

FAXED
12-10-08



March 31, 2006

Mr. Brian Cullen
Netway
c/o Keane Enterprises
20604 Gordon Park Square, Suite 170
Ashburn, Virginia 20147

Re: Jurisdictional Determination (#06-B0055)
Netway (\pm 32 acres)
Loudoun County, Virginia
WSSI #21375.01

Dear Mr. Cullen:

Enclosed is a copy of the U.S. Army Corps of Engineers' Jurisdictional Determination (JD) (#06-B0055) confirming the wetland delineation submitted by Wetland Studies and Solutions, Inc. Please note that this JD is valid for a period of five years from the date that it was issued (March 27, 2006).

If you have any questions, please call us at (703) 679-5600.

Sincerely,

WETLAND STUDIES AND SOLUTIONS, INC.

A handwritten signature in black ink that reads "Jean M. Tufts". The signature is written in a cursive style.

Jean M. Tufts
Environmental Scientist

Enclosure

cc: WSSI GIS (w/enc.)

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JMT



Norfolk District

WETLAND STUDIES AND SOLUTIONS, INC.

CORPS OF ENGINEERS FIELD APPROVED JURISDICTIONAL DETERMINATION

Date: March 27, 2006

Project Number: 06-B0055

Applicant: Netway

Agent: Wetland Studies and Solutions, Inc.

Project Name: Netway

Project Location: Loudoun County

This serves as a field approved jurisdictional determination that waters of the United States (including wetlands) are present on this property. Our basis for this determination is the application of the Corps' 1987 Wetland Delineation Manual and the positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation. The wetland is a waters of the United States and is part of a tributary system to interstate waters (33 CFR 328.3(a)). These waters meet the Corps' definition of waters of the United States and are part of a tributary system to interstate waters (33 CFR 328.3(a)) and have an ordinary high water mark (or high tide line).

We agree with the wetland delineation as flagged and as described in the letter, report and plans dated February 28, 2006.

We agree with the wetland delineation as flagged with the following modifications (a revised map is required):

There are jurisdictional waters or wetlands on your property, which are contiguous with _____ . We recommend that you have a wetland delineation performed.

There are no jurisdictional waters or wetlands on the subject property.

All waters/wetlands on the property are isolated and will not require a Department of the Army permit. However, a permit may be required from the Virginia Department of Environmental Quality.

Any discharge of dredged and/or fill material associated with mechanical land clearing, stumping or grading (such as with an excavator, bulldozer, or root rake), or any filling in jurisdictional areas will require a Department of the Army permit prior to such work occurring. An administrative appeals form is enclosed. This jurisdictional determination is valid for a period of five years from the date of this letter, unless new information warrants revision of the delineation before the expiration date. If you have any questions, please contact the project manager listed below.

A condition of this jurisdictional determination is that you maintain the locations of the wetland delineation flags as they are now situated on the site. Once a plan of development is formulated it would be in your best interest to have the actual wetland boundary located by survey and superimposed on any future proposed plan to determine whether jurisdictional wetland would be impacted by the proposed development, and to determine whether a Department of the Army permit would be required.

Ronald H. Stouffer, Jr.
Corps of Engineers Project Manager

703-221-6967
Telephone number

Netway
06-B0055
Supplemental Information

1. A search of the Virginia Department of Historic Resources Data Sharing System revealed the following:

No known historic properties are located on the property.

The following known architectural resources are located on/near the project. (see attached map)

The following known archaeological resources are located on/near the project. (see attached map)

2. A search of the Virginia Department of Conservation and Recreation's data revealed the following:

No known populations of federally listed threatened or endangered species are located within one minute latitude/longitude of the property.

The following species are known to be within one minute latitude/longitude of the property.

The property is within a known concentration area for the following species:

3. We suggest the following avoidance, minimization, and compensatory mitigation measures be incorporated into any plans you prepare for the property:

Avoid and minimize impacts to waters of the United States, including wetlands, to the maximum extent practicable.

Please note this information is being provided to you based on the preliminary data you submitted to the Corps relative to project boundaries and project plans. Consequently, these findings and recommendations are subject to change if the project scope changes or new information becomes available and the accuracy of the data. Lastly, the Corps only consulted the Virginia Department of Conservation & Recreation's database. You may want to consult the Virginia Department of Game and Inland Fisheries' database at www.dgif.va.state.us

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

Applicant: Netway		File Number: 06-B0055	Date: 27 Mar 2006
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://usace.army.mil/inet/functions/cw/cecwo/reg> 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:

U.S. Army Corps of Engineers, Norfolk District
Northern Virginia Field Office
Attn.: Mr. Ronald H. Stouffer, Jr.
18139 Triangle Plaza, Suite 213
Dumfries, VA 22026

703-221-6967 or email ron.h.stouffer@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

United States Army Corps of Engineers
North Atlantic Division
Attn: Mr. James Haggerty, Regulatory Appeals Review Officer
Building 301, General Lee Avenue
Fort Hamilton Military Community
Brooklyn, NY 11252
718-765-7150

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: