

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

Action Id. SAW-2014-00440 County: Wayne U.S.G.S. Quad: NC-SOUTHEAST GOLDSBORO

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Property Owner: Mr. Jeff Daniels
J & J Daniels Farming Enterprises, LLC
Address: P.O. Box 10337
Goldsboro, NC, 27532-0337
Telephone Number: (919) 778-4525

Size (acres)	<u>0.3022</u>	Nearest Town	Goldsboro
Nearest Waterway	<u>Fellows Branch</u>	River Basin	<u>Middle Neuse, North Carolina.</u>
USGS HUC	<u>3020202</u>	Coordinates	Latitude: <u>35.331372</u> Longitude: <u>-77.918486</u>

Location description: The property is located in the southeast quadrant of the intersection between Highway 111 and Ditchbank Road (SR 1726), south of the community of Elroy, which is southeast of Goldsboro in Wayne County, North Carolina. The proposed project is a residential subdivision. The Corps has only assessed the area of the isolated wetland and the immediate surrounding area (24.73 acres). A determination for any other properties has not been requested. Project plans have not been submitted to the Corps for a review.

Indicate Which of the Following Apply:

A. Preliminary Determination

- Based on preliminary information, there may be wetlands on the above described property. We strongly suggest you have this property inspected to determine the extent of Department of the Army (DA) jurisdiction. To be considered final, a jurisdictional determination must be verified by the Corps. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). 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.

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 and Section 404 of the Clean Water Act. 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 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 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 strongly suggest you have the wetlands on your property delineated. Due to the size of your property and/or our present workload, the Corps may not be able to accomplish this wetland delineation in a timely manner. For a more timely delineation, you may wish to obtain a consultant. To be considered final, any delineation must be verified by the Corps.
 - 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 _____. 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 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 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 and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). If you have any questions regarding this determination and/or the Corps regulatory program, please contact **Emily Greer** at **910-251-4567** or **Emily.C.Greer@usace.army.mil**.

C. Basis For Determination: This site exhibits wetland criteria as described in the 1987 Corps Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement to the 1987 Wetland Delineation Manual, but there is no existing connection between the wetland and a jurisdictional water.

D. Remarks: None

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 (This information applies only to approved jurisdictional determinations as indicated in B. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. 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 **June 2, 2014**.

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: _____

Date: **March 11, 2014**

Expiration Date: **March 11, 2019**

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://regulatory.usacesurvey.com/>.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Mr. Jeff Daniels		File Number: SAW-2014-00440	Date: March 11, 2014
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 district 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: Emily Greer
2407 West 5th Street
Washington, NC 27889**

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.

<p>_____</p> <p>Signature of appellant or agent.</p>	<p>Date:</p>	<p>Telephone number:</p>
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For appeals on Initial Proffered Permits send this form to:

District Engineer, Wilmington Regulatory Division, Attn: Emily Greer, 69 Darlington Avenue, Wilmington, North Carolina 28403

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**

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): March 11, 2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Wilmington District, Daniels, Jeff / Subdivision Development / Isolated JD, SAW-2014-00440

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **North Carolina** County/parish/borough: **Wayne** City: **Goldboro**
Center coordinates of site (lat/long in degree decimal format): Lat. **35.331372°**, Long. **-77.918486°**
Universal Transverse Mercator: **18 234723.13 3913701.11**

Name of nearest waterbody: **Fellows Branch**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Fellows Branch**

Name of watershed or Hydrologic Unit Code (HUC): **Middle Neuse, North Carolina., 3020202**

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form:

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date:

Field Determination. Date(s): **5 March 2014**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet, wide, and/or acres.

Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: Pick List

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: **A depressional feature approximately 0.3 acres in size exhibits the three wetland parameters but is not connected to any jurisdictional features. It appears the top few inches of soil were removed for the purposes of constructing a berm used for target practice. It also appears that some fill material was brought in at one time to help construct a dirt pathway from the edge of the adjacent field to the berm.**

SECTION III: CWA ANALYSIS

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”:

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List**
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵:
Tributary stream order, if known:

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

- Artificial (man-made). Explain:
- Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: feet
 Average depth: feet
 Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

- Silts
- Sands
- Concrete
- Cobbles
- Gravel
- Muck
- Bedrock
- Vegetation. Type/% cover:
- Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) **Flow:**

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:

- Dye (or other) test performed:

Tributary has (check all that apply):

- Bed and banks
- OHWM⁶ (check all indicators that apply):
 - clear, natural line impressed on the bank
 - changes in the character of soil
 - shelving
 - vegetation matted down, bent, or absent
 - leaf litter disturbed or washed away
 - sediment deposition
 - water staining
 - other (list):
- Discontinuous OHWM.⁷ Explain:
- the presence of litter and debris
- destruction of terrestrial vegetation
- the presence of wrack line
- sediment sorting
- scour
- multiple observed or predicted flow events
- abrupt change in plant community

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- High Tide Line indicated by:
 - oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gauges
 - other (list):
- Mean High Water Mark indicated by:
 - survey to available datum;
 - physical markings;
 - vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain:

Identify specific pollutants, if known:

(iv) Biological Characteristics. Channel supports (check all that apply):

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

- Other environmentally-sensitive species. Explain findings:
- Aquatic/wildlife diversity. Explain findings:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: _____ acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. Explain findings:

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:

Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain:

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately _____ acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
 TNWs: linear feet, wide, Or acres.
 Wetlands adjacent to TNWs: acres.
2. **RPWs that flow directly or indirectly into TNWs.**
 Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
 Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet wide.
- Other non-wetland waters: acres.

Identify type(s) of waters:

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**
 Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet, wide.
- Other non-wetland waters: acres.

Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

⁸See Footnote # 3.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

 - Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from "waters of the U.S.," or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain:
- Other factors. Explain:

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet, wide.
- Other non-wetland waters: acres.
- Identify type(s) of waters:
- Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

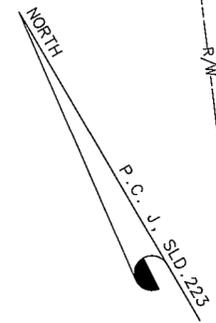
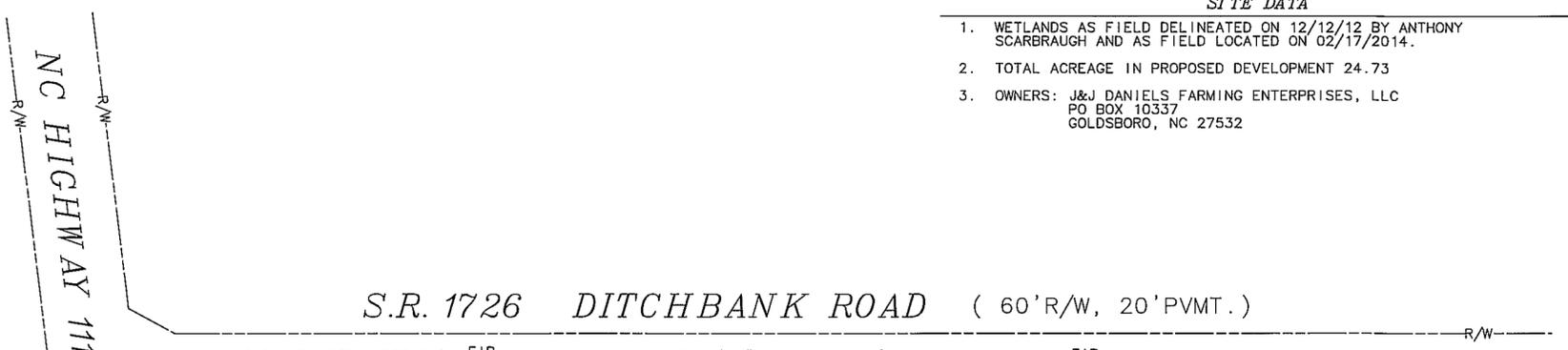
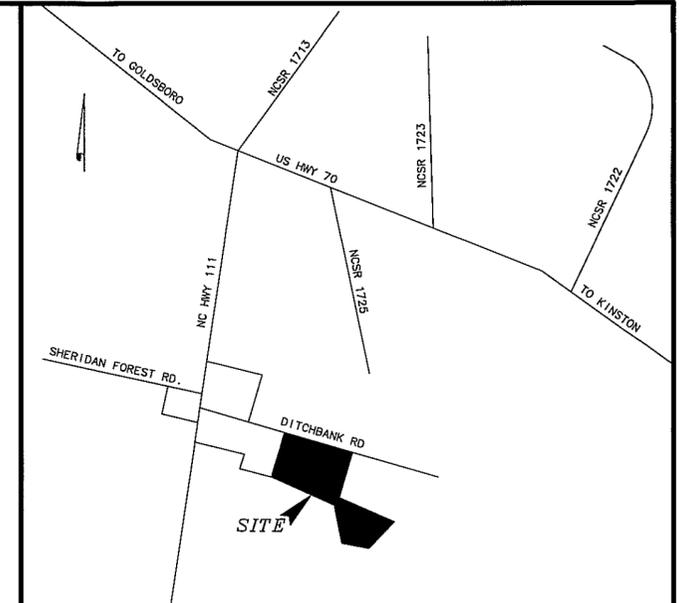
- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **This is a depression feature that does meet the criteria for a wetland but does not have any connection to a jurisdictional water.**
- Other: (explain, if not covered above):

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

SITE DATA

1. WETLANDS AS FIELD DELINEATED ON 12/12/12 BY ANTHONY SCARBRAUGH AND AS FIELD LOCATED ON 02/17/2014.
2. TOTAL ACREAGE IN PROPOSED DEVELOPMENT 24.73
3. OWNERS: J&J DANIELS FARMING ENTERPRISES, LLC
PO BOX 10337
GOLDSBORO, NC 27532



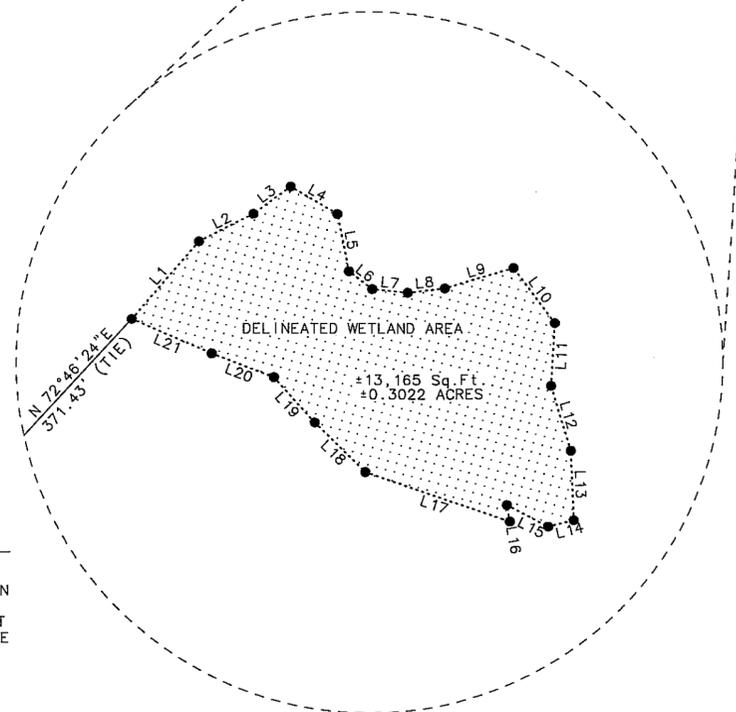
J&J DANIELS FARMING ENTERPRISES, LLC
D.B.2817, PG.843

WHITLEY
D.B.1005, PG.834

WEBBER
D.B.979, PG.205

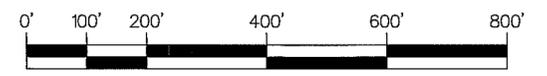
3
P.C. J. SLD.223
MAXWELL FOODS, LLC
D.B.2352, P.J.39

WILLIAMS
D.B.363, PG.535



WETLAND CALL TABLE

LINE	BEARING	DISTANCE
L1	N 70°39'51"E	171.69'
L2	S 86°51'13"E	102.05'
L3	N 83°46'50"E	76.97'
L4	S 29°15'03"E	90.21'
L5	S 19°00'26"W	98.38'
L6	S 22°17'08"E	48.99'
L7	S 53°57'38"E	59.37'
L8	S 66°32'43"E	62.16'
L9	S 76°17'23"E	42.92'
L10	S 06°35'50"E	28.76'
L11	S 33°30'12"W	26.35'
L12	S 13°26'36"W	28.46'
L13	S 27°39'04"W	29.08'
L14	N 74°03'29"W	10.99'
L15	N 32°07'29"W	19.39'
L16	S 20°14'20"W	7.03'
L17	N 40°51'39"W	63.77'
L18	N 15°10'34"W	29.56'
L19	N 11°33'24"W	25.49'
L20	N 38°41'31"W	27.68'
L21	N 36°25'31"W	36.25'

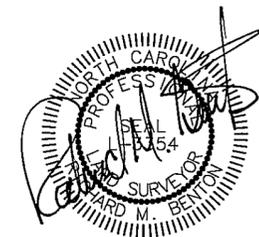


SCALE : 1" = 200'

LEGEND

- EIP EXISTING IRON PIPE
- EIR EXISTING IRON ROD
- ERRI EXISTING RAILROAD IRON
- MBL MINIMUM BUILDING LINE
- INDICATES NO POINT SET
- SURVEYED BOUNDARY LINE
- SURVEYED TIE LINE
- NON-SURVEYED LINE
- RIGHT-OF-WAY LINE
- CENTERLINE
- R/W RIGHT-OF-WAY
- ℙ PROPERTY LINE

SCALE : 1" = 50'



NORTH CAROLINA
I, RICHARD M. BENTON, CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY OF DESCRIPTION(S) AS RECORDED IN DEED BOOK 2817, PAGE 843

THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS SUCH AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY BEFORE ADJUSTMENTS WAS 1:10,000+; THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600) WITNESS MY HAND AND SEAL THIS

5th DAY OF MARCH, A.D. 2014

I, RICHARD M. BENTON, CERTIFY THAT THIS SURVEY IS OF ANOTHER CATEGORY SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY OR OTHER EXCEPTIONS TO THE DEFINITION OF A SUBDIVISION.

WETLAND AREA DETAIL SKETCH
DANIELS & DANIELS DEVELOPMENT OF GOLDSBORO, LLC

BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS DESCRIBED IN DEED BOOK 2817, PAGE 843 WAYNE COUNTY REGISTRY

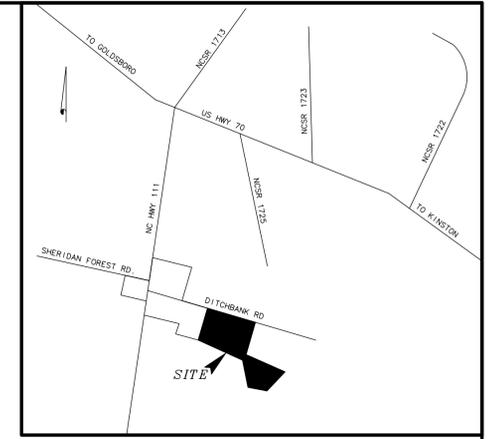
NEW HOPE TOWNSHIP WAYNE COUNTY NORTH CAROLINA

	APPROVED RMB	DATE 07/02/13
	SURVEYOR JHL	DRAFTER RMB
FILE NUMBER		13-046F

NOTES:
 1. SUBJECT PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS PER WAYNE COUNTY FIRM 3720352700J DATED DECEMBER 02, 2005.

SITE DATA

1. THE SUBJECT PROPERTY IS CURRENTLY LOCATED OUTSIDE OF THE CITY LIMITS. AN ANNEXATION PETITION HAS BEEN SUBMITTED BY THE OWNERS OF THE PROPERTY AND IS CURRENTLY IN THE REVIEW PROCESS WITH THE FINAL DECISION TO BE MADE BY THE CITY COUNCIL.
2. SUBJECT PROPERTY IS LOCATED WITHIN THE 70-74 DAY NIGHT AVERAGE SOUND LEVEL (DNL) NOISE ZONE OF SEYMOUR JOHNSON AIR FORCE BASE 2011 AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) REPORT.
3. ALL RESIDENTIAL STRUCTURES CONSTRUCTED WITHIN THIS DEVELOPMENT WILL BE REQUIRED TO MEET THE NOISE REDUCTION REQUIREMENT OF THE IDO. A 30 DECIBEL REDUCTION IS REQUIRED WITHIN THIS ZONE.
4. PROPOSED TOTAL DEVELOPMENT AREA = 24.73 ACRES
 PROPOSED IMPROVED AREA = 16.49 ACRES
 PROPOSED MANAGED OPEN SPACE AREA = 8.24 ACRES
5. SUBJECT PROPERTY PROPOSED TO BE REZONED R-12
 MINIMUM LOT AREA = 12,000 SQ. FT.
 MINIMUM LOT WIDTH = 100'
 MINIMUM FRONT BUILDING LINE = 35'
 MINIMUM SIDE BUILDING LINE = 12'
 MINIMUM REAR BUILDING LINE = 25'
6. BASED UPON DEVELOPMENT AREA THE ALLOWABLE NUMBER OF LOTS = 89
7. PROPOSED NO. OF LOTS = 36
8. PROPOSED UNITS TO BE SINGLE FAMILY DWELLINGS
9. APPROXIMATELY 2,235 LF OF PROPOSED STREET
10. SUBJECT PROPERTY TO BE DEVELOPED IN FOUR PHASES
 PHASE 1 = LOTS 1-10
 PHASE 2 = LOTS 11-20
 PHASE 3 = LOTS 21-28
 PHASE 4 = LOTS 29-36



LOT AREAS

- 12,664 SQ. FT.
- 12,750 SQ. FT.
- 12,532 SQ. FT.
- 16,447 SQ. FT.
- 16,073 SQ. FT.
- 20,332 SQ. FT.
- 15,229 SQ. FT.
- 12,474 SQ. FT.
- 12,750 SQ. FT.
- 12,554 SQ. FT.
- 12,664 SQ. FT.
- 12,750 SQ. FT.
- 12,200 SQ. FT.
- 15,212 SQ. FT.
- 20,487 SQ. FT.
- 16,053 SQ. FT.
- 15,471 SQ. FT.
- 12,118 SQ. FT.
- 12,750 SQ. FT.
- 12,895 SQ. FT.
- 17,395 SQ. FT.
- 16,417 SQ. FT.
- 16,417 SQ. FT.
- 17,347 SQ. FT.
- 18,109 SQ. FT.
- 17,250 SQ. FT.
- 17,250 SQ. FT.
- 17,914 SQ. FT.
- 15,234 SQ. FT.
- 14,250 SQ. FT.
- 16,508 SQ. FT.
- 16,508 SQ. FT.
- 20,301 SQ. FT.
- 16,508 SQ. FT.
- 14,250 SQ. FT.
- 16,406 SQ. FT.

S.R. 1961
 SHERIDAN FOREST ROAD

S.R. 1726 DITCHBANK ROAD (60'R/W, 20'PVMT.)

NC HIGHWAY 111
 (150'R/W, 70'PVMT.)

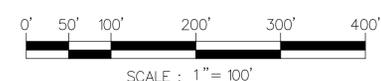
J&J DANIELS FARMING
 ENTERPRISES, LLC
 D.B. 2817, PG. 843
 ZONED CS
 AREA
 ±10.75 ACRES

WHITLEY
 D.B. 1005, PG. 834
 ZONED RA-30

WEBBER
 D.B. 979, PG. 205
 ZONED RA-30

WILLIAMS
 D.B. 363, PG. 535
 ZONED RA-30

TOTAL AREA
 ±24.73 ACRES



3
 P.C. J, SLD. 223
 MAXWELL FOODS, LLC
 D.B. 2352, P.J. 39
 ZONED RA-30

LEGEND

EIP	EXISTING IRON PIPE
EIR	EXISTING IRON ROD
ERR	EXISTING RAILROAD IRON
MBL	MINIMUM BUILDING LINE
●	POWER POLE
—	OVERHEAD ELECTRIC LINE
—	WATER LINE
—	FIRE HYDRANT
—	SANITARY SEWER LINE
—	SANITARY SEWER LINE
⊙	SANITARY SEWER MANHOLE
—	TOP OF DITCH BANK
—	SURVEYED BOUNDARY LINE
—	SURVEYED TIE LINE
—	NON-SURVEYED LINE
—	RIGHT-OF-WAY LINE
—	CENTERLINE
R/W	RIGHT-OF-WAY
E	PROPERTY LINE
C	CENTERLINE

SKETCH DESIGN FOR
DANIELS & DANIELS
 DEVELOPMENT OF GOLDSBORO, LLC

BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS DESCRIBED IN DEED BOOK 2817, PAGE 843 WAYNE COUNTY REGISTRY
 NEW HOPE TOWNSHIP WAYNE COUNTY NORTH CAROLINA

BENTON & ASSOCIATES
 LAND SURVEYING AND MAPPING
 119 E WALNUT STREET GOLDSBORO, NC
 PHONE (919) 735-0440 FAX 735-0840
 FIRM LICENSE NO. C-1705

APPROVED RMB DATE 07/02/13
 SURVEYOR JHL DRAFTER RMB
 FILE NUMBER 13-046F

PRELIMINARY PLAT
 NOT FOR RECORDATION, CONVEYANCE OR SALE