



Nuclear Innovation  
North America LLC  
122 West Way, Suite 405  
Lake Jackson, Texas 77566  
979-316-3000

September 4, 2014  
U7-C-NINA-NRC-140024  
10 CFR 51.41  
10 CFR 52

U. S. Nuclear Regulatory Commission  
Document Control Desk  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738  
ATTN: Jennifer Dixon-Herrity  
Chief, Environmental Projects Branch  
Division of New Reactor Licensing

South Texas Project  
Units 3 and 4  
Docket Nos. 52-012 and 52-013  
IDENTIFICATION OF NEW INFORMATION AFTER ISSUANCE OF FINAL  
ENVIRONMENTAL IMPACT STATEMENT

Your letter of June 19, 2013 (ML13143A381) requested that Nuclear Innovation North America LLC (NINA), copy the U.S. Nuclear Regulatory Commission (NRC) environmental project manager on correspondence between NINA and Federal, State and other agencies regarding the South Texas Project, Units 3 and 4 combined license application.

There has been recent correspondence between STP Nuclear Operating Company (STPNOC) that relates to environmental aspects of the South Texas Project, Units 3 and 4 project. STPNOC recently requested an extension of the jurisdictional determination previously issued by the US Army Corps of Engineers (USACE) to support permitting of certain actions for South Texas Project Units 1 and 2. This request is included as attachment 1 to this letter.

The USACE response to STPNOC, which denied the extension, is provided as attachment 2 to this letter. The USACE denial has no impact on the South Texas Project, Units 3 and 4 application since the permit from the USACE is valid until December 2017 and no longer relies on the original determination. In the future, if a permit extension is requested, a new jurisdictional determination will be requested if required.

STPNOC asked for and received a continuance of the jurisdictional determination for the main cooling reservoir. These items are included as attachments 3 and 4 to this letter.

DO91  
NRO  
6/25/15  
John Dringer T-6E57  
DESIGNATED ORIGINAL

STPNOC has also submitted the South Texas Project Units 1 and 2 Texas Pollutant Discharge Elimination System (TPDES) Permit No. 01908 Renewal Application. This application is available in ADAMS under Accession Number: ML14168A266.

There are no commitments in this letter.

Should you have any questions regarding this matter, please contact Bill Mookhoek at 979-316-3014 or myself at 979-316-3011.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9/4/14



Scott Head  
Manager, Regulatory Affairs  
NINA STP Units 3 & 4

wem

Attachments:

1. NOC-FD-14027344: Request for Continuance of Current Preliminary Jurisdictional Determination
2. June 27, 2014 letter from USACE to STPNOC RE: SWG-2007-00786
3. NOC-FD-14027343: Request for Continuance of Current Jurisdictional Determination
4. July 2, 2014 letter from USACE to STPNOC RE: SWG-2008-01351



cc: w/o attachment except\*  
(paper copy)

(electronic copy)

Director, Office of New Reactors  
U. S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738

\*Tom Tai  
\*Mark Notich  
Fred Brown  
U. S. Nuclear Regulatory Commission

Regional Administrator, Region IV  
U. S. Nuclear Regulatory Commission  
1600 E. Lamar Blvd.  
Arlington, Texas 76011-4511

Jamey Seely  
Nuclear Innovation North America

Peter G. Nemeth  
Crain, Caton & James, P.C.

Kathy C. Perkins, RN, MBA  
Assistant Commissioner  
Division for Regulatory Services  
Texas Department of State Health Services  
P. O. Box 149347  
Austin, Texas 78714-9347

Richard Peña  
Kevin Pollo  
L. D. Blaylock  
CPS Energy

Robert Free  
Radiation Inspections Branch Manager  
Texas Department of State Health Services  
P. O. Box 149347  
Austin, Texas 78714-9347

\*Steven P. Frantz, Esquire  
A. H. Gutterman, Esquire  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Ave. NW  
Washington D.C. 20004

\*Mark Notich  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Attachment 1

NOC-FD-14027344: Request for Continuance of Current Preliminary  
Jurisdictional Determination





South Texas Project Electric Generating Station P.O. Box 289 Wadsworth, Texas 77483

NOC-FD-14027344  
STI: 33852706  
PFN: W02

March 27, 2014

Mr. Kenny Jaynes  
Chief, Compliance Section  
USACE Galveston District  
P.O. Box 1229  
Galveston, TX 77553-1229

Dear Mr. Jaynes,

Subject: **Request for Continuance of Current Preliminary Jurisdictional Determination; SWG-2007-786; STP Nuclear Operating Company, Units 3 and 4, Preliminary Jurisdictional Determination, Wadsworth, Matagorda County, Texas**

Dear Mr. Jaynes:

On May 14, 2009, STP Nuclear Operating Company (STPNOC) received a preliminary jurisdictional determination, **SWG-2007-786**, from the Galveston District U. S. Army Corps of Engineers (USCOE) for the proposed project site for the construction of Units 3 and 4. As per that correspondence, the preliminary jurisdictional determination is set to expire on May 14, 2014. STPNOC is requesting a continuance to the current preliminary jurisdictional determination and wishes to have it extended for an additional 5 years.

The current status and conditions of the on-site wetlands and non-wetland waters have not changed over the previous 5 years. The proposed construction of Units 3 and 4 was postponed in 2011; and, it is our opinion that the nature of the previously identified jurisdictional features has not changed.

We look forward to hearing from you regarding this matter. Should you have any questions or need additional information, please do not hesitate to contact me at (361) 972- 8573 or John Hoffman at (361) 972-4507.

Sincerely,

A handwritten signature in blue ink that reads "Peggy Lofton Travis".

Peggy Lofton Travis  
Environmental Supervisor

PLT/plt

Enclosure: Correspondence from Kenny James to Russell Kiesling dated May 14, 2009

cc: Mr. Jayson Hudson, U.S. Army Corps of Engineers





DEPARTMENT OF THE ARMY  
GALVESTON DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 1229  
GALVESTON TX 77553-1229

May 14, 2009

Compliance Section

SUBJECT: **SWG-2007-786**; South Texas Project Nuclear Operating Company, Units 3 & 4,  
Preliminary Jurisdictional Determination, Wadsworth, Montgomery County, Texas

Mr. Russell Kiesling  
South Texas Project Nuclear Operating Company  
P.O. Box 289  
Wadsworth, Texas 77483

Dear Mr. Kiesling:

This letter is in response to your April 11, 2008 request for a jurisdictional determination on the proposed project site for the construction of Units 3 & 4. The 1406.5-acre project site is located on Farm-to-Market 521, approximately 8 miles west of Wadsworth, Matagorda County, Texas.

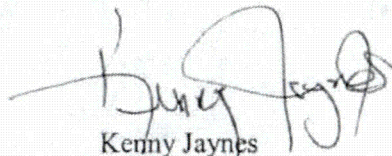
Based on the review of the information associated with this request, we determined that the revised delineation map dated May 13, 2009 (enclosed) is a reasonable depiction of the approximate locations of the aquatic resources with the tract. Computation of jurisdiction made on the basis of this preliminary jurisdictional determination will treat all waters, including wetlands, on the 1406.5-acre tract as jurisdictional water of the United States. As such all aquatic resources, including 17.6 acres of wetlands and 24,639 linear feet of non-wetland waters are subject to Section 404 of the Clean Water Act and will require a Department of the Army permit prior to the discharge of any dredged and/or fill material into these aquatic resources. Wetlands were identified on the tract using the 1987 Corps of Engineers Wetland Delineation Manual which requires that under normal conditions wetlands exhibit wetland hydrology, hydric soils, and hydrophytic vegetation.

This determination has been conducted to identify the limits of the Corps' Clean Water Act jurisdiction for the particular site identified in this request. 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 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.



This preliminary jurisdictional determination is valid for 5 years from the date of this letter, unless new information warrants a revision prior to the expiration date. An approved jurisdictional determination can be requested at any time. If you have any questions concerning this matter, please reference file number **SWG-2007-786** and contact Mr. Nicholas Laskowski at the letterhead address or by telephone at 409-766-6381.

