



# Department of Environmental Protection

Jeb Bush  
Governor

Panama City Branch Office  
2353 Jenks Ave  
Panama City, FL 32405-4389  
(850) 872-4375

Colleen M. Castille  
Secretary

April 3, 2006

This is in response to your application (File No.: 03-0262680-001-EE) submitted on March 6, 2006, requesting authorization to fill an isolated pond in the uplands. The project is located at 3209 Highway 390, Panama City, Section 11, Township 03 South, Range 14 West, Latitude 30° 14' 3.94" North, Longitude 85° 36' 46.59" West, Bay County. This project does not appear to be located in waters of the State or their landward extent as defined by Florida Administrative Code Rule 62-312.030, a copy of which is attached. As a result, you do not require a DEP wetland resource permit for the proposed activity. This letter does not authorize any fill to be placed in regulated wetlands.

Any modifications in your plans should be submitted for review, as changes may result in permits being required. This determination will expire after one year.

This letter in no way waives the authority and/or jurisdiction of any government entity, nor does it disclaim any title interest the state may have in the project site. Additionally, this letter does not address any other authorization required at the local, state or federal level. A copy of your file has been sent to the U.S. Army Corps of Engineers.

Please contact Jessica Rivord at the letterhead address or at (850) 872-4375 ext. 118, if you have any questions.

Sincerely,

Marlane Castellanos  
Branch Manager

Attachments: Rule No. 62-312.030  
Location Map  
Site plan

cc: U.S. Army Corps of Engineers  
Bethany Womack, Garlick

"More Protection, Less Process"

Printed on recycled paper.

# PANHANDLE ENGINEERING, INC.

Civil Engineers • Environmental Engineers • Land Planners

## MEMORANDUM



TO:

1

FROM: James H. Slonina, PE

RE: Conceptual Site Layouts A & B  
**Residential Subdivision @ CR390**  
Bay County, Florida  
PE File #100201

DATE: September 27, 2006

Pursuant to your authorization, **Panhandle Engineering, Inc.** has prepared and attached two (2) conceptual site layouts for a single-family detached residential subdivision on your 9.7±-acre property along the north frontage of CR390.

**CSP "A" identifies 38 lots (65± ft X 140± ft).**

**CSP "B" identifies 25 single-family lots (100± ft X 140± ft).**

Both layouts assume a stormwater management basin along the western frontage of the property adjacent to an existing County ditch. It is also anticipated that a sanitary lift station will be required to pump sewage to an adjacent public system. The location of the lift station (25± ft X 25± ft) will be located on subsequent detailed plans with your input.

It is our understanding that this property currently lies within unincorporated Bay County and has a zoning of R-1. This zoning designation has building lot setbacks of 20' front, 10' rear, and 5' side.

While you are reviewing this information, we will evaluate the benefits associated with remaining in Bay County and utilizing County water and sewer service versus annexing into Lynn Haven and utilizing City water and sewer.

Please review this information at your earliest convenience and provide us your input. We look forward to working with you on this project.

Cc: Ms. Brunie Kosta- (W/Attachment)

