



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

APR 10 2014

CERTIFIED MAIL 7012 1010 0002 0759 7042
RETURN RECEIPT REQUESTED

Spring Creek Farms, LLC
Mr. Benjamin L. King
346 MLK Boulevard, Suite 95
Clinton, North Carolina 28562

Re: Spring Creek Farms Site

Dear Mr. King:

I am writing to discuss the findings of a recent United States Environmental Protection Agency Region 4 field investigation of the Spring Creek Farms site located near Merritt, Pamlico County, North Carolina, near 35° 4' 47" north latitude and 76° 41' 24" west longitude (Site). The Site is also referred to as the Atlas Tract, an approximately 4,600 acre parcel mapped by the United States Fish and Wildlife Service's National Wetlands Inventory as containing predominantly forested wetlands. Additionally, the Natural Resource Conservation Service has determined that a majority of the Site contains hydric soils. On December 3-4, 2013, the EPA and the U.S. Army Corps of Engineers (Corps) conducted a joint site inspection of the Site. Mr. Abel Harmon, consultant for Spring Creek Farms, was also present during the inspection.

During that inspection the group dug pits and looked at hydrology and soils at several areas on the Site including the "251-acre" site and one forested reference area near this tract as well as three areas off Florence Road including a recently harvested "400-acre" site. Light rain was falling during the inspection of the three areas located off Florence Road, but two of the three areas appeared to be wetlands while one area was an upland timbered area. At the "400-acre" site, the EPA and the Corps inspectors found wetland hydrology within 12 inches of the surface at several soil pits. At this location Mr. Harmon noted that most but not all of the antecedent forestry ditches on the 400-acre site had been re-excavated to former depths. The Corps advised Mr. Harmon to avoid further ditch maintenance on the tract until we could reconcile the jurisdictional limits of the 400-acre site. Mr. Mike Wylie, of my staff, contacted Mr. Harmon on February 10, 2014, to discuss the findings from the inspection. During that call, Mr. Harmon informed Mr. Wylie that all the forestry and roadside ditch maintenance activities on the Atlas Tract were now complete on the Atlas Tract.

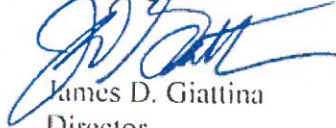
As you are aware, there is significant local interest in the status of potential jurisdictional wetlands on the Atlas Tract. Both the Corps and the EPA have been contacted by interested parties regarding Spring Creek Farms' activities on the Site and whether the current ditch maintenance and land clearing activities are in compliance with the Clean Water Act (CWA).

The EPA and the Corps found that the forestry ditches on the Atlas Tract appeared to remove wetland hydrology on two of the sites we sampled (i.e., the 251-acre site and one of the wetland areas off Florence Road). The EPA and the Corps do not have sufficient information to make a final determination regarding wetland hydrology on the 400-acre tract; however, we are concerned that recent ditch maintenance activities may have adversely impacted the Site.

The EPA and the Corps have several outstanding issues that need to be resolved with Spring Creek Farms before any further mechanical land clearing or ditch excavation and/or maintenance occurs on the Atlas Tract. The original ditch excavation apparently occurred under the pretext of minor drainage in association with the 404(f) silviculture exemptions. The ditches appear to have removed or are capable of removing wetland hydrology and are not considered minor drainage ditches exempt under the CWA. Ditch maintenance, an activity that is normally exempt under the CWA 404(f) exemptions, is not an exempt activity if the original forestry ditches exceeded minor drainage and drained the Atlas Tract without authorization under the CWA. Areas of former wetlands on the Atlas Tract, that appear to have the hydrology removed without authorization, should be considered waters of United States unless new evidence dictates otherwise. Finally, please do not conduct any further ditch maintenance, ditch construction or land clearing activities on the Atlas Tract until a meeting can be arranged with the EPA to discuss these issues.

Please contact Ms. Molly Davis, of my staff, at (404) 562-9236 or please have your attorney contact Mr. Philip Mancusi-Ungaro at (404) 562-9519 to arrange a meeting to discuss these important issues.

Sincerely,



James D. Giattina

Director

Water Protection Division

cc: Mr. Scott McLendon
U.S. Army Corps of Engineers, Wilmington District