



**DEPARTMENT OF THE ARMY**  
**GALVESTON DISTRICT, CORPS OF ENGINEERS**  
**CORPUS CHRISTI REGULATORY FIELD OFFICE**  
5151 FLYNN PARKWAY, SUITE 306  
CORPUS CHRISTI, TX 78411-4318

April 7, 2010

REPLY TO  
ATTENTION OF:

Corpus Christi Regulatory Field Office

SUBJECT: SWG-2010-00137; Jurisdictional Determination

Mr. Joe Escoto  
National Park Service  
Padre Island National Seashore  
P.O. Box 181300  
Corpus Christi, Texas 78480

Dear Mr. Escoto:

This office received a letter dated March 29, 2010 in which you requested that we review the jurisdictional status of the proposed cabins on the Padre Island National Seashore at Mile Marker 30 and Mile Marker 50, Kenedy County, Texas. Each cabin will be 50- by 50- feet in size, will be situated within the park's Gulf fore-dunes, and elevated 5 feet by pilings to a total height of 8 feet above mean sea level.

The Corps of Engineers has the authority to regulate certain work under the provisions of Section 10 of the Rivers and Harbor Act (Section 10) and Section 404 of the Clean Water Act (Section 404). Section 10 provides that the United States Army Corps of Engineers protect "navigable waters of the United States." Navigable waters of the United States are defined as those 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 to use to transport interstate or foreign commerce. In tidal waters, the shoreward limit of navigable waters of the United States is the mean high water (MHW) on the shoreline. Section 404 provides for the regulation of the discharge of fill material into Waters of the United States, which includes all wetlands adjacent to tidal and non-tidal waters. The high tide line (HTL) is the upper limit of Section 404 jurisdiction in the absence of wetlands, such as is the case of the Gulf of Mexico shoreline beach. The HTL encompasses spring high tides and other high tides that occur with periodic frequency.

We have reviewed the U.S. Geological Survey topographic map of Potrero Cortado and South of Potrero Lopeno NE, Texas 7.5 minute quadrangles, aerial photography, 2010 USDA Natural Resource Conservation Service Soil Survey, and submitted plans. We have determined that the sites, as depicted on the enclosed 4 pages, do not contain wetlands and are above the MHW and HTL; therefore, they are not subject to our jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. As such, a Department of the Army permit is not required for this activity.

This letter contains an approved jurisdictional determination for your subject 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 Southwestern Division Office at the following address:

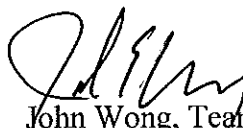
James E. Gilmore, Appeal Review Officer  
US Army Engineer Division, Southwestern  
1100 Commerce Street, Suite 831  
Dallas TX 75242-1317  
Telephone: 496-487-7061; FAX: 469-487-7190

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 C.F.R. 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.

Corps determinations are conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular sites. 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 approved determination is valid for 5 years from the date of this letter unless new information warrants a revision of the determination prior to the expiration date. Please reference determination number **SWG-2010-00137** in future correspondence pertaining to this subject. If you have any questions concerning this determination or possible appeal of this determination, please contact Misti Grohmann at the letterhead address or by telephone at 361-814-5847 Ext 128 if you have any questions. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



John Wong, Team Leader  
Corpus Christi/Regulatory Field Office

Enclosures