



**DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, TULSA DISTRICT  
2488 EAST 81<sup>ST</sup> STREET  
TULSA, OKLAHOMA 74137-4290**

August 11, 2020

Regulatory Office

Mr. Kevin Howard  
KLH Environmental & Geological Consulting, LLC  
3309 W. Gary Street  
Broken Arrow, OK 74012

Dear Mr. Howard:

Please reference your correspondence submitted dated July 7, 2020, concerning the Fair Oaks Ranch, LLC, Tract 1. The proposed project is located in Sections 3 & 4, Township 19 North, Range 15 East, in Wagoner County, Oklahoma. The area marked in red on the enclosed maps denotes the limits of the property examined under this request. We have reviewed the submitted data relative to Section 404 of the Clean Water Act (CWA).

We have examined the property and concluded that the referenced property contains jurisdictional tributaries, wetlands, and impoundments. The tributaries, wetlands, and impoundments as depicted on the enclosed maps, are regulated waterways. In addition to the identified jurisdictional waters, there are numerous water bodies/features present on the site that are not subject to the jurisdiction of the Clean Water Act and are identified in yellow on the enclosed map. The placement of dredged or fill material into jurisdictional waters of the U.S. will require prior authorization from the U.S. Army Corps of Engineers pursuant to Section 404 CWA.

The basis for this determination is the unnamed tributaries contribute flow to Salt Creek which flows into the Verdigris River a Traditionally Navigable Water (TNW). The jurisdictional wetlands and impoundments are located on channel and contribute flow to the jurisdictional tributaries. A copy of the Approved Jurisdictional Determination form is included with this letter.

We believe this determination to be an accurate assessment of the presence of jurisdictional wetlands and other waters on the site which are subject to Section 404. This is a final determination of federal jurisdiction on the property pursuant to Section 404. This determination is valid for 5 years from the date of this letter unless new information warrants revision of the determination before the expiration date.

This delineation or determination has been conducted to identify the limits of the Corps CWA jurisdiction for the particular site identified in this request. This delineation or 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 final determination constitutes an approved JD subject to the optional Corps Administrative Appeal Process. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed is a copy of the Notification of Administrative Appeal 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 Southwestern Division Office at the following address:

Mr. Elliott Carman  
Appeals Review Officer  
U.S. Army Corps of Engineers  
1100 Commerce Street, Suite 831  
Dallas, TX 75242-1731  
Tel: 469-487-7061  
Fax: 469-487-7199

In order for a RFA form 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 a RFA form, it must be received at the above address by October 10, 2020. It is not necessary to submit a RFA form to the Division Office if you do not object to the determination in this letter.

Your project has been assigned Identification Number SWT-2020-00407. Please refer to this number during future correspondence. If further assistance is required, contact Mr. Brett Adams at (918) 669-7534.

Sincerely,

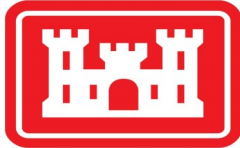
*Ed Parisotto*

*For* Andrew R. Commer  
Chief, Regulatory Office

Enclosures



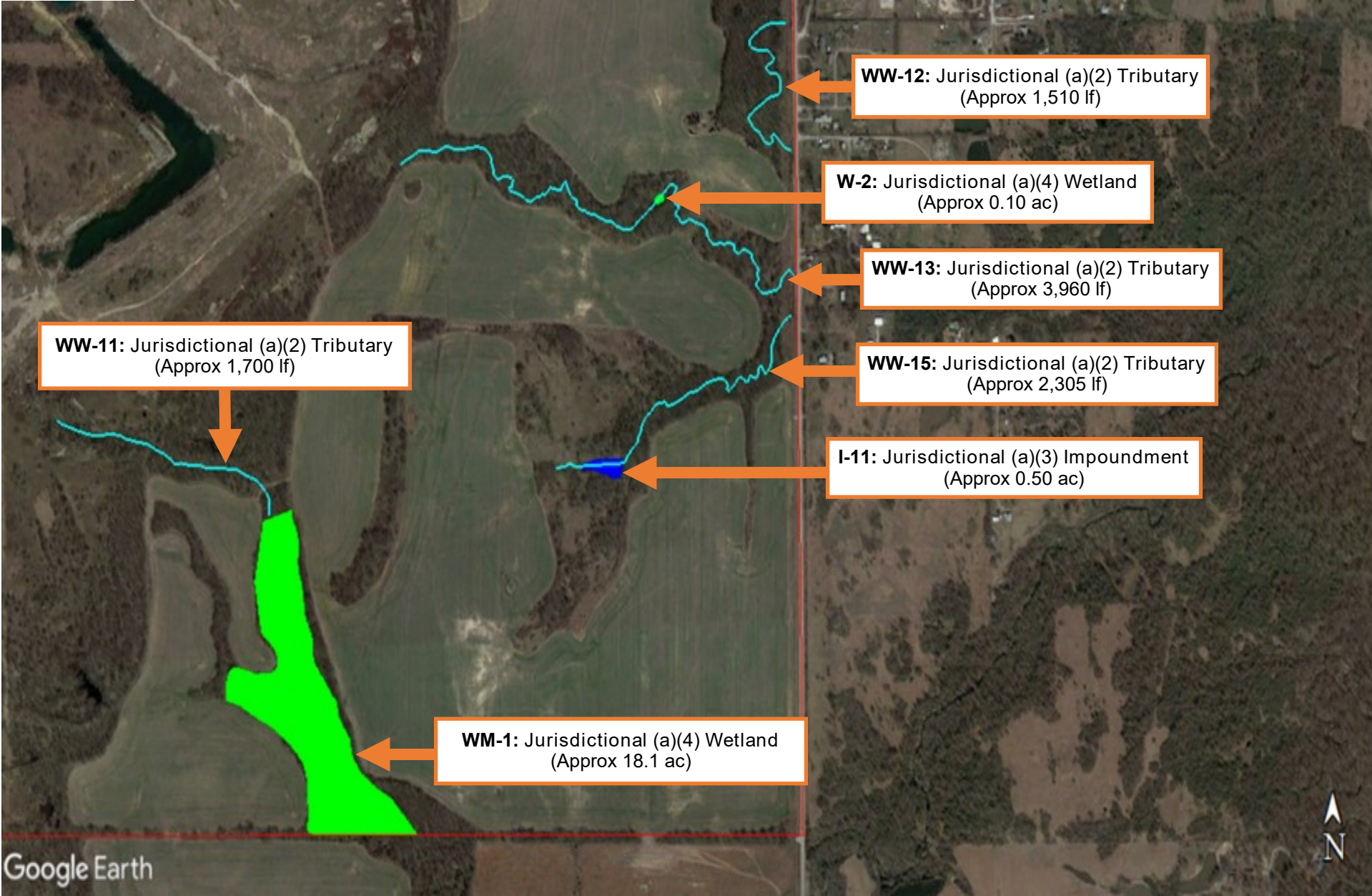
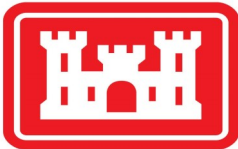
**SWT-2020-00407**  
**Approved Jurisdictional Determination**  
**Fair Oaks Ranch, LLC**  
**Brett L. Adams**



**Project Boundary**  
(Approx 1,200 ac)

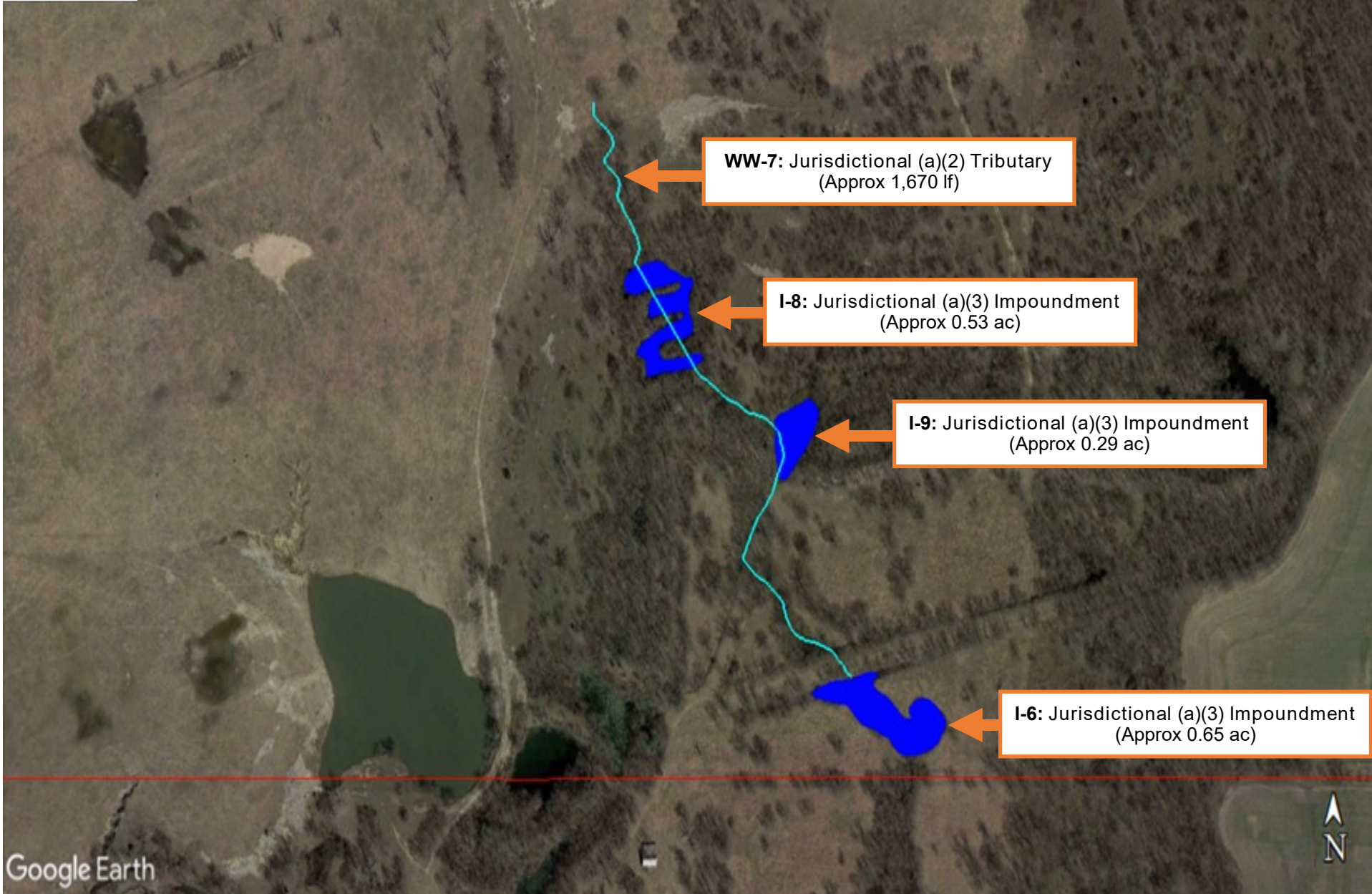
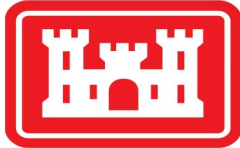


**SWT-2020-00407**  
**Approved Jurisdictional Determination**  
**Fair Oaks Ranch, LLC**  
**Brett L. Adams**



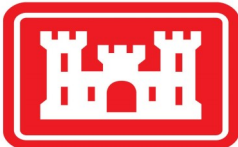


**SWT-2020-00407**  
**Approved Jurisdictional Determination**  
**Fair Oaks Ranch, LLC**  
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SWT-2020-00407  
Approved Jurisdictional Determination  
Fair Oaks Ranch, LLC  
Brett L. Adams



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

Applicant: Mr. Kevin Howard		File Number: SWT-2020-407	Date: 11 August 2020
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://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) 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:  
Mr. Brett Adams  
Regulatory Office  
2488 East 81<sup>st</sup> Street  
Tulsa, OK 74137-4290  
Telephone 918-669-7534

If you only have questions regarding the appeal process you may also contact:  
Mr. Andrew Commer  
Regulatory Office  
2488 East 81<sup>st</sup> Street  
Tulsa, OK 74137-4290  
Telephone 918-669-7400

**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:
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