

**Planning, Development, &  
Transportation Department**

Planning Division  
305 Chestnut Street  
PO Box 1810  
Wilmington, NC 28402-1810

March 20, 2019

Phil Tripp  
Tripp Engineering  
419 Chestnut Street  
Wilmington, NC 28401

910 254-0900  
910 341-3264 fax  
wilmingtonnc.gov  
Dial 711 TTY/Voice

RE: Bradley Creek Station

Please make note of the conditions for the release as they appear on the attached release letter. These conditions must be followed and met in order for the construction to be approved. ***Prior to beginning any construction or grading on the site, you must have a pre-construction meeting between City staff and the project's representatives. Any violation of this condition will result in an immediate stop work order and other civil penalties. Please contact our zoning office at 254-0900 to schedule the preconstruction meeting.***

All construction on the site must be in accordance with the City of Wilmington standards and the approved construction plans stamped by the City. All trees and areas designated to be saved or protected must be properly barricaded and/or marked throughout construction. In addition please be aware that to obtain a final zoning inspection for this construction project, the appropriate departments within the City of Wilmington must perform and approve final inspections.

To arrange for inspections please contact the assigned Zoning Enforcement Officer, at 254-0900. Staff will coordinate the inspections and provide a punch-list to the Developer within 5 working days. Upon correction of the punch-list items, a final inspection will be performed. ***NOTE: Zoning will not issue final approval until all requirements of the City of Wilmington are fulfilled.***

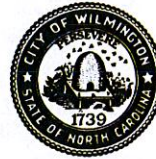
Please also be advised that any party aggrieved by the issuance of this approval may file a notice of appeal to the City Clerk within 30 days of receipt of active or constructive notice of this decision. It shall be presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

The City thanks you for your investment in our community and we look forward to working with you towards the construction of a quality development project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Chambers", written over a horizontal line.

Brian Chambers, AICP  
Senior Planner



Planning, Development, &  
Transportation Department  
Planning Division  
305 Chestnut Street  
PO Box 1810  
Wilmington, NC 28402-1810

## TRANSMITTAL LETTER

TO: Cynthia Roush, Zoning Inspector  
DATE: March 20, 2019  
SUBJECT: **Bradley Creek Station** Project # 2017086  
LOCATION: 5809 Oleander Drive

910 254-0900  
910 341-3264 fax  
wilmingtonnc.gov  
Dial 711 TTY/Voice

The following items are being sent to you via this package.

QUAN.	DWG./NO.	DESCRIPTION
1	Dated 3/11/19	Bradley Creek Station Approved Plans
1	Dated 1/23/19	City Tree Removal Permit TPP-18-233
1	Dated 3/20/19	NHC Erosion Control #GP 32-18
1	Dated 9/20/17	Wetland Determination SAW 2017 00204
1	Dated 3/11/19	City Stormwater Discharge Permit No. 2019014 (under separate cover)

REMARKS: **Bradley Creek Station** located at 5809 Oleander Drive, is hereby conditionally released for construction. The following conditions must be satisfied as part of this release:

- A. **A PRE-CONSTRUCTION MEETING MUST BE HELD BETWEEN THE SITE CONTRACTOR AND CITY STAFF PRIOR TO ANY SITE WORK, TREE REMOVAL, CLEARING, OR GRADING BEGINNING ON THE SITE. FAILURE TO COMPLY WILL RESULT IN IMMEDIATE CIVIL PENALTIES. CONTACT 910-254-0900.**
- B. **ANY TREES, INCLUDING THE CRITICAL ROOT ZONE AREA, AND/OR AREA DESIGNATED TO BE SAVED MUST BE PROPERLY BARRICADED OR MARKED WITH FENCING AND PROTECTED THROUGHOUT CONSTRUCTION TO INSURE THAT NO CLEARING AND GRADING WILL OCCUR IN THOSE AREAS.**
- C. **NO EQUIPMENT IS ALLOWED ON THE SITE AND NO CONSTRUCTION OF ANY BUILDING, STRUCTURE, WALL, UTILITIES, INFRASTRUCTURE, ETC., OF ANY KIND, INCLUDING FOOTINGS AND BUILDING SLABS, WILL BE PERMITTED UNTIL:**
  - 1. **ALL TREE PROTECTION FENCING AND SILT FENCING HAS BEEN INSTALLED**
  - 2. **BETH WETHERILL HAS FORMALLY ISSUED THE GRADING PERMIT AND AUTHORIZED THE ACTIVITY**
  - 3. **THE CFPUA HAS AUTHORIZED THE WATER AND SEWER ACTIVITIES. THE CONTRACTOR MUST HAVE A PRECON WITH CFPUA 332-6560.**
  - 4. **THE CITY ZONING INSPECTOR AUTHORIZES THE ACTIVITY.**
- D. **ALL IMPROVEMENTS, AS RECOMMENDED BY THE SUBMITTED AND APPROVED TRAFFIC IMPACT ANALYSIS (TIA) SHALL BE INSTALLED AND INSPECTED PRIOR TO THE ISSUANCE OF THE FINAL ZONING APPROVAL.**

- E. A COPY OF THE RECORDED MAP SHOWING REQUIRED PUBLIC DRAINAGE EASEMENTS, PUBLIC ACCESS EASEMENTS, AND RIGHTS-OF-WAY FOR THE PROJECT MUST BE SUBMITTED PRIOR TO ISSUANCE OF THE FINAL ZONING APPROVAL.**
- F. THE APPLICANT SHALL SUBMIT A PAYMENT IN LIEU FOR (SIDEWALK OR STORMWATER) IMPROVEMENTS TO IN ENGINEERING IN THE AMOUNT OF \$11,445.00 PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY OR USE OF THE FACILITY.**
- G. THIS DEVELOPMENT SHALL COMPLY WITH ALL LOCAL, CITY TECHNICAL STANDARDS, REGIONAL, STATE AND FEDERAL DEVELOPMENT REGULATIONS.**
- H. ALL APPLICABLE TRC REQUIREMENTS SHALL BE COMPLETED PRIOR TO ISSUANCE OF THE FINAL ZONING APPROVAL.**
- I. PER THE REQUIREMENTS OF THE STORMWATER PERMIT, THE FOLLOWING SHALL OCCUR PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY OR OPERATION OF THE PERMITTED FACILITY:**
  - AS-BUILT DRAWINGS FOR ALL STORMWATER MANAGEMENT FACILITIES SHALL BE SUBMITTED TO THE CITY OF WILMINGTON ENGINEERING DIVISION.**
  - AN ENGINEER'S CERTIFICATION SHALL ALSO BE SUBMITTED, ALONG WITH ALL SUPPORTING DOCUMENTATION THAT SPECIFIES, UNDER SEAL THAT THE AS-BUILT STORMWATER MEASURES, CONTROLS AND DEVICES ARE IN COMPLIANCE WITH THE APPROVED STORMWATER MANAGEMENT PLANS.**
  - A FINAL INSPECTION IS REQUIRED BY CITY OF WILMINGTON ENGINEERING PERSONNEL (910) 341-5856.**
- J. PRIOR TO A FINAL INSPECTION, A WALKTHROUGH WITH CITY INSPECTIONS SHALL TAKE PLACE TO VERIFY COMPLETENESS OF SITE WORK IN ROW. ANY MATERIAL TEST REPORTS AND STORMWATER VIDEOS AS REQUIRED SHALL BE SUBMITTED PRIOR TO AND APPROVED BY CITY ENGINEERING. PLEASE CONTACT THE CITY ENGINEERING DIVISION AT 910.341.0094.**
- K. NO CONSTRUCTION ACTIVITY SHALL OCCUR WITHIN THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) RIGHT-OF-WAY UNTIL ALL NCDOT PERMITS HAVE BEEN ISSUED AND RECEIVED BY THE CITY. ALL IMPROVEMENTS REQUIRED SHALL BE INSTALLED AND APPROVED BY NCDOT PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY.**
- L. THE DEVELOPER ASSUMES ALL RISKS AND PENALTIES WITH ANY DELAY OR STOP WORK ORDER ASSOCIATED WITH THE VIOLATION OF THIS RELEASE. THE DEVELOPER ACKNOWLEDGES THE CONDITIONS OF THIS RELEASE AND ASSUMES ALL RESPONSIBILITIES AND RISKS ASSOCIATED WITH IT. THE CITY OF WILMINGTON WILL NOT BE HELD LIABLE FOR ANY COSTS ASSOCIATED WITH THE CONSTRUCTION RELEASE.**
- M. APPROVAL OF A MAJOR OR MINOR SITE PLAN SHALL EXPIRE AFTER EIGHTEEN (18) MONTHS FROM THE DATE OF SUCH APPROVAL IF THE APPLICANT HAS FAILED TO MAKE SUBSTANTIAL PROGRESS ON THE SITE. THE TECHNICAL REVIEW COMMITTEE MAY GRANT A SINGLE, SIX-MONTH**

**EXTENSION OF THIS TIME LIMIT FOR MAJOR AND MINOR SITE PLANS, FOR GOOD CAUSE SHOWN, UPON RECEIVING A REQUEST FROM THE APPLICANT BEFORE THE EXPIRATION OF THE APPROVED PLAN. IN THE EVENT APPROVAL OF A SITE PLAN HAS EXPIRED, FOR WHATEVER REASONS, THE OWNER AND/OR APPLICANT WILL BE REQUIRED TO RESUBMIT FOR APPROVAL OF A SITE PLAN THAT MEETS CURRENT DEVELOPMENT STANDARDS UNLESS OTHERWISE NOTED IN THIS CHAPTER.**

**N. IF THE CONDITIONS LISTED ABOVE ARE VIOLATED, A STOP WORK ORDER WILL BE ISSUED.**

Please notify New Hanover County Building Inspections of this release.

Signature: \_\_\_\_\_

  
Brian Chambers, AICP  
Senior Planner

Copy: Phil Tripp	Applicant (e-mail only)
Bret Russell	Construction Manager
Rob Gordon	Engineering
Jim Quinn	Stormwater Specialist
Aaron Reese	Urban Forestry
Rich Christensen	Engineering (email only)
Trent Butler	Engineering (email only)
Chris Elrod	Wilmington Fire Department (e-mail only)
Chris Walker	Wilmington Fire Department (e-mail only)
Brian Blackmon	Surveyor (e-mail only)
Jim Sahlie	GIS Addressing (e-mail only)
Bill McDow	Traffic Engineering (e-mail only)
Mitesh Baxi	Traffic Engineering (e-mail only)
Don Bennett	Traffic Engineering (e-mail only)
Bernice Johnson	CFPUA (e-mail letter only)
Beth Easley Wetherill	NHC Erosion Control (e-mail only)
Michelle Hutchinson	GIS Engineer (e-mail only)
Amy Beatty	Community Services (e-mail only)
Ryan O'Reilly	Community Services (e-mail only)
Joan Mancuso	City Zoning (email only)
Amy Schaefer	City Attorney's Office (email only)
Amy Dukes	City Attorney's Office (email only)

File: **Bradley Creek Station**

**Project File # 2017086**



**Development Services**  
 Planning Division  
 305 Chestnut Street  
 PO Box 1810  
 Wilmington, NC 28402-1810

910 254-0900  
 910 341-3264 fax  
 www.wilmingtonnc.gov  
 Dial 711 TTY/Voice

APPROVED: X DENIED: \_\_\_\_\_

PERMIT #: TPP-18-233

**Application for Tree Removal Permit**

Name of Applicant: Bradley Creek Station, LLC Phone: 616-0483 Date: 04-25-18

Name of Property Owner: Bradley Creek Station, LLC Phone: 616-0483

Property Owner Address: 10 S. Cardinal Drive, Wilmington, NC 28403

Address of Proposed Tree Removal: 5815 Oleander Drive

Description of tree(s) to be removed/reason for removal: (provide attachment if necessary)

