

Exhibit FF.

CSX Almonaster Site

USACE Preliminary Jurisdictional Determination



GREATER NEW ORLEANS
INC
REGIONAL ECONOMIC DEVELOPMENT



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVE
NEW ORLEANS, LA 70118-3651

January 16, 2024

Regulatory Division
Jurisdiction and Enforcement Branch

Mr. Daniel Ley
Arcadis U.S., Inc.
11400 Parkside Drive, Suite 410
Knoxville, TN 37934

**CSX Almonaster Site
USACE Preliminary
Jurisdictional Determination**

Dear Mr. Ley:

Reference is made to your request, on behalf of CSX Transportation, Inc., for a U.S. Army Corps of Engineers' (Corps) jurisdictional determination on property located in Section 12, Township 12 South, Range 12 East, Orleans Parish, Louisiana (enclosed map). Specifically, this property is identified as a ±79.5 acre site south of Almonaster Avenue located in New Orleans.

Based on review of recent maps, aerial photography, soils data, the delineation report provided with your request, and a site inspection conducted on December 5, 2023, we have determined that part of the property contains wetlands and non-wetland waters that may be subject to Corps' jurisdiction. The approximate limits of the wetlands and non-wetland waters are designated in red and blue, respectively, on the map. A Department of the Army (DA) permit under Section 404 of the Clean Water Act will be required prior to the deposition or redistribution of dredged or fill material into waters of the U.S.

The delineation included herein has been conducted to identify the location and extent of the aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation 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 discuss the applicability of an NRCS Certified Wetland Determination with the local USDA service center, prior to starting work.

Please be advised that this property is in the Louisiana Coastal Zone and a Coastal Use Permit may be required prior to initiation of any activities on this site. For additional information, contact Ms. Christine Charrier, Office of Coastal Management, Louisiana Department of Natural Resources at (225) 342-7953.

You and your client are advised that this preliminary jurisdictional determination is valid for a period of 5 years from the date of this letter unless new information warrants revision prior to the expiration date. Additionally, this determination is only valid for the identified project or individual(s) only and is not to be used for decision-making by any other individual or entity.

Should there be any questions concerning these matters, please contact Mr. Jon Barmore at (504) 862-1704 and reference our Account No. MVN-2023-00446-SG. If you have specific questions regarding the permit process or permit applications, please contact our Eastern Evaluation Branch at (504) 862-2225.

Sincerely,

Brad

Guarisco

for Martin S. Mayer
Chief, Regulatory Division

Digitally signed by
Brad Guarisco
Date: 2024.01.16
16:01:39 -06'00'

Enclosures



US Army Corps of Engineers
Preliminary Jurisdictional Determination



USACE
 Field: 05 December 2023
BOTANIST Mr. Jon Barmore
FOR CSX Transportation, Inc.
ACCOUNT # MWN-2023-00446-SG

 **Wetlands**
 **Non-wetland waters**
 **JD Review Area**



NOTE: 1. AERIAL IMAGERY OBTAINED FROM ESRI IMAGE SERVICE. (2022)



WETLAND AND WATERBODY DELINEATION
 FOR THE CSX PROJECT
 NEW ORLEANS, LOUISIANA

FIGURE 1
DELINEATED FEATURES



DATE: 1/30/2024

U.S. Army Corps of Engineers (USACE)

PRELIMINARY JURISDICTIONAL DETERMINATION (PJD)

For use of this form, see Sec 404 CWA, Sec 10 RHA, Sec 103 MPRSA; the proponent agency is CECW-COR.

Form Approved -
OMB No. 0710-0024
Expires 2024-04-30

DATA REQUIRED BY THE PRIVACY ACT OF 1974

- Authority** Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Program of the U.S. Army Corps of Engineers; Final Rule for 33 CFR Parts 320-332.
- Principal Purpose** The information that you provide will be used in evaluating your request to determine whether there are any aquatic resources within the review area that may be subject to federal jurisdiction under the regulatory authorities referenced above.
- Routine Uses** This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public, and may be made available as part of a public notice or FOIA request as required by federal law. Your name and property location where federal jurisdiction is to be determined will be included in any resulting jurisdictional determination (JD), which may be made available to the public on the District's website and/or on the Headquarters USACE website.
- Disclosure** Submission of requested information is voluntary; however, if information is not provided, the request for a JD cannot be evaluated nor can a PJD be issued.

The Agency Disclosure Notice (ADN)

The public reporting burden for this collection of information, 0710-0024, is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

SECTION I - BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 1/16/2024

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Mr. Daniel Ley / Arcadis U.S., Inc
11400 Parkside Drive, Suite 400
Knoxville, TN 37934

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

MVN-2023-00446-SG

D. PROJECT LOCATION AND BACKGROUND INFORMATION:

(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: Louisiana County/Parish/Borough: Orleans City: New Orleans

Center coordinates of site (lat/long in degree decimal format): Latitude: 30.0040 ° Longitude: -90.0036 °

Universal Transverse Mercator: _____

Name of nearest waterbody: Intracoastal Waterway

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

 Office (Desk) Determination. Date: 2023-05-16 Field Determination

Date(s): 2023-12-05

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

	Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
+						
X	1	30.004	-90.003	±9.26 ac	wetland	Sec 404

+	Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
X	1	30.004	-90.003	±1.56 ac	wetland	Sec 404
X	1	30.004	-90.003	±2,500 ft	nonwetland water	Sec 404

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.

2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD or no JD whatsoever, which do not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the USACE has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD or reliance on no JD whatsoever; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of USACE permit authorization based on a PJD or no JD whatsoever constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the USACE will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

F. SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:

Map: _____

Data sheets prepared/submitted by or on behalf of the PJD requestor.

Office concurs with data sheets/delineation report.

Office does not concur with data sheets/delineation report.

Rationale: _____

Data sheets prepared by the USACE:

Corps navigable waters' study:

U.S. Geological Survey Hydrologic Atlas:

USGS NHD data.

USGS 8 and 12 digit HUC maps.

U.S. Geological Survey map(s). Cite scale & quad name:

1:24,000 Spanish Fort

USDA Natural Resources Conservation Service Soil Survey.

Citation: web soil survey

National Wetlands Inventory map(s).

Cite Name: _____

State/Local Wetland Inventory map(s):

FEMA/FIRM maps:

100-year Floodplain Elevation is: _____ . (National Geodetic Vertical Datum of 1929)

Photographs: Aerial (Name & Date): TC (Google Earth): 2006,2010,2013,2015,2017,2021,2023

or Other (Name & Date): CIR: 1998,2004,2005,2010

Previous determination(s). File no. and date of response letter:

Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the USACE and should not be relied upon for later jurisdictional determinations.

Name of Regulatory Staff Member Completing PJD Mr. Jon Barmore	Date 2024-01-09	Signature of Regulatory Staff Member Completing PJD Jon Barmore <small>Digitally signed by Jon Barmore Date: 2024.01.10 06:12:05 -06'00'</small>
Name of Person Requesting PJD	Date	Signature of Person Requesting PJD (REQUIRED, unless obtaining the Signature is Impracticable) 

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: CSX Transportation, Inc.	File Number: MVN-2023-00446-SG	Date: 1/16/2024
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 WITHOUT PREJUDICE	C
<input type="checkbox"/>	PERMIT DENIAL WITH PREJUDICE	D
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	E
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	F

SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> 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. 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 WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the 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.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **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.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

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.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

S. Gail Gaaney
Chief, Jurisdiction and Enforcement Branch
Regulatory Division
U.S. Army Corps of Engineers
7400 Leake Avenue New Orleans, LA 70118
(504) 862-1545

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

Brian Oberlies
Administrative Appeals Review Officer
Mississippi Valley Division
P.O. Box 80 (1400 Walnut Street)
Vicksburg, MS 39181-0080
(601) 634-5820 FAX: (601) 634-5816

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. Use additional pages as necessary. 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.

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:
Email address of appellant and/or agent:	Telephone number: