DEPARTMENT OF THE ARMY

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

REPLY TO
ATTENTION OF:

December 4, 2018

Operations Division

SUBJECT: Department of the Army Regulatory Requirements for the Weisenberger Road Raising and Widening Project, Located in Section 27, T8N-R2E, Madison County, Mississippi

Ms. Sheila Jones
Madison County Board of Supervisors
Post Office Box 6087
Canton, Mississippi 39046

Dear Ms. Jones:

Based upon the information furnished (enclosure 1), it appears that Department of the Army Section 10/404 permit requirements for the proposed work will be authorized by Nationwide Permit No. 14, as specified in the January 6, 2017, *Federal Register*, Issuance and Reissuance of Nationwide Permits; Final Rule; Notice (82 FR 1860-2008), provided the activity complies with the Special Conditions (enclosure 2), the General Conditions (enclosure 3), and the Regional Conditions (enclosure 4). It is your responsibility to read and become familiar with the enclosed conditions in order for you to ensure that the activity authorized herein complies with the Nationwide Permit.

This verification is valid until March 18, 2022, unless the Nationwide Permit is modified, suspended, or revoked. Activities which are under construction, or that are under contract to commence, in reliance upon a Nationwide Permit will remain authorized provided the activity is completed within 12 months of the date of any subsequent modification, expiration, or revocation of the Nationwide Permit. Upon completion of the activity authorized by this Nationwide Permit, please fill out the enclosed certification of compliance (enclosure 5) and return it to our office.

This verification was based upon a preliminary determination that there appear to be jurisdictional areas on the property subject to regulation pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. A copy of the appeals form is enclosed for your review (enclosure 6).

This verification of Department of the Army regulatory requirements does not convey any property rights, either in real estate or material or any exclusive privileges, and does not authorize any injury to property or invasion of rights or local laws or regulations, or obviate the requirement to obtain State or local assent required by law for the activity discussed herein.

Thank you for advising us of your plans. If you change your plans for the proposed work, or if the proposed work does not comply with the conditions of the Nationwide Permit, please contact Mr. Jerry Bourne, telephone (601) 631-5441 or email Gerald.G.Bourne@usace.army.mil. In any future correspondence concerning this project, please refer to Identification No. MVK-2018-775.

I am forwarding a copy of this letter to Mr. Adam Goff, Headwaters, Incorporated, Post Office Box 2836, Ridgeland, Mississippi 39157-2836 and Ms. Florance Bass, Mississippi Department of Environmental Quality, Post Office Box 2261, Jackson, Mississippi 39225-2261.

Sincerely,

Cori Carraway
Chief, Permit Section
Regulatory Branch

Enclosures

HEADWATERS INC.
NATURAL RESOURCES CONSULTING

August 27, 2018

Ms. Cori Carraway
Permit Section Chief
Department of the Army
Vicksburg District, Corps of Engineers
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Re: Madison County Board of Supervisors
Weisenberger Road Raising & Widening Project
Madison County, Mississippi
Wetland Permit Authorization Request

Dear Ms. Carraway:

Headwaters, Inc. has been retained by Stantec Consulting Services, the county engineer, to serve as agent on their behalf in all matters related to the Section 404 Wetland permit authorization coordination for the above referenced Weisenberger Road Raising & Widening Project located in Madison County, Mississippi. This letter, with supporting documentation, details the specifics of the planned project and is presented in coordination with your office for issuance of the necessary Section 404 Wetland Permit authorization covering the anticipated project impacts.

The proposed Weisenberger Road Raising & Widening Project is located approximately 2.5 miles northeast of the City of Madison, Mississippi and runs approximately 1275.0 feet from Highway 51 to the CN Railroad in an east to west orientation. The project area includes a 1.69 acre portion of existing and new road right of way. The project will include the raising and widening of the existing Weisenberger Road 50.0 foot right of way to include an additional turn lane.

The project is more specifically located at Global Positioning System (GPS) coordinates:

1. N32.512008° - W90.089029° (West End)
2. N32.511624° – W90.085850° (East End)

In addition, the project right-of-way transects portions of Section 27, Township 8 North, Range 2 East, Madison County, Mississippi.

PROJECT PURPOSE & DESCRIPTION

The purpose of the proposed project is to raise the existing grade of Weisenberger Road as well as widen the existing road to include an additional turning lane. Weisenberger Road has been closed on several instances due to high rain events causing flooding within the road preventing

travel from Highway 51 to Interstate 20 in Gluckstadt, Mississippi. The proposed project will raise the road grade to allow for a 50 year flood event. The existing grade of the road has been surveyed and will currently only allow for a 2 year flood event.

The project as proposed will raise the eastern portion of Weisenberger Road between the railroad and US Highway 51 intersection to an approximate elevation of 259.0 feet. The project will also include the widening of a portion of Weisenberger Raod approximately 20.0 feet to include an additional turn lane along the south side of the road to allow for an increase in traffic flow during high traffic times.

The exact physical location of the proposed project is depicted on the attached copies of the U.S.G.S. Canton, MS Quadrangle Maps and the 2016 USDA National Agricultural Imagery Program (NAIP) color aerial photography covering the project area (Attachment A).

WETLANDS

As a part of the proposed activities, Headwaters, Inc. completed a wetland delineation and determination covering the proposed project right-of-way area. A site review and assessment, including a wetlands assessment of the right-of-way, was completed on April 3, 2018. The initial phase of this project included the assimilation of all available information related to the property that would establish a historical perspective of the property and highlight the physical attributes of the property, the primary drainage patterns, and the physical location of the suspected wetlands and/or stream crossings located within the limits of the project area. An integral component of this phase was the review of the 2016 National Agricultural Imagery Program (NAIP) photographic coverage, as well as the U.S.G.S. Canton, MS Quadrangle Maps. Review of the Madison County, MS soil survey was also included as a part of this assessment. Our assessment was specifically based upon the right-of-way alignment within which the proposed project would be completed.

Given the nature of the project, systematic transect lines were not employed in the field delineation methodology. Rather, a mapping system was employed whereby the potential wetland habitats/boundaries and "other waters of the United States" were mapped utilizing the GPS waypoints along the proposed right-of-way alignment. Wetland delineation points were established using a systematic approach based upon observations of vegetative and topographic features and transitions that were encountered in the field. The wetland delineation points were identified utilizing the GPS and their location within the project right-of-way. In addition, supplemental points were established between the delineation points to provide data on soils, vegetation, and hydrology.

Based upon the site assessment completed, it was revealed that two (2) specific habitat types are present within the limits of the proposed project right-of-way. The following descriptions will be in general terms without specific chronology.

Palustrine Emergent Wetlands:

One (1) emergent wetland habitat was observed throughout portions of the existing right-of-way alignment. This habitat displays emergent or herbaceous wetland characteristics reflected by the presence of redox formations within the upper soil horizon, oxidized rhizospheres on

living roots, surface water, crayfish burrows and water stained leaves. Additionally, a hydrophytic plant community is representative within these locations consisting of such species as smartweed (*Polygonum hydropiperoides*), juncus (*Juncus spp.*), cyperus (*Cyperus spp.*), and bushy blue stem (*Andropogon glomeratus*) among other species. The size and exact location of these emergent wetland habitat is represented on the attached GPS/Wetland Location Map also included in Attachment B.

Upland Habitat:
In addition to the previously identified wetland habitat, the proposed alignment transects an upland habitat which constitute the preponderance of the habitat type found within the project right-of-way alignment.

The specific location of the wetland habitat/boundaries and "other waters of the United States" identified within the limits of the proposed project right-of-way alignment are depicted on the attached U.S.G.S. Canton, MS Quadrangle GPS/Wetland Location Maps and 2016 NAIP aerial photography included within Attachment B of this application. Copies of the accepted COE Wetland Determination Data Forms (as amended in the 2008 Atlantic and Gulf Coastal Plain Regional Supplement) completed for each specific habitat type are also included within Attachment B for your use and reference. Further, photographs of selected property features are included within Attachment C for your use and review.

Given the proposed project design, the following permanent impacts are anticipated:

1. Approximately 0.22 acre of emergent wetlands will be permanently impacted by fill material during the proposed raising and widening of Weisenberger Road.

THREATENED AND ENDANGERED SPECIES

Coordination with the United States Fish and Wildlife Service (USFWS) has been initiated at this time via letter requesting for the project area be reviewed for the potential presence of endangered species within the project area. The letter also requests that the agency review the project area for any issues of concern to endangered species associated with the planned project activities. We will email the USFWS response to the USACE project manager upon receipt.

CULTURAL RESOURCES

An archival review consisting of an inspection of the MDAH MS State Archaeological Site File and NRHP queries has been conducted. One (1) previously recorded prehistoric sites within one (1) mile of the project area was noted. This site has not been evaluated for NRHP eligibility. No previously recorded sites were listed within the project ROW. In addition, 13 previously conducted cultural surveys were observed within a mile of the study area. A copy of this review is included in Attachment D.

BEST MANAGEMENT PRACTICES

Best Management Practices (BMP's) will be implemented and maintained through the construction sequence to ensure that no secondary adverse impacts to adjacent habitats occur.

BMP's will be maintained until final stabilization is achieved, ensuring storm water compliance. In addition, Madison County will obtain coverage under the Mississippi Department of Environmental Quality (MDEQ) Small Construction Storm Water Permit and a SWPPP will be developed detailing the BMPs that will be utilized during project construction activities.

CONCLUSION

As previously discussed, approximately 1275.0 feet or 1.69 acres of existing and new road right of way will be raised and widened to prevent flooding of Weisenberger Road as well as to allow for increased traffic flow. The construction activities as planned will incur a 0.22 acre permanent impact to emergent wetlands by fill material used to raise and widen Weisenberger Road. The aforementioned impacts would be considered as unavoidable wetland impacts associated with the construction of the project.