- 1. As per site plan 6. \_\_\_\_\_
- 2. \_\_\_\_\_ 7. \_\_\_\_\_
- 3. \_\_\_\_\_ 8. \_\_\_\_\_
- 4. \_\_\_\_\_ 9. \_\_\_\_\_
- 5. \_\_\_\_\_ 10. \_\_\_\_\_

Description of Replacement Tree(s): As per City of Wilmington requirements

Applicant Signature: John Paulin Date: 6/7/18

\*\*\*\*\*FOR OFFICIAL USE ONLY\*\*\*\*\*

Reviewed By: [Signature] Date: 1/23/19

Remarks: Per APPROVED Plan

ALL WORK MUST BE IN COMPLIANCE WITH THE CITY LAND DEVELOPMENT CODE, ARTICLE 8, LANDSCAPING AND TREE PRESERVATION.

NEW CONSTRUCTION: \_\_\_\_\_ EXPANSION: \_\_\_\_\_ OTHER: \_\_\_\_\_ PAID: \$100.00

Tree Preservation Permit Fees

Less than 1 acre	\$25.00
1-5 acres	\$50.00
<u>5-10 acres</u>	\$100.00
Greater than 10 acres	\$150.00

PO 6/13/18  
BC



# NEW HANOVER COUNTY

Engineering Department  
230 Government Center Drive · Suite 160  
Wilmington, North Carolina 28403  
TELEPHONE (910)-798-7139  
Fax (910) 798-7051

Beth E. Wetherill, C.P.E.S.C.  
Soil Erosion Specialist

March 20, 2019

Bradley Creek Station, LLC  
10 S. Cardinal Drive,  
Wilmington, North Carolina 28403

**RE: Grading Permit #32-18, Bradley Creek Station**

Dear John Anderson:

This office has reviewed the subject sedimentation and erosion control plan. We find the plan to be acceptable with performance reservations and modifications.

**Please read the permit conditions carefully and return the signed blue original to our office and keep the copy for your records.**

A **preconstruction meeting is optional** prior to any land disturbing activity on this project. Please contact me at (910) 798-7139 if you would like to schedule this meeting in our office. If you choose not to have the preconstruction meeting, please contact us with the date land disturbing activity will take place onsite and once the initial erosion control measures are installed.

The land disturbing fee of **\$2600** is due to be paid to New Hanover County Engineering, to my attention, prior to issuance of any Certificate of Occupancy or Certificate of Compliance.

Please be advised that a copy of the approved soil erosion plan, a copy of the grading permit, a rain gauge and the Combined Inspection Reports must be available at all times on the site.

New Hanover County's Erosion and Sedimentation Control Program is performance oriented requiring protection of the natural resources and adjoining properties. If following the commencement of the project, it is determined that the plan is inadequate to meet the requirements of the New Hanover County's Erosion and Sedimentation Control Ordinance, this office may require revisions in the plan and its implementation to insure compliance with the ordinance.

This permit will not preclude any other permits or approvals necessary for beginning or completing this development. It is the owner's responsibility to have all the approvals or permits that are required prior to beginning construction. Approval of an erosion control plan is conditioned on the applicant's compliance with Federal and State Water Quality laws, regulations and rules.

Respectfully yours,

*Beth Easley Wetherill*

Beth Easley Wetherill  
NHC Soil Erosion Specialist

Cc: Brian Chambers, Senior Planner, City of Wilmington  
Phillip Tripp PE, Tripp Engineering, PC



## Permit for a Land Disturbing Activity

New Hanover County  
 Department of Engineering  
 230 Government Center Drive - Suite 160  
 Wilmington, North Carolina 28403  
 (910) 798-7139

### As authorized by the New Hanover County Erosion and Sedimentation Control Ordinance

This permit issued to Bradley Creek Station, LLC authorizes the development of 6.5 acres of land at 5815 Oleander Drive for Smith Creek Station in New Hanover County with performance reservations and modifications. This permit issued on March 20, 2019 is subject to compliance with the application and site drawings, all applicable regulations and special conditions and notes set forth below. Any plan modifications must be approved by this office prior to field changes.

It is understood by the applicant that a representative of New Hanover County's Engineering Department may inspect the site at any time following the issuance of this Permit. A copy of the approved Soil Erosion Control Plan, this permit, a rain gauge and copies of the Combined Self-Monitoring and Self Inspection Reports must be available at all times at the site.

Failure to execute the provisions of this permit and the approved Soil Erosion Plan, or any other provisions of the New Hanover County Soil Erosion and Sedimentation Control Ordinance, may result in immediate legal action by the County to the limits prescribed by the Ordinance. If the measures outlined on the approved Soil Erosion Control Plan and this Permit prove insufficient, additional Erosion Control measures can and will be required which in turn will be considered provisions of this Permit. This Permit does not preclude any other permits or approvals necessary for beginning or completing this development. Approval of an erosion control plan is conditioned on the applicant's compliance with Federal and State laws, regulations and rules. It is the Permittee's responsibility to obtain all necessary permits and approvals.

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### SPECIAL CONDITIONS

#### (THESE CONDITIONS MUST BE FOLLOWED IN ADDITION TO THE PLANS AND SPECIFICATIONS)

- \*All the soil erosion control measures will be installed as the site is cleared and maintained throughout construction. These include a construction entrance, silt fences, inlet protection and outlet protection, a 3:1 sloped swale adjacent to 58<sup>th</sup> Street, lining of the swale being cleaned out adjacent to Park Avenue, 2 sediment traps with 3 coir baffles, installation of the underground infiltration system and concrete washouts.
- \*Tree Removal Permits and/or Approvals are required from the City of Wilmington and/or New Hanover County prior to issuance of this permit and clearing the site.
- \*Silt fence stakes must be steel and will be placed six feet apart without wire reinforcement or eight feet apart with wire reinforcement. Silt fence is not allowed as inlet protection.
- \*This permit does not preclude any permits or approvals which may be necessary such as City of Wilmington or New Hanover County Stormwater, NCDENR Water Quality, C.A.M.A., and the US Army Corps. of Engineers, DEM Solid Waste or any other agencies.
- \*No sediment shall leave the site.
- \*If plan revisions are necessary you must submit a copy to this office for approval prior to any field changes.

\*If soil is brought onto this site or removed from this site, it must come from or be taken to an approved or permitted site to be identified to this office **prior** to being brought onsite or removal from the site.

\*All City and/or County and State drainage and stormwater requirements will be adhered to.

\*If these measures fail to adequately control erosion, more restrictive measures will be required.

\*If any phase of grading ceases for more than 15 working days, the site will be temporarily stabilized.

\*All slopes must be stabilized within 21 calendar days of any phase of activity.

The approval of an erosion control plan is conditioned on the applicant's compliance with Federal and State Water Quality laws, regulations and rules.

\*Note the required rates for seed, lime, fertilizer and mulch in your seeding specifications.

\*Enclosed is a Combined Self-Monitoring and Self-Inspection Form that meets the requirements of both the NPDES Stormwater Permit for Construction Activities, NCG 010000 reporting and the Land Resources Self Inspection Program that satisfies the requirements of the Sedimentation Pollution Control Act. These are mentioned below with specific requirements for each program. These reports are the responsibility of the property owner. They require a rain gauge onsite, inspections and reporting every 7 calendar days and within 24 hours of every ½ inch rain per 24-hour period and at specific phases of construction. Additional copies of this Combined Construction Inspection Report can be found at <http://portal.ncdenr.org/web/lr/erosion> . Reports must be available onsite at all times. If you have questions, please contact New Hanover County Engineering (910) 798-7139 or the Land Quality Section at the NCDENR Regional office at (910) 796-7215.

\*Note the NPDES information from the State for sites disturbing 1 acre or more and the reporting requirements. All **NEW** projects permitted after August 3, 2011 **must include** the following surface water withdrawal locations and stabilization requirement designations on the plan in order to qualify for coverage under the most recent NPDES Construction General Permit. All settling basins must have outlet structures that withdraw water from the surface, with the exception of basins or traps that have a drainage area of less than 1 acre. The NPDES permit also requires ground cover within 14 calendar days on disturbed flat areas and ground cover within 7 calendar days on all areas within HQW Zones, perimeter dikes, swales, ditches, perimeter slopes and all slopes steeper than 3:1. Exceptions include slopes that are 10 feet or less in length and not steeper than 2:1 which must be stabilized within 14 calendar days and slopes greater than 50 feet which must be stabilized within 7 calendar days. It requires inspections of all erosion control measures and reporting every 7 days and within 24 hours of every ½ inch rain event in a 24-hour period. This permit also includes other new requirements which are listed in the text of the NPDES Stormwater Discharge Permit for Construction Activities, which is attached to the original copy of each land disturbing permit.

\*Note the Land Resources Self Inspection Program Requirements. This program is separate from the NPDES reporting and requires inspection and documentation after each phase of construction. These phases include: Installation of perimeter erosion control measures, Clearing and Grubbing of existing ground cover, Completion of any phase of grading of slopes or fills, Installation of storm drainage facilities, Completion of construction or development, Establishment of permanent ground cover sufficient to restrain erosion and any Deviation from the approved plan.

\*Pre-construction meetings are optional. Contact Beth E. Wetherill at (910) 798-7139 to set up a meeting prior to land disturbing activity onsite. If you do not choose to have a preconstruction meeting prior to starting work on site, you should contact us when activity begins and again when the initial measures have been installed.



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This Permit will expire one year from date of issue if no construction activity begins on site. This permit may not be amended or transferred to another party without approval of this office.

Acknowledgment of receipt of Permit

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Owner

*Beth Easley Wetherill*

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Beth E. Wetherill, C.P.E.S.C.  
Soil Erosion Specialist/New Hanover County

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By (please print)

---

Signature

U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT

015-101.01

RECEIVED  
9/25/17  
jm

Action Id. SAW-2017-00204

County: New Hanover

U.S.G.S. Quad: NC- Wrightsville Beach

**NOTIFICATION OF JURISDICTIONAL DETERMINATION**

Property Owner: Thomas Newber  
341 Dogwood Lane  
Hampstead, North Carolina 28443

RECEIVED  
JUN 12 2018

PLANNING DIVISION

Agent: David Scibetta  
Southern Environmental Group, Inc.  
5315 South College Road, Suite E  
Wilmington, North Carolina 28412

Size (acres) 5.6 acres  
Nearest Waterway Bradley Creek  
USGS HUC 03020302

Nearest Town Wilmington  
River Basin White Oak  
Coordinates Latitude: 34.211 N  
Longitude: -77.8445 W

Location description: The review area is located near 5815 Oleander Drive (Parcels R06207-004-011-000, R06207-004-008-000, R06207-004-010-000, R06207-004-024-000, R06207-004-005-000, R06207-004-009-000, R06207-004-007-001, R06207-004-006-000, R06207-004-007-000, R06207-004-001-000, R06207-004-002-000, R06207-004-003-000 and R06207-004-004-000), in the City of Wilmington, New Hanover County, North Carolina.

**Indicate Which of the Following Apply:**

**A. Preliminary Determination**

There appear to be waters, including wetlands, on the above described property, as depicted on the attached exhibit, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344). This preliminary jurisdictional determination may be used in the permit evaluation process, including determining compensatory mitigation. 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

**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 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 strongly suggest you have the waters of the U.S. including wetlands on your project area 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 wetlands on your project area have been delineated and the delineation has been verified by the Corps. If you wish to have the delineation surveyed, the Corps can review and verify the survey upon completion. Once verified, this survey will provide an accurate depiction of all areas subject to CWA and/or RHA 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 identified below. 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 Wilmington, NC, at (910) 796-7215 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 Kyle Dahl at 910-251-4469 or Kyle.J.Dahl@usace.army.mil.

**C. Basis For Determination: Please see the attached Approved Jurisdictional Determination Form. The enclosed map titled "Field Sketch of Wetlands; Newber Tract" dated September 8, 2016, accurately depicts the extent of jurisdictional wetlands on-site.**

**D. Remarks:**

**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 November 20, 2017

\*\*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: September 20, 2017

Expiration Date: September 20, 2022

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

Applicant: Thomas Newber

File Number: SAW-2017-00204

Date: September 20, 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

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: Kyle Dahl  
(910) 251-4469  
Kyle.J.Dahl@usace.army.mil**

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 appeals on Initial Proffered Permits send this form to:**

**District Engineer, Wilmington Regulatory Division, Kyle Dahl, 69 Darlington Ave., Wilmington, NC 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): 9/27/2017**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SAW-2017-00204**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION: Newber Tracts**

State: NC County/parish/borough: New Hanover City: Wilmington  
Center coordinates of site (lat/long in degree decimal format): Lat. 34.21079° N, Long. 77.84447° W.  
Universal Transverse Mercator:

Name of nearest waterbody: Bradley Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Bradley Creek

Name of watershed or Hydrologic Unit Code (HUC): White Oak 03020302

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): 11/16/2016

**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** "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):<sup>1</sup>**

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (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: width (ft) and/or acres.

Wetlands: 0.20 acres.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual**

Elevation of established OHWM (if known):

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

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

Explain:

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

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

### SECTION III: CWA ANALYSIS

#### 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: **Bradley Creek.**

Summarize rationale supporting determination: Bradley Creek is tidal at the location at the confluence with the stormwater discharge from the site.

##### 2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": Wetlands are neighboring Bradley Creek, a TNW. Wetlands on-site drain through a series of stormwater features and into Bradley Creek. The City of Wilmington provided mapping of the stormwater system which shows wetlands flowing offsite to the north via a culvert, into another wetland and then into a series of stormwater features and into Bradley Creek. Bradley Creek is approximately 0.50 miles north of the project area.

#### 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 waterbody<sup>4</sup> 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:

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

Identify flow route to TNW<sup>5</sup>: There is no flow to TNW.  
Tributary stream order, if known:

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

Tributary is:  Natural  
 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  
 OHWM<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank  the presence of litter and debris  
 changes in the character of soil  destruction of terrestrial vegetation  
 shelving  the presence of wrack line  
 vegetation matted down, bent, or absent  sediment sorting  
 leaf litter disturbed or washed away  scour  
 sediment deposition  multiple observed or predicted flow events  
 water staining  abrupt change in plant community  
 other (list):  
 Discontinuous OHWM.<sup>7</sup> Explain:

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

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

(iii) **Chemical Characteristics:**

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

Explain:

<sup>5</sup> 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.

<sup>6</sup> A 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.

<sup>7</sup> Ibid.



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:
  - 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 width (ft), Or, acres.  
 Wetlands adjacent to TNWs: 0.20 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 width (ft).  
 Other non-wetland waters: acres.  
Identify type(s) of waters: .

**3. Non-RPWs<sup>8</sup> 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 width (ft).  
 Other non-wetland waters: acres.  
Identify type(s) of waters: .

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

- 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.<sup>9</sup>**

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).

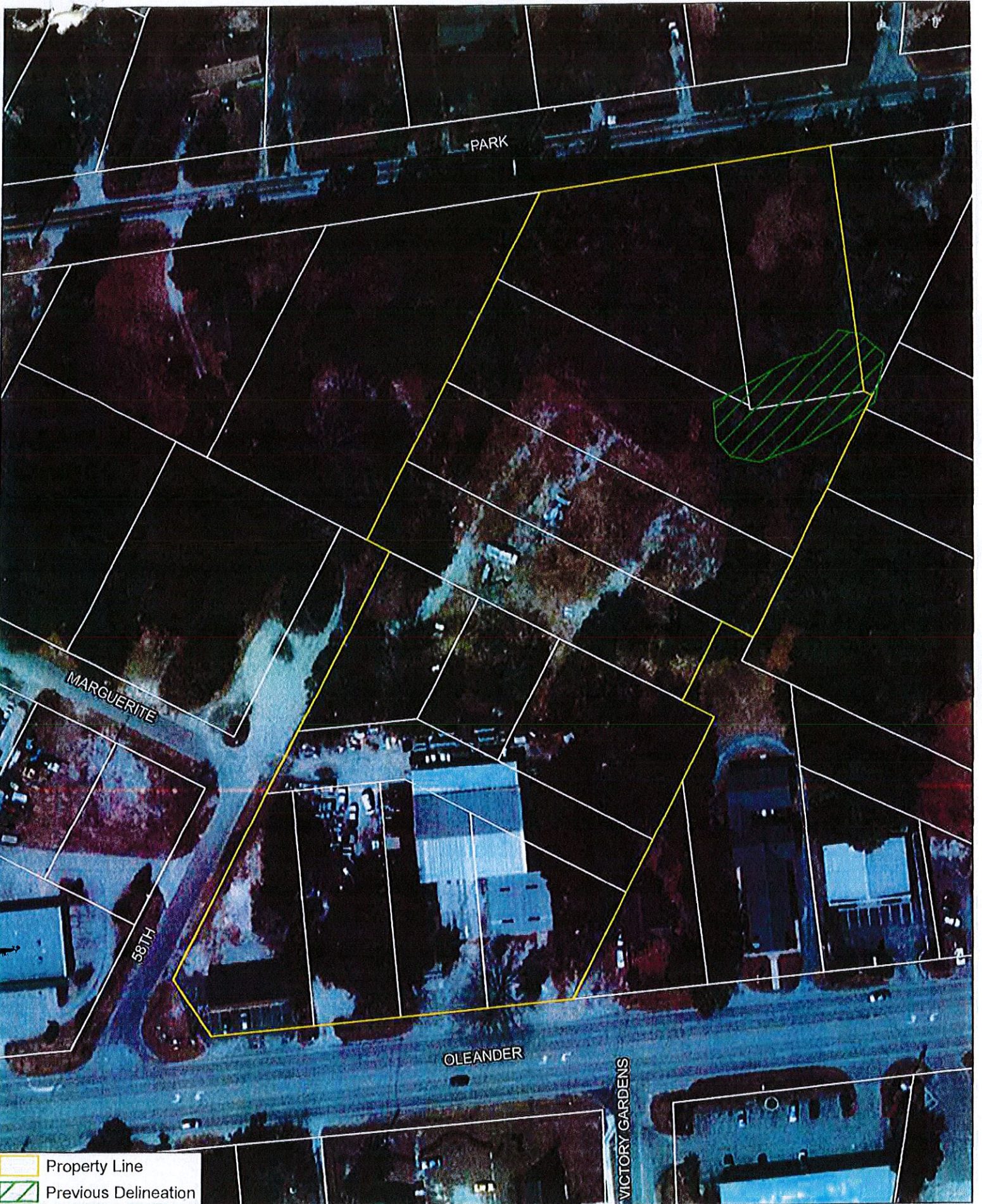
**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>10</sup>**



- 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:

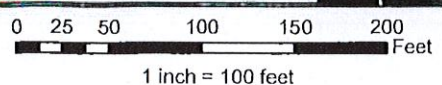
<sup>8</sup>See Footnote # 3.

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

<sup>10</sup> 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.



-  Property Line
-  Previous Delineation



Map Source: NCOneMap Orthoimagery

**Field Sketch of Wetlands**  
**Newber Tracts**  
**Wilmington, New Hanover Co., N.C.**  
**9/8/2016 015-101.01**

