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# **Appendix C**

## **Resource Agency Correspondence and Previous Site Investigations**

**1** – Approved Jurisdictional Determination from USACE

**2** – HCFCD Coordination with Resource Agencies  
(TPWD, Texas GLO, TWDB, USACE, THC, TCEQ)

**3** – Hunting Bayou Biological Assessment (AECOM May 2010) and USFWS Approval

**4** – Threatened and Endangered Species Coordination with TPWD

**5** – Migratory Bird Survey (TCB June 2008)

**6** – Cultural Resources Survey (MAC June 2005)

**DEPARTMENT OF THE ARMY**  
GALVESTON DISTRICT CORPS OF ENGINEERS  
P O BOX 1229  
GALVESTON TX 77553 1229

November 17 2008



REPLY TO  
ATTENTION OF:

Compliance Section

**SUBJECT SWG-2007-1864** Jurisdictional Delineation Verification Harris County Flood Control District, H 500 01-00 E001 In Line and Off Line – Hunting Bayou, Interstate 610 at Homestead Road Houston Harris County Texas

Ms Denise Todt  
Harris County Flood Control District  
9900 Northwest Freeway  
Houston, Texas 77092

Dear Ms Todt

This letter is in response to your request dated November 2, 2007 to verify a delineation of waters of the United States conducted by SWCA Environmental Consultants on two project sites adjacent to Hunting Bayou for the Harris County Flood Control District (HCFCD) The HCFCD H 500 01-00-E001 project is composed of two separate project sites including H 500-01 00 E001 In-Line (H 500 In-Line) and H 500 01 00 E001 Off Line (H-500 Off Line) H 500 In Line is a 25.7 acre project site located immediately north of Hunting Bayou and east of Homestead Road and H 500 Off-Line is a 162.9 acre project site located immediately north of the Union Pacific Railroad and east of Homestead Road Both project sites are located northeast of the intersection of Interstate 610 and Homestead Road Houston Harris County

We concur with revised delineation dated November 4, 2008 (see attached copies of the final delineations) that states

- **H-500 In Line** – contains 1.91 acres of waters of the United States specifically 0.54 acres of adjacent wetlands abutting and neighboring Hunting Bayou and 1.37 acres of Hunting Bayou, a Relatively Permanent Water (RPW)
- **H 500 Off-Line** – contains 1.47 acres of waters of the United States specifically adjacent wetlands neighboring Hunting Bayou

Wetlands under normal circumstances exhibit hydrophytic vegetation wetland hydrology and wetland soils as defined by the Corps of Engineers 1987 Wetland Delineation Manual These wetlands are abutting and neighboring and therefore are adjacent to Hunting Bayou a Relative Permanent Water (RPW) Adjacent wetlands are subject to U S Army Corps of Engineers jurisdiction under Section 404 of the Clean Water Act and a Department of the Army Permit is required to discharge dredged or fill material into any water of the U S

This verification and determination has been conducted to identify the limits of the Corps' Clean Water Act jurisdiction for the particular site identified in this request This verification 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

This letter contains an approved jurisdictional determination for the subject site. This determination remains valid for 5 years from the date of this letter unless new information warrants revision or reissuance prior to its expiration. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR part 331. Enclosed you will find a Notification of Administrative Appeals Options and Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwest Division Office at the following address:

Mr. John Davidson  
Acting Appeal Review Officer CESWD ETO R  
U.S. Army Corps of Engineers  
1100 Commerce Street, Suite 831  
Dallas, Texas 75242-1317

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of this NAP. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter. If you have any questions concerning this determination, please reference file number **SWG 2007-1864** and contact Mr. Nicholas Laskowski at the letterhead address or by telephone at 409 766 6381.

Sincerely,

Kenny Jaynes  
Chief, Compliance Section

Enclosures

Copy Furnished

✓ Ms. Catherine R. Mayhew  
SWCA Environmental Consultants  
755 Langtry, Suite 100  
Houston, Texas 77040

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

<b>Applicant: Harris County Flood Control District</b>	<b>File Number: SWG-2007-1864</b>	<b>Date: 11/17/2008</b>
<b>Attached is:</b>		<b>See Section below</b>
	<b>INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)</b>	<b>A</b>
	<b>PROFFERED PERMIT (Standard Permit or Letter of Permission)</b>	<b>B</b>
	<b>PERMIT DENIAL</b>	<b>C</b>
<b>X</b>	<b>APPROVED JURISDICTIONAL DETERMINATION</b>	<b>D</b>
	<b>PRELIMINARY JURISDICTIONAL DETERMINATION</b>	<b>E</b>

**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 jurisdictional determination (JD) or provide new information.**

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

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

**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 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:

Nicholas Laskowski  
Project Manager, Compliance Section  
CESWG-PE-RC  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-6381; FAX: 409-766-3931

If you only have questions regarding the appeal process you may also contact:

Mr. James Gilmore  
Appeal Review Officer, CESWD-ETO-R  
U.S. Army Corps of Engineers  
1100 Commerce Street, Room 831  
Dallas, Texas 75242-1317  
Telephone: 469-487-7061; FAX: 469-487-7190

**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 authorized agent.

Date:

Telephone number:



**SWCA**  
ENVIRONMENTAL CONSULTANTS

**H500 In-Line Storage & Channel Improvements  
Site Layout Map  
Harris County, Texas**

- Approximate Site Boundary
- Waters of the U.S.
- Delineated Wetland (Adjacent)
- Delineated Wetland (Isolated)
- 100-Year Floodplain
- Data Point

Background: True Color Aerial Imagery (2006)

0 90 180 Feet

Map Produced: April 10, 2008  
Project No: 12512-304





  
 SWCA  
 ENVIRONMENTAL CONSULTANTS

**H500 Wetland and OHWM Delineation**  
**Site Layout Map**  
 Harris County, Texas

-  Approximate Site Boundary
-  Ditch
-  Delineated Wetland (Adjacent)
-  Data Point
-  100-Year Floodplain
-  Transect

Background: True Color Aerial Imagery (2006)  
 0 100 200 Feet  
 Map Produced: May 12, 2009  
 SWCA Project No: 12512  
 HCFCD Project No: H500-01-00-E001

0 9 2009

### H-500 On-Line

Feature	Acreage	Jurisdiction	Type
Hunting Bayou	1 37	404	RPW
Wetland 1	0 11	404	Abutting
Wetland 2	0 08	404	Neighboring
Wetland 3	0 01	None	Isolated
Wetland 4	0 16	None	Isolated
Wetland 5	0 03	404	Neighboring
Wetland 6	0 02	404	Abutting
Wetland 7	0 3	404	Neighboring
Wetland 8	0 04	None	Isolated
<b>Total Waters of the US</b>	<b>1 91</b>	<b>404</b>	<b>***</b>
<b>Total Isolated Wetland</b>	<b>0 21</b>	<b>None</b>	<b>***</b>
<b>Total Non Wetland Waters</b>	<b>1 37</b>	<b>404</b>	<b>***</b>
<b>Total Adjacent Wetland</b>	<b>0 54</b>	<b>404</b>	<b>***</b>
<b>Project Site</b>	<b>25 7</b>	<b>***</b>	<b>***</b>

### H-500 Off-Line

Feature	Acreage	Jurisdiction	Type
Wetland 1	0 8	404	Neighboring
Wetland 2	0 32	404	Neighboring
Wetland 3	0 35	404	Neighboring
<b>Total Waters of the US</b>	<b>1 47</b>	<b>404</b>	<b>***</b>
<b>Total Adjacent Wetland</b>	<b>1 47</b>	<b>404</b>	<b>***</b>
<b>Project Site</b>	<b>162 9</b>	<b>***</b>	<b>***</b>