

**U.S. ARMY CORPS OF ENGINEERS
NORTH ATLANTIC DIVISION**

Date: 4 October 2005

ADMINISTRATIVE APPEAL DECISION

WAYNE CAMERON
BALTIMORE DISTRICT FILE NO. 2005-01986-18

Review Officer: James W. Haggerty, U.S. Army Corps of Engineers, North Atlantic Division

Appellant: Wayne Cameron

Date of Receipt of Request for Appeal: 31 May 2005

Date of Acceptance of Request for Appeal: 6 June 2005

Appeal Conference/Site Visit Date: 18 August 2005

NAD-ACCEPTED REASONS FOR APPEAL:

NAD accepted for consideration the following reasons for appeal, which are listed in the appellant's Request for Appeal:

- 1) The wetland hydrology criterion is not met because drainage ditches along the front and rear of the property were not maintained.
- 2) The wetlands on the property are man-made and should not be considered jurisdictional.

BACKGROUND INFORMATION:

On 19 August 2004, the Baltimore District received a request for a determination of the extent of Department of the Army ("DA") jurisdiction on a site located in Rock Hill, Kent County, Maryland. The nearly rectangular shaped site is generally bounded to the north, south and west by other private property parcels and to the east by Adventist Church Lane. The appellant plans to construct a single-family dwelling on the parcel.

The district conducted inspections of the site on 10 September 2004 and 29 March 2005, and issued its approved jurisdictional determination on 27 April 2005. The district concluded that the delineation of wetlands as shown on an April 2005 survey plan was accurate and that the wetlands were jurisdictional pursuant to Section 404 of the Clean Water Act.

INFORMATION RECEIVED DURING THE APPEAL REVIEW AND ITS DISPOSITION:

The Baltimore District provided a copy of the administrative record, which was reviewed and considered in the appeal review process along with the results of the 18 August 2005 site inspection and appeal conference.

CENAD-PDS

SUBJECT: Wayne Cameron Appeal Decision, Baltimore District File Number
2005-01986-18

SUMMARY OF DECISION:

The appellant's request for appeal does not have merit because the administrative record and current regulatory policies support Baltimore District's determination that the wetland area on the property is jurisdictional under the Clean Water Act.

EVALUATION OF THE REASONS FOR APPEAL/APPEAL DECISION FINDINGS:

First Accepted Reason for Appeal— The wetland hydrology criterion is not met because drainage ditches along the front and rear of the property were not maintained.

Second Accepted Reason for Appeal--The wetlands on the property are man-made and should not be considered jurisdictional.

Determination on the Merits of These Reasons for Appeal—*these reasons for appeal do not have merit:* In his request for appeal, the appellant indicates his belief that standing water on the site results from poor drainage ditch maintenance across the front (i.e., Adventist Church Lane boundary) and back of the site. The information contained in the district's administrative record sufficiently documents its finding that wetland hydrology is present on the site. The district arrived at its findings in accordance with the procedures specified in the 1987 Corps of Engineers' Wetland Delineation Manual, and on the basis of information gathered during its two site inspections. The record also sufficiently supports the district's distinction between upland and wetland areas on the site, and that the wetlands are jurisdictional since they are adjacent to a tributary to Chesapeake Bay, a navigable water of the United States. The appellant's contention that the wetlands are man-made and, therefore, should not be considered jurisdictional does not alter the district's jurisdictional determination.

OVERALL CONCLUSION:

After reviewing and evaluating the entirety of the administrative record provided by the Baltimore District, I conclude its determination regarding the jurisdictional status of the wetland area on the property in question is adequately supported. I hereby find that the appellant's request for appeal does not have merit.

SIGNED

FRANCIS X. KOSICH
COL, EN
Acting Division Commander