JHS/gsh  
P:\100201SD at CR 390 & Harvard\sep06\100201 Memo Wilson CSP A & B.doc

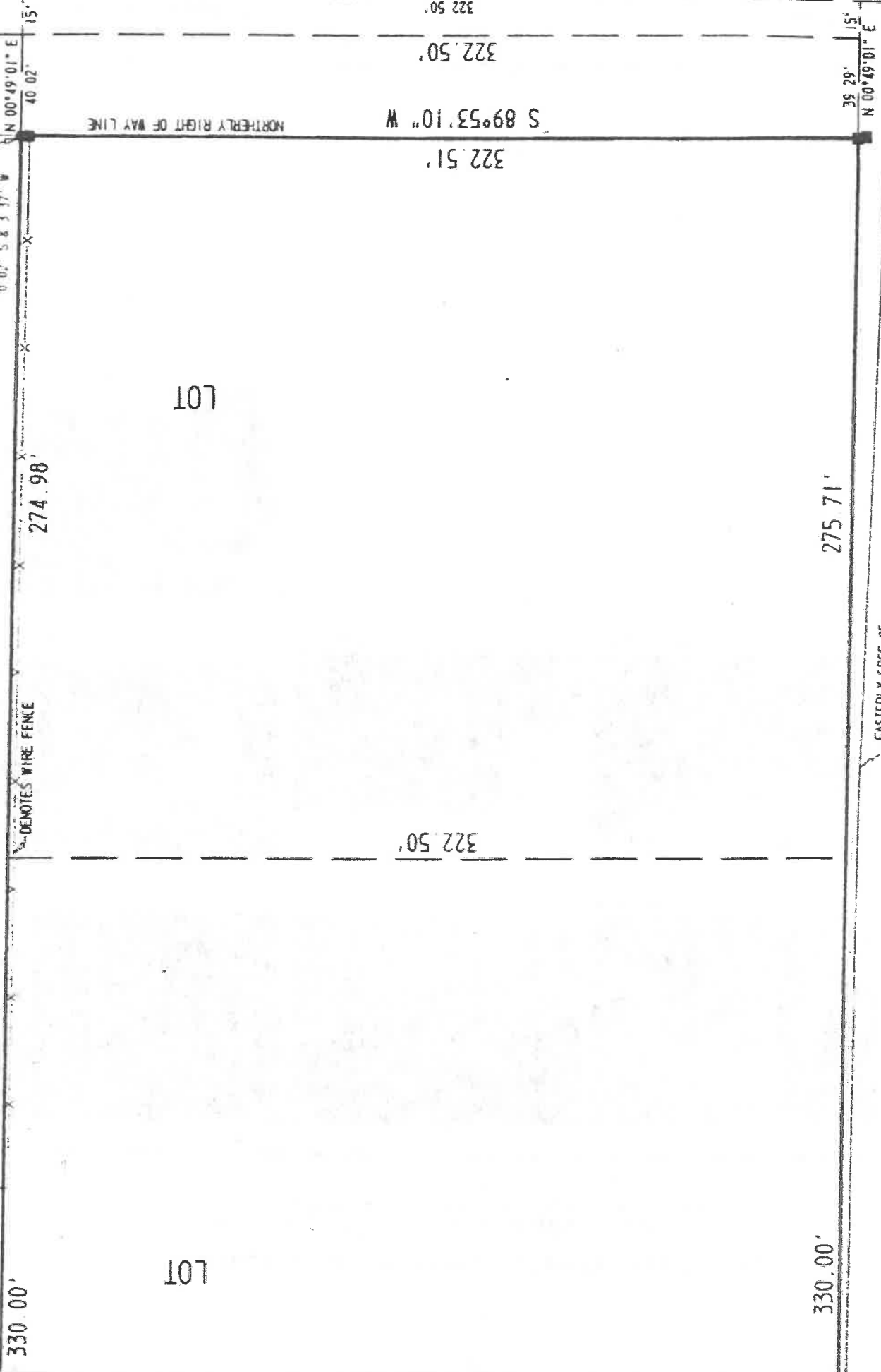


Site Development • Stormwater Management • Water & Wastewater • Roads & Bridges

3005 Lynn Haven Parkway • Lynn Haven, Florida 32444  
(850) 763-5200 • Fax (850) 769-0730 • email: pe@panhandleengineering.com



STATE ROAD NO. 390 - 80' R.O.W.



SET 5/8" IRON ROD  
 LB NO. 2372  
 FENCE CORNER IS  
 0.7' N & 3.4' W  
 TO 4" X 4" CONC  
 MON. NO NUMBER  
 0.02' S & 3.37' W

SET 4" X 4" CONC  
 MON. LB NO. 2372  
 TO 4" X 4" CONC

DENOTES WIRE FENCE

EASTERLY EDGE OF  
 20" DRAINAGE DITCH

FENCE CORNER IS  
 40.27' N & 3.17' W  
 TO 4" X 4" CONC

SET 4" x 4" CONC  
MIN. LB NO 2272  
FD 4" x 4" CONC  
MPPA . NO NUMBER  
5 70 N.A. 174. F

330.00'

LOT

S 89°59'01" E  
322.50'

322.50'

330.00'

N 0

S 0

LOT

SET 4" x 4" CONC  
MIN. LB NO 2272  
FD 4" x 4" CONC  
MPPA . NO NUMBER  
5 70 N.A. 174. F

S 00°49'01" W ~ 1264.98'

330 00'

LOT

322.50'

AREA SURVEYED = 9.367 ACRES ±

322.50'

LOT

330.00'

330 00'

N 00°49'01" E ~ 1265.71'

330.



*Handwritten mark resembling a stylized 'R' or '2'.*

R-1  
Residential

Fullscreen



BAY COUNTY  
*Florida*

### **62-312.030 Jurisdiction.**

(1) Pursuant to Sections 403.031(12) and 403.913, F.S., dredging and filling conducted in, on, or over those surface waters of the state as provided in this rule require a permit from the Department unless specifically exempted in Sections 403.813, 403.913, 403.927, F.S., or Section 62-312.050, F.A.C.

(2) For the purposes of this rule surface waters of the state are those waters listed below and excavated water bodies, except for waters exempted by Section 62-312.050(4), F.A.C., which connect directly or via an excavated water body or series of excavated water bodies to those waters listed below:

- (a) Atlantic Ocean out to the seaward limit of the state's territorial boundaries;
- (b) Gulf of Mexico out to the seaward limit of the state's territorial boundaries;
- (c) bays, bayous, sounds, estuaries, lagoons and natural channels and natural tributaries thereto;
- (d) rivers, streams and natural tributaries thereto, excluding those intermittent streams, tributaries or portions thereof defined in Subsection 403.913(5), F.S. Standard hydrological methods shall be used to determine which streams constitute intermittent streams and intermittent tributaries. An intermittent stream or intermittent tributary means a stream that flows only at certain times of the year, flows in direct response to rainfall, and is normally an influent stream except when the ground water table rises above the normal wet season level. Those portions of a stream or tributary which are intermittent and are located upstream of all nonintermittent portions of the stream or tributary are not subject to dredge and fill permitting unless there is a continuation of jurisdiction as determined pursuant to F.A.C. Rule 62-3.022.
- (e) natural lakes, except:
  - 1. those where one person, other than the state, owns the entire lake to its landward extent as delineated by applicable Department rule; or
  - 2. those that become dry each year and are without standing water; or
  - 3. those of no more than 10 acres in landward extent with a maximum average depth of 2 feet or less existing throughout the year;
- (f) The waters as defined in Section 403.031(12)(a) and Section 403.031(12)(b), F.S.
- (g) Waters within mosquito control impoundments constructed as part of a governmental mosquito control program, excluding those portions which have become jurisdictional based on a change to vegetative dominance as defined in Rule 62-301.400, F.A.C., solely because of construction of the impoundment. Specifically included as jurisdictional are those areas which were naturally occurring waters of the state before construction of the impoundment but which have had their connection to other waters of the state severed as a result of the construction of dikes. Also included as jurisdictional are areas where vegetative dominance of jurisdictional species as defined in Rule 62-301.400, F.A.C., has been lost solely because of construction of the impoundment.

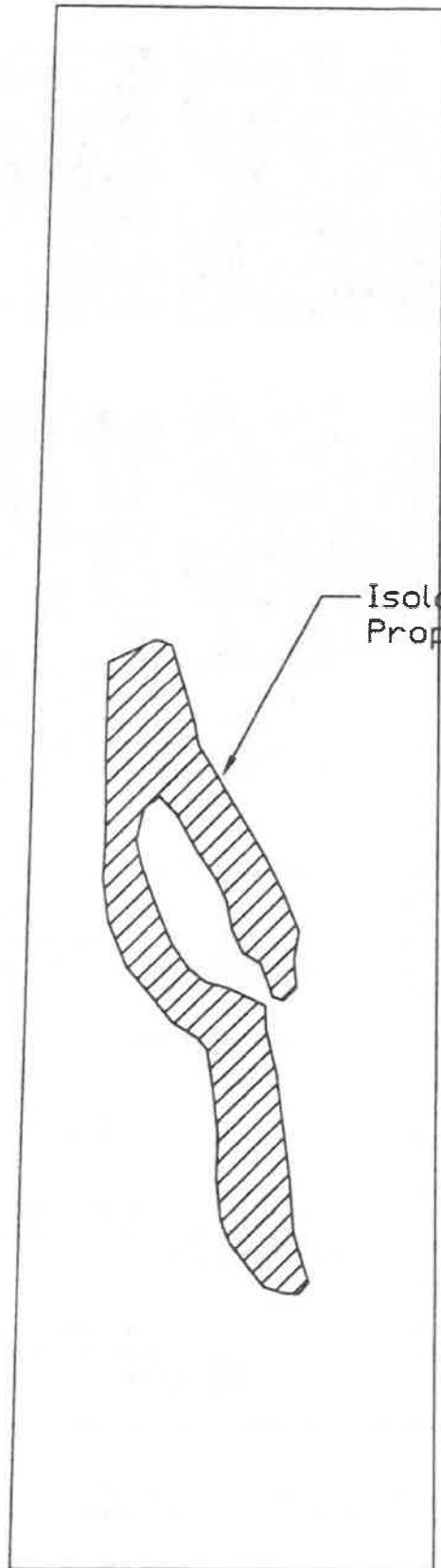
(3) The landward extent of surface waters of the state, for the purpose of this chapter, shall be determined in accordance with Section 62-3.022, F.A.C. and Sections 403.817, 403.8171 and 403.913, F.S.

Specific Authority: 403.061, F.S.

Law Implemented: 403.031, 403.061, 403.813, 403.817, 373.414, F.S.

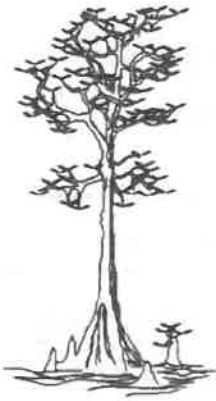
History: New 12-10-84. Amended: 3-26-89. Previously numbered 17-12.030, F.A.C., Amended 12-07-93, Formerly 17-312.030, Amended 8-7-95.

+/- 10 acres - Highway 390



Isolated Man-made Pond  
Proposed to be Filled

Highway 390



## GARLICK ENVIRONMENTAL ASSOCIATES, INC

SPECIALIZING IN REGULATORY ISSUES INCLUDING REGULATORY PERMITS •  
WETLANDS/UPLAND JURISDICTIONAL DELINEATIONS • SUBMERGED LAND  
LEASES • ECOLOGICAL INVENTORY/ ASSESSMENTS

February 14, 2006

FDEP, Northwest District Office  
SLERP, Permitting Section  
160 Governmental Center  
Pensacola, Florida 32502-5794

Re: Submittal of Dredge and Fill Application

Attached is an original dredge and fill application, and three (3) copies of the dredge and fill application, for proposed wetland impacts associated with a proposed single-family residential development. The wetland area is a non-made pond that appears to be isolated for FDEP and the Corps, and as such would not require a permit. On behalf of my client, I am requesting confirmation that the area is isolated and that no permit is required from the Department.

The project site is located on Highway 390, just east of Harvard Blvd., in Section 11, Township 3 South, Range 14 West, within the local jurisdiction of Bay County, Florida.

Upon review, please contact me if you have any questions or if additional information is needed.

Sincerely,

Bethany Wornack  
GARLICK ENVIRONMENTAL ASSOCIATES  
PANAMA CITY OFFICE

Attachments

P. O. Box 385  
APALACHICOLA, FL 32329-0385  
(850) 653-8899  
FAX (850) 653-9656

1517 FRANKFORD AVENUE  
PANAMA CITY, FL 32401  
(850) 873-7728  
FAX (850) 873-7731

METROPOLITAN BLVD, SUITE A-2  
TALLAHASSEE, FL 32308  
(850) 402-9886  
FAX (850) 402-9887

# Joint Application for Works in the Waters of Florida

Department of the Army (Corps/Florida Department of Environmental Protection (DEP)/  
Water Management District (WMD)

Corps Application Number (official use only) DEP Application Number (official use only) Type or Print Legibly  
1. Applicant's Name and Address

Name S n  
Last Name, First Name (if individual); Corporate Name; Name of Govt. Agency  
Street \_\_\_\_\_

City **Panama City** State: **FL** Zip: **32401**

Telephone **850-866-6871** (Day) **SAME** (Night)

2. Name, Address, Zip Code, Telephone Number and Title of Applicant's Authorized Agent

Name **Bethany Womack**  
Last Name, First Name  
Corporate Name; Name of Govt. Agency **Garlick Environmental Associates, Inc.**  
Street **948 Jenks Avenue**  
City **Panama City** State **FL** Zip **32401**

Telephone **850-873-7728** (Day) **SAME** (Night)

3. Name of Waterway at Work Site: **unnamed isolated wetland**

4. Street, Road or Other Location of Work **3209 Highway 390**

Incorporated City or Town

Section **11** Township - **3 South** Range **14 West**

Section Township - Range

Section Township - Range

County(ies) **Bay**

Coordinates in Center of Project:

Latitude **N30° 14.119**

Longitude

**W85° 36.790**

Federal Projects Only:

x y

Lot Block

Subd

Plat Bk

Pg

Directions to Locale Site: **North on Highway 77, right (east) on Highway 390 (14<sup>th</sup> Street), cross through intersection of 390 and Hwy 389. Property located just east of the intersection of Highway 390 and Harvard Blvd.**

5. Names, Addresses, and Zip Codes of Adjacent Property Owners Whose Property Also Adjoins the Water (Excluding Applicant). Show Numbers or Names of These Owners on Plan Views. If More Than Six (6) Owners Adjoin the Project, You May Be Required to Publish a Public Notice for the DEP.

1.

2.

3.

4.

5.

6.

6. Proposed Use (Check one or more as applicable) Private: **Single Family** Multi-Family  
Public Commercial **New Work** Alteration of Existing Works Maintenance Other (Explain):

7. Desired Permit Duration (see Fee Schedule): 5 Yr. 10 Yr Other (Specify) **No Permit Required**

8. General Permit or Exemption Requested:

DEP General Permit FAC Rule 17-312. DEP Exemption FAC Rule 62-312. Section 403. FS.

9. Total Extent of Work in Jurisdictional Open Waters or Wetlands: (Use additional sheets and provide complete breakdown of each category if more space is needed.)

a. Within Corps Jurisdiction:

Fill: 0 Sq. Ft. 0 Acres Cu. Yds. **Isolated Wetland**  
Excavation: Sq. Ft. Acres Cu. Yds.

b. Within DEP Jurisdiction:

Fill: 0 Sq. Ft. 0 Acres Cu. Yds. **Isolated Wetland**  
Excavation: Sq. Ft. Acres Cu. Yds.  
Excavation Waterward of MHW cu. yds (information needed for DEP)

c. DEP Jurisdictional Area Severed (Area Landward of Fill Structures which will be Severed): N/A  
Sq. Ft. Acres

d. DEP Jurisdictional Area Created (New Excavation from Uplands, Exclusive of Mitigation): N/A  
Sq. Ft. Acres

e. Docks, Piers, and Over Water Structures: N/A

Total Number of Slips:		Total Number of Mooring Pilings:		
Length	Width	Height above MHW		
Length	Width	Height above MHW		
Number of Finger Piers		Length	Width	Height
Number of Finger Piers		Length	Width	Height
Total area of structure over waters & wetlands		sq. ft.		
Use of structure				

Will the docking facility provide: No Yes Number

Live-aboard Slips

Fueling Facilities

Sewage Pump-out Facilities

Other Supplies or Services Required for Boating  
(Excluding refreshments, bait and tackle)

f. Seawall length: ft. Seawall material:  
Riprap revetment length: ft. Slope H: V Toe width  
Riprap at toe of seawall length ft. Slope H: V Toe width  
Size of riprap:

Type of riprap or seawall material: N/A

g. Other (See item 10).

10. Description of Work (be specific; use additional sheets as necessary).

**To fill an isolated man-made pond as depicted on the attached drawings.**

11. Turbidity, Erosion, and Sedimentation Controls Proposed:

**Silt fencing and/or haybales as needed**

12. Date Activity is Proposed to Commence **Upon receipt of NPR letter** to be Completed **6 months**  
Total Time Required to Construct

13. Previous Applications for this Project have been: DEP No. Corps no.
- A. Denied (date)
  - B. issued (date)
  - C. Other (please explain)

Differentiate between existing work and proposed work on the drawings.

14. Certification. Application is hereby made for a permit or permits to authorize the activities described herein.

A. I Certify That: (Please check appropriate space)

- 1. I am the record owner ; lessee , or the record easement holder of the property on which the proposed project is to be undertaken, as described in the attached legal document.
- 2. I am / am not the record owner, lessee or record easement holder of the property on which the proposed project is to be undertaken, as described in the attached legal document, but I will have, before undertaking the proposed work the requisite property interest. (Please explain what the interest will be and how it will be acquired.)

Attach legal description of property or copy of deed to the property on which project is to occur (must be provided).

B. I understand I may have to provide any additional information/data that may be necessary to provide reasonable assurance or evidence that the proposed project will comply with the applicable State Water Quality Standards or other environmental standards both before construction and after the project is completed.

C In addition, I agree to provide entry to the project site for inspectors with proper identification or documents as required by law from the environmental agencies for the purpose of inspecting the site. Further, I agree to provide entry to the project site for such inspectors to monitor permitted work, if a permit is granted.

D. This is a Joint Application and is not a Joint Permit. I hereby acknowledge the obligation and responsibility for obtaining all of the required state federal or local permits before commencement of construction. I also understand that before commencement of this proposed project, I must be granted separate permits or authorizations from the U.S. Corps of Engineers, the U.S. Coast Guard, the Department of Environmental Protection and the Delegated Water Management District (where applicable), as necessary.

E. I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete and accurate, I further certify that I possess the authority to undertake the proposed activities or am acting as the duly authorized agent of the applicant. I understand that knowingly making any false statement or representation in this application is a violation of Section 403.161, ES. and Chapter 837, FS.

**Bethany Womack**  
Typed/Printed Name of Applicant or Agent  
**Garlick Environmental Associates, Inc.**  
(Corporate Title if applicable)

*Bethany Womack*  
Signature of Applicant or Agent

*2-14-2006*  
Date

**AN AGENT MAY SIGN ABOVE IF APPLICANT COMPLETES THE FOLLOWING:**

I hereby designate and authorize the agent listed above to act on *my* behalf as my agent in the processing of this permit application and to furnish on request, supplemental information in support of the application.

\_\_\_\_\_  
Typed/Printed Name of Applicant

Si \_\_\_\_\_

*2-2-06*  
Date

(Corporate Title if applicable)

15. For your information: Section 370.034, Florida Statutes, requires that all dredge and fill equipment owned, used, leased, rented or operated in the state shall be registered with the Department of Natural Resources. Before selecting your contractor or equipment you may wish to determine if this requirement has been met. For further information, contact the Chief of the Bureau of Saltwater Licenses and Permits, Department of Natural Resources, 3900 Commonwealth Blvd, Tallahassee- Florida 32399. Telephone No. (904) 487-3122. This is not a requirement for a permit from the Department of Environmental Regulation.

18 U.S.C. Section 1001 provides that, Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

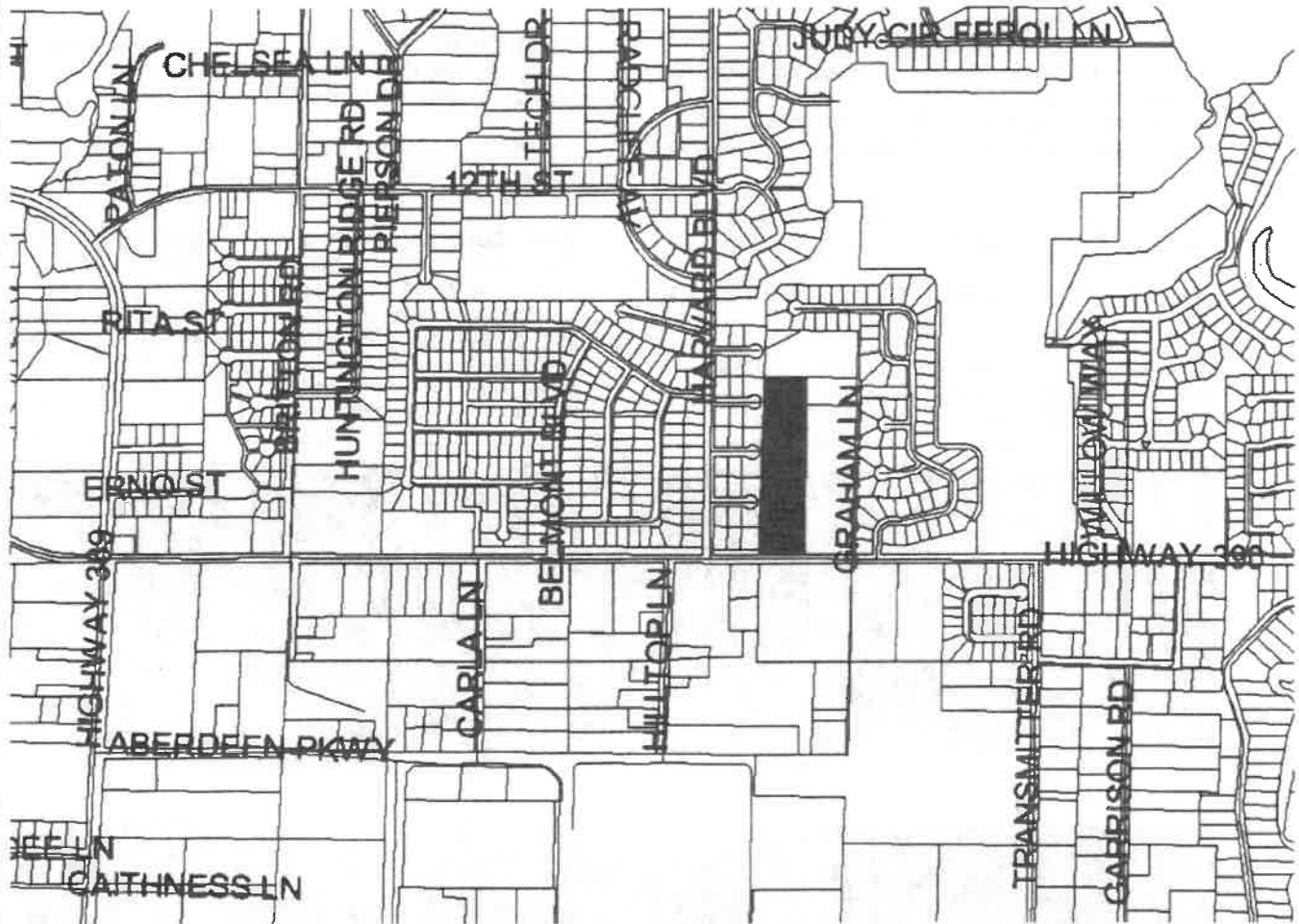
16. Please submit this completed form, with attached drawings and the complete DEP processing fee to the appropriate DEP or Delegated WMD office with jurisdiction over the project site.

# PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES

Client / Applicant:  
Waterbody / Class: N/A  
Purpose: EP  
Project Location / USGS: Highway 390 / Springfield  
Latitude: N30° 14.119  
Longitude: W85° 36.790  
Section: 11      Township: 3 South      Range: 14 West

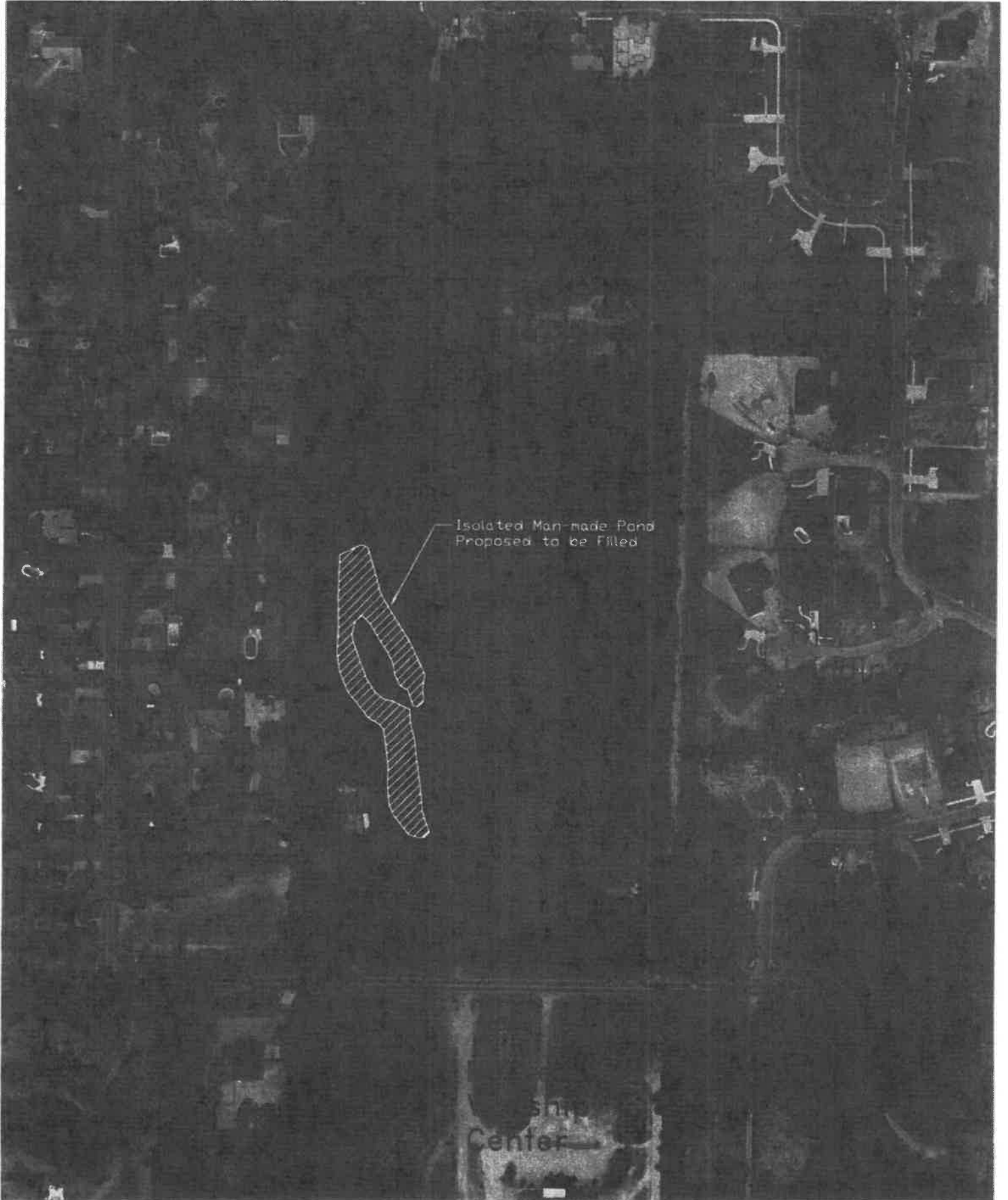
Job:  
DEP:  
COE:  
Other: Parcel ID: 11294-000-000  
Date: February 14, 2006  
Sheet:

VICINITY MAP





+/- 10 acres - Highway 390



Isolated Man-made Pond  
Proposed to be Filled

Ship  
Center



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**JACKSONVILLE DISTRICT CORPS OF ENGINEERS**  
PANAMA CITY REGULATORY OFFICE  
1002 WEST 23<sup>RD</sup> STREET, SUITE 350  
PANAMA CITY, FLORIDA 32405-3648

May 19, 2006

Regulatory Division  
North Permits Branch  
SAJ-2006-1349 (NP-TSH)

Reference is made to the application received by the U.S. Army Corps of Engineers (Corps) on February 16, 2006, for a Department of the Army permit to discharge fill material into waters of the United States. The proposed project site is a 10-acre parcel located at 3209 Highway 390 in Section 11, Township 3 South, Range 14 West, Bay County, Florida. The application has been assigned number SAJ-2006-1349 (NP-TSH). The submitted application depicts an isolated pond as existing within the boundary of the project site.

The Supreme Court decision, Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, 531 U.S. 159 (2001) (SWANCC) involved the scope of the Corps' regulatory authority under Section 404 of the Clean Water Act. The court held that "non-navigable, isolated, intrastate" waters, based solely on the use of such waters by migratory birds, are not considered waters of the United States under the Clean Water Act.

The Corps has determined there is no apparent connection between the pond and navigable waters of the United States either physically or through an interstate commerce connection other than through use by migratory birds. Therefore, in accordance with SWANCC, the pond, as depicted on the enclosed drawings, is considered isolated and will not be regulated by the Corps.

A Corps' "Basis for Jurisdiction" form is enclosed for your information and file. This letter contains an approved jurisdictional determination for your proposed project (filling the existing pond at the 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 South Atlantic Division Office at the following address:

Mr. Michael F. Bell  
South Atlantic Division  
U.S. Army Corps of Engineers  
CESAD-CM-CO-R, Room 9M15  
60 Forsyth St., SW.  
Atlanta, Georgia 30303-8801.

Mr. Bell can be reached by telephone number at 404-562-5137, or by facsimile at 404-562-5138.

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 July 18, 2006. It is not necessary to submit an RFA form to the Division office, if you do not object to the determination in this letter.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. Please note that this determination is specific to the request to fill the existing pond at your project site, this letter does not authorize placement of fill in regulated wetlands that may exist at your site. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are U.S. Department of Agriculture (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.

Please be advised this determination reflects current policy and regulations and is valid for a period of no longer than 5 years from the date of this letter unless new information warrants a revision of the determination before the expiration date. If after the 5-year period, the Corps has not specifically revalidated this determination, it shall automatically expire. Any reliance upon this determination beyond the expiration date may lead to possible violation of current Federal laws and/or regulations.

Additionally, your project site may contain species protected by the Endangered Species Act (ESA) of 1972, as amended. You should contact your local U.S. Fish and Wildlife Service (FWS) office to determine if Federally listed species or their habitat are present on your project site. FWS offices can be contacted by the following telephone numbers: Jacksonville at 904-232-2580, Panama City at 805-763-2177, St. Petersburg at 727-570-5398, or Vero Beach at 772-562-3909.

This letter does not obviate the requirement to obtain any other Federal, State, or local permits, which may be necessary for your project. Should you have any questions, please contact Shayne Hayes at the letterhead address or by telephone at (850) 763-0717, extension 23.

Thank you for your cooperation with our regulatory program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey:

[http://www.saj.usace.army.mil/permit/forms/customer\\_service.htm](http://www.saj.usace.army.mil/permit/forms/customer_service.htm).  
Your input is appreciated - favorable or otherwise.

Sincerely,



Lawrence C. Evans  
Chief, Regulatory Division

Enclosures

Copies Furnished:

Bethany Womack, agent  
EPA, Atlanta  
FWS, Panama City

NRCS  
Chipley Service Center  
1424 Jackson Avenue  
Chipley, FL 32428

# JURISDICTIONAL DETERMINATION

U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: Jacksonville, FL  
FILE NUMBER: SAJ-2006-1349

## PROJECT LOCATION INFORMATION:

State: Florida  
County: Bay  
Center coordinates of site (latitude/longitude): Latitude: 30°14'5.2"North / Longitude: -85°36'46.6"West  
Approximate size of area (parcel) reviewed, including uplands: 3- acres (only portion of the site with the pond was reviewed)  
Name of nearest waterway: Mill Bayou  
Name of watershed: St. Andrews Bay

## JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date:  
Site visit(s)  Date(s): 04/18/2006

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  there appear to be (or)  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area.  
Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

### A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

### B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:*

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- |  |  |
|--|--|
| <input type="checkbox"/> Ordinary High Water Mark indicated by:    | <input type="checkbox"/> High Tide Line indicated by:              |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> oil or scum line along shore objects      |
| <input type="checkbox"/> the presence of litter and debris         | <input type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input type="checkbox"/> changes in the character of soil          | <input type="checkbox"/> physical markings/characteristics         |
| <input type="checkbox"/> destruction of terrestrial vegetation     | <input type="checkbox"/> tidal gages                               |
| <input type="checkbox"/> shelving                                  | <input type="checkbox"/> other:                                    |
| <input type="checkbox"/> other:                                    |  |
- Mean High Water Mark indicated by:  
 survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
  - Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
  - This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps:
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps: USGS/The National Map/ NWI layers
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- Aerial Photographs (Name & Date):
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
- Applicable/supporting case law:
- Other information (please specify): National Stream Atlas information

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

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

Applicant:	File Number: SAJ-2006-1349	Date: 05/19/2006
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: Shayne Hayes, 850-763-0717, x23  
**Project Manager as noted in letter**

*Shayne Hayes 5/19/06*

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

**Michael F. Bell**  
**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:

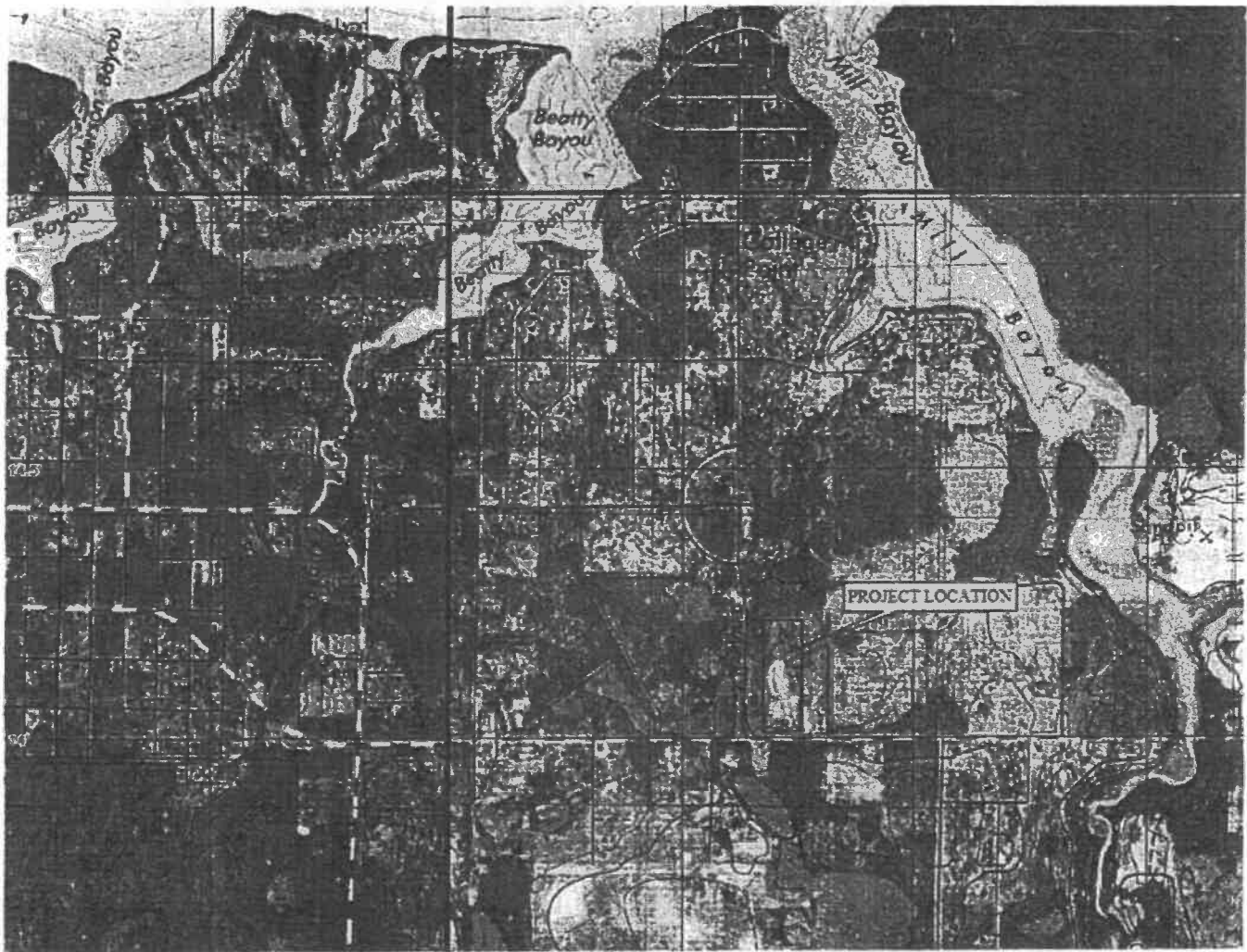
Telephone number:

# PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES

Client / Applicant:  
Waterbody / Class: N/A  
Purpose: EP  
Project Location / USGS: Highway 390 / Springfield  
Latitude: N30° 14.119  
Longitude: W85° 36.790  
Section: 11      Township: 3 South      Range: 14 West

Job:  
DEP:  
COE:  
Other: Parcel ID: 11294-000-000  
Date: February 14, 2006  
Sheet:

USGS TOPOGRAPHIC MAP



# PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES

Client / Applicant:  
Waterbody / Class: N/A  
Purpose: EP  
Project Location / USGS: Highway 390 / Springfield  
Latitude: N30° 14.119  
Longitude: W85° 36.790  
Section: 11      Township: 3 South      Range: 14 West

Job:  
DEP:  
COE:  
Other: Parcel ID: 11294-000-000  
Date: February 14, 2006  
Sheet:

VICINITY MAP

