DEPARTMENT OF THE ARMY

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

REPLY TO
ATTENTION OF:

November 15, 2017

NEEL-SCHAFFER
Solutions you can build upon

NOV 17

RECEIVED

Operations Division

SUBJECT: Jurisdictional Determination – Preliminary Jurisdictional Determination, Hancock County Port and Harbor Commission, Site 11, 50-Acre Site, Hancock County, Mississippi

Ms. Cori Gavin
Neel-Schaffer, Incorported
772 Howard Avenue
Biloxi, Mississippi 39530

Dear Ms. Gavin:

I refer to your letter requesting a jurisdictional determination for the subject property located in section 34, T9S-R16W, Hancock County, Mississippi.

Based upon the information provided and a previous determination made on a portion of the property in 2015, it appears there are jurisdictional areas on the property subject to regulation pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. The approximate extent of jurisdictional waters of the United States within the boundary of the property described in your letter is depicted on the enclosed preliminary map (enclosure 1). Any work involving the discharge of dredged or fill material (land clearing, ditching, filling, leveeing, culvert crossings, etc.) within the identified jurisdictional waters will require a Department of the Army Section 10/404 permit prior to beginning work. For your information, I have enclosed a copy of our appeals form (enclosure 2).

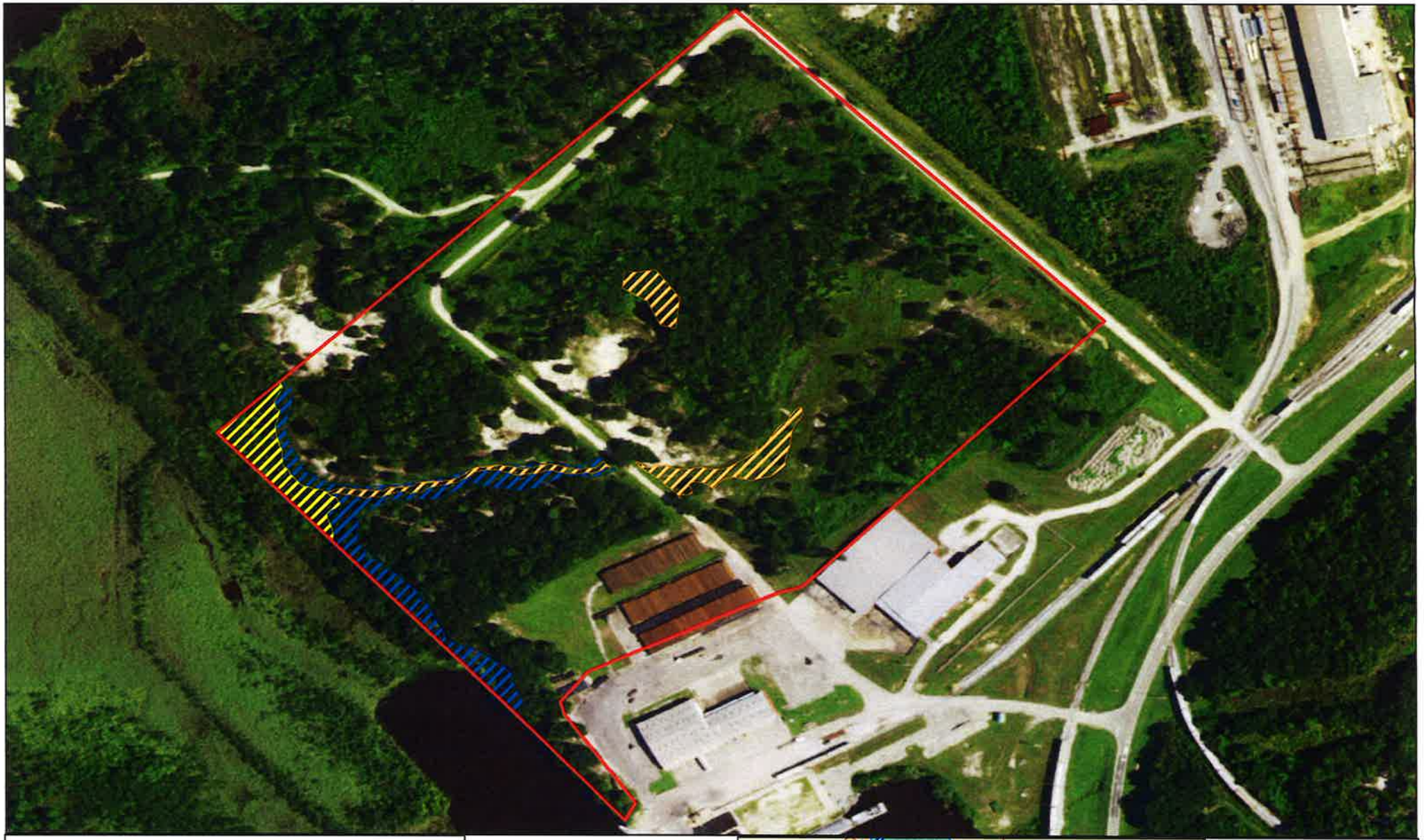
For your convenience, an application packet may be obtained at our Regulatory Program webpage: http://www.mvk.usace.army.mil/Missions/Regulatory.aspx. An application for work in wetlands or other waters of the United States should be submitted at least 90 to 120 days in advance of the proposed starting date. In order to expedite the evaluation process, please refer to identification no. MVK-2015-108 when submitting the application.

If we may be of any further assistance in this matter, please contact Mr. Aaron Posner of this office, telephone (601) 631-5591, fax (601) 631-5459, or e-mail address: Aaron.W.Posner@usace.army.mil.

Sincerely,

Charles R. Allred, Jr.
Chief, Enforcement Section
Regulatory Branch

Enclosures



Legend

- Site 11 Boundary
- Forested Wetlands (1.56 Acres; Section 404)
- Emergent Wetland (1.04 Acres; Section 404)
- Emergent Wetland (0.79 Acres; Section 10)

Enclosure 1

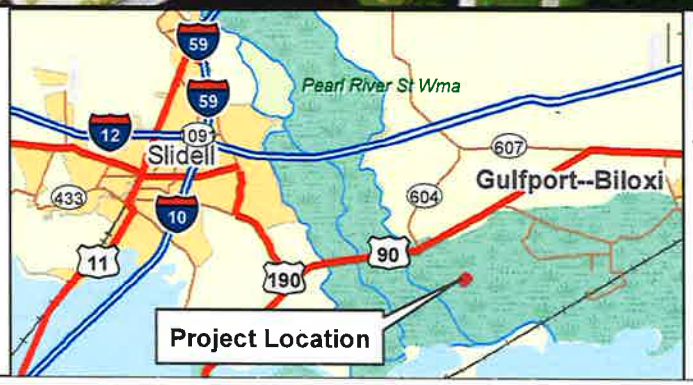
November 15, 2017

MVK-2015-108

Neel-Schaffer, Inc.
Hancock County Port and
Harbor Commission
Port Bienville Industrial Park Site 11
Hancock County, MS

Preliminary
Jurisdictional Determination

ESRI World Imagery



US Army Corps of Engineers

Regulatory Branch

Enforcement Section

Aaron Posner

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Neel-Schaffer, Inc.	File Number: MVK-2015-108	Date: 11/15/2017
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
X	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.

Encl 2

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:

Aaron Posner
Environmental Specialist
U.S. Army Corps of Engineers
Regulatory Branch, Enforcement Section
4155 East Clay Street
Vicksburg, MS 39183
Office: 601-631-5591
Email: Aaron.W.Posner@usace.army.mil

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.

	Date:	Telephone number:
_____ Signature of appellant or agent.		