Sincerely,

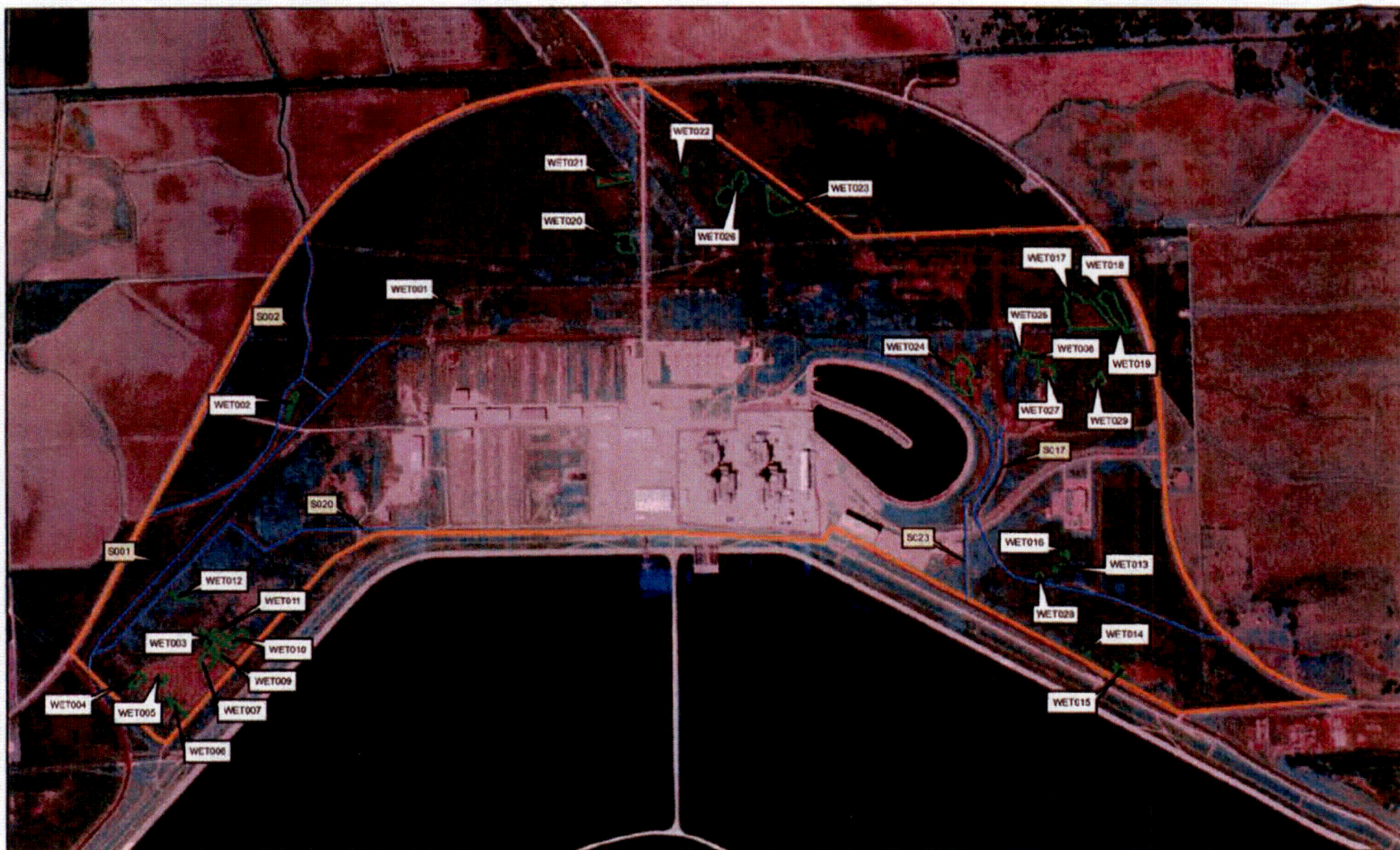
A handwritten signature in black ink, appearing to read "Kenny Jaynes", with a stylized flourish at the end.

Kenny Jaynes  
Chief, Compliance Section

Enclosures

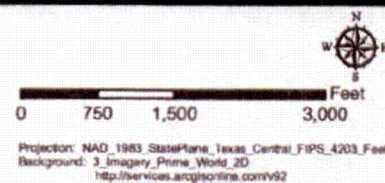
Cc:  
U.S. Regulatory Commission  
c/o Jessie Muir M/S T6-D32  
11555 Rockville Pike  
Rockville, MD 20852





- Waters (24,639.1 Linear Feet)
- Wetlands (17.6 Acres)
- Project Review Area (1406.5 Acres)

**Preliminary Jurisdictional Determination  
South Texas Project Units 3 & 4  
Matagorda County, TX**



**SWG-2007-786**

May 13, 2009



Attachment 2

June 27, 2014 letter from USACE to STPNOC RE: SWG-2007-00786





DEPARTMENT OF THE ARMY  
GALVESTON DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 1229  
GALVESTON, TEXAS 77553-1229

June 27, 2014

Compliance Section

SUBJECT: **SWG-2007-00786**; South Texas Project Nuclear Operating Company,  
Preliminary Jurisdictional Determination, Unit 3 and 4 Expansion Project; Wadsworth,  
Matagorda County, Texas

Ms. Peggy Lofton Travis  
Environmental Supervisor  
South Texas Project Electric Generating Station  
P.O. Box 289  
Wadsworth, Texas 77483

Dear Ms. Travis:

This is in response to the March 27, 2014, request for a preliminary jurisdictional determination for the construction of Units 3 and 4. This 1406.5-acre site is located on Farm-to-Market Road 521, approximately 8 miles west of Wadsworth, Matagorda County, Texas (map enclosed).

Historically, a preliminary jurisdictional determination and preliminary delineation was finalized on this site by the Corps of Engineers in May 2009 and concluded there was approximately 17.6 acres of wetlands and 24,630 linear feet of non-wetland waters present. However, subsequent to this determination the wetland identification protocol and procedures were changed. Currently, wetlands in this geo-region are identified using the Atlantic and Gulf Coastal Plain Region Supplement to the 1987 Corps of Engineers Wetland Delineation Manual; which requires, under normal circumstances, a predominance of hydrophytic vegetation, wetland soils, and sufficient hydrology at/or near the surface to support this aquatic system.

Based on a review of regulations and rules in conjunction with off-site information and the appropriate wetland identification manual, it is our preliminary determination that waters (including wetlands) still exist on the site. However, since there has been a change in wetland identification procedures and protocols, we could not verify/finalize the previous wetland delineation as being a reasonable depiction of the boundaries of the wetlands on the site. Preliminary determinations presume that all aquatic features are waters of the United States subject to Section 404 of the Clean Water Act and would require a Department of the Army Permit prior to the discharge of any dredged and/or fill material into them.

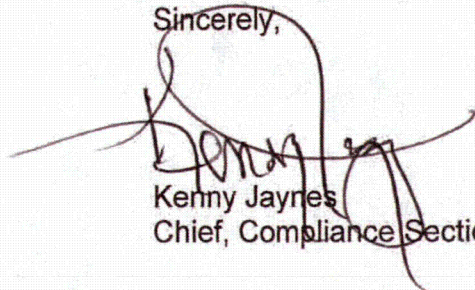


If a preliminary delineation is needed, additional information will need to be gathered and it must be in accordance with the Atlantic and Gulf Coastal Plain Region Supplement to the 1987 Corps of Engineers Wetland Delineation Manual. It is recommended that upon completion of this delineation, this information be submitted to us for verification.

This jurisdictional determination has been conducted to identify the limits of the Corps' Clean Water Act jurisdiction for the particular site identified in this request. Computation of impacts made on the basis of this preliminary jurisdictional determination will treat all potential aquatic resources that would be affected in any way by any activity on the site as if they are jurisdictional waters of the United States. This jurisdictional 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 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.

This preliminary jurisdictional determination that waters are present on the site is advisory in nature and valid for five years from the date of this letter, unless new information warrants a revision prior to the expiration date. An approved jurisdictional determination can be requested at any time. If you have any questions concerning this matter, please reference file number **SWG-2007-00786** and contact Ms. Diana Stevens at the letter head address above or by phone at 409-766-6380. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html> and/or if you would prefer a hard copy of the survey form, please let us know, and one will be mailed to you.

Sincerely,



Kenny Jaynes  
Chief, Compliance Section

Enclosure



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

8

Applicant: <b>SOUTH TEXAS PROJECT NUCLEAR OPERATING COMPANY</b>		File Number: <b>SWG 2007-00786</b>	Date: <b>06/27/2014</b>
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	
<b>X</b>	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/inet/functions/cw/cecwa/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 jurisdictional determination (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:

Ms Diana Stevens  
Regulatory Specialist, Compliance Section  
CESWG-PE-RC  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-6380 FAX: 409-766-3931

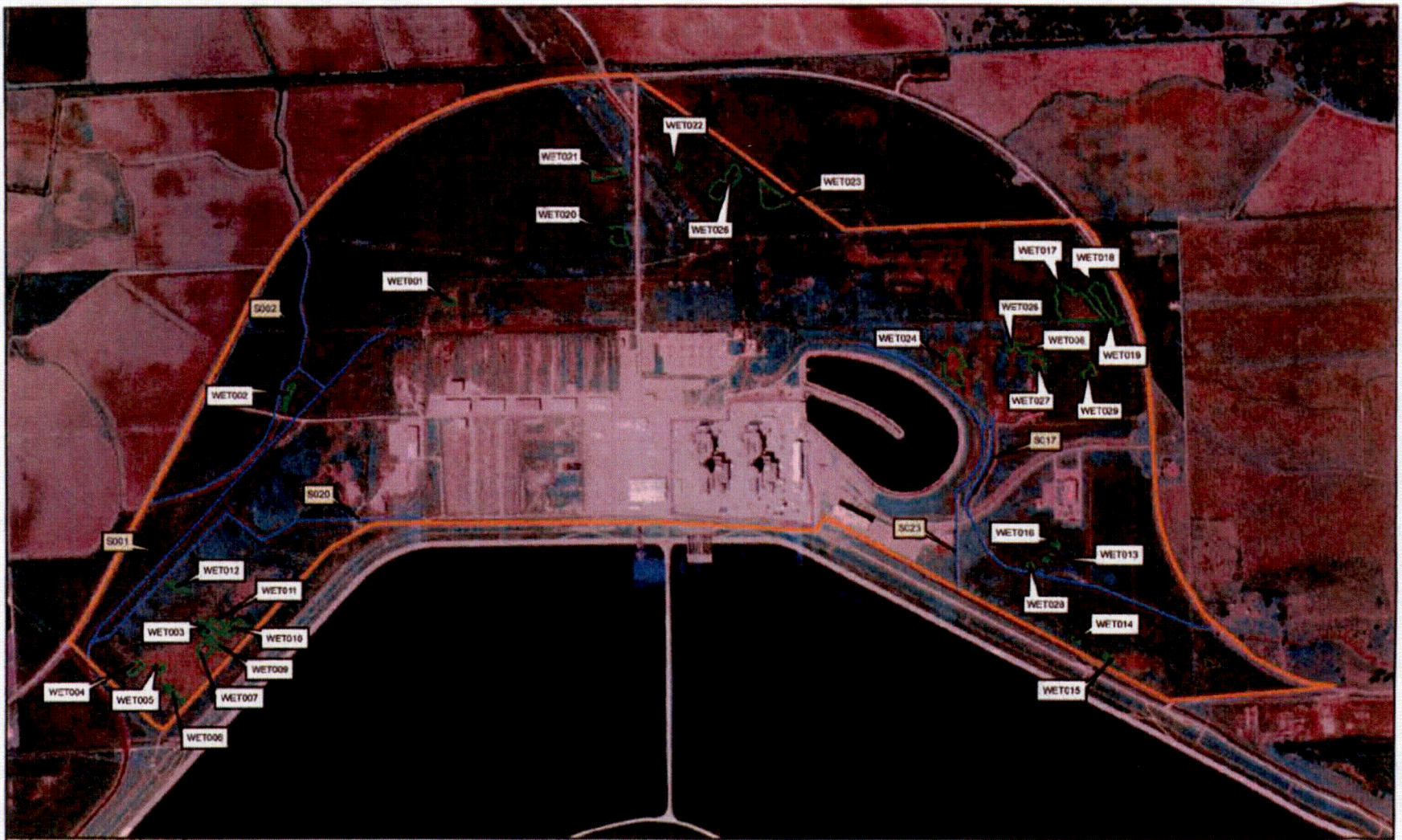
If you only have questions regarding the appeal process you may also contact:

Mr. Elliott Carman  
Appeal Review Officer, (CESWD-PD-O)  
U.S. Army Corps of Engineers  
1100 Commerce Street, Suite 831  
Dallas, Texas 75242-1731  
Telephone: 469-487-7061; FAX: 469-487-7199

**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.

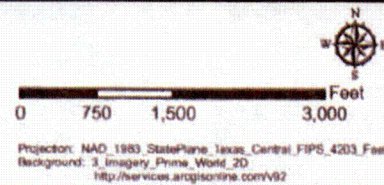
<hr/> Signature of appellant or authorized agent.	Date:	Telephone number:
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- Waters (24,639.1 Linear Feet)
- Wetlands (17.6 Acres)
- Project Review Area (1406.5 Acres)

**Preliminary Jurisdictional Determination  
South Texas Project Units 3 & 4  
Matagorda County, TX**



**SWG-2007-786**

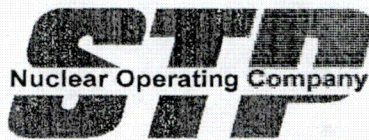
May 13, 2009

MAR 28 2014



Attachment 3

NOC-FD-14027343: Request for Continuance of Current Jurisdictional  
Determination



South Texas Project Electric Generating Station P.O. Box 289 Wadsworth, Texas 77483

NOC-FD-14027343

STI: 33852667

PFN: W02

March 27, 2014

Mr. Kenny Jaynes  
Chief, Compliance Section  
USACE Galveston District  
P.O. Box 1229  
Galveston, TX 77553-1229

**Re: Request for Continuance of Current Jurisdictional Determination; SWG-2008-1351; STP Nuclear Operating Company, Jurisdictional Determination, 7,000-Acre Main Cooling Reservoir (MCR), Wadsworth, Matagorda County, Texas**

Dear Mr. Jaynes:

On April 7, 2009, STP Nuclear Operating Company (STPNOC) received a jurisdictional determination, **SWG-2008-1351**, from the Galveston District U.S. Army Corps of Engineers (USCOE) for the 7,000-acre Main Cooling Reservoir (MCR) located at the South Texas Project Electric Generating Station located approximately 8 miles west of Wadsworth, Matagorda County, Texas. As per that correspondence, the jurisdictional determination is set to expire on April 7, 2014. STPNOC is presently seeking a continuance to the current jurisdictional determination already in place and wishes to have it extended for an additional 5 years through April 2019.

As part of the initial jurisdictional determination, the USCOE determined that the MCR was not a water of the United States for the following reasons: (1) the MCR is a man-made water body that is not in entirety impounded from one water; (2) its sources of hydrology are only precipitation and supplemental water pumped from the Colorado River; (3) its discharge system is controlled by outfall structures, and (4) it is not used by the public for recreation. These conditions have not changed over the previous 5 years and we therefore believe that the jurisdictional nature of the MCR has not changed.

We look forward to hearing from you regarding this matter. Should you have any questions or need additional information, please do not hesitate to contact me at (361) 972- 8573 or John Hoffman at (361) 972-4507.

Sincerely,

A handwritten signature in cursive script that reads "Peggy Lofton Travis".

Peggy Lofton Travis  
Environmental Supervisor

PLT/plt

Enclosure: Correspondence from Kenny James to Gregory Gibson dated April 7, 2009

cc: Mr. Jayson Hudson, U.S. Army Corps of Engineers





REPLY TO  
ATTENTION OF:

DEPARTMENT OF THE ARMY  
GALVESTON DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 1229  
GALVESTON TX 77553-1229  
April 7, 2009

Compliance Section

SUBJECT: **SWG-2008-1351**, South Texas Project Nuclear Operating Company, Jurisdictional Determination, 7,000-Acre Mass Cooling Reservoir (MCR), Wadsworth, Matagorda County, Texas

Mr. Gregory Gibson  
South Texas Project Operating Company  
P.O. Box 289  
Wadsworth, Texas 77483

Dear Mr. Gibson:

This letter is in response to an initial request dated April 9, 2008 to conduct a jurisdictional delineation verification on the project site for the proposed construction of Nuclear Power Units 3 and 4 under the project number **SWG-2007-786**. On February 26, 2009 at the request of the applicant the land portion and the MCR were separated because they have been defined as two separate project areas. The northern portion maintains the project number **SWG-2007-786** and the MCR was assigned the project number **SWG-2008-1351**. The project site is depicted as Tract B on the attached map received October 28, 2008 and is located on Farm-to-Market 521, approximately 8 miles west of Wadsworth, Matagorda County, Texas.

We have determined that the South Texas Project (STP) MCR is not a water of the United States for the following reasons including but not limited to: (1) the MCR is a man-made water body that is not in entirety impounded from one water, (2) its sources of hydrology are only precipitation and supplemental water pumped from the Colorado River, (3) its discharge system is controlled by outfall structures, and (4) it is not used by the public for recreation. Therefore, a Department of the Army Permit will not be required for the discharge of dredged and or fill material into the MCR (Section 404 of the Clean Water Act) and for work and or structures affecting the MCR (Section 10 of the Rivers and Harbors Act of 1899).

This jurisdictional determination has been conducted to identify the limits of the Corps' Clean Water Act jurisdiction for the particular site identified in this request. This verification may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. 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.

This letter contains an approved jurisdictional determination for the subject site. This determination remains valid for 5 years from the date of this letter, unless new information warrants revision or reissuance prior to its expiration. 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 Administrative Appeals Options and Process (NAP) and Request for

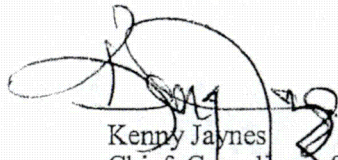


Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Southwest Division Office at the following address:

Mr. James Gilmore  
Appeal Review Officer, CESWD-ETO-R  
U.S. Army Corps of Engineers  
1100 Commerce Street, Suite 831  
Dallas, Texas 75242-1317

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 this NAP. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter. If you have any questions concerning this determination, please reference file number **SWG-2008-1351** and contact Mr. Nicholas Laskowski at the letterhead address or by telephone at 409-766-6381.

Sincerely,



Kenny Jaynes  
Chief, Compliance Section

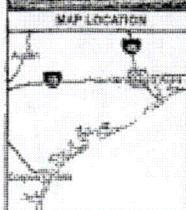
Enclosures

Copy Furnished:

Mr. Russell Kiesling  
Regulatory Affairs  
South Texas Project  
P.O. Box 289  
Wadsworth, Texas 77483

Mr. Jayson Hudson  
US Army Corps of Engineers





- Legend**
- Site Property Boundary
  - Surveying Acreage



STP Nuclear Operating Company  
Site Property Boundary

Matagorda County, Texas

Scale 1:25,000



STPNOC

EN Set

Figure 1

August 2008

OC 1 5 3 2008



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

Applicant: South Texas Project Operating Company	File Number: SWG 2008-1351	Date 04/07/09
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I**—The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/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 jurisdictional determination (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:

Nicholas Laskowski  
Regulatory Specials, Compliance Section  
CESWG-PE-RC  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-6381; FAX: 409-766-3931

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

Mr. James Gilmore  
Appeal Review Officer, CESWD-ETO-R  
U.S. Army Corps of Engineers  
1100 Commerce Street, Room 831  
Dallas, Texas 75242-1317  
Telephone: 469-487-7061; FAX: 469-487-7190

**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 authorized agent.

Date:

Telephone number:



Attachment 4

July 2, 2014 letter from USACE to STPNOC RE: SWG-2008-01351





DEPARTMENT OF THE ARMY  
GALVESTON DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 1229  
GALVESTON, TEXAS 77553-1229

FD-NOC-14027692  
STI: 33898357  
PFN: W02

July 2, 2014

Compliance Branch

SUBJECT: **SWG-2008-01351**; South Texas Project Nuclear Operating Company,  
Jurisdictional Determination, 7,000-Acre Mass Cooling Reservoir (MCR); Wadsworth,  
Matagorda County, Texas

Ms. Peggy Lofton Travis  
Environmental Supervisor  
South Texas Project Electric Generating Station  
P.O. Box 289  
Wadsworth, Texas 77483

Dear Ms. Travis:

This is in response to the March 27, 2014, request for a jurisdictional determination for the 7,000-Acre Mass Cooling Reservoir (MCR). This site is located approximately 8 miles west of Wadsworth, Matagorda County, Texas (map enclosed).

Historically, a jurisdictional determination was performed by the Corps of Engineers on this tract in April 2009. This 2009 determination concluded that the South Texas Project Nuclear Operating Company Mass Cooling Reservoir is not a water of the United States and identified several reasons to support this position. We have reviewed this previous decision and the specific project site conditions and determined that there is no new information to alter the previous determination nor have any environmental conditions or regulations altered such that would warrant revision to this previous determination. As such, our determination that there are not any waters of the United States within the project boundary of the MCR remains valid. Therefore, a Department of the Army Permit is not required for any discharge of dredged and/or fill material onto this 7,000-acre tract.

This determination has been conducted to identify the limits of the Corps' Clean Water Act jurisdiction for the particular site identified in this request. 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 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.



This letter contains an approved jurisdictional determination for your subject site, which is valid for 5 years from the date of this letter unless new information warrants a revision prior to the expiration date. 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 Appeals Process (NAP) fact sheet and Request for Appeal (RFA) form.

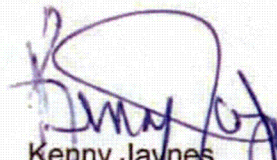
If you request to appeal this determination, you must submit a completed RFA form to the Southwest Division Office at the following address:

Mr. Elliott Carman  
Appeal Review Officer, CESWD-PD-O  
U.S. Army Corps of Engineer Division,  
Southwestern  
1100 Commerce Street, Room 831  
Dallas, Texas 75242-1731  
Telephone: 469-487-7061; FAX: 469-487-7190

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

If you have any questions concerning this jurisdictional determination, please reference file number **SWG-2008-01351** and contact Ms. Diana Stevens at the letterhead address or by telephone at 409-766-6380. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html>. If you would prefer a hard copy of the survey form, please let us know, and one will be mailed to you.

Sincerely,



Kenny Jaynes  
Chief, Compliance Section

Enclosure



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

8

Applicant: <b>SOUTH TEXAS PROJECT NUCLEAR OPERATING COMPANY</b>	File Number: <b>SWG 2008-01351</b>	Date: <b>07/02/2014</b>
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I – The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/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.
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**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Ms Diana Stevens  
Regulatory Specialist CESWG-RD-C  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-6380 FAX: 409-766-3931

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

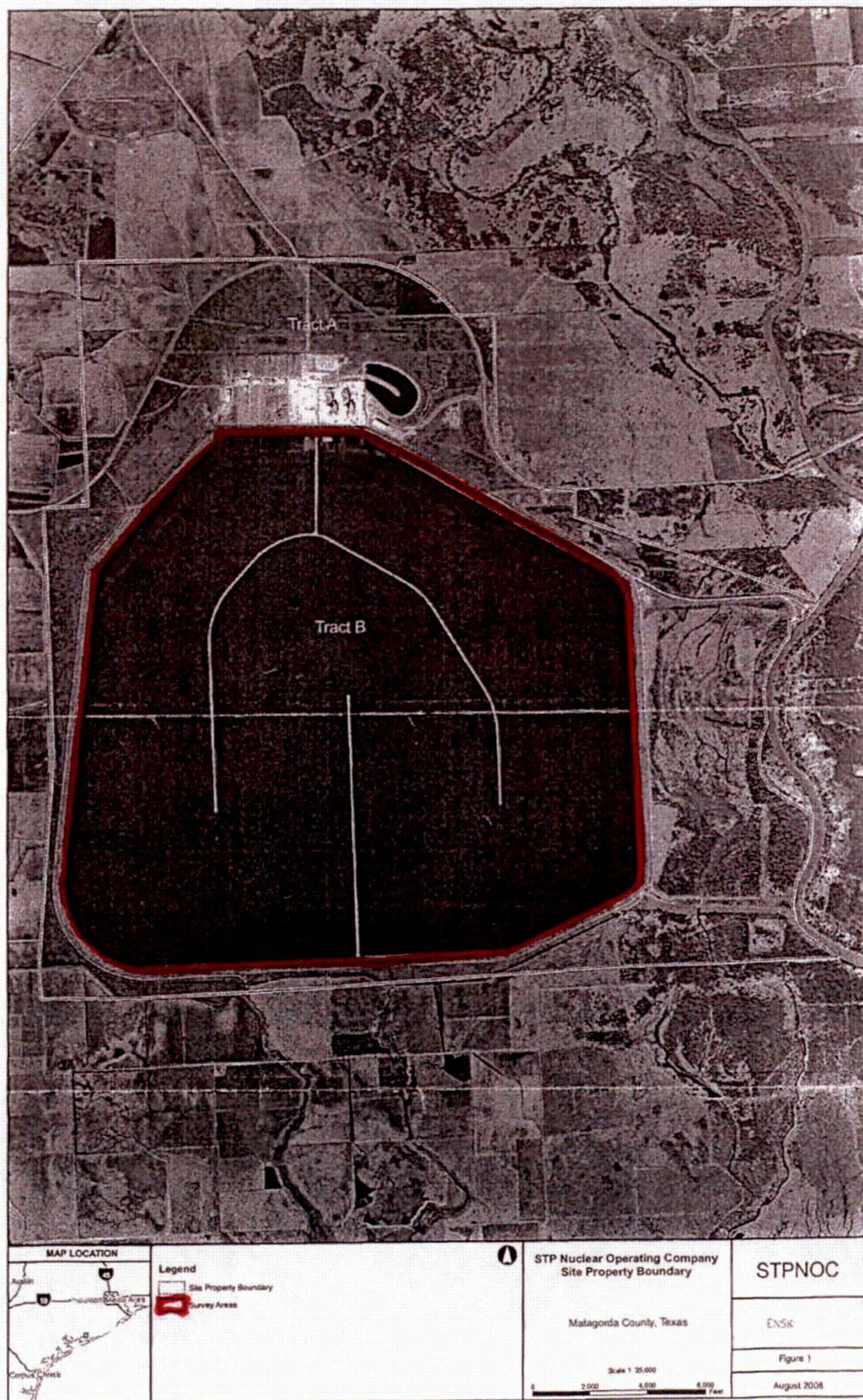
Mr. Elliott Carman  
Appeal Review Officer, (CESWD-PD-O)  
U.S. Army Corps of Engineers  
1100 Commerce Street, Suite 831  
Dallas, Texas 75242-1731  
Telephone: 469-487-7061; FAX: 469-487-7199

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<hr/> Signature of appellant or authorized agent.	Date:	Telephone number:
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MAR 28 2014



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