At this time, we respectfully request your agency's review of the submitted information covering the proposed project activities. We also respectfully request your agency's consideration of the authorization for the anticipated wetland impacts under a Nationwide Permit (NWP) 14 or other pertinent Section 404 Wetland Permit authorization.

For mailing purposes, the applicant's address is as follows:

Mr. Brad Engels
Stantec Consulting Services
1 Olympic Way
Madison, Mississippi 39110
601-500-7960

As always, we appreciate your assistance in this matter. If you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

Adam M. Goff
Environmental & GIS Specialist

AMG\
Attachment

ATTACHMENT A

-General Location Map

-U.S.G.S. Canton, MS Quadrangle Site Map

-USDA 2016 NAIP Aerial Imagery Site Map

HEADWATERS INC.
NATURAL RESOURCES CONSULTING
WWW.HEADWATERS-INC.COM

Date Created: 9/6/2018 | Created by: JDL

Stantec
Weisenberger Road Widening

Madison County, Mississippi

Site Location Map

0 900 1,800 Feet

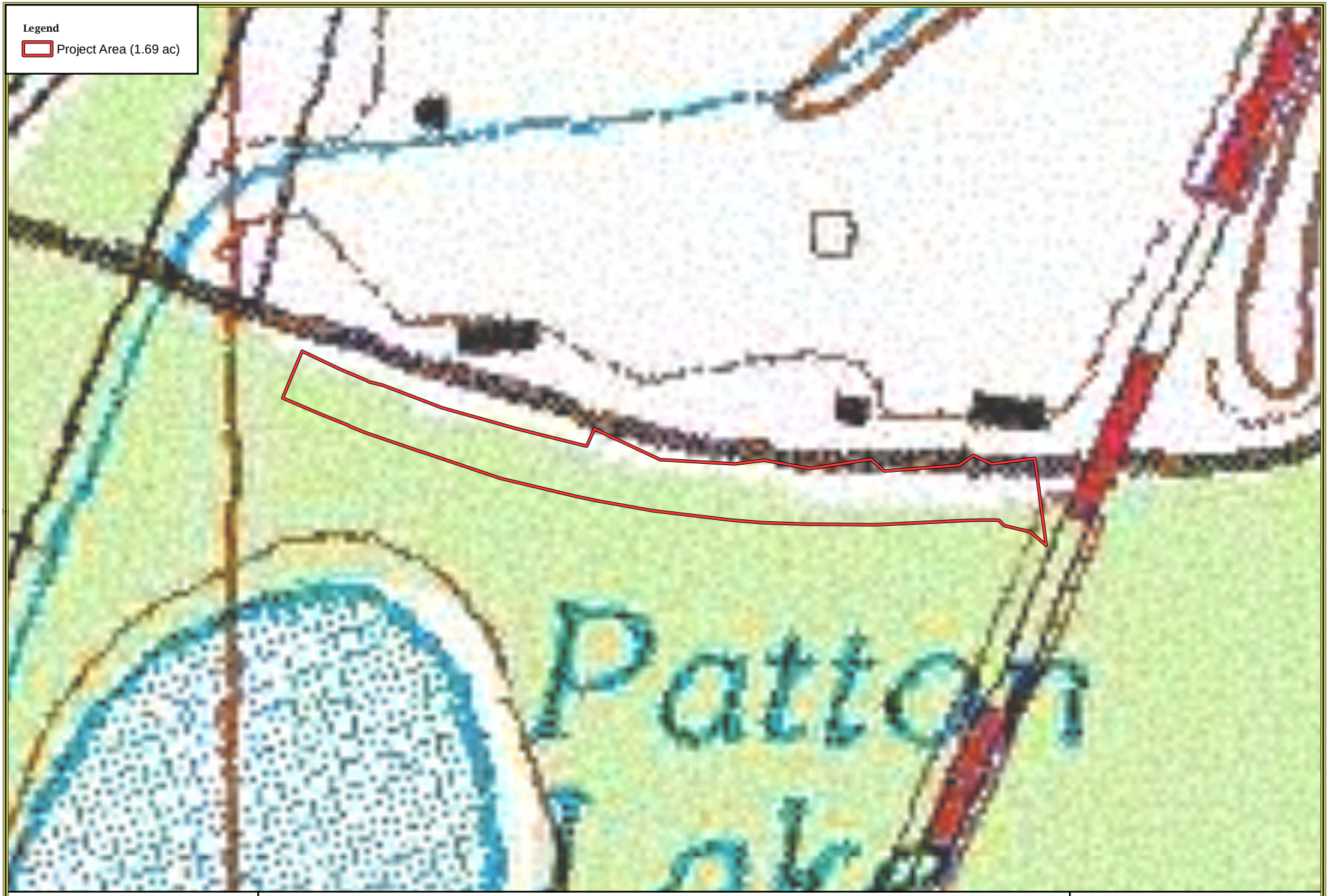
1:18,000

N

NAD 1983 StatePlane Mississippi West FIPS 2302 Feet

USDA NAIP 2016 Imagery Basemap

S:\PROJECT FILES\Stantec\Weisenberger Rd Widening\Mapping\weisenberger.mxd



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Date Created: 9/6/2018 | Created by: JDL

Stantec
Weisenberger Road Widening

Madison County, Mississippi

Site Location Map

0 100 200 Feet

1:2,000

N

NAD 1983 StatePlane Mississippi West FIPS 2302 Feet

USGS Canton (MS) Quad Basemap

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Date Created: 9/6/2018
Created by: JDL

Stantec
Weisenberger Road Widening

Madison County, Mississippi

Site Location Map

0 100 200 Feet

1:2,000

N

NAD 1983 StatePlane Mississippi West FIPS 2302 Feet

USDA NAIP 2016 Imagery Basemap

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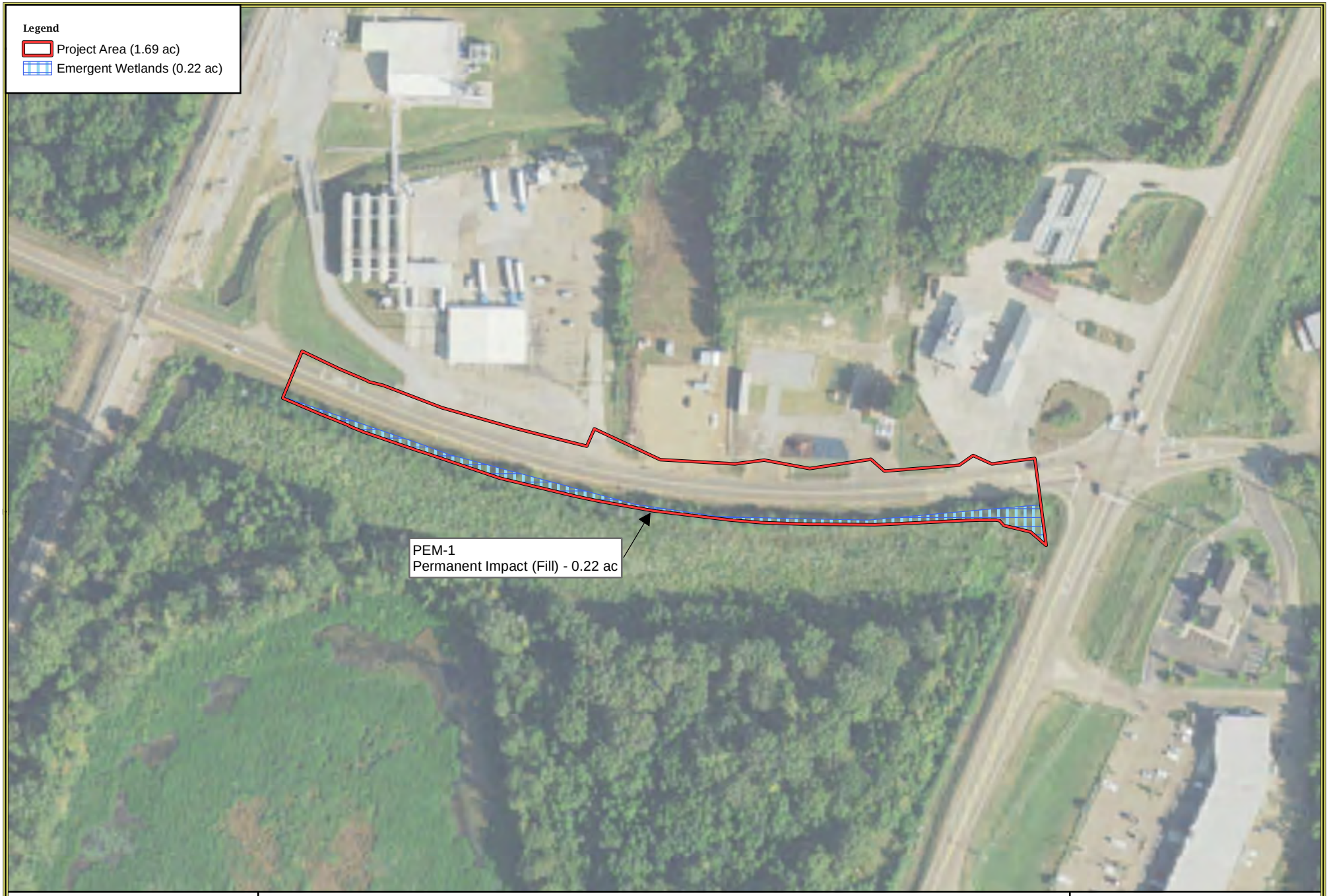
ATTACHMENT B

