



REPLY TO  
ATTENTION OF

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

April 29, 2008

Regulatory Division

Mr. Asher Howell  
Newkirk Environmental, Incorporated  
Post Office Box 309  
Bluffton, South Carolina 29910

Re: SAC 2006-3561-1JQ  
Beaufort County

Dear Mr. Howell:

This is in response to your letter of November 13, 2006, requesting a wetland determination, on behalf of Ms. Bessie Clay, for a 34.052-acre tract located adjacent to J Stevens Path Road, about 0.5-mile north of US21, on St. Helena Island, Beaufort County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by DS Youmans, dated: November 13, 2006, and entitled "*Wetland Survey / Prepared For / Bessie Clay & Heirs Of Cato Jackson / Lots 10, 12, & 14, Fuller Plantation / St. Helena Island / Beaufort County, South Carolina*".

This plat depicts surveyed "Critical Area" boundaries as established by your office and/or the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (OCRM). It also depicts the surveyed boundaries of freshwater wetlands and/or other waters of the United States as established by your office. You have requested that this office verify the accuracy of this mapping as a true representation of areas within the regulatory authority of this office. The property contains 5.868 acres of salt marsh and/or open water tidal "critical area", and 0.778 acres of federally-defined jurisdictional freshwater wetlands or other waters of the United States, for a total of 6.646 acres of wetlands or other waters of the United States which are subject to the jurisdiction of this office. In addition, the property contains 0.305 acres of federally-defined freshwater wetlands or other waters that are not considered to be subject to the jurisdiction of this office due to a decision by the U.S. Supreme Court. The location and configuration of these areas, as well as their status relative to jurisdiction, are reflected on the plat referenced above.

It should be clearly noted that the decision of the U.S. Supreme Court to exclude certain waters and wetlands from federal jurisdiction under the Clean Water Act has no effect on any state or local government restrictions or requirements concerning aquatic resources, including wetlands. You are strongly cautioned to ascertain whether such restrictions or requirements exist for the area in question before undertaking any activity which might destroy or otherwise impact these wetland resources.

Based on a February 06, 2008, on-site inspection and a review of aerial photography and soil survey information, it has been determined that the surveyed "critical area" and freshwater boundaries shown on the referenced plat are an accurate representation of jurisdictional areas within our regulatory authority. As noted above and shown on the plat, some of the freshwater

areas are not subject to the jurisdiction of this office. This office should be contacted prior to performing any work in or around any of these jurisdictional areas.

If a permit application is forthcoming as a result of this delineation, a copy of this letter, as well as the verified survey plat, should be submitted as part of the application. Otherwise, a delay could occur in confirming that a wetland delineation was performed for the permit project area.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. This is considered to be an **approved** jurisdictional determination and is thus an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331. The administrative appeal options, process and appeals request form is attached for your convenience and use.

In future correspondence concerning this matter, please refer to SAC 2006-3561-1JQ. Prior to performing any work, you should contact the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (OCRM). A copy of this letter is being forwarded to them for their information.

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

Respectfully,

Jon Soderberg  
Acting Chief, South Branch

Enclosures:  
Basis for Jurisdiction  
Notification of Appeal Options

Copy Furnished:  
S.C. Department of Health  
and Environmental Control  
Office of Ocean and Coastal Resource Management  
1362 McMillan Avenue, Suite 400  
Charleston, South Carolina 29405