



DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
NORFOLK DISTRICT  
FORT NORFOLK  
803 FRONT STREET  
NORFOLK VA 23510-1011

16 May 2024

**NOTIFICATION OF APPROVED JURISDICTIONAL DETERMINATION**

Eastern Virginia Regulatory Section  
NAO-2016-0086 (Northwest River)

Mr. Frank Williams  
FTW & Sons Farm  
P.O. Box 7100  
Virginia Beach, VA 23457

Mr. Brian Owen  
MSA, P.C.  
5032 Rouse Drive, Suite 200  
Virginia Beach, VA 23462

Dear Mr. Williams and Mr. Owen:

On 20 November 2023, the U.S. Army Corps of Engineers (Corps) received your request for an approved jurisdictional determination (AJD) for the approximately 4,023-acre property, known as Coastal Virginia Commerce Park, which fronts on the east side of Route 17, is situated south of Ballahack Road, and the southern boundary is the VA/NC border (center Latitude 36.570982°, Longitude -76.362705°), in Chesapeake, Virginia.

Based upon a review of the information provided with your request, an onsite and desktop evaluation, 33 CFR 329: Definition of Navigable Waters of the United States, and the Corps' Pre-2015 Regulatory Regime for AJDs considering Sackett v. EPA, 143 S. Ct. 1322 (2023), the Corps determines:

1. The project area contains waters of the U.S., which are, by definition, subject to the requirements of Section 404 of the Clean Water Act (33 USC 1344). This project area contains relatively permanent waters with an ordinary high-water mark, that flow directly to the Northwest River, a navigable water of the U.S. These features are identified as North Canal, Central Canal, South Canal, and Eastern Canal (cumulatively ~21.38 acres) on the attached project drawing entitled "COASTAL VIRGINIA COMMERCE PARK, FEDERAL WETLANDS EXHIBIT, APPROVED JURISDICTIONAL DETERMINATION, COASTAL VIRGINIA COMMERCE PARK, US ROUTE 17, CHESAPEAKE, VIRGINIA", dated 07 May 2024 by MSA, and date-stamped as received by the Corps on 07 May 2024;

2. The project area contains aquatic resources and/or features which are not waters of the U.S. As such, they are not subject to the requirements of Section 404 of the Clean Water Act nor Section 10 of the Rivers and Harbors Act; however, you may be required to obtain a permit from the Virginia Department of Environmental Quality (DEQ), and we are notifying them by copy of this letter.

Please be aware any discharge of dredged and/or fill material, either permanent or temporary, into a water of the U.S., may require prior approval from the Corps. In addition, you may be required to obtain a Corps authorization for certain activities occurring within, under, or over a water of the U.S. which is also subject to Section 10 of the Rivers and Harbors Act. You may also be required to obtain state and local authorizations, including a Virginia Water Protection Permit from DEQ, a permit from the Virginia Marine Resource Commission (VMRC), and/or from your local wetlands board.

This AJD and/or delineation may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. Therefore, if you or your tenant are U.S. Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

The Corps relied on the information and data provided by the agent in making our jurisdictional determination. If such information and data are materially false or incomplete, a new AJD would be necessary.

### **ADMINISTRATIVE APPEALS NOTIFICATION**

This letter constitutes an AJD for the above-described project area. If you object to this determination, you may request an administrative appeal under Corps regulations (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 North Atlantic Division Office at the following address:

ATTN: Mr. Andrew Dangler  
Regulatory Appeals Review Officer  
U.S. Army Corps of Engineers  
North Atlantic Division-Fort Hamilton  
301 John Warren Avenue-First Floor  
Brooklyn, New York 11252-6700

The Corps will determine whether the RFA is complete and meets the criteria for appeal under 33 CFR 331.5. The RFA must be received at the above address within 60

days of the RFA, and by 15 July 2024. The Corps will not accept incomplete or late RFAs. You do not need to submit an RFA if you concur with our AJD.

This AJD is valid for five years from the date of this notification unless new information (including any changes to the definition of Waters of the United States) warrants revision prior to the expiration date.

If you have any questions regarding this notification, please contact Mr. David Knepper either via telephone at (757) 201-7488 or via email at [david.a.knepper@usace.army.mil](mailto:david.a.knepper@usace.army.mil).

Sincerely,

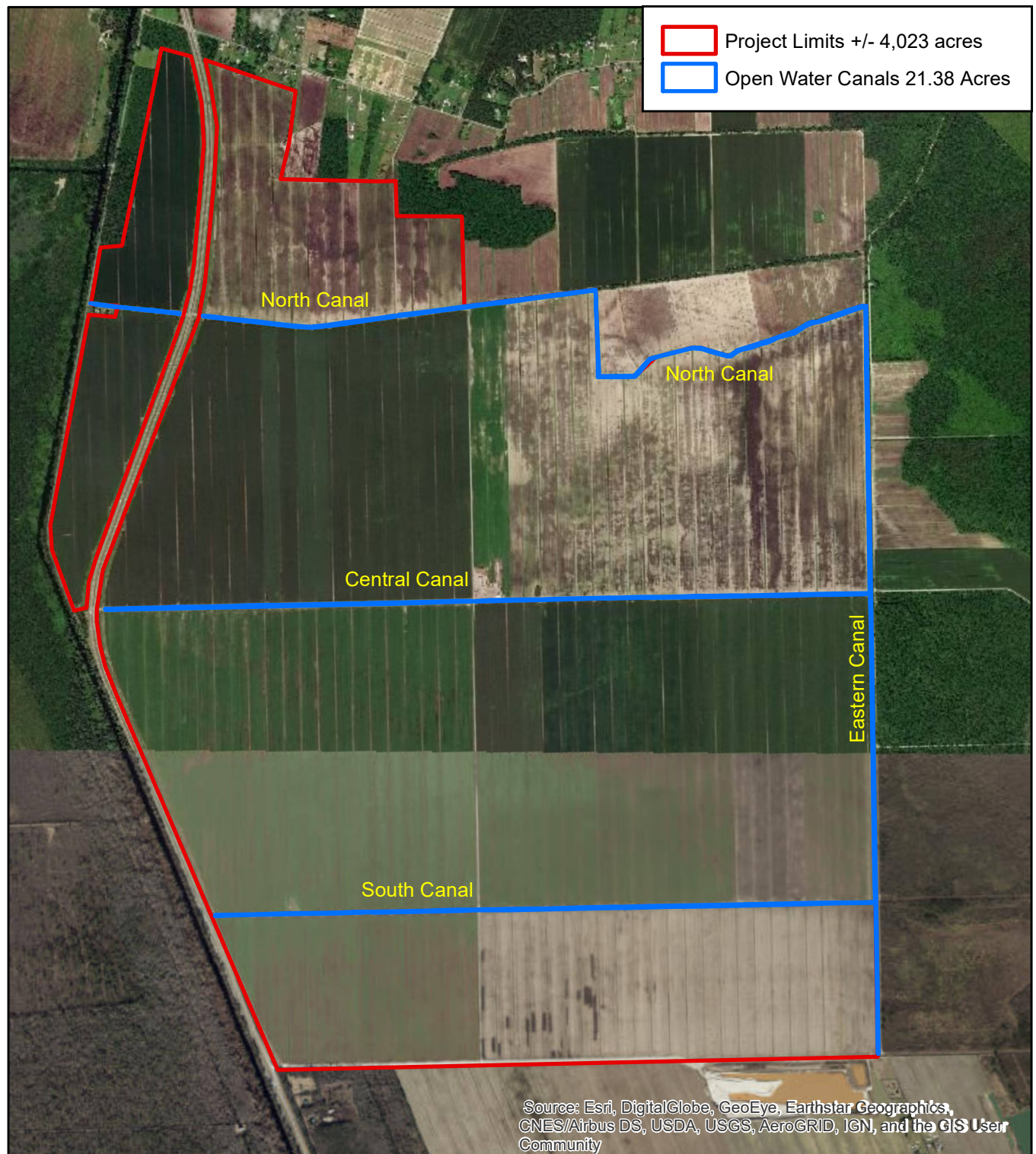
*William T Walker*

William T. Walker  
Chief, Regulatory Branch

Enclosure(s)

Cc:

Canals as shown are for graphical purposes and NTS. The actual width average is 18 feet.



Recent aerial photograph, 0 1,000 2,000 4,000 6,000 8,000 10,000 Feet  
Exact date is unknown  
Lake Drummond and Lake Drummond SE, VA USGS Quadrangle Topographic Maps

**COASTAL VIRGINIA COMMERCE PARK  
FEDERAL WETLANDS EXHIBIT**

APPROVED JURISDICTIONAL DETERMINATION  
**COASTAL VIRGINIA COMMERCE PARK**  
US ROUTE 17, CHESAPEAKE, VIRGINIA

**MSA**  
ENGINEERS | SCIENTISTS | SURVEYORS

5032 Rouse Drive, Suite 200 Virginia Beach, VA. 23462  
757-490-9264 www.msaonline.com

MSA JOB #  
10065B  
DATE:  
5/07/2024  
MAPPED BY:  
BRO

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

Applicant: FTW & Sons Farm (c/o Mr. Frank Williams)	File Number: NAO-2006-05793	Date: 16 May 2024
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
X	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/appeals.aspx> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process, you may contact:  
Mr. David Knepper  
U.S. Army Corps of Engineers  
Eastern Virginia Regulatory Section  
803 Front Street  
Norfolk, VA 23510-1011  
Telephone number: (757) 201-7488  
david.a.knepper@usace.army.mil

If you only have questions regarding the appeal process, you may also contact:  
Mr. Andrew Dangler  
Regulatory Appeals Review Officer  
U.S. Army Corps of Engineers  
North Atlantic Division – Fort Hamilton  
301 John Warren Avenue – First Floor  
Brooklyn, New York 11252-6700  
Mobile: (518) 487-0215

**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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