-GPS/Wetland Location Maps

-Wetland Data Forms



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WWW.HEADWATERS-INC.COM

Date Created: 9/6/2018 | Created by: JDL

Stantec
Weisenberger Road Widening

Madison County, Mississippi

Wetland Impact Map

0 100 200 Feet

1:2,000

N

NAD 1983 StatePlane Mississippi West FIPS 2302 Feet

USDA NAIP 2016 Imagery Basemap

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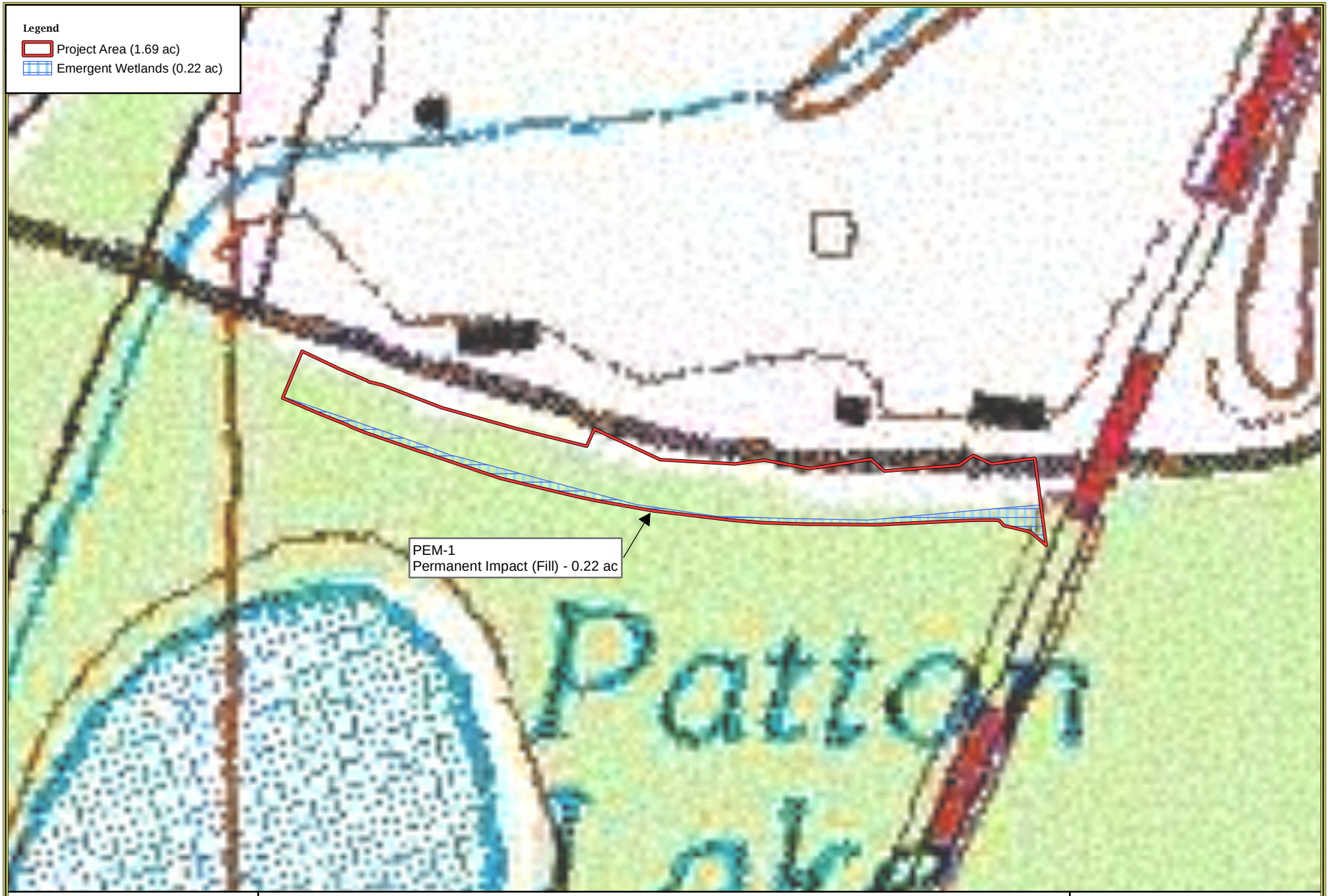

HEADWATERS INC.
NATURAL RESOURCES CONSULTING
WWW.HEADWATERS-INC.COM

Date Created: 9/6/2018 | Created by: JDL

Stantec
Weisenberger Road Widening

Madison County, Mississippi

Wetland Impact Map

0 100 200 Feet

1:2,000

N

NAD 1983 StatePlane Mississippi West FIPS 2302 Feet

USGS Canton (MS) Quad Basemap

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WETLAND DETERMINATION DATA FORM – Atlantic and Gulf Coastal Plain Region

Project/Site: Weisenberger Road Raising and Widening Project City/County: Madison County Sampling Date: 4/3/2018

Applicant/Owner: Madison County Board of Supervisors State: MS Sampling Point: 1

Investigator(s): Headwaters, Inc. Section, Township, Range: Section 27, T 8 N, R 2 E

Landform (hillslope, terrace, etc.): Flat Local relief (concave, convex, none): None Slope (%): 0-2

Subregion (LRR or MLRA): MLRA - 134; LRR P Lat: 32.511548 Long: -90.085992 Datum: WGS 84

Soil Map Unit Name: Gillsburg silt loam NWI classification:

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation N, Soil N, or Hydrology N significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation N, Soil N, or Hydrology N 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 X No _____	**Is the Sampled Area within a Wetland?** Yes X No _____
Hydric Soil Present?	Yes X No _____	
Wetland Hydrology Present?	Yes X No _____	

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ☑ Surface Water (A1)
- ☑ High Water Table (A2)
- ☑ Saturation (A3)
- ☐ Water Marks (B1)
- ☑ Sediment Deposits (B2)
- ☑ Drift Deposits (B3)
- ☐ Algal Mat or Crust (B4)
- ☐ Iron Deposits (B5)
- ☐ Inundation Visible on Aerial Imagery (B7)
- ☑ Water-Stained Leaves (B9)
- ☐ Aquatic Fauna (B13)
- ☐ Marl Deposits (B15) **(LRR U)**
- ☐ Hydrogen Sulfide Odor (C1)
- ☑ Oxidized Rhizospheres along Living Roots (C3)
- ☐ Presence of Reduced Iron (C4)
- ☐ Recent Iron Reduction in Tilled Soils (C6)
- ☐ Thin Muck Surface (C7)
- ☐ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ☐ Surface Soil Cracks (B6)
- ☐ Sparsely Vegetated Concave Surface (B8)
- ☑ Drainage Patterns (B10)
- ☐ Moss Trim Lines (B16)
- ☐ Dry-Season Water Table (C2)
- ☑ Crayfish Burrows (C8)
- ☐ Saturation Visible on Aerial Imagery (C9)
- ☐ Geomorphic Position (D2)
- ☐ Shallow Aquitard (D3)
- ☐ FAC-Neutral Test (D5)
- ☐ Sphagnum moss (D8) **(LRR T, U)**

Field Observations:

Surface Water Present?	Yes X	No _____	Depth (inches): 2-6
Water Table Present?	Yes X	No _____	Depth (inches): surface
Saturation Present? (includes capillary fringe)	Yes X	No _____	Depth (inches): surface

Wetland Hydrology Present? Yes X No _____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

VEGETATION (Four Strata) – Use scientific names of plants.

Sampling Point: 1

Tree Stratum (Plot size: 1/10 acre)	Absolute % Cover	Dominant Species?	Indicator Status
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	= Total Cover		

50% of total cover: _____ 20% of total cover: _____

Sapling/Shrub Stratum (Plot size: 1/10 acre)			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	= Total Cover		

50% of total cover: _____ 20% of total cover: _____

Herb Stratum (Plot size: 1/10 acre)			
1. Juncus spp.	15%	YES	OBL
2. Cyperus spp.	10	YES	OBL
3. Carex spp.	5		FACW
4. Andropogon glomeratus	5		FACW
5. Polygonum spp.	5		FACW
6.			
7.			
8.			
9.			
10.			
11.			
12.			
	40 = Total Cover		

50% of total cover: 20 20% of total cover: 8

Woody Vine Stratum (Plot size: 1/10 acre)			
1.			
2.			
3.			
4.			
5.			
	= 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: 2 (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:	(A)		(B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

- ☐ 1 - Rapid Test for Hydrophytic Vegetation
- ☑ 2 - Dominance Test is >50%
- ☐ 3 - Prevalence Index is ≤3.0[1]
- ☐ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Four Vegetation Strata:

Tree – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.

Sapling/Shrub – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall.

Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall.

Woody vine – All woody vines greater than 3.28 ft in height.

Hydrophytic Vegetation Present? **Yes** X **No** _____

Remarks: (If observed, list morphological adaptations below).

SOIL

Sampling Point: 1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-12	4/1 10 yr	85	4/6 10 yr	15	C	PL		

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.

[2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ☐ Histosol (A1)
- ☐ Histic Epipedon (A2)
- ☐ Black Histic (A3)
- ☐ Hydrogen Sulfide (A4)
- ☐ Stratified Layers (A5)
- ☐ Organic Bodies (A6) **(LRR P, T, U)**
- ☐ 5 cm Mucky Mineral (A7) **(LRR P, T, U)**
- ☐ Muck Presence (A8) **(LRR U)**
- ☐ 1 cm Muck (A9) **(LRR P, T)**
- ☐ Depleted Below Dark Surface (A11)
- ☐ Thick Dark Surface (A12)
- ☐ Coast Prairie Redox (A16) **(MLRA 150A)**
- ☐ Sandy Mucky Mineral (S1) **(LRR O, S)**
- ☐ Sandy Gleyed Matrix (S4)
- ☐ Sandy Redox (S5)
- ☐ Stripped Matrix (S6)
- ☐ Dark Surface (S7) **(LRR P, S, T, U)**
- ☐ Polyvalue Below Surface (S8) **(LRR S, T, U)**
- ☐ Thin Dark Surface (S9) **(LRR S, T, U)**
- ☐ Loamy Mucky Mineral (F1) **(LRR O)**
- ☐ Loamy Gleyed Matrix (F2)
- ☑ Depleted Matrix (F3)
- ☐ Redox Dark Surface (F6)
- ☐ Depleted Dark Surface (F7)
- ☐ Redox Depressions (F8)
- ☐ Marl (F10) **(LRR U)**
- ☐ Depleted Ochric (F11) **(MLRA 151)**
- ☐ Iron-Manganese Masses (F12) **(LRR O, P, T)**
- ☐ Umbric Surface (F13) **(LRR P, T, U)**
- ☐ Delta Ochric (F17) **(MLRA 151)**
- ☐ Reduced Vertic (F18) **(MLRA 150A, 150B)**
- ☐ Piedmont Floodplain Soils (F19) **(MLRA 149A)**
- ☐ Anomalous Bright Loamy Soils (F20) **(MLRA 149A, 153C, 153D)**

Indicators for Problematic Hydric Soils[3]:

- ☐ 1 cm Muck (A9) **(LRR O)**
- ☐ 2 cm Muck (A10) **(LRR S)**
- ☐ Reduced Vertic (F18) **(outside MLRA 150A,B)**
- ☐ Piedmont Floodplain Soils (F19) **(LRR P, S, T)**
- ☐ Anomalous Bright Loamy Soils (F20) **(MLRA 153B)**
- ☐ Red Parent Material (TF2)
- ☐ Very Shallow Dark Surface (TF12)
- ☐ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? **Yes** X **No** _____

Remarks:

WETLAND DETERMINATION DATA FORM – Atlantic and Gulf Coastal Plain Region

Project/Site: Weisenberger Road Raising and Widening Project City/County: Madison County Sampling Date: 4/3/2018

Applicant/Owner: Madison County Board of Supervisors State: MS Sampling Point: 2

Investigator(s): Headwaters, Inc. Section, Township, Range: Section 27, T 8 N, R 2 E

Landform (hillslope, terrace, etc.): Flat Local relief (concave, convex, none): None Slope (%): 0-2

Subregion (LRR or MLRA): MLRA - 134; LRR P Lat: 32.511794 Long: -90.088587 Datum: WGS 84

Soil Map Unit Name: Oakimeter silt loam NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation N, Soil N, or Hydrology N significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation N, Soil N, or Hydrology N 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 X No _____	**Is the Sampled Area within a Wetland?** **Yes** X **No** _____
Hydric Soil Present?	Yes X No _____	
Wetland Hydrology Present?	Yes X No _____	

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ☐ Surface Water (A1)
- ☐ High Water Table (A2)
- ☑ Saturation (A3)
- ☐ Water Marks (B1)
- ☑ Sediment Deposits (B2)
- ☑ Drift Deposits (B3)
- ☐ Algal Mat or Crust (B4)
- ☐ Iron Deposits (B5)
- ☐ Inundation Visible on Aerial Imagery (B7)
- ☑ Water-Stained Leaves (B9)
- ☐ Aquatic Fauna (B13)
- ☐ Marl Deposits (B15) **(LRR U)**
- ☐ Hydrogen Sulfide Odor (C1)
- ☑ Oxidized Rhizospheres along Living Roots (C3)
- ☐ Presence of Reduced Iron (C4)
- ☐ Recent Iron Reduction in Tilled Soils (C6)
- ☐ Thin Muck Surface (C7)
- ☐ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ☐ Surface Soil Cracks (B6)
- ☐ Sparsely Vegetated Concave Surface (B8)
- ☑ Drainage Patterns (B10)
- ☐ Moss Trim Lines (B16)
- ☐ Dry-Season Water Table (C2)
- ☑ Crayfish Burrows (C8)
- ☐ Saturation Visible on Aerial Imagery (C9)
- ☐ Geomorphic Position (D2)
- ☐ Shallow Aquitard (D3)
- ☐ FAC-Neutral Test (D5)
- ☐ Sphagnum moss (D8) **(LRR T, U)**

Field Observations:

Surface Water Present?	Yes _____	No X	Depth (inches): _____
Water Table Present?	Yes _____	No X	Depth (inches): _____
Saturation Present? (includes capillary fringe)	Yes X	No _____	Depth (inches): surface

Wetland Hydrology Present? **Yes** X **No** _____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

VEGETATION (Four Strata) – Use scientific names of plants.

Sampling Point: 2

Tree Stratum (Plot size: 1/10 acre)	Absolute % Cover	Dominant Species?	Indicator Status
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	= Total Cover		

50% of total cover: _____ 20% of total cover: _____

Sapling/Shrub Stratum (Plot size: 1/10 acre)			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	= Total Cover		

50% of total cover: _____ 20% of total cover: _____

Herb Stratum (Plot size: 1/10 acre)			
1. Juncus spp.	15	YES	OBL
2. Cyperus spp.	15	YES	OBL
3. Carex spp.	15	YES	FACW
4. Andropogon glomeratus	10		FACW
5. Polygonum spp.	5		FACW
6.			
7.			
8.			
9.			
10.			
11.			
12.			
	60 = Total Cover		

50% of total cover: 30 20% of total cover: 12

Woody Vine Stratum (Plot size: 1/10 acre)			
1.			
2.			
3.			
4.			
5.			
	= Total Cover		

50% of total cover: _____ 20% of total cover: _____

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 3 (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: _____ (A)	_____ (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

- ☐ 1 - Rapid Test for Hydrophytic Vegetation
- ☑ 2 - Dominance Test is >50%
- ☐ 3 - Prevalence Index is ≤3.0[1]
- ☐ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Four Vegetation Strata:

Tree – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.

Sapling/Shrub – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall.

Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall.

Woody vine – All woody vines greater than 3.28 ft in height.

Hydrophytic Vegetation Present? **Yes** X **No** _____

Remarks: (If observed, list morphological adaptations below).

SOIL

Sampling Point: 2

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	Matrix %	Redox Features Color (moist)	Redox Features %	Type[1]	Loc[2]	Texture	Remarks
0-12	4/1 10 yr	80	4/6 10 yr	20	C	PL		

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.

[2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ☐ Histosol (A1)
- ☐ Histic Epipedon (A2)
- ☐ Black Histic (A3)
- ☐ Hydrogen Sulfide (A4)
- ☐ Stratified Layers (A5)
- ☐ Organic Bodies (A6) **(LRR P, T, U)**
- ☐ 5 cm Mucky Mineral (A7) **(LRR P, T, U)**
- ☐ Muck Presence (A8) **(LRR U)**
- ☐ 1 cm Muck (A9) **(LRR P, T)**
- ☐ Depleted Below Dark Surface (A11)
- ☐ Thick Dark Surface (A12)
- ☐ Coast Prairie Redox (A16) **(MLRA 150A)**
- ☐ Sandy Mucky Mineral (S1) **(LRR O, S)**
- ☐ Sandy Gleyed Matrix (S4)
- ☐ Sandy Redox (S5)
- ☐ Stripped Matrix (S6)
- ☐ Dark Surface (S7) **(LRR P, S, T, U)**
- ☐ Polyvalue Below Surface (S8) **(LRR S, T, U)**
- ☐ Thin Dark Surface (S9) **(LRR S, T, U)**
- ☐ Loamy Mucky Mineral (F1) **(LRR O)**
- ☐ Loamy Gleyed Matrix (F2)
- ☑ Depleted Matrix (F3)
- ☐ Redox Dark Surface (F6)
- ☐ Depleted Dark Surface (F7)
- ☐ Redox Depressions (F8)
- ☐ Marl (F10) **(LRR U)**
- ☐ Depleted Ochric (F11) **(MLRA 151)**
- ☐ Iron-Manganese Masses (F12) **(LRR O, P, T)**
- ☐ Umbric Surface (F13) **(LRR P, T, U)**
- ☐ Delta Ochric (F17) **(MLRA 151)**
- ☐ Reduced Vertic (F18) **(MLRA 150A, 150B)**
- ☐ Piedmont Floodplain Soils (F19) **(MLRA 149A)**
- ☐ Anomalous Bright Loamy Soils (F20) **(MLRA 149A, 153C, 153D)**

Indicators for Problematic Hydric Soils[3]:

- ☐ 1 cm Muck (A9) **(LRR O)**
- ☐ 2 cm Muck (A10) **(LRR S)**
- ☐ Reduced Vertic (F18) **(outside MLRA 150A,B)**
- ☐ Piedmont Floodplain Soils (F19) **(LRR P, S, T)**
- ☐ Anomalous Bright Loamy Soils (F20) **(MLRA 153B)**
- ☐ Red Parent Material (TF2)
- ☐ Very Shallow Dark Surface (TF12)
- ☐ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? **Yes** X **No** _____

Remarks:

ATTACHMENT C

-Photographs of Selected Property Features

Weisenberger Road Project

Madison County, Mississippi

WAYPOINT #1

PHOTOGRAPH #1

Photo looking east at emergent wetland.

WAYPOINT #1

PHOTOGRAPH #2

Photo looking south at emergent wetland.

Weisenberger Road Project

Madison County, Mississippi

WAYPOINT #2

PHOTOGRAPH #3

Photo taken looking east at emergent wetland.

WAYPOINT #2

PHOTOGRAPH #4

Photo taken looking west at existing road toe.

ATTACHMENT D

-Cultural Resources Review

TERRAXPLORATIONS

Leading the Future in Recording America's Past

September 11, 2018

Adam Goff
Headwaters
P.O. Box 2836
Ridgeland, MS 39158

Per your request for a Desktop survey to identify previously recorded historic and prehistoric properties within a one mile radius of the proposed Weisenberger Road widening project in Madison County, Mississippi, TerraXplorations, Inc. (TerraX) provides the following information:

PROJECT LOCATION

The project area consists of 2.9 acres along the southside of Weisenberger Road between the former Illinois Central Gulf Railroad and Hwy 51 in Gluckstadt, Mississippi (Figure 1). The subject property is located on the 1989 Canton, Mississippi, USGS 7.5' series topographic quadrangle in Sections 27 and 28, Township 8 North, Range 2 East (Figure 2).

LITERATURE AND DOCUMENT SEARCH

A literature and document search was conducted in order to gather pertinent background information regarding the subject property and its surroundings. This research included inspections of the Mississippi State Archaeological Site File (MSASF) (Mississippi Department of Archives and History 2018) and queries in the National Register of Historic Places (NRHP) (National Park Service 2018). No NRHP listed properties are within a mile of the project area.

One archaeological site (22Md636) has been discovered near the project area (see Figure 2). Site 22Md836 was recorded in 1985 by archaeologists with the Mississippi State Highway Department during a bridge replacement survey (Hyatt 1985). Site 22Md636 is described as an aboriginal lithic scatter. Flakes, cores, bifaces, and shatter fragments were collected. This site has not been evaluated for NRHP eligibility.

Background research revealed 13 previously conducted cultural resources surveys within a mile of the study area (see Figure 2).

MDAH#71-273. No report is available for this study.

MDAH#85-053. *Cultural Resources Survey of Proposed Bridge Replacement Project No. BR-0045(10)B at Bear Creek Between Gluckstadt Road and U.S. Highway 51 (MSHD Project No. 85-0045-00-010-10), Madison County.* Archaeologists with the Mississippi State Highway Department performed this 8.85 acre bridge replacement survey in 1985 (Hyatt 1985). One archaeological site (22Md636, aboriginal lithic scatter)

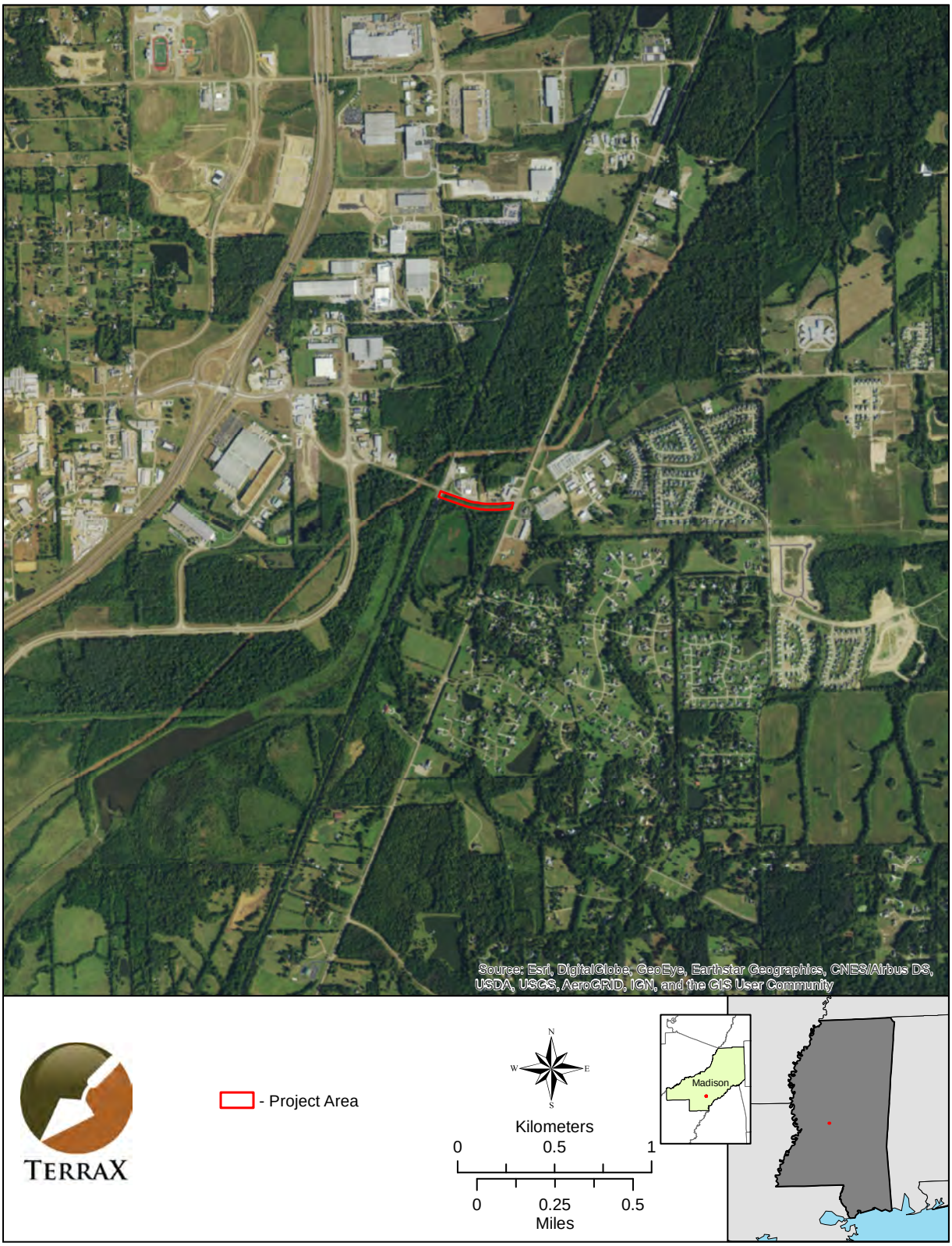

Figure 1. *Aerial showing project area.*

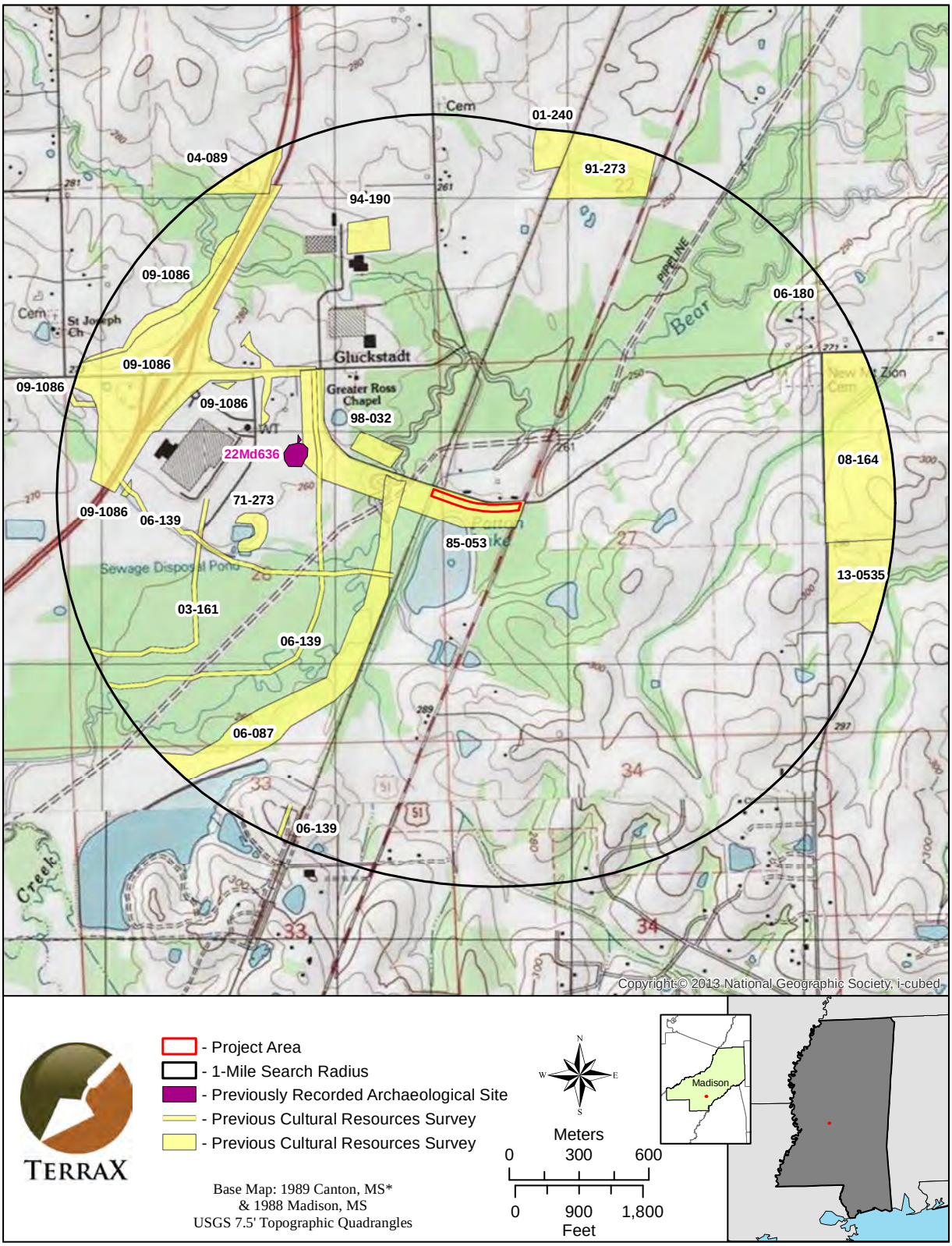

Figure 2. *Map showing previously conducted surveys and recorded archaeological site within a mile of the project boundary.*

was identified during this investigation; however, it lies over a mile away from the current study area. The current project area is located within this previously surveyed tract. Some subsurface testing was performed but no details are provided in this report.

MDAH#91-273. *Cultural Resources Survey of Proposed Wastewater Treatment Facilities Improvements Town of Gluckstadt, Madison County, Mississippi.* Archaeology Mississippi, Inc. conducted this 83 acre parcel in 1991. No archaeological sites were reported (Lauro 1991).

MDAH#94-190. *Cultural Resources Survey of Proposed 5 Acre Expansion of North American Plastics, Inc. Madison County, Mississippi.* Archaeology Mississippi, Inc. conducted this small survey in 1994. No sites were found (Lauro 1994).

MDAH#98-032. *Cultural Resources Survey of a Four Acre Tract of Land, Madison County, Mississippi.* Archaeology Mississippi, Inc. conducted this four acre investigation in 1998. No sites were discovered (Lauro 1998).

MDAH#01-240. *Cultural Resources Survey of Approximately 100 Acres, Madison County, Mississippi.* In 2001, Archaeology Mississippi, Inc. conducted this 100 acre survey. One twentieth century sharecropper/ tenant farm structure was encountered; however, this occurrence was not recorded as an archaeological site (Lauro 2000).

MDAH#03-161. *Cultural Resources Survey of a Proposed Madison County East Parkway Project, Madison County, Mississippi.* Archaeology Mississippi, Inc. conducted this 6.5 mile linear survey in 2003. Two isolated finds and two cemeteries (Montgomery Cemetery and Ross Cemetery) were discussed (Lauro 2003).

MDAH#04-089. *Cultural Resources Survey of an Approximately 190 Acre Borrow Area, Madison County, Mississippi.* Archaeology Mississippi, Inc. conducted this 190 acre project in 2004. No cultural resources were recorded (Lauro 2004).

MDAH#06-087. *Cultural Resources Survey of* Proposed Bear Creek Flood Relief Project, *Madison County, Mississippi.* Archaeology Mississippi, Inc. conducted this 88 acre project in 2006. No cultural resources were reported (Lauro 2006).

MDAH#06-139. *Cultural Resources Survey for Madison County Wastewater Authority Section 592 Project, Madison County, Mississippi.* J.Peukert conducted this 23 acre survey in 2006. No report is available through the MSASF online resource (Peukert 2006).

MDAH# 08-164. *Phase I Cultural Resource Survey of a Proposed 80 Acre Tract of Land Madison County, Mississippi.* James Lauro of Archaeology Mississippi, Inc. performed this survey in 2008 (Lauro 2008). Investigations of the 80 acre tract failed to identify any cultural resources.

MDAH#09-1086. *Cultural Resources Survey of CRS of Proposed Improvements to the I-55 Interchange at the Gluckstadt Exit, Madison County, Mississippi.* Archaeologist with MDOT conducted this 62 acre survey in 2009. No sites were recorded (Underwood et al. 2009).

MDAH# 13-0535. Phase I Cultural Resource Survey for the Proposed Western Ridge Residential Development Project in Madison County, Mississippi. TerraX conducted this 25 acre survey in 2013 (Pearce 2013). No resources were discovered.

Neither the MDAH historic property files or NRHP show any structures within a mile of the proposed study area. TerraX appreciates the opportunity to provide this information to you. If you have any questions, please don't hesitate to contact us.

Sincerely,

Jon Glass
Vice-President
TerraX

SPECIAL CONDITIONS
NATIONWIDE PERMIT No. 14

Linear Transportation Projects

Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, “District Engineer’s Decision.” The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

2017 Nationwide Permits General Conditions, Further Information, and Definitions

A. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the

NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures

wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic

Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that

the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____
(Transferee)

_____
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the

permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the

45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide

electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

B. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal

with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

C. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

STATE OF MISSISSIPPI
NATIONWIDE PERMIT REGIONAL CONDITIONS

A. REGIONAL CONDITIONS FOR ALL NATIONWIDE PERMITS

1. Coastal Zone Management Act (CZMA) concurrence was not granted by the Mississippi Department of Marine Resources (MDMR) for all NWPs located within the three categories of waters of the United States (U.S.), including wetlands, listed below. Therefore, CZMA concurrences are considered denied and applicants must contact MDMR for a project-specific CZMA review and concurrence determination:

i. All tidal waters in Hancock, Harrison, and Jackson Counties;

ii. All waters of the U.S. having a surface hydrological connection to tidal waters in Hancock, Harrison, and Jackson Counties, and that are located within 200 feet landward of the observed mean high tide mark; and

iii. All marsh habitats (i.e. all tidal emergent wetlands dominated by salt or estuarine marsh plant species; and all non-tidal emergent wetlands dominated by freshwater marsh plant species, abutting and/or adjacent to tidal emergent wetlands) in Hancock, Harrison, and Jackson Counties (except pine savannah and pitcher plant bogs) having a surface hydrological connection to tidal waters in Hancock, Harrison, and Jackson Counties, whether saltwater, brackish, or freshwater marshes and including high marsh habitat, even if located more than 200 feet landward of the observed mean high tide mark.

For ALL Nationwide Permit (NWP) authorizations in the above listed waters of the U.S., including wetlands, the applicant must contact MDMR for a case-specific CZMA review and obtain concurrence from MDMR that proposed activities under any NWP are consistent to the maximum extent practicable with the enforceable policies of the State of Mississippi's coastal management program. Applicants are advised that additional measures may be required to ensure activities are consistent with the State of Mississippi's coastal management program.

Process: (1) The applicant shall submit their proposed project information directly to MDMR using the Joint Application & Notification form and include a CZMA consistency determination (CZCD); (2) the applicant is required to receive the CZCD concurrence prior to project initiation to achieve compliance with NWP conditions; and (3) upon receipt of the CZCD concurrence from MDMR, the applicant must provide the CZCD concurrence to the applicable Corps District.

The Joint Application and Notification form may be downloaded or printed from the MDMR website at: http://www.dmr.ms.gov/index.php/coastal-resources-management/wetland-permitting

If a pre-construction notification (PCN) to the Corps is required, the attachment to these Regional Conditions highlights the minimum additional information needed.

The completed submittal shall be sent directly to MDMR at the following address:

Mississippi Department of Marine Resources
Bureau of Wetlands Permitting
1141 Bayview Drive
Biloxi, Mississippi 39530

2. A PCN to the appropriate Corps District is required for all regulated activities located within or adjacent to Black Creek within the reach beginning approximately ¼-mile upstream of Moody's Landing and ending approximately ¼-mile downstream of the Fairly Road Bridge crossing. The Corps will coordinate the PCN with the National Forest Service per requirements of Section 7 of the Wild and Scenic Rivers Act and General Condition 16 of the NWPs.

3. NWP authorizations for regulated activities in the Grand Bay National Estuarine Research Reserve, a designated critical resource water located in Jackson County, Mississippi, shall adhere to General Condition 22 of the NWPs.

4. For all regulated activities that might affect a federally-listed threatened or endangered species or designated critical habitat, or essential fish habitat: Submittal of a complete PCN to the appropriate Corps District is required. Note: For activities in waters described in Regional Condition A.1., all PCNs shall instead be submitted directly to MDMR using the Joint Application and Notification form and include information required by NWP General Condition 32. Waterways in Mississippi with reported occurrences of federally-listed threatened or endangered species and their critical habitats, as of March 2017, are listed below. The list below also includes certain types of essential fish habitat (EFH) for federally-managed fisheries that may occur in coastal waterways. This list is provided to heighten awareness of the possibility of interaction between federally-protected species/habitats and regulated activities; it is not intended to be all-inclusive. Applicants are advised that the federal protection status of species and habitats may change during the time period in which these Regional Conditions are in effect, and that those changes may not be reflected in the list below.

Further, this Regional Condition does not lessen the restrictions or requirements provided by General Condition 18. As stated in General Conditions 18 and 32 (82 FR 1860-2008), the PCN from non-federal applicants must include a delineation of waters of the U.S. in the project area and the name(s) of the threatened or endangered species that might be affected by the proposed work or that utilize designated critical habitat that might be affected by the proposed work. PCNs from federal applicants must include documentation of compliance with the Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as applicable.

NOTE: The following definitions apply to the list below, as well as the list in Section B.1. of these Regional Conditions: C = Candidate Species; CH = Critical Habitat; LE = Listed Endangered; LT = Listed Threatened; PT = Proposed Threatened; EFH = Waters and substrate necessary to MSFCMA-protected fish for spawning, breeding, feeding, or growth to maturity.

Bayou Pierre River and following tributaries: White Oak Creek, Foster Creek, and Turkey Creek – Located in Claiborne, Copiah, Hinds and Lincoln Counties
Species: bayou darter (*Etheostoma rubrum* - LT)

Bear Creek – Located in Tishomingo County
Species: cumberlandian combshell mussel (*Epioblasma brevidens* - LE, CH); slabside pearlymussel (*Lexingonia dolabelloides* - LE, CH), rabbitsfoot mussel (*Quadrula cylindrica cylindrica* - LT, CH), snuffbox mussel (*Epioblasma triquetra* - LE) and snail darter (*Percina tanas* -T)

Big Black River – Located in Hinds and Warren Counties, from Porter Creek confluence south to Highway 27
Species: rabbitsfoot mussel (*Quadrula cylindrica cylindrica* - LT, CH)

Big Sunflower River – Located in Sunflower County, from Highway 442 to Quiver River confluence
Species: rabbitsfoot mussel (*Quadrula cylindrica cylindrica* - LT, CH) and sheepnose mussel (*Plethobasus cyphyus* - LE)

Bogue Chitto River – Located in Pike and Walthall Counties, from State Highway 570, southward
Species: Gulf sturgeon (*Acipenser oxyrhynchus desotoi* - LT, CH)

Mississippi River and adjacent land west of the mainline levee – Located in the following Counties: Adams, Coahoma, Jefferson, Warren, Bolivar, DeSoto, Sharkey, Washington, Claiborne, Issaquena, Tunica, and Wilkinson
Species: interior least tern (*Sterna antillarum* - LE), pallid sturgeon (*Scaphirhynchus albus* - LE), and fat pocketbook mussel (*Potamilus capax* - LE)

MS Coastal Waterways and Streams including: **Back Bay of Biloxi, Biloxi River, Escatawpa River, Old Fort Bayou, Pascagoula River, and Tchoutacabouffa River** – Located in Harrison and Jackson Counties
Species: Alabama red-bellied turtle (*Pseudemys alabamensis* - LE)
EFH: estuarine emergent wetlands, submersed aquatic vegetation or vegetated shallows, live bottoms (e.g. oyster bars, limestone outcroppings)

Mississippi Sound and other back bays – Located in Hancock, Harrison, and Jackson Counties
Species: piping plover (*Charadrius melodus* - LE, CH), red knot (*Calidris canutus rufa* - LT), West Indian manatee (*Trichechus manatus* - LE), green turtle (*Chelonia mydas* -

LT), Kemp's ridley turtle (*Lepidochelys kempii* - LE), leatherback sea turtle (*Dermochelys coriacea* - LE), loggerhead turtle (*Caretta caretta* - LT), and Gulf sturgeon (*Acipenser oxyrhynchus desotoi* - LT, CH)
EFH: estuarine emergent wetlands, submersed aquatic vegetation or vegetated shallows, live bottoms (e.g. oyster bars, limestone outcroppings)

Pascagoula River and the following tributaries: **Bouie, Chickasawhay, Okatoma, and Leaf Rivers** – Located in the following Counties: Clarke, Greene, Perry, Forrest, Jackson, Stone, George, Jones, and Wayne
Species: yellow-blotched map turtle (*Graptemys flavimaculata* - LT), Gulf sturgeon (*Acipenser oxyrhynchus desotoi* - LT, CH), pearl darter (*Percina aurora* - PT), and Alabama red-bellied turtle (*Pseudemys alabamensis* - LE)
EFH: estuarine emergent wetlands, submersed aquatic vegetation or vegetated shallows, live bottoms (e.g. oyster bars, limestone outcroppings)

Pearl River – Located in the following Counties: Copiah, Leake, Neshoba, Scott, Hinds, Madison, Pearl River, Hancock, Simpson, Lawrence, Marion, and Rankin
Species: ringed map turtle (*Graptemys oculifera* - LT), Gulf sturgeon (*Acipenser oxyrhynchus desotoi* - LE, CH), and inflated heelsplitter (*Potamilus inflatus* - LT)
EFH: estuarine emergent wetlands, submersed aquatic vegetation, live bottoms (e.g. oyster bars, limestone outcroppings)

Tombigbee River and the following tributaries: Buttahatchie, Luxapalilla, Noxubee, and Bull Mountain – Located in Itawamba, Lowndes and Monroe Counties
Species: heavy pigtoe mussel (*Pleurobema taitianum* - LE), southern combshell mussel (*Epioblasma penita* - LE), southern clubshell mussel (*Pleurobema decisum* - LE), ovate clubshell mussel (*Pleurobema perovatum* - LT), black clubshell mussel (*Pleurobema curtum* - LE), Alabama moccasinshell (*Medionidus acutissimus* - LT), orange-nacre mucket (*Lampsilis perovalis* - LT), and inflated heelsplitter (*Potamilus inflatus* - LT)

5. Supplement to General Condition 2 (Aquatic Life Movements) and General Condition 9 (Management of Water Flows)
Culverts must be of sufficient capacity to maintain expected high and low water flows and be installed at a sufficient depth to not substantially disrupt the necessary life cycle movements of aquatic life species.

B. REGIONAL CONDITIONS FOR SPECIFIC NATIONWIDE PERMITS

1. For all NWP 12 and NWP 14 regulated activities that require a PCN:
To assess all individual and cumulative impacts, complete PCNs must include a description of the anticipated direct and indirect environmental effects, including both temporary and permanent impacts at all single and complete crossings of waters of the U.S. which are a part of the total linear project.

2. NWP 12 (Utility Line Activities) and NWP 14 (Linear Transportation Projects) Submittal of a complete PCN to the appropriate Corps District is required for all regulated activities that may directly or indirectly affect federally-listed species and/or their designated critical habitat. The list below includes some species that could be encountered along a linear project and a general description of their typical habitat types utilized. This list is provided to heighten awareness of the possibility of interaction between federally-protected species/habitats and regulated activities; it is not intended to be all-inclusive. Applicants are advised that the federal protection status of species and habitats may change during the time period in which these Regional Conditions are in effect, and that those changes may not be reflected in the list below. NOTE: For regulated activities in waters described in Regional Condition A.1., all PCNs shall instead be submitted directly to MDMR using the Joint Application and Notification form, and include information required by NWP General Condition 32. The attachment to these Regional Conditions highlights the minimum additional information needed.

Gopher tortoise (*Gopherus polyphemus* – LT), and black pine snake (*Pituophis melanoleucus lodingi* – LT) – Located in Clarke, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jasper, Jefferson Davis, Jones, Lamar, Marion, Pearl River, Perry, Smith, Stone, Walthall, and Wayne Counties and associated with certain upland habitats that may be adjacent to wetlands and/or other waters of the U.S.
Louisiana quillwort (*Isoetes louisianaensis* – LE) – Located in Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties and associated with intermittent and small perennial streams

Dusky gopher frog (*Rana sevosa* – LE, CH) – Located in Jackson, Forrest, Perry, and Harrison Counties and associated with isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat

Mississippi sandhill crane (*Grus canadensis pulla* – LE) – Located in Jackson County and associated with pine savannas, brackish marsh, cultivated fields, and pasture lands within 5 miles of the Mississippi Sandhill Crane National Wildlife Refuge

Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii* – LE) – Located in Alcorn, Itawamba, Monroe, Prentiss, and Tishomingo Counties and associated with wetlands created by beaver ponds and other similar habitats

Gray bat (*Myotis grisescens* – LE), Indiana bat (*Myotis sodalist* – LE) and Northern Long-eared bat *(Myotis septentrionalis* – LT), – Located in counties north of Interstate 20 and associated with caves, box culverts, bridges, and/or forested uplands, wetlands, and riparian habitats (trees over 5 inches dbh)

Pondberry (*Lindera melissifolia* – LE) - Located in Bolivar, Coahoma, Holmes, Humphreys, Issaquena, Leflore, Quitman, Sharkey, Sunflower, Tallahatchie, Tunica, Warren, Washington, and Yazoo Counties and associated with bottomland hardwood wetlands

Price's potato bean (*Apios priceana* – LT) – Located in Alcorn, Chickasaw, Clay, Kemper, Lee, Lowndes, Monroe, Noxubee, Oktibbeha, Pontotoc, Prentiss, and Union Counties and associated with wooded areas that grade into creek and river bottoms

Red-cockaded woodpecker (*Picoides borealis* – LE) – Located in Amite, Copiah, Forrest, Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lamar, Lincoln, Noxubee, Oktibbeha, Pearl River, Perry, Scott, Smith, Stone, Wayne, Wilkinson, and Winston Counties (primarily found on or near US National Forests and the Noxubee National Wildlife Refuge); Species excavates nesting cavities in mature pine trees (60+ years old)

Wood stork (*Mycteria americana* – LT) – Located Statewide and associated with freshwater marshes, tidal pools, cypress swamps; Species does not breed in MS, foraging habitat only

White fringeless orchid (*Platanthera integrilabia* – C) – Located in Alcorn, Itawamba, Monroe, Prentiss, and Tishomingo Counties and associated with wet boggy areas at heads of streams and on seepage slopes that are partially shaded

3. NWP 21 (Surface Coal Mining Activities)
This NWP, via disavowal of water quality certification by the Mississippi Department of Environmental Quality, is considered **denied without prejudice**. Individual requests for approval under this NWP will be considered on a case-by-case basis only after receipt by the appropriate Corps district of an individual water quality certification, waiver, or other approval by the Mississippi Department of Environmental Quality.

4. NWP 44 (Mining Activities)
This NWP, via disavowal of water quality certification by the Mississippi Department of Environmental Quality, is considered **denied without prejudice**. Individual requests for approval under this NWP will be considered on a case-by-case basis only after receipt by the appropriate Corps district of an individual water quality certification, waiver, or other approval by the Mississippi Department of Environmental Quality.

C. REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION FOR MISSISSIPPI BAND OF CHOCTAW INDIANS TRIBAL LANDS

By letter dated March 2, 2017, the Environmental Protection Agency, Region 4, acting on behalf the Mississippi Band of Choctaw Indians, issued final decisions on water quality certification for NWP activities on Mississippi Band of Choctaw Indians Tribal Lands.

D. REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION

By letters to the Corps, dated March 6, 2017, the Mississippi Department of Environmental Quality issued its final decisions on WQC for use of each of the NWPs in Mississippi.

E. REGIONAL CONDITIONS FOR COASTAL ZONE MANAGEMENT ACT CONSISTENCY

By letter to the Corps, dated April 6, 2017, the Mississippi Department of Marine Resources issued its final decisions regarding consistency of the NWPs with the provisions of Section 307 of the Coastal Zone Management Act (as amended) and the implementing Mississippi Coastal Program.

F. NWPs NOT APPLICABLE IN MISSISSIPPI

The Vicksburg District, as Lead Corps District for Mississippi, determined that NWP 8 (Oil and Gas Structures on the Outer Continental Shelf) and NWP 24 (Indian Tribe or State Administered Section 404 Programs) are not applicable for Department of the Army permit requirements in Mississippi.

Attachment
Joint Application and Notification Form – Minimum Additional Information Requirements for NWPs, as per General Condition 32 (PCN Requirements)

(1) The PCN must include a delineation of wetlands, other special aquatic sites (e.g. mudflats, vegetated shallows, sanctuaries, refuges), and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The applicant may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the U.S. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate.

(2) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands, the applicant must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the applicant may submit a conceptual or detailed mitigation plan.

(3) If any federally listed threatened or endangered species might be affected or is in the vicinity of the regulated activity, or if the regulated activity is located in designated critical habitat, for non-federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected or might utilize the designated critical habitat that may be affected by the proposed regulated activity. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act.

(4) For a regulated activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-federal applicants the PCN must state which historic property may be affected by the proposed regulated activity or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

STATE OF MISSISSIPPI

PHIL BRYANT

GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

GARY C. RIKARD, EXECUTIVE DIRECTOR

March 6, 2017

Certified Mail No. 7012 3460 0003 2548 6056

Ms. Jennifer Mallard
Regulatory Branch Chief
U.S. Army Corps of Engineers, Vicksburg District
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Dear Ms. Mallard:

Re: US Army Corps of Engineers
Nationwide Permit No. 12
Warren County
COE No. MVK-2017-114
WQC No. WQC2017012

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, to the U.S. Army Corps of Engineers, an applicant for a Federal License or permit to conduct the following activity:

US Army COE, Nationwide Permit No. 12:

Nationwide Permits are general permits issued on a nationwide basis to streamline the authorization of activities that have no more than minimal and cumulative adverse effects on the aquatic environment. The U.S. Army Corps of Engineers issues NWPs to authorize certain activities that require Department of the Army permits under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899.

12. *Utility Line Activities*. Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

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Utility lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and internet, radio, and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area. Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of

the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into nontidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (*e.g.,* at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) The activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (*i.e.,* water of the United States), and it runs parallel to or along a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10- acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (See general condition 32.)

Note 1: Where the utility line is constructed or installed in navigable waters of the United States (*i.e.,* section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

Note 2: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d).

Note 3: Utility lines consisting of aerial electric power transmission lines crossing navigable waters of the United States (which are defined at 33 CFR part 329) must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

Note 4: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 5: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

Note 6: This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 7: For overhead utility lines authorized by this NWP, a copy of the PCN and NWP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

Note 8: For NWP 12 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require preconstruction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23). [MVK-2017-114, WQC2017012].

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

1. The permittee shall obtain appropriate wastewater permits and/or approvals for the proposed activity prior to the commencement of construction activities.

2. For projects greater than five acres of total ground disturbances including clearing, grading, excavating, or other construction activities, the applicant shall obtain the necessary coverage under the State of Mississippi's Large Construction Storm Water General NPDES Permit. For projects greater than one, to less the five acres of total ground disturbances including clearing, grading, excavating, or other construction activities, the applicant shall follow the conditions and limitations of the State of Mississippi's Small Construction Storm Water General NPDES Permit. No construction activities shall begin until the necessary approvals and/or permits have been obtained.

3. In cases where a PCN is required, a PCN shall be provided to the Department of Environmental Quality (Department) for projects that include channel work within waterways found on the latest version of the State of Mississippi's Section 303(d) List of Impaired Water Bodies for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

    a. Justification of why the impacts cannot be avoided;

    b. Proposed best management practices that would minimize the impacts to receiving sensitive waters; and

    c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

4. In cases where a PCN is required to the U.S. Army Corps of Engineers, a PCN shall be provided to the Department for projects associated with hydrofacking activities for oil and gas exploration. Unless verification is provided that the proposed activities have been previously reviewed and approved through a master planning process, the Department shall be allowed 10 days to provide comments for the proposed activities. For activities not previously included in an approved master planning process, the PCN notification to the Department shall include the following:

    a. Impacts resulting from authorizations for oil and gas exploration shall be minimized to the maximum extent practicable;

    b. A mitigation plan for unavoidable impacts shall be provided and should be within the same watershed as practicable;

    c. All fill shall be removed in the event that projection is not achieved; and

    d. A plan for restoring the sites in the event production is not achieved.

5. Discharges of cuttings, drilling mud, hydrostatic testing water, or any other waste material are prohibited unless approved in writing or permitted by the Department.

6. The Department shall be furnished copies of authorizations of coverages under this NWP.

7. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

8. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If we can be of further assistance, please contact us.

Sincerely,

Harry M. Wilson, P.E., DEE
Chief, Environmental Permits Division

HMW: ld

cc: U.S. Army Corps of Engineers, Mobile District
Attn: Mr. Craig Litteken
U.S. Army Corps of Engineers, Memphis District
Attn: Mr. Tim Fudge
U.S. Army Corps of Engineers, Nashville District
Attn: Mr. Timothy Wilder
U.S. Army Corps of Engineers, New Orleans District
Attn: Mr. Michael Farabee
Ms. Willa Brantley, Department of Marine Resources
Mr. David Felder, U.S. Fish and Wildlife Service
Mr. William Ainsley, Environmental Protection Agency

STATE OF MISSISSIPPI

PHIL BRYANT

GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

GARY C. RIKARD, EXECUTIVE DIRECTOR

March 6, 2017

Certified Mail No. 7012 3460 0003 2548 5899

Ms. Jennifer Mallard
Regulatory Branch Chief
U.S. Army Corps of Engineers, Vicksburg District
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Dear Ms. Mallard:

Re: US Army Corps of Engineers
Nationwide Permit No. 14
Warren County
COE No. MVK-2017-114
WQC No. WQC2017014

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, to the U.S. Army Corps of Engineers, an applicant for a Federal License or permit to conduct the following activity:

US Army COE, Nationwide Permit No. 14:

Nationwide Permits are general permits issued on a nationwide basis to streamline the authorization of activities that have no more than minimal and cumulative adverse effects on the aquatic environment. The U.S. Army Corps of Engineers issues NWPs to authorize certain activities that require Department of the Army permits under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899.

14. *Linear Transportation Projects*. Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of

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greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/ 3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 32.)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity,

including other separate and distant crossings that require Department of the Army authorization but do not require preconstruction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, ''District Engineer's Decision.'' The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23). [MVK-2017-114, WQC2017014].

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

1. The permittee shall obtain appropriate wastewater permits and/or approvals for the proposed activity prior to the commencement of construction activities.

2. In cases where a PCN is required, a PCN shall be provided to the Department of Environmental Quality (Department) for projects that include channel work within waterways found on the latest version of the State of Mississippi's Section 303(d) List of Impaired Water Bodies for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

    a. Justification of why the impacts cannot be avoided;

    b. Proposed best management practices that would minimize the impacts to receiving sensitive waters; and

    c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

3. For projects greater than five acres of total ground disturbances including clearing, grading, excavating, or other construction activities, the applicant shall obtain the necessary coverage under the State of Mississippi's Large Construction Storm Water General NPDES Permit. For projects greater than one, to less the five acres of total ground disturbances including clearing, grading, excavating, or other construction activities, the applicant shall follow the conditions and limitations of the State of Mississippi's Small Construction Storm

Water General NPDES Permit. No construction activities shall begin until the necessary approvals and/or permits have been obtained.

4. In cases where a PCN is required to the U.S. Army Corps of Engineers, a PCN shall be provided to the Department for projects associated with hydrofacking activities for oil and gas exploration. Unless verification is provided that the proposed activities have been previously reviewed and approved through a master planning process, the Department shall be allowed 10 days to provide comments for the proposed activities. For activities not previously included in an approved master planning process, the PCN notification to the Department shall include the following:

    a. Impacts resulting from authorizations for oil and gas exploration shall be minimized to the maximum extent practicable;

    b. A mitigation plan for unavoidable impacts shall be provided and should be within the same watershed as practicable;

    c. All fill shall be removed in the event that projection is not achieved; and

    d. A plan for restoring the sites in the event production is not achieved.

5. The Department shall be furnished copies of authorizations of coverages under this NWP.

6. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained.

7. This NWP shall not apply to natural tidal waters for personal transportation.

8. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

9. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If we can be of further assistance, please contact us.

Sincerely,

Harry M. Wilson, P.E., DEE
Chief, Environmental Permits Division

HMW: ld

cc: U.S. Army Corps of Engineers, Mobile District
Attn: Mr. Craig Litteken
U.S. Army Corps of Engineers, Memphis District
Attn: Mr. Tim Fudge
U.S. Army Corps of Engineers, Nashville District
Attn: Mr. Timothy Wilder
U.S. Army Corps of Engineers, New Orleans District
Attn: Mr. Michael Farabee
Ms. Willa Brantley, Department of Marine Resources
Mr. David Felder, U.S. Fish and Wildlife Service
Mr. William Ainsley, Environmental Protection Agency

CERTIFICATION OF COMPLIANCE
WITH DEPARTMENT OF THE ARMY PERMIT

Nationwide Permit Number:	NWP 14
Identification Number:	MVK-2018-775
Name of Permittee:	Ms. Shelia Jones – Madison Co. Board of Supervisors
Issued Date:	12/4/2018
Evaluator Name:	Mr. Gerald Bourne
Expiration Date:	03/18/2022
Compliance Location:	Madison County, MS; 32.511563, -90.087713; Project located along Weisenberger Road approximately 0.85 miles east of Gluckstadt, MS

Upon completion of the activity authorized by this permit, sign this certification and return it to the following address:

USACE, Vicksburg District
ATTN: Regulatory Branch
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit modification, suspension, or revocation.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit including any required mitigation.

Date work was completed: _____

_____ _____
Signature of Permittee Date Signed

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Ms. Shelia Jones - Madison County Board of Supervisors	File Number: MVK-2018-775	Date: 4 December 2018

Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
✔	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/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx 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. 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 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:

Mr. Gerald Bourne
Environmental Specialist
USACE Regulatory Branch Vicksburg District
4155 Clay Street
Vicksburg, MS 39180
601-631-5441

If you only have questions regarding the appeal process you may also contact:
Administrative Appeals Review Officer
Mississippi Valley Division
U.S. Army Corps of Engineers
1400 Walnut Street
Vicksburg, MS 39181-0080
601-634-5820

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: