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Working Together to Protect the Ogeechee, Canoochee and Coastal Rivers

May 2, 2023

Via E-Mail

U.S. Army Corps of Engineers, Savannah District
100 West Oglethorpe Avenue
Savannah, Georgia 31401
ATTN: Terry C. Kobs
Project Manager, Management Branch
terry.c.kobs@usace.army.mil

Re: Comments on Blitchton Investments 1, LLC's Application for a Department of the Army permit pursuant to Clean Water Act Section 404 (33 U.S.C. § 1344) - Application No.: SAS-2021-00496

Dear Mr. Kobs:

Ogeechee Riverkeeper's ("ORK") mission is to protect, preserve, and improve the water quality of the Ogeechee River basin, including the Canoochee River and the coastal and tidal rivers of Liberty, Bryan, and Chatham Counties. ORK works with local communities to share and collect information on the ecological and cultural importance of rivers and streams throughout the Basin, and use that information to amplify the voices of those who speak for the watershed. One of ORK's primary roles is as watchdog on new land development projects throughout the watershed that could pose a significant threat to water quality.

ORK offers these comments on Blitchton Investments 1, LLC's (the "applicant") application to fill 11.8 acres of wetlands under U.S. Army Corps of Engineers ("USACE") jurisdiction at its proposed Conley Davis Industrial Park in Bryan County, Georgia. Overall, the information provided in the public notice and attachments leave crucial questions unanswered. In particular, ORK is concerned about the site selection and proposed configuration, does not believe the project is ultimately in the public interest, and should provide additional mitigation. As such, ORK urges USACE to deny this permit application until it can ensure that all requirements of Clean Water Act ("CWA") § 404 are sufficiently considered and met before issuing the requested permit.

1. Site Justification and Potential Alternatives

ORK believes that there are practicable alternatives and mitigatory steps available to the applicant that would reduce the proposed project's impact on wetlands. ORK urges USACE to consider equally-suitable site locations,

less-impactful site configurations, and whether this project must be located on these wetlands at all prior to making its permitting decision.

Nothing about the applicant's proposed project requires it to impact these jurisdictional wetlands. First, this project's "warehouse and supply-chain distribution space" purpose is not 'water dependent' in any way. There is no inherent reason that warehouse space must be located on top of around 12 acres of wetlands. As such, without the applicant clearly demonstrating otherwise, there is presumption that a practicable alternative exists.¹ ORK requests that USACE require the applicant to clearly demonstrate that this site has the least adverse impact on the aquatic environment compared to other practicable locations.

Similarly, the applicant does not sufficiently establish that the proposed site configuration will result in the least adverse impact practicable while achieving its purposes. Warehouse and supply-chain distribution space can be achieved in a wide variety of configurations and sizes. ORK is particularly concerned with the large area of wetland impacts in the northwestern corner of the property, around Buildings 5 and 6. The project's basic purpose could still be achieved without constructing Buildings 5 and 6 and their associated parking spaces. By not building Buildings 5 and 6, reducing warehouse space by less than 25%, almost 89% of the wetland impact could be completely avoided.² In the alternative, reducing available parking spaces could practicably allow the buildings to be reconfigured to reduce impact to wetlands. The 1068 employee parking spaces and 574 truck storage spaces seem prime for potential reductions and would allow for building footprint reconfiguration or combination. Regardless of these suggestions, ORK calls on USACE to require the applicant to clearly demonstrate that its proposed site configuration results in the least adverse impact practicable to wetlands while achieving its stated purpose.

Beyond these broad questions, ORK has three specific concerns with the proposed configuration. First, Wetland Impact #6 will almost certainly impact what appears to be contiguous wetlands on neighboring property. The adverse wetland impacts outside of this site's property should also be considered and addressed in USACE's permitting decision. Second, the relatively small areas of Wetland Impacts #1 and 4 seem easily avoidable. ORK asks for an explanation for why these wetlands must be filled. And third, Wetland Impacts #7, 8, and 9 raise questions, particularly why these areas are filled at all. Prior to approval, ORK requests that USACE confirm that the specific concerns raised here are absolutely necessary and that no less-adverse alternatives exist.

2. Public Interest

ORK is very concerned that the proposed project will have significant negative impacts on the public interest. With the region already experiencing significant wetland fill and destruction in recent years, it becomes even more important to preserve and protect existing wetlands. Just as the applicant is responding to the "current and anticipated growth of the region," ORK calls on USACE to also consider the past, current, and anticipated future adverse impacts to wetlands, aquatic environments, and the public good that is impacting the region in its public interest determination and ultimate permitting decision on this application.

¹ 40 C.F.R. § 230.10(a)(3).

² 531,040 sq ft subtracted from the proposed total of 2,274,400 sq ft, avoiding the combined 10.5 acres from Wetland Impacts #5 & 6.

ORK's first concern relates to the natural environmental services that wetlands provide. Wetlands are quickly disappearing in the region, and with their disappearance, unique aquatic habitat is lost and the biodiversity it supports is harmed. This includes birds, fish, reptiles, amphibians, and many plants and insects that act as the base of many food webs. Additionally, wetlands provide an important filtration role for water quality, processing many pollutants and keeping waters clean, healthy, fishable, and swimmable. Filling these wetlands will remove this filtration from the environment. This loss should be a significant consideration in determining the public interest. Without sufficient replacement, downstream and downgradient water quality will unnecessarily suffer.

Additionally, wetlands play an important role in slowing water down in multiple ways. Wetlands efficiently retain stormwater, which helps reduce erosion and sedimentation. It also helps prevent man-made stormwater and sewer systems from being overwhelmed in storm events. Wetlands' role in slowing water also extends to flood prevention, with wetlands being able to absorb and disperse waters efficiently and without the need for constructing stormwater ponds or sewer systems. Finally, wetlands help to recharge groundwater supplies. Rather than the constructed stormwater system bypassing groundwater recharge, wetlands allow that water to permeate through the ground and recharge the constantly-shrinking Floridan Aquifer. With more growth coming to the region, both groundwater demand and impervious surfaces will increase. With more withdrawal and less recharge, it is increasingly important to preserve existing wetlands.

Beyond these environmental services, the public is also further harmed by the new, industrial uses of this land. In addition to the lost aquatic habitat noted above, terrestrial wildlife habitat is also lost and segmented from other areas. Continued greenspace loss reduces biodiversity. Likewise, the frequent heavy truck traffic will bring additional sources of air, land, and water pollution to the area. This will preclude any potential agricultural, residential, or recreational uses moving forward and could eventually displace long-term rural residents.

Perhaps most important, it is not clear that the public will ultimately benefit from this new warehouse space. Millions of square feet of warehouse space have been built in recent years throughout the greater Savannah region. Many of these warehouses remain unused and sitting vacant. Basing the public benefit of building warehouses on "anticipated" growth of unknown size and demand is potentially concerning. The actual public benefit of potentially unnecessary additional warehouse space must consider this uncertainty, especially when their construction results in the permanent filling of quickly-disappearing wetlands.

Overall, the loss of many important environmental services and the accompanying changes to the area will negatively impact the public interest. When also considering the potentially minimal benefit that these warehouses will provide, ORK is not convinced that the public interest is served by the proposed project. As such, ORK calls on either the applicants to significantly reduce its wetlands impacts or on USACE to deny the permit as not in the public interest.

3. Mitigation

If USACE ultimately decides to permit this project, ORK calls for mitigation efforts to be improved. This should include both site configuration changes as well as additional acquisition of compensatory mitigation credits.

As noted above, nearly all of the wetlands impacted by this project can be avoided with less than a 25% reduction in square footage by not constructing Buildings 5 & 6. Reconfiguring, reducing the 1500+ parking spaces, and/or joining buildings together could maintain the desired warehouse space and also reduce wetland impacts. ORK urges the applicant and USACE to strongly consider new layouts that would reduce wetland impacts, especially in the northwest corner of the site.

If the site configuration is not changed, ORK calls for additional compensatory mitigation projects and/or credits to be required. The applicant should be responsible for providing at least an equal number of 2018 wetland mitigation credits as the project will impact. If permitted as proposed, that would be at least 11.8 acres of credits , or 12.78 acres if including the ponds that will also be filled. ORK also calls for additional legacy mitigation credits.

Thank you in advance for your time and consideration. If you have any questions regarding this letter, please contact ben@ogeecheeriverkeeper.org or 866-942-6222 x9.

Ben Kirsch
Legal Director
Ogeechee Riverkeeper