The subject property is located south of Sea Island Road, +/- 1900 feet west of Frederica Road, and east of Salt Marsh Drive on St. Simons Island, Glynn County, Georgia (31.183693°, -81.383453°). The subject site is located within the Cumberland-St. Simons watershed (Hydrologic Unit Code: 03070203). The Sea Island Administration has seen a reduction in staff numbers in recent years and no longer requires the large administrative facility. The current administrative facility has been sold for conversion to a commercial hotel and therefore Sea Island Acquisition, LLC is proposing the construction of a smaller administrative building and parking lot.

The applicant, Sea Island Acquisition, LLC, is seeking authorization in accordance with Nationwide Permit No. 39 to fill 0.49 acres of freshwater wetlands to facilitate the construction of the new office building and attendant structures, specifically a parking lot. The 1.29 acre lot contains 0.49 acres of wetland all of which will be filled to facilitate the proposed projects purpose. Compliance with US Army Corps of Engineers (USACE) 2012 NWP General Conditions and USACE- Savannah District Regional Conditions will be addressed in the following sections of the project document.

General Conditions

1. **Navigation:** The proposed project will not affect navigable waters as defined in 33 CFR Part 329.4. The proposed project will not impede navigation upstream or downstream from the site and all construction will be contained within the existing footprint.
2. **Aquatic Life Movements:** The proposed project will not impede the movement of aquatic life.
3. **Spawning Areas:** The project site does not contain spawning areas. Best management practices will be utilized to prevent impacts to offsite areas.
4. **Migratory Bird Breeding Areas:** The proposed project will not affect migratory bird breeding areas.
5. **Shellfish Bed:** There are no shell fish populations currently located in the proposed project footprint.
6. **Suitable Material:** The fill associated with the proposed project will be obtained from a suitable upland site and free of toxic material.
7. **Water Supply Intakes:** This project will not affect any water supply intakes.
8. **Adverse Effects from Impoundments:** The proposed project does not involve creation of an impoundment in the waters of the US.

9. **Management of Water Flows:** The proposed project will be constructed to withstand expected high storm water flows.
10. **Fills within 100-Year Floodplains:** Preliminary FEMA map No. 13027C0242F dated 9/6/2006 indicates the proposed project site is located in an area zoned AE (high risk). The project will comply with FEMA approved state or local floodplain management requirements.
11. **Equipment:** Standard land clearing and grading equipment will be used to clear and fill the 0.49 acres. During construction BMPs will be used to minimize disturbance to offsite areas.
12. **Soil Erosion and Sediment Controls:** Best Management Practices will be used to prevent soil and sediment erosion in accordance with the guidelines within *The Manual for Erosion and Sediment Control in Georgia* during project Construction. A land disturbance activity permit will be obtained from Glynn County prior to construction of the proposed project.
13. **Removal of Temporary Fills:** The proposed project would not include placement of temporary fills within waters of the US.
14. **Proper Maintenance:** The subject property, including authorized impact areas shall be properly maintained to ensure public safety.
15. **Single and Complete Project:** This PCN is requested for a single and complete project.
16. **Wild and Scenic Rivers:** The proposed project does not occur within a component of the National Wild and Scenic River System or a river officially designated as a "study river" for possible inclusion in the National Wild and Scenic River System.
17. **Tribal Rights:** The proposed project does not contain land on which Native Americans have tribal rights.
18. **Endangered Species:** A review of the US Fish and Wildlife Service (USFWS) and Georgia Department of Natural Resources (Georgia DNR) databases was conducted to assess potential impacts to federally protected species on the project site. In addition to the database query, a pedestrian survey was conducted onsite and no species or habitat conducive to the federally listed species was observed. Therefore, the proposed project does not pose a threat to any federally listed species. Results of the query are included in the submittal.
19. **Migratory Bird and Bald and Golden Eagle Permits:** No "take" permits are required from the USFWS in compliance of with the Migratory Bird and Treaty Act or the Bald and Golden Eagle Protection Act.
20. **Historic Properties:** A review of the National Register of Historic Places (NHRP) database was conducted for the proposed project site. The results of the database query are included in the application package. There are no known cultural resources on or near the subject property that would be adversely affected by the project.

21. **Discovery of Previously unknown Remains and Artifacts:** No known remains or artifacts have been previously discovered.
22. **Designated Critical Resource Waters:** The project site is not located within a National Oceanic and Atmospheric Administration designated marine sanctuary, National Estuarine Research Reserve, State natural heritage site or national resource waterway.
23. **Mitigation:** Compensatory mitigation will be required for the 0.49 acre of fill associated with the proposed project. A total of 3.48 mitigation credits will be purchased from Wilkinson-Oconee Mitigation Bank prior to construction of the proposed project.
24. **Safety of Impoundment Structures:** No impoundments are part of this permit application.
25. **Water Quality:** Water quality certification compliance with section 401 of the Clean Water Act was issued on 3/12/2012 for the NWP program conditional to the submission of a copy of this PCN to GAEPD.
26. **Coastal Zone Management:** The project is consistent with the enforceable policies of the Georgia Coastal Management Program. A copy of this PCN has been sent to GACRD.
27. **Regional and Case-by-Case Conditions:** Regional conditions are addressed in the Regional Conditions section below.

**SAVANNAH DISTRICT
2012 NATIONWIDE PERMIT REGIONAL CONDITIONS**

A. The Georgia Department of Natural Resources (Georgia DNR) issued a conditional Water Quality Certification and conditional concurrence with the federal consistency determination under the Coastal Zone Management Act for reauthorization of the use of Nationwide Permits (NWPs) to authorize impacts to waters of the United States (US) in Georgia. **The conditions include requirements that Georgia DNR be notified prior to beginning work on any and all NWP authorized projects.** Specifically, Georgia DNR requirements and notification procedures are set forth in Appendix A, which states that for uses of NWPs requiring submission of a Pre-Construction Notification (PCN) to the Savannah District prior to commencing work in waters of the United States (US), a copy of the PCN with project plans must also be submitted to the Georgia DNR, Environmental Protection Division (Georgia EPD) and, where applicable, to the Georgia DNR, Coastal Resources Division (Georgia CRD). For NWP authorized projects that do not require submission of a PCN to the Savannah District, a completed Georgia DNR Notification Form that is in Appendix A must be submitted to Georgia EPD and, where applicable, to Georgia CRD, prior to commencing work. Refer to Appendix A for detailed instruction on when and where to submit a PCN or a Georgia DNR Notification Form to Georgia DNR and/or Georgia CRD. **Copies of this PCN have been forwarded to CRD and EPD.**

B. Pre-Construction Notification: (NOTE: In addition to the Savannah District's PCN requirements below, there are additional PCN requirements for certain uses of NWP 13, 18, 21, 22, 41, 51 and 52 that are listed in the Nationwide Permit Program, which is available at <http://www.sas.usace.army.mil/regulatory/index.html>.)

1. A PCN is required for all uses of NWP 3(b), 7, 8, 11, 12, 14, 15, 17, 23, 27, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 48, 49, and 50.

A PCN is included as part of the Nationwide Permit #39 submittal.

2. A PCN is required for all uses of NWP 13 in perennial streams. (NOTE: Unless a specific type of stream is identified in a RC, the term "stream" includes ephemeral, intermittent and perennial streams.)

N/A

3. A PCN is required for use of NWP 3(a), 3(c), 5, 6, 13, 19 and 41 for impacts to 0.1 acre or more of wetlands/open water and/or 100 linear feet or more of stream.

N/A

4. A PCN is required for all uses of NWP within 2000 feet of a National Wildlife Refuge, any National Park Service property, a National Estuarine Research Reserve, a Georgia State Park or an approved mitigation bank.

N/A

5. A PCN is required for use of any NWP to construct a new utility line activity or a linear transportation project in waters of the US.

N/A

6. A PCN is required for all uses of NWP in Habitat Areas of Particular Concern (HAPCs), a subset of Essential Fish Habitat. Relevant to projects occurring in Georgia's tidal waters, the South Atlantic Fishery Management Council designates oyster aggregations and tidal inlets as HAPCs.

N/A

C. Required PCN information

1. A completed copy of the attached "Savannah District Pre-Construction Notification Form" (Enclosure 1), or the most recent revision of this form.

A completed PCN is included in the current application package

2. All information required at NWP General Condition (GC) 31(b), "Contents of a Pre-Construction Notification."

Information required by NWP General Condition 31(b) is included with the PCN form.

3. A description of measures taken to avoid and/or minimize aquatic impacts and an explanation of why further avoidance and minimization measures would not be practicable.

The proposed project includes the development of a 1.29 acre lot adjacent to Sea Island Road. All impacts were avoided and minimized to the maximum extent practicable to fulfill the proposed project's goal. A retaining wall will minimize the amount of fill within the wetlands.

4. A copy of the US Fish and Wildlife Service "Initial Project Scoping (IPaC)" printout identifying federally-listed threatened and endangered species that may occur in the vicinity of the project site. <http://ecos.fws.gov/ipac/>
A review of the US Fish and Wildlife Service (USFWS) and Georgia Department of Natural Resources (Georgia DNR) databases was conducted to assess potential impacts to federally protected species on the project site. In addition to the database query, a pedestrian survey was conducted onsite and no species or habitat conducive to the federally listed species was observed. Therefore, the proposed project does not pose a threat to any federally listed species. Results of the query are included in this submittal.
5. A statement as to whether essential fish habitat (EFH) would be adversely impacted. <http://www.habitat.noaa.gov/protection/efh/>.
No impacts will be made that will adversely impact essential fish habitat.
6. A statement as to whether cultural resources are known to be present on or near the project site and if a survey has been performed. <http://www.nr.nps.gov/>
A review of the National Register of Historic Places (NHRP) database was conducted for the proposed project site. The results of the query of the database are included in the application package. There are no known cultural resources on or near the subject property that would be adversely affected by the project.
7. A statement as to whether the city, county or state requires a water quality management plan for the project site prior to construction.
An erosion, sedimentation, and pollution control plan will be submitted to Glynn County prior to construction of the proposed project.
8. A statement that the project would comply with any applicable Federal Emergency Management Administration-approved state or local floodplain management requirements. www.fema.gov/
FEMA map No. 13027C0242F dated 9/6/2006 indicates the proposed project site is located in an area zoned AE (high risk). The project will comply with FEMA approved state or local floodplain management requirements.
9. A statement as to whether the project is located in or adjacent to a State 303(d) listed stream and if so, the name of the stream. <http://cfpub.epa.gov/surf/locate/index.cfm>
A review of the State's 303(d) database was conducted for the proposed project site. The results of the query of the database are included in the application package. The proposed project is not within or adjacent to a 303(d) listed stream.
10. A statement as to whether a project is located in or adjacent to a State designated trout stream or water. www.dnr.state.ga.us/
This project is not located in or adjacent to a State designated trout stream or water.
11. A mitigation plan, if required. (NOTE: See Section F, below.)
Compensatory mitigation will be required for the 0.49 acre of fill associated with the proposed project. A total of 3.48 mitigation credits will be purchased from Wilkinson-Oconee Mitigation Bank prior to construction of the proposed project.

12. Photographs documenting preconstruction conditions of the site. Photographs shall include waters of the US that are representative of the site and where work and/or authorized impacts would occur. (NOTE: Upon completion of the project, post construction photographs shall be attached and returned with the compliance certification form.)
See attached aerial photograph and site photographs.

13. All PCNs for projects with a culverted crossing of a perennial stream shall provide the following information: (NOTE: See Section E below for additional culvert design information.) N/A
 - a. Culvert type and size. N/A
 - b. Depth the culvert inlet and outlet culvert will be embedded in the stream bottom. N/A
 - c. Designed culvert slope along the stream channel. N/A
 - d. A profile of the stream bottom (longitudinal profile) beginning at least 50 feet upstream of the culvert inlet and continuing at least 50 feet downstream of the culvert outlet. Profile measurements shall begin at the head of a riffle and end at the head of a riffle. The change in elevation from head of riffle to head of riffle can be used for the designed slope. N/A
 - e. Three cross-sectional scale diagrams of the stream channel and banks measured at the beginning, middle, and end of the proposed culvert location. The cross-sections shall depict the stream width and height at the current water elevation, bank-full elevation and flood-plain elevation. Calculate bank-full cross-sectional area at all 3 cross-sections. N/A
 - f. A scale cross-sectional diagram showing proposed as-built conditions, including location of the culvert in the channel, channel bottom elevation, road surface and areas of cut and fill. This diagram shall represent the middle cross-section. N/A

14. A PCN for a new construction utility line activity or linear transportation project must include the following information:
 - a. A map depicting all waters of the US located in or directly adjacent to the right-of-way of the total linear project. (NOTE: The term total linear project is discussed in the NWP definition of "single and complete linear project." For the purposes of these RCs, examples of a total linear project include, but are not limited to: a new bypass highway that begins along a highway on the east side of an urban area and terminates along the same highway on the west side of the urban area; an aerial transmission line that begins at an existing substation and terminates at a new industrial park; and a buried sewer line that begins at a new subdivision and terminates at an existing sewer main.)
N/A
 - b. A map depicting the location of each "single and complete linear project" and all other work occurring in waters of the US along the right-of-way for the total linear project. This map shall clearly identify the type of work that would occur in waters of the US.
N/A
 - c. A description of all work and resulting losses of and/or impacts to waters of the US as identified at Regional Condition 15.b above.
N/A

d. If a PCN for a utility line activity does not propose use of NWP 12, the PCN must include a discussion explaining why use of another NWP would be more appropriate.

N/A

e. If a PCN for a linear transportation project does not propose use of NWP 14, the PCN must include a discussion explaining why use of another NWP would be more appropriate.

N/A

15. A PCN for use of NWPs 3(b), 19 and 35 must include a "Tier I" evaluation, in accordance with the Inland Testing Manual. The "Tier I" evaluation must contain adequate information necessary to document whether there is "reason to believe" that the material to be dredged may be contaminated. If the Savannah District determines that "Tier II" testing is necessary, the PCN will not be considered complete until a "Tier II" testing report is submitted. The Inland Testing Manual is available at <http://el.erdc.usace.army.mil/elmodels/pdf/inlandb.pdf>.

N/A

16. A PCN for use of NWPs 7, 12, 14, 18, 27, 29, 31, 34, 38, 39, 41, 42 and 43 must include a delineation of all waters of the US present in the project area.

An erosion, sedimentation, and pollution control plan will be submitted to Glynn County prior to construction of the proposed project.

17. A PCN for use of NWP 27 must document the prior condition of the site.

N/A

18. A PCN for use of NWP 31 must include sufficient baseline and disposal site information.

N/A

19. A PCN for use of NWP 33 must include a restoration plan.

N/A

20. A PCN for use of NWP 43, for a new facility, must include a maintenance plan.

N/A

21. A PCN for use of NWP 44 must include a description of all waters impacted, measures taken to minimize impact and a reclamation plan.

22. N/A

D. General Restrictions:

1. NWPs cannot be used to authorize a storm water detention/retention facility in a perennial stream. A Department of the Army standard permit application is required for these projects.

N/A

2. NWPs cannot be used to authorize a storm water detention/retention facility in a state designated trout stream or water. A Department of the Army standard permit application is required for these projects.

N/A

3. N/WPs cannot be used to authorize projects that would impact compensatory mitigation sites or an approved compensatory mitigation bank, unless that project's purpose is to enhance the mitigation site or bank. A Department of the Army standard permit application is required for these projects.

N/A

4. All work conducted under the N/WPs shall be located, outlined, designed, constructed and operated in accordance with the requirements contained in the Georgia Erosion and Sedimentation Control Act of 1975, as amended, and the Coastal Supplement to the Georgia Stormwater Management Manual, as amended. Utilization of plans and specifications contained in "Manual for Erosion and Sediment Control, (Latest Edition)," published by the Georgia Soil and Water Conservation Commission, will aid in achieving compliance with these requirements. The latest edition of these manuals can be accessed at www.gaswcc.org and www.gacpd.org.

Erosion and Sediment Control Plans will be submitted to Glynn County prior to construction of the proposed project.

5. No work shall be conducted under any N/WP that requires discharge of wet or otherwise uncured concrete below the ordinary high water mark, unless the concrete is contained within waterproof forms until the concrete cures.

N/A

6. Use of N/WPs 12, 14, 23, 33, 43 and 44 is prohibited for any project in waters of the US that support anadromous fish, or in those waters that previously supported such fish and where restoration of fish migrations and populations is possible. The established limits for these waters are listed in the attached Appendix C and include adjacent and tributary waters located within 1000 feet of these identified waters. This prohibition does not apply to N/WP 12 projects that would not involve a discharge of dredged or fill material or mechanized land clearing in waters (i.e. directional bore line installation and overhead utility crossings). Exemption from this condition will be considered on a case-by-case basis, in coordination with the National Marine Fisheries Service. An exemption may be granted when it is determined that the project would have minimal impact on anadromous fish or their restoration.

N/A

E. Culvert Restrictions for Perennial Streams:

1. The width of the base flow culvert(s) shall be approximately equal to the average channel width. Culvert(s) shall not permanently widen/constrict the channel or reduce/increase stream depth. Multiple pipe culverts may not be used to receive base flows.

N/A

2. Bank-full flows shall be accommodated through maintenance of the existing bank-full cross-sectional area.

N/A

3. The upstream and downstream invert of culverts (except bottomless culverts) installed in perennial streams will be buried/embedded to a depth of 20% of the culvert height to allow natural substrate to colonize the structure's bottom and encourage fish movement.

N/A

4. Culverts shall be of adequate size to accommodate flooding and sheet flow in a manner that does not cause flooding of associated uplands or disruption of hydrologic characteristics that support aquatic sites on either side of the culvert.

N/A

5. Where adjacent floodplain is available, flows exceeding bankfull shall be accommodated by installing equalizer culvert at the floodplain elevation.

N/A

6. Unless specifically described in the PCN, use of undersized culvert to attain stormwater management or waste treatment is not authorized.

N/A

7. See Appendix D for additional culvert design information.

N/A

F. Mitigation:

1. **Loss of waters of the US** is defined in Section F of the NWP and primarily concerns maximum allowable impacts associated with the use of NWPs. Examples of losses of waters of the US include, but are not limited to: the area of wetland, stream, ditch and/or other linear water displaced by a culvert, pipe, fill or other structure placed for a road crossing; the area of wetland, stream or other water filled by the footprint of a dam; the area of wetland, stream or other water permanently or semi-permanently flooded as the result of dam construction; the area of wetland that is excavated to create an open water area (pond); and excavation of a ditch through wetlands and the adjacent wetland area where wetland hydrology is removed. The US Army Corps of Engineers (USACE) has discretion to determine loss of waters of the US and resulting functional aquatic losses for determination of potential mitigation requirements.
2. For the purpose of clarification of these RCs, **adverse impact to waters of the US** includes, but is not limited to, losses/changes in aquatic function resulting from activities that cause a loss of waters of the US; and losses/changes in aquatic function resulting from activities that cause an impact to waters of the US, but do not result in a loss of waters. Examples of adverse impacts to waters of the US include, but are not limited to: placement of rip-rap on the bank of a stream; burying a utility line through wetland, where the wetland is restored to preconstruction contours; mechanized land clearing, where stumps are removed; and non-mechanize tree cutting, where stumps are left in place, and the wetland soil surface and/or root mat remain predominantly undisturbed. The USACE has discretion to determine adverse impacts to waters of the US and resulting functional aquatic losses for determination of potential mitigation requirements.
3. Compensatory mitigation plans for NWP proposed projects must be in accordance with: General Condition 22 of the NWP Program; the most recent version of the Savannah District Standard Operating Procedure, Compensatory Mitigation, Wetlands, Open water & Streams (SOP); and the 2008 Final Compensatory Mitigation Rule (33 CFR Parts 325 and 332).

4. As stated in the Final Compensatory Mitigation Rule, the **preferred** method of compensatory mitigation for impacts to waters of the US is the purchase of credits from an approved commercial mitigation bank. Documentation of use of the Savannah District "Bank Credit Purchase Guide" is required for NWP projects involving the purchase of mitigation bank credits. Credits purchased prior to approval by the USACE may not be recognized as compensatory mitigation for authorized impacts.
5. The use of in-lieu-fee mitigation as compensation for NWP authorized impacts **may only be considered appropriate** if commercial mitigation bank credits are not available and must be authorized by the USACE prior to the purchase.
N/A
6. A compensatory mitigation plan may be required for the use of any NWP for a project that would result in an adverse impact to and/or the loss of 0.1 acre or more of wetlands and/or 100 linear feet or more of non-tidal stream.
Compensatory mitigation will be required for the 0.49 acre of fill associated with the proposed project. A total of 3.48 mitigation credits will be purchased from Broxton Rocks Mitigation Bank or the Satilla River Mitigation Bank prior to construction of the proposed project.
7. For projects involving adverse impacts to and/or the loss of wetlands and streams, if either the 0.1 acre or 100 linear foot threshold is met and the USACE determines that mitigation is required, a compensatory mitigation plan is required for all adverse impacts and losses.
See F(6) above.
8. All impacts to wetlands and open waters must be calculated and reported in acres. Stream impacts must be calculated separately and reported in both linear feet and acres.
See F(6) above.
9. For NWPs that have both an acre limit loss of waters of the US and a linear foot stream loss limit, the acreage of stream loss (i.e., the length of the stream bed filled or excavated times the average width of the stream, from the ordinary high water mark to ordinary high water mark) applies towards that acre limit loss of waters of the US. For example, if a proposed NWP 39 activity involves filling 0.1 acre of wetlands and 100 linear feet of a stream bed with an average width of 10 feet, the acreage loss of waters of the US for that activity would be calculated as follows: $0.1 + [(100 \times 10) / 43,560] = 0.123$ acre.
N/A

G. NWP Specific Regional Conditions:

1. NWP 3(b). Excavation of accumulated sediment or other material is not authorized by this NWP in areas adjacent to existing private or commercial dock facilities, piers, canals dug for boating access, marinas, boat ramps, or boat slips.
N/A
2. NWP 3(b). Use of rip-rap will not exceed an average of one cubic yard per running foot placed below the ordinary high water mark or the high tide line, unless the criterion is waived in writing by the District Engineer, or his assigned delegate.
N/A

3. NWP 4. Use of mechanized harvesting devices is prohibited.
N/A
4. NWP 7. Associated intake structures must employ the best practicable means to minimize entrainment or impingement of fish and other aquatic life, and the inflow velocity of intake structures is limited to not more than 0.5 foot per second.
N/A
5. NWP 7. For the purposes of this NWP, activities related to the construction of outfall structures means activities in the immediate vicinity which are necessary to construct or operate the outfall (e.g., pumps, rip rap, coffer dam). This does not include ancillary activities such as construction access roads, utility lines, buildings, etc.
N/A
6. NWP 12. Utility lines must be aligned to minimize the length of wetland/stream crossings, and/or to minimize impacts to wetlands/streams.
N/A
7. NWP 12. For buried utility lines, the width of the right-of-way corridor (i.e., impact area) cannot exceed 50 feet in wetlands. For buried utility lines subject to Federal Energy Regulatory Commission (FERC) standards, the right-of-way corridor (i.e., impact area) cannot exceed the maximum width of FERC-prescribed by standards.
N/A
8. NWP 12. Construction of individual pump stations is limited to 0.1 acre of wetland impact; substations cannot be constructed within the banks of a stream.
N/A
9. NWP 12. Excavated material that is temporarily side cast in waters of the US shall be returned to the trench or removed within 60 days, unless a 30-day extension is requested and approved by the District Engineer, or his assigned delegate.
N/A
10. NWP 12. In wetlands, excavated material shall be returned to the trench and any remaining material shall be relocated to an approved disposal site. Substrate containing roots, rhizomes, seeds, etc., must be kept viable and replaced at the surface of the excavated site. Stream banks that are cleared of vegetation shall be stabilized with deep-rooted native species similar to nearby reference sites. Each individual wetland/stream project shall be stabilized immediately following completion of utility line placement at that project.
N/A
11. NWP 12. Anti-seep collars, or other structures designed to prevent under-draining, will be installed on all buried utility lines in wetlands. If no anti-seep/drain device(s) is proposed, the applicant must provide information documenting that such a device is not required to prevent wetland drainage.
N/A
12. NWP 12. Isolation methods (flume/coffer dam or pumped diversion) will be used to install utility lines in perennial streams. Flume/coffer dam isolation methods may include aqua-

dams, pea gravel, sand bags, cured concrete blocks, steel or wood wall, sheet pile, or similar design. Flume/coffer dam isolation shall be done in stages, moving dams as needed so that downstream reaches are not dewatered. Material to build granular coffer dams shall be clean and washed, and shall not be taken from the stream channel. Pumped diversion shall not be used where there are fish passage concerns; before pumping water from the work area, fish shall be salvaged from the isolated area and returned safely to the downstream portion of the watercourse. The area where the pump discharges shall be lined with clean rock to prevent erosion and release of suspended sediments downstream. For both methods, streambanks shall be stabilized with geotextile fabric, at a minimum, before the isolation methods are removed.

N/A

13. NWP 12. Permanent above-grade access/maintenance roads and above-grade utility lines (excluding overhead electric lines) are not authorized by this NWP. Permanent at-grade access roads shall impact no more than 200 linear feet of wetland at an individual wetland crossing. NWP 14 cannot be used in conjunction with NWP 12 to extend a road crossing beyond 200 feet.

N/A

14. NWP 12. For the purpose of calculating the loss of waters of the US resulting from the construction of utility line access/maintenance roads associated with a total linear project, the geographic area of consideration will be a "State of Georgia Hydrologic Map Cataloging Unit (i.e., 8-Digit Unit)." Loss of waters of the US will be considered for all utility line access/ maintenance roads associated with a total linear project. The total loss of waters of the US for a total linear project in a Cataloging Unit cannot exceed 10 acres of wetlands and/or 1500 linear feet of stream. For total linear project loss calculations, the acreage of stream loss will not be included in the 10 acre wetland limit.

N/A

15. NWP 12. If adverse impacts and/or loss of waters of the US resulting from the construction of a total linear project would cumulatively be 0.1 acre or more of wetland and/or 100 or more linear feet of stream, mitigation may be required for all impacts and losses for the total linear project. Examples of impacts to and losses of waters of the US are discussed at Regional Conditions F 1 and 2 above.

N/A

16. NWP 14. For the purpose of calculating cumulative loss of waters of the US resulting from the construction of a total linear project, the geographic area of consideration will be an individual "State of Georgia Hydrologic Map Cataloging Unit (i.e., 8-Digit Unit)." The total loss of waters of the US resulting from total linear project in a Cataloging Unit cannot exceed 10 acres of wetlands and/or 1500 linear feet of stream. For total linear project total loss calculations, the acreage of stream loss will not be included in the 10 acre limit.

N/A

17. NWP 14. If adverse impacts and/or loss of waters of the US resulting from the construction of a total linear project (multiple single and complete linear projects) would cumulatively be 0.1 acre or more of wetland and/or 100 or more linear feet of stream, mitigation may be required for all impacts and losses for the total linear project. Examples of impacts to and losses of waters of the US are discussed at Regional Conditions F 1 and 2 above.

N/A

18. NWP 14. A single and complete linear project (a single crossing of waters of the US) cannot result in the loss of 300 or more linear feet of perennial stream.

N/A

19. NWP 14. Ditches and medians associated with road projects must be designed to prevent drainage of wetlands, and finished road elevations cannot be lower than surrounding wetlands.¹¹

N/A

20. NWP 14. All road projects constructed through wetlands/streams must begin on an existing natural high ground area (upland) and end on existing natural high ground.

N/A

21. NWP 23. This NWP cannot be used for projects that would impact more than 500 linear feet of stream or 1.5 acres of wetlands for construction of a single and complete linear or non-linear project; or more than 1,500 feet of stream or 10 acres of wetlands for a total linear project within a Cataloging Unit.

N/A

22. NWP 37. All projects authorized under NWP 37 must be under construction or under contract for construction within 1 year of authorization. If not, the permittee must resubmit the PCN to the Savannah District and meet related notification requirements (e.g. to Georgia DNR) prior to commencing the activity.

N/A

23. NWP 37. This NWP cannot be used for projects that involve removal of debris other than in the immediate up and downstream reaches (300 feet) adjacent to bridges and other stream crossings; bank clearing which involves complete removal of trees and/or removal of logs/dead trees which are buried in the bank; channel deepening beyond original bottom; and/or levee construction.

N/A

24. NWP 41. Use of NWP 41 is prohibited for projects that would cause or perpetuate drainage of wetlands or other waters of the US, and/or result in the removal or modification of riparian vegetation that provides shade, bank stabilization, nutrients, cover, or other features that are beneficial to fish and wildlife.

N/A

25. NWP 41. This NWP does not authorize work in natural streams that have been subjected to some previous channelization.

N/A

26. NWP 41. Excavated materials shall be removed from the site. However, excavated materials may be placed on existing adjacent berms or on other previously used disposal sites, provided no additional wetlands are impacted and the material is stabilized to prevent erosion.

N/A

27. NWP 42. This NWP does not authorize golf courses or other projects that require use of herbicides, insecticides, fertilizers and/or other similar potentially toxic or hazardous materials, unless effective containment and/or barriers are to be implemented and fully maintained for the duration of the project, to prevent such contamination from entering waters of the US. The PCN must include documentation of compliance with this condition.
N/A
28. NWP 43. A stormwater management facility cannot result in the loss of more than 1/3 acre of wetlands. Cumulative project-related wetland impacts, including permanent, temporary, and/or secondary impacts (e.g., temporary storm water retention) are limited to 1 acre of wetlands. Impacts that result in the conversion of forested wetlands to a scrub shrub, emergent or some other shallow water wetland community are not considered temporary and/or secondary.
N/A
29. NWP 45. All work verified under this NWP associated with repair, rehabilitation or replacement of structures or fills must be completed within two years of the storm, flood, fire or other discrete event. If after two years from the discrete event, the authorized activities have not been completed, the permittee must submit a PCN requesting authorization under a new NWP. This NWP only authorizes activities within two years of the discrete event.
N/A

Conclusion

The applicant has proposed to develop the 1.29 acre tract for the use of commercial office building and an attendant parking area. The project will require 0.49 acres of fill obtained from a suitable upland location. Compensatory mitigation will be required for the 0.49 acre of fill; therefore, 3.48 mitigation credits will be purchased from Wilkinson-Oconee Mitigation Bank. The proposed project conforms to the Nationwide Permit General Conditions, the Savannah District Regional Conditions, the Georgia Coastal Management Program, and will not result in adverse direct or cumulative environmental impacts.

**WETLANDS AND OPEN WATERS
MITIGATION WORKSHEETS**

ADVERSE IMPACT FACTORS

Factor	Options						
	Fill 2.0	Dredge 1.8	Impound 1.6	Drain 1.4	Flood 1.2	Clear 1.0	Shade 0.5
Duration of Effects	7+ years 2.0	5-7 years 1.5	3-5 years 1.0	1-3 years 0.5	<1 year 0.1		
Existing Condition	Class 1 2.0	Class 2 1.5	Class 3 1.0	Class 4 0.5	Class 5 0.1		
Lost Kind	Kind A 2.0	Kind B 1.5	Kind C 1.0	Kind D 0.5	Kind E 0.1		
Preventability	High 2.0	Moderate 1.0	Low 0.5	None 0			
Rarity Ranking	Rare 2.0	Uncommon 0.5	Common 0.1				

† These factors are determined on a case-by-case basis.

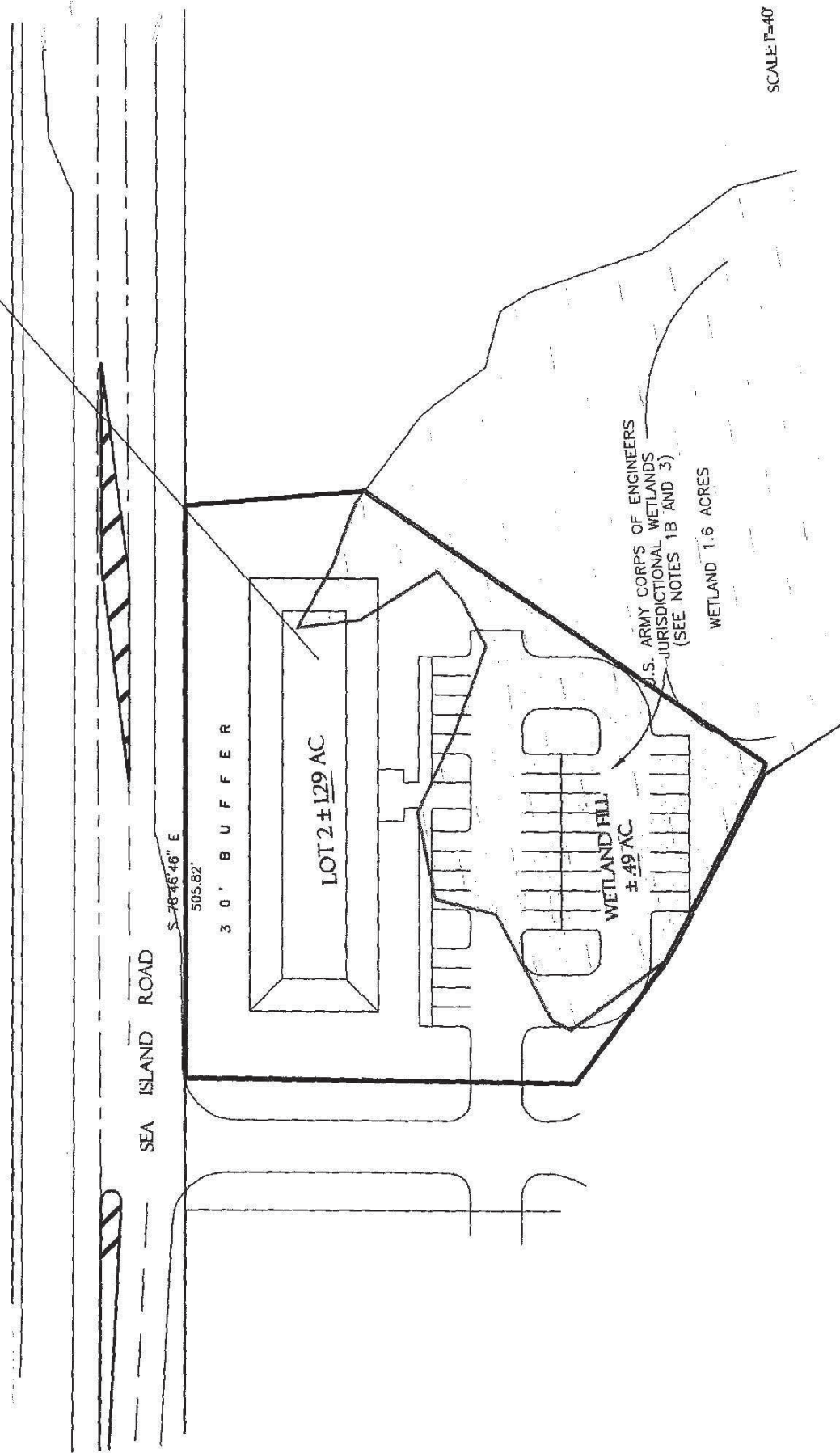
REQUIRED MITIGATION CREDITS WORKSHEET

Factor	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6
Dominant Effect	2.0					
Duration of Effect	2.0					
Existing Condition	1.0					
Lost Kind	1.5					
Preventability	0.5					
Rarity Ranking	0.1					
Sum of r Factors	R ₁ = 7.1	R ₂ =	R ₃ =	R ₄ =	R ₅ =	R ₆ =
Impacted Area	AA ₁ = 0.49	AA ₂ =	AA ₃ =	AA ₄ =	AA ₅ =	AA ₆ =
R × AA =						

Total Required Credits = $\sum (R \times AA) =$ 3.48

Area 1: Freshwater Wetland

12,000 SF BUILDING



SCALE T=40'

12/19/12

Trust Resources



IPaC - Information, Planning, and Conservation System

Information, Planning, and Conservation System

<http://www.fws.gov>

IPaC Home Page (ipac)

Project Builder ()

FAQs (ipac/faqs.jsp)

Step 1

Natural Resources of Concern

[\(ipac/wizard/chooseLocation/prepare.action\)](#)

Location **An online Endangered Species Act species list is available on this page for your project area, r office(s) listed below.**

Step 2

[\(ipac/wizard/chooseActivities/prepare.action\)](#) **An online Endangered Species Act species list below is for planning purposes only – it is not an official species list**

Activities **To request an official species list, click the Request an Official Species List link to the right and follow the instructions.**

Request an Official Species List

GEORGIA ECOLOGICAL SERVICES FIELD OFFICE
 105 WESTPARK DRIVE
 NESTLEMAN TOWER SUITE D
 ATLANTA, GA 30606
 (770) 673-9495

Step 4

Conservation measures **Project Counties:**
Glynn, GA

Project type: Fill

Endangered Species Act Species List (USFWS Endangered Species Program <http://www.usfws.gov>)

There are a total of 13 threatened, endangered, or candidate species, and/or designated critical habitat on your species list. See office if you have questions.

Species that may be affected by your project: [\(View all critical habitat on one map\) \(http://erh/ical/habitat.fws.gov\)](#)

Birds	Status	Species Profile
Piping Plover (<i>Charadrius melodus</i>) Population: except Great Lakes watershed	Threatened	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Piping Plover (<i>Charadrius melodus</i>) Population: Great Lakes watershed	Endangered	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Wood stork (<i>Mycteria americana</i>) Population: AL, FL, GA, SC	Endangered	species info (ipac/wizard/speciesInformation/showSpeciesInformation.action?spcode=)
Clams		
Altamaha Spiny mussel (<i>Elliptio spinosa</i>)	Endangered	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Fishes		
Shortnose sturgeon (<i>Acipenser brevirostrum</i>)	Endangered	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Flowering Plants		

12/19/12

Trust Resources

Hairy rattleweed (<i>Baptisia arachnifera</i>)	Endangered	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Mammals		
North Atlantic right Whale (<i>Eubalaena glacialis</i>)	Endangered	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
West Indian Manatee (<i>Trichechus manatus</i>) Population: Entire	Endangered	species info (/pac/wizard/speciesInformation/showSpeciesInformation.action?spcode=)
Reptiles		
Eastern Indigo snake (<i>Drymarchon corais couperi</i>)	Threatened	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Gopher tortoise (<i>Gopherus polyphemus</i>) Population: eastern	Candidate	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Green sea turtle (<i>Chelonia mydas</i>) Population: except where endangered	Threatened	species info (/pac/wizard/speciesInformation/showSpeciesInformation.action?spcode=)
Leatherback sea turtle (<i>Demochelys coriacea</i>)	Endangered	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)
Loggerhead sea turtle (<i>Caretta caretta</i>) Population: Northwest Atlantic DPS	Threatened	species info (http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=)

Don't see a species you expect to see? (#)

**FWS National Wildlife Refuges (USFWS National Wildlife Refuges Program ([There are no National Wildlife Refuges found within the vicinity of your project.](http://refuge</p>
</div>
<div data-bbox=)**

FWS Migratory Birds (USFWS Migratory Bird Program (<http://www.fws.gov/migratorybirds/>

Most species of birds, including eagles and other raptors, are protected under the Migratory Bird Treaty. A (http://library.fws.gov/Bird_Publications/BCC2008.pdf) report identifies species, subspecies, and populations of all migra

NWI Wetlands (USFWS National Wetlands Inventory (<http://www.fws.gov/wetlands/>)).

The U.S. Fish and Wildlife Service is the principal Federal agency that provides information on the extent and status of wetlands (for example, project activities may affect local hydrology within, and outside of, your immediate project area). State/Federal Statutes. Project Proponents should discuss the relationship of these requirements to their project with

Last updated: December 19, 2012

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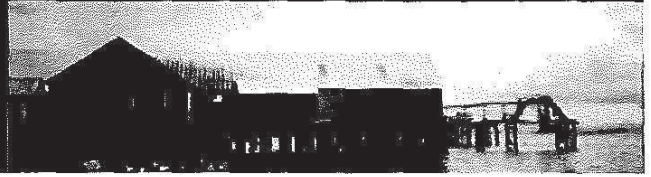
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National Park Service
U.S. Department of the Interior



National Register of Historic Places



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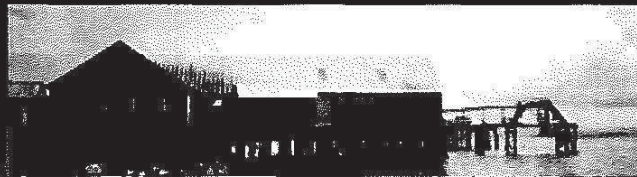
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73

**REQUEST FOR JURISDICTIONAL DETERMINATION
FOR PROPERTY LOCATED
WITHIN THE STATE OF GEORGIA**

APPLICANT Sea Island Acquisition LLC C/O Oaktree Capital Management LLC **FAX** _____

Phone (hm/bus) _____ E-Mail _____

Address 100 Salt Marsh Lane _____

City St. Simons Island State GA Zip Code 31522

PROPERTY OWNER same _____ **FAX** _____

Phone (hm/bus) _____ E-Mail _____

Address _____

City same State _____ Zip Code _____

AGENT Resource & Land Consultants c/o Dan Bucey **FAX** 912-443-5898

Phone (hm/bus) 912-443-5896 E-Mail dbucey@rlandc.com

Address 41 Park of Commerce Way, Suite 303 _____

City Savannah State GA Zip Code 31405

PROPERTY ADDRESS/SUBDIVISION/LOCATION The subject property is located off of Sea Island Road west of Frederica Road on St. Simons Island, Glynn County, Georgia.

City (in/near) St. Simons Island County Glynn

Latitude 31.183693° Longitude -81.383453°

Size (acres and/or dimensions) 9.955 acres

Nearest Stream/River/Lake Marshes of Dunbar Creek

THE REQUEST MUST INCLUDE: A location map showing the property and a nearby landmark such as a major highway intersection; a plat showing property boundaries in relation to nearby streets and other properties; and a topographic map and county soil survey with the property boundaries superimposed.

TYPE OF JURISDICTIONAL DETERMINATION: Please indicate the type of jurisdictional determination (JD) you are requesting by marking the appropriate type below. The Corps encourages the regulated public to utilize the preliminary JDs and expanded preliminary JDs where appropriate.

 Preliminary Determination – Preliminary JDs are non-binding “written indications that there may be waters of the United States, including wetlands, on a parcel or indications of the approximate location(s) of waters of the United States or wetlands on a parcel. Preliminary JDs are advisory in nature and may not be appealed.” (See 33 C.F.R. 331.2.)

 X Expanded Preliminary Determination – The intent of using the expanded preliminary JD is to allow a landowner or other “affected party” to move ahead expeditiously to obtain a Corps permit authorization where the party determines that it is in his or her best interest. In most cases, expanded preliminary JDs are also non-binding “written indications that there may be waters of the United States, including wetlands, on a parcel or indications of the approximate location(s) of waters of the United States or wetlands on a parcel.” However, Corps verification of a delineation, which is submitted in conjunction with an expanded preliminary JD request, would provide the landowner or affected party with defensible documentation concerning the limits of Corps jurisdiction.

 Approved Determination – As defined in Regulatory Guidance Letter 08-02, an approved JD is an official Corps determination that jurisdictional “waters of the United States,” or “navigable waters of the United States,” or both, are either present or absent on a particular site. An approved JD precisely identifies the limits of those waters on the project site determined to be jurisdictional under the CWA/RHA (See 33 C.F.R. 331.2.).

I request a jurisdictional determination on the above property, grant the US Army Corps of Engineers permission to conduct an on-site inspection, and certify that I am authorized to grant permission for entry into the property.

SIGNED *Tomil Brey* DATE 1/8/2013

Appendix D

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD):

~~1/8/2013~~ ^{Feb 1, 2013}

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

Sea Island Acquisitions, LLC
 C/O Oaktree Capital Management, LLC
 Attn: Mr. Vassa Cate
 100 Salt Marsh Lane
 St. Simons Island, Georgia 31522

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Savannah District; Sea Island Administration Site

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION: The subject property is located south of Sea Island Road, +/- 1900 feet west of Frederica Road on St. Simons Island, Glynn County, Georgia.

(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)

State: GA County/parish/borough: Glynn City: St. Simons Island
 Center coordinates of site (lat/long in degree decimal format): Lat. 31.183693° N, Long. -81.383453° W.
 Universal Transverse Mercator
 Name of nearest waterbody: Marshes of the Dunbar Creek

Identify (estimate) amount of waters in the review area:
 Non-wetland waters: linear feet: width (ft) and/or acres.
 Cowardin Class:
 Stream Flow:
 Wetlands: 1.781 acres.
 Cowardin Class: Emergent

Name of any water bodies on the site that have been identified as Section 10 waters:
 Tidal: Dunbar Creek
 Non-Tidal:

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

- Office (Desk) Determination. Date: Feb 1, 2013
- Field Determination. Date(s):

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.

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: Plat by Shupe Surveying Company entitled "Sea Island Administration Site" and dated 10/3/2012.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - 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:03070203.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1"=2000'; Brunswick and Sea Island Quads.
- USDA Natural Resources Conservation Service Soil Survey. Citation: 1"=1000'; Glynn County, GA.
- National wetlands inventory map(s). Cite name: 1"=1000'; Brunswick and Sea Island Quads.
- State/Local wetland inventory map(s):
- FEMA/FIRM maps: 13127C0242F dated 9/6/2006.
- 100-year Floodplain Elevation is: AE (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): 1999 CIR Aerial; 1"=1000'; Brunswick and Sea Island Quads. or Other (Name & Date): 2010 Ortho Photograph, 1"=250'; Glynn County, GA.
- Previous determination(s). File no. and date of response letter: *SAS-2012-5670 (No. 27,200 Z) SAS-1992-16300 (No. 77,194)*
- Other information (please specify): The 9.955 acre tract contains 1.31 acres of freshwater wetlands, and 0.471 acres of tidal marsh..

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.

M. Emmett
 Signature and date of
 Regulatory Project Manager
 (REQUIRED)

per Daniel Bucey

 Signature and date of
 person requesting preliminary JD
 (REQUIRED, unless obtaining the signature is
 impracticable)

Font Value
 2/1/13

SAMPLE

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
1				0.1 acre	section 10 – tidal
2				100 linear feet	section 10 – non-tidal
3				15 square feet	non-section 10 – wetland
4				0.01 acre	non-section 10 – non-wetland

**US Army Corps of Engineers
Savannah District, Regulatory Division
Global Positioning Systems (GPS) Datasheet
Delineation of Wetlands, Streams and Other Waters
Within the State of Georgia**

USACE File Number _____ Date of Delineation _____

Name of Delineator Present _____

Make and Model of GPS Device Used (must be capable of sub-meter accuracy) _____

Geographic Coordinate System Used _____

Name of Continually Operated Reference Station Used for Post-processing _____

Date Post-processing Performed _____

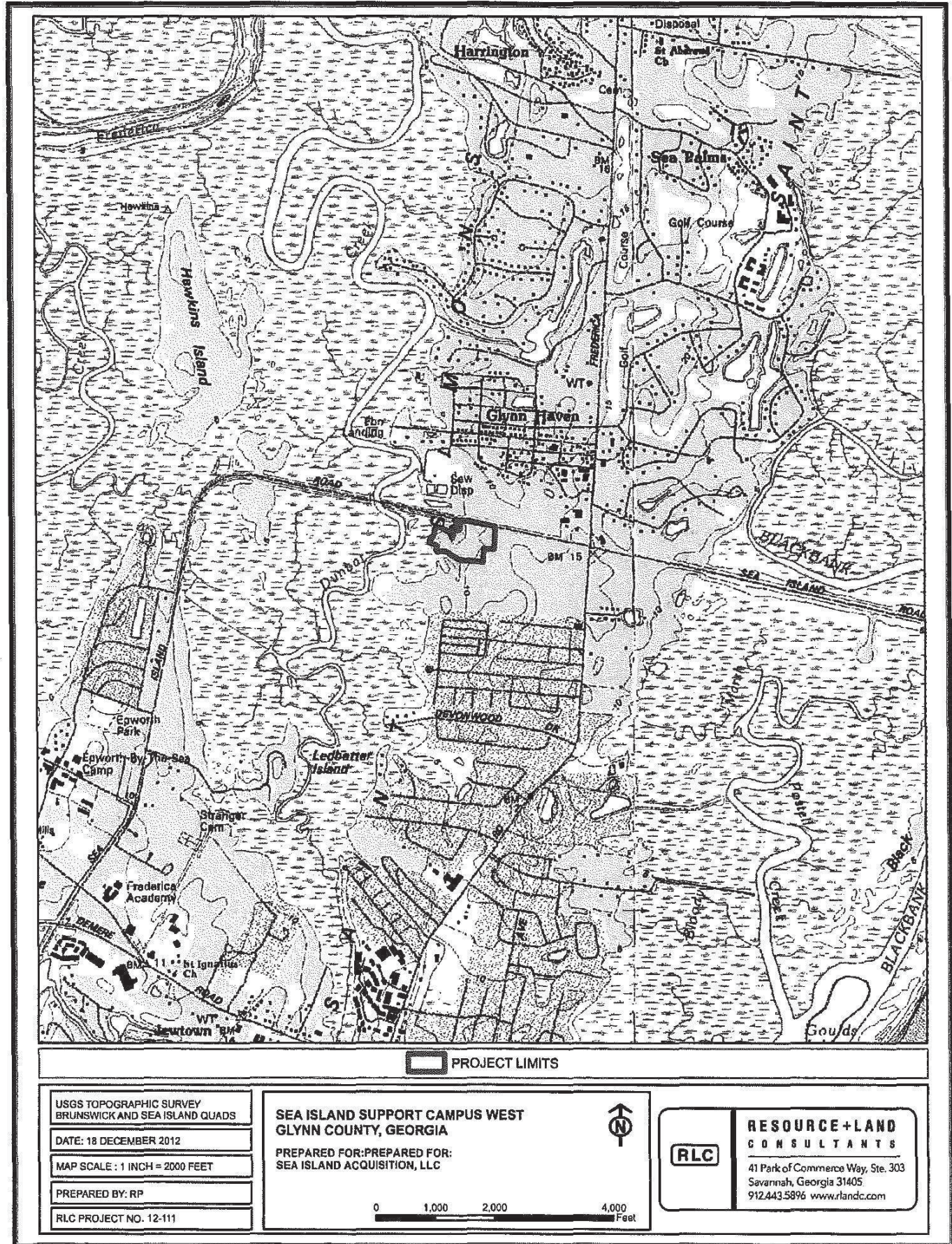
Percent Dilution of Position (PDOP) (6 or less is required) _____

Name and Coordinates of Known Property Corner and/or Monument _____

GPS Reading of Known Property Corner and/or Monument _____

Frequency of Waypoints Taken During Survey _____

Note: GPS data must be provided, if requested. If GPS data and/or GPS delineation is determined unacceptable by the Savannah District, a survey sealed by a surveyor licensed in Georgia will be required.



 PROJECT LIMITS

USGS TOPOGRAPHIC SURVEY
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

MAP SCALE : 1 INCH = 2000 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

**SEA ISLAND SUPPORT CAMPUS WEST
GLYNN COUNTY, GEORGIA**

PREPARED FOR: PREPARED FOR:
SEA ISLAND ACQUISITION, LLC

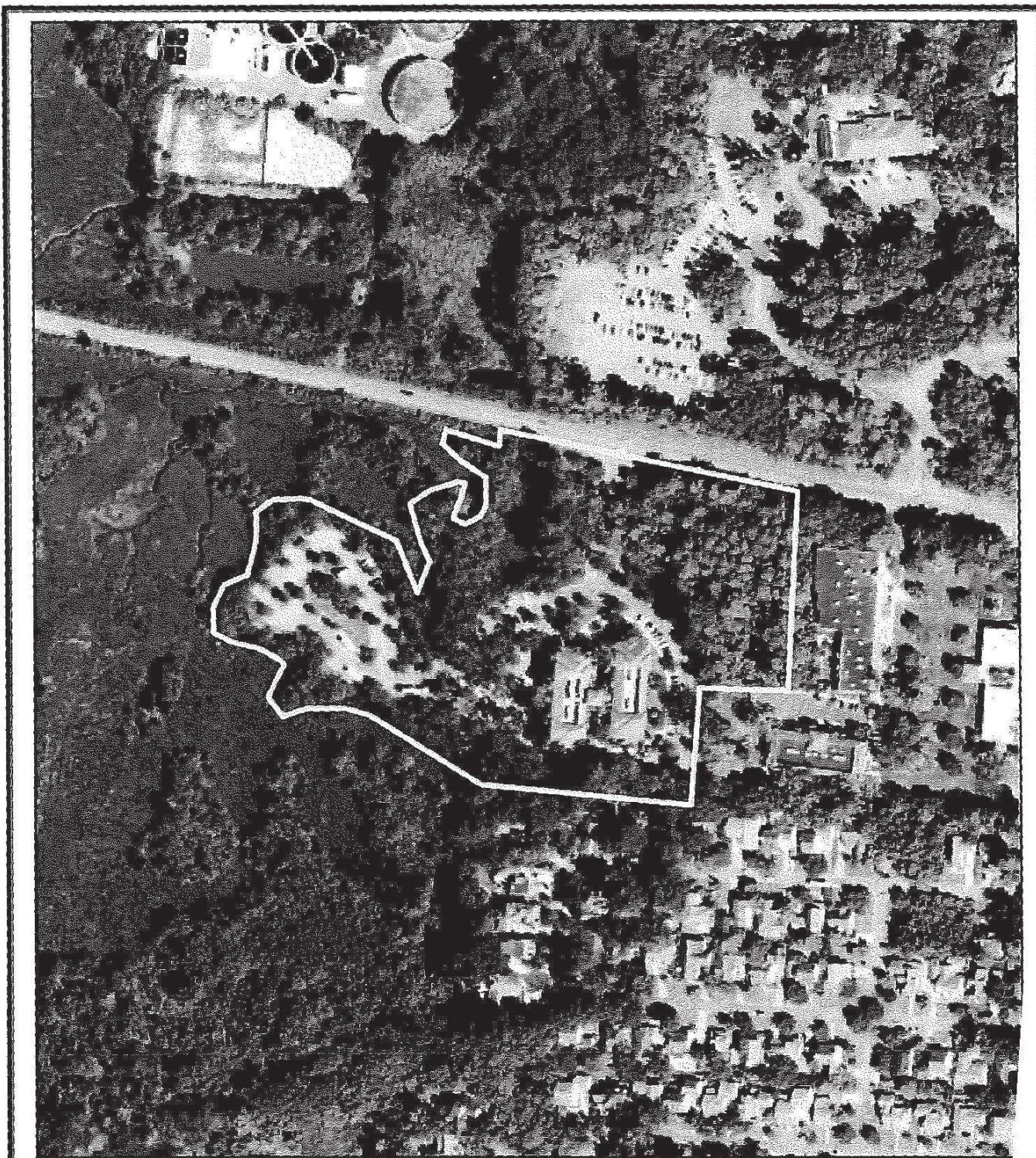


0 1,000 2,000 4,000 Feet

RLC

**RESOURCE+LAND
CONSULTANTS**

41 Park of Commerce Way, Ste. 303
Savannah, Georgia 31405
912.443.5896 www.rlandc.com



PROJECT LIMITS

ORTHO PHOTOGRAPH, 2010
GLYNN COUNTY, GEORGIA

DATE: 13 DECEMBER 2012

MAP SCALE : 1 INCH = 250 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

SEA ISLAND SUPPORT CAMPUS WEST
GLYNN COUNTY, GEORGIA

PREPARED FOR:
SEA ISLAND ACQUISITION, LLC



0 125 250 500 Feet

RLC

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CONSULTANTS

41 Park of Commerce Way, Ste. 303
Savannah, Georgia 31405
912.443.5896 www.rlandc.com

WETLAND DETERMINATION DATA FORM – Atlantic and Gulf Coastal Plain Region

Project/Site: Sea Island Administration Site City/County: St. Simons Island/Glynn Sampling Date: 12/3/2012
 Applicant/Owner: Sea Island Acquisition, LLC State: GA Sampling Point: Data Point 1 Wetland
 Investigator(s): RLC Attn: Dan Bucey Section, Township, Range: _____
 Landform (hillslope, terrace, etc.): Tidal Marsh Local relief (concave, convex, none): Concave Slope (%): 0-2%
 Subregion (LRR or MLRA): T Lat: 31.182936 Long: -81.384272 Datum: WGS84
 Soil Map Unit Name: Bohicket NWJ classification: E2EM1P

Are climatic / hydrologic conditions on the site typical for this time of year? Yes No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <input checked="" type="checkbox"/> No _____	Is the Sampled Area within a Wetland? Yes <input checked="" type="checkbox"/> No _____
Hydric Soil Present?	Yes <input checked="" type="checkbox"/> No _____	
Wetland Hydrology Present?	Yes <input checked="" type="checkbox"/> No _____	

Remarks:
 Data Point 1 Marsh was taken downhill of wetland flag B4 (L7 on the survey) within the non-tidal wetland fringe. All wetland criteria were present.

HYDROLOGY

Wetland Hydrology Indicators:	Secondary Indicators (minimum of two required)
<u>Primary Indicators (minimum of one is required; check all that apply)</u>	
<input checked="" type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Surface Soil Cracks (B6)
<input checked="" type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)
<input checked="" type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Moss Trim Lines (B16)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Crayfish Burrows (C8)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input checked="" type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Iron Deposits (B5)	<input checked="" type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Water-Stained Leaves (B9)	<input checked="" type="checkbox"/> FAC-Neutral Test (D5)
	<input type="checkbox"/> Sphagnum moss (D8) (LRR T, U)

Field Observations:		Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No _____
Surface Water Present?	Yes <input checked="" type="checkbox"/> No _____ Depth (Inches): <u>2"</u>	
Water Table Present?	Yes <input checked="" type="checkbox"/> No _____ Depth (Inches): <u>Surface</u>	
Saturation Present? (includes capillary fringe)	Yes <input checked="" type="checkbox"/> No _____ Depth (Inches): <u>0"</u>	

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
 Hydrology indicators were present at Data Point 1.

VEGETATION (Five Strata) – Use scientific names of plants.

Sampling Point: Data Point 1 Wetland

	Absolute % Cover	Dominant Species?	Indicator Status	
Tree Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Juniperus virginiana</u>	<u>25</u>	Yes	FAC	
2. <u>Quercus virginiana</u>	<u>50</u>	Yes	FACU	
3. _____				
4. _____				
5. _____				
6. _____				
	<u>75</u>			= Total Cover
	50% of total cover: <u>37.5</u>	20% of total cover: <u>15</u>		
Sapling Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
	<u>0</u>			= Total Cover
	50% of total cover: _____	20% of total cover: _____		
Shrub Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Myrica cerifera</u>	<u>10</u>	Yes	FAC	
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
	<u>10</u>			= Total Cover
	50% of total cover: <u>5</u>	20% of total cover: <u>2</u>		
Herb Stratum (Plot size: <u>1 meter square</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
11. _____				
	<u>0</u>			= Total Cover
	50% of total cover: _____	20% of total cover: _____		
Woody Vine Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
	<u>0</u>			= Total Cover
	50% of total cover: _____	20% of total cover: _____		

Remarks: (If observed, list morphological adaptations below).

Hydrophytic vegetation was present at Data Point 1.

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 2 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 100 (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species _____	x 2 = _____
FAC species _____	x 3 = _____
FACU species _____	x 4 = _____
UPL species _____	x 5 = _____
Column Totals: <u>0</u> (A)	<u>0</u> (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

1 - Rapid Test for Hydrophytic Vegetation

2 - Dominance Test is >50%

3 - Prevalence Index is ≤3.0¹

Problematic Hydrophytic Vegetation¹ (Explain)

¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Five Vegetation Strata:

Tree – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and 3 in. (7.6 cm) or larger in diameter at breast height (DBH).

Sapling – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and less than 3 in. (7.6 cm) DBH.

Shrub – Woody plants, excluding woody vines, approximately 3 to 20 ft (1 to 6 m) in height.

Herb – All herbaceous (non-woody) plants, including herbaceous vines, regardless of size, and woody plants, except woody vines, less than approximately 3 ft (1 m) in height.

Woody vine – All woody vines, regardless of height.

Hydrophytic Vegetation Present? Yes No

SOIL

Sampling Point: Data Point 1 Wetland

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-12	10YR2/1	100					Muck	

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Polyvalue Below Surface (S8) (LRR S, T, U)	<input type="checkbox"/> 1 cm Muck (A9) (LRR O)
<input checked="" type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Thin Dark Surface (S9) (LRR S, T, U)	<input type="checkbox"/> 2 cm Muck (A10) (LRR S)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (LRR O)	<input type="checkbox"/> Reduced Vertic (F18) (outside MLRA 150A,B)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Piedmont Floodplain Soils (F19) (LRR P, S, T)
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Depleted Matrix (F3)	<input type="checkbox"/> Anomalous Bright Loamy Soils (F20) (MLRA 153B)
<input type="checkbox"/> Organic Bodies (A6) (LRR P, T, U)	<input type="checkbox"/> Redox Dark Surface (F6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> 5 cm Mucky Mineral (A7) (LRR P, T, U)	<input type="checkbox"/> Depleted Dark Surface (F7)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Muck Presence (A8) (LRR U)	<input type="checkbox"/> Redox Depressions (F8)	<input type="checkbox"/> Other (Explain in Remarks)
<input type="checkbox"/> 1 cm Muck (A9) (LRR P, T)	<input type="checkbox"/> Marl (F10) (LRR U)	
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Ochric (F11) (MLRA 151)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR O, P, T)	³ Indicators of hydrophytic vegetation and welland hydrology must be present, unless disturbed or problematic.
<input type="checkbox"/> Coast Prairie Redox (A16) (MLRA 150A)	<input type="checkbox"/> Umbric Surface (F13) (LRR P, T, U)	
<input type="checkbox"/> Sandy Mucky Mineral (S1) (LRR O, S)	<input type="checkbox"/> Delta Ochric (F17) (MLRA 151)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Reduced Vertic (F18) (MLRA 150A, 150B)	
<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Piedmont Floodplain Soils (F19) (MLRA 149A)	
<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Anomalous Bright Loamy Soils (F20) (MLRA 149A, 153C, 153D)	
<input type="checkbox"/> Dark Surface (S7) (LRR P, S, T, U)		

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes No

Remarks: Hydric soils were present at Data Point 1.

WETLAND DETERMINATION DATA FORM – Atlantic and Gulf Coastal Plain Region

Project/Site: Sea Island Administration Site City/County: St. Simons Island/Glynn Sampling Date: 12/3/2012
 Applicant/Owner: Sea Island Acquisition, LLC State: GA Sampling Point: Data Point 1 Upland
 Investigator(s): RLC Attn: Dan Bucey Section, Township, Range: _____
 Landform (hillslope, terrace, etc.): Terrace Local relief (concave, convex, none): Convex Slope (%): 0-2%
 Subregion (LRR or MLRA): T Lat: 31.183158 Long: -81.383903 Datum: WGS84
 Soil Map Unit Name: Mandarin NWI classification: Upland
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No <input checked="" type="checkbox"/>	Is the Sampled Area within a Wetland? Yes _____ No <input checked="" type="checkbox"/>
Hydric Soil Present?	Yes _____	No <input checked="" type="checkbox"/>	
Wetland Hydrology Present?	Yes _____	No <input checked="" type="checkbox"/>	
Remarks:			
Data Point 1 Upland was taken uphill of wetland flag B4 (L7 on survey). No wetland criteria was present within the upland at Data Point 1.			

HYDROLOGY

Wetland Hydrology Indicators:	Secondary Indicators (minimum of two required)
<u>Primary Indicators (minimum of one is required; check all that apply)</u>	_____ Surface Soil Cracks (B6)
_____ Surface Water (A1)	_____ Sparsely Vegetated Concave Surface (B8)
_____ High Water Table (A2)	_____ Drainage Patterns (B10)
_____ Saturation (A3)	_____ Moss Trim Lines (B16)
_____ Water Marks (B1)	_____ Dry-Season Water Table (C2)
_____ Sediment Deposits (B2)	_____ Crayfish Burrows (C8)
_____ Drift Deposits (B3)	_____ Saturation Visible on Aerial Imagery (C9)
_____ Algal Mat or Crust (B4)	_____ Geomorphic Position (D2)
_____ Iron Deposits (B5)	_____ Shallow Aquitard (D3)
_____ Inundation Visible on Aerial Imagery (B7)	_____ FAC-Neutral Test (D5)
_____ Water-Stained Leaves (B9)	_____ Sphagnum moss (D8) (LRR T, U)
Field Observations:	
Surface Water Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____	Wetland Hydrology Present? Yes _____ No <input checked="" type="checkbox"/>
Water Table Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____	
Saturation Present? (includes capillary fringe) Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:	
Remarks:	
No hydrology indicators were present within the upland at Data Point 1.	

VEGETATION (Five Strata) – Use scientific names of plants.

Sampling Point: Data Point 1 Upland

	Absolute % Cover	Dominant Species?	Indicator Status	
Tree Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Quercus virginiana</u>	50	Yes	FACU	
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
				50 = Total Cover
50% of total cover: <u>25</u>				20% of total cover: <u>10</u>
Sapling Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
				0 = Total Cover
50% of total cover: _____				20% of total cover: _____
Shrub Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Serenoa repens</u>	90	Yes	FACU	
2. <u>Myrica cerifera</u>	10	No	FAC	
3. _____				
4. _____				
5. _____				
6. _____				
				100 = Total Cover
50% of total cover: <u>50</u>				20% of total cover: <u>20</u>
Herb Stratum (Plot size: <u>1 meter square</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
11. _____				
				0 = Total Cover
50% of total cover: _____				20% of total cover: _____
Woody Vine Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
				0 = Total Cover
50% of total cover: _____				20% of total cover: _____

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 0 (A)

Total Number of Dominant Species Across All Strata: 2 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 0 (A/B)

Prevalence Index worksheet:

Total % Cover of: _____ Multiply by: _____

OBL species _____ x 1 = _____

FACW species _____ x 2 = _____

FAC species _____ x 3 = _____

FACU species _____ x 4 = _____

UPL species _____ x 5 = _____

Column Totals: 0 (A) 0 (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

1 - Rapid Test for Hydrophytic Vegetation

2 - Dominance Test is >50%

3 - Prevalence Index is ≤3.0¹

Problematic Hydrophytic Vegetation¹ (Explain)

¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Five Vegetation Strata:

Tree – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and 3 in. (7.6 cm) or larger in diameter at breast height (DBH).

Sapling – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and less than 3 in. (7.6 cm) DBH.

Shrub – Woody plants, excluding woody vines, approximately 3 to 20 ft (1 to 6 m) in height.

Herb – All herbaceous (non-woody) plants, including herbaceous vines, regardless of size, and woody plants, except woody vines, less than approximately 3 ft (1 m) in height.

Woody vine – All woody vines, regardless of height.

Hydrophytic Vegetation Present? Yes No

Remarks: (If observed, list morphological adaptations below).

Hydrophytic vegetation was not present within the upland at Data Point 1.

SOIL

Sampling Point: Data Point 1 Upland

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-10	10YR4/2	100					Sand	
10-16	10YR3/1	100					Sand	

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

___ Histosol (A1)	___ Polyvalue Below Surface (S8) (LRR S, T, U)	___ 1 cm Muck (A9) (LRR O)
___ Histic Epipedon (A2)	___ Thin Dark Surface (S9) (LRR S, T, U)	___ 2 cm Muck (A10) (LRR S)
___ Black Histic (A3)	___ Loamy Mucky Mineral (F1) (LRR O)	___ Reduced Vertic (F18) (outside MLRA 150A,B)
___ Hydrogen Sulfide (A4)	___ Loamy Gleyed Matrix (F2)	___ Piedmont Floodplain Soils (F19) (LRR P, S, T)
___ Stratified Layers (A5)	___ Depleted Matrix (F3)	___ Anomalous Bright Loamy Soils (F20)
___ Organic Bodies (A6) (LRR P, T, U)	___ Redox Dark Surface (F6)	___ (MLRA 153B)
___ 5 cm Mucky Mineral (A7) (LRR P, T, U)	___ Depleted Dark Surface (F7)	___ Red Parent Material (TF2)
___ Muck Presence (A8) (LRR U)	___ Redox Depressions (F8)	___ Very Shallow Dark Surface (TF12)
___ 1 cm Muck (A9) (LRR P, T)	___ Marl (F10) (LRR U)	___ Other (Explain in Remarks)
___ Depleted Below Dark Surface (A11)	___ Depleted Ochric (F11) (MLRA 151)	
___ Thick Dark Surface (A12)	___ Iron-Manganese Masses (F12) (LRR O, P, T)	³ Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.
___ Coast Prairie Redox (A16) (MLRA 150A)	___ Umbric Surface (F13) (LRR P, T, U)	
___ Sandy Mucky Mineral (S1) (LRR O, S)	___ Delta Ochric (F17) (MLRA 151)	
___ Sandy Gleyed Matrix (S4)	___ Reduced Vertic (F18) (MLRA 150A, 150B)	
___ Sandy Redox (S5)	___ Piedmont Floodplain Soils (F19) (MLRA 149A)	
___ Stripped Matrix (S6)	___ Anomalous Bright Loamy Soils (F20) (MLRA 149A, 153C, 153D)	
___ Dark Surface (S7) (LRR P, S, T, U)		

Restrictive Layer (if observed):
 Type: _____
 Depth (inches): _____

Hydric Soil Present? Yes No

Remarks:
 Hydric soils were not present within the upland at Data Point 1.

WETLAND DETERMINATION DATA FORM – Atlantic and Gulf Coastal Plain Region

Project/Site: Sea Island Support Campus West City/County: St. Simons Island/Glynn Sampling Date: 12/3/2012
 Applicant/Owner: Sea Island Acquisition, LLC State: GA Sampling Point: Data Point 2 Wetland
 Investigator(s): RLC Attn: Dan Bucey Section, Township, Range: _____
 Landform (hillslope, terrace, etc.): Terrace Local relief (concave, convex, none): Concave Slope (%): 0-2%
 Subregion (LRR or MLRA): T Lat: 31.163807 Long: -81.362708 Datum: WGS84
 Soil Map Unit Name: Bohicket NWI classification: E2EM1P

Are climatic / hydrologic conditions on the site typical for this time of year? Yes No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <input checked="" type="checkbox"/> No _____	Hydric Soil Present? Yes <input checked="" type="checkbox"/> No _____	Is the Sampled Area within a Wetland? Yes <input checked="" type="checkbox"/> No _____
Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No _____		
Remarks: Data Point 2 Wetland was taken downhill of flag A2 (L137 on the Wetland Survey). All wetland criteria was present within the freshwater wetland area.		

HYDROLOGY

<p>Wetland Hydrology Indicators:</p> <p><u>Primary Indicators (minimum of one is required; check all that apply)</u></p> <p><input type="checkbox"/> Surface Water (A1) <input type="checkbox"/> Aquatic Fauna (B13) <input checked="" type="checkbox"/> High Water Table (A2) <input type="checkbox"/> Marl Deposits (B15) (LRR U) <input checked="" type="checkbox"/> Saturation (A3) <input type="checkbox"/> Hydrogen Sulfide Odor (C1) <input type="checkbox"/> Water Marks (B1) <input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3) <input type="checkbox"/> Sediment Deposits (B2) <input type="checkbox"/> Presence of Reduced Iron (C4) <input type="checkbox"/> Drift Deposits (B3) <input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6) <input type="checkbox"/> Algal Mat or Crust (B4) <input type="checkbox"/> Thin Muck Surface (C7) <input type="checkbox"/> Iron Deposits (B5) <input type="checkbox"/> Other (Explain in Remarks) <input type="checkbox"/> Inundation Visible on Aerial Imagery (B7) <input type="checkbox"/> Water-Stained Leaves (B9)</p>	<p><u>Secondary Indicators (minimum of two required)</u></p> <p><input type="checkbox"/> Surface Soil Cracks (B6) <input type="checkbox"/> Sparsely Vegetated Concave Surface (B8) <input type="checkbox"/> Drainage Patterns (B10) <input type="checkbox"/> Moss Trim Lines (B16) <input type="checkbox"/> Dry-Season Water Table (C2) <input type="checkbox"/> Crayfish Burrows (C8) <input type="checkbox"/> Saturation Visible on Aerial Imagery (C9) <input checked="" type="checkbox"/> Geomorphic Position (D2) <input type="checkbox"/> Shallow Aquitard (D3) <input checked="" type="checkbox"/> FAC-Neutral Test (D5) <input type="checkbox"/> Sphagnum moss (D8) (LRR T, U)</p>
<p>Field Observations:</p> <p>Surface Water Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ Water Table Present? Yes <input checked="" type="checkbox"/> No _____ Depth (inches): <u>Surface</u> Saturation Present? Yes <input checked="" type="checkbox"/> No _____ Depth (inches): <u>Surface</u> (includes capillary fringe)</p>	
<p>Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No _____</p>	
<p>Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:</p>	
<p>Remarks: Hydrology indicators were present within the freshwater wetland at Data Point 2.</p>	

VEGETATION (Five Strata) – Use scientific names of plants.

Sampling Point: Data Point 2 Wetland

	Absolute % Cover	Dominant Species?	Indicator Status	
Tree Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Juniperus virginiana</u>	<u>25</u>	Yes	FAC	
2. <u>Quercus virginiana</u>	<u>10</u>	Yes	FACU	
3. _____				
4. _____				
5. _____				
6. _____				
	<u>35</u> = Total Cover			
	50% of total cover: <u>17.5</u>	20% of total cover: <u>7</u>		
Sapling Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
	<u>0</u> = Total Cover			
	50% of total cover: _____	20% of total cover: _____		
Shrub Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Myrica cerifera</u>	<u>25</u>	Yes	FAC	
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
	<u>25</u> = Total Cover			
	50% of total cover: <u>12.5</u>	20% of total cover: <u>5</u>		
Herb Stratum (Plot size: <u>1 meter square</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
11. _____				
	<u>0</u> = Total Cover			
	50% of total cover: _____	20% of total cover: _____		
Woody Vine Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
	<u>0</u> = Total Cover			
	50% of total cover: _____	20% of total cover: _____		

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 2 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 66 (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species _____	x 2 = _____
FAC species _____	x 3 = _____
FACU species _____	x 4 = _____
UPL species _____	x 5 = _____
Column Totals: <u>0</u> (A)	<u>0</u> (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

1 - Rapid Test for Hydrophytic Vegetation

2 - Dominance Test is >50%

3 - Prevalence Index is ≤3.0¹

Problematic Hydrophytic Vegetation¹ (Explain)

¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Five Vegetation Strata:

Tree – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and 3 in. (7.6 cm) or larger in diameter at breast height (DBH).

Sapling – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and less than 3 in. (7.6 cm) DBH.

Shrub – Woody plants, excluding woody vines, approximately 3 to 20 ft (1 to 6 m) in height.

Herb – All herbaceous (non-woody) plants, including herbaceous vines, regardless of size, and woody plants, except woody vines, less than approximately 3 ft (1 m) in height.

Woody vine – All woody vines, regardless of height.

Hydrophytic Vegetation Present? Yes No

Remarks: (If observed, list morphological adaptations below).

Hydrophytic vegetation was present within the freshwater wetland at Data Point 2.

SOIL

Sampling Point: Data Point 2 Wetland

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-12	10YR2/1	100					Muck	

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Polyvalue Below Surface (S8) (LRR S, T, U)	<input type="checkbox"/> 1 cm Muck (A9) (LRR O)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Thin Dark Surface (S9) (LRR S, T, U)	<input type="checkbox"/> 2 cm Muck (A10) (LRR S)
<input checked="" type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (LRR O)	<input type="checkbox"/> Reduced Vertic (F18) (outside MLRA 150A,B)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Piedmont Floodplain Soils (F19) (LRR P, S, T)
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Depleted Matrix (F3)	<input type="checkbox"/> Anomalous Bright Loamy Soils (F20) (MLRA 153B)
<input type="checkbox"/> Organic Bodies (A6) (LRR P, T, U)	<input type="checkbox"/> Redox Dark Surface (F6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> 5 cm Mucky Mineral (A7) (LRR P, T, U)	<input type="checkbox"/> Depleted Dark Surface (F7)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Muck Presence (A8) (LRR U)	<input type="checkbox"/> Redox Depressions (F8)	<input type="checkbox"/> Other (Explain in Remarks)
<input type="checkbox"/> 1 cm Muck (A9) (LRR P, T)	<input type="checkbox"/> Marl (F10) (LRR U)	
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Ochric (F11) (MLRA 151)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR O, P, T)	³ Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.
<input type="checkbox"/> Coast Prairie Redox (A16) (MLRA 150A)	<input type="checkbox"/> Umbric Surface (F13) (LRR P, T, U)	
<input type="checkbox"/> Sandy Mucky Mineral (S1) (LRR O, S)	<input type="checkbox"/> Delta Ochric (F17) (MLRA 151)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Reduced Vertic (F18) (MLRA 150A, 150B)	
<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Piedmont Floodplain Soils (F19) (MLRA 149A)	
<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Anomalous Bright Loamy Soils (F20) (MLRA 149A, 153C, 153D)	
<input type="checkbox"/> Dark Surface (S7) (LRR P, S, T, U)		

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes No

Remarks:
Hydric soils were present within the freshwater wetland at Data Point 2.

WETLAND DETERMINATION DATA FORM – Atlantic and Gulf Coastal Plain Region

Project/Site: Sea Island Administration Site City/County: St. Simons Island/Glynn Sampling Date: 12/3/2012
 Applicant/Owner: Sea Island Acquisition, LLC State: GA Sampling Point: Data Point 2 Upland
 Investigator(s): RLC Attn: Dan Bucey Section, Township, Range: _____
 Landform (hillslope, terrace, etc.): Terrace Local relief (concave, convex, none): Concave Slope (%): 0-2%
 Subregion (LRR or MLRA): T Lat: 31.183798 Long: -81.382789 Datum: WGS84
 Soil Map Unit Name: Mandarian NWI classification: Upland
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes _____ No <input checked="" type="checkbox"/> Hydric Soil Present? Yes _____ No <input checked="" type="checkbox"/> Wetland Hydrology Present? Yes _____ No <input checked="" type="checkbox"/>	Is the Sampled Area within a Wetland? Yes _____ No <input checked="" type="checkbox"/>
Remarks: Data Point 2 Upland was taken uphill of flag A2 (L137 on the Wetland Survey). No wetland criteria was present within the upland at Data Point 2.	

HYDROLOGY

Wetland Hydrology Indicators: Primary Indicators (minimum of one is required; check all that apply) _____ <input type="checkbox"/> Surface Water (A1) <input type="checkbox"/> Aquatic Fauna (B13) <input type="checkbox"/> High Water Table (A2) <input type="checkbox"/> Marl Deposits (B15) (LRR U) <input type="checkbox"/> Saturation (A3) <input type="checkbox"/> Hydrogen Sulfide Odor (C1) <input type="checkbox"/> Water Marks (B1) <input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3) <input type="checkbox"/> Sediment Deposits (B2) <input type="checkbox"/> Presence of Reduced Iron (C4) <input type="checkbox"/> Drift Deposits (B3) <input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6) <input type="checkbox"/> Algal Mat or Crust (B4) <input type="checkbox"/> Thin Muck Surface (C7) <input type="checkbox"/> Iron Deposits (B5) <input type="checkbox"/> Other (Explain in Remarks) <input type="checkbox"/> Inundation Visible on Aerial Imagery (B7) <input type="checkbox"/> Water-Stained Leaves (B8)	Secondary Indicators (minimum of two required) <input type="checkbox"/> Surface Soil Cracks (B6) <input type="checkbox"/> Sparsely Vegetated Concave Surface (B8) <input type="checkbox"/> Drainage Patterns (B10) <input type="checkbox"/> Moss Trim Lines (B16) <input type="checkbox"/> Dry-Season Water Table (C2) <input type="checkbox"/> Crayfish Burrows (C8) <input type="checkbox"/> Saturation Visible on Aerial Imagery (C9) <input type="checkbox"/> Geomorphic Position (D2) <input type="checkbox"/> Shallow Aquitard (D3) <input type="checkbox"/> FAC-Neutral Test (D5) <input type="checkbox"/> Sphagnum moss (D8) (LRR T, U)
Field Observations: Surface Water Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ Water Table Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ Saturation Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <input checked="" type="checkbox"/>
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:	
Remarks: Hydrology indicators were not present within the upland at Data Point 2.	

VEGETATION (Five Strata) – Use scientific names of plants.

Sampling Point: Data Point 2 Upland

	Absolute % Cover	Dominant Species?	Indicator Status	
Tree Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Quercus virginiana</u>	75	Yes	FACU	
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
75 = Total Cover				
50% of total cover: <u>37.5</u>		20% of total cover: <u>15</u>		
Sapling Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
0 = Total Cover				
50% of total cover: _____		20% of total cover: _____		
Shrub Stratum (Plot size: <u>37.2 foot radius</u>)				
1. <u>Myrica cerifera</u>	10	No	FAC	
2. <u>Serenoa repens</u>	80	Yes	FACU	
3. _____				
4. _____				
5. _____				
6. _____				
90 = Total Cover				
50% of total cover: <u>45</u>		20% of total cover: <u>18</u>		
Herb Stratum (Plot size: <u>1 meter square</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
11. _____				
0 = Total Cover				
50% of total cover: _____		20% of total cover: _____		
Woody Vine Stratum (Plot size: <u>37.2 foot radius</u>)				
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
0 = Total Cover				
50% of total cover: _____		20% of total cover: _____		
Dominance Test worksheet:				
Number of Dominant Species That Are OBL, FACW, or FAC:				1 (A)
Total Number of Dominant Species Across All Strata:				3 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC:				33 (A/B)
Prevalence Index worksheet:				
Total % Cover of:		Multiply by:		
OBL species	_____	x 1 =	_____	
FACW species	_____	x 2 =	_____	
FAC species	_____	x 3 =	_____	
FACU species	_____	x 4 =	_____	
UPL species	_____	x 5 =	_____	
Column Totals:	0 (A)	0 (B)		
Prevalence Index = B/A = _____				
Hydrophytic Vegetation Indicators:				
<input type="checkbox"/> 1 - Rapid Test for Hydrophytic Vegetation				
<input type="checkbox"/> 2 - Dominance Test is >50%				
<input type="checkbox"/> 3 - Prevalence Index is ≤3.0 ¹				
<input type="checkbox"/> Problematic Hydrophytic Vegetation ¹ (Explain)				
¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.				
Definitions of Five Vegetation Strata:				
Tree – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and 3 in. (7.6 cm) or larger in diameter at breast height (DBH).				
Sapling – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and less than 3 in. (7.6 cm) DBH.				
Shrub – Woody plants, excluding woody vines, approximately 3 to 20 ft (1 to 6 m) in height.				
Herb – All herbaceous (non-woody) plants, including herbaceous vines, regardless of size, and woody plants, except woody vines, less than approximately 3 ft (1 m) in height.				
Woody vine – All woody vines, regardless of height.				
Hydrophytic Vegetation Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
Remarks: (If observed, list morphological adaptations below).				
Hydrophytic vegetation was not present within the upland at Data Point 2.				

SOIL

Sampling Point: Data Point 2 Upland

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-10"	10YR3/1	100					Sand	<70% Coated
10-16"	10YR4/2	100					Sand	

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Polyvalue Below Surface (S8) (LRR S, T, U)	<input type="checkbox"/> 1 cm Muck (A9) (LRR O)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Thin Dark Surface (S9) (LRR S, T, U)	<input type="checkbox"/> 2 cm Muck (A10) (LRR S)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (LRR O)	<input type="checkbox"/> Reduced Vertic (F18) (outside MLRA 150A,B)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Piedmont Floodplain Soils (F19) (LRR P, S, T)
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Depleted Matrix (F3)	<input type="checkbox"/> Anomalous Bright Loamy Soils (F20) (MLRA 153B)
<input type="checkbox"/> Organic Bodies (A6) (LRR P, T, U)	<input type="checkbox"/> Redox Dark Surface (F6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> 5 cm Mucky Mineral (A7) (LRR P, T, U)	<input type="checkbox"/> Depleted Dark Surface (F7)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Muck Presence (A8) (LRR U)	<input type="checkbox"/> Redox Depressions (F8)	<input type="checkbox"/> Other (Explain in Remarks)
<input type="checkbox"/> 1 cm Muck (A9) (LRR P, T)	<input type="checkbox"/> Marl (F10) (LRR U)	
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Ochric (F11) (MLRA 151)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR O, P, T)	³ Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.
<input type="checkbox"/> Coast Prairie Redox (A16) (MLRA 150A)	<input type="checkbox"/> Umbric Surface (F13) (LRR P, T, U)	
<input type="checkbox"/> Sandy Mucky Mineral (S1) (LRR O, S)	<input type="checkbox"/> Delta Ochric (F17) (MLRA 151)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Reduced Vertic (F18) (MLRA 150A, 150B)	
<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Piedmont Floodplain Soils (F19) (MLRA 149A)	
<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Anomalous Bright Loamy Soils (F20) (MLRA 149A, 153C, 153D)	
<input type="checkbox"/> Dark Surface (S7) (LRR P, S, T, U)		

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes No

Remarks: Hydric soils were not present within the upland at Data Point 2.

THE BEARINGS SHOWN HEREON ARE BASED UPON A PLAT BY GEORGE P. UNDERWOOD, JR., CA R.L.S. #1927, DATED 11/12/80.

SEA ISLAND ADMINISTRATION SITE

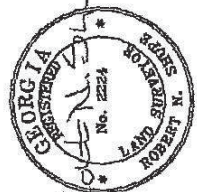
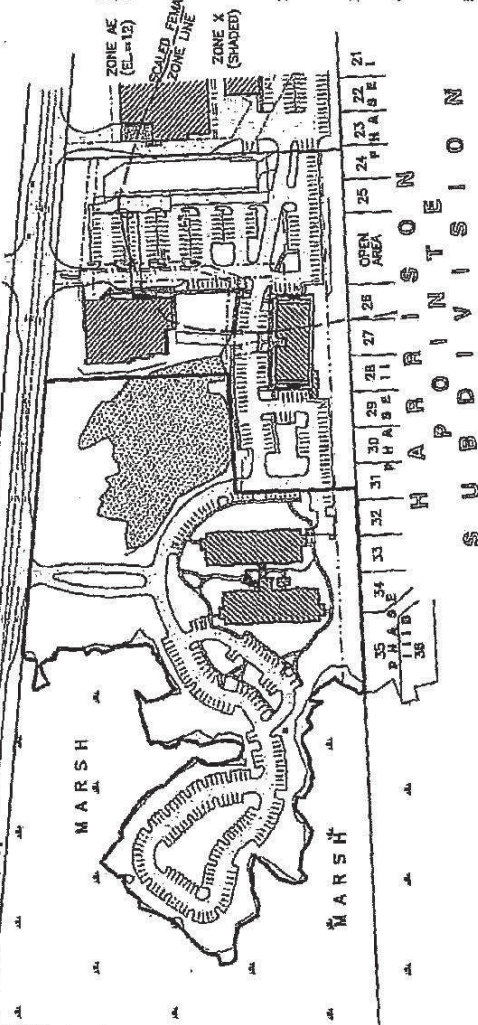
U. S. ARMY CORPS OF ENGINEERS & GA. DNR JURISDICTION SURVEY OF:

SEA ISLAND ROAD (80' PUBLIC R/W)

AREAS	
UPLAND	8.174 ACRES
WETLAND	1.781 ACRES
TOTAL	9.955 ACRES

NOTES:

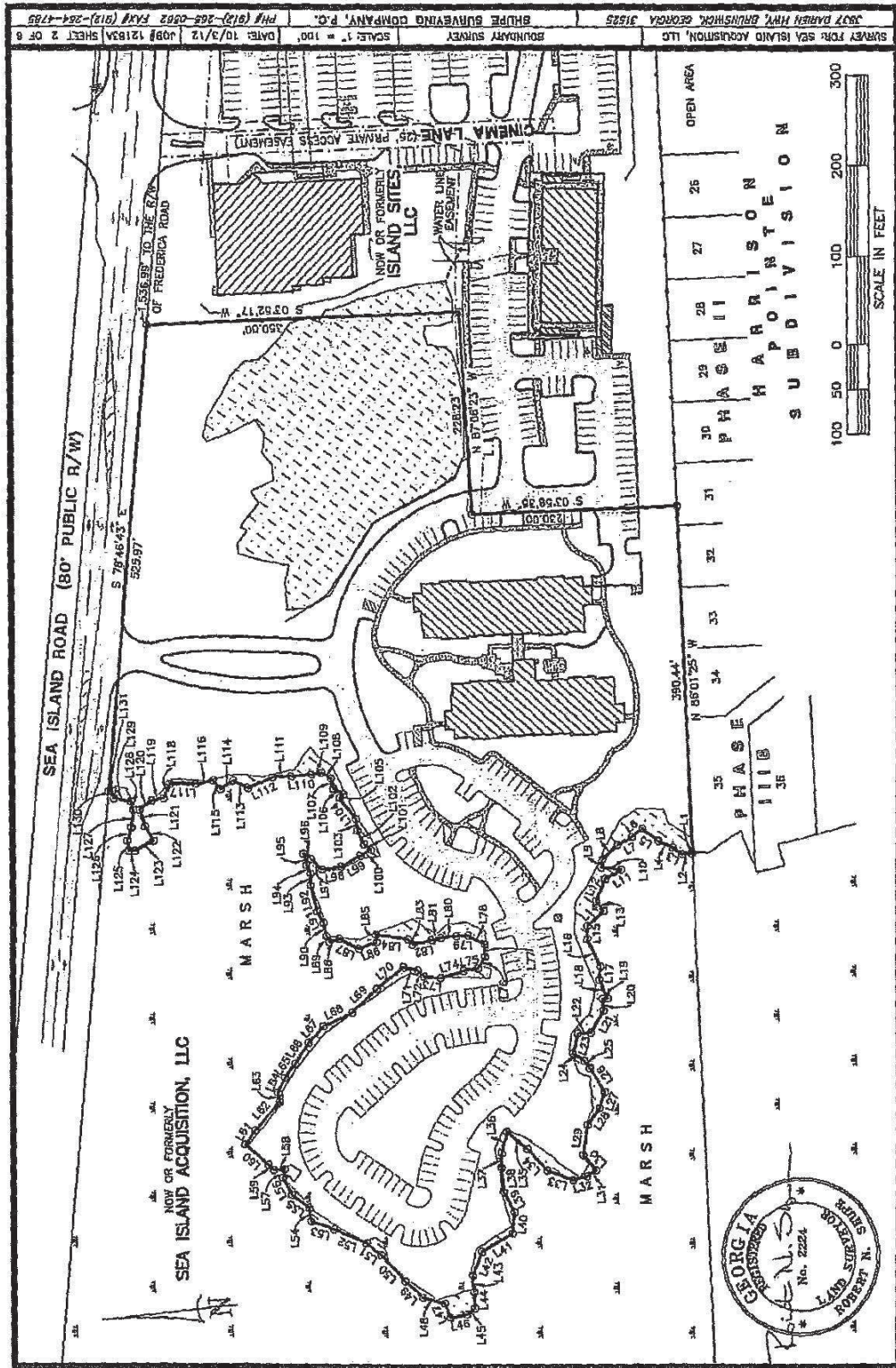
1. SURVEY REFERENCES:
 - A. PLAT BY ROBERT N. SKUPE, CA. R.L.S. # 2224, TITLED "SEA ISLAND COMPANY'S SUPPORT SERVICES CAMPUS - SOUTH", DATED 5/11/06.
 - B. PLAT BY ROBERT N. SKUPE, CA. R.L.S. # 2224, TITLED "REZONING MAP FOR SHOPS AT SEA ISLAND-WEST", DATED 4/21/04.
2. REVIEW OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP NUMBER 13427C0242E, DATED 8/10/16, FOR GLYNN COUNTY, GEORGIA, INDICATES THAT THIS PROPERTY LIES WITHIN ZONE AE (EL-12) WHICH IS IN A SPECIAL FLOOD HAZARD AREA.
3. ADVANCE PROPERTY OWNERS SHOWN HEREON WERE TAKEN FROM THE GLYNN COUNTY GIS WEB SITE (WWW.GLYNNCOUNTY.GOV).
4. WETLANDS ARE UNDER THE JURISDICTION OF THE U.S. ARMY CORPS OF ENGINEERS. PROPERTY OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR DISTURBANCE TO THESE WETLAND AREAS WITHOUT PROPER AUTHORIZATION.
5. THIS PROPERTY MAY BE SUBJECT TO A 25' STATE WATERS BUFFER FROM THE CNPA JURISDICTION LINE.
6. CNPA - JURISDICTIONAL AREA OF THE GEORGIA DEPARTMENT OF NATURAL RESOURCES UNDER THE GEORGIA COASTAL MARSHLANDS PROTECTION ACT OF 1970.
7. U. S. ARMY CORPS OF ENGINEERS WETLAND LINES & THE CNPA JURISDICTION LINE SHOWN ON THIS PLAT WERE DELINEATED BY DAN BUCSEY WITH RESOURCE LAND CONSULTANTS IN SEPTEMBER, 2012.
8. SHEETS:
 - SHEET 1 COVER SHEET
 - SHEET 2 BOUNDARY SURVEY
 - SHEETS 3 - 5 WETLAND & CNPA LINE DETAILS
 - SHEET 6 BEARING INFORMATION

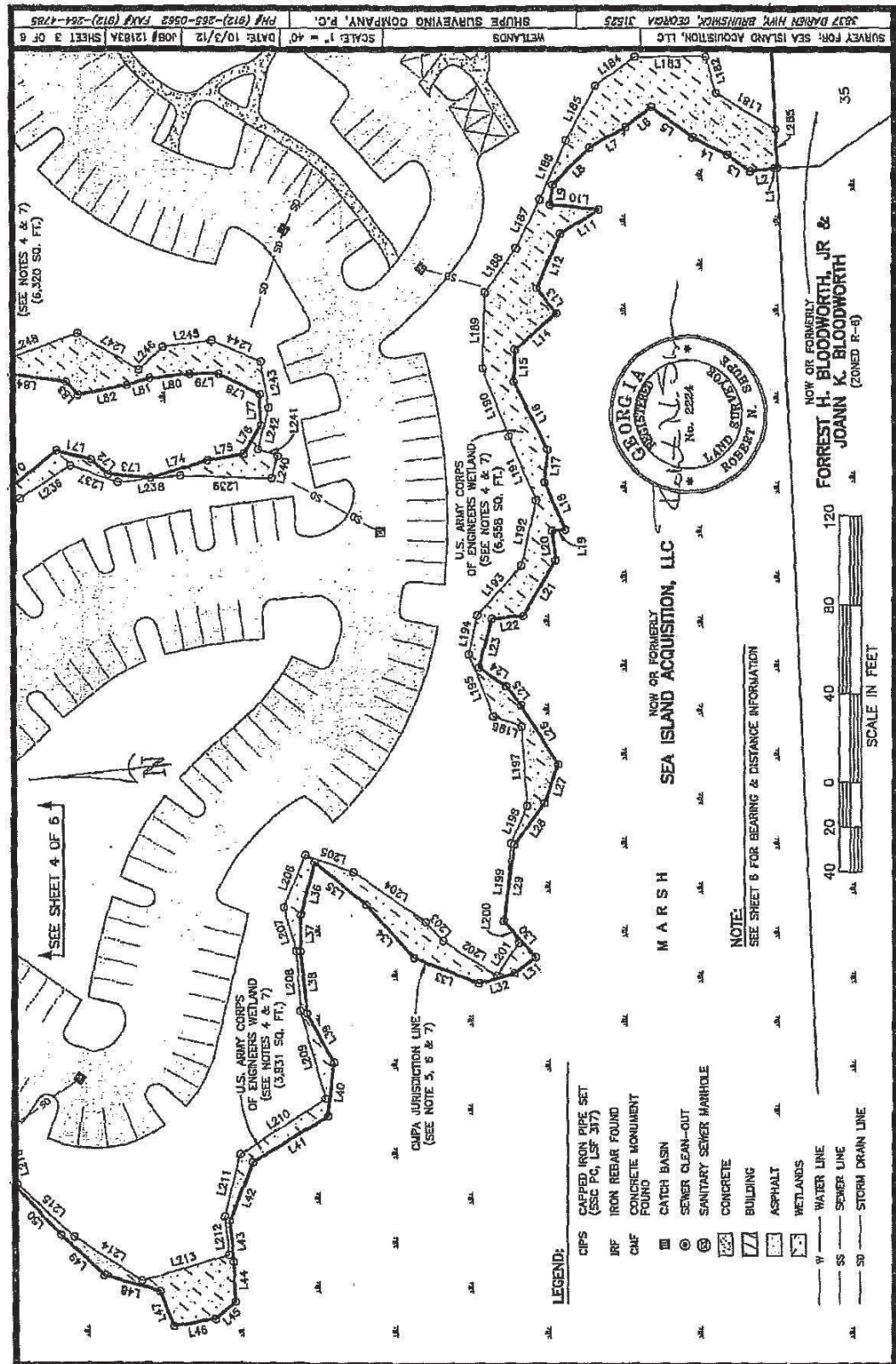


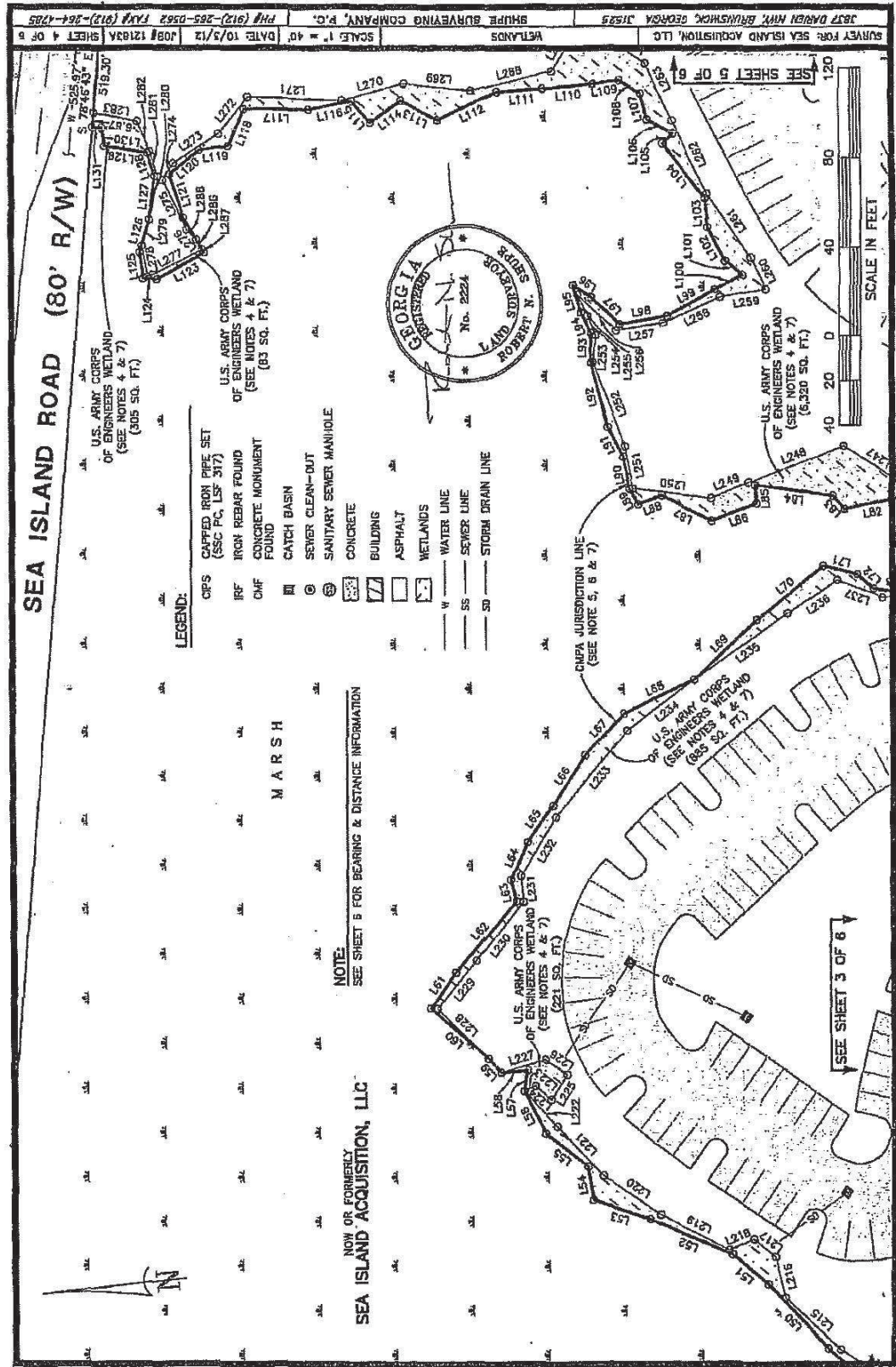
THIS PLAT REQUIRES NO APPROVAL BY THE LOCAL GOVERNING AUTHORITY AS SET FORTH IN GEORGIA ANNOTATED CODE 45-8-87, HOWEVER RECORDING OF THIS PLAT DOES NOT EXEMPT OR VOID ANY REQUIREMENTS FOR APPROVAL BY THE LOCAL GOVERNING AUTHORITY FOR THE DEVELOPMENT OR FURTHER SUBDIVISION OF THIS PROPERTY.

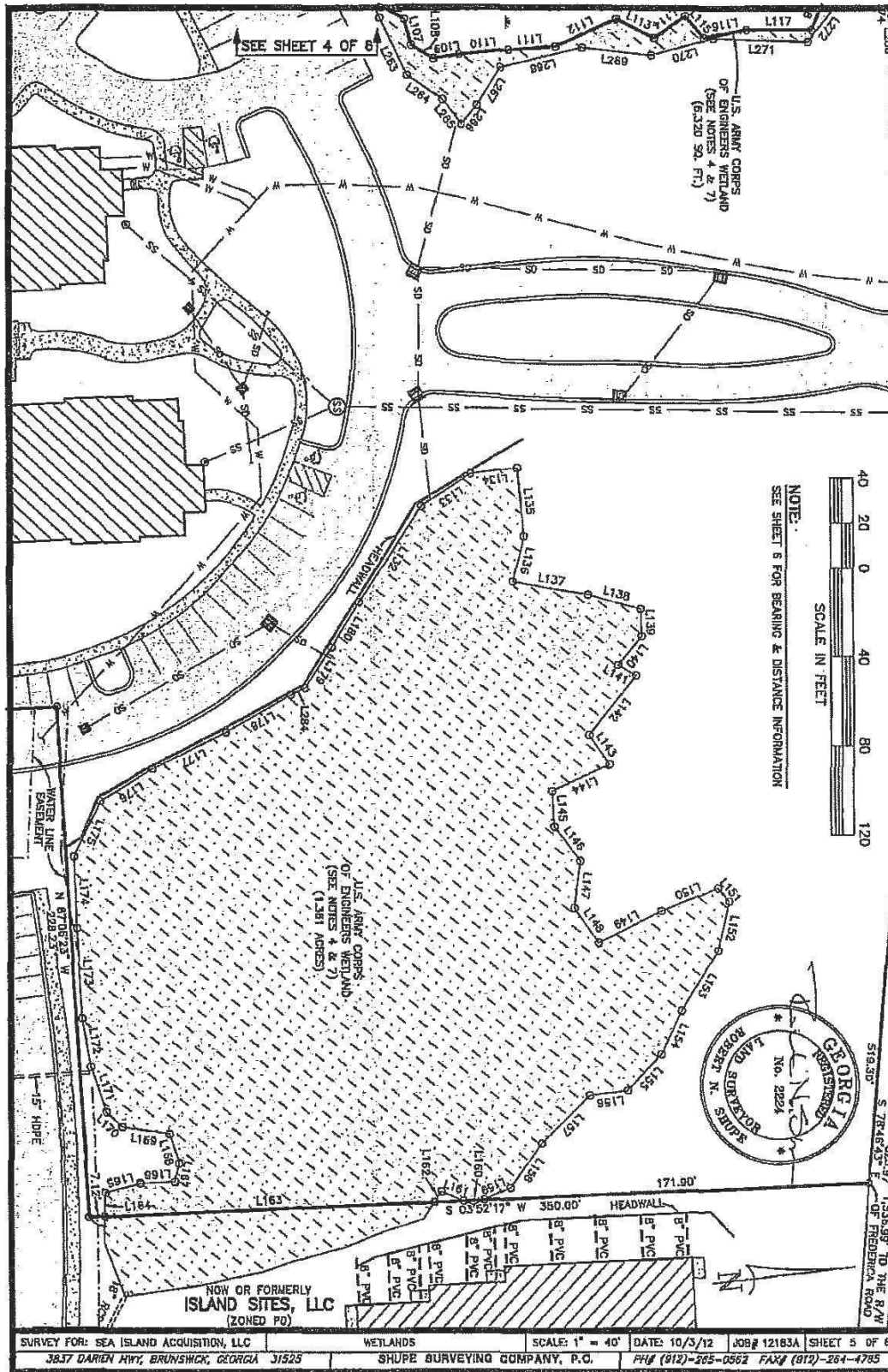


SURVEY FOR: SEA ISLAND ADMINISTRATION, LLC
 SURVEYOR: JERRY DANIEL HWY. ENGINEERING, GEORGIA 31225
 SCALE: 1" = 200'
 DATE: 10/3/12
 JOB # 12183A
 SHEET 1 OF 6
 GROUP SURVEYING COMPANY, P.C.
 PIV (012)-285-0262 FAX (012)-264-4783











PROJECT LIMITS

CIR PHOTOGRAPH; 1999
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

MAP SCALE: 1 INCH = 1000 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

**SEA ISLAND SUPPORT CAMPUS WEST
GLYNN COUNTY, GEORGIA**

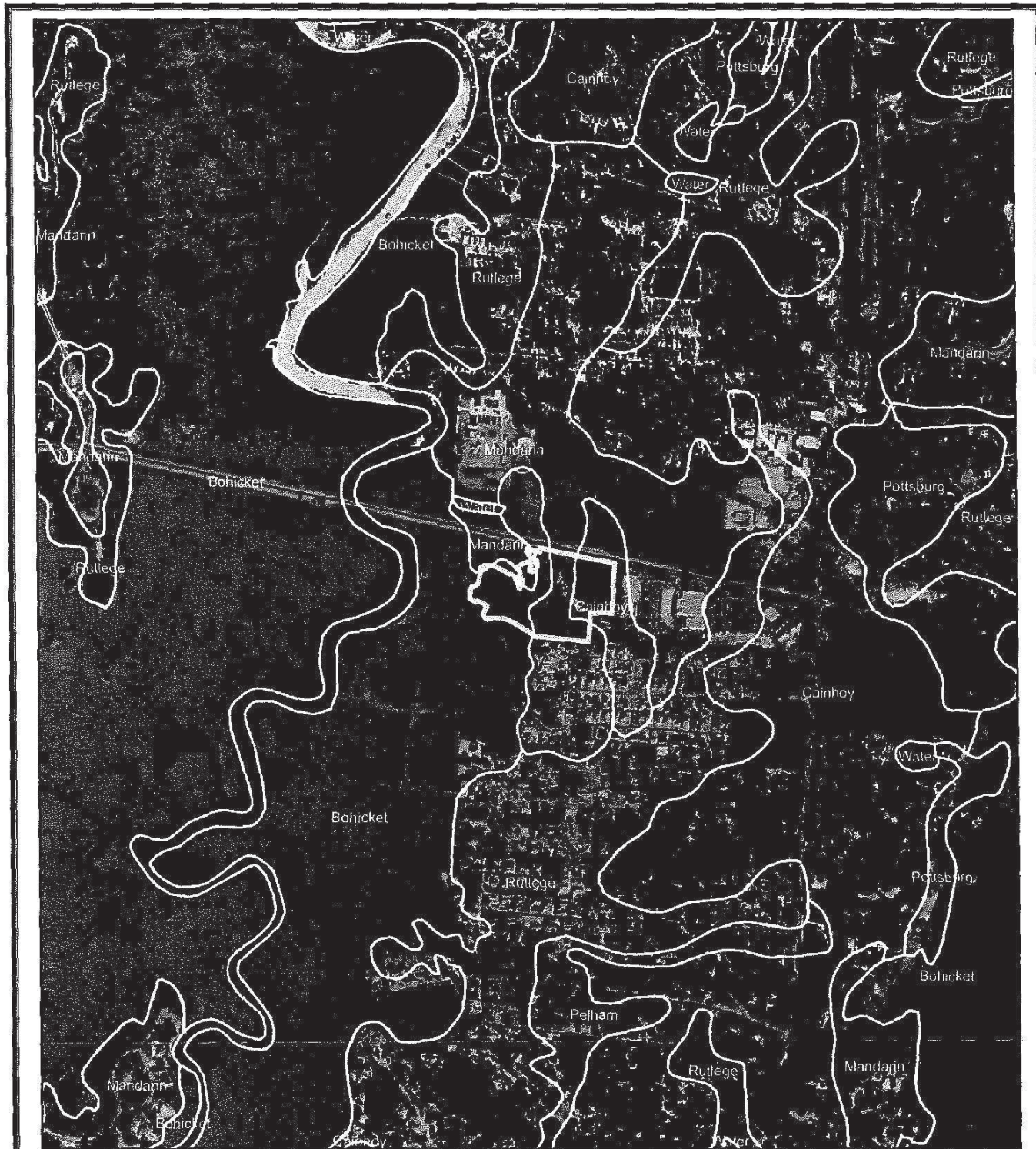
PREPARED FOR:
SEA ISLAND ACQUISITION, LLC



RLC

**RESOURCE+LAND
CONSULTANTS**

41 Park of Commerce Way, Ste. 303
Savannah, Georgia 31405
912.443.5896 www.rlandc.com



PROJECT LIMITS

USDA NRCS SOILS SURVEY
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

MAP SCALE : 1 INCH = 1000 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

**SEA ISLAND SUPPORT CAMPUS WEST
GLYNN COUNTY, GEORGIA**

PREPARED FOR:
SEA ISLAND ACQUISITION, LLC

0 500 1,000 2,000
Feet

**RESOURCE+LAND
CONSULTANTS**

RLC

41 Park of Commerce Way, Ste. 303
Savannah, Georgia 31405
912.443.5896 www.rlandc.com



PROJECT LIMITS

NATIONAL WETLANDS INVENTORY
BRUNSWICK AND SEA ISLAND QUADS

DATE: 18 DECEMBER 2012

MAP SCALE : 1 INCH = 1000 FEET

PREPARED BY: RP

RLC PROJECT NO. 12-111

SEA ISLAND SUPPORT CAMPUS WEST
GLYNN COUNTY, GEORGIA

PREPARED FOR:
SEA ISLAND ACQUISITION, LLC

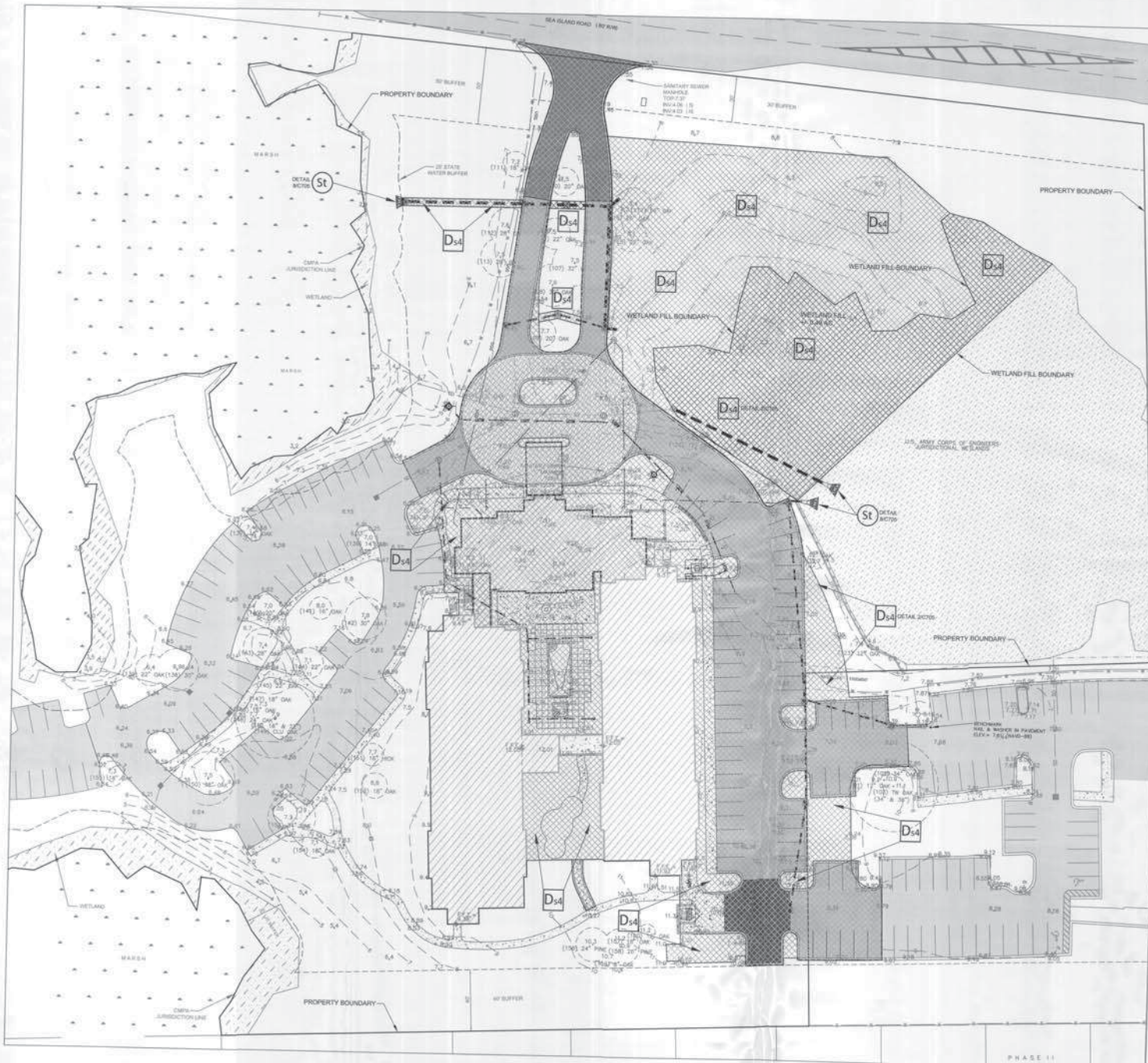
0 500 1,000 2,000 Feet



RLC

**RESOURCE+LAND
CONSULTANTS**

41 Park of Commerce Way, Ste. 303
Savannah, Georgia 31405
912.443.5896 www.rlandc.com



ES&PC LEGEND

- PERMANENT SOODING
- OUTLET PROTECTION
- LIMIT OF DISTURBANCE (2.9 AC)

THE LIMIT OF DISTURBANCE DOES NOT REFLECT THE CLEARING AREA. CLEARING AND TREE REMOVAL SHALL BE COORDINATED WITH OWNER. NO TREES SHALL BE REMOVED WITHOUT THE WRITTEN CONSENT OF OWNER.

811
Know what's below.
Call before you dig.

DATE: 2012-11-27
DRAWN BY: LWF
CHECKED BY: JDR
SCALE: 1"=30' (000.04254 M=10.06)

0 30 60
SCALE: 1"=30'



REVISIONS
2013.11.17 - PER ARCHITECT COMMENTS
2013.01.11 - PER ARCHITECT COMMENTS

ROBERTS CIVIL ENGINEERING, PC
3017 SEA ISLAND ROAD
ST. SIMONS ISLAND, GA 31523
912-698-9681 OFFICE
912-289-0319 FAX



ES&PC PLAN - FINAL

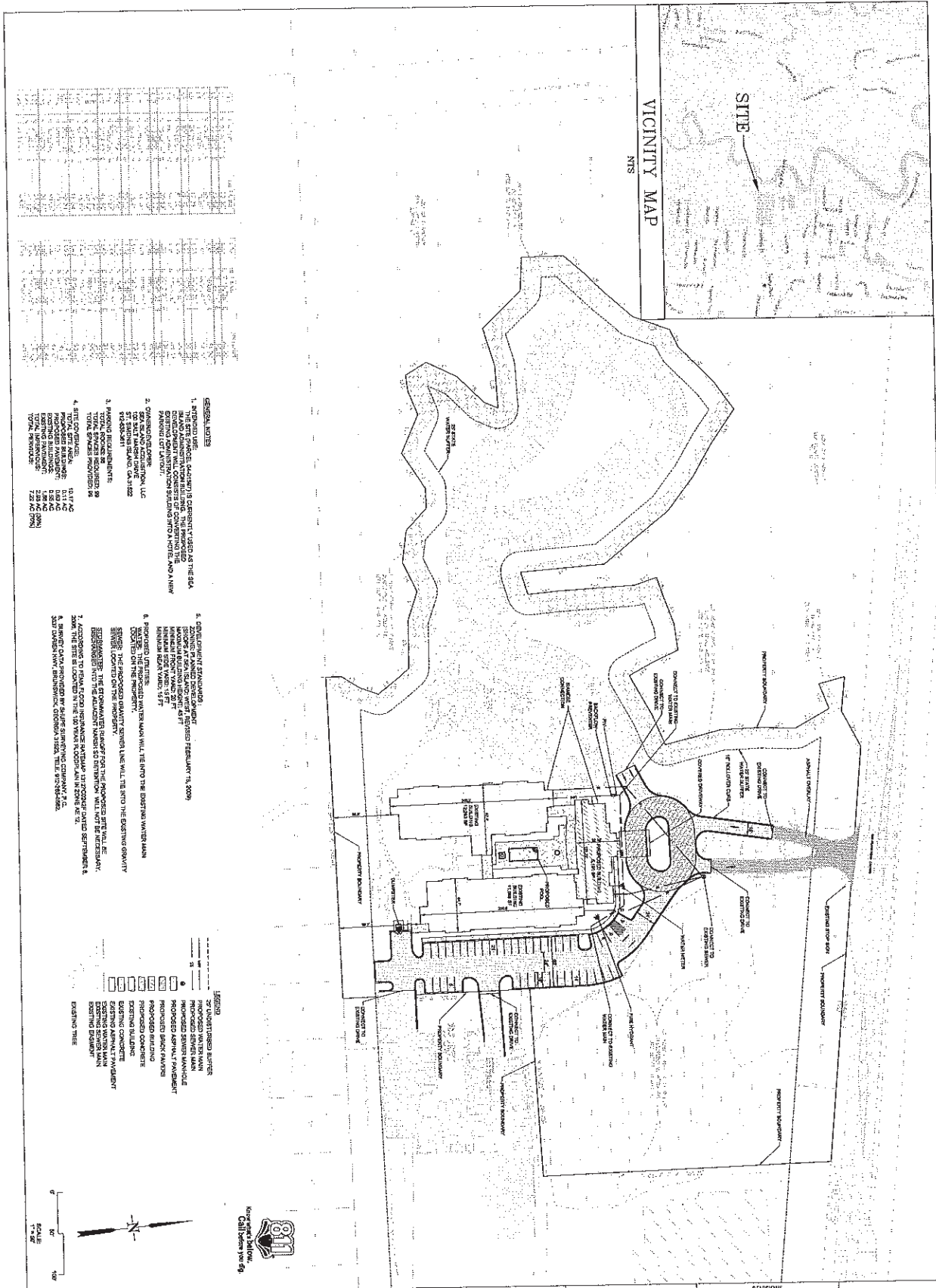
**THE INN AT SEA ISLAND
ST. SIMONS ISLAND, GA**

PREPARED FOR:
SEA ISLAND ACQUISITION, LLC

DATE: 2012-11-27
DRAWN BY: LWF
CHECKED BY: JDR
SCALE: 1"=30' (000.04254 M=10.06)

C703

SHEET:



GENERAL NOTES

1. THE SITE PROJECT (DRAWING) IS CURRENTLY USED AS THE SEA ISLAND COMMUNITY DEVELOPMENT WILL CONSIDER THE DEVELOPMENT OF A HOTEL AND RESIDENTIAL DEVELOPMENT IN THE AREA OF THE SITE.
2. OWNER'S ADDRESS: 624 LAKE ACCOSTON LANE ST. SIMONS ISLAND, GA 31522
3. PROJECT NAME: THE INN AT SEA ISLAND
4. SITE COORDINATES: 3011742 PROPOSED EASTING: 1381420 EXISTING EASTING: 1381420 TOTAL SPACES PROVIDED: 172 (40 PPM)

5. DEVELOPMENT STANDARDS: THE SITE PROJECT (DRAWING) IS CURRENTLY USED AS THE SEA ISLAND COMMUNITY DEVELOPMENT WILL CONSIDER THE DEVELOPMENT OF A HOTEL AND RESIDENTIAL DEVELOPMENT IN THE AREA OF THE SITE.

LEGEND

- PROPOSED WATER MAIN
- PROPOSED SEWER MAIN
- PROPOSED ASPHALT PAVEMENT
- PROPOSED ASPHALT DRIVE
- PROPOSED CONCRETE
- PROPOSED BUILDING
- EXISTING BUILDING
- EXISTING WATER MAIN
- EXISTING SEWER MAIN
- EXISTING ASPHALT PAVEMENT
- EXISTING ASPHALT DRIVE
- EXISTING TREE



DATE: 2012-10-15
 DRAWN BY: LWF
 CHECKED BY: JDR
 SCALE: 1"=50' (0.125"=10')
 SHEET: 2

SITE PLAN

THE INN AT SEA ISLAND
ST. SIMONS ISLAND, GA

PREPARED FOR:
 SEA ISLAND COMMUNITY

EXHIBIT J

ROBERTS CIVIL ENGINEERING

3245 OCEAN BLVD. SUITE 100
 ST. SIMONS ISLAND, GA 31522
 912-638-5681 OFFICE
 912-289-0535 FAX

REVISIONS

2012-11-01	PER COUNTY COMMENTS
2012-11-01	PER OWNER COMMENTS

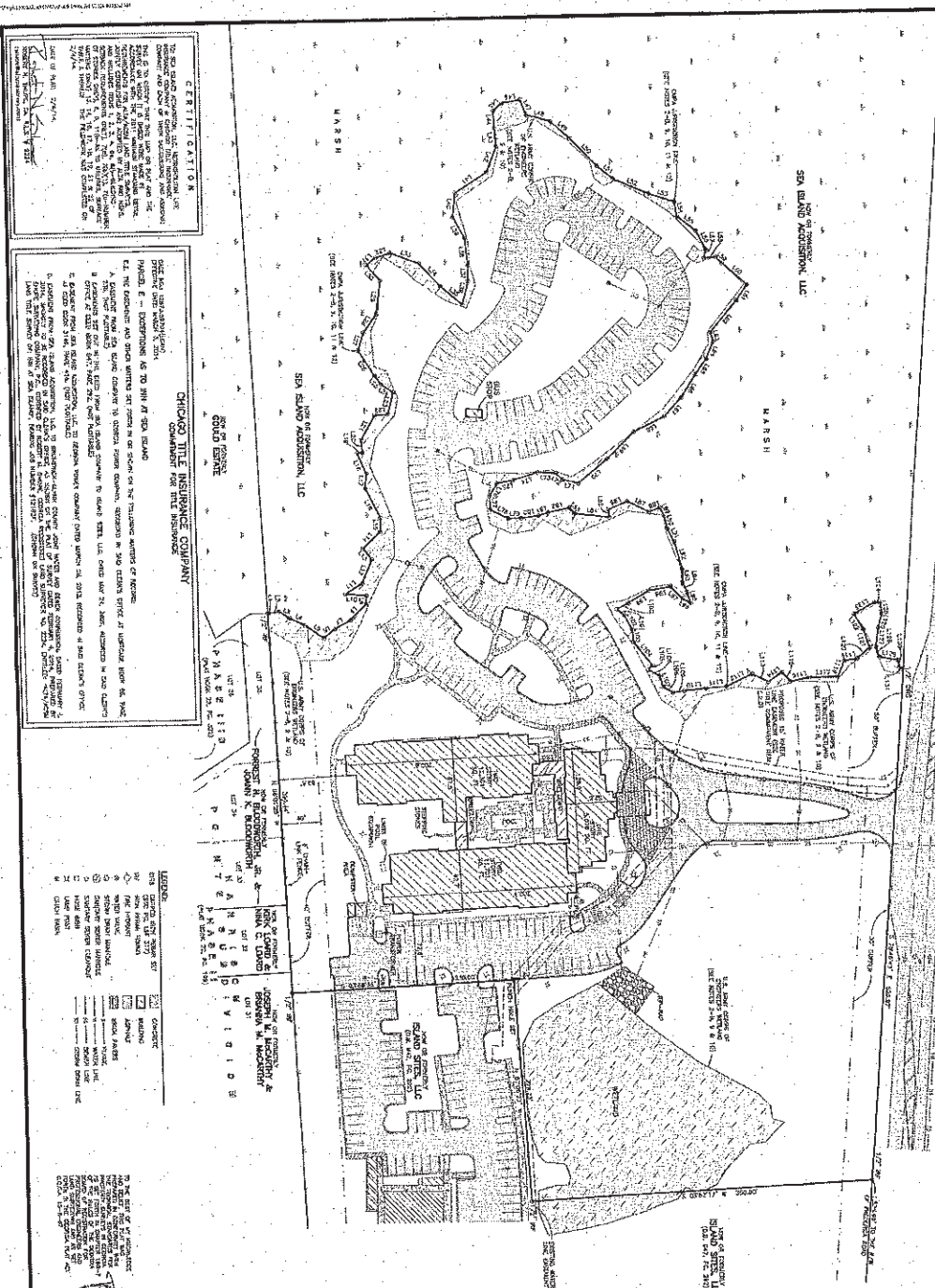
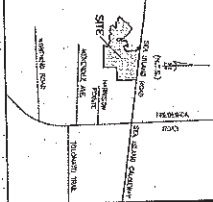


Plot No. 219-233
 2018-03-14 11:03:31 AM C:\WORKSPACE
 User: jessie

INN AT SEA ISLAND
 (ORIG. 25.51 ACRES BEHAVIOR, GWINN COUNTY, GEORGIA)
 AREA = 9.955 ACRES

SEA ISLAND ROAD (80' PUBLIC R/W)

VICINITY MAP

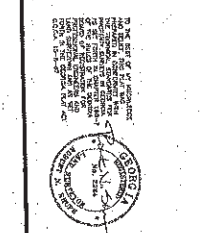


CERTIFICATION
 I, the undersigned, being a duly licensed Professional Engineer in the State of Georgia, do hereby certify that the above is a true and correct copy of the original plan as filed in my office on this day of _____, 2018.

CHICAGO TITLE INSURANCE COMPANY
 COMMANDER FOR THE RECORDS
 140 N. LA SALLE ST.
 CHICAGO, ILL. 60601

LEGEND

1. 10' SETBACK	2. 5' SETBACK
3. 15' SETBACK	4. 20' SETBACK
5. 25' SETBACK	6. 30' SETBACK
7. 35' SETBACK	8. 40' SETBACK
9. 45' SETBACK	10. 50' SETBACK
11. 55' SETBACK	12. 60' SETBACK
13. 65' SETBACK	14. 70' SETBACK
15. 75' SETBACK	16. 80' SETBACK
17. 85' SETBACK	18. 90' SETBACK
19. 95' SETBACK	20. 100' SETBACK



SHEET 1 OF 2
 INN AT SEA ISLAND
 PREPARED BY: SROEP SURVEYING COMPANY, P.C.
 1000 W. BROADWAY, SUITE 3155
 ATLANTA, GEORGIA 30308
 DATE: 03/14/2018

NOTES

1. SHOWN ARE THE PROPOSED BUILDING FOOTPRINTS AND SETBACKS FROM THE ADJACENT MARSHLAND.
2. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.
3. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.
4. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.
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15. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.
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17. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.
18. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.
19. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.
20. THE PROPOSED BUILDING FOOTPRINTS ARE SHOWN ON A 1/4" = 1' SCALE.

EXHIBIT K

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

The Glynn Envir. Coalition, Inc. and Center for a Sustainable Coast, Inc.

(b) County of Residence of First Listed Plaintiff Glynn (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

E. Righton J. Lewis, Butler Snow LLP, 1170 Peachtree St. NE, Ste. 1900, Atlanta, GA 30309, 678-515-5000

DEFENDANTS

Sea Island Acquisition, LLC

County of Residence of First Listed Defendant Glynn (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

James B. Durham, Hall Booth Smith, P.C., 3528 Darien Hwy., Ste. 300, Brunswick, GA 31525, 912-554-0093

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 33 U.S.C. 1251, et seq.

Brief description of cause: Defendant has violated the Clean Water Act, 33 U.S.C. 1251, et seq.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 04/17/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ E. Righton J. Lewis

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE