

**U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT**

Action Id. SAW-2018-01118 County: Chatham County U.S.G.S. Quad: Farrington

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Property Owner/Applicant: Fitch Creations, Inc.
Mr. R.B Fitch
Address: 2000 Fearrington Village
Pittsboro, North Carolina 27312

Telephone Number: 919-545-5702

Size (acres) 75 (approximately)
Nearest Waterway Pokeberry Creek
USGS HUC 03030002

Nearest Town Pittsboro
River Basin Cape Fear
Coordinates Latitude: 35.793329
Longitude: -79.087407

Location description: The 75 acre (approximate) site, identified as the Fearrington Property, is located immediately south of the E. Camden, Weathersfield intersection in Chatham County, North Carolina (See attached maps; 7 sheets).

7 NEW

Indicate Which of the Following Apply:

A. Preliminary Determination

There are waters, including wetlands, on the above described project area, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). The waters, including wetlands, have been delineated, and the delineation has been verified by the Corps to be sufficiently accurate and reliable. Therefore this preliminary jurisdiction determination may be used in the permit evaluation process, including determining compensatory mitigation. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction.

There are wetlands on the above described property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). However, since the waters, including wetlands, have not been properly delineated, this preliminary jurisdiction determination may not be used in the permit evaluation process. Without a verified wetland delineation, this preliminary determination is merely an effective presumption of CWA/RHA jurisdiction over all of the waters, including wetlands, at the project area, which is not sufficiently accurate and reliable to support an enforceable permit decision. We recommend that you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

B. Approved Determination

There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403) and Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

There are waters of the U.S., including wetlands, on the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA) (33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

We recommend you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

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- The waters of the U.S., including wetlands, on your project area have been delineated and the delineation has been verified by the Corps. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.

- The waters of the U.S., including wetlands, have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on **June 29, 2018**. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- There are no waters of the U.S., to include wetlands, present on the above described project area which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in Morehead City, NC, at (252) 808-2808 to determine their requirements.

Placement of dredged or fill material within waters of the US, including wetlands, without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). Placement of dredged or fill material, construction or placement of structures, or work within navigable waters of the United States without a Department of the Army permit may constitute a violation of Sections 9 and/or 10 of the Rivers and Harbors Act (33 USC § 401 and/or 403). If you have any questions regarding this determination and/or the Corps regulatory program, please contact **Andrew Williams at (919) 554-4884 or Andrew.E.Williams2@usace.army.mil**.

C. Basis For Determination: See attached Approved JD forms.

D. Remarks: Wetland L was determined to be isolated. The previous waters/wetlands delineation for this site was conducted under the US Army Corps of Engineers Action ID: SAW-2006-41044.

E. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

F. Appeals Information for Approved Jurisdiction Determinations (as indicated in Section B. above)

If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers
South Atlantic Division
Attn: Jason Steele, Review Officer
60 Forsyth Street SW, Room 10M15
Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **August 27, 2018**.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.

Corps Regulatory Official: _____

Digitally signed by GIBBY.JEAN.B.1229783633
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=USA, cn=GIBBY.JEAN.B.1229783633
Date: 2018.06.29 09:04:50 -04'00'

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Date: June 29, 2018 Expiration Date: June 29, 2023

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete our Customer Satisfaction Survey, located online at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0.

Copy Furnished:

Steven Ball
S&EC
8412 Falls of Neuse Road, Ste 104
Raleigh, North Carolina 27615

Stephanie Goss
North Carolina Department of Environmental Quality
Water Resources Water Quality Regional Operations Section
1628 Mail Service Center
Raleigh, NC 27699-1628

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: **Mr. R.B. Fitch Fitch Creations, Inc.** File Number: **SAW-2018-01118** Date: **June 29, 2018**

Attached is: See Section below

<input type="checkbox"/> INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/> PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/> PERMIT DENIAL	C
<input checked="" type="checkbox"/> APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/> PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.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:
District Engineer, Wilmington Regulatory Division,
Attn: Andrew Williams
3331 Heritage Trade Drive, Suite 105
Wake Forest, North Carolina 27587

If you only have questions regarding the appeal process you may also contact:
 Mr. Jason Steele, Administrative Appeal Review Officer
 CESAD-PDO
 U.S. Army Corps of Engineers, South Atlantic Division
 60 Forsyth Street, Room 10M15
 Atlanta, Georgia 30303-8801
 Phone: (404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number:
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For Permit denials, Proffered Permits and approved Jurisdictional Determinations send this form to:

Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Jason Steele,
Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801
Phone: (404) 562-5137