



STATE OF MISSISSIPPI
TATE REEVES
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

July 26, 2024

Elliott Land Developments, LLC
Brandon Elliott
1402 Pass Road0
Gulfport, MS 39501

Dear Mr. Elliott:

Re: Elliott Land Developments, LLC
Madison Place Subdivision
Jackson County
COE No. SAM2004003387RCV
WQC No. WQC2023033

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, to Elliott Land Developments, LLC, an applicant for a Federal License or permit to conduct the following activity:

Elliott Land Developments, LLC, Madison Place Subdivision, Phase II: Proposed project for the continuation of the existing Madison Place Subdivision. The Phase II project will consist of the construction of 51 single-family homes. This permit application is a modification to the previously granted individual permit issued by USACE on May 16, 2019 (SAM-2004-03387-RCV). Phase II of that permit required filling 8.22 acres of wetlands comprised of a remainder of 2.8 acres for lots 1-9 in Phase II, an additional 5.31 acres of non-tidal pine savanna wetlands and 0.11 acre of non-tidal bottomland hardwood wetlands for the completion of the residential subdivision. As currently authorized, additional roads and stormwater improvements will isolate prominent portions of the site's restrictive covenant. Additionally, 209 linear feet of ephemeral stream within Davis Bayou would require improvement to build out the subdivision's expansion as authorized.

The applicant currently proposes modification of the current permit by filling 13.05 acres of wetlands (4.13 acres of low-quality and 8.92 acres of medium-quality wetlands) for the 53-acre project area.

The applicant will purchase mitigation credits to offset wetland impacts. The current restrictive covenant areas will be reduced from 22.63 acres of low-quality wetlands to 19.91 acres. Areas of impact within the extent of the current restrictive covenant will be offset by the preservation of higher quality wetlands that exist adjacent to the Davis Bayou. The current conservation easements are comprised of +/- 22.63 acres of low-quality and medium-quality pine savanna wetlands located primarily in the central section of the project area. The proposed restrictive covenant includes +/-19.91 acres comprised of 9.54 acres of low-quality wetlands, and 10.37 acres of medium-quality pine savanna wetlands and medium-quality bottomland hardwood wetlands that are located in the headwaters of the Davis Bayou. This new easement will remain contiguous with Davis Bayou and its adjacent estuarine and marine wetlands.

The subject property is more specifically located in Section 24, Township 7 South, Range 8 West, Ocean Springs, Jackson County, MS [SAM2004003387RCV, WQC2023033]

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

1. The development shall connect to a Department approved wastewater collection and treatment system. All wastewater, including process wastewater, shall be properly treated and disposed in accordance with 11 Mississippi Administrative code Part 6, Chapter 1. (Statement G) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B)
2. For construction activities, appropriate best management practices (BMPs) shall be properly installed and maintained to prevent the movement of sediment off-site and into adjacent drainage areas. Special care shall be taken prior to and during construction to prevent the movement of sediment offsite and into adjacent waters. In the event of any BMP failure, corrective actions shall be taken immediately. (Statement F) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B.)
3. For construction projects five (5) acres or greater of total ground disturbances including clearing, grading, excavating, or other construction activities shall follow the conditions and limitations of the Large Construction General Permit. **No construction activities shall begin until the necessary approvals and/or permits have been obtained.** Construction activities include a disturbance to the land that results in the change in topography, existing soil cover (both vegetative and non-vegetative), or the existing topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. (Statement F) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B)

4. The final post-construction Stormwater Management Plan submitted by Stieffel & Associates on December 19, 2018, shall be implemented concurrent with project construction and maintained as proposed. (Statement F) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B.)
5. Mitigation for the impacts to 4.13 acres of low-quality wetlands and 8.92 acres of medium-quality wetlands shall be provided by the purchase of mitigation credits from an approved mitigation bank. The number of credits must be in accordance with the banking prospectus and should be based upon that required for impacting 4.13 acres of low-quality wetlands and 8.92 acres of medium-quality wetlands. **Written verification of credit purchase must be provided to the Department prior to the commencement of any work in the wetland or stream areas.** (Statement E) (11 Miss. Admin. Code Pt. 6, R 1.3.4 A (2))
6. Prior to or concurrent with project construction, the avoided wetlands shall be placed in a conservation easement. The easement shall be properly recorded in the Miscellaneous Document Book, with the Registrar of Deeds, or with another appropriate official charged with the responsibility of maintaining records of title to and interest in real property within six months of the effective date of the authorization. A certified copy of the easement must be furnished to the Office of Pollution Control within 30 days of the recording. The easement shall contain:
 - A. There shall be no clearing, burning, cutting or destroying of trees or vegetation, except as expressly authorized in the Reserved Rights; there shall be no planting or introduction of non-native or exotic species of trees or vegetation except as specifically provided for in the mitigation plan.
 - B. No agricultural, industrial, or commercial activity shall be undertaken or allowed.
 - C. There shall be no construction or placement of buildings, or other structures in the mitigation area other than structures for wildlife enhancement, viewing, or scientific study.
 - D. There shall be no use of off-road vehicles, four-wheel drive vehicles, all-terrain vehicles or similar vehicles except on existing or approved roads and trails and except as necessary to implement the mitigation plan.(Statement E) (11 Miss. Admin. Code Pt. 6, R 1.3.4 A (2))
7. Turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units. (Statement A) (11 Miss. Admin. Code Pt. 6, R. 2.2.A.)
8. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse. (Statement A) (11 Miss. Admin. Code Pt. 6, R. 2.2.A.(3))

As part of the Scope of Review for Application Decisions, 11 Mississippi Administrative Code Part 6, Rule 1.3.4(B), the above conditions are necessary for the Department to ensure that

appropriate measures will be taken to eliminate unreasonable degradation and irreparable harm to waters of the State, such that the activity will not meet the criteria for denial:

- (A) The proposed activity permanently alters the aquatic ecosystem such that water quality criteria are violated and/or it no longer supports its existing or classified uses. An example is the channelization of streams.
- (B) There is a feasible alternative to the activity which reduces adverse consequences on water quality and classified or existing uses of waters of the State.
- (C) The proposed activity adversely impacts waters containing State or federally recognized threatened or endangered species.
- (D) The proposed activity adversely impacts a special or unique aquatic habitat, such as National or State Wild and Scenic Rivers and/or State Outstanding Resource Waters.
- (E) The proposed activity in conjunction with other activities may result in adverse cumulative impacts.
- (F) Nonpoint source/storm water management practices necessary to protect water quality have not been proposed.
- (G) Denial of wastewater permits and/or approvals by the State with regard to the proposed activities.
- (H) The proposed activity results in significant environmental impacts which may adversely impact water quality.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If you have any questions, please contact Carrie Barefoot.

Sincerely,



Becky Simonson
Chief, Environmental Permits Division

BS: po

cc: Kaaren Neumann, U.S. Army Corps of Engineers, Mobile District
Willa Brantley, Department of Marine Resources
Paul Necaie, U.S. Fish and Wildlife Service
Jamie Becker, Environmental Protection Agency
Mitch Tinsley, Ecological Asset Management, LLC
Danny Boudreaux