

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

Action Id. SAW-2023-01176

County: Brunswick County

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Property Owner/Applicant: Aubrey Faatz

Address: 1125 Bay Rd SW
Shallotte, NC, 28470

Telephone Number: (910) 279-1288

E-mail Address: aubreyfaatz@yahoo.com

Size (acres) 22.3

Nearest Waterway Millpond, The

USGS HUC 03040208

Nearest Town Shallotte, NC

River Basin Lower Pee Dee

Coordinates Latitude: 33.93036 Longitude: -78.38722

Location description: This 22.3-acre undeveloped lot parcel is located on Bay Road in Shallotte, Brunswick County, NC. (Parcel ID: 2290003505).

Indicate Which of the Following Apply:

A. Preliminary Determination

X There appear to be waters, including 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). 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 appear to be waters, including 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). 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 appear to be waters, including 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., including wetlands, 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 property subject to the permit requirements of 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.
 - We recommend you have the waters of the U.S., including wetlands, 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.
 - The waters of the U.S., including wetlands, on your property 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, unless there is a change in law or our published regulations, may be relied upon for a period not to exceed five years from the date of this notification.
 - 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 _____. 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 no waters of the U.S., to include wetlands, present on the above described property which are subject to the permit requirements of Section 404 of the Clean Water Act (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.

X 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 **Gary Beecher at (910) 251-4694 or Gary.H.Beecher@usace.army.mil.**

C. Basis For Determination: N/A. An Approved JD has not been completed.

D. Remarks: A desk top review was conducted on this PJD application using information obtained rom the consultant (Davey Resources Group) and from Corps produced Lidar Maps.

E. Attention USDA Program Participants

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, 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:

SAW-2023-01176

US Army Corps of Engineers
South Atlantic Division
Attn: Mr. Philip A. Shannin
Administrative Appeal Review Officer
60 Forsyth Street SW, Floor M9
Atlanta, Georgia 30303-8803

AND

PHILIP.A.SHANNIN@USACE.ARMY.MIL

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 **N/A.**

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

Gary H. Beecher

Digitally signed by Gary H.

Beecher

Date: 2023.09.18 15:19:39 -04'00'

Corps Regulatory Official: _____

Date of JD: **September 18, 2023**

Expiration Date: **PJD does not expire**

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

<https://regulatory.ops.usace.army.mil/customer-service-survey/>.

Copy Furnished via email to:

Consultant:

Matthew Ruppert

Davey Resources Group

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM**BACKGROUND INFORMATION****A. REPORT COMPLETION DATE FOR PJD:** September 18, 2023**B. NAME AND ADDRESS OF PERSON REQUESTING PJD:** Aubrey Faatz/1125 Bay Rd SW Shallotte, NC 28470**C. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Wilmington, Bay Road SW, SAW-2023-01176**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:****(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

State: NC

County/parish/borough: Brunswick

City: Shallotte

Center coordinates of site (lat/long in degree decimal format):

Lat.: 33.930579

Long.: -78.386644

Universal Transverse Mercator: 17 S 741565.73 m E 3757535.16 m N

Name of nearest waterbody: UT to Little Saucepan Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):☒ Office (Desk) Determination. Date: September 18, 2023☐ Field Determination. Date(s):**TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.**

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
T1	33.931598	-78.387330	240 l.f.	Non-Wetland Waters	Section 404
W1	33.929561	-78.387471	0.26 ac	Wetland Waters	Section 404
W2	33.931905	-78.386661	0.10 ac	Wetland Waters	Section 404

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "*may be*" waters of the U.S. and/or that there "*may be*" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- ☒ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:
Map: PJD Reference Sketch.
- ☒ Data sheets prepared/submitted by or on behalf of the PJD requestor.
☒ Office concurs with data sheets/delineation report.
☐ Office does not concur with data sheets/delineation report. Rationale: _____.
- ☐ Data sheets prepared by the Corps: _____.
- ☐ Corps navigable waters' study: _____.
- ☐ U.S. Geological Survey Hydrologic Atlas: _____.
☐ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: USGS Topographic 7.5 Minute- Shallotte.
- ☒ Natural Resources Conservation Service Soil Survey. Citation: GIS Soils Data Brunswick.
- ☐ National wetlands inventory map(s). Cite name: _____.
- ☐ State/local wetland inventory map(s): _____.
- ☐ FEMA/FIRM maps: _____.
- ☐ 100-year Floodplain Elevation is: _____.(National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): NAPP 1998 Infrared Imagery ; 2020 NC OneMap Brunswick.
or ☐ Other (Name & Date): _____.
- ☐ Previous determination(s). File no. and date of response letter: _____.
- ☒ Other information (please specify): Corps produced Lidar Maps.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Gary H. Beecher

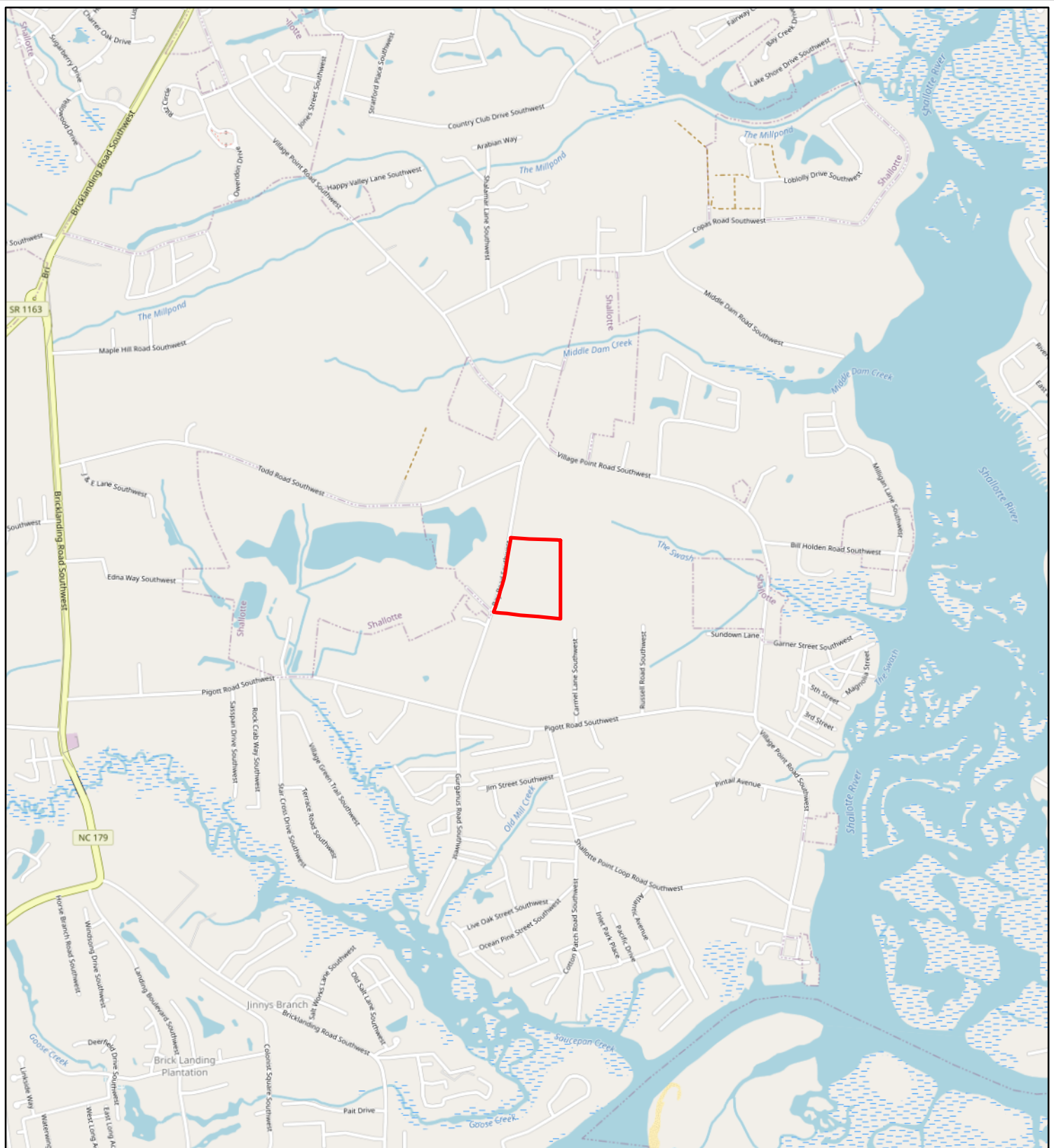
Digitally signed by Gary H.
Beecher
Date: 2023.09.18 15:19:11 -04'00'

Signature and date of
Regulatory staff member
completing PJD



Signature and date of
person requesting PJD
(REQUIRED, unless obtaining
the signature is impracticable)¹

¹ Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.



L:\WETLANDS\2022 WETLANDS FILES\DRGNCW22.580 ---
 Bay Rd SW, Aubrey Faatz Home Crafters\Maps\GIS
 Boundaries are approximate and not meant to be absolute.
 Map Source: OpenStreetMap



0 1,000 2,000 4,000
 ft

Bay Rd SW
 Brunswick County, NC

Map Date: May 2023
 DRGNCW22.580



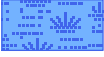



DAVEY 
Resource Group
 3805 Wrightsville Avenue
 Wilmington, NC 28403
 (910) 452-0001

**Figure 1
 Vicinity Map**

NOTE: This is not a survey. All boundaries and distances are considered approximate. This represents a preliminary sketch prepared from field notes. A survey of delineated areas and review and approval by the U.S. Army Corps of Engineers is recommended prior to specific site planning.



Legend

-  Parcel Boundary ~22.3 Acres
-  Upland ~21.9 Acres (98%)
-  Wetland ~0.4 Acres (2%)
-  Potential Waters of the U.S. (Non-Stream) ~240 lf
-  Upland Drainage Feature (No OHWM) ~230 lf
-  Data Point

L:\WETLANDS\2022 WETLANDS FILES\DRGNCW22.580 ---
Bay Rd SW, Aubrey Faatz Home Crafters\Maps\GIS
Boundaries are approximate and not meant to be absolute.
Map Source: 2020 NC OneMap



0 100 200 400
ft
Scale applies to 11X17" print.

Bay Rd. Tract
Brunswick County, NC

Map Date: May 2023
DRGNCW22.580

DAVEY
Resource Group
3805 Wrightsville Avenue
Wilmington, NC 28403
(910) 452-0001

PJD Reference